

PROBLEM GAMBLING: HOW JAPAN COULD ACTUALLY BECOME THE NEXT LAS VEGAS

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INTRODUCTION

Although with each passing day it appears less likely that integrated resorts with legalized gaming will become part of the Tokyo landscape in time for the city's hosting of the summer Olympics in 2020¹, there is still substantial international interest in whether Japan will implement a regulatory system to oversee casino-style gaming.

In 2001, Macau opened its doors for outside companies to conduct casino gaming operations as part of its modernized gaming regulatory system.² At that time, it was believed that Macau would become the next Las Vegas.³ Just a few years after the new resorts opened, many operated by Las Vegas casino company powerhouses, Macau surpassed Las Vegas as the “gambling center” at one point.⁴ With tighter restrictions and crackdowns on corruption, Macau has since experienced declines in gaming revenue.⁵

When other countries across Asia have either contemplated or adopted gaming regulatory systems, it is often believed that they could become the

¹ See *2020 Host City Election*, OLYMPIC.ORG, <http://www.olympic.org/2020-host-city-election> (last visited Oct. 25, 2015).

² *Macau Gaming Summary*, UNLV CTR. FOR GAMING RES., <http://gaming.unlv.edu/abstract/macau.html> (last visited Oct. 25, 2015).

³ David Lung, *Introduction: The Future of Macao's Past*, in *THE CONSERVATION OF URBAN HERITAGE: MACAO VISION – INTERNATIONAL CONFERENCE* xiii, xiii (The Cultural Inst. of the Macao S. A. R. Gov't: Studies, Research & Publ'ns Div. 2002), http://www.macaoheritage.net/en/knowledge/vision/vision_xxi.pdf (noting, in 2002, of outside investment as possibly creating a “Las Vegas of the East”).

⁴ David Barboza, *Macao Surpasses Las Vegas as Gambling Center*, N.Y. TIMES (Jan. 23, 2007), <http://www.nytimes.com/2007/01/23/business/worldbusiness/23cnd-macao.html>.

⁵ Shinya Abe, *Gaming Revenue Falls 33% on China Slowdown, Anti-Corruption Campaign*, NIKKEI ASIAN REV. (Oct. 2, 2015, 4:20 PM), <http://asia.nikkei.com/Business/Trends/Gaming-revenue-falls-33-on-China-slowdown-anti-corruption-campaign>.

“next Las Vegas.” When Singapore opened its two integrated resort properties in 2010 as a means to increase tourism, there were claims that the country would become the next Las Vegas, despite the restriction that Singapore residents are required to pay a S\$100 per day levy for access to the casino.⁶

Many believe that if South Korea opens gambling to residents at the country’s newest facilities that were recently authorized as part of an initiative to expand integrated resorts with casino gaming, rather than limiting access to foreigners, the country could be on par to becoming the “next Las Vegas.”⁷

With all of these new gaming markets vying to become the “next Las Vegas,” the opportunity for Japan to develop integrated resorts in Tokyo and Osaka would not only serve tourists visiting the country during the Olympics, but also attract visitors from China who are unable to gamble in Macau casinos.⁸

It is generally known that there is plenty of unregulated gaming currently taking place in Japan.⁹ Nonetheless, much of the concern from some Japanese government officials and citizens is that casino gaming will increase the already high rates of problem gambling and result in devastating effects on persons struggling with gambling addiction.¹⁰

In contemplating whether Japan should legalize integrated resorts with casino gaming to become the “next Las Vegas,” the country can actually look to Las Vegas and similar regulated gaming markets as a model for confronting problem gambling and implementing measures to help fund education, treatment, and programs.

⁶ Kevin Lim, *Singapore Aims to Keep Local Problem Gamblers out of Casinos*, REUTERS (July 9, 2012, 9:10 AM), <http://www.reuters.com/article/uk-singapore-casinos-idUSLNE86801D20120709>; Janine Yu, *Is Singapore the Next Las Vegas?*, ONETRAVEL (Aug. 26, 2010), <http://blog.onetravel.com/news/is-singapore-the-next-las-vegas.aspx>; Imelda Saad, *S\$195m in Casino Entry Levies Collected in 2011*, CHANNEL NEWSASIA (July 21, 2013, 7:41 PM), <http://www.channelnewsasia.com/news/singapore/s-195m-in-casino-entry-le/281682.html>.

⁷ See Ritsuko Ando & Joyce Lee, *South Korea Holds Winning Hand as Japan Gambling Bill Dies*, REUTERS (Nov. 23, 2014, 4:15PM), <http://www.reuters.com/article/2014/11/23/us-gambling-japan-idUSKCN0J70YX20141123>.

⁸ See *Macau Gaming Summary*, *supra* note 2 (“[C]asino gaming remain[s] legal in Macau, though it . . . still is illegal in the PRC.”).

⁹ See, e.g., *Gambling in Japan: Balls in the Air*, THE ECONOMIST (Sept. 27, 2014), <http://www.economist.com/news/business/21620248-legal-gambling-and-changing-tastes-threaten-huge-pachinko-business-balls-air>.

¹⁰ See Tatsuya Akasaka, *Casino Debate Casts Spotlight on Japan’s Gambling Addicts, Therapists Who Try to Help*, THE JAPAN TIMES (Nov. 26, 2014), <http://www.japantimes.co.jp/news/2014/11/26/national/social-issues/casino-debate-casts-spotlight-on-japans-gambling-addicts-therapists-who-try-to-help/#Vow993arS72>.

I. A BRIEF HISTORY OF GAMING IN JAPAN

A. *Legal Gambling*

There are currently a few forms of legal gambling in Japan. Similar to gambling laws within state jurisdictions in the United States, Japan generally prohibits gambling pursuant to its criminal code.¹¹ In Japan, a person who gambles may be subject to a fine of no more than 500,000 yen, while habitual gambling can result in work imprisonment of no more than 3 years.¹² However, there are exceptions to these laws for horse racing, boat and other types of racing, lotteries, and soccer pools.

The national Japan Racing Association (JRA) is authorized by law to sell pari-mutuel wagering tickets for horse racing.¹³ The JRA oversees the operation of 10 racetracks and 45 off-track betting facilities and is required to pay “10% of its gross betting turnover to the national treasury, as well as 50% of any surplus profits remaining at the end of the fiscal year.”¹⁴ In 2013, this resulted in a contribution by JRA of about 2.51 billion in U.S. dollars to Japan’s national treasury.¹⁵

In addition, local governments can operate horse racing and betting on such races.¹⁶ These local governments operated over 14,000 horse races in 2013, and took in bets totaling about 353 billion yen.¹⁷ The Japanese are also able to wager on horse races by telephone or through betting terminals.¹⁸

Horse racing has remained a popular sport in Japan and clearly has not suffered the same declines as the horse racing industry in the United States.¹⁹

Japan also allows pari-mutuel wagering on speedboat racing, which is called *kyotei*, and this legal form of wagering can be done at the course, at off-course betting venues, by mobile phone, or the Internet.²⁰ Pari-mutuel

¹¹ KEIHŌ [KEIHŌ] [PEN. C.] 1907, art. 185-86 (Japan), *translated in* <http://www.cas.go.jp/jp/seisaku/hourei/data/PC.pdf>.

¹² *Id.* art. 185, 186, para. 1.

¹³ Keiba Hō [Horse Racing Law], Law No. 158 of 1948, art. 5, para. 1 (Japan), *translated in Horse Racing Law*, HORSE RACING IN JAPAN, <http://japanracing.jp/en/information/law/index.html#c2> (last visited Feb. 3, 2016).

¹⁴ *Horse Racing in Japan 2014*, JAPAN RACING ASS’N 2, http://japanracing.jp/en/jpn-racing/guide/pdf/horseracing_en_all.pdf, (last visited Jan. 30, 2016).

¹⁵ *Id.*

¹⁶ Law No. 158 of 1948, art. 3-2 (Japan).

¹⁷ *See Horse Racing in Japan 2014*, *supra* note 13, at 2.

¹⁸ *Id.* at 9, 23.

¹⁹ *See id.* at 2; Henry D. Fetter, *No, Horse Racing Can’t Be Saved—Even by a Triple Crown Winner*, THE ATLANTIC (May 20, 2014), <http://www.theatlantic.com/entertainment/archive/2014/05/no-horse-racing-cant-be-savedeven-by-a-triple-crown-winner/371255/>.

²⁰ *See* “Kyotei” (Boat Race), NIPPON.COM (May 23, 2015), <http://www.nippon.com/en/features/jg00023/>.

wagering is also permitted on bicycle races (*keirin*) and motorcycle races.²¹

Lotteries are another form of legal gambling in Japan and are also the most popular form of legal gambling among its citizens.²² The Japan Lottery Association oversees lotteries that are offered on a local level.²³ By law, lottery proceeds may only benefit “the promotion of public interests.”²⁴ Interestingly, it was recently announced that revenues from lottery ticket sales would be used to fund the upcoming Olympic games.²⁵

Betting on soccer, also known as *toto*, is another significant industry in Japan.²⁶ What apparently started out as more pari-mutuel style wagering upon its legalization in 2001 has morphed into a sports lottery with past prizes amounting to 600 million yen.²⁷

Gambling is not new to Japan, as there are multiple avenues for placing wagers in the country.²⁸ While casino-style gaming remains illegal, the pachinko industry has been known to cross into the gambling arena.

B. *The Grey Area: Pachinko/Pachislot*

If you have never seen or stepped foot in a pachinko parlor, you are missing out on quite the experience. Pachinko machines have been compared to stand-up versions of pinball.²⁹ Like pinball, the game starts when a player inserts money into the machine to release a series of small metal balls that look

²¹ See YOSHINORI ISHIKAWA, INST. FOR COMPARATIVE STUDIES IN LOCAL GOVERNANCE & COUNCIL OF LOCAL AUTHORITIES FOR INT’L RELATIONS, JAPANESE PUBLICLY MANAGED GAMING (SPORTS GAMBLING) AND LOCAL GOVERNMENT 2 (2010), <http://www.clair.or.jp/j/forum/honyaku/hikaku/pdf/BunyabetsuNo16en.pdf>.

²² Naoko Takiguchi & Richard J. Rosenthal, *Problem Gambling in Japan: A Social Perspective*, ELECTRONIC J. OF CONTEMP. JAPANESE STUD. (Jan. 31, 2011), <http://www.japanesestudies.org.uk/articles/2011/Takiguchi.html>.

²³ See Japan Lottery Ass’n, *Lottery’s Role and its Contribution to Local Communities in Japan*, ASIAN PAC. LOTTERY ASS’N, <http://asiapacific-lotteries.com/file/files/APLA%20website%20Japan%20201401-v1.pdf> (last visited Jan. 30, 2016).

²⁴ *Id.*

²⁵ Masaaki Iwamoto, *Japan Plans to Use Lottery Cash for Olympics: Tokyo Paper*, BLOOMBERGBUSINESS (Oct. 10, 2015, 1:07 AM), <http://www.bloomberg.com/news/articles/2015-10-10/japan-to-use-lottery-cash-for-olympics-construction-tokyo-paper>.

²⁶ Philip Brasor & Masako Tsubuku, *Soccer Lottery BIG in Japan*, THE JAPAN TIMES: YEN FOR LIVING (Feb. 25, 2010), <http://blog.japantimes.co.jp/yen-for-living/soccer-lottery-big-in-japan/>.

²⁷ *See id.*

²⁸ *See supra*, Part I.A.

²⁹ *See Japan’s National Pastime*, JAPANVISITOR, <http://www.japanvisitor.com/japanese-culture/culture-pachinko-2> (last visited Feb. 3, 2016); *About Pachinko*, PACHINKOCLUB.ASIA, <http://pachinko-club.jp/how/> (last visited Jan. 7, 2016).

like ball bearings.³⁰ These balls are dropped into an area controlled by the player.³¹ The player manipulates a knob to control the speed of the balls being released.³² Once the player triggers the release, the balls are shot up and then dispersed among a maze of obstacles on the game panels, such as cylinders, pins, or slanted bars.³³ The balls will then fall into various slots and openings, some of which only open and close at various intervals.³⁴ Some of these slots and openings are tied to winning more balls.³⁵ Modern pachinko games will play videos and film clips in the background.³⁶ There may also be slot machine-style spinning reels that operate to trigger bonus features where the player can obtain more balls.³⁷ The goal of pachinko is to win the most metal balls, which are then exchanged at the parlor for small arcade-style prizes.³⁸ Entering into a pachinko parlor is almost similar to a Las Vegas nightclub experience. The machines are also often equipped with bold colors, bright graphics, and flashing lights.³⁹ There is extremely loud music, noise from the machines, and a constant visual-sensory overload.⁴⁰

Upon first glance, these pachinko parlors seem to be nothing more than a large, loud arcade. However, in conducting the standard gambling analysis of whether the elements of prize, chance, and consideration⁴¹ are present in a pachinko game, you can see that the elements are present. The players pay money to purchase a set of metal balls to be used for play in the pachinko machines, so that provides the consideration to participate in the game.⁴² Although there is some player control in determining the initial speed of the balls being released, there is no way to guide or steer the balls to go into certain higher-paying openings once they begin dropping along the panel.⁴³ Therefore,

³⁰ See *Entry of the Pachinko*, <http://pachinko-club.jp/pachinko/>, (last visited Feb. 3, 2016); *What is Pachinko?*, PACHINKO PLANET, http://pachinkoplanet.com/zencart/index.php?main_page=page&id=1 (last visited Feb. 3, 2016); *Japan's National Pastime*, *supra* note 29.

³¹ See *Entry of the Pachinko*, *supra* note 30.

³² Karen, *Pachinko Fever!*, OWL WORKS, LLC, (May 22, 2014), <http://owlworkslc.com/game-memories/pachinko-fever/>.

³³ See *id.*; *What is Pachinko?*, *supra* note 30.

³⁴ *Entry of the Pachinko*, *supra* note 30.

³⁵ Karen, *supra* note 32.

³⁶ *Id.*

³⁷ *Japan's National Pastime*, *supra* note 29.

³⁸ See *Entry of the Pachinko*, *supra* note 30.

³⁹ See e.g., Don's ESL Adventure!, *Lively Pachinko Parlor in Tokyo, Japan*, YOUTUBE (JUNE 17, 2015), [HTTPS://WWW.YOUTUBE.COM/WATCH?V=WPEATQ-601M](https://www.youtube.com/watch?v=WPEATQ-601M).

⁴⁰ *Id.*

⁴¹ See I. Nelson Rose, *Gambling and the Law®: Should Social Casino Games Be Regulated?*, IMGL 5, https://gaminglawmasters.com/sites/default/files/media/imgl_sd_handoutsocialcasinogames.pdf (last visited Jan. 30, 2016).

⁴² See *id.*; *Entry of the Pachinko*, *supra* note 30.

⁴³ See Karen, *supra* note 32.

there is little skill involved in determining the outcome of the game.⁴⁴ Under a “dominant factor” analysis, which is the most common standard in the United States for measuring chance versus skill when reviewing for gambling game status,⁴⁵ the pachinko game appears to be predominated by chance. Finally, the metal balls that are accumulated after playing the machine are then exchanged for prizes.⁴⁶

The primary reason that pachinko is not considered gambling, despite the presence of the three elements, is that there is an exception to the gambling prohibition under Japan’s penal code for “momentary entertainment.”⁴⁷ Furthermore, like with U.S. arcade games, it is also arguable whether the nominal prizes awarded for amusement play would even trigger gambling game consideration.

Pachinko is really no different than an arcade game where money is inserted into the machine for the opportunity to play, the game may involve little skill (such as shooting tokens onto a platform of other tokens and hoping the moving sweeper pushes them into the tray), and the tickets won from the game are exchanged for nominal, low-value prizes, such as plastic spider rings or penny candy.⁴⁸

However, what brings pachinko into the grey area of gambling is that when players have exchanged their metal balls for prizes at the end of their playing session, they can frequently walk right out the door, go to a window-front in an alleyway near the pachinko parlor, and exchange their nominal prize for cash.⁴⁹ These low-key “stores” are not operated by the parlor,⁵⁰ but turn around and sell the prizes that have been exchanged back to the parlors.

When Americans travel to Japan and visit or walk by a pachinko parlor, many of them don’t seem to understand the appeal.⁵¹ However, the magnitude of pachinko play remains significant in Japan. In 2013, pachinko parlors throughout Japan had revenues reaching \$159 billion.⁵² What is interesting

⁴⁴ *See id.*

⁴⁵ Peter Schiavone, *The Rise of Online Gaming: The Dominant Factors of Poker & The Fall of The UIGEA and its Predecessors* (Jan. 1, 2010) (Student Scholarship Paper 52) (on file with Seton Hall Law eRepository), http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1076&context=student_scholarship.

⁴⁶ *See Entry of the Pachinko, supra* note 30.

⁴⁷ *See* KEIHŌ [KEIHŌ] [PEN. C.] 1907, art. 185 (Japan).

⁴⁸ *See, e.g.,* iwmoz, *Rumble in the Jungle Coin Pusher*, YOUTUBE (Mar 29, 2013), <https://www.youtube.com/watch?v=iRq08zN9N0Q>.

⁴⁹ *See* Jonathan Soble, *Lights Dim for Japan’s Pachinko Parlours*, FIN. TIMES (Apr. 11, 2014, 4:04 AM), <http://www.ft.com/intl/cms/s/0/9269a142-bf0d-11e3-8683-00144feabdc0.html#axzz3uyddKN8F>; William N. Thompson, *Gambling in Japan*, in CASINO INDUSTRY IN ASIA PACIFIC: DEVELOPMENT, OPERATION, AND IMPACT 59, 64–65 (Cathy H.C. ed., 2006).

⁵⁰ *See* Thompson, *supra* note 49.

⁵¹ *See, e.g.,* THE ECONOMIST, *supra* note 9.

⁵² Yvonne Lee & Kate O’Keeffe, *Japan’s Pachinko Parlors Look Abroad*, THE

about that figure is that the number of pachinko players has decreased by 67% over the last 20 years from 29 million in 1995 to 9.7 million in 2013.⁵³ Some speculate that one of the reasons for the drop in pachinko play may be the accessibility of online gaming,⁵⁴ which is illegal in Japan.⁵⁵

Pachislot, also known as pachislo, is a type of game often found in pachinko parlors.⁵⁶ They are usually found in a separate area of the parlor and may be located upstairs. The pachislot machine looks similar to a standard casino-style slot machine found in the United States, but often has more intense graphics, lights, and music.⁵⁷ Modern versions of the pachislot will often operate using virtual reels and a random number generator.⁵⁸ The pachislot is generally played using medallions or tokens⁵⁹ and have a feature rarely, if ever, found on slot machines in the United States—the “skill stop.”⁶⁰ This allows players to attempt to stop the reels in order to align symbols for a winning combination. Different than the U.S. slot machine overall game “stop” button, the pachislot “skill stop” features stop buttons for each reel.⁶¹ Pachislot is typically a three-reel game, so there will be three stop buttons with each button intended to be pressed at different times during the reel spin.⁶²

Although there is more skill involved in pachislot play than a casino-style slot machine, pachislot may satisfy the prize-chance-consideration test for determining whether it is gambling. There is consideration by using tokens that are representatives of value and purchased with money. It is a bit uncertain whether the “skill stop” feature would shift pachislot into a predominantly skill-based game; this skill feature certainly distinguishes it from the essential game of chance—a slot machine. Like pachinko, the tokens are traded in for

WALL STREET J. (Dec. 2, 2014, 11:24 AM), <http://www.wsj.com/articles/japans-pachinko-parlors-look-abroad-1417537449>.

⁵³ *Id.*

⁵⁴ See Takiguchi & Rosenthal, *supra* note 22.

⁵⁵ See SALLY GAINSBURY, INTERNET GAMBLING: CURRENT RESEARCH FINDINGS AND IMPLICATIONS 60 (2012).

⁵⁶ See *Advice for Those Engaged in the “Pachinko/Pachislo” Industry*, HARAKENZO LEGAL DEP’T, <http://trademark.ip-kenzo.com/en/industry/pachinko/> (last visited Jan. 6, 2015).

⁵⁷ See Douglas Quenqua, *Japanese Slot Machines: Noisy, Tacky and Coveted*, N.Y. TIMES (June 23, 2010), http://www.nytimes.com/2010/06/24/garden/24slots.html?_r=1.

⁵⁸ See Takiguchi & Rosenthal, *supra* note 22.

⁵⁹ Quenqua, *supra* note 57.

⁶⁰ See Pachinko World Inc., Annual Report (Form 10-KSB) (May 31, 2006), http://www.sec.gov/Archives/edgar/data/934646/000113709106000128/pachinko_10ksb-053106.htm; MICHAEL NELSON & JOHN LYMAN MASON, HOW THE SOUTH JOINED THE GAMBLING NATION: THE POLITICS OF STATE POLICY INNOVATION 65 (2007) (detailing the introduction, and subsequent ban of video gaming machines in Georgia that included a “skill stop” feature).

⁶¹ See Pachinko World Inc., Annual Report (Form 10-KSB), *supra* note 60.

⁶² See Quenqua, *supra* note 57.

nominal prizes⁶³ and it has been historically treated as an arcade game played for entertainment. Similar to pachinko, the nominal prizes won for redeeming pachislot tokens can be taken around the corner from the parlor to the storefront window where prizes can be exchanged for money.⁶⁴

Despite declines in pachinko and pachislot play, the Japanese still frequent parlors to engage in what has essentially been grey market gambling.

C. Japan's Presence in Gambling Markets

1. Business

In addition to offering a variety of legal (and questionably legal) gambling activities, Japan has been very active in regulated gaming markets for some time. In the mid-1980s, a Japanese businessman named Ginji Yasuda “became the first individual foreign casino owner and operator” when he acquired the Aladdin Hotel and Casino (now Planet Hollywood)⁶⁵ located on the “Strip” in Las Vegas.⁶⁶

There are several Japanese-based companies that manufacture and sell casino-style gaming devices to Nevada and other U.S. casinos. For example, in the 1980s, the company now operating as Aruze Gaming America, Inc., at one time an affiliate of the Japanese pachinko/pachislot manufacturer and parlor operator, Universal Entertainment Corporation (hereinafter, “UEC”), became licensed by the Nevada Gaming Commission to sell slot machines.⁶⁷ However, the company ran into a roadblock with their unique (and popular), “near-miss” feature that ultimately was prohibited by Nevada regulators.⁶⁸

Another example is Konami, a company headquartered in Japan that was established in 1969 to develop arcade-style games.⁶⁹ In the early 1990s, the company expanded into the pachinko and pachislot business in Japan.⁷⁰ Just a few years later, the company formed a subsidiary in the United States called Konami Gaming, Inc., and began selling casino-style slot machines to U.S. gaming markets by 2000.⁷¹ Konami sells to other casino gaming jurisdictions

⁶³ See *How to Exchange*, PACHINKO PLAY.COM, http://www.pachinko-play.com/en/how_to/plays/change.html (last visited Feb. 2, 2016).

⁶⁴ See Quenqua, *supra* note 57.

⁶⁵ See Matt Villano, *Las Vegas' Old Aladdin Transformed into Planet Hollywood*, SFGATE (Sept. 6, 2007, 4:00 AM), <http://www.sfgate.com/travel/article/Las-Vegas-old-Aladdin-transformed-into-Planet-2504968.php>.

⁶⁶ LIONEL SAWYER & COLLINS, NEVADA GAMING LAW 219 (3d ed. 2000).

⁶⁷ See *Our History*, ARUZEGAMING, <http://go.aruzegaming.com/about-us/mission/> (last visited Jan. 20, 2016).

⁶⁸ See LIONEL SAWYER & COLLINS *supra* note 66 at 204-05.

⁶⁹ See Konami Holdings Corp., *Corporate History*, KONAMI, <http://www.konami.co.jp/en/corporate/history/> (last visited Jan. 21, 2016).

⁷⁰ *Id.*

⁷¹ *Id.*

throughout the world, including Australia.⁷² Konami Gaming is also actively involved in the recent initiative in Nevada to authorize skill-based wagering games.⁷³

Japanese companies have also become direct owners or participants in regulated gaming businesses outside of Japan. UEC held interests in the Wynn and Encore casinos in Las Vegas.⁷⁴ Now, another UEC affiliate is currently constructing a resort with casino gaming in the Philippines.⁷⁵ Japanese companies have also invested in casino operations in Macau and South Korea.⁷⁶

Despite its domestic prohibition, businesses in Japan have understood the market benefits of regulated casino gaming for many years.

2. Casino Visitation

Not only do Japanese individuals and companies have investments in regulated casino gaming operations in other countries, they also enjoy visiting gambling destinations. Although Las Vegas may not have the same attractive draw for the Japanese that it does for Chinese citizens,⁷⁷ there is still interest in increasing Japanese visitation. For example, MGM Resorts recently held a kabuki-themed show at the Bellagio fountains and will host a kabuki festival in 2016.⁷⁸ In Macau, the Venetian estimated that Japanese and Indian citizens constitute about 10% of its visitors.⁷⁹

In a 2012 survey of Japanese residents, half indicated that they would visit a casino in Japan, while only 20% of the survey participants opposed casino gaming in the country.⁸⁰ Although the Japanese may not have the same

⁷² See *id.*

⁷³ See Owen S. Good, *Konami Cheers Nevada Law Allowing Skill-Based Gambling Machines*, YAHOO GAMES (May 16, 2015, 10:11 AM), <https://games.yahoo.com/news/konami-cheers-nevada-law-allowing141113849.html> (“The change comes with the passage of Senate Bill 9, which the Association of Gaming Equipment Manufacturers lobbied for. AGEM’s president happens to be Thomas Jingoli, the president of Konami’s gambling division. Konami itself is a “gold member” of the organization.”).

⁷⁴ *Corporate History*, UNIVERSAL ENT., <http://www.universal-777.com/en/corporate/history/> (last visited Jan. 21, 2016); *Corporate Overview*, UNIVERSAL ENT., <http://www.universal-777.com/en/corporate/overview/> (last visited Jan. 31, 2016).

⁷⁵ *Corporate History*, *supra* note 74.

⁷⁶ Lee & O’Keeffe, *supra* note 52.

⁷⁷ Tim O’Reiley & Hubble Smith, *LV Not Highest on Visiting List for Japanese*, L.V. REV.-J. (Mar. 12, 2011, 2:03 AM), <http://www.reviewjournal.com/news/lv-not-highest-visiting-list-japanese>.

⁷⁸ Susan Stapleton, *Two Kabuki Festivals are Headed to Las Vegas*, L.A. TIMES (May 7, 2015, 7:30 AM), <http://www.latimes.com/travel/lasvegas/lasvegasnow/la-tr-lvn-las-vegas-japan-kabuki-festival-20150505-story.html>.

⁷⁹ Richard N. Velotta, *How Macau Became a Powerhouse (With a Little Help from Las Vegas)*, VEGASINC (Oct. 3, 2011, 3:00 AM), <http://vegasinc.com/business/gaming/2011/oct/03/how-macau-became-powerhouse-little-help-las-vegas/>.

⁸⁰ *Next Stop Japan*, INSIDE ASIAN GAMING (Mar. 21, 2012, 7:46 AM), <http://www.>

penchant for gambling destinations as citizens of other countries, they are certainly not opposed to frequenting resort casinos.

II. LEGALIZATION OF CASINO GAMING IN JAPAN

The debate on whether to authorize regulated casino gaming in Japan is not an entirely recent trend. With the expansion of gaming across the world, including in Asian markets, Japan has contemplated legalizing casinos since at least 2002.⁸¹ In fact, under the direction of the late Robert D. Faiss, Adjunct Professor in the gaming law program at the UNLV William S. Boyd School of Law, students in the Introduction to Gaming Law course in the fall of 2005 submitted to the Japanese government a list of 48 questions for consideration when creating a casino gaming control system.⁸² The publication “Gaming Regulation and Gaming Law in Nevada as Remembered by Robert D. Faiss” was also translated for sale in Japan beginning in 2012.⁸³ However, frequent changes in the government and a fluctuating economy kept talk about legalizing casinos on the back burner.⁸⁴

The discourse became more direct after The International Olympic Committee awarded the 2020 Olympics to Tokyo on September 7, 2013.⁸⁵ The year before, Shinzo Abe of the Liberal Democratic Party was chosen to once again become Prime Minister of Japan.⁸⁶ Prime Minister Abe operated on a platform to facilitate economic growth for the country.⁸⁷ Shortly after Tokyo was selected as host city for the Olympics, the Japanese Diet began the dialogue of offering casino gaming as a component of integrated resorts⁸⁸ in

asgam.com/cover-stories/item/1587-next-stop-japan.html.

⁸¹ See *Japan's Long and Bumpy Road to a Legalized Casino Industry*, CASINO NEWS DAILY (July 31, 2015, 8:25 AM), <http://www.casinonewsdaily.com/2015/07/31/japans-long-and-bumpy-road-to-a-legalized-casino-industry/>.

⁸² Questions submitted by the UNLV William S. Boyd School of Law Introduction to Gaming Law Course students to the Government of Japan (2005) (on file with author).

⁸³ See Howard Stutz, *Widely Respecting Gaming Attorney Bob Faiss Dies at 79*, L.V. REV.-J. (June 5, 2014, 5:07 PM) (“[Robert Faiss’] book has been translated into Japanese.”).

⁸⁴ See *Japan's Long and Bumpy Road to a Legalized Casino Industry*, *supra* note 81.

⁸⁵ *IOC Selects Tokyo as Host of 2020 Summer Olympic Games*, OLYMPIC.ORG (September 7, 2013), <http://www.olympic.org/news/ioc-selects-tokyo-as-host-of-2020-summer-olympic-games/208784>.

⁸⁶ Hilary Whiteman, *Shinzo Abe: The answer to ailing Japan's problems?*, (Dec. 26, 2012, 10:58 PM), <http://www.cnn.com/2012/12/15/world/asia/japan-shinzo-abe-profile/>.

⁸⁷ Amrutha Gayathri, *Shinzo Abe Returns as Japan's Prime Minister*, INT'L BUS. TIMES (Dec. 26, 2012, 5:40 AM), <http://www.ibtimes.com/shinzo-abe-returns-japans-prime-minister-969776>.

⁸⁸ Integrated resorts, also referred to as IR, are generally considered to be large-scale developments consisting of multiple amenities in addition to a casino, such as

Japan.⁸⁹ And the world was listening.

In December 2013, a legislative bill to authorize casino gambling was introduced by the Liberal Democratic Party for consideration in the upcoming legislative session beginning in January 2014.⁹⁰ By this time, gaming companies outside of Japan, including Wynn Resorts, were committed to investing billions of dollars if permitted to develop casino properties in the country.⁹¹ Macau casino operator Melco Crown Entertainment Ltd., partially owned by Australian casino operator James Packer, indicated early on that it would invest \$5 billion.⁹² Japan-based businesses, such as Konami and pachinko parlor operators, were also expressing interest in possible casino development.⁹³

After the legislative session began, more outside gaming companies were expressing interest in Japan. In February, MGM Resorts International announced that it would invest between \$5 and \$10 billion for a gaming resort in Japan.⁹⁴ This followed an announcement by Las Vegas Sands Corp. the day before that it would invest \$10 billion in such development.⁹⁵ By early 2014, casino companies outside of Japan were meeting with Japanese government officials about developing integrated resorts at an identified site at Osaka Bay and to be determined site in Tokyo.⁹⁶

In late May of 2014, Prime Minister Abe visited the two casino resorts in Singapore.⁹⁷ While there, he encouraged Japan to authorize integrated resorts because of the substantial economic benefits they would bring to the country.⁹⁸

hotel rooms, restaurants, convention space, tourist attractions (e.g., theme park, aquarium), nightclubs, shopping, and spa/pool. See Andrew MacDonald & William R. Eadington, *The Systematic Study of Gaming Operations*, 16 UNLV GAMING RES. & REV. J., no. 2, 2012, at 19, 22.

⁸⁹ See Takashi Hirokawa & Yuki Yamaguchi, *Japan's LDP Lawmakers Submit Parliament Bill to Legalize Casinos*, BLOOMBERGBUSINESS (Dec. 5, 2013, 7:00 AM), <http://www.bloomberg.com/news/articles/2013-12-05/japan-s-ldp-legislators-submit-bill-in-diet-to-legalize-casinos>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² See *id.*

⁹³ See *id.*

⁹⁴ See Yuki Yamaguchi & Anna Mukai, *MGM Envisions Spending Up to \$10 Billion on Japanese Casino*, BLOOMBERGBUSINESS (Feb. 25, 2014, 3:43 AM), <http://www.bloomberg.com/news/articles/2014-02-25/mgm-resorts-considers-spending-up-to-10-billion-in-japan-casino>.

⁹⁵ *Id.*

⁹⁶ *Malaysia's Genting Among Those Courting Officials to set up Japan's First Casino*, BUS. NEWS (Apr. 16, 2014, 3:27 AM), <http://www.thestar.com.my/Business/Business-News/2014/04/16/Osaka-Set-To-Designate-Site-For-Japans-First-Proposed-Casino/?style=biz>.

⁹⁷ Farah Master et al., *Japan's Abe Lauds Benefits of Casinos During Singapore Trip*, REUTERS (May 30, 2014, 10:23 AM), <http://www.reuters.com/article/2014/05/30/us-japan-casinos-singapore-idUSKBN0EA0B120140530>.

⁹⁸ *Id.*

It was expected that the legislation would authorize casino gaming, while a 2015 bill would establish the gaming regulatory system.⁹⁹ However, the Japanese Diet did not begin discussing the casino bill until late in the session; it became evident that it would not be passed until the fall session in 2014.¹⁰⁰ It was also initially proposed that an entry fee would be imposed for both Japanese and foreign visitors to casinos, but that concept also died out.¹⁰¹

At the beginning of the “autumn session,” it was thought the legislation would be passed by October.¹⁰² At the time, it was also proposed that the legislation should contain an entry fee requirement only for Japanese citizens, similar to that of Singapore casinos, rather than just being imposed on foreign visitors.¹⁰³ The legislation did not pass due primarily to political instability, so backers had to look to 2015 as the year to legalize casino gaming in time for the Olympics.¹⁰⁴

Casino legislation was once again introduced in April 2015.¹⁰⁵ Meanwhile, an Integrated Resorts Task Force (IRTF) had been created by The American Chamber of Commerce in Japan, which advocated for integrated resorts in Japan.¹⁰⁶ The IRTF made several recommendations for integrated resorts, including, but not limited to:

- There should be no arbitrary restriction on casino size;
- Integrated resorts should be located in Tokyo, Osaka, and regional

⁹⁹ Ritsuko Ando et al., *Japan set to Indefinitely Postpone Casino Legalization*, REUTERS (Nov. 4, 2014, 6:01 AM), <http://www.reuters.com/article/2014/11/04/us-japan-casino-idUSKBN0IOOP820141104#T8FPdeZsKW0p4PPi.97>.

¹⁰⁰ See Maiko Takahashi, Takashi Hirokawa & Isabel Reynolds, *Japan's Parliament Begins Debate on Introducing Casinos*, BLOOMBERG BUS. (June 17, 2014, 6:42 PM), <http://www.bloomberg.com/news/articles/2014-06-17/japan-s-parliament-to-begin-debate-on-legalizing-casino-gambling>.

¹⁰¹ *Entry Levy on Foreigners Mooted for Japan Casinos*, GGRASIA (June 18, 2014), <http://www.ggrasia.com/entry-levy-on-foreigners-mooted-for-japan-casinos/>; see *Japan to Charge Singapore-Style Casino Entrance Fees*, ASIA GAMING BRIEF (July 29, 2014, 7:17 AM), <http://agbrief.com/news/japan-charge-singapore-style-casino-entrance-fees>.

¹⁰² Isabel Reynolds & Maiko Takahashi, *Japan Casino Bill Set to Pass Next Month, Lawmaker Says*, BLOOMBERGBUSINESS (Sept. 30, 2014, 12:38 AM), <http://www.bloomberg.com/news/articles/2014-09-30/japan-casino-bill-set-to-pass-next-month-lawmaker-says>.

¹⁰³ *Id.*

¹⁰⁴ See Howard Stutz, *Gaming in Japan: Not Dead Yet*, L.V. REV.-J. (Oct. 22, 2014, 12:15 AM), <http://www.reviewjournal.com/columns-blogs/inside-gaming/gaming-japan-not-dead-yet>.

¹⁰⁵ Maiko Takahashi, *Japan Lawmakers Group Submits Legislation to Legalize Casinos*, BLOOMBERGBUSINESS (Apr. 28, 2015, 1:55 AM), <http://www.bloomberg.com/news/articles/2015-04-28/japan-lawmakers-group-submits-legislation-to-legalize-casinos>.

¹⁰⁶ See *Integrated Resorts Task Force*, THE AM. CHAMBER OF COM. IN JAPAN, <http://accj.or.jp/en/about/committees/accj-committees/6?cid=5463> (last visited Dec. 23, 2015).

areas approved nationally with local government selecting the casino developer;

- Clusters of multiple integrated resorts should be permitted;
- Gross gaming revenue tax should be no more than 10% and gaming should not be subject to a consumption tax;
- There should be no entry fees;
- Regulation should be established in a Casino Regulatory Board with administration by a Casino Regulatory Committee;
- Casino companies and major suppliers should be thoroughly investigated before licensing;
- Minimum age to gamble should be 20 years old;
- Casinos should be allowed to operate 24/7, 365 days per year; and
- Casinos should be permitted to offer financial services to patrons¹⁰⁷

However, pressing security and national political issues suddenly took center stage. By the end of the Diet session in September, the government changed its long-standing policy of using military resources only for self-defensive measures and authorized Japan's forces to participate in overseas operations.¹⁰⁸ This significant shift in Japan's position really set aside any possibility for the casino bill to be considered during 2015.

Upon the writing of this article, the earliest any casino legislation may be considered is 2016, which means that the first integrated resort would not be open until 2022, two years after the Olympics.¹⁰⁹ This is because not only is legislation required to initially authorize integrated resorts with casino gaming, but further legislation is needed to create and implement a gaming regulatory structure.¹¹⁰ Then, Japanese gaming authorities would presumably need to vet and license the companies who would own and operate the integrated resorts and then large-scale construction would need to be completed. With this new anticipated post-Olympics timing, it remains uncertain how motivated Japan will be to pass casino legislation.

Despite the absence of integrated resorts in Japan for the 2020 Olympics, legalizing casino gaming and authorizing integrated resorts would still provide

¹⁰⁷ The Am. Chamber of Commerce in Japan: Integrated Resorts Task Force, *Establish the Necessary Frameworks to Make Integrated Resorts a Vibrant Contributor to the Japanese Economy*, THE AM. CHAMBER OF COM. IN JAPAN 3–4, <http://www.accj.or.jp/images/1511%20Integrated%20Resort%20IR.pdf> (last visited Feb. 3, 2016) (Report “Valid Through October 2016”).

¹⁰⁸ Jonathan Soble, *Japan's Parliament Approves Overseas Combat Role for Military*, N.Y. TIMES (Sept. 18, 2015), http://www.nytimes.com/2015/09/19/world/asia/japan-parliament-passes-legislation-combat-role-for-military.html?_r=0.

¹⁰⁹ Howard Stutz, *2015 Casino Expansion off the Table in Japan*, L.V. REV.-J. (Oct. 21, 2015, 11:53 AM), <http://www.reviewjournal.com/business/casinos-gaming/2015-casino-expansion-the-table-japan>.

¹¹⁰ Staff, *Japan Looks to 2016*, GGB NEWS (Oct. 24, 2015), <http://ggnews.com/issue/vol-13-no-48-december-7-2015/article/japan-looks-to-2016>.

substantial economic benefit to Japan. Not only with having gaming companies committed to making significant investments, but revenues from casino gaming could also generate as much as \$40 billion per year with two integrated resorts in Tokyo and Osaka and ten smaller “regional” establishments.¹¹¹ Further, current tourism to Japan from China has increased significantly in 2015, so casino gambling could be an additional draw for Chinese visitors who could avoid the burdens faced when trying to visit Macau.¹¹²

Additionally, if the recommendations of the IRTF were implemented, the current restrictions in place in other Asian casino markets would make Japan an attractive location for both investors and patrons. Although South Korea has recently expanded casino gaming by allowing integrated resorts to be developed in more accessible, central areas (including one by the airport in Seoul), some major Las Vegas casino operators have declined to invest because South Korean citizens will be prohibited from gambling at the new integrated resorts.¹¹³ Even operators within Asia have withdrawn interest in developing a South Korean gaming resort because of the limitation on local gambling coupled with hesitation to rely solely on Chinese gamblers to feed the casino market.¹¹⁴ As Japan has already seen a significant upsurge in tourism from Chinese residents wishing to experience the country’s existing sites and offerings, adding integrated gaming resorts would merely supplement the existing tourism industry and Japan would not need to rely on a certain market to fill the casinos.

Recent crackdowns on corruption, a smoking ban within Macau casinos, and continued issues in VIP gaming rooms have kept Macau casinos prevalent in news headlines,¹¹⁵ but this has led many to question the future of casino gaming in the province. Although Macau has had licensed, legal gambling for hundreds of years, the long-standing casino monopoly was penetrated shortly

¹¹¹ Nathan Layne, *Sands CEO Says to Spend ‘Whatever It Takes’ for Japan Casino*, YAHOO! FINANCE (Feb. 24, 2014, 4:02 AM), <http://finance.yahoo.com/news/sands-ceo-says-spend-39-whatever-takes-39-051403462—sector.html>.

¹¹² Stutz, *supra* note 109.

¹¹³ See Muhammed Cohen, *South Korea Casino Licenses Attract A Crowd, Despite Ban on Local Players*, FORBES (July 19, 2015, 3:20 AM) (noting Steve Wynn would consider investment if ban on locals removed), <http://www.forbes.com/sites/muhammadcohen/2015/07/19/south-korea-casino-licenses-attract-a-crowd-despite-ban-on-local-players/>; Choi Kyong-ae, *Sands Makes Sly Casino Offer*, THE KOR. TIMES (Feb. 16, 2015), <http://www.pressreader.com/korea-republic-of/the-korea-times/20150216/281492159751854/TextView> (explaining that Las Vegas Sands is willing to invest \$4.5 billion if Korean nationals permitted to gamble).

¹¹⁴ See *NagaCorp Says Also Not Bidding for S. Korea Permit*, GGRASIA (Nov. 12, 2015), <http://www.ggrasia.com/nagacorp-says-also-not-bidding-for-s-korea-permit/>.

¹¹⁵ Neil Gough, *Macau Gambling Industry Faces Challenges on Multiple Fronts*, N.Y. TIMES (Nov. 26, 2015), http://www.nytimes.com/2015/11/27/business/international/macau-casino-entertainment.html?_r=0.

after China took over control of the region in 1999.¹¹⁶ In 2002, concessions were given to outside gaming companies, including, whether through partnerships or through sub-concessions, affiliates of Las Vegas casino operators Wynn Resorts; Las Vegas Sands; and MGM Resorts.¹¹⁷

Shortly after the casinos under Macau's new concessions were built, Macau surpassed Las Vegas in gaming revenues by a substantial margin.¹¹⁸ In 2013, Macau saw \$45 billion in gaming revenues, which was "an increase of almost 20% over the previous year."¹¹⁹ Around this time, however, the Chinese government began implementing its anti-graft campaign and started cracking down on VIP junket operations and money laundering in Macau.¹²⁰ This contributed to at least 16 months of straight gaming revenue decline, with several months seeing a decline of more than 30%.¹²¹

Although travel restrictions for Chinese citizens were scaled back, Macau casinos were further hit with a ban on smoking in the casinos.¹²² Actually, this was initiated and welcomed by the casino industry; smoking lounges were set up and smoking was still permitted in VIP rooms.¹²³ However, the casinos are now facing a full-scale prohibition on smoking in casinos, despite efforts to convince the government that smoking lounges should continue to be allowed.¹²⁴ A full smoking ban may lead to a further decline in GDP of at least 16%.¹²⁵ The turbulence within the Macau casino industry has some questioning the future of the Asian gaming market.

Singapore casinos brought in just over \$6 billion in 2013.¹²⁶ Although not

¹¹⁶ See *Macao Gaming History*, GAMING INSPECTION & COORDINATION BUREAU: MACAO SAR, <http://www.dicj.gov.mo/web/en/history/index.html> (last visited Dec. 23, 2015).

¹¹⁷ See *id.*

¹¹⁸ See Charles Riley, *Macau's Gambling Industry Dwarfs Vegas*, CNNMONEY (Jan. 6, 2014, 8:39 PM), <http://money.cnn.com/2014/01/06/news/macau-casino-gambling/>.

¹¹⁹ *Id.*

¹²⁰ See Farah Master, *China's Anti-Graft Drive Puts The Squeeze on Macau Junkets*, REUTERS, (Sept. 24, 2014, 5:15 PM), <http://www.reuters.com/article/us-china-corruption-macau-junkets-idUSKCN0HJ2B620140924>.

¹²¹ Howard Stutz, *Macau Gaming Revenue Down 33 Percent in September, 16th Straight Monthly Dip*, L.V. REV.-J. (Oct. 1, 2015, 7:09 AM), <http://www.reviewjournal.com/business/casinos-gaming/macau-gaming-revenue-down-33-percent-september-16th-straight-monthly-dip>

¹²² Gough, *supra* note 115.

¹²³ Howard Stutz, *Inside Gaming: Macau Bans Smoking on Floors*, L.V. REV.-J. (June 1, 2014, 4:16 PM), <http://www.reviewjournal.com/columns-blogs/inside-gaming/inside-gaming-macau-bans-smoking-floors>.

¹²⁴ *Macau Casinos Insist on Smoking Lounges*, MACAUNews (Nov. 12, 2015), <http://www.macaunews.com.mo/content/view/3721/13/lang,english/>.

¹²⁵ *Full Smoking Ban Could Jeopardize Social Welfare, Casinos Claim*, MACAUDAAILY TIMES (Nov. 12, 2015), <http://macaudailytimes.com.mo/full-smoking-ban-could-jeopardize-social-welfare-casinos-claim.html>.

¹²⁶ Howard Stutz, *Singapore Casinos Produce \$6 Billion in Gaming Revenue in*

nearly the level of Macau revenues during the same year, there are only two integrated resorts with casinos authorized and operating in Singapore.¹²⁷ The two licensees have accepted the restriction that local residents pay S\$100 per day (or S\$2,000 per year) to enter the casino since foreign visitors are allowed free entry.¹²⁸

A few other Asian jurisdictions that have legalized casinos, such as Vietnam and Cambodia, continue to prohibit citizens from gambling, so major U.S. casino companies have not made investment in these countries.¹²⁹

Japan now has the opportunity to be the “next Las Vegas.” If the country legalizes casino gaming, the country could develop integrated resorts that provide an entertainment experience to locals and tourists alike, tax revenue to the government, and employment. As there are several obstacles in other Asian countries that have casino gaming, Japan could flourish as a model for regulated gaming in Asia. Should Japan allow integrated resorts with casino gaming, there will be interest in outside investment by companies that have substantial experience in regulated casino operations.¹³⁰ These companies also have a history of understanding and addressing problem gambling in the casino environment due to established regulation and open dialogue between casino operators and advocates for problem gambling education and treatment.

III. PROBLEM GAMBLING CONCERNS IN JAPAN

Much of the debate surrounding whether Japan should legalize integrated resorts with casino gaming centered around concerns that problem gambling will increase in the country.¹³¹ Currently, it is estimated that 4.8% of the adult population in Japan, which is 5.36 million people, suffers from problem gambling.¹³² A “gambling disorder” is currently defined as a “[p]ersistent and recurrent problematic gambling behavior leading to clinically significant

2013; *Market Still Trails Las Vegas Strip*, L.V. REV.-J. (Feb. 21, 2014, 6:29 AM), <http://www.reviewjournal.com/business/singapore-casinos-produce-6-billion-gaming-revenue-2013-market-still-trails-las-vegas-strip>.

¹²⁷ *Id.*

¹²⁸ Imelda Saad, *S\$195m in Casino Entry Levies Collected in 2011*, CHANNEL NEWSASIA (Jan. 21, 2013, 7:41 PM), <http://www.channelnewsasia.com/news/singapore/s-195m-in-casino-entry-le/281682.html>; *see id.* (only Singaporeans and Permanent Residents pay the levy).

¹²⁹ Muhammed Cohen, *Vietnam, Investors Talk Big on Gaming Resorts, But Small Casinos Are Winners*, FORBES (July 23, 2015, 2:07 AM), <http://www.forbes.com/sites/muhammadcohen/2015/07/23/vietnam-investors-talk-big-on-gaming-resorts-but-small-casinos-are-winners/>; Paul D. Bromberg, *Gaming in Southeast Asia*, in *CASINO INDUSTRY IN ASIA PACIFIC: DEVELOPMENT, OPERATION, AND IMPACT* 77, 79 (Cathy H.C. ed., 2006).

¹³⁰ *See Hirokawa & Yamaguchi, supra note 89.*

¹³¹ *See Akasaka, supra note 10.*

¹³² *See id.*

impairment or distress,” which is demonstrated by exhibiting four or more defined behaviors within a one-year period.¹³³ Some Japanese officials are concerned that legalized casino gaming will become just another avenue for the large numbers of already vulnerable Japanese citizens to develop or perpetuate a gambling disorder.¹³⁴

Japan is generally understood to have a very private culture in which struggles and problems are not a matter of open discussion.¹³⁵ However, when it comes to problem gambling, Japan is not drastically different from the United States. For example, problem gambling in Japan is often portrayed in the media as derelict behavior that cannot be controlled and results from moral corruption,¹³⁶ which is not unlike how it is seen in the United States. Those in Japan are similarly afraid of being exposed as having a gambling disorder because there is the stigma that one can actually control themselves from playing a slot machine or making a bet at roulette, so not doing so is just a sign of weakness.¹³⁷ Further, a gambling disorder can bring shame to the person struggling with the disease, as well as their family because they may be viewed as being unable to control the gambler.¹³⁸

With the advent of casino gaming into Japan, there are concerns that the population, which already has a relatively high percentage of persons with a gambling disorder, will increase dramatically due to the increased availability

¹³³ AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS § 312.31 (5th ed. 2013) (ebook), <http://www.ncpgambling.org/wp-content/uploads/2014/08/DSM-5-Diagnostic-Criteria-Gambling-Disorder.pdf> (identifying behaviors as including:

- a. “Needs to gamble with increasing amounts of money in order to achieve the desired excitement.
- b. Is restless or irritable when attempting to cut down or stop gambling.
- c. Has made repeated unsuccessful efforts to control, cut back, or stop gambling.
- d. Is often preoccupied with gambling (e.g., having persistent thoughts of reliving past gambling experiences, handicapping or planning the next venture, thinking of ways to get money with which to gamble).
- e. Often gambles when feeling distressed (e.g., helpless, guilty, anxious, depressed).
- f. After losing money gambling, often returns another day to get even (‘chasing’ one’s losses).
- g. Lies to conceal the extent of involvement with gambling.
- h. Has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling.
- i. Relies on others to provide money to relieve desperate financial situations caused by gambling.”).

¹³⁴ See Matthew Carney, *Japan Set to Lift Ban on Casinos, Paving Way for James Packer Resort*, AUSTRALIAN BROADCASTING CORP. (Nov. 13, 2014, 11:08 AM), <http://www.abc.net.au/news/2014-11-13/japan-set-lift-casino-ban-james-packer-resort/5889578>.

¹³⁵ See Takiguchi & Rosenthal, *supra* note 22.

¹³⁶ *Id.*

¹³⁷ *See id.*

¹³⁸ *See id.*

of gambling options.¹³⁹ However, this may be a misnomer if looking to some recent studies in the United States, which has experienced a tremendous expansion of casino and tribal gaming within the last few decades.¹⁴⁰ Last year, the University at Buffalo Research Institute on Addictions concluded that problem gambling rates remained at steady levels in the United States even while gaming opportunities have expanded.¹⁴¹ In fact, the same study showed that while the availability of casino gaming across the United States has increased, participation in gambling has actually declined.¹⁴²

One of the more recent U.S. jurisdictions to legalize casino gaming is the State of Ohio.¹⁴³ In 2012, the first casino opened in Cleveland, Ohio, and there are now at least 11 casinos and racinos¹⁴⁴ in the state.¹⁴⁵ As of late last year, Ohio state health officials had not seen any increase in problem gambling rates, which is likely attributed to the availability of resources to those needing help.¹⁴⁶ Even in the Asian gaming market, Singapore has recently seen a decrease in problem gambling, while rates of those seeking help have increased.¹⁴⁷

Like jurisdictions with regulated casino gaming, Japan may not necessarily see an increase in problem gambling with the development of integrated resorts. Such threats can be addressed and hopefully curbed with proper education and training, availability of treatment and resources, and working toward acknowledgment and acceptance that problem gambling is a health disorder that can be treated, rather than a behavior that a person is too lazy or unwilling to control.

Japan has the possibility of becoming the “next Las Vegas” because

¹³⁹ See Carney, *supra* note 134.

¹⁴⁰ See Matt Villano, *All in: Gambling Options Proliferate Across USA*, USA TODAY (Jan. 26, 2013, 5:00PM), <http://www.usatoday.com/story/travel/destinations/2013/01/24/gambling-options-casinos-proliferate-across-usa/1861835/>.

¹⁴¹ Cathy Wilde, *Expansion of Gambling Does Not Lead to More Problem Gamblers, Study Finds*, U. BUFF. (Nov. 5, 2014), <http://www.buffalo.edu/news/releases/2014/11/005.html>.

¹⁴² *Id.*

¹⁴³ See James Nash, *Ohio OKs Casinos*, THE COLUMBUS DISPATCH (Nov. 4, 2009, 8:30 AM), http://www.dispatch.com/content/stories/local/2009/11/04/ISSUE_3.ART_ART_11-04-09_A1_O9FILBO.html.

¹⁴⁴ A racino is a horse or dog race track with casino-style gaming. See *racino*, OXFORD DICTIONARIES, http://www.oxforddictionaries.com/us/definition/american_english/racino (last visited Feb. 3, 2016).

¹⁴⁵ Karen Farkas, *Casinos and Racinos Have Not Yet Led to an Increase in Problem Gambling, Officials Say*, CLEVELAND.COM (Oct. 17, 2014, 9:09 AM), http://www.cleveland.com/metro/index.ssf/2014/10/casinos_and_racinos_have_not_1.html.

¹⁴⁶ See *id.*

¹⁴⁷ See *Problem Gambling Rate in S'pore Falls But More Starting Young: Survey*, ASIAONE (Feb. 5, 2015), <http://news.asiaone.com/news/singapore/problem-gambling-rate-spore-falls-more-starting-young-survey>.

Nevada casinos have actually undertaken efforts that go above and beyond problem gambling regulation requirements and these casino companies could bring similar initiatives to Japan if they become part of the integrated resorts industry.

IV. THE CASINO INDUSTRY RESPONSE TO PROBLEM GAMBLING

The approach to problem gambling in Nevada has been an intriguing one. Nevada legalized casino gaming in 1931,¹⁴⁸ yet the only regulation to address problem gambling was not implemented until November 1998.¹⁴⁹ It took another seven years before the Nevada State Legislature enacted legislation that approved the use of public funds for problem gambling treatment.¹⁵⁰ Nevada state law now requires that \$2 per slot machine be set aside by the Nevada Gaming Commission on a quarterly basis for deposit into what is called the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling.¹⁵¹

Four years later, the Nevada state legislature then enacted a bill that allows a problem gambler to enter into a diversion program upon commission of certain crimes.¹⁵² Under this program, when a person gets arrested for qualifying crimes and is deemed to have “committed the crime in furtherance or as a result of problem gambling,” he or she can seek eligibility for a treatment program.¹⁵³ The treatment program may consist of supervision by a qualified mental health professional for one to three years, in addition to payment of restitution.¹⁵⁴ Upon successful completion of the program, conviction for the crime will be set aside and the record sealed.¹⁵⁵

In Nevada, the legal obligations imposed on gaming establishments to address problem gambling may not be as stringent as other jurisdictions, but many casinos go above and beyond what is required by law.¹⁵⁶ Pursuant to Nevada Gaming Commission regulation, a gaming establishment in Nevada must post or conspicuously provide brochures near gaming areas, ATMs, and the casino cage that contains information about problem gambling and a toll-

¹⁴⁸ *History of Gaming in Nevada: 1864 to 1931*, NEV. RESORT ASS'N, <http://www.nevadaresorts.org/about/history/> (last visited Feb. 3, 2016).

¹⁴⁹ See Nev. Gaming Comm'n Reg. 5.170 (2015).

¹⁵⁰ See S.B. 357, 2005 Leg., 73d Sess. (Nev. 2005).

¹⁵¹ NEV. REV. STAT. § 463.320(2)(e) (2014).

¹⁵² See Assemb. B. 102, 2009 Leg., 75th Sess. (Nev. 2009).

¹⁵³ NEV. REV. STAT. § 458A.210 (2014).

¹⁵⁴ NEV. REV. STAT. § 458A.230(3)(c) (2014).

¹⁵⁵ NEV. REV. STAT. § 458A.240(1) (2014); NEV. REV. STAT. § 458A.250(2) (2014).

¹⁵⁶ See, e.g., *Responsible Gaming*, MGM RESORTS INT'L <https://www.mgmresorts.com/company/responsible-gaming.aspx> (explaining MGM Resort's policies to help promote responsible gaming, some of which are not mandated by gaming regulations); see also Nev. Gaming Comm'n Reg. 5.170 (2015).

free hotline number for assistance, which is operated by the Nevada Council on Problem Gambling.¹⁵⁷ Gaming establishments must also adopt a training program for employees who interact with gaming patrons to be able to understand problem gambling resources and recognize problem gambling, although there is no legal requirement to identify and provide assistance problem gamblers.¹⁵⁸ Finally, patrons must be allowed to restrict Nevada casinos from issuing credit to the patron, check cashing, or receiving direct mail marketing about gaming opportunities.¹⁵⁹ Failure to comply with these requirements could result in disciplinary action against the gaming licensee initiated by the Nevada Gaming Control Board.¹⁶⁰

States with casino gaming will address problem gambling in a variety of ways. Many states offer self-exclusion programs, whereby a patron voluntarily agrees to be removed from a gaming establishment and may give up any winnings, player club benefits, complimentaries, and credit.¹⁶¹ Some states, such as Illinois or Michigan, impose a lifetime ban on those who opt to voluntarily exclude, while other states allow the patron to elect a term of self-exclusion.¹⁶² For example, both Indiana and Pennsylvania allow a person to limit for one year, five years, or life.¹⁶³

Additionally, some states require a toll-free telephone number to a problem gambling hotline to be posted on signs, advertising, or billboards.¹⁶⁴ In Louisiana, for example, failure to post and maintain such signs can result in a fine of up to \$1,000 per day.¹⁶⁵ New Jersey requires the words “Bet with your head, not over it” or comparable language on on-site advertising at casinos.¹⁶⁶ The toll free hotline 1-800-GAMBLER must also be posted and printed legibly on all such advertising, including those that appear on billboards or signs.¹⁶⁷ Although Nevada may not have these same requirements for exclusion, self-limitations, and advertising, the casino industry in the state has created many programs and funding initiatives that benefit problem gambling treatment and education.¹⁶⁸ In becoming the “next Las Vegas,” Japan can look to the gaming

¹⁵⁷ Nev. Gaming Comm’n Reg. 5.170(2).

¹⁵⁸ *See id.* § 5.170(3).

¹⁵⁹ *Id.* § 5.170(4).

¹⁶⁰ *See id.* § 5.170(6).

¹⁶¹ *See* AM. GAMING ASS’N, RESPONSIBLE GAMING STATUTES AND REGULATIONS ii (3d ed. 2008), https://www.americangaming.org/sites/default/files/research_files/statutes_and_regs_final_091709.pdf.

¹⁶² *Id.* at iii.

¹⁶³ *Id.*

¹⁶⁴ *See, e.g.*, LA. ADMIN. CODE tit. 42, § 118(B) (2015).

¹⁶⁵ *See* LA. ADMIN. CODE tit. 42, §301(C), (D) (2015).

¹⁶⁶ *See* N.J. ADMIN. CODE § 13:69C-14.2(b) (2016).

¹⁶⁷ *Id.* § 13:69C-14.2(c).

¹⁶⁸ *See, e.g., Members and Donors*, NEV. COUNCIL ON PROBLEM GAMBLING, <http://www.nevadacouncil.org/who-we-are/members-donors/> (last visited Jan. 9, 2016).

industry in Nevada for guidance.

The Nevada casino industry relies heavily upon self-regulation and monitoring so that agents from the Nevada Gaming Control Board are not on premises at all times in the more than 450 nonrestricted gaming establishments in the state.¹⁶⁹ This is not unique to the gaming industry. For example, although the alcohol industry in the United States is subject to federal, state, and local post-Prohibition laws designed to prevent monopolies and anti-competitive activities, advertising of alcohol is generally industry regulated and enforced.¹⁷⁰ Trade associations overseeing the alcohol industry have adopted guides for advertising content and placement with a primary goal to prevent targeting an underage audience.¹⁷¹

Nevada casinos have taken a similar approach when it comes to problem gambling. Many Nevada casinos have pledged to follow the American Gaming Association Code of Conduct for Responsible Gaming.¹⁷² This is a voluntary commitment to “promote responsible gaming in every aspect of the casino business, including employee training, customer education, the prevention of underage gambling, responsible alcohol service and responsible marketing and advertising.”¹⁷³ Casinos utilizing this Code of Conduct can help tailor promotions, gaming opportunities, and casino activities to protect vulnerable players and prevent access to minors. In serious cases, Nevada casinos may even utilize Nevada trespass law to prevent a person from continuing with potentially destructive behavior.¹⁷⁴

In addition, industry representatives actively participate in problem gambling organizations or hold roles specifically dedicated to responsible gaming initiatives in gaming. For example, Alan Feldman, Executive Vice President of Global Government and Industry Affairs of MGM Resorts International, “has served as Chairman of the Board for the National Center for Responsible Gaming since 2012.”¹⁷⁵ The Association of Gaming Equipment

¹⁶⁹ See *Nevada Gaming Control Board, Information Sheet*, NEV. GAMING CONTROL BOARD, <http://www.gaming.nv.gov/modules/showdocument.aspx?documentid=10267> (last visited Feb. 2, 2016) (indicating 458 nonrestricted licenses as of June 30, 2015).

¹⁷⁰ See generally FED. TRADE COMM’N, SELF-REGULATION IN THE ALCOHOL INDUSTRY (2014), <https://www.ftc.gov/system/files/documents/reports/self-regulation-alcohol-industry-report-federal-trade-commission/140320alcoholreport.pdf>.

¹⁷¹ *Id.* at 1.

¹⁷² See, e.g., *Responsible Gaming*, *supra* note 156 (“Through our company’s past performance as well as our implementation of the AGA Code of Conduct, MGM Resorts has demonstrated that we are fully committed to the highest level of ethical and responsible policies and procedures in our gaming practices.”).

¹⁷³ See *Code of Conduct*, AM. GAMING ASS’N, <https://www.americangaming.org/about/code-of-conduct> (last visited Jan. 15, 2016).

¹⁷⁴ See NEV. REV. STAT. § 207.200 (2014).

¹⁷⁵ *Bios*, NAT’L CTR. FOR RESPONSIBLE GAMING, <http://www.ncrg.org/press-room/media-kit/bios> (last visited Jan. 15, 2016).

Manufacturers (AGEM), a trade group made up of several slot machine and gaming device suppliers, has a Director of Responsible Gaming.¹⁷⁶ Casino industry representatives also serve as directors and advisors to the Nevada Council on Problem Gambling, which is the organization that has designed and developed the training program casinos utilize in accordance with Nevada regulations.¹⁷⁷

Also, the Nevada casino industry provides significant financial contribution to problem gambling organizations. For example, several of the leading casino companies are substantial donors to the Nevada Council on Problem Gambling, contributing at least \$10,000 or more per year.¹⁷⁸ AGEM has contributed more than \$1 million to several organizations dedicated to addressing problem gambling.¹⁷⁹

This level of engagement between the Nevada gaming industry and national and state organizations has helped address problem gambling. First and foremost, having discourse about problem gambling and recognizing that it is a health issue requiring treatment leads to a more educated population and decreases the shame in seeking assistance. Second, the promotion of resources and treatment options within gaming establishments gives the public comfort that the industry is aware of these concerns and supports problem gambling treatment. Finally, Nevada casinos have actively participated in national and state problem gambling organizations or have executives dedicated to oversee institutional efforts to protect players.

V. CONCLUSION

As Nevada casinos and gaming companies have worked to tackle problem gambling, integrated resorts in Japan can also undertake similar efforts. It may take some time before Japan becomes comfortable with talking about problem gambling, with helping those to overcome the stigma and shame one feels, and to offer a variety of programs and treatment options. However, Nevada went from being silent on the topic to active industry participation and funding, so Japan can look to Nevada as a model on how problem gambling is openly addressed within the casino gaming industry. Not only does it have the potential to be the formidable Asian casino gaming market, Japan could also be

¹⁷⁶ See Ass'n of Gaming Equipment Manufacturers, *Association of Gaming Equipment Manufacturers (AGEM) Announces Appointment of Connie Jones as AGEM Director of Responsible Gaming*, MARKET WIRED (Jan. 9, 2014, 11:00 AM), <http://www.marketwired.com/press-release/association-gaming-equipment-manufacturers-agem-announces-appointment-connie-jones-1867719.htm>.

¹⁷⁷ See *Board of Directors*, NEV. COUNCIL ON PROBLEM GAMBLING, <http://www.nevadacouncil.org/who-we-are/board-of-directors/> (last visited Nov. 15, 2015).

¹⁷⁸ See *Members and Donors*, NEV. COUNCIL ON PROBLEM GAMBLING, <http://www.nevadacouncil.org/who-we-are/members-donors/> (last visited Feb. 2, 2016).

¹⁷⁹ Ass'n of Gaming Equipment Manufacturers, *supra* note 176.

the “next Las Vegas” when it comes to addressing problem gambling in the country.