

NOTES

GAMING IN JAPAN: COMBATING THE FEARS AND CONCERNS OF THE PEOPLE

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INTRODUCTION.....	235
I. JAPANESE GAMING LAW & CONCERNS	237
A. <i>The Japanese Development Act</i>	237
B. <i>The Responsible Gaming Bill</i>	240
C. <i>Bad Habits: Gambling Addiction</i>	241
D. <i>Osaka as a Potential Casino Licensee</i>	243
E. <i>Organized Crime in Japan</i>	245
II. COMPARING NEW JERSEY’S AND NEVADA’S STEPS TO PREVENT THE EFFECTS OF CRIME AND PROBLEM GAMING THAT IS ASSOCIATED WITH EXPANSION OF GAMING LAWS ...	246
A. <i>History of Crime and Problem Gaming in New Jersey</i>	246
B. <i>History of Crime and Problem Gaming in Nevada</i>	248
C. <i>Compare & Contrast New Jersey with Nevada</i>	249
III. CRITIQUE OF THE IMPLEMENTATION OF JAPAN’S DEVELOPMENT ACT	251
CONCLUSION	255

INTRODUCTION

On July 20, 2018, Japan enacted the Specified Tourist Complex District Development Act (The Development Act) as a direct follow up to the Integrated Resorts Act (IR Act) that passed on December 15, 2016.¹ The IR Act initially

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provided for the creation of a limited number of integrated resorts where casino gaming is to be allowed in Japan, but the act did not fully legalize casino gaming throughout the entire country.² The Development Act thus in turn establishes the framework in which these limited casinos must utilize in their operations so that they are compliant with the original IR Act.³ Notwithstanding these newer acts, currently, under Chapter 23 of the Japanese Penal code, gambling is still punishable by fine and/or imprisonment.⁴ Furthermore, under Article 186, any individual who “runs a place for gambling or organizes a group of habitual gamblers” is subject to up to five years of imprisonment.⁵ As such, gambling will still be a punishable offense outside of these limited resorts.

The passage of the Development Act came despite it not being well received by voters. This unpopularity is caused by the perception that the bill will serve to promote gambling addiction and organized crime.⁶ In response to this critique, the Development Act was written in a way to help alleviate these concerns and curb the negative effects of gambling. Furthermore, the Japanese legislature is actively trying to pass further legislation to help combat these concerns.⁷ The Development Act has been touted as a potential way to further the Japanese economy, but the fears of crime and problem gaming are very prominent within the country. Despite its passage, the Development Act is still a highly unpopular piece of legislation in the eyes of Japanese residents.⁸

The Development Act is structured in a way that tightly regulates casino activity in order to promote casino business as more socially acceptable and to secure the confidence of Japanese citizens.⁹ A big concern within Japan has been that legalizing gaming would be harmful to the public and promote bad habits.¹⁰

Japan's New Casino Law, NIKKEI ASIAN REV. (July 20, 2018, 11:17 PM), <https://asia.nikkei.com/Business/Five-things-to-know-about-Japan-s-new-casino-law>.

² Press Release, Greenberg Traurig, Passage of the Japan Integrated Resorts Act (Dec. 22, 2016), <https://www.gtlaw.com/en/insights/2016/12/passage-of-the-japan-integrated-resorts-act>.

³ Sugiura, *supra* note 1.

⁴ See KEIHO (PEN. C.) 1907, art. 185–86 (Japan).

⁵ *Id.* at art. 186.

⁶ Megumi Fujikawa, *Japan Legalizes Casino Gambling*, WALL STREET J. (July 20, 2018, 8:47 AM), <https://www.wsj.com/articles/japan-legalizes-casino-gambling-1532089986>.

⁷ Tokutei fukugō kankō shisetsu chiiki seibi sokushin-hō [Specified Tourist Complex District Development Act], Act No. 115 of 2016, art. 3 (Japan) (on file with author).

⁸ Fujikawa, *supra* note 6; Devin O'Connor, *Japanese Officials Concerned Country Lacks Adequate Problem Gambling Safeguards Ahead of Casino Liberalization*, CASINO.ORG (May 29, 2019), <https://www.casino.org/news/japanese-officials-concerned-problem-gambling-safeguards/>.

⁹ Specified Tourist Complex District Development Act, art. 2 § 7 (Japan) (on file with author).

¹⁰ Devin O'Connor, *Japanese Officials Concerned Country Lacks Adequate Problem Gambling Safeguards Ahead of Casino Liberalization*, CASINO.ORG (May 29,

One prominent element found throughout the act is the need to “eliminate any harmful effects” that are caused by the establishment of these limited resorts.¹¹ The act delegates responsibility to both the national and local governments, in areas where these limited resorts will be created, to combat these societal ills.¹² All levels of government will be responsible for the enactment of this legislation. Beyond that, these limited resorts will also have to promote regulations in accordance to future legislation in order to help meet this goal.¹³ Casinos will also be tasked with not only enforcing legislation passed, but also creating and maintaining procedures to further these interests.¹⁴

Now that Japan has essentially legalized gaming, in certain limited areas, the government will have to address several concerns at the national and local level; the most notable of these concerns are crime and addiction. Similarly, Nevada and New Jersey faced comparable concerns when faced with the expansion of gaming within their respective borders. There are similarities and differences between what is occurring now in Japan and what occurred within these American states in the mid to late 1900s. This note will be separated into two parts. Part two will analyze the new gaming laws being implemented by the Japanese government and provide an overview of Osaka, the city that is seen as the forefront contender to open one of these limited resorts. Part three will provide a historical and organizational comparison to Atlantic City and Las Vegas in order to analyze the similarities and differences in their enactments since all three locations have sought to curb the effects of crime and problem gaming associated with the expansion of these laws.

I. JAPANESE GAMING LAW & CONCERNS

A. *The Japanese Development Act*

The main purpose of this act is to help promote the tourist industry and regional economies of Japan by improving public finances and promoting visits by domestic and international travelers.¹⁵ Furthermore, the act seeks to achieve this goal while still limiting the negative effects associated with casino gaming in order to appease the concerns of Japanese citizens. In order to promote gaming and fight these “bad habits,” the Development Act includes several key provisions intended to address the concerns of many.¹⁶

2019), <https://www.casino.org/news/japanese-officials-concerned-problem-gambling-safeguards/>.

¹¹ See Specified Tourist Complex District Development Act, art. 3–4 (Japan) (on file with author).

¹² *Id.* at art. 4.

¹³ *Id.*

¹⁴ See *id.* at art. 3.

¹⁵ *Id.* at art. 1.

¹⁶ See generally Specified Tourist Complex District Development Act, art. 4 (Japan) (on file with author).

There are a number of criteria that an applicant gaming company must pass in order to obtain a gaming license.¹⁷ In order for a city to have a District Development Plan certified under the Development Act, there are various requirements applicants must meet in conjunction with the city in which they are trying to open the resort.¹⁸ Most notably applicants must determine matters concerning the location and scale of the district, policies and measures for realizing attractive stay-type tourism, expected economic and social effects, and also need to create a Basic Business Plan.¹⁹ The applicants must work alongside the local government in order to be able to create a plan of action that is not only able to establish how the location will look, but must also establish how it expects the resort to function and how it will affect the surrounding community.²⁰ Most importantly, the individuals applying for this (application/license) must prove that they are able to appropriately carry out the business and have sufficient social credibility.²¹

Social credibility will also be determined by the Casino Administration committee upon application.²² While its determination seems a bit subjective, within the act itself, there are several listed individuals that are barred from approval.²³ These individuals include those with previously revoked casino business licenses or who have served as officers for a casino and have previously violated provisions within this act “in accordance with the provisions of a foreign law or ordinance corresponding to this Act[.]”²⁴ This itself is intended to weed out individuals of dubious reputations or with known criminal ties. Furthermore, the officers and individuals who will have dominant influence over the organization “through contribution, financing, transactions or other relationships” will also have to pass this standard of social credibility.²⁵ This can be seen as Japan’s approach in trying to prevent the yakuza, or Japanese mob, from having control of individuals running these casino resorts. By relying on the social credibility of not only the individuals running the casinos but also those financing and contributing, the national and local governments will be able to keep the yakuza and other crime organizations from exerting control over these limited resorts.

The Development Act itself also has provisions designed to prevent dependency on gambling and problem gaming. In particular, under Article 68, a casino will be required to restrict the use of access to a visitor upon the request of “that visitor, his or her family or other persons concerned[.]”²⁶ Furthermore, the facility will have discretion in implementing measures to restrict use to individuals

¹⁷ *Id.* at art. 40–41.

¹⁸ *Id.* at art. 8–9.

¹⁹ *Id.* at art. 9.

²⁰ *See id.* at art. 4.

²¹ *Id.* at art. 41.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at art. 68.

who's continued access is found to be "inappropriate in consideration of preventing adverse effects" when it comes to gaming.²⁷ Individuals and their families will not only be able to restrict use in order to prevent problem gaming and dependency, but the facilities themselves will also have discretion and be able to combat it. In turn this will allow those who develop a dependency on gambling or already suffer from such dependency to be able to restrict themselves.

Within the act, there are also several restrictions to accessing these facilities. In order to be granted access, individuals must be twenty years of age or older, not a member of an organized crime group, and pay an entrance fee.²⁸ Furthermore, access shall be limited to three visits during the span of seven consecutive days and ten visits within a period of twenty-eight consecutive days.²⁹ This limit for residents seems to be an arbitrary limit placed by the legislature in order to address concerns from the public over gaming addiction. However, this appears to be in line with the Japanese Legislature's intent to prevent dependency on gambling as Japanese residents will not be able to have daily access to these facilities.³⁰ This may be the main way in which the act is designed to prevent dependency and addiction since there will be a way to physically impede individuals from accessing casinos rather than leaving it up to self-restraint alone.

Unfortunately, these usage restrictions themselves applies only to residents of Japan and are not applicable to tourists and short-term visitors.³¹ There is a "foreigner exception" embedded within the act that allows non-residents to access the facilities as much as they want.³² While this exception may have been intended to help boost the Japanese economy, it undermines the intended purpose of the act: to eliminate any harmful effects caused by gaming. Additionally, this exception could potentially create tensions amongst foreign tourists and the community around these resorts in various ways. Restrictions on access could also potentially lead to residents, that develop a gambling addiction, to seek illegal alternatives and potentially create a demand on which crime organizations could capitalize.

In order to adhere with these provisions, individuals will be required to present a valid identification every time they enter and leave the limited resort.³³ Identification will be in the form of an identification card for residents and a passport for foreigners.³⁴ The "My Number" identification card is a 12-digit number assigned to individuals within Japan who currently reside in the country

²⁷ *Id.*

²⁸ *Id.* at art. 69.

²⁹ *Id.*

³⁰ *Id.*; Fujikawa, *supra* note 6.

³¹ See Specified Tourist Complex District Development Act, art. 69 (Japan).

³² *Id.*

³³ *Id.* at art. 70.

³⁴ *Id.*

and possess a Resident Record.³⁵ They will also be issued to “[m]id- to long-term foreign residents...who have legal status of residing in Japan for more than 3 months.”³⁶ Utilizing these My Number identification cards will allow the casinos to monitor individuals and ensure that they are not going over the allotted number of times allowed to visit these limited resorts. Beyond restricting access to individuals of dubious backgrounds and affiliations, limited access will also allow individuals, their families, and the casinos themselves to prevent any dependency and gambling addiction. Furthermore, it will allow casinos to regulate who is going in and out, thus effectively preventing individuals associated with organized crime and other dubious backgrounds from entering.

B. *The Responsible Gaming Bill*

The Basic Act on Countermeasures Against Gambling Addiction (“Responsible Gaming Bill”) was enacted to combat gambling addiction and other negative stereotypes associated with gambling.³⁷ The bill acknowledges that gambling addiction “creates impediments for daily life or social life” and thus is designed to serve as countermeasures thereby “ensuring the nationals’ sound life” and contribute to societal peace.³⁸ Beyond this recognition, the bill actively works to promote the rehabilitation and reintegration of individuals should there be any problems of addiction.³⁹ This bill is not designed to punish and segregate those with addiction, but to help rehabilitate those individuals into productive members of society.

Chapter One of the Responsible Gaming Bill makes it the responsibility of both the national and local government to provide policies to counteract problems created by the expansion of gambling and enforce such provisions.⁴⁰ Furthermore, the legislature put the responsibility on the casino operators to not only cooperate with the policies established by the government, but also to work alongside them in order to prevent gambling addiction.⁴¹ These integrated casino resorts will also have to develop policies as more legislation arises. Also, in hopes of bringing awareness to the dangers of gambling and addiction, there will be a national “Awareness Week for Gambling” from May 14 to the 20 each

³⁵ *My Number Notification Cards and My Number Cards*, TOSHIMA (Oct. 28, 2016), https://www.city.toshima.lg.jp/info/en/my_number.html.

³⁶ *The My Number System in Japan and How it Affects Non-Japanese*, PLAZA HOMES (Mar. 6, 2018), <https://www.realestate-tokyo.com/living-in-tokyo/immigration-government/my-number/>.

³⁷ Gyanburu-tō isonshō taisaku kihon-hō [The Basic Act on Countermeasures against Gambling Addiction], Act No. 74 of 2018, art. 1 (Japan).

³⁸ *Id.*

³⁹ *Id.* at art. 18.

⁴⁰ *Id.* at arts. 5–6.

⁴¹ *Id.* at art. 7.

year.⁴² Rather than downplaying the effects of gambling, the Japanese government is promoting greater understanding of the issues at hand.

Chapter Three itself lays out the basic policies to counteract problem gaming.⁴³ Article 16 tasks the national and local government with implementing and maintaining policies for the creation of medical institutions specializing in gambling (or gambling addition/dependence/ gambling related problems).⁴⁴ These institutions will provide individuals with medical treatment without discrimination.⁴⁵ The government will be establishing and funding medical assistance for those who suffer from gambling addiction and other issues that arise through the expansion of gaming. Rather than just opening up casinos and leaving medical issues up to individuals that suffer from them to figure it out for themselves, this proposed legislation would make it the government's duty to aid in the treatment and rehabilitation of individuals that suffer from addiction and dependency.

Beyond medical assistance, the bill also promotes societal rehabilitation and reintegration. Article 18 tasks both the national and local government with implementing policies that will allow individuals to obtain jobs and support them in order to ensure a "smooth rehabilitation" back into society.⁴⁶ Rather than sitting idly by while individuals try to restructure their lives, the Japanese government will be directly involved in order to ensure that individuals who have gone through rehabilitation get the support and help that they need in order to become functioning members of society once again. The government will not be criminalizing addiction, nor will they be ostracizing individuals, but rather this bill is explicitly tasked with providing guidance and support in order to help individuals who suffered from addiction to lead successful lives.

All in all, Japan has acknowledged the issues that are prevalent around gambling and are actively working to ensure that they are able to counteract them. Beyond that, they are working to implement both resources and policies that will allow those harmed to not only rehabilitate, but also reintegrate into society. The bill itself recognizes that whatever societal ills arise from the expansion of gaming in Japan, it will be the responsibility of the government at all levels to ensure that there are measures in place to protect their citizens.

C. *Bad Habits: Gambling Addiction*

One of the main arguments and concerns against the expansion of casino gaming in Japan is that this expansion would cause an increase in gambling addiction in the Japanese population. A recent study conducted by the National Hospital Organization Kurihama Medical and Addiction Center on Gambling Addiction "estimates that 3.6% of adults in Japan show symptoms [of gambling

⁴² *Id.* at art. 10.

⁴³ *See id.* at ch. 3.

⁴⁴ *Id.* at art. 16.

⁴⁵ *Id.*

⁴⁶ *Id.* at art. 18.

addiction] at some point in their life,” which amounts to roughly 3.2 million people in Japan.⁴⁷ What is troubling about this, is that the “3.6% rate among the Japanese population for showing signs of gambling addiction over a person’s lifetime is considerably higher than the rate in other developed countries.”⁴⁸ The study also found that the most common type of gambling was on pachinko machines.⁴⁹

Pachinko is superficially a vertical pinball machine where you buy metal balls and play in order to win more balls.⁵⁰ Individuals gather these metal balls and turn them in for “gifts” and prizes which can be sold off for money at conveniently located “used goods stores.”⁵¹ While on the surface this looks like gambling, pachinko is not considered as such because of a legal loophole.⁵² Pachinko is defined as gaming, not gambling, since “the bet...is made only for momentary amusement.”⁵³ Historically, pachinko had been a legal gray area despite there being a strong case to consider it gaming. It wasn’t until recently, and thanks to the legalization of casino gaming in Japan, that pachinko is seeing any regulation.⁵⁴ Thanks to anti-addiction regulations passed to help legalize casinos, pachinko halls will be required to reduce payouts in machines within the next three years.⁵⁵ This in turn has caused concern as owners worry that this will make the games less exciting/addictive and thus restricting the enjoyment of the game.⁵⁶

Still, gaming is not the whole issue at hand, but rather seems to be the root of it. Gambling addiction leads to other societal ills and “bad habits,” many of which are detrimental to not only the individual suffering from the addiction, but those around them. Naoko Takiguchi, a professor of sociology at Otani University and who also runs a rehabilitation and education programs for problem gamblers and their families, has stated that “[i]t is not just the gambler who suffers,

⁴⁷ *Pachinko and Slot Machine Addiction in Japan*, NIPPON (Aug. 2, 2018), <https://www.nippon.com/en/features/h00252/pachinko-and-slot-machine-addiction-in-japan.html>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Pachinko*, JAPAN VISITOR, <https://www.japanvisitor.com/japanese-culture/culture-pachinko-2> (last visited Apr. 27, 2020).

⁵¹ *Id.*

⁵² Phillip Tang, *The Big Business of Japan’s Pachinko Parlours*, BBC (Aug. 16, 2012), <http://www.bbc.com/travel/story/20120815-the-big-business-of-japans-pachinko-parlours>.

⁵³ Simon Scott, *Ball and Chain: Gambling’s Darker Side*, JAPAN TIMES (May 24, 2014), <https://www.japantimes.co.jp/life/2014/05/24/lifestyle/ball-chain-gamblings-darker-side/#.XHNqf89Kjq1>.

⁵⁴ Taiga Uranaka & Ritsuko Ando, *Japan’s Pachinko Industry Braces for Anti-Addiction Regulation*, REUTERS (July 26, 2018, 4:11 PM), <https://www.reuters.com/article/us-japan-pachinko/japans-pachinko-industry-braces-for-anti-addiction-regulation-idUSKBN1KG35H>.

⁵⁵ *Id.*

⁵⁶ *Id.*

but the whole family, especially the children[.]”⁵⁷ Takiguchi has also stated that gambling addiction “leads to debt, poverty, crime, suicide, loss of employment, parents fighting about money, arrest and the shame that it brings to the family, divorce, and children developing gambling and other addition problems.”⁵⁸ These are the types of “bad habits” that caused such a negative response from the local population. Couple this with the high percentage of Japanese individuals who have shown signs of addiction and the Japanese legislature’s concerns are understandable.

D. Osaka as a Potential Casino Licensee

Initially, there will be three licenses given out to create these gaming resorts that will be valid for ten years and then renewable every five years after that as long as they receive approval from local legislatures.⁵⁹ Currently, Osaka is seen as the leading contender for one of the first three casino licenses.⁶⁰ The local government has expressed great interest in these licenses as the city has seen a loss in wealth, in comparison to Tokyo, and sees gambling as a method to boost tourism and revamp their city.⁶¹ There is also great interest in building this casino on Yumeshima, or “Dream Island,” a man-made site that has been abandoned for two decades.⁶² The local Osaka government is investing in redeveloping the land because of its high potential.⁶³ This location offers “exceptional highway and road access to the entire Kansai region.”⁶⁴ This accessibility would not only facilitate travel from all over the region, but it would also provide a segregated location away from the local communities. Thus, gambling is seen as the perfect opportunity to reinvigorate this once forgotten area and allow them to improve its infrastructure. It is because of this strong local support, availability of a suitable location, and support from the surrounding business community that Osaka is expected to become the first major city in Japan to host a casino.⁶⁵

The Osaka city government is striving to get the support from its people, but the reception towards an expansion of casino gaming in the area has not been completely positive. Despite this, there is currently high enthusiasm on behalf of the local government that an expansion of casino gaming could be an opportunity

⁵⁷ Scott, *supra* note 53.

⁵⁸ *Id.*

⁵⁹ Sugiura, *supra* note 1.

⁶⁰ *Id.*

⁶¹ Thomas Wilson & Mari Saito, *Foreign Casino Operators Go All in as They Vie for Osaka License*, REUTERS (Aug. 20, 2018, 12:48 AM), <https://www.reuters.com/article/us-japan-casinos-osaka/foreign-casino-operators-go-all-in-as-they-vie-for-osaka-license-idUSKCN1L50MF>.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Yumeshima*, INVEST OSAKA: BUSINESS AREAS, <https://www.investosaka.jp/eng/business/yumeshima.html> (last visited Apr. 27, 2020).

⁶⁵ Wilson & Saito, *supra* note 61.

for them to revamp the local economy and reinvigorate the area.⁶⁶ As such, the local government is currently conducting interviews with casino executives, lobbyists, and politicians while striving to avoid the appearance of corruption.⁶⁷ More than just trying to woo support from these individuals, the local government is trying to clear the concerns of its population and avoid any backlash.

Despite the local government vying for this license, the local population in Osaka is still hesitant about it. There are deep rooted fears that gaming will bring so-called societal ills to the city, most notably gambling addiction and crime. A recent poll by a public broadcaster showed that “42 percent of residents are opposed to a casino over fears of gambling addiction” and that less than a fifth of the residents in Osaka are in favor of opening up a casino.⁶⁸ Still, this is more than just a local issue in Osaka seeing as how this hesitancy is being felt across Japan. In 2017, there were a series of nine public hearings held throughout various cities that reportedly did little to relieve this opposition.⁶⁹ On the contrary, the public seems to feel that the government is not considering public opinion on the issue.⁷⁰ This disconnect between the population and the local government has led to the government having to walk a thin line to prevent any image of impropriety and corruption. Osaka Governor Matsui acknowledges the need “to be fully open, and make sure that citizens have no doubts about unfairness or corruption.”⁷¹

There is also a big push on behalf of the local government and foreign casino companies to curry favor with the local residents. Metro-Goldwyn Mayer (MGM), an American hospitality and entertainment company, for example has been building a bigger presence in the city and has been trying to win the “hearts and minds” of the public.⁷² It is working to remove the negative stereotypes that are associated with casino gaming and garner the support of the local population. On the other hand, the city government has been trying to promote a casino resort and gather more public support by holding seminars on dependency and pushing a message of prosperity.⁷³ Both the Japanese governments and foreign corporations seeking to open casinos in Japan see the importance of having the support of the people. Beyond just leaving it up to the government alone, these organizations have begun to take an active role in garnering the approval of the local population.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Muhammad Cohen, *How Not to Win Friends and Influence Japan Casino Legalization*, FORBES (Sept. 10, 2017, 4:53 PM), <https://www.forbes.com/sites/muhammadcohen/2017/09/10/how-not-to-win-friends-and-influence-japan-casino-legalization/#3bdd49552419>.

⁷⁰ *Id.*

⁷¹ Wilson & Saito, *supra* note 61.

⁷² *Id.*

⁷³ *Id.*

E. Organized Crime in Japan

Currently in Japan there are over twenty-two designated organized crime groups referred to as the “yakuza.”⁷⁴ The yakuza are involved in both legitimate and illegal businesses and it is estimated that they collect around five percent of all construction work revenue.⁷⁵ Beyond the traditional notions of organized crime, the yakuza are also involved in all sorts of business operations.⁷⁶ Companies utilized by the yakuza as fronts for example are involved in varied sectors of the Japanese economy, from entertainment to waste disposal and labor dispatch.⁷⁷ According to Robert Feldman, a well-known economist and prior Chief Economist at Morgan Stanley, Japan’s largest organized crime group was once “Japan’s second largest private equity group.”⁷⁸ While not apparent at first glance, the yakuza have been engrained in different sectors of Japanese society. Rather than just your traditional street gang, the yakuza are sophisticated organized crime organizations.

In Japan, the yakuza are no ordinary petty criminals involved in simple crimes. They are a franchise where you pay association dues in order to borrow the organization’s power and intimidate people.⁷⁹ Now that times are changing, they are adapting to the world around them and transforming. They are being forced to diversify their streams of revenue, moving into cybercrimes and even restricting the use of violence and who can put their can logo on business cards.⁸⁰ This change in structure began after national anti-organized crime ordinances came into effect in October 2011. These ordinances not only criminalized “paying off the yakuza and doing business with them,” but also made it more difficult for the yakuza to do everyday things such as renting vehicles, opening bank accounts, and even owning cellphones.⁸¹ Overall, it makes everyday life more difficult for members of the yakuza.

These anti-organized ordinances might have “removed [the yakuza] from public view,” but in turn it led them to go underground and become more vicious.⁸² They are still involved in “nuclear industry staffing, international human

⁷⁴ Jake Adelstein, *Why One of Japan’s Largest Organized Crime Groups is Looking for Legitimate Work*, FORBES (Oct. 2, 2017, 3:46 AM), <https://www.forbes.com/sites/adelsteinjake/2017/10/02/why-one-of-japans-largest-organized-crime-groups-is-looking-for-legitimate-work/#7449fdbb321f>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Jake Adelstein, *Japan’s Yakuza Aren’t Disappearing. They’re Getting Smarter*, WASH. POST (Apr. 8, 2017, 3:17 PM), https://www.washingtonpost.com/news/global-opinions/wp/2017/04/08/japans-yakuza-arent-disappearing-theyre-getting-smarter/?noredirect=on&utm_term=.bc5dbe9e6c09.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

trafficking, loan sharking, and defrauding retirees of their life savings.”⁸³ Despite notions that organized crime is decreasing in Japan, the reality is that it is not as public and regulated as it once was. A source at the Tokyo Metropolitan Police Department stated that, “[i]n order to get around the restrictions of the law aimed at organized crime, there has been an increase in the number of members who hide their [yakuza] affiliation.”⁸⁴ Rather than combating the yakuza as a whole, the Japanese government merely forced them into hiding. Since organized crime is a concern for Japan, it will be interesting to see how legislators and casinos will adjust to the yakuza in hiding.

II. COMPARING NEW JERSEY’S AND NEVADA’S STEPS TO PREVENT THE EFFECTS OF CRIME AND PROBLEM GAMING THAT IS ASSOCIATED WITH EXPANSION OF GAMING LAWS

A. *History of Crime and Problem Gaming in New Jersey*

During the mid-1900s, Atlantic City faced similar challenges to those that Japan is now facing. Initially, casino gaming in Atlantic City had several hurdles that it had to clear before any legislation was passed.⁸⁵ Its initial 1974 referendum to allow gaming failed in nineteen of its twenty-one counties with sixty percent of voters against it.⁸⁶ Voters within Atlantic county favored the initial referendum, but support outside the county severely lacked, as most other New Jersey counties were against the expansion of casino gaming.⁸⁷ Robert Ford, chairman of the pro-casino New Jersey Tourism and Development Council at the time, believed that the referendum failed to pass because of emotional appeal and fear tactics utilized by the opposition to sway the voters.⁸⁸ It is noticeable that a fear of crime and other negative stereotypes associated with casino gambling was able to sway the voters against the initial 1974 referendum.

It was not until 1976 that a referendum barely passed that allowed for the legalization of gambling within Atlantic City.⁸⁹ With the passage of this law, and a deep concern of mafia infiltration, New Jersey Governor Brendan Byrne famously ordered organized crime members to “keep [their] filthy hands off

⁸³ *Id.*

⁸⁴ Yoichiro Kodera, *Yakuza Ready to Muscle in on Casino Business, Gangster Reveals*, ASAHI SHIMBUN (July 18, 2018, 9:46 PM), <http://www.asahi.com/ajw/articles/AJ201807180031.html>.

⁸⁵ *History of Gambling in Atlantic City*, ATLANTIC CITY FREE PUBLIC LIBRARY, <http://www.acfpl.org/ac-history-menu/archival-collections/15-heston-archives/68-history-of-casino-gambling-in-atlantic-city.html> (last visited Apr. 27, 2020).

⁸⁶ *Id.*

⁸⁷ F.J. Prendergast, *New Jersey Voters Reject Casino Gambling*, ATLANTIC CITY PRESS (Nov. 5, 1974), https://www.pressofatlanticcity.com/news/press/atlantic_city/new-jersey-voters-reject-casino-gambling/article_67c86224-2c78-11e4-b914-0019bb2963f4.html.

⁸⁸ *Id.*

⁸⁹ *History of Gambling in Atlantic City*, *supra* note 85.

Atlantic City!”⁹⁰ Despite this display, the New Jersey government was uneasy with the expansion of casinos and gaming, but accepted it as it was a vehicle to achieve worthwhile goals while being able to be strictly controlled and minimize social costs.⁹¹

The 1977 Casino Control Act helped establish the foundation of Atlantic City’s gambling infrastructure and established the Casino Control Commission.⁹² Under this act, the Casino Control Commission was given the power to review licensing applications, review and decide appeals, promulgate regulations, and review and rule upon any complaints received.⁹³ Another aspect of New Jersey’s Casino Control Act was that it limited the number of casinos by essentially restricting them to the Boardwalk and the Marina District.⁹⁴ Despite sentiments to regulate gaming from the very beginning, New Jersey failed to establish clear and consistent public policy as it allowed casinos to open in Atlantic City.⁹⁵ The conflict between “ineffective gaming laws and regulations” with “wrong-minded regulators who were more interested in the appearance of ‘strict’ control as opposed to actual, effective regulation” led to conflicting policies and regulatory failure.⁹⁶

Like Japan, Atlantic City expanded gaming with fears that crime and other harmful effects would plague the city. Despite this, and thanks to careful monitoring, Atlantic City’s casino industry has, for the most part, remained free from the influence of organized crime as a whole.⁹⁷ Despite fears that crime would be rampant, the crime rate peaked in the 1980s and has been declining since then, with larceny/theft being the most prominent crime.⁹⁸

Despite New Jersey and the Casino Control Commission’s best efforts, there have been a few occasions in which organized crime has found ways to infiltrate the casino enterprise. Still, this has been to a lesser extent than originally feared, prior to its legalization. For example, in 2007, three reputed mobsters were amongst twenty-three people charged with “running an illegal sports betting ring

⁹⁰ Inside Jersey Staff, *Disorganized Crime in Atlantic City*, NJ.COM (Apr. 1, 2019), https://www.nj.com/insidejersey/index.ssf/2010/02/dis-organized_crime_in_atlanti.html.

⁹¹ Anthony N. Cabot et al., *A Tale of Two Cities: Las Vegas and Atlantic City*, 20 GAMING L. REV. ECON. 718, 739 (2016).

⁹² N.J. REV. STAT. §§ 5:12–50 (2012).

⁹³ N.J. REV. STAT. §§ 5:12–63 (2011).

⁹⁴ Cabot et al., *supra* note 91, at 734.

⁹⁵ *Id.* at 739.

⁹⁶ *Id.*

⁹⁷ Brian J. Tyrrell & Israel Posner, *Casino Gaming in Atlantic City, A 30 Year Retrospective*, RESEARCHGATE (Oct. 2009), https://www.researchgate.net/publication/234076736_Problem_gambling:_Then_and_now.

⁹⁸ *Id.*

inside the Borgata Hotel & Casino.”⁹⁹ While this might be one of the few instances in which the safeguards established by the Gaming Control Act were bypassed, organized crime has had little influence in the New Jersey gaming structure.

B. *History of Crime and Problem Gaming in Nevada*

Known for being a part of the wild west, crime and gambling have had a distinct history in Nevada. Since its very beginnings, Nevada has had gambling prominently engraved in its economy despite the status of legality. In 1931, frustrations with illegal gambling and a lack of regulation led to a “wide-open gambling bill” to pass within the state legislature.¹⁰⁰ Despite this, there was little regulation or enforcement over gambling, and it was not until 1945 that the Nevada Tax Commission was tasked with creating rules and regulations to oversee gaming within the state.

During the 1950s several properties on the strip were running off of mob money in order to advance and grow. Properties were being “financed or re-financed with millions of dollars in loans from the mob-dominated Teamsters Central States Pension Fund.”¹⁰¹ The mob itself may not have been actively running most of the casinos in Las Vegas, but they were certainly providing the funds that kept casinos growing.¹⁰² As College of Southern Nevada history professor Michael Green states, “[t]here were people running casinos who weren’t in the mob but didn’t have the money to expand, and there were people in the mob who had the money but didn’t know how to run a casino.”¹⁰³ Therefore, this mixture of cash and expertise allowed casinos to flourish in the state.

Between 1931 and 1978, Nevada was the only state within the United States that had legalized casino gaming, but its lack of barriers to enter the market also led to organized crime becoming a prominent investor in the city’s casino enterprise.¹⁰⁴ It was not until threats from the federal government arose to make gambling illegal again that the state began to use licensing and revocations in order to remove organized crime from owning casino operations.¹⁰⁵ Despite this, the

⁹⁹ Claire Heining, *3 Reputed Mobsters Among 23 Charged in A.C. Gambling Ring*, NJ.COM (Apr. 2, 2019), https://www.nj.com/news/2007/11/source_18_arrested_in_gambling.html.

¹⁰⁰ Jennifer Roberts et al., *Practical Perspectives on Gambling Regulatory Processes for Study by Japan: Eliminating Organized Crime in Nevada Casinos*, UNLV INT’L GAMING INST. 1, 5 (Aug. 25, 2017), https://www.unlv.edu/sites/default/files/page_files/27/JapanEliminatingOrganizedCrime.pdf.

¹⁰¹ Jeff German, *The Mafia’s History in Las Vegas: From Bugsy Siegel to Anthony Spilotro*, LV REV. J. (Mar. 9, 2014, 7:33 AM), <https://www.reviewjournal.com/local-las-vegas/the-mafias-history-in-las-vegas-from-bugsy-siegel-to-anthony-spilotro-413833/>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Cabot et al., *supra* note 91, at 719–720.

¹⁰⁵ *Id.* at 720.

state of Nevada “did not limit the number of gaming licenses [nor try] to control the supply of gaming within its borders.”¹⁰⁶

During the 1980s, the Nevada Gaming Control Board established the Special Investigations and Intelligence Division with the purpose of “investigating post-licensing, non-routine gaming problems such as hidden ownership interests in casinos, organized crime involvement in Nevada, and intelligence gathering.”¹⁰⁷ This effectively created a special division designed to investigate casinos and help combat the remnants of organized crime within the casino infrastructure. Still regulators had a continual battle cleaning out the influence of crime.

Contrary to the usual controlled gaming structures around the world, government policy allowed gambling in Las Vegas to grow in a free market approach, without restrictions other than rigorous licensing standards.¹⁰⁸ Furthermore, “[t]he continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming [is] conducted honestly and competitively...” is language found directly in the Nevada policy statement on casino gaming.¹⁰⁹ This in turn allowed various individuals from all over to come to Nevada and turn it into the gaming hub that we know today.

C. Compare & Contrast New Jersey with Nevada

The main similarity amongst Japan, Nevada, and New Jersey is rooted within their beginnings. Like Japan, both Atlantic City and Las Vegas gaming industries developed despite initial fears of organized crime involvement and problem gaming. Despite this, there are several differences in the way that their respective gaming laws were enacted. First, unlike Atlantic City and Las Vegas, Japan’s limitations on access and control make it easier to prevent individuals of dubious backgrounds from having access. Neither Las Vegas, nor Atlantic have restrictions on casino access aside from age restrictions.¹¹⁰ They do not check for identification, nor do they track who goes in and out of their respective casinos.¹¹¹ Therefore, Japan’s law is a lot more controlling.

The biggest difference amongst the laws implemented by these different locations lies in how limiting they are when it comes to granting gaming licenses. Nevada has never limited the number of licenses granted for casino gaming nor have they ever sought to control who goes in and out of the casino.¹¹² Despite this, Nevada as a whole has a very rigorous application process for granting licenses.¹¹³

¹⁰⁶ *Id.*

¹⁰⁷ Roberts et al., *supra* note 100, at 13.

¹⁰⁸ Cabot et al., *supra* note 91, at 730.

¹⁰⁹ *Id.*

¹¹⁰ *See generally* Cabot et al., *supra* note 91, at 721.

¹¹¹ *Id.*

¹¹² *Id.* at 730–31.

¹¹³ *See generally* NEV. REV. STAT. § 463 (2020).

Despite not limiting the number of licenses granted, Nevada does keep a list of individuals whose gaming applications have been denied, found unsuitable, or revoked.¹¹⁴ In addition to this, Nevada also maintains a “Black Book” of individuals who have been barred from entering gaming establishment.¹¹⁵ Since its creation in 1960, the Black Book, officially known as the List of Excluded Persons, has grown to include thirty-three individuals, eleven of whom were added because of mob ties.¹¹⁶ Under NRS 463.151, “exclusion or ejection of certain persons from licensed gaming establishments which conduct pari-mutuel wagering or operate any race book, sports pool or games, other than slot machines only, is necessary to effectuate the policies of this chapter and to maintain effectively the strict regulation of licensed gaming.”¹¹⁷ While Nevada does not limit the number of licenses that it grants, like Japan, it does have restrictions in place to prevent individuals from obtaining licenses and having access to establishments.

Atlantic City, on the other hand, limits where casinos can be opened, but it does not limit access.¹¹⁸ It also do not follow the free market approach for casinos like Nevada and instead limits the number of casinos that are able to operate. This is because New Jersey’s Casino Control Act restricts casinos to tourist zones, essentially the Boardwalk and the Marina District, and therefore limits the number of casinos that can operate.¹¹⁹

Japan’s Development Act itself does the opposite and limits both licensing, location, and access. Cities across Japan are now currently vying for one of the three licenses that will be awarded through the Development Act.¹²⁰ As such, Japan’s gaming laws are even more restrictive than New Jersey’s and essentially the complete opposite of the Nevada gaming market. Nevada has established gaming enterprise districts, areas designated as “suitable for operating an [gaming] establishment that has been issued a non-restricted license.”¹²¹ But this is nowhere near as restrictive as Japan. This has the potential of stunting the economic aspirations of economic growth that Japan has. By limiting access to residents, Japan will be highly dependent on foreign tourism in order to really grow. While the Japanese government is hoping that the legalization of gaming will lead to higher tourism rates, this expansion may or may not be what it hopes for. The government will also not be able to really rely on domestic tourism as those individuals will also be restricted by the access limitations of the act.

¹¹⁴ See generally LISTING OF DENIALS AND FINDINGS OF UNSUITABILITY, NEVADA GAMING COMMISSION (May 2014), <https://gaming.nv.gov/modules/showdocument.aspx?documentid=8963> (last visited Mar. 31, 2020).

¹¹⁵ Stephanie Grimes, *Knowing Vegas: What’s the Story Behind Nevada’s Black Book?*, L.V. REV. J. (May 7, 2014, 4:27 PM), <https://www.reviewjournal.com/uncategorized/knowing-vegas-whats-the-story-behind-nevadas-black-book/>.

¹¹⁶ *Id.*

¹¹⁷ NEV. REV. STAT. § 463.151 (2020).

¹¹⁸ Cabot et al., *supra* note 91, at 728, 741.

¹¹⁹ *Id.* at 728.

¹²⁰ Sugiura, *supra* note 1.

¹²¹ NEV. REV. STAT. § 463.0158 (2020).

Furthermore, such a limited amount of resorts has the potential of stunting growth because of a lack of competition and innovation.

Since tourism seems to be the main driver in the economic aspirations of Japan, casinos will have more of an incentive to cater to foreigners and forgo making it as enjoyable and accessible to Japanese residents. Even having to pay for admission may deter residents from going to these facilities and thus further limit their income. Japan may also face backlash from its residents because of what appears to be preferential treatment towards foreigners when it comes to accessing the casinos.

III. CRITIQUE OF THE IMPLEMENTATION OF JAPAN'S DEVELOPMENT ACT

Although on its face, and through its provisions, the Development Act helps combat the negative effects of gambling, there is a blatant disregard in protecting foreigners that come to Japan and gamble. Beyond allowing a “foreigner exception” in accessing the resorts, which removes most of the protections provided by the act, the Development Act puts foreigners in a dangerous position. If they already suffer from the effects of dependency and problem gaming, they have unlimited access to these gaming facilities. Furthermore, under Article 73, foreign nationals with no residence in Japan are able to charge goods, services, and even casino chips directly to their credit cards, although cannot use credit card cash advance services.¹²² This allows visitors to potentially max out their credit cards while they gamble in these resorts. Nowhere else in the world is this something that casinos allow because it is risky for the players.

The Japanese government itself has no method of identifying individuals with gambling addictions prior to their entry into the country. As much as it wants to prevent these so called “bad habits,” the Japanese government can only do so much in writing legislation. Beyond that, the Japanese legislature is still actively passing legislation that potentially could protect foreigners. Furthermore, the casinos themselves are able to better identify individuals with addiction problems and prevent them from accessing their facilities. It would seem that the casinos may have a more prominent role in the regulation and protection of foreign tourists since the Japanese government's ability to do so is limited.

Allowing foreign tourists to gamble on their credit cards carries an array of negative implications beyond the loss of money. The amount of international fees and interest that will also accumulate as a result of taking out money abroad will further add onto the debt that these individuals will take. Furthermore, it is possible for an individual with a gambling addiction to go to Japan and max out several credit cards and put themselves in severe debt since this option is not allowed to them within other countries. This is because while there are measures

¹²² 特定複合観光施設区域整備法 [Specified Tourist Complex District Development Act], Law No. 80 of 2018, art. 73, para. 9, translated in (Japanese Law Translation [JLT DS]), <http://www.japaneselawtranslation.go.jp/> (Japan).

implemented within the Development Act designed to curb addiction (i.e., self and family restrictions as well as limiting access), these are not effective when it comes to international visitors. An individual traveling to Japan with the sole purpose of gambling will not have restricted access even if they suffer from severe addiction. It is also difficult to foresee just how effective the measures that casinos will implement will be in dealing with these issues. The system in place is designed to protect Japanese citizens and residents. It is clear within the writing and all of the exceptions that there are no substantive protections in place to protect foreign travelers.

Despite there being education and training for employees in order to observe and watch out for individuals facing gambling addiction and dependency, allowing individuals to gamble on their credit cards could have a significant negative effect on not only their lives, but also the perception of gaming in Japan. This could potentially lead to a negative view of gaming in Japan from other countries because there is such a blatant disregard for foreigners. This in turn could also cause further tensions amongst residents as allowing such practices does not prevent these “societal ills” from taking a toll on the country. Just because an individual is a foreigner or a tourist does not mean that they should be treated completely different and disregarded.

One way that the Development Act compares to Nevada and differs from New Jersey is in that these limited resorts are heavily focused on tourism as a whole, regardless of whether or not the main focus is gaming. While both Nevada and New Jersey began as neighborhood dependent markets, Nevada evolved to incorporate tourism as a whole, which led to Las Vegas becoming the entertainment capital of the world.¹²³ It was this focus on tourism that led to further success in Las Vegas, while Atlantic City began to fail.¹²⁴ Unfortunately, what hurts this model for Japan is that there is legalized casino gaming in a number of the surrounding Asian countries.¹²⁵ While Las Vegas was once the only city in the U.S. with legalized casino gaming, Japan will not benefit from a similar position. Couple that with the fact that the act severely limits the amount of domestic traffic that these casinos will receive, and it paints a difficult position for these aspiring casinos.

Overall the way that the Japanese legislature enacted the Development Act seems to portray a double standard. While very protective of its citizens, there does not seem to be a similar set of protections in place in order to protect foreign travelers. It is understandable that the country wishes to increase revenue and bring in more tourism, but the lack of protections may potentially lead to a sort of predatory tourism. The primary goal of this act was to limit so called “societal ills” from taking root in Japan. Still, this act promotes the exploitation of foreign

¹²³ Cabot et al., *supra* note 91, at 741.

¹²⁴ *Id.*

¹²⁵ See generally Credit Markets, *Factbox: Casino Gaming in Asia*, REUTERS (June 23, 2011, 12:01 AM), <https://www.reuters.com/article/us-asia-casinos-factbox/factbox-casino-gaming-in-asia-idUSTRE75M0XI20110623>.

tourists. Beyond allowing them to fall into substantial credit-card debt, there is prominent lack of protection for tourists. On the contrary, the way that everything is structured would promote bringing in people from overseas in order to make money. Despite this, the Japanese legislature is currently in the process of passing further legislation and regulations revolving around the passage of the Development Act.¹²⁶ Therefore, it is still plausible that there will be further legislation passed in order to protect foreign tourists. Beyond that, these limited casino resorts will also be able to implement rules and practices so that they are able to limit and control these issues.

Even the yakuza have taken note that they could essentially make money off of foreigners by taking advantage of their potential gambling addictions. This predatory tourism could also have a potentially negative effect on tourism. If foreigners see that all these predatory practices are happening, they may not be as inclined to visit Japan anymore and opt to go to other Asian countries with similar gaming structures. For example, Singapore has an entrance levy cost for anyone trying to access their casinos which can cost “S\$100 per twenty-four hour period of access, or S\$2,000 for an annual membership with a casino.”¹²⁷

Similar to Japan, Singapore also has “three types of exclusion from casinos: voluntary self-exclusion, family exclusion, and third party exclusion.”¹²⁸ As such, Singapore’s structure is applicable to both residents and tourists alike and thus does not create a dual system of access. Both local residents and tourists have the same amount of access to casinos, as long as they pay the entrance fee. There is no distinction as to how much a resident is able to access a casino as opposed to a tourist. Singapore’s established system treats everyone equally rather than solely trying to protect their own residents. On the contrary, Macau does not mandate an entry levy, nor prohibits casinos from charging admission fees.¹²⁹ Macau also has an established system of voluntary self-exclusion and third-party exclusion from casinos.¹³⁰ Such protectionist language in the Development Act could potentially do more harm to the country than expected.

Another issue is that despite the Development Act being drafted in a way to protect casinos from being infiltrated by organized crime, it cannot fully prevent all of the “societal ills” that will inevitably occur once casinos open in Japan. High ranking gang members have already stated that “[o]nce rules are decided on how to place restrictions on organized crime [with regards to casino operations], we can begin thinking about ways to get around those legal barriers.”¹³¹

¹²⁶ See e.g., Basic Act on Countermeasures against Gambling Addiction, *supra* note 37.

¹²⁷ Verin Valdez, Note, *Ex Ante Up: Combatting Problem Gambling and Its Harms in Japan Ahead of the Legalization of Casinos*, 7 UNLV GAMING L. J. 85, 93 (2017).

¹²⁸ *Id.* at 104.

¹²⁹ *Id.* at 97.

¹³⁰ *Id.* at 105.

¹³¹ Kodera, *supra* note 84.

While not necessarily running the casino operations, crime syndicates will inevitably find ways to make money regardless of how strict a law might seem.

In addition, now that the yakuza have effectively been forced into hiding by national anti-organized crime ordinances, it will be more difficult for casinos to track who is an organized crime member and therefore not allowed in the facility. Whereas before members would proudly associate themselves with the yakuza, they are now in hiding and blending into society therefore making it easier for them to sneak past these safeguards.¹³² It will therefore be more difficult for casino operators to effectively monitor for yakuza affiliates since the government itself will not be able to keep tabs on every single individual in hiding. It would have been easier to monitor yakuza affiliates using the My Number card system with them out in the open. Unfortunately, now that yakuza members are in hiding and not displaying their affiliations, they will be harder to track and prevent from accessing these establishments.

Beyond infiltration, the yakuza might even take advantage of the “foreigner exception” to make their money. The yakuza would be able to fly in VIPs from other countries, provide them with hotel accommodations, and lend them money at exorbitant interest rates.¹³³ This is a huge flaw and loophole written in to the Development Act itself. By allowing foreigners to have virtually unlimited access, Japan is essentially providing the yakuza with targets and ways of making money. The yakuza will be able to capitalize on the opportunity and make money by not only bringing in tourists, but by also providing those around them with these exorbitant loans.

Unfortunately, this exception not only opens tourists up to be taken advantage by the yakuza, but it also opens up other markets to prey upon tourists traveling to Japan. Beyond just loan sharks, credit card companies will also be able to profit by providing individuals with personal loans and even credit cards at a high interest. Casinos themselves will be able to target individuals with reputations as gamblers in order to bring them over to Japan. It is hard to gauge how and if this will change the way Japanese credit card companies operate. This also gives travel companies and even the casinos themselves an even bigger incentive to bring in more foreign tourism rather than to reach out to domestic travelers.

Another potential issue comes from the limited access granted to residents. Allowing limited access allows Japanese residents to learn of the “fun of casinos” and could potentially lead to the rise of illegal underground casinos throughout Japan.¹³⁴ Such a limited access could also lead to individuals, with gambling addictions, to seek out illegal gambling halls where there are no restrictions and could place them in harm’s way. Furthermore, despite the government’s best efforts to regulate and control gambling, there could potentially be a rise in illegal gambling now that the yakuza are not as open about their affiliations. It is hard

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

to guess how prominent this issue could be, but nonetheless could be a possibility. By giving Japanese residents such a restricted access to gaming, it can potentially hook people and create an addiction. When faced with such an addiction and a lack of access, the demand for gambling becomes prominent and thus allows the potential opportunity for the yakuza to create underground gambling rings and create a dire problem for the country.

As previously mentioned in this note, there is a high percentage of individuals within Japan that have shown symptoms of gambling addiction.¹³⁵ Such limited access could further impact that estimate and cause more individuals to suffer from addiction. In turn this could lead individuals to seek out other methods to satisfy this addiction through illegal means thus allowing the yakuza to not only profit, but also establish an underground market.

While the Japanese legislature is actively trying to pass legislation in order to promote safer gaming, this also implicates a degree of self-awareness. The government is not able to keep an eye on every single individual and therefore the effectiveness of these laws will depend on the choices that individuals make. Casinos might be able to limit how much residents access their facilities, but it does not limit the dangers of gambling addiction or crime. On the contrary, such a controlled system gives incentive to the yakuza to prey not only on tourists, but also on residents. This in turn would potentially lead to the exact opposite of what the Development Act was trying to prevent from happening. Beyond that, if an individual and/or their families do not take advantage of the safeguards in place, such as self-restriction, then they are not as effective. Furthermore, the success of these limited resorts will be dependent upon the regulations that have yet to be implemented by the government and the casinos themselves.

CONCLUSION

Overall, Japan has implemented measures that echo concerns and issues found in the gaming history of both Atlantic City and Las Vegas. Despite this, the Development Act, passed by the Japanese Legislature, takes a much more stringent approach in the legalization of casino gaming within their country. When compared to the legislation passed in New Jersey and Nevada, it is clear that the Japanese government was extremely concerned with the negative repercussions that might arise by opening up gaming.

Furthermore, the way the act was written shows that the government listened to the concerns of the Japanese citizens. It is also evident that the Japanese legislature is not only trying to bring new life to the Japanese economy through casino gaming and tourism, but also simultaneously trying to curb the negative effects that are associated with gaming. Beyond the structure of the Development Act, the Japanese Legislature is still trying to introduce further legislation that

¹³⁵ *Pachinko and Slot Machine Addiction in Japan, supra* note 47.

will not only prevent the spread of these societal ills, but also help, rather than criminalize and isolate individuals that already suffer from addiction.

Unlike Atlantic City or Las Vegas, gaming in Japan will not be a commodity available to individuals of age whenever they want. Residents will have limited access and will have to pay an entrance fee, both of which were set in place in order to ensure that individuals would not fall victim to addiction. On top of that, individuals and their families will also have the option to restrict access, which is something not found in either Atlantic City or Las Vegas. In essence, these restrictions will make it harder for individuals to develop “bad habits” since they will not be able to gamble daily. In doing so, Japan has built in safeguards to protect its citizens.

Unfortunately, there are visible problems in the act. Beyond being stringent, the way that the Development Act was written shows a high degree of protectionism as it seeks to prevent these so called “societal ills,” such as crime and gambling addiction, from affecting the local population but completely disregard foreign tourists. As such, the Development Act will not be combating all “societal ills” but merely combating those affecting their citizens and residents. On the contrary, this high disregard can be seen as a blatant attempt to profit on foreigners since in essence it is creating a double standard. It is true that the Japanese legislature is still actively trying to pass further legislation, but it is now apparent how much of this legislation will be aimed at protecting foreign tourists. It is also not apparent if the casinos themselves will be tasked with ensuring the protection of tourists. After all, the biggest danger facing international tourists, that is not found in any other country, is the ability for them to gamble on their credit cards. Only time will tell whether the Japanese legislature will add further regulations to prevent the usage of credit cards from being taken advantage of or whether the casinos will.

It will be interesting to see just how successful these limited resorts will be since they will be highly dependent on foreign tourism because of the restrictions in place. The structure being implemented will essentially be a gamble on the part of the Japanese government seeing as how local citizens and residents will be limited on access and thus Japan will have to appeal to tourists in order to bring in the economic revival they seek. The biggest threat to this aspiration will be competition from other Asian gaming markets. Las Vegas’ biggest advantage when starting out was its isolation from any other gaming havens. Unfortunately, since Japan is an island, individuals from other countries will have to fly in. The fact that other Southeast Asian countries have legalized casino gaming will make it more difficult for Japan to appeal to tourists.

As a whole, the passage of the Development Act brings new opportunities for growth in Japan. Though there are some issues apparent from how the legislation was written, it is still too early to know whether gaming in Japan will flourish or not. Despite the government’s best efforts to eliminate the yakuza as a whole, crime itself will be something that will have to be continuously combated. Despite this, it appears as though the Development Act itself will be a

good start in order to ensure that crime will not permeate into the limited resorts that will open in Japan.