

Gambling, Risk, and Law: Exploring the changing roles of the individual and the state in a multi-faceted gambling regulation arena

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Abstract

This paper examines how risk is deployed to govern the gambling market. Drawing on Michel Foucault's concept of governmentality, it seeks to explore how the contemporary pervasiveness of neoliberal discourses as well as the perception of risk as a rationality and technology of government inform the ways in which the gambling industry and its associated risks are increasingly governed through the individual gambler, rather than through state-enforced mechanisms. Besides substantiating Foucault's observations that the practice of government occurs at numerous levels and is delegated to various (non-state) actors, the growing reliance on individuals as a form of governance in the gambling industry also showcases the gradually changing relationship between the individual and the state. A relationship once characterised by the omnipresence of a paternalistic state that 'knows best' becomes a relationship of cooperation and mutual reliance for the purposes of enhancing both governance efficiency in an increasingly complex gambling industry as well as individual gamblers' welfare.

Key words: *gambling – risk – governmentality – individual responsibility – neoliberalism – individual-state relationship*

Introduction

Human beings have engaged in gambling activities for millennia. Although the specificities of gambling practices varied between different cultures, overall societal condemnation of gambling as an amoral and harmful practice constituted, for the longest period of time, the underlying commonality.¹ The traditional conception of gambling was that of an activity undertaken by the irresponsible and precarious individual who, through his risky lifestyle, represented a menace to the health of society.² However, numerous tides of liberalisation and deregulation of gambling markets within Western societies beginning in the 1980s, stimulated by the increasing prevalence of neo-liberalism, gradually challenged the overwhelmingly negative perception of gambling.³ While it still receives criticism to some degree, today gambling is perceived, for the most part, as an acceptable form of recreational activity and as a 'legitimate part of the capitalist enterprise'.⁴

The rapid expansion of internet gambling markets, propelled by expeditious technological developments, has further liberalised gambling practices by rendering them more readily accessible.⁵ Kingma demonstrates how gambling markets are increasingly being governed through risk mechanisms.⁶ In the furtherance of this widely shared observation,⁷ this essay draws upon governmentality approaches to risk as a conceptual framework upon which to examine the ways in which risk is employed to govern increasingly liberalised gambling markets. Particularly, it explores the increasing deployment of gamblers' self-responsibility to govern the gambling industry, and attempts to place this exploration within the broader socio-economic context of neo-liberalism. This essay will use this analysis to critically explore the implications of

¹ Per Binde, 'Gambling Across Cultures: Mapping Worldwide Occurrence and Learning from Ethnographic Comparison' (2005) *International Gambling Studies* 1.

² Gerda Reith, 'Gambling and the Contradictions of Consumption: A Genealogy of the "Pathological" Subject' (2007) *American Behavioral Scientist* 33.

³ Gerda Reith, 'Pathology and Profit: Controversies in the Expansion of Legal Gambling' in Gerda Reith (ed.), *Gambling: Who Wins? Who Loses?* (Prometheus Books 2003).

⁴ *Ibid.*

⁵ Natalia Zborowska, Sytze Kingma and Phill Brear, 'Regulation and reputation: The Gibraltar approach' in Robert Williams, Robert Wood and Jonathan Parke (eds.), *Routledge International Handbook of Internet Gambling* (Routledge 2012).

⁶ Sytze Kingma, 'Gambling and the Risk Society: the Liberalisation and Legitimation Crisis of Gambling in the Netherlands' (2004) *International Gambling Studies* 47.

⁷ James Cosgrave, 'Embedded Addiction: The Social Production of Gambling Knowledge and the Development of Gambling Markets' (2010) *Canadian Journal of Sociology* 113.

governing gambling markets through risk for the nature of the relationship between citizens who gamble and the state, and for the role of law.

Ultimately, gambling regulation and governmentality approaches to risk governance provide fruitful backdrops for conceptualising the gradual and arguably radical change in the nature of the citizen-state relationship, marked increasingly by the neo-liberal principles of minimal state intervention and individual autonomy. This is incidentally also having implications for the role of law, which, together with the state, is gradually relinquishing its traditional paternalistic attributes.

Governing gambling through the framework of risk

Societies have always created and developed mechanisms designed to prevent or minimise risks, or events perceived as potentially dangerous for the stability and harmony of society. In recent times, in the context of a notable proliferation of risk discourses in various fields (including in gambling and gambling regulation studies), scholars have attempted to draw up theories or practices of risk reflective of contemporary society.⁸ One of the most influential of these is Ulrich Beck's 'risk society' theory.⁹ Beck recounts how we are currently traversing the age of late modernity, characterised by the existence of transnational and increasingly irreversible risks. These global risks, such as climate change and the depletion of the ozone for instance, transcend the traditional barriers of sovereignty and territoriality. Through their transcendental effects, they also render traditionally important class and nationality distinctions obsolete, thereby effectively creating a world risk society, to which all individuals belong.¹⁰ According to Beck, these risks are the products of the relentless success of modernisation.¹¹ Successful modernisation carries with it the consequence that the very institutions behind society's progression towards ever-greater prosperity are also responsible for the proliferation of global risks, which they are simultaneously entrusted to manage.¹²

⁸ Deborah Lupton, *Risk* (2nd edn, Routledge 2013) 6.

⁹ Ulrich Beck, *Risk Society: Towards a New Modernity* (Sage Publications 1992).

¹⁰ Mads Sorensen, 'Ulrich Beck: Exploring and Contesting risk' (2018) *Journal of Risk Research* 6.

¹¹ Beck (n 10).

¹² Adam Burgess, Jamie Wardman and Gabe Mythen, 'Considering Risk: Placing the Work of Ulrich Beck in Context' (2018) *Journal of Risk Research* 1.

However, despite the evident parallels between Beck's description of global, transboundary risks and the increasingly transboundary character of risks associated to (online) gambling practices, the 'risk society' theory does not provide the necessary conceptual groundwork upon which to undertake an investigation of the various ways in which gambling activities are being governed through risk. Such an exploration is better served through a governmentality approach to risk. Central to the concept of governmentality, elaborated by Michel Foucault, is the idea that the exercise of power and government occurs at numerous levels.¹³ Government is defined not by the function undertaken solely by state institutions, but rather also as a practice undertaken by individuals within society.¹⁴ Governance practices are best understood when examined through 'the ensemble' of factors including 'institutions, procedures, analyses, reflections, calculations and tactics' which together constitute 'the art of government'.¹⁵ Scholars have employed Foucault's work to develop a governmentality conception of risk. This conception emphasises the socially constructed nature of risk.¹⁶ Risk is not an inevitable and insurmountable given, but rather a highly volatile concept, which varies according to the socio-economic context in which it is conceptualised and deployed to govern particular problems and occupations.¹⁷ In this respect, there is indeed 'no such thing as risk in reality'.¹⁸ This approach is most relevant to the object of this paper because rather than focusing on the overarching characteristics of risks (a task remarkably undertaken by Beck), governmentality approaches seek to ascertain precisely *how* it is that risk is being deployed to govern certain activities, and allows for an examination of the fundamental implications of this deployment.¹⁹ Governmentality hence constitutes a vital conceptual tool for understanding how risk is used as a 'governmental technique' to govern gambling markets, and how it operates in creating 'different subjectivities', or perceptions of

¹³ Michel Foucault, 'The Subject and Power' (1982) *Critical Inquiry* 777.

¹⁴ *Ibid.*

¹⁵ Michel Foucault, 'Governmentality' in Graham Burchell, Colin Gordon and Peter Miller (eds.), *The Foucault Effect: Studies in Governmentality* (The University of Chicago Press 1991).

¹⁶ Lupton (n8).

¹⁷ Pat O'Malley, 'The Government of Risks' in Austin Sarat (ed.), *The Blackwell Companion to Law and Society* (Blackwell Publishing 2004) 301.

¹⁸ Mitchell Dean, *Governmentality: Power and Rule in Modern Society* (2nd edn, Sage Publications 2010) 206.

¹⁹ Pat O'Malley, 'Governmentality and the Analysis of Risk' in Adam Burgess, Alberto Alemanno and Jens Zinn (eds.), *Routledge Handbook of Risk Studies* (Routledge 2016) 110.

gamblers (and other individuals), the state, and the relationship between them.²⁰ Whereas the 'risk society' theory considers the nature of risk from a strikingly generalised viewpoint, the governmentality perspective, through its emphasis on the variability of risk as a technique of government, offers the conceptual flexibility required to engage in an effective exploration of the specifics of gambling regulation. Pat O'Malley's exemplary analysis of how pregnancy is governed increasingly through risk techniques highlights how theories such as Beck's are antithetical to the reality that different problems require different conceptual understandings and applications of risk.²¹ Governmentality recognises that the ways in which pregnancy is governed through risk is not identical to the ways in which terrorism or gambling are governed through risk. Superimposing a 'monolithic' theory of risk upon an area as specific as gambling hence provides only a superfluous understanding of the ways in which gambling markets are being regulated through risk frameworks.²²

Risk as economically productive

Popular perceptions of risk as entirely negative perpetuate Beck's generalised portrayal of contemporary global risks as being invariably devastating.²³ These perceptions, however, contradict the reality that, in practice, risk is not necessarily perceived as inherently prone to destruction, but rather as potentially beneficial both to society at large and to the individual risk-taker.²⁴

A central factor stimulating the drive towards further liberalisation of occupations considered to be risky is the acknowledgment of the economic benefits that these occupations generate. For instance, numerous states, including member states of the European Union, hastened the legalisation and liberalisation of gambling markets precisely because the gambling industry represents a significant 'source of revenue generation' for governments.²⁵ In the United Kingdom, one of the main reasons for the enactment of the Gambling Act 2005 was the recognition that the UK

²⁰ Ibid. 111.

²¹ Pat O'Malley, *Risk, Uncertainty and Government* (Glasshouse Press 2004) 8.

²² Ibid.

²³ Mary Douglas, 'Risk as a Forensic Resource' (1990) *Daedalus* 1.

²⁴ Tom Baker and Jonathan Simon, 'Embracing Risk' in Tom Baker and Jonathan Simon (eds.), *Embracing Risk: The Changing Culture of Insurance and Responsibility* (The University of Chicago Press 2002) 20.

²⁵ Sytze Kingma, 'Introduction: Global Gambling' in Sytze Kingma (ed.), *Global Gambling: Cultural Perspectives on Gambling Organisations* (Routledge 2010) 7.

gambling industry is a 'source of substantial revenue and employment' that carries the potential to contribute towards socially and economically useful ends.²⁶ Although there are countless other instances where such economically pragmatic rationales drove market liberalisation, these arguments further highlight the variability of the notion of risk. Within the context of increased deregulation of various markets, discourses surrounding risky occupations change. Gambling, for instance, is no longer seen as an unfailingly negative industry that merely generates harmful and unwanted risks, but rather one that has the potential to produce beneficial outcomes.²⁷

Governing risk through individual 'responsibilisation'

The state's responsibility in implementing regulations aimed at dealing with risks arising out of the gambling industry is progressively diminishing, and individual self-responsibility is increasingly becoming a salient 'apparatus' through which gambling markets are governed.²⁸ In the context of the increasing free-marketization of the gambling markets of various jurisdictions²⁹ (which is a central characteristic of neo-liberalism)³⁰, not only have individuals been accorded more freedom to engage in gambling activities that are now considered to be an equally legitimate and acceptable form of leisure, they are also becoming the very mechanism through which the burgeoning gambling industry is governed.³¹ The dominance of neo-liberal discourses, ideas and policies within contemporary Western societies has had the effect of making the individual, rather than the state, the main focus of regulation and risk management.³² Within the gambling industry, the responsibility for governing the risks precipitated by the enhanced liberalisation of gambling markets has shifted from the state to the gambling industry itself and also, crucially, to the individual gamblers.

This noticeable shift is reflected, for example, in the Gambling Act 2005. The progressive legitimisation of gambling as a leisure activity in the United Kingdom ultimately culminated in the adoption of the 2005 Act.³³ The Act's underlying rationale

²⁶ Roy Light, 'The Gambling Act 2005: Regulatory Containment and Market Control' (2007) MLR 626.

²⁷ *Ibid.*

²⁸ Gerda Reith, 'Reflections on Responsibility' (2008) *Journal of Gambling Issues* 149.

²⁹ Kingma (n 6).

³⁰ Milton Friedman, *Free to Choose: A Personal Statement* (Harcourt 1990).

³¹ O'Malley (n 21).

³² Reith (n 28).

³³ Gerald Gouriet and Jeremy Phillips, *Smith and Monkton: The Law of Gambling* (4th edn, Bloomsbury 2017).

was the liberalisation of the gambling industry in the UK. Through the Act, the UK became the first state within the European Union to deregulate its online gambling industry.³⁴ The Act constitutes the 'legislative expression of the [...] shift in policy from restricted entry to free-market liberalisation'.³⁵ The Act aimed at designing a regulatory structure which eliminated futile obstacles to the enjoyment of gambling activities.³⁶ The pivotal imperative underlying the Act's 'liberalising agenda', however, was the government's proclaimed desire to protect individual gamblers' freedom of choice and autonomy to operate within the gambling industry without the impediment of external governmental regulation.³⁷ The Act can be placed within a broader context of modern neo-liberalism in which individuals, besides being granted greater freedom, are simultaneously accorded greater responsibility for their own health, decisions and potential downfall. It thus serves as a benchmark upon which to observe the importance of 'discourses of *responsibility*' (original emphasis) which are noticeably proliferating not only in the context of the gambling industry, but also in society at large, undoubtedly as an inevitable consequence of the contemporary predominance of neo-liberalism.³⁸

Together with the normalisation, liberalisation and commercialisation of the gambling industry, individual gamblers are increasingly being given the autonomy to responsibly manage their own engagement within this industry.³⁹ Governing through the framework of risk in this regard amounts to placing the onus on preventing or minimising risks arising out of gambling practices (such as the risks of addiction, pathological gambling or financial harm) on the individual gambler himself. This shift towards what Mitchell Dean refers to as the 'multiple responsabilisation of individuals'⁴⁰ or what O'Malley considers to be a 'new prudentialism' approach to regulation,⁴¹ illustrates how, in the context of gambling, risk is used as a rationality and as a

³⁴ Light (n 26).

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ Reith (n 28).

³⁹ *Ibid.*

⁴⁰ Dean (n 18) 194.

⁴¹ O'Malley (n 21) 72.

technology of governance, which inform both the perception of gambling as an industry, and the means through which it is governed.⁴²

Risk as a rationality and technology

Foucault defined governmental rationalities as the ways in which the 'nature of the practice[s] of government' are perceived and undertaken.⁴³ They constitute the underlying beliefs, ideas, thought processes and aspirations which together inform particular visions of how the world should be organised and governed. Technologies of government refer to the various 'strategies and techniques' which are deployed to give effect to particular rationalities, and which are used to categorise certain practices, beliefs or individuals as 'risky', thereby stimulating the requirement for effective risk-management strategies.⁴⁴ Together, rationalities and technologies allow for the practice of government to take place, which consists of directing the conduct of individuals in their daily occupations.⁴⁵

In the contemporary world marked by the pervasiveness of neo-liberal ideas and discourses, the underlying governmental rationality concerns the individual.⁴⁶ In relation to gambling, current risk rationalities emphasise the individual's role in mitigating the risks arising out of his or her own conduct in the gambling market. The underlying risk rationality that is noticeably reflected in the Gambling Act 2005 is the idea that individual gamblers, rather than being solely considered as 'risky' individuals operating in an inherently precarious environment, ought also to be the very channel through which gambling risks are controlled.⁴⁷ Contemporary risk rationalities reflect the idea that risks are more effectively managed by the individuals who choose to engage in certain practices.⁴⁸ Through epidemiological studies, which undertake targeted statistical reviews or 'screening[s]' of entire populations to detect the adverse

⁴² Silke Dennhardt, 'Governing Occupations Through Constructions of Risk: The Case of the Aging Driver' (2013) Electronic Thesis and Dissertations Repository 1221.

⁴³ Colin Gordon, 'Governmental Rationality: an Introduction' in Graham Burchell, Colin Gordon and Peter Miller (eds.), *The Foucault Effect: Studies in Governmentality* (The University of Chicago Press 1991) 3.

⁴⁴ Dennhardt (n 42).

⁴⁵ Foucault (n 15).

⁴⁶ Gordon (n 43).

⁴⁷ Reith (n 28); see also Light (n 26) and David Miers, 'Regulation and the Management of Risk in Commercial Gambling in Great Britain' (2015) *International Gambling Studies* 422.

⁴⁸ O'Malley (n 21) 11.

health-related side-effects of particular occupations like gambling,⁴⁹ individual gamblers are warned of the potential inimical consequences of gambling, based upon which they may voluntarily pursue, modify or reduce their gambling habits in order to avoid the identified risks.⁵⁰ This relates intrinsically to the underlying risk rationality that promotes individual 'self-help', which emphasises the individual gamblers' own responsibility in their gambling practices.⁵¹

Tom Baker and Jonathan Simon have identified the idea of 'embracing risk' as an example of a rationality that relates closely to risk rationalities in the context of gambling regulation. Individuals routinely engage in risky activities such as sky-diving, base jumping and other extreme sports, and derive much satisfaction and utility from it.⁵² Similarly, individuals commonly embrace the risks associated to gambling activities (commonly addiction or significant financial ramifications)⁵³ precisely because of the excitement and stimulation procured by these ventures, and because of their potential for profit generation, however slim it might be.⁵⁴ Gambling can hence be identified as constituting an integral part of a modern Western culture which Baker and Simon deem to be increasingly 'embracing risk',⁵⁵ and which O'Malley describes as an 'enterprise culture', where 'financial risk-taking [is viewed] as good'.⁵⁶ The idea of embracing risk in gambling practices because of its appeal and potential for satisfaction is a way of engaging with wider considerations of changing socio-economic settings. Arguably, the 'embracing risk' perspective views gambling as a form of 'acceptable' risk-taking that closely relates to the underlying neo-liberal embrace of entrepreneurial bravado.⁵⁷ It is also a practical way of conceptualising risk within a governmentality framework, where the idea of the universal negativity of risk is displaced in favour of the view that risk is a constantly evolving and fluctuating 'sociocultural phenomenon' reflective of the ideas, beliefs, discourses and practices of

⁴⁹ Dean (n 18) 218.

⁵⁰ Lupton (n8) 130.

⁵¹ Ibid. 132.

⁵² Jonathan Simon, 'Taking Risks: Extreme Sports and the Embrace of Risk in Advanced Liberal Societies' in Tom Baker and Jonathan Simon (eds.), *Embracing Risk: The Changing Culture of Insurance and Responsibility* (The University of Chicago Press 2002).

⁵³ Reith (n 2).

⁵⁴ O'Malley (n 21) 19.

⁵⁵ Baker and Simon (n 24).

⁵⁶ O'Malley (n 21) 114.

⁵⁷ Jim Cosgrave and Thomas Klassen, 'Gambling Against the State: The State and Legitimation of Gambling' (2001) *Current Sociology* 1.

the time in which it is being interpreted and used.⁵⁸ As such, in the present times characterised by the prevalence of neo-liberal discourses, the idea of embracing risk is increasingly being used as a governmental rationality adopted by a wide range of actors including governmental agencies, social institutions and, crucially, individuals themselves to govern and regulate daily occupations and activities such as gambling.⁵⁹ Baker and Simon posit that the notion of embracing risk as a broader societal and 'cultural trend' (of which gambling is but a part) largely corresponds to the neo-liberal emphasis on the individual.⁶⁰ Through neo-liberal processes of market deregulation and liberalisation, individual gamblers' engagement in, and embrace of gambling concurrently constitutes a rationality that informs the ways gambling is regulated in contemporary society. Needless to say, this vividly echoes the idea of self-government (or 'government of the self'), which was central to Foucault's definition of governmentality.⁶¹

Foucault indicates, however, that effective governance requires both rationalities and technologies to operate concurrently.⁶² Within the context of gambling, the state's provision of information regarding the adverse consequences of gambling and the promotion of alternative forms of leisure and entertainment constitute pivotal governmental technologies that operate in conjunction with the core risk rationality of gamblers' autonomy and self-responsibility, and through which the gambling industry and associated risks are managed.⁶³ The provision of information allows for individual gamblers' to auto-assess their gambling routines and to make decisions which better reflect their ability for rational behaviour and self-control. The central rationale behind the provision of information as a technique of gambling governance is that individual freedom of choice, although it is highly desirable and even encouraged, is alone not enough. The proper management of risks through individual gamblers requires that these individuals make informed decisions.⁶⁴

⁵⁸ Lupton (n8) 114.

⁵⁹ Baker and Simon (n 24).

⁶⁰ *Ibid.*

⁶¹ Michel Foucault, *The Government of the Self and Others: Lectures at the Collège de France 1982-1983* (Palgrave Macmillan 2010).

⁶² Gordon (n 43).

⁶³ Reith (n 28).

⁶⁴ *Ibid.*

The *Reno Model*, which considers the gambling industry to be a legitimate leisure provider if participants are properly informed (especially about the potential harms they are exposing themselves to),⁶⁵ in fact constituted a central “philosophy underlying the” Gambling Act 2005.⁶⁶ The Gambling Commission, created by the Act, published a document which stipulated that gambling ‘operators should [...] provide information to [gamblers] on how to gamble responsibly and obtain information on problem gambling’.⁶⁷ The use of information as a governmental technology therefore guarantees that individual gamblers’ become ‘sovereign consumers’ who act responsibly within the gambling industry.⁶⁸ The responsible behaviour of individual gamblers’, and their informed decision-making within the gambling market, in turn ensures that the overall level of risks generated by this market are curtailed to the greatest degree possible. Governing the gambling industry through this framework of risk appears to be a practical and efficient way of managing risks.⁶⁹ The governance of gambling within this context mirrors the fundamental aspect of governmentality that the conduct of individuals within specific occupations can also be directed by individuals themselves, through self-government, rather than necessarily and solely by the state.

Implications of governing gambling through risk

The role of law and the state, as well as the nature of the relationship between citizens and the state have unquestionably changed as a result of the use of risk technologies, which increasingly operate through the individual gambler as a means to govern the risks arising out of gambling practices.⁷⁰

The shift from what has been referred to as an ‘alibi model’ of regulation (where gambling is deemed an abominable vice staining the moral fabric of society which, hence, must be restricted) to a ‘risk model’ of regulation (where gambling is legitimised as a leisure activity and thus endorsed by the state) has eradicated the paternalistic

⁶⁵ Alex Blaszczyński, Robert Ladouceur and Howard Shaffer, ‘A Science-Based Framework for Responsible Gambling: The Reno Model’ (2004) *Journal of Gambling Studies* 301.

⁶⁶ Miers (n 47).

⁶⁷ Light (n 26).

⁶⁸ O’Malley (n 21).

⁶⁹ Reith (n 28).

⁷⁰ Kingma (n 25).

attitude of the state as regards gambling.⁷¹ In the context of the pervasiveness of neo-liberal rationalities in contemporary discourses of risk and gambling, citizens and individual gamblers no longer rely on the state to provide them with the keys to healthy and fulfilling lifestyles. Rather, gamblers are exhorted to determine their life choices independently, through the exercise of their freedom and responsibility. Together with the state forgoing its restrictive and coercive intervention in the gambling market in favour of the adoption of risk-focused governance techniques, individual gamblers are accorded the freedom and responsibility to govern and regulate themselves. In that regard, the state relies on the activity rather than the passivity of gamblers to govern the gambling market.⁷² It relinquishes its interventionist and inherently paternalistic impetus in favour of one which turns it into somewhat of an advisor or counsellor. The state no longer constitutes the highest moral and paternalistic figure which proclaims to 'know what is best' for its citizens and what is to be avoided. Rather, through the provision of information to gamblers as a governmental technology resting on the underlying neo-liberal rationality of promoting autonomy, the state exercises its new role of advising and providing recommendations to individual gamblers' as to what constitute the most precarious risks, for example, which they can legitimately choose to ignore. Hence, the state's new role allows gamblers to exercise their freedom in such a way that renders the underlying objective of managing or minimising the risks generated by the gambling industry more readily achievable. Whereas welfare state risk-management systems focused on socialising risks by spreading their burden across the general population,⁷³ in the neo-liberal context, the individual gamblers' no longer bear the burden of risks generated by the practices of others, but rather increasingly direct their attention to improving their own lifestyles, through implementing state provided information or through taking 'up the injunction of experts'.⁷⁴

Although it may be argued that this system institutionalises individualism (which arguably incidentally constitutes a core manifestation of neo-liberalism), it does effectively shift the responsibility of risk-management from the state to individual

⁷¹ Kingma (n 6).

⁷² Lupton (n8) 119.

⁷³ *Ibid.* 132.

⁷⁴ *Ibid.* 134.

gamblers. If 'responsibility also implies [...] power', then the current system also transfers more powers to individuals.⁷⁵ Contemporary risk-management strategies, in this regard, eliminate the hierarchical relationship between the state and the individual gambler, which strikingly characterised previous 'alibi model[s]' of gambling regulation. In short, the relationship between individuals and the state shifts to a relationship of trust and mutual reliance. In this context, it is 'no longer the prerogative of [...] courts to restrict the consumption of gambling'.⁷⁶ As reflected in the Gambling Act 2005, the law no longer serves as a tool for commanding individual behaviour according to how the state (perhaps arbitrarily) defines moral or proper conduct through criminalisation or other restrictive mechanisms. Rather, it reflects the redefinition of societal relations that has marked contemporary life by emphasising the need to uphold and protect the autonomy and sovereignty of individual consumers within the free market of entertainment, and by contributing to the 'legal normalisation of' gambling.⁷⁷

Conclusion

It is difficult to avoid the preponderance of risk discourses in contemporary gambling regulatory systems.⁷⁸ In this paper, the perspective of governmentality was deployed to explore the ways in which the 'responsibilisation' of individual gamblers is used to govern the risks arising out of the gambling market. Governmentality's emphasis on the socially constructed nature of risk allows for a conceptualisation of risk and gambling regulatory systems within a contemporary socio-economic context, crucial for an understanding of the ways in which risk currently operates as a governmental technique.

This exploration highlights how, in reality, the practice of government takes place in different and variable dimensions. The notion of self-government, which is central to the governmentality perspective, has become increasingly pervasive in the setting of gambling regulation. In the context of the increased liberalisation, normalisation and commercialisation of the gambling industry in Western societies, thereby boosting participation therein, states increasingly turn towards the very

⁷⁵ Reith (n 28).

⁷⁶ Ibid.

⁷⁷ O'Malley (n 21) 114.

⁷⁸ Kingma (n 6).

participants themselves as avenues through which to manage the risks generated by this industry. The state no longer restricts individuals' access to gambling products, but rather deploys the technologies of information and guidance to individual gamblers to ensure that, through the informed and responsible behaviour of gambling consumers, risks are managed in the most effective manner, while emphasising the underlying rationality of promoting and protecting individual gamblers' autonomy and freedom. This essay examined an alternative manifestation of this rationality, notably the idea of 'embracing risk'⁷⁹ to further highlight the increasing pervasiveness of individuals in discourses of risk management, while simultaneously delineating broader cultural and societal shifts towards a neo-liberal 'enterprise culture',⁸⁰ where risk-taking is perceived to be 'just as important' as risk management.⁸¹

Undoubtedly, however, the underlying omnipresence of the neo-liberal values of minimal state intervention and maximal individual freedom within contemporary Western societies provides the 'moral justification' for these rationalities and their associated technologies.⁸² At the same time, it provides an insightful picture into both the changing relationship between the state and the individual gambler and incidentally the role of law in this context. The state forgoes its domineering and paternalistic traits and takes on the more modest role of advising individuals, through the supply of information and data, who engage in risky activities like gambling about potential harms and risks, thereby turning this relationship into one of cooperation, rather than hierarchy.

⁷⁹ Baker and Simon (n 24).

⁸⁰ O'Malley (n 21) 13.

⁸¹ O'Malley (n 17) 302.

⁸² O'Malley (n 21) 12.

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