

*(Short Version)*

## **GAMBLING AND PUBLIC POLICY**

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Much of the public debate about the morality of gambling concerns the individual and social benefits and damages, mainly economic and psychological, claimed to come with increased opportunities for legal gambling. These are clearly important, but there are moral principles which bear on the evaluation of gambling that are not primarily concerned with its consequences. Public policy concerns particular practices and institutions, and those are not just sets of outcomes, but have characteristics that can be understood, and which suggest the relevant moral principles to be applied in forming policy. To argue that public policy should be based solely on outcomes is either to have a crude and inadequate grasp of those principles, or to deny that they express values which are fundamental to the aims of politics.

### **What is gambling?**

Gambling involves risk—deliberately placing money or other property at risk in the hope of gaining more. Those events which determine the outcome should not be completely predictable by the gambler. A high degree of unpredictability is not necessary, however. Skilled poker players, at least in circumstances where they have good reason to believe that they are

sufficiently skilled to win, could well have justified expectations that the outcome of placing property at risk is likely to be to their financial advantage, and common usage tells us that playing poker for stakes is gambling. A distinction which does not deny this usage can be made between two types of gambling, where one involves the exercise of skill or the use of information not known by all the participants, and in the other the likelihood of winning a bet is uninfluenced by such factors. Skilled poker playing is an example of the first type. Playing on a gaming machine at a club or casino is an example of the second: a bet is made against the house and no application of skill or information influences the likelihood of winning. There is nothing one can do to change that, except in extremely unusual circumstances.

What are the boundaries of gambling? Consider cheats and investors. Whether a poker player with a couple of spare aces up the sleeve or someone placing a bet who has bribed all the jockeys in a race is really gambling is a moot point. There are situations in which it is quite appropriate to talk of gamblers cheating, or rigging the results; equally it seems appropriate to deny, if the influence of their actions on the outcome is strong enough, that they are gambling. The solution to this quandary is given by social context; betting on a horse race is gambling even if the outcome is rigged, in the same way that the rigged horse race is still a race even if all the horses bar one have been drugged, with the consequence that the event is in a clear sense not a competition. Parallel to social context is the notion of a role; a gambler occupies a role within that context, and that role determines identification as a

gambler, even though it appears unjustified to say that someone who is cheating is gambling. Even if I have fixed a race, I occupy the role as long as I present myself as one who is placing property at risk, and transactions only take place because I have successfully done so. It would also be odd to call a very occasional poker player or someone who only bets on the Melbourne Cup a gambler, even though, unlike the cheat, they are clearly gambling. These considerations are relevant to public policy on gambling because they tell us what activities and institutions should be covered, and some of the characteristics of those activities and institutions which require attention from policy makers.

Investment looks to satisfy the partial description of gambling given above—deliberately placing property at risk in the hope of gaining more, with an element of unpredictability being present—so how are the two to be distinguished? First, the social context of investment is different from that of gambling. Unlike most gambling, investment is a business activity, typically carried on by salary-earning professionals buying and selling property on behalf of institutions or individuals. Secondly, investment does not entail that anyone loses; betting does. This points to another characteristic of gambling. Some win, some lose, and the aggregate property of the parties to the gambling transaction remains the same. Although investors may “lose”, their “winning” does not typically depend on others losing. Investing is not a zero-sum game.

Thirdly, unlike investment gambling cannot be well-informed if the gambler believes that long-term benefits may result from her activities, and she lacks relevant skills or information. A minimal amount of information about the structure of the gambling industry would undercut such a belief. Totalizator Agency Boards and equivalent institutions, for example, set the final odds after all bets are laid, and pay out at a preset rate which is less than the total amount bet on any given event, or combination of events. Gaming machines are programmed to pay out less than the amount bet, over the long term. For example, the minimum return required in the Australian State of Victoria is 87 per cent, although gaming machine operators sometimes pay out at a higher rate.

Totalizator and gaming machine gambling differ in that the setting of the odds doesn't affect the *likelihood* of winning on the tote, but does on gaming machines. Totalizators do affect the *amount* won. This is a complex issue, but it is fair to say that over the long term a gambler is extremely unlikely to win on gaming machines, and given that totalizators pay out less than the amount bet, the same applies for tote gamblers, at least for those who lack relevant skills and information. The overall loss ratio doesn't converge for tote gamblers in the same way that it does for gaming machine gamblers, however, because tote gamblers can make more or less informed choices, and a tote gambler's capacity for informed choice can change over time. For these reasons, perhaps policy-makers should distinguish gaming machine from totalizator gambling.

Operators of totalizators and gaming machines do not gamble, because they do not place their property at risk, except in the very short term, and they are guaranteed of showing a profit in the long term. Bookmaking is an interesting case in this context. In one sense—with reference to each individual bet—bookmakers are gambling; but in another sense—the overall perspective given that they set the odds—perhaps they are not. They do not have the same level of certainty of showing a profit as a totalizator, because bookmakers' odds are agreed at the time bets are placed. However, because they have the capacity to systematically adjust the odds bookmakers can minimise the possibility of losing. George Bernard Shaw's remark that "a bookmaker must never gamble, though he lives by gambling" nicely expresses the relationship between the parties to gambling transactions that I'm concerned with here.<sup>1</sup>

Investment and gambling may both be founded on the hope of profit, but the latter expectation lacks the justification of the former. Even if the particular decision about how to invest is not supported by informed judgement, an investor can be assumed to believe that long-term benefit, in the form of dividends or increased value or bonus issues, will result from the investment. Typically for gamblers such a belief would not be well-founded. But what about those gamblers who do have information or skills that sufficiently diminish the element of unpredictability to the extent that they are justified in their belief that they are likely to gain in the long term? People who have

insider information, or output from a sophisticated computer program and large data base, might well be justified in the belief that they will profit from betting. Although we would still call such people gamblers, are they really taking a gamble? Unlike gamblers who lack such special resources, a gambler of this type may justifiably share an investor's assumption that material benefits will result.

The psychological disanalogy between gambling and investment does not appear to apply so strikingly in this sort of case. But there is another, structural, disanalogy to be drawn between gambling and investment. If I make a investment in a business enterprise I create a risk, but the success of my investment is typically related to the success of the enterprise, which itself can depend on the support of investors. Investment typically supports business activities, with the aim that benefits for the investor will be achieved as a result of those activities. In contrast the profitability of the gambling industry depends on losses incurred by gamblers.

We should also note that shareholders are actually owners of the companies they invest in, and companies are expected to act in the interest of their shareholders. This requirement is reflected in laws imposing fiduciary duties on company directors. The gambling industry might be said to serve the interests of gamblers by making gambling facilities available, but this is a very different sense of "serving interests", and one I will argue does not apply in any case. This institutional difference is not genuine opposition, but does

provide grounds for distinguishing gambling from investment even in cases where expectations of return have a fairly high degree of justification.

But what about pure market speculation, on currencies, futures, stocks, or other tradeable entities? Does speculation “support business activities, with the aim that benefits for the investor will be achieved as a result of those activities”? Not obviously. A partial distinction can be made between gambling and speculation of this sort, because often the aim of speculators is to hedge against potential loss, or just to protect capital in a fluctuating market. Gamblers sometimes place hedging bets, and in some circumstances do so in order to minimise loss, or to protect other bets. People gamble for a variety of reasons, a point which I will take up later, but to the extent that someone gambles with money in mind she gambles to win. Furthermore, each time someone places a bet she does so with the aim of winning, even if financial gain is not her primary aim in gambling. (No equivocation is present here if we think of gambling as an activity, and placing a bet as an action.) But what about speculators who aren’t hedging or protecting capital? Even rash and unformed speculation occurs in a market which doesn’t have a built in long-term pay-out rate of less than half, and in this is different from much gambling. Even though speculation is closer to gambling than other forms of investment, we should remain sceptical of the claim that speculation is *just* gambling.

Insurance is another practice which seems to cross of the line between gambling and other activities. A policy-holder in effect makes a bet with an insurer that a certain event will occur. By taking out insurance on my house, for example, I bet say \$500 to \$200,000 that it will be destroyed. Conversely, the insurance firm bets \$200,000 to \$500 that it will not be. There are good grounds, however, to reject the idea that insurance is a form of gambling. First, the creation of risk is not sufficient for gambling. I only create the risk of being run over by a bus when I go near a road—allowing for bizarre exceptions—but it is not necessarily the case in such circumstances that I am putting my property at risk for the sake of gaining more. It simply does not follow from the proposition that gambling involves the creation of risk that risk creation is gambling. Secondly, apart from extreme cases—taking out insurance on a building then burning it down in order to claim—policy-holders do not deliberately place property at risk for the sake of gaining more. As far as I can see the latter is the only possible reason for claiming that an insurance policy-holder is a gambler, and it is rarely met. If it were met more often, the practice of insurance would collapse.

An insurance policy-holder is not actually taking a risk of any sort. Rather, she is buying security. So, the claim that a policy-holder makes a bet with an insurance firm that a certain event will occur is misleading. The risk is *all* borne by the insurance firm. I do not risk my \$500, but the insurance firm *does* risk \$100,000. The insurance firm bets \$100,000 on my house not burning down within a specified period, for a return of \$500.



Assuming once more that insurance policies are like betting slips, it might seem that the situation of an insurance firm is in certain ways similar to that of a bookmaker. Bookmakers can adjust odds so as to avoid losing on any horse in a race, and insurance firms can adjust premiums in order to show a profit. Bookmakers determine odds, and insurance firms premiums, on the basis of complex calculations about possible outcomes. A bookmaker's success can be undermined by massive plunges, and an insurance firm's by major disasters. Insurers' calculations range over whole classes of future events, however, not just the events the policy concerns: the likelihood of my house burning down is worked out in reference to all similar houses, over an extended period. The same applies to my likelihood of my being run over by a bus. For an insurance firm it is a statistical probability, based on a complex set of variables, not a matter of whether I am in the habit of carelessly crossing roads on bus routes. Actuaries, who calculate insurance risks and premiums, can predict statistical outcomes with such accuracy that a firm with a sufficiently large number of clients is not taking risks. If the firm is well enough informed about what is going to happen to all our houses, and sets the premiums accordingly, whatever happens to mine is of little consequence. Although an insurance firm does create a risk by insuring my house, the overall pattern of activity of an insurance firm is wrongly described as gambling.

**Why gamble?**

I have argued that if I have a rationally justified expectation—a good reason to believe—that the outcome of placing property at risk is likely to be in my favour, then even though I may be gambling, I am exercising relevant skills or acting on an informed basis. So, if my primary aim in gambling is to improve my financial position from my net winnings, then I lack rational justification, unless I possess special skills or information.<sup>2</sup> The argument does not suppose that gamblers' beliefs are sometimes unfounded, in that they have wildly optimistic expectations about winning large sums, for example. Rather, the point is that there is no good reason for anyone who lacks relevant skills or information to gamble, except perhaps peripheral ones. In the long-term the probability of a financial benefit is less than half.<sup>3</sup> Gambling with the primary aim of winning is irrational when the long-term probability of winning is less than half, just because it are less than half.

But what if I only have \$5, and I need \$20 for a taxi home. It's important that I get home, and no other means are available. The only legal way I can quickly obtain \$20 is by betting my \$5 at the Casino which happens to be nearby. Even where the chance of my winning is quite low the expected utility of \$20 is much greater than the actual utility of \$5. So, it looks as if I do have a good reason to gamble. Buying a \$5 lottery ticket in the hope of winning a substantial prize might be justified on vaguely similar grounds—though the chance of winning is minute—if spending \$5 is not a great extravagance, and winning a lottery is the only way I'll ever obtain such a large sum of money. Even so, I think the “no good reason” claim still holds generally for the form

of gambling under consideration. Given my aim in the first case gambling is a matter of practical necessity, and only occurs in the very short-term. Although it is true my primary aim in gambling on this occasion is to get more money, in no sense am I aiming to achieve financial well-being for some long-term purpose, or even simply to become better-off. I can be contrasted with someone who tries to gamble their way out of poverty, for example. I just want to get home. The ratio of the value of the potential loss as against the potential gain needs to be specified, and the latter is not necessarily expressible as a monetary value. As such, my action might properly be thought of as rational. Given the chance of my winning in the second case it is stretching the point to talk about my “aim” of improving my financial position.

Of course there are a variety of reasons people have for gambling. Peripheral reasons may in fact be central, and my primary aim in gambling on some occasion have at best a derivative connection with increasing my financial position from my net winnings. Think about the following: the thrill experienced if I crack a jackpot, or back a long odds winner, or just take a risk; the satisfaction of having a winning session on a gaming machine, or beating the bookies; the exciting physical and social environment of a casino or a racetrack (that a casino is designed in such a way as to stimulate greater risk taking, although it may be a matter of concern, does not undermine the point being made); the sociability of an outing to a club—eating, drinking, conversing, betting; entertaining a business client or political associate. The

list could go on, but it looks as if there are three categories: excitement, sociability, and business and related entertainment. Psychological and strategic gains are being offered as justifying the financial losses that could well follow from the sort of gambling under consideration, and which in the long term it is quite justified to expect will follow if playing the horses or gaming machines. I might actually go to a club or the races expecting to lose, but still think the outing worthwhile. This might even be the case if I do nothing on that occasion but gamble.

What about someone whose aim in gambling is to win, but who knows that it is probable that she will lose? If someone's motivating desire is to increase her property, and she recognises that it is probable that gambling will not have that outcome—the expected financial benefit of placing the bet is lower than that of not placing the bet— her gambling seems to involve a failure of practical reasoning. (It does appear plausible for someone to aim to win, even though they do not expect to win, but it's not clear to me that this thought makes sense of playing on a gaming machine. It makes more sense where the aim is realised in some effort, such as in an athletic competition.) Alternatively, if she is motivated by the mere possibility that she might win, thinks it would be great to win and hopes it happens, then her actions might satisfy practical reason, as long as she does not believe that it is probable that gambling will lead to an increase in her property, and as long as her actions don't seriously undermine her capacity to satisfy her other desires.

But what if someone is offered odds of 10 to 1 on some state of affairs, and reasonably believes the chance of that state of affairs being the case is one in four. In these circumstances, even though she believes that it is probable that she will lose, placing the bet has a high expected utility, and we might think that given her aims she would be acting rationally if she placed the bet. Even though this case looks like a counter-example to my claim, it is only trivially so. Circumstances like these rarely occur in organised gambling, and in principle they should never occur on programmed gaming machines. When they do occur, the gambler most likely possesses special skills or information, and has a rationally justified expectation of benefiting on that basis.

### **Rationality, Autonomy and Public Policy**

Are any ethical issues relevant to public policy raised by what I have said so far? In order to answer this question, we first need to distinguish the moral permissibility of gambling from the proper grounds of government policy on gambling. I believe that rigging the result of a horse race is immoral, and also ought to be against the law. Even if those directly or indirectly responsible for rigging the race do not gain property as a result of their deception—maybe that is not part of their aim—others are being unfairly disadvantaged by their actions. (Perhaps a sensible gambler should allow that such things occur, and constitute part of the risk, in the same way that someone who believes that factors other than the possible outcomes of discrete events determine the outcome of a series of events—say coin tosses—is not necessarily reasoning

fallaciously: the possibility that the coin is weighted or some sleight of hand is present cannot always be ruled out.)

In contrast, one might judge lying to be wrong but only think forms of lying which involve fraud should be against the law. It does not automatically follow from the moral impermissibility of a practice that it should be made illegal. In any case the claim that all gambling is morally wrong proscribes a very common and mostly innocuous human practice, and is not worth entertaining here. The question still arises, however, whether government policy should restrict gambling.

The most common argument for not legally restricting gambling is that people want to gamble. The argument appeals to the idea that whether someone gambles is a matter of individual choice, as long as those activities don't cause harm to others. We can ask why choices should be respected, and answer that only by respecting choices do we respect autonomy. Respect for autonomous self-determining agents entails respecting their freedom to choose. Autonomous agents act on their freely chosen plans, which entails not just that they be allowed freedom of choice, but that they have the capacity to choose. I will develop the view that having the capacity to choose is bound up with rationality, and that being irrational often undermines a person's capacity for freedom of choice.

Personal autonomy has been understood in various ways, and there are four features which I take as central. The first is having the psychological capacity to choose between courses of action. The second is having the opportunity to act on the basis of one's own deliberation. The third is being recognised by others as being capable of autonomous choice and action. The fourth is being permitted or enabled to act autonomously. The distinction in the last feature is crucial to what will follow. Respect for autonomy is not just a matter of non-interference, of letting people act on their choices. It also has a positive element, and emphasises the need to create an environment which encourages autonomy.

Respecting autonomy doesn't entail respecting all choices, but at most those which are compatible with autonomy. And autonomy is conceptually linked to rationality, in that rationality provides a criterion for distinguishing autonomous from non-autonomous choices. I incline to the widely accepted view that a reason for an action consists of a belief and a desire, but go beyond its usual formulation in thinking that reasons may fail to be rational.<sup>4</sup>

Frederick Schick puts the basic idea thus:

We can say that *reasons* are rational where their component beliefs and desires constitute grounds for rational choices....the choices we make are rational where we have *grounds* for them. They are no less rational where those grounds aren't part of our reasons (where our reasons aren't rational too.)<sup>5</sup>

A rational reason provides grounds for a choice of action. So a rational person aims to form beliefs in a responsible way, in order that her choices are well-grounded. If someone has an *good reason*, all things considered, for a choice, and chooses on the basis of that reason, her choice is rational. Someone might have a *reason* to gamble and still lack rational grounds for gambling. Someone's desire to improve her financial well-being, and her belief that she can do so by gambling, constitute a reason for her to gamble, but it is not a good reason if the chances are against her satisfying her desire. Her degree of belief does not fit the objective probability. To that extent she acts irrationally if she gambles.

Amongst other things, rational agents adopt effective means to achieve their ends, and assign appropriate weights to more or less likely consequences of their actions. On this account, the possibility is left open that rationality can fail in various ways, including acting in the light of false beliefs. I have argued that for certain types of gambling gamblers cannot be well-informed if they believe that long-term benefits may result, at least in a substantial majority of cases, and thus there is no good reason for anyone to engage in those types of gambling, except perhaps peripheral ones. Their desires will not be satisfied by gambling. The failure of rationality is built into the activity.<sup>6</sup> (It is worth noting that although there might be a number of reasons why someone's gambling causes harm to herself and to other people, a common reason is because she *loses*. There is a clear link between irrationality and the consequences of gambling.)



Irrationality is often present in another way; wishful thinking, or its close relative, superstition, may interfere with someone's capacity to form coherent beliefs. It is not unusual for gamblers to correctly believe that the outcomes are set against them and also to believe that they are going to win because some special condition prevails: it's the third Tuesday of the month, or I dreamed I would win, or I just feel lucky, or it's my turn. Interference also occurs when a strong desire to win influences someone's belief about the likelihood of their winning. A related case is when someone's belief that they must win to avoid potential disaster—itsself perhaps brought about by earlier failures of rationality—induces the belief that winning is imminent. Rationality is not just a matter of satisfying desires given beliefs, but also of the justification of the processes and results of belief formation. In any case, it would be irrational to continue to engage in those types of gambling if correct beliefs were formed. As Robert Young points out, an autonomous person might choose irrationally, but autonomy does require “that that person be prepared to revise false beliefs or poor choices when further evidence arises which implies that such beliefs are false or the choices poor.”<sup>7</sup> Autonomy also requires that a person's beliefs and choices fit the evidence which is already present. People who choose irrationally fail to act in the light of beliefs they would have if they were better informed, and if they persist in choosing irrationally in the face of evidence that their desires will not be satisfied, do not act autonomously.

Rational action is tied up with well-informed choice, and a person can be well-informed relative to choices about gambling in two ways: about the probability of winning both in the short and long-term, or by having relevant skills or information. As I have argued, allowing for the exceptional cases mentioned earlier, gambling which has the primary aim of gaining property lacks rational justification, unless the gambler has relevant skills or information. So, gamblers often do not act autonomously. A fundamental justification of government is that it respects personal autonomy.<sup>8</sup> A series of linked propositions has been established: autonomy is conceptually connected to rationality; certain types of gambling often are irrational; government should promote autonomy. I will conclude that government should not facilitate those types of gambling. The conclusion appears to be a weaker one than these propositions support, but I will introduce further considerations which restrict it to this strength.<sup>9</sup>

Assuming for now that respect for people's autonomy requires refraining from facilitating certain forms of gambling, we might go further and ask why those types of gambling shouldn't be legally prohibited. Gambling *is* a contentious public policy issue, so the question is doubly well-motivated. What is assumed by the question is that certain sorts of gambling are not in people's interests, either individually or as a community, and should therefore be illegal. I understand interests to include not just what matters to someone, but what would matter to her if she had different beliefs. Interests are reflected in choices. A rational choice is based on beliefs which meet

certain conditions, so a rational person would recognise that certain types of gambling are not in her interest, and would not choose to gamble. I am not suggesting that someone not choosing rationally doesn't know her interests—she might choose carelessly, for example—but only that a rational choice shows that she is not mistaken.<sup>10</sup> Given the connection between rationality and autonomy, we might conclude that public policy which respects autonomy should prohibit those types of gambling.

A problem with the line of argument developed here is that it is based on too narrow a grasp of people's interests. As indicated earlier people's interest in gambling is often not purely financial gain, and might not even involve the expectation of such. We should recognise that it is possible for someone to both be rational and value gambling. Rational people could well value gambling, and not think of any losses as a waste of resources. The position argued by Lisa Newton, that gambling violates the responsibilities attached to ownership—in her terms “the duty of stewardship of property”—fails for the same reasons.<sup>11</sup> Gambling can involve much more than gaining and losing property. Putting the family farm at risk in order to impress someone could well be judged irresponsible, but there are many other morally neutral or even laudable reasons for gambling. Why should property be morally protected in this way? We should only be concerned if the overall disutility of losing property is marginally greater than the utility of other benefits accruing. In any case, Newton's restrictions could only apply on occasions

where relatively large amounts of property are being placed at risk, without being reduced to absurdity.

That some people might have good reasons to gamble doesn't vitiate the argument that government ought not to facilitate certain types of gambling. A government still violates a fundamental principle justifying public policy by facilitating those types of gambling. Another consideration here is that the reasons I have called peripheral, although they may be motivationally central, are not internally related to gambling. They can be achieved in other ways. Deliberately placing property at risk in the hope of gaining more, however, is internally related to the activity, and it is irrational to participate in certain types of gambling if you expect to win. One cannot both gamble and not gamble at the same time, but one can achieve the benefits which provide peripheral reasons for gambling without gambling. Peripheral reasons really are peripheral, but their bearing on public policy on gambling, and the extent to which their force is constrained by the argument from irrationality, still need to be determined.

## **Conclusion**

In *The Morality of Law* Lon Fuller argues from the perspective of what he calls "the morality of aspiration" that gambling ought to be legally prohibited, not because of harms associated with gambling, but because gambling is "a form of conduct unbefitting a being with human capacities." The specific relevance of his views is in his claim that "[T]here is no way open to us by which we can

compel a man to live the life of reason. We can only seek to exclude from his life the grosser and more obvious manifestations of chance and irrationality.”<sup>12</sup> My view concerns the *facilitation* of certain types of gambling—particularly gambling on machines which are programmed to pay out less than the amount bet, over the long term. A government facilitates gambling in a variety of ways, but mainly through legislation allowing the wide availability of gambling facilities, by economic incentives, and by emphasising gambling in state advertising. It is worth noting what the economist Jan McMillen says about gambling in Australia: “Australian gambling has been built on the basis of government initiative. Private entrepreneurs have been influential in determining how gambling is managed, but they operate in frameworks set by the actions of government”.<sup>13</sup>

A government ought not to allow those types of gambling to be widely available and readily accessible, rather than legally prohibit them. I say this because of the peripheral reasons for gambling. Many people who gamble have good reasons, and my view is compatible with those people not being denied opportunities to gamble. I reject the view that peripheral reasons are sufficient to justify the facilitation of gambling, because of the central role I give to autonomy in the formation of public policy. Unlike Fuller, however, I think that justification of prohibition *does* depend on the establishment of unacceptable harm caused by legal gambling.

The aim of this paper is to identify appropriate grounds for policy formation on gambling. A central theme is that there are important moral considerations on gambling which don't directly concern its consequences. My argument doesn't depend on the potential harmful effects of gambling on autonomy, or on the view that government knows better than citizens what their interests are, but on the internal connection between rationality, interests and autonomy.

I first distinguished two types of gambling, and then argued that gambling has characteristics which mark it off from other practices, in particular investment and insurance. On the basis of this analysis I concluded that participating in certain types of gambling with the aim of increasing one's net property is irrational, but I also indicated a range of other reasons people have for gambling. I discussed the concept of rationality, and its bearing on autonomy and freedom of choice, and developed the view that considerations about rationality and autonomy form part of the normative grounds of public policy. My conclusion is that respect for autonomy requires that public policy should at least not facilitate certain types of gambling, but does not provide sufficient grounds for prohibiting those types of gambling.<sup>14</sup>

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## NOTES

<sup>1</sup> Shaw, G. B. (1956) 'The Vice of Gambling and the Virtue of Insurance', in J. R. Newman (ed.) *The World of Mathematics, Vol 3* (New York, Simon & Schuster) p. 1524.

<sup>2</sup> There may be a specific purpose which motivates a gambler's desire to win—buying a car, paying a debt—but that does not imply that her primary aim in *gambling* is not to improve her financial position.

<sup>3</sup> The irrationality is not the sort that would make a gambler vulnerable to a Dutch book. My argument is that the sort of gambling described is *essentially* irrational, whereas the kind of irrationality that makes a person vulnerable to a Dutch book is not essential to gambling. Although I haven't provided a formal justification, I am suggesting that a rational agent would apply the logic of certainty, rather than risk.

<sup>4</sup> See, e.g., Hume, D. *An Inquiry Concerning Human Understanding*, Sections 7 & 8.

<sup>5</sup> Schick, F. (1997) *Making Choices: A Recasting of Decision Theory* (Cambridge, Cambridge University Press) p 34.

<sup>6</sup> Even on the Humean view that reason has no normative bearing on desire, desires might still have an irrational object from a wider perspective, which places limits of coherence and consistency on desires. Desiring to gamble now is compatible with there being no good reason to gamble.

<sup>7</sup> Young, R. (1986) *Personal Autonomy: Beyond Negative and Positive Liberty* (London, Croom Helm) p. 11. I take it that government policy should be formed on



the basis of the best evidence available to citizens, so the fact that an irrational choice is made by an *autonomous* person does not entail that the government should respect that choice in forming policy.

<sup>8</sup> Action based on irrational choices can seriously undermine longer-term autonomy, and public policy might aim to prevent a person acting in such a way (although the apparent paternalism would need to be justified), thus providing a clear connection between respect for autonomy and a concern for consequences. My argument doesn't depend on the potential harmful effects of gambling on personal autonomy, however, but on the connection between respect for autonomy and the purposes of public policy.

<sup>9</sup> Justification for limiting choice—and it would need to be shown that a government *does* limit choice by not facilitating certain practices—is more often grounded in considerations of harm to self or others. The issue of harm only bears on the present argument, however, if limiting freedom of choice *itself* constitutes a harm, and that is not necessarily the case. I am not free to drive on the right-hand side of the road in Australia, but I am not being harmed. The reply to someone who argues that it is merely illegal to drive on the right-hand side, and I can choose to if I want, is that I can in the same sense freely choose to attend an illegal gambling house.

<sup>10</sup> See Schick, F. (1984) *Having Reasons: An Essay on Rationality and Sociality* (Princeton, NJ, Princeton University Press) pp. 45-47, for a discussion of this point.

<sup>11</sup> Newton, L. (1993) 'Gambling: A Preliminary Inquiry', *Business Ethics Quarterly* 3.

<sup>12</sup> Fuller, L. (1964) *The Morality of Law* (New Haven, Yale University Press) pp. 8-9.

<sup>13</sup> McMillan, J. (1996) "Gambling as an Industry" in Cathcart & Darian-Smith, p. 52.

<sup>14</sup> I would like to thank Tony Coady, Bruce Langtry and Len O'Neill for helpful comments on earlier drafts.