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Principle of Human Dignity vs. Legalization of Bets: Legal, Social, and Psychological Consequences in Brazil

The Principle of Human Dignity vs. The legalization of Bets: legal, social, and psychological consequences in Brazil

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SUMMARY

This paper analyzes the conflict between the licensing of gambling games, established by Law 14,790/2023, and the principle of human dignity, provided for in the Federal Constitution of 1988. In this sense, the paper proposes an interdisciplinary approach, uniting perspectives legal, sociological and neurological, in order to discuss the topic more comprehensively and demonstrate how certain legislative inconsistencies can generate significant impacts on reality Brazilian society today. In this way, the realization of human dignity demands a state positioning compatible with constitutional values, so that the licensing of games of betting does not result in setbacks and social pathologies nor contradict the foundations of the Charter Magna.

Keywords: Legalization of Betting; Human Dignity; Gambling; Social Impacts; State Responsibility

ABSTRACT

This study analyzes the conflict between the licensing of betting games, as established by Law 14,790/2023, and the principle of human dignity, as set forth in the 1988 Federal Constitution. The work proposes an interdisciplinary approach, combining legal, sociological, and neurological perspectives, to discuss the topic more comprehensively and demonstrate how certain legislative incongruities can generate significant impacts on contemporary Brazilian social reality. Thus, the realization of human dignity demands a state position compatible with constitutional values, ensuring that the licensing of betting games does not lead to social setbacks and pathologies, nor contradict the foundations of the Magna Carta.

Keywords: Betting Legalization; Human Dignity; Problem Gambling; Social Impacts; State Responsibility.

INTRODUCTION

The licensing of gambling games, established by Law 14,790/2023, represents a significant change in Brazilian legislation by regulating betting activities. Although the rule aims to combat the illegal market and generate revenue, its implementation opens a debate of profound legal, social, and public health implications. The main problem lies in the potential conflict between economic interest and the Principle of Human Dignity, one of the foundations of Federative Republic of Brazil. By legalizing an activity that can lead to gambling addiction, a disorder recognized by medical literature, the State exposes individuals to the risk of dependence, which



disrupts financial, family and professional life, and is associated with pathologies such as anxiety and depression.

From the perspective of constitutional theory, the legalization of betting raises a question on the hierarchy of norms. According to Hans Kelsen, it is unacceptable that an infraconstitutional law limit the effectiveness of a full constitutional norm, such as human dignity. Ronald's vision Dworkin reinforces this point by arguing that the legitimacy of government depends on treating all citizens with equal consideration and respect. The State's failure to protect citizens from risk inherent in the legalized activity contradicts this duty, highlighting a possible overlap of the economic interest over the protection of the community.

The legal inconsistency is also manifested in the contradiction with Decree-Law No. 9,215/1946, which prohibits gambling in public places, while Law 14,790/2023 authorizes it to be carried out in virtual environment. This normative duality highlights the conflict between the regulation of economic activity and social well-being, demanding an in-depth analysis of its consequences.

Ultimately, legalizing gambling becomes a public health issue that requires a proactive state response. Individual losses, such as debt and loss of productivity, go beyond the private sphere and burden the health and social assistance systems. Therefore, the State has an essential responsibility to ensure social well-being, which requires more than simple economic regulation. It is imperative that the government invest in policies preventive measures, awareness campaigns and effective support for affected individuals, mitigating the negative impacts of this practice on society and ensuring that the dignity of the human person be the priority.

1. HUMAN DIGNITY VERSUS LEGALIZATION OF GAMBLING: LEGAL CHALLENGES AND CONTRADICTIONS

The debate on the legalization of online betting in Brazil, formalized by Law 14.790/2023, cannot be fully understood without an analysis of its foundations and implications legal. The crux of the matter lies in the apparent collision between the economic objectives of norm and the duty of the State to protect the dignity of the human person, one of the pillars of the Republic. This chapter aims to dissect this complex relationship, exploring the position of human dignity in the Brazilian legal system and the normative contradictions generated by the new legislation.

1.1. *The Principle of Human Dignity as the Foundation of the Republic*

The 1988 Federal Constitution establishes, in its article 1, section III, that the dignity of human person is one of the foundations of the Democratic State of Law. This provision is not



merely rhetorical, but the backbone of the entire legal system, serving as an interpretative guide for all laws and state actions. According to the doctrine of Bernardo Gonçalves Fernandes, dignity human right is not only a fundamental right, but a "superprinciple", a supreme value that permeates and guides the Brazilian legal order (FERNANDES, 2022). In his view, dignity imposes that the human being is always treated as an end in itself, and never as a means to an end achieve other goals.

In this sense, the dignity of the human person guarantees the protection of the individual against any form of objectification or instrumentalization. Its full implementation requires the State to create conditions that allow the integral development of the person, including the protection of health, psychological integrity and autonomy of will. The role of the State is, therefore, to ensure that no public policy or legislative measure compromises the realization of this fundamental value. Any law that, in its essence or consequences, leads to degradation or vulnerability of the individual, comes into direct conflict with the core of our legal system.

1.2. Normative dissonance: from historical prohibition to contemporary legalization

The legal history of gambling in Brazil is marked by an abrupt transition. decades, the practice was considered a criminal offense, according to Decree-Law No. 9,215/1946. This decree, by reestablishing the validity of article 50 of the Law on Criminal Offenses, prohibited the the operation of gambling in public places. The justification behind this prohibition was the protection of social well-being, morals and public order, understanding that recreational activity could degenerate into addiction and social problems.

Law 14,790/2023, by authorizing the licensing and operation of fixed-odds betting (the "bets") in a virtual environment, created a clear normative dissonance. Although bookmakers operate in an online environment, the affected public is the same one that the previous legislation sought to protect. At the same time, the new law does not expressly repeal the 1946 Decree-Law, creating a scenario of conflict and legal uncertainty. The legal system, by allowing an activity that once considered harmful to society, demonstrates an incongruity that favors an economic objective (tax collection) to the detriment of citizen protection.

1.3. The collision of principles and the instrumentalization of the human being

The platform business model has transformed the promises of entrepreneurship into a new form of precarious work. Workers are called "on-demand services," and the logic behind the deregulation promoted by platforms seeks the accumulation of wealth private. (SLEE, 2018)



The crux of the current legal controversy is the overlapping of interests. On the one hand, the new law seeks to boost economic activity and generate revenue for the State. On the other hand, the Principle of Dignity of the Human Person, in its essence, protects the individual from the harm that this same person causes. activity can cause. The central question is: can the State use the citizen as a means to an end economic?

The answer, in light of constitutional theory, is negative. As pointed out by Hans Kelsen in his theory of the hierarchy of norms, an infraconstitutional law cannot restrict the scope of a constitutional norm of full effectiveness (KELSEN, 2003). The legalization of betting, by neglecting the potential psychological and social harm – such as gambling addiction – to individuals, contradicts the principle of human dignity.

Ronald Dworkin reinforces this idea by arguing that the legitimacy of a government is measured for the way he treats his citizens, guaranteeing everyone "equal consideration and respect" (DWORKIN, 2002). The legalization of betting, without the proper protection and support network for individuals, demonstrates a failure in this duty of respect. Instead of protecting the citizen, the measure exposes to a risk, which can be interpreted as a form of instrumentalization, in which health and the well-being of the individual are subject to financial interest.

Therefore, the legalization of betting presents legal challenges and contradictions that go beyond from the mere interpretation of the law. It raises a fundamental question about the role of the state, hierarchy of norms and the non-negotiable primacy of human dignity in a legal system democratic legal.

2. STATE DUTY AND THE SAFEGUARDING OF HUMAN DIGNITY IN THE CONTEXT OF GAMBLING GAMES

The discussion about the legalization of betting, as we have seen, is not limited to the legal field-formal. It unfolds in the sphere of state action, which must act as guardian of rights and guarantees fundamental. In this chapter, we delve deeper into the role of the State in safeguarding human dignity, arguing that simple economic regulation of the activity is insufficient to mitigate the social and public health risks inherent in gambling.

2.1. The dual dimension of human dignity: prohibition of excess and duty of protection

The Principle of Human Dignity imposes a double obligation on the State. The first is the **prohibition of excess**, that is, the duty not to violate the fundamental rights of citizens. The second, and equally crucial, is the **duty of protection**, which requires the State to act



proactive to protect the dignity of its members against threats that may come from third parties or social conditions (SARLET, 2015).

In this context, the legalization of online betting imposes on the State the obligation to go beyond mere regulation. The Government cannot limit itself to monitoring the platforms and collecting taxes. The State, in its role as promoter of social welfare, has the duty to protect citizens of the risks inherent to this activity, such as gambling addiction, debt and disruption family. Neglecting this responsibility would be a failure in their obligation of guardianship, since human dignity demands an active stance in promoting the health, safety and prosperity of individuals.

2.2. Ludopathy as a public health issue and the role of the protective state

Medical and psychological literature classifies gambling disorder, or gambling disorder, as a real pathology, characterized by difficulty in controlling the impulse to gamble, despite the negative consequences (MEYER, 2019). It is a condition that goes beyond simple mismanagement financial, affecting the individual's mental health, social well-being and interpersonal relationships. legalization of betting, by increasing the population's exposure to this activity, increases the risk of new cases and worsens the situation of vulnerable people.

As Carl Hart sees it in "High Price," addictive behavior is not just a individual flaw of character, but is intrinsically linked to environmental, socioeconomic and the lack of "alternative reinforcers" (HART, 2013). For more vulnerable populations, the bet may become a search for validation or an escape from a difficult reality, which makes dependency more likely. In view of this, gambling addiction ceases to be a private problem and becomes a problem public health, which imposes on the State the duty to intervene in a planned and effective manner.

State responsibility, therefore, manifests itself in: (i) Prevention: The State must implement awareness campaigns about the risks of gambling, targeting different public, such as young people and families; (ii) Support and Treatment: The public health system (SUS) must be structured to offer accessible and specialized treatment for Gambling Disorder, including psychological and social support.

2.3. The proposal for public policies and mitigation measures: the state as an agent of social change

Transformations in the world of work, driven by technology, have made it difficult to identification of legal subordination in the traditional way. Remote work, for example, made direct hierarchical control almost invisible. In this context, Luiz Carlos Amorim Robortella



(ROBORTELLA, 1998) states that traditional subordination is proving to be insufficient as center of gravity of Labor Law. In response to this crisis, he proposes that Labor Law Work evolves towards a graduated model of guardianship, which takes into account the levels of subordination and dependency, offering differentiated treatment for the different forms of work. According to the author, "the degree of protection should focus more on contractual weakness than on the intensity of the subordination" (ROBORTELLA, 1998).

The state's duty to safeguard human dignity requires the adoption of public policies that do not restrict to the fiscal sphere, but act in a preventive and protective manner. Some measures essentials include:

- (i) **Strict Regulation and Enforcement:** Regulation must go beyond charging of taxes, imposing on betting companies the duty to implement tools of responsible gaming, such as deposit limits, time limits and mechanisms self-exclusion;
- (ii) **Education and Awareness:** The State must promote, in partnership with institutions education and health, financial education and awareness of the risks of gambling addiction. Articles such as those published in SciELO on the psychology of gambling (OLIVEIRA; SILVA, 2010; TAVARES; SILVA, 2010) can serve as a basis for the development of evidence-based prevention programs;
- (iii) **Support for Affected Individuals:** The State needs to provide an effective support network for those already suffering from addiction, such as the creation of care centers specialized and the integration of the topic into social assistance policies.

In short, the State cannot ignore the potential social and psychological damage caused for the legalization of betting. The dignity of the human person, in its dimension of duty of protection, requires that the Public Power adopt an active and integral stance, combining regulation economic with a robust public health and social assistance policy. Only then will the new legislation will be compatible with the constitutional foundations and Brazil's commitment to well-being of its citizens.

3. REPERCUSSIONS OF THE LEGALIZATION OF GAMBLING: ANALYSIS OF SOCIAL AND PSYCHOLOGICAL IMPACTS

The legalization of betting, although often debated from a regulatory perspective economic and tax collection, generates deep and complex social and psychological repercussions that deserve rigorous attention. The analysis of these impacts transcends the individual sphere, reaching the social fabric and the public health system. This chapter seeks to deepen the discussion on the



consequences of Law 14,790/2023, examining the mechanisms of dependence, the harm to life social and family and the burden on the community.

3.1. The psychological mechanisms of gambling addiction and the design of betting platforms

Gambling Disorder, or gambling disorder, is a behavioral pathology characterized by progressive inability to control the urge to gamble. Medical literature, such as articles available in the SciELO database, describes this condition as a mental health problem which can lead to a cycle of compulsive gambling, financial losses and, consequently, to a increased anxiety and depression. Online betting platforms, by design, are developed to explore psychological triggers that encourage addiction.

These platforms use mechanisms such as instant gratification, gamification of experience and the unpredictability of victories to maintain user engagement. Engineering of digital design creates an environment that can nullify the ability to make rational decisions, especially in individuals with a predisposition to vulnerability. The user is constantly exposed to promotions and bonuses that encourage you to keep betting, transforming what would be a recreational activity into a compulsion. Compulsive behavior is not a character flaw, but a situation that demands intervention, highlighting the need for public policies prevention and treatment.

3.2. The rupture of social ties and patrimonial damages

The impacts of gambling addiction are not restricted to the individual; they spread to their circle. social, resulting in significant disruptions and losses. The relentless search for resources to supporting the addiction leads to devastating financial consequences, such as debt, selling assets and, in extreme cases, to commit crimes to obtain money. This scenario of lack of control financial impact directly on the dependent's family, causing stress, conflicts and, often, the breaking of emotional bonds.

Scientific articles on the subject corroborate the idea that gambling addiction can lead to a series of social problems, such as family disintegration, social isolation and loss of jobs. The legalization of gambling, by normalizing the activity and making it widely accessible, subjects society to these risks on an unprecedented scale. The promise of a "luck" or "easy gain" masks the danger that the practice becomes a source of vulnerability and suffering, especially for those who seek an escape from problems through gambling socioeconomic.

FINAL CONSIDERATIONS

Throughout this work, we sought to demonstrate that the legalization of gambling, formalized by Law 14,790/2023, cannot be analyzed solely from the perspective of its economic functionality. This research showed that the apparent legislative modernization inaugurated a complex conflict between the State's revenue collection interest and the safeguarding of one of the most precious foundations of the Republic: the Principle of Human Dignity.

As discussed in the first chapter, the collision of norms is evident. A law of infraconstitutional hierarchy, by authorizing a practice that was once prohibited, ignores the protective history of the Brazilian legal system and, above all, seems to affront the primacy of human dignity, understood as a "superprinciple" that guides the entire constitutional system. From the perspective of theorists like Kelsen and Dworkin, the State cannot use the instrumentalization of the individual – exposing him a real risk of vulnerability and illness – to achieve an end, even if this is the generation of public revenue. The legitimacy of the government, therefore, is conditioned by the treatment of every citizen with equal respect and consideration.

In the second chapter, the analysis of state duty revealed that simple regulation economic is an incomplete and insufficient response to potential damage. Gambling addiction, classified as a pathology, imposes on the State not only a duty not to intervene in any way excessive in individual autonomy, but an imperative of protection. State responsibility requires the adoption of proactive and efficient public policies. Such measures include awareness campaigns awareness, the creation of a support and treatment network for gambling addicts and the imposition of strict oversight of the platforms. Without this active stance, the inertia of the Public Power can be interpreted as collusion, compromising public health and safety social.

Finally, the analysis of the social and psychological repercussions in the last chapter demonstrated that the legalization of betting is not a neutral act. Digital platforms, with their design to stimulate compulsive behavior, contribute to a scenario of vulnerability. The losses go beyond the financial plan, causing ruptures in family ties, harm to health mental and, ultimately, a collective cost that falls on the health and care system social.

It is therefore concluded that Law 14,790/2023, in its current form, is not fully compatible with the foundations of the Democratic Rule of Law. The dignity of the human person, as a value supreme and non-negotiable, it cannot be subjected to the dictates of the market or to the interest of collecting revenue. The challenge facing the legislator and society is to ensure that dignity, in its essence protective, remains the compass that guides state action. The hope is that Brazil, by regulating



an economic activity, do not lose sight of its greatest value: the inviolability and integrity of each of its citizens.

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