
Collected Insights from the Field of Sport

Volume 3: Governance and Ethics

Edited by - Juan Carlos Landrove, Geert Hendriks

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Collected Insights from the Field of Sport

Governance and Ethics

Juan Carlos LANDROVE & Geert HENDRIKS

***‘Sometimes, it’s not enough just to change laws. You’ve got to change hearts.’
And sports has a way, sometimes, of changing hearts in a way that politics or business doesn’t.’***

Barack OBAMA

(44th President of the United States)



Foreword

Professor Margareta Baddeley recently retired from her full-time professorship at Geneva University School of Law and ceased teaching within the frame of AISTS programmes. She was part of the pioneering team who had the challenging idea of bringing to life and developing from scratch an international Master of Advanced Studies in the field of Sport Administration under the aegis of AISTS back in 2003¹. The multidisciplinary programme grew up quickly in size and quality and is nowadays classified the best masters in the world in its field². Margareta ensured, through both her teaching and numerous publications, the steady growth of the programme's fame in relation to legal concepts taught to a public comprising mostly non-lawyers.

¹ Among the initial team were also Jean-Loup Chappelet, Gérald Gremion, Daniel Oyon, Francis-Luc Perret, Laurent Rivier and Claude Stricker

² EdUniversal Best Masters Ranking Sport Management 2015 - 2016

This book contains articles written by both members of the AISTS Scientific Committee as well as former participants of the AISTS Master in Advanced Studies of Sport Administration. It serves the purpose of warmly thanking Margareta for her countless investment in the long term and as a humble gesture of gratitude.

The topic that naturally came as “fil rouge” among the following articles is governance. Governance in sport is defined as *“The framework and culture within which a sports body sets policy, delivers its strategic objectives, engages with stakeholders, monitors performance, evaluates and manages risk and reports to its constituents on its activities and progress including the delivery of effective, sustainable and proportionate sports policy and regulation.”*³

The current governance challenges in sport cannot be resolved in isolation and the need for good governance in sport is more urgent than ever as information floods and public scrutiny of organisations' behaviour continue to intensify. Governance is therefore a multidisciplinary topic that, when taught to the (future leaders of) the sports industry, should be viewed from different angles. Better governance in sport goes beyond regulations, guidelines and laws. It requires a change in the ethics and attitude of all actors involved, or as former US President Obama said during his last event at the White House:

“Sometimes, it's not enough to change laws. You've got to change the hearts”.

³ EU's Expert Group on Good Governance, Principles of Good Governance, 2013

Switzerland's Responsibility in the Regulation of International Sport

Jean-Loup CHAPPELET

‘Good governance never depends upon laws, but upon the personal qualities of those who govern’

Frank HERBERT
(American author)

Sport in Switzerland

Competitive sport, professional sport, elite sport, grassroots sport, leisure sport, physical activity and physical education all grew massively during the 20th Century. In Switzerland, for example, 74% of the population now claim to do some form of sport or physical activity (Sport 2014 survey). Consequently, sport is now a major socio-cultural phenomenon in most of the world's countries and has taken on great economic and political importance. It can even impact international relations, as was shown by the ping-pong diplomacy of the 1970s, the boycott of the Moscow Olympics in 1980, the emergence of the BRIC countries in the international system, and the effect of the 2015 FIFA scandal on Switzerland's reputation. Many stakeholders have contributed to the rise in sport's popularity, including nation-states, intergovernmental organisations, NGOs, the media, sponsors, private organisations such as fitness centres and sports goods manufacturers, and, very importantly, sports federations and clubs.

Around 60 international and European sports federations are based in Switzerland, having followed in the footsteps of the International Olympic Committee (IOC), which moved its headquarters to Lausanne in 1915. In fact, the IOC is both the custodian of the Olympic Games, which, despite recent criticisms, remains a unique symbol of peaceful international cooperation and coexistence, and the de-facto head of a system for overseeing world sport that dates back to the Belle-Époque. The numerous organisations within this

system that are based in Switzerland are subject to Swiss law, in particular articles 60 and subsequent articles of the Swiss Civil Code (governing associations). Over the last two decades, however, a seemingly endless succession of crises has rocked this system to its core. These crises, many of which were triggered by scandals relating to the choice of hosts for major events controlled by international sport organisations, especially world championships and the Summer and Winter Olympic Games, are frequently attributed to failures of governance.

Regulating Sport in Switzerland

As a 2012 report to the Federal Council pointed out, whatever the facts of the matter, cases of corruption and abuses of human rights associated with international sport organisations and events reflect extremely badly on Switzerland. What is Switzerland doing to avoid this criticism and damage to its reputation? What more could it do? And, most importantly, how can the country help resolve these problems and improve the regulation of international sport?

Until now, international sport has been self-regulating and has fiercely defended the principle of "sport autonomy". Today, the limitations of this sport autonomy are increasingly apparent with respect to a wide range of issues that are damaging the integrity of sport, including: doping, match-fixing and hooliganism, as well as corruption by sport's administrators.

Since 1970, when an article referring directly to sport was added to Switzerland's constitution, the Federal Council has taken numerous actions to address issues arising in the world of sport. The most significant of these actions are listed below (in chronological order):

- 1981: approval of a federal order recognising the IOC's "specific character as an international institution". In 2000, this federal order was turned into an agreement between the Swiss federal government and the IOC, confirming the IOC's exemption from income tax and its right to recruit an unlimited number of foreign staff with no restrictions on their nationality.
- 1989: ratification of the European Convention on Violence and Misbehaviour by Spectators at Sports Events (Council of Europe).
- 2000: addition of a new article (article 11) to the 1972 federal law on sport, making trafficking doping products (but not their use) a penal offence (under the jurisdiction of the cantons).
- 2005: amendment to the Civil Code (article 69b) making it mandatory for associations of a certain size to have their accounts audited by external auditors. The law applies to associations that meet at least two of the following criteria: total assets of at least CHF10 million, turnover of at least CHF20 million, and average annual staffing level of more than 50 employees.
- 2005: ratification of the UNESCO International Convention against Doping in Sport. This convention superseded a similar convention drawn up by the Council of Europe, which Switzerland had ratified in 1989. It led to the creation in 2008 of Antidoping Suisse, the Swiss national anti-doping organisation.
- 2011: introduction of a new federal law (which came into effect in 2012) to encourage sport and physical activity. Chapter 5 of the law is entitled "Ethics and Safety".
- 2014: revision to the law on money laundering (article 2c) in order to add international sport's most senior executives to the list of "politically exposed persons" (PPE). As a result, banks now have to monitor these executives' bank accounts.
- 2015: revision of the Criminal Code (articles 322.8 and 322.9 CP) to allow cases of serious private corruption to be prosecuted without charges being brought by one of the parties. This is in addition to existing articles covering: fraud (article 138 CP), criminal mismanagement (article 158 CP), and money laundering (article 305bis CP) that have already been used to bring cases against sport executives. Moreover, article 102.2 CP allows criminal proceedings to be brought against organisations that do not take all necessary measures to combat private corruption. Switzerland has also ratified the UN's, OECD's and Council of Europe's conventions on active and passive corruption.
- 2014: signature of (and intention to ratify) the Council of Europe Convention on the Manipulation of Sports Competitions in Magglingen/Macolin.

- 2016-17: revision of the law on gambling (as proposed by the Federal Council in 2015) in order to make match-fixing a criminal offence and to compel sports organisations to pass on to the authorities any information they may have concerning the manipulation of competitions in their sport (articles 63.2 and 63.3).
- 2016: parliamentary discussion of MP Cédric Wermuth's request that the Federal Council prepare a parliamentary report on the consequences "of modifying the legal form of major international sport federations or of creating a specific status for them" (following the 2015 FIFA scandal).
- A law to protect whistleblowers is due to be presented to parliament in 2017.
- Following the acceptance of a popular initiative in April 2016, a referendum on Swiss multinational companies' duty of care with respect to human rights, inspired by United Nations guidelines, will take place in 2018 or 2019.

Future Considerations

As host to numerous international sports organisations, Switzerland could take several further measures, either by modifying national laws or through intergovernmental conventions. Such measures could include:

Audit Mechanism

Setting up a voluntary, independent audit mechanism that international sports

organisations could use to audit their activities, especially their finances and the redistribution of funds to their members. This mechanism could be based on:

- 1) National public auditors, such as the Swiss Federal Audit Office, which already audits international organisations such as the WIPO and WHO, or
- 2) An independent internal body, such as the World Bank Inspection Panel (WBIP), which audits some World Bank projects, or
- 3) A specific body, such as the World Anti-Doping Agency (WADA), the Court of Arbitration for Sport (CAS) or the ZEWO Foundation, which monitors and certifies charities.

International Convention

Drafting and tabling an international convention to prevent misconduct and promote "Sustainable, Addiction-free, Fair and Ethical (SAFE)" sport. In a similar way that the Geneva Conventions gave birth to international humanitarian law, this convention (which could be entitled the "Lausanne Convention") could bring together existing conventions covering sport, in order to create an international law for sport. It could also award the IOC a similar status to the International Committee of the Red Cross (a non-profit association under Swiss law), thereby giving it a legal mandate to regulate international sport and ensure that sports events respect human rights and the environment.

References

Unofficial English translations of many important Swiss laws (including the Civil Code and Criminal Code) can be found at: www.englishforum.ch/other-general/100861-swiss-laws-legislation-english-translations.html

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Corporate Governance

Challenges for International Sports Federations

‘Corporate governance is about intellectual honesty and not just sticking to rules and regulations.’

Mervyn KING
(British Economist)

Abstract

The IOC and FIFA have grown considerably over the past 30 years and have reached a global dimension. These organisations, legally formed as associations, have not always evolved their organisational structures and governance systems accordingly. For a long time, the IOC and FIFA have applied a basic sports rule: never change a winning team. The financial scandals, however, have reminded us of the realities of organisational development, requiring the establishment of organisational structures adapted to address the new demands of sports. This article attempts to highlight some of the characteristics of these large, not-for-profit organisations that are still neglected by governance research.

Introduction

In an increasingly competitive environment, corporate governance has become a fundamental topic. Strategic and operational errors, such as the Volkswagen fraud, the Fukushima accident or the manipulation of financial statements by Lehmann Brothers, can cause considerable economic, social and environmental damage. They can also enable executives, customers, competitors, suppliers and other partners to exploit the situation to their advantage and gain an undue access to a source of value on an occasional or permanent basis. Organisations must put in place governance mechanisms enabling them both to discover and exploit the opportunities that arise and to manage

the major risks.

Over the last 30 years, corporate governance has thus become a dominant field of research explored by many academic disciplines. To date, the main emphasis has been on for-profit organisations and, more particularly, on those listed on the stock exchange, partly because of the stakes involved but also because of the separation between ownership and control. When owners and managers are different people agency costs arise due to the potential misalignment of interests between shareholders (principals) and officers (agents). To date, results from research have developed the state of knowledge and contributed to improve the governance of organisations, as well as managerial practices.

For various reasons, the governance of other forms of organisations such as family businesses, non-profit organisations, governmental and non-governmental entities, has not yet attracted the attention they deserve. Recent scandals involving the Fédération Internationale de Football Association (FIFA) and the International Association of Athletics Federation (IAAF) have, however, aroused interest in this type of organisation and demonstrate the importance of governance to the survival and prosperity of the organisation. The purpose of this paper is to examine the specific governance context of international sports federations.

Corporate Governance

Larcker and Tayan (2015: 7) defines

corporate governance as *“the collection of control mechanisms that an organisation adopts in order to prevent or dissuade potentially self-interested managers from engaging in activities detrimental to the welfare of shareholders and stakeholders”*. This set of mechanisms forms the system of governance represented in Appendix I. In its most basic form, corporate governance relies primarily on the actions of a board of directors in charge of supervising executives and on auditors who must attest to the reliability of the financial statements. In a more elaborated version, shareholders, creditors, unions, customers, analysts, the media, and regulators can play a very important role in the governance of organisations.

From an economic point of view, the key idea behind the choice of governance mechanisms is that the costs of implementing these mechanisms will be offset by lower agency costs, in other words, better alignment of the behaviour of managers with the interests of shareholders. Empirical research in publicly listed firms has shown a strong relationship between the quality of governance and economic returns. The governance structure for non-profit organisations has received less attention and the optimum is so far based on extrapolating research in for-profit organisations. The choice of governance mechanisms thus requires a good managerial appreciation in order to put in place the appropriate corporate governance system.

According to Larcker and Tayan (2015), the structure of the governance system

also depends on the orientation of the organisation and its role in society. In a market economy based on the allocation of capital to the most profitable sources of value, the governance system of a for-profit organisation is to align the interests of the managers with the interests of the shareholders and maximize their wealth (Jensen & Meckling, 1976). As a result, a non-profit organisation will have a governance system that is structured differently. It follows that a single, generic system cannot satisfy all types of organisation: ‘one size does not fit all’.

As can be seen in Exhibit 1, external factors related to the environment of organisations also influence the architecture and effectiveness of the governance system. The efficiency of capital markets, the legal tradition, the regulatory enforcement that enhances the application of law, the reliability of accounting standards, and the societal and cultural values play a fundamental role on influencing the behaviour of managers. These factors function as external governance mechanisms and complement the mechanisms that companies must or can implement.

Putting in place the right combination of internal governance mechanisms that complement those of the corporate environment is not the only challenge that organisations face. Good governance also requires respect for basic operating conditions such as the independence of key governance actors such as: auditors, analysts, rating agencies, regulators, legal bodies, and governments. Independence is often the cornerstone of any system of governance.

International sports federations such as the International Olympic Committee (IOC), the Fédération Internationale de Football Association (FIFA) and the Union of European Football Associations (UEFA) are special organisations in many respects, making their governance difficult. They are characterised, in particular, by a lack of owners, a broad mission with hard-to-measure objectives, a legal status that might not be optimal anymore given their increasing economic and social importance, a composition of their governance bodies that need to be responsive to the new demands, a dominant position in their field, and an extreme internationalisation of their field of activity and structures. (Van Puyvelde et al., 2012).

The Absence of Owners

The IOC and FIFA are characterised by the fact that these institutions do not belong to anyone: they are not-for-profit associations of individuals and entities created to promote one or more sport disciplines through the organisation of international competitions. For the IOC and FIFA, the flagship competitions are, respectively, the Olympic Games and the World Cup of Football, which take place every four years.

The members of these associations do not hold ownership rights but, instead, social rights allowing them to influence the strategy and the organisational structure of these associations. From the governance perspective, the absence of owners is not without effect and

complicates the situation. One of the consequences of this is that it does not have a supreme body composed of representatives concerned with maintaining the financial value of the organisation. Property generally produces favourable effects on the management of tangible or intangible assets. Men and women pay special attention to what they have; they usually make good use of the goods they own or want to positively develop the organisation in which they have ownership rights. The fact that the IOC, FIFA or UEFA do not have owners does not create the same pressure from the supreme body (principal) over the executives (agent).

The supreme body of the IOC is the Session of the members. Consisting of 115 people, it brings together 45 representatives of active athletes, international federations and national Olympic committees and 70 co-opted personalities. Due to the importance of the IOC in the world, becoming a member of the IOC is a highly sought-after function. The members are all aware of their privileges and this accentuates the sense of responsibility. Being among the very narrow circle of the IOC's 115 members is a unique honour, forcing every member to be deeply concerned about the future of such an institution. No IOC member, however, holds a share of the IOC, as it actually does not belong to anybody.

FIFA is in a similar situation. The Congress is the supreme body of the association and brings together the 209 delegates of the national football

federations recognised by FIFA. Undoubtedly, the delegates feel very honoured with such a function and the future of FIFA certainly is close to their hearts, especially those from small national federations heavily dependent on the revenues distributed by FIFA. No delegate, however, has this ownership relationship conferred by possession. As a result, both the IOC and FIFA cannot rely on a governance structure arising from ownership of the principal (owners) to ensure that the agent (officers) takes great care of the institution he has charge of.

A Broad Mission with Hard to Measure Objectives

For international sports federations legally formed as not-for-profit associations, good governance is not about maximising a measurable objective such as financial results, but of fulfilling a broad mission while respecting certain constraints and diverse expectations from its members.

According to the August 2, 2016 version of the Olympic Charter (IOC, 2015), the mission of the IOC is to promote Olympism throughout the world and to lead the Olympic movement. The Charter also specifies in the form of 16 points the role of the IOC (Appendix II). Like the IOC, the objectives of FIFA (FIFA, 2016) are also multiple and cover a wide range of activities aimed at the development and promotion of football worldwide (Appendix III).

A mission that is hard to translate into specific and measurable objectives makes the delegation of the mission by the principal (members) to the agent (executives) extremely difficult, if not impossible. This is particularly the case when the elements of the mission leave a large margin of interpretation and may appear to be contradictory. The lack of precision and ambiguities of the mission sometimes lead to a reversal of control where the agent (executives) takes power over the principal (members). In the case of FIFA, it is undeniable that President Sepp Blatter had succeeded over time in gaining control over a large part of the delegates of small national football federations by granting them significant, and continually increasing, financial contributions. In such a situation, some members of Congress lost their independence vis-à-vis President Blatter and were no longer able to exercise their oversight role. In addition, the extraordinary development of revenues from the sale of television rights for the Football World Cup and sponsorship, allowed President Blatter to propose generous redistributions to national federations and broad support for many development programmes. Under his presidency, between 1998 and 2015, FIFA's revenues increased from CHF 332 million for the 1995-1998 period to CHF 5'718 million for 2011 to 2014. FIFA's equity increased also from CHF 94 million in 2003 to over CHF 1'340 million in 2015 (FIFA, 2013;2015). With such financial results, no one could say that FIFA was not fulfilling its mission and President Blatter easily secured his re-election despite the potential existence of many governance problems.

The Legal Form of International Sports Federations

The legal form of international sport federations organised as an association under Swiss law also leaves a great deal of freedom in terms of governance. The general assembly of the members is the main supervisory body of executives. Except for the keeping of financial accounts and their auditing, Articles 60 et seq. of the Swiss Civil Code do not impose any specific governance mechanism to associations and let them define their organisational arrangements in their statutes and internal operating directives.

Basically, an association is not subject to either the Swiss Code of Best Practice of Corporate Governance issued by EconomieSuisse in 2002 (see EconomieSuisse, 2016) or to the 21 ZEWO norms applicable to non-profit organisations (see Zewo, 2016). It may voluntarily adopt such a framework. On the basis of the articles of the Swiss Civil Code, an association is not subject to very demanding rules concerning: disclosure of financial and governance information to members and other stakeholders, the composition of governing bodies, relations between legislative and executive bodies, independence of members, rules governing the functioning of the various bodies, conflicts of interest, risk management and internal control systems, setting up committees with specific tasks (e.g. audit, recruitment and

remuneration), auditing and adoption of an accounting framework.

In such a liberal context, associations tend to adopt minimum rules of governance giving maximum freedom to the governing bodies, often encouraging the reversal of control between the principal and the agent. Both the IOC and FIFA have not been zealous in this regard and have long been limited to a system of elementary governance which does not facilitate the exercise of high-level oversight by the members of the Session and the Congress.

To date, neither the IOC nor FIFA have officially recognised the Swiss governance frameworks (Swiss Code of Best Practice of Corporate Governance, the SWX Directive on Information Relating to Corporate Governance or the 21 ZEWO norms) or International frameworks such as those established by the United Nations (UNCTAD, 2006) or the OECD (2015). For a long time, the sport and financial success of the Olympic Games and of the Football World Cup spoke favourably of their leaders. It was only after crises that the IOC and FIFA changed their governance systems and put in place more advanced organisational arrangements. In 2008, however, the IOC introduced universal principles of good governance that it strives to implement and constantly evolve. While at FIFA, it is only since 2011 that the annual report mentions governance issues, which are gradually leading to organisational reforms.

In terms of financial accounting and disclosure of financial information, the

situation can be considered satisfactory. Since 2000, the IOC has prepared its financial statements based on International Accounting Standards (IAS / IFRS). FIFA has done the same since 2003. The financial statements of the IOC and FIFA thus offer a true and fair view of the economic situation of both associations. At FIFA, however, financial allocations to associations and confederations via the Financial Assistance Programme and the Goal programme are not detailed in the annual report, although FIFA requires the audited accounts of associations and confederations. It is, therefore, difficult to ensure that the allocated funds are used correctly. More transparency would also help to avoid the pitfalls of the past.

The Composition of the Members of the Supreme Body - Session and Congress

The composition of the supreme bodies of the IOC and FIFA, respectively, the Session and the Congress, does not facilitate good governance because of the heterogeneous interests of the members. These members are not united behind a common objective, as they are generally in a for-profit enterprise where the vast majority of shareholders are interested in getting a good financial return on their investment.

At FIFA, the football association of each country recognised by the continental federations is represented in the Congress, has a seat and appoints its

delegate. Obviously, the 209 members of the Congress, bringing together delegates from major football countries such as England, Germany, Spain, Italy and France, and delegates from tiny nations such as the islands of Cook or Vanuatu, do not have the same interests. The great nations are campaigning for the organisation of the World Cup and for a high redistribution of money to the nations participating in the final phase of the competition, while small countries are seeking maximum subsidies to finance their association and develop their basic sport infrastructure. The allocation of one seat per nation to the Congress and consequently of one vote divides the power of the Congress for the benefit of the Presidency. Moreover, the redistribution of funds further strengthens the power of the Presidency, creating a strong financial dependency of small associations on FIFA. For small countries, the base amount of CHF 250,000 distributed annually by FIFA to each association via its financial assistance programme, represents a substantial amount and makes them fully vested in the cause of the FIFA presidency in charge of generating revenue for FIFA.

At the IOC, the situation is not exactly the same because a part of the Session (70 out of 115 members) is formed by co-opting members to represent the IOC. The criteria of recruitment are not explicit and there are among its members both representatives of the nobility like S.A.S Princess Nora of Liechtenstein, or former athletes like Guy Drut. Obviously, the members of these supreme bodies do not have the same interests and do not have the

same degree of independence towards the IOC Presidency. Indeed, some IOC members represent only themselves and their actions are oriented towards the maintenance of their personal benefits. Others have broader interests such as the spread of a sport practice on the planet or in their respective countries, the organisation of large-scale sport events, or even beyond sports issues like the rapprochement of nations and people. In this context, the IOC and FIFA leaders face a very heterogeneous and divided assembly of members with little ability to impose a very precise strategy. This leads to many non-explicit objectives that make governance difficult. Is it necessary to maximise the financial result to finance sport development? Is it necessary to maximise the economic or societal impact of competitions, the spread of sport practices on a global scale, the resolution of conflicts via sport, the entertainment of spectators, and the economic and social development of organising sites? The composition of the supreme bodies does not facilitate the formulation of a single supreme objective that can be reduced into clearly defined and sequenced secondary objectives. Without a clear objective, the strategic and organisational choices are extremely difficult and create the conditions for substantial problems of governance.

The Dominant Position of the IOC and FIFA

The Olympic Games and the Football World Cup are global competitions attracting an audience of more than 3 billion viewers (FIFA, 2015; IOC, 2015).

By holding the rights to these events, the IOC and FIFA enjoy a dominant position in the market for major international sports competitions. These unique competitions allow the IOC and FIFA to generate extraordinary revenues and profits. Apart from the two major sport events organised by UEFA (the Champions League and the European Championship of Nations), no other temporary event generates such high revenues and has such a media impact. As a result, the presidents of the IOC and FIFA are treated on an equal footing with the heads of state of big countries or the heads of major international institutions. Everyone remembers the image of Angela Merkel jumping happily as a child next to President Sepp Blatter following Germany's victorious goal against Argentina in the 2014 World Cup final. The Chinese President, Hu Jintao's, glowing face at the opening ceremony of the Beijing 2008 Olympic Games, hailing athletes and receiving more than 80 heads of state, also symbolised the political, economic, and social importance of Olympic events.

Exercising high supervision over leaders in charge of such a function is, therefore, extremely challenging. Once at the top of such prestigious institutions, the leaders do not easily accept any form of control and generally consider that they are not accountable. In addition, implementing a governance system is difficult because nobody has, de facto, the legitimacy to do so. Without owners, the IOC and FIFA have no real supervisory authority. It is true that the Session and the Congress are the two supreme bodies of the IOC and FIFA, to which presidents and top

officials must report but these bodies are often at the foot of presidents because of their financial dependency. The same is generally true of the various specific committees which, apart from the ethics and audit committees, remain heavily dependent on the Presidents.

Moreover, the supra-national character of the IOC and FIFA tends to 'protect' them from the usual political and judicial authorities. Of course, these institutions are subject to the laws and rules of Switzerland, where they have their headquarters. The importance of these institutions in the Swiss landscape, however, makes them almost 'too big-to-fail' and gives them special treatment, if only because many countries around the world would welcome the headquarters of these institutions and would be willing to grant them special arrangements.

As a result of the recent FIFA scandals, however, we have observed that the FIFA Ethics Committee and the Court of Arbitration for Sport based in Lausanne have exercised their oversight duties and have been able to enforce their decisions and sanctions. The legal procedures launched by the Swiss and American judicial authorities have had some effect and should serve to remind the leaders of the major international sports federations, for a few years, that they are not above the law.

The International Dimension of IOC and FIFA Organisational Bodies and Activities

Few non-governmental organisations are associated with as many countries, cultures, languages as the IOC and FIFA. In Switzerland, Nestlé and the Red Cross (ICRC) are two organisations recognised for their high degree of internationalisation and cultural diversity. Yet, both Nestlé and the ICRC have supreme bodies that are fairly homogeneous because of their institutional history, their *raison d'être* or their respective objectives. Nestlé is frequently cited as an example of a multinational company that has adapted its product offering to specific tastes, while the ICRC is facing an extreme diversity of situations in its activities. These two organisations, however, have deep European and Swiss roots which facilitate governance.

The same goes for the IOC and FIFA, which also have an important European anchoring. The development of these two institutions over the past three decades, however, has led to a major internationalisation of the Session and the Congress. At FIFA, the Congress brings together all countries on the planet with one delegate per country with identical social rights irrespective of the size of the country. Worldwide, FIFA is the only institution that gives so much power to microscopic countries. Even the United Nations do not bring together so many member states and give so much power to small nations. At the IOC, the composition of the Session is not as international as it is at FIFA, as the members do not represent states. Yet, the IOC wants the Olympic Games to be open to every country on the planet regardless of their political regime, size or development stage. In order to maintain

this global reach, FIFA and the IOC strive to treat minorities with great care. This has implications for governance systems that cannot then, only take into account the contingencies of the western world.

Conclusions

Due to the particular context of the IOC and FIFA, it is not possible to simply adopt the governance systems put in place in large international companies. A specific approach must be followed, taking into account the strategy and the respective contingencies.

The reforms adopted in the spring of 2016 by FIFA and proposed by the working group led by Mr François Carrard, however, go in the right direction because they limit, in a structural way, the possible influence of the president and senior leaders on the organisation. With a term of up to 12 years, it seems difficult for the new president Gianni Infantino to build a potentate similar to that developed by Sepp Blatter. Greater separation of control and execution functions will also create the necessary counter-powers for

good governance, stating that there is 'no good power without counter-power'. Similar measures were adopted by the IOC in the 2000s following the Salt Lake City scandal and appear to have borne fruit. Although the IOC is not immune to governance problems, it now appears to be much less exposed. The future will tell if the same applies to FIFA.

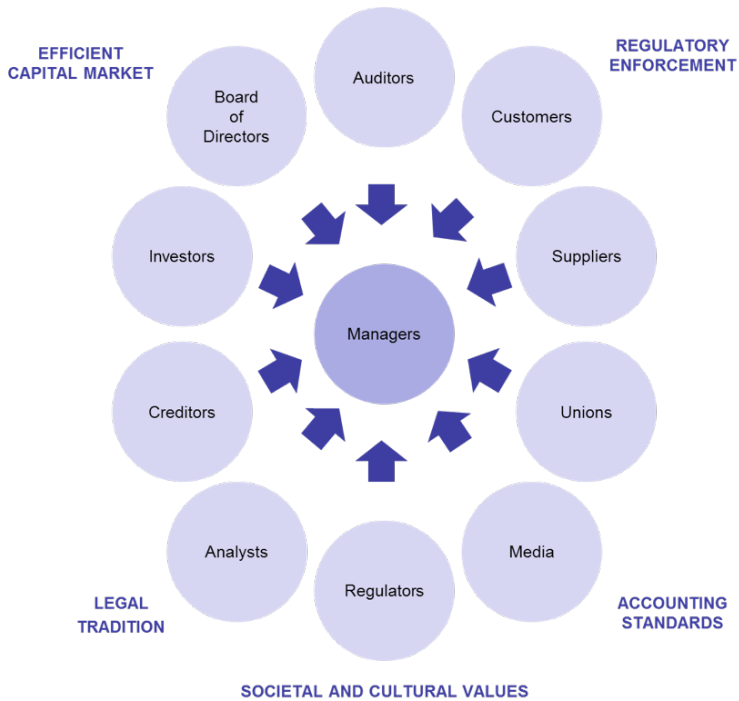
At this stage, the recent financial scandals of FIFA have at least had the merit of having caused major structural changes and created an important disciplinary shock to FIFA and the associated federations, for at least the next two decades. It will be necessary, however, to adapt the governance systems to the constantly evolving context to prevent new scandals that that could next time be fatal to these organisations. In this regard, the independence of the internal and external supervisory bodies, the implementation of checks and balances and a greater transparency over the allocation and use of funds seem to be the key elements of good governance on which the IOC and FIFA must continue to work.

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Appendix I

Selected determinants and participants in corporate governance systems



Source: Larcker and Tayan (2015).

Appendix II

Mission and role of IOC from the Olympic Charter

(in force as from 2 August 2015)

The mission of the IOC is to promote Olympism throughout the world and to lead the

Olympic Movement. The IOC's role is:

- to encourage and support the promotion of ethics and good governance in sport as well as education of youth through sport and to dedicate its efforts to ensuring that, in sport, the spirit of fair play prevails and violence is banned;
- to encourage and support the organisation, development and coordination of sport and sports competitions;
- to ensure the regular celebration of the Olympic Games;
- to cooperate with the competent public or private organisations and authorities in the endeavour to place sport at the service of humanity and thereby to promote peace;
- to take action to strengthen the unity of the Olympic Movement, to protect its independence and to preserve the autonomy of sport;
- to act against any form of discrimination affecting the Olympic Movement;
- to encourage and support the promotion of women in sport at all levels and in all structures with a view to implementing the principle of equality of men and women;
- to protect clean athletes and the integrity of sport, by leading the fight against doping, and by taking action against all forms of manipulation of competitions and related corruption;
- to encourage and support measures relating to the medical care and health of athletes;
- to oppose any political or commercial abuse of sport and athletes;
- to encourage and support the efforts of sports organisations and public authorities to provide for the social and professional future of athletes;
- to encourage and support the development of sport for all;
- to encourage and support a responsible concern for environmental issues, to promote sustainable development in sport and to require that the Olympic Games are held accordingly;
- to promote a positive legacy from the Olympic Games to the host cities and host countries;
- to encourage and support initiatives blending sport with culture and education;
- to encourage and support the activities of the International Olympic Academy ("IOA") and other institutions which dedicate themselves to Olympic education.

Source: IOC (2015). Olympic Charter

Appendix III

The objectives of FIFA as of statutes dated of April 2016

The objectives of FIFA are:

- to improve the game of football constantly and promote it globally in the light of its unifying, educational, cultural and humanitarian values, particularly through youth and development programmes;
- to organise its own international competitions;
- to draw up regulations and provisions governing the game of football and related matters and to ensure their enforcement;
- to control every type of association football by taking appropriate steps to prevent infringements of the Statutes, regulations or decisions of FIFA or of the Laws of the Game;
- to use its efforts to ensure that the game of football is available to and resourced for all who wish to participate, regardless of gender or age;
- to promote the development of women's football and the full participation of women at all levels of football governance; and
- to promote integrity, ethics and fair play with a view to preventing all methods or practices, such as corruption, doping or match manipulation, which might jeopardise the integrity of matches, competitions, players, officials and member associations or give rise to abuse of association football

Source: FIFA Statutes (2016)

The Governance of Doping in Sport

Gérald GREMION

‘If people are good only because they fear punishment, and hope for reward, then we are a sorry lot indeed.’

Albert EINSTEIN

(German Physicist and Nobel prize winner)

Abstract

Bad governance in sport and all the political involvement poisoning it have recently led to numerous negative headlines in the press.

Not a week goes by without hearing about: doping, corruption, violence, competition-rigging, or player trafficking, and that is only the tip of the iceberg.

This is damaging to sport ethics indivisible from good sports governance. Without any doubt, these ethical issues will be at the centre of the concerns and challenges to come from the International Olympic Committee and all the other national sports federations.

Doping: an Account of the Most Publicised Scandals

In relation to doping problems in particular, cycling was, rightly or wrongly, the first to attract a great deal of attention. It began in 1998 with the Festina scandal during the Tour de France. Three days before the start of the tour in Dublin, Willy Voet, the Festina soigneur, was stopped in his car by French customs. The customs officers found an unbelievable haul of doping agents, indicating that doping was being used by the leading team of the time. The shock wave was immense. The Festina team was expelled from the competition. Under the pressure of questioning, some riders admitted their guilt and were suspended. Willy Voet received a fine

and a ten-month suspended sentence, as did the Festina Sports Director, Bruno Roussel. In the wake of the scandal, the World Anti-Doping Agency (WADA) was established in November 1999, followed by the biological passport and the Anti-Doping Administration and Management System, an online management tool that aids anti-doping activities.

After surviving testicular cancer, Lance Armstrong returned to the sport in 1999 and it was hoped that cycling could start afresh. Unfortunately, he, in turn, was suspected of doping when he tested positive to corticosteroids on July 4 after the first stage. A doctor from the UCI, the world governing body of cycling, covered for the American using a medical certificate created after the fact. From 1999 onwards, Armstrong enjoyed unrivalled domination of the Tour de France, a reign that ended in January 2013 with his admission about doping practices in American teams (US Postal and Discovery Channel) during an interview with Oprah Winfrey. The Texan was stripped of the seven titles he had won on the Tour de France.

During the 2006 Tour de France, cycling was again in the spotlight. To begin with, seven riders were expelled from the competition on the day before the Tour's official start from Strasbourg, including, notably, Jan Ullrich, because of his involvement along with other riders in Operation Puerto. During the same tour, Alexandre Vinokourov was thrown out along with his team, the highly controversial Astana, which was taking part in its first Tour de France. The same thing happened to the Cofidis

team, whose Italian rider, Cristian Moreni, tested positive for testosterone. Finally, there was the disqualification of Floyd Landis, holder of the yellow jersey when he arrived at the Champs-Élysées. After 14 months of legal proceedings, Landis was stripped of his title and suspended two years after he had tested positive for testosterone. In 2007, the former yellow jersey, Rasmussen, was disqualified three days before the Tour's arrival in Paris for failing to appear for a surprise anti-doping test.

Yet even though cycling has attracted much attention, it is, of course, not the only sport implicated. Operation Puerto is certainly one of the scandals that best illustrates the weaknesses of sport bodies in fighting doping. Operation Puerto was an investigation by Spanish police that resulted in the discovery of a vast network of blood doping. Some cyclists were implicated at the time but so were footballers from the most prestigious teams in Spain. The names of some male tennis players were also mentioned. Yet, ten years after the scandal came to light, few and light have been the penalties handed down to the protagonists. Governed by a multitude of supervisory powers and rules, the sports bodies' complicated organisation has made it more difficult to punish transgressors. Rule breakers are not criminals, so the courts have no interest in them. Hence the regulatory system has faced difficulties in defining the actions that it is supposed to punish. A few convictions were obtained in Operation Puerto but only following complicated, cumbersome procedures by using the same ploys that the transgressors

themselves had been using up till then.

In the US, the BALCO scandal hit American sport in the spring of 2003. The scandal started with a then anonymous telephone call from an athletics trainer called Trevor Graham, during which the American accused athletes of using an undetectable substance called THG (tetrahydrogestrinone). He named the director of the BALCO laboratory, Victor Conte, as the man organising its distribution. A police search carried out at the head office of the laboratory led to the discovery of an entire arsenal of doping agents, as well as a list of clients that included the names of baseball players, athletes (Dwain Anthony Chambers, Marion Jones, and Tim Montgomery), boxers, and American football players.

The owners of the laboratory avoided trial by reaching a financial settlement. Nevertheless, the sprinter Marion Jones was given a 6-month jail sentence in 2007 for perjury, as was the cyclist Tammy Thomas.

The International Association of Athletics Federations (IAAF) then became mired in scandal. A programme on German television station ARD and an article in the British newspaper the Sunday Times appeared three weeks before the Beijing world championships in August 2015, revealing information that had been kept secret by the IAAF itself. The information pertained to a list of 12,000 blood tests conducted on 5,000 athletes between 2001 and 2012. This investigation by journalists reported that more than 800 test results were abnormal, clearly suggesting doping similar to that which

marred cycling in the 80s and 90s. Among the countries implicated were Russia and Kenya.

Lastly, institutionalised doping in Russia has shaken world sport in recent times. The scandal was revealed at the beginning of this year by the whistleblower Yulia Stepanova and by the admissions of Grigory Rodchenkov, the director of the Moscow anti-doping centre who has now taken refuge in the US. The sport world learned with stupefaction that athletes competing in the Olympic Games and different world championships were involved in organised doping in which the Russian sport bodies and Russian secret services had also taken part. Those in charge of the Russian anti-doping agency were forced to resign. Curiously, two of those who resigned died within seven days of each other, officially of heart attacks. These revelations led to the establishment of the McLaren report, which confirmed that the Russian state organised, at the highest level, and with the aid of its secret police, repeated manipulation of urine test results.

Tongues have started wagging about doping and the former Soviet Union states. The New York Times has cited documents implicating the Russian doctor Sergei Portugalov. Since 1983, any Soviet athlete likely to win a medal has benefited from his reprehensible services with the stated aim, according to the documents brought to light by the newspaper, of achieving victory whatever the cost.

With this Russian doping scandal, the

International Olympic Committee has once again shown its weaknesses and failings in governing sport. Instead of banning the Russian Federation from the Rio Olympics as requested by WADA, it dodged the issue and did not assume its responsibilities, appealing to the international federations to decide themselves whether Russian athletes should or should not be disqualified from all Olympic competitions.

This lack of governance embittered the spirit of the Rio Olympics, not in terms of doping but on a political and human level. The athletes accused each other whenever they lost or whenever a competitor won a medal that was, in their mind, undeserved. This happened to Yulia Efimova, cleared by the Court of Arbitration for Sport three days before the opening of the games. She was booed by American spectators and was in tears on the podium alongside two American swimmers (who said they were clean, so of course they must have been). There was also the French swimmer Camille Lacourt, who, having lost and being frustrated, accused the bronze medalist, a Chinese swimmer, of doping. Are the Chinese doped? Are the Russians? Perhaps, but not a word is said about the Americans, who are all clean – American puritanism needs it to be so!

The Ploy of Therapeutic Use Exemptions

A group of hackers known as the “Fancy Bears” gained access to confidential

data, namely the therapeutic use exemptions (TUEs), used by some sportspeople during significant sports competitions. The data was published in several waves. More than 100 sportspeople who participated in the recent Olympic Games used these products as doping agents with the indulgence of WADA. They will not be penalised for doping since everything was done above board. In 2015, WADA issued 1330 TUEs, 48% more than in 2014. Anyone would think that sport leads to illness, whereas, in fact, it plays a protective role in preventing chronic, non-transmissible diseases.

Of these TUEs, it ought to be recognised that some of these medical prescriptions have been dubious. Serena Williams, for example, was authorised to treat a cold with a five-day course of 40mg of oral prednisone – a large dose of cortisone – on the eve of the final at Roland Garros, which she won against Lucie Safarova. She had received a similar authorisation for the tournaments of Miami and Rome that she won in 2014. Her sister Venus also benefited from the indulgence of WADA doctors, using prednisone in 2012 for her victory in the London Olympics doubles competition and for Wimbledon.

Another American star with a troubling TUE was Simone Biles, the three-time winning gymnast at the Rio Olympics. In her case, it was an amphetamine treatment to take care of a hyperactivity disorder, a very common diagnosis in the US, even though insufficient physical activity has generated an obesity epidemic. Travis Tygart, head of the US Anti-Doping Agency, indicated that the

sportswoman had acted correctly and in accordance with the rules when she obtained authorisation to take these drugs.

The most unsettling case revealed by the Fancy Bears involves Bradley Wiggins, another controversial Tour de France winner, like many of his predecessors. The 36-year-old cyclist, who has won five Olympic gold medals, obtained six TUEs during his career. Three were requested while he was riding for the Garmin team enabling him to use inhalants to treat his asthma. The other three were obtained while he was riding in Sky's colours. These involved intramuscular injections of long-acting depot corticosteroid solutions on the eve of the Tour de France in 2011 and 2012, as well as on the day before the Giro d'Italia in 2013. The Sky team has always vaunted its transparency about doping. With the Wiggins case, we find ourselves in an extremely borderline area that has cast doubt on the methods used by Sky to improve its riders' performance levels. Strangely, since Wiggins' switch back to track cycling, he has not requested any other TUE. It is as if all the allergies behind his requests had magically disappeared. An identical TUE was granted to Christopher Froome in 2014.

TUEs are systematically exploited by some athletes and even form an integral part of a doping programme. The examples mentioned in this chapter are, without doubt, confirmed doping cases approved by often Anglo-American specialists and made legal by the granting of TUEs.

In the cyclist's case, members of the *Mouvement Pour un Cyclisme Credible* (MPCC) would not have accepted that any of their racers receiving such a treatment take part in a competition. The Sky team, like the Russian teams, have not signed the MPCC Charter.

The TUEs granted to the Williams sisters, to Higgins, to Froome, and to Simone Biles were done so, in my opinion, abusively.

Discussion

Governance, particularly in the area of sport, may be defined as the establishment of national sport agencies and non-governmental organisations that work together and independently on the basis of specific internal legislation, policies, and rules to promote sport activities in a democratic, ethical, effective, and transparent fashion (Chaker, 2004). This definition of governance is specific to sports and differs from governmental entities, which can, however, create laws in this area. This is particularly true for doping. The circulation of products within state-funded organisations that are illegal and potentially harmful for the athletes' health puts into question the possible relationship between sportspeople and established rules and standards. This sport standard is often undermined by another factor, the "realities of business," and business has its own dictates (Soulé & Lestrelin, 2012)).

Moreover, most countries, particularly in Europe, possess a general law on sports, and some have even included sports

in their constitution. We have also seen internal regulation with the establishment of WADA and its world anti-doping code, which are instances of a self-regulation initiated by the international sports movement itself (Kernbeck, 2016).

These factors play a role in the fight against doping, which aims to resolve doping problems and better counter this phenomenon. Depending on whether we define sportspeople as citizens or competitors, they may be bound by the applicable laws of their country or by the sports regulations of their federation. This may give rise to varying, or even contradictory, rights and responsibilities. Alejandro Valverde during Operation Puerto is a case in point: He could not be brought to court in Spain given that there were no anti-doping laws in Spain when the scandal came to light, whereas he was punishable by the UCI (Soulé & Lestrelin, 2012, Kornbeck (2016a), Freeburn 2013).

To continue to promote ethical and transparent sport activities, sports governance must, in the area of doping, pursue the development of self-regulation mechanisms and increase cooperation with stakeholders, particularly national governments (Soulé & Lestrelin, 2012). Government regulation alone cannot accomplish as much in determining sportspeople's ethical behaviour. The sport world must establish rules of good conduct and instil a culture of fair-play. This will naturally lead to promoting the development of good governance. These conditions must be met so that investment may be made in the future of sport in general.

National governments have a major part to play in spurring on sports federations to achieve good governance. They are their main source of funding. They shape the sport world.

The federations must, in return, work closely with governments. Instead of striving for victory at all costs, so as to promote a political system, they must ensure good governance in terms of ethics and probity (Camporesi & mcNamee, 2014). The best governance in sports in general, and in the fight against doping in particular, is achieved by working together with reliable partners.

Conclusion

Sports' viability is at stake. The latest Olympic Games in Rio de Janeiro dealt a disastrous blow to the reputation

of sport, since it demonstrated how politics had won out over sport and ethical considerations. The revelations about state-organised doping in the ex-Soviet Union from the 1980's to the present day have fatally damaged the credibility of sports performances during those competitions. TUEs granted in an overly indulgent manner with the approval of sports medicine bodies have damaged the world anti-doping code by highlighting its failings. Both grassroots-level and elite sports depend entirely on the trust of the fans who watch and admire the athletes' exploits live or on television. These fans will not put up with a worsening of sport governance in the future. Doping has no future, neither in sport nor with the public. The media will make the cheats see this sooner or later by deserting the stadiums or turning off the television screens.

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Good Governance at the Anti-Doping Laboratory

Laurent RIVIER

‘The measure of intelligence is the ability to change’

Albert EINSTEIN

(German Physicist and Nobel prize winner)

Abstract

Starting with a short description of the regulatory mechanisms of the doping detection system in sport that are in the World Anti-doping Agency Code, the major cheating at the 2014 Winter Games in Sochi has highlighted the existence of some loopholes in this tightly controlled system of regulated science. The governance of the accredited anti-doping laboratories is actually stretched between incompatible forces that make an ideal, robust, fully objective, independent and neutral status impossible to reach in practice. The clean athlete, the essential stakeholder in the whole sport business, has to be reassured with the rapid and efficient measures that the concerned regulatory authorities have to implement on without delay. To regain credibility and trust, it is explored how to prevent these unethical behaviours at the laboratory's governance level. To better control these failures, major changes in the direction of the accredited laboratories by WADA are sought necessary. It is proposed to impose the application of modern principles of corporate governance and to add a board of several competent directors with scientific, economic and forensic competences at the top of each of these entities, whether they are publicly or privately owned.

WADA: Unique International Entity

It is largely recognised that modern sport is a complex human activity where many actors are concerned in its regulation. Since the beginning of this Century,

the relative influence of its respective stakeholders has changed. Recently, Chappelet (2016) described it as moving over the years from an idealistic Total Olympic System to one of multiple responsibilities shared between a three-party governance system:

- Olympic and Sports system for sports governance
- The business world for organisational governance
- The public sector for democratic governance

Ideally, there should be a regime where these three parties are integrated into a sport's sustainable governance system, which is in sync with the fundamental guarantees of Human's rights (Korchia and Pettiti, 2000). This is also applicable, in principle, for anti-doping activities, where there is a set of specific rules created for the World Anti-Doping Agency (WADA; <https://www.wada-ama.org/en/who-we-are>) whose mission is to lead a collaborative worldwide movement for doping-free sport.

WADA is an international agency composed and funded equally by the sports movements and world governments. Its key activities include: scientific research, education, development of anti-doping capacities, and monitoring of the World Anti-Doping Code (WADC or Code: WADA, 2015) – the document harmonising anti-doping policies in all sports and all countries. WADA is the authority who sets the rules and regulations for a comprehensive approach to the fight against doping in sport. It ensures a harmonised

approach to anti-doping in all sports and in all countries and monitors the implementation of and the compliance with the Code. Being centralised under a single umbrella entity, the fight against doping headed by WADA has gained considerable efficacy and has built a high level of credibility, although criticisms have always targeted one or another part of the system (for a short survey, see Wikipedia: https://en.wikipedia.org/wiki/World_Anti-Doping_Agency).

A Code Written to be Revised

The latest 2015 revision of the Code is robust but needs constant adaptation in accordance with the decisions and new interpretations made by the Court of Arbitration for Sport (CAS) (Rigozzi et al., 2014, see also the Code's commentary: <http://wadc-commentary.com>). This should happen particularly when totally unexpected events are revealed, such as when the principle of Best Anti-Doping Practice, promoted heavily within the Code, can be questioned.

Since the recent discovery of Russia's organised sports doping, one can seriously question the robustness of the WADA system. These revelations have shaken the foundations of this system. Several voices have already called for a fundamental requalification of the responsibilities in anti-doping that are shared between the historical stakeholders (Duval, 2016a).

The dramatic shortcomings of WADA with regard to the compliance of the

signatories with the Code has pointed out the urgent need for an institutional overhaul with several concrete reforms proposed. According to Duval (2016b) and several sports governing entities, WADA could be made more robust by:

- Improving its capacity to conduct and follow up on investigations
- Implementing a more rigorous monitoring process for accredited laboratories and stronger requirements for them to operate autonomously
- Improving security systems to protect information
- Providing policy support to encourage, protect, and engage whistleblowers
- Strengthening the agency's governance
- Increasing the agency's power and funding

One latest IOC initiative (IOC, 2015) would result in making the anti-doping system more independent from sports organisations. This could possibly be achieved by creating:

- A totally independent testing and results management entity possibly to be set up under the leadership of WADA:
- Sports organisations should transfer their doping control operations to this new organisation and make the funding available initially at the level of the present investment in the fight against doping
- This organisation should also co-ordinate the work of the national anti-doping agencies to ensure a streamlined, efficient and worldwide-

harmonised anti-doping system

- A professional intelligence-gathering unit to be established also within this organisation. This would allow WADA to be proactive:
- The unit should address issues that may affect the compliance of anti-doping organisations and anti-doping laboratories accredited by WADA, at the earliest possible stage
- This would help to make all such institutions compliant at all times and in such a way as to protect the clean athletes worldwide to the same level

Governments, the Olympic and Paralympic movements, International Sports Federations, coaches and athletes should work together to reaffirm the uncompromising principles of clean sport. It is important to recognise that WADA is a unique partnership and should be supported, as the central agent in dealing with the complex doping issues in the dynamic and challenging environment we all live in.

The next sections briefly describe how all this happened, what was fundamentally wrong and why there is a need for improvement. The scope and the discussion will focus at the level of the anti-doping laboratory's governance.

WADA Independent Investigations

Since the initial documentary of journalist H. Seppelt, ARD Germany, broadcasted on December 3, 2014, WADA has ordered two investigations, which have

recently thoroughly documented the extent and nature of Russia's doping system. The specific problems with good anti-doping governance were described in the two complementary WADA Independent Commission (IC) and Independent Person (IP) investigation reports:

The first IC investigation report (WADA, 2014b) was published in July 2014. Richard W. Pound, the first President of WADA in 1999, was the head of the IC with Richard H. McLaren and Günter Younger as members. The IC investigation, proper, was conducted under the leadership of Jack Robertson. He was WADA's chief investigator from September 2011 until leaving the agency in January 2016. Previously he had worked for the United States Anti-Doping Agency (USADA). He helped to bring down US professional cyclist Lance Armstrong and ran dangerous investigations into Mexican drug cartels in his previous job as an agent for the Drug Enforcement Administration (DEA) in the United States.

Since the disclosure of the first IC investigation report, additional inquiries were necessary in order to exemplify many terms. WADA sought to further investigate the allegations of Russian state manipulation of the doping control process, which were made by Grigory Rodchenkov (GR), the former director of the WADA-accredited laboratory in Moscow. CBS 60 Minutes and The New York Times had first released his allegations publicly on 8 and 12 May 2016. WADA again asked Prof. Richard McLaren, the Canadian law professor

and practicing lawyer and former member of the IC, to conduct the task within a very short of time (56 days), as a so-called Independent Person (IP).

The first IP report (WADA, 2016a) was presented on July 18, 2016 and was based both on the testimony of the former director but also on those of other, unnamed, individuals – possibly belonging to the laboratory – who were also questioned. The IP report summarised: “The State implemented a simple failsafe strategy. If all the operational precautions to promote and permit doping by Russian athletes proved to have been ineffective for whatever reason, the laboratory provided a failsafe mechanism. The State had the ability to transform a positive analytical result into a negative one by ordering that the analytical process of the Moscow Laboratory be altered. The Ministry of Sport, the Russian Anti-Doping Agency (RUSADA) and the Russian Federal Security Service (the “FSB”) were all involved in this operation.”

Prof. McLaren completed his inquiry with a second IP report (WADA, 2016b) that was released on December 9, 2016. It provided further evidence that over 1,000 athletes in 30 sports benefitted from a state-sanctioned doping programme operating in Russia from 2011 until 2015. This 144-page report is also accompanied by a collection of evidence of “non-confidential” information, containing 1,166 documents including photos, forensic reports, testing analyses, schedules, emails, and working documents (WADA, 2016c).

The Intelligence Findings

So far, one of the most concerning findings of the IC and IP reports, is the corruption at the heart of Russia’s anti-doping authorities. It involved several Russian officials within the Ministry of Sport and its infrastructure, as well as the RUSADA, the Moscow’s laboratory and the FSB. Yet, it is impossible to know just how deep and how far back this conspiracy went.

The criticisms levelled against RUSADA are numerous, including allegations that doping control officers “routinely accept bribes from athletes” and “provide advance notice of out-of-competition tests”. Taking into account such damaging criticisms, the IC stated that it has “major concerns” about RUSADA functioning as an impartial institution.

There are also startling findings related to the WADA-accredited laboratory in Moscow, with director GR admitting to destroying 1,417 doping control samples despite receiving written notification from WADA Medical Director Olivier Rabin to preserve them prior to his visit in 2014. The report concludes that there is “strong corroborating evidence that the Moscow laboratory has been involved in a widespread cover-up of positive doping tests”.

Although only one laboratory in Russia is accredited by WADA, the reports also found that a second shadow laboratory existed with identical testing facilities. This so-called “Laboratory of

the Moscow Committee of Sport for Identification for Prohibited Substances in Athlete Samples” was controlled by the city of Moscow government. The IC report admitted that its “precise use was unknown”.

The report said, however, there was enough evidence to conclude that this mysterious laboratory was “assisting in the cover-up of positive doping results”.

The most important findings of the IP reports have now established that:

- Over 1,000 Russian athletes benefitted from the concealment of positive doping tests. There were 600 (84%) summer athletes and 95 (16%) winter athletes
- 695 Russian athletes and 19 foreign athletes were identified as part of the manipulation to conceal potentially positive doping control tests
- The ‘systematic and centralised’ cover up and manipulation

of the doping control process existed from 2011 until 2015, and was ‘refined’ over the course of the London 2012 Olympics, the 2013 Moscow International Association of Athletics Federations (IAAF) World Championships and the Sochi 2014 Winter Olympics

- The sample swapping technique used at Sochi became a ‘regular monthly practice’ of the Moscow Laboratory in dealing with elite summer and winter athletes in 2014-2015

In summary, Prof. McLaren expressed his general understanding that the mechanics of the manipulation and cover up of doping control processes evolved over these five years, as the World Anti-

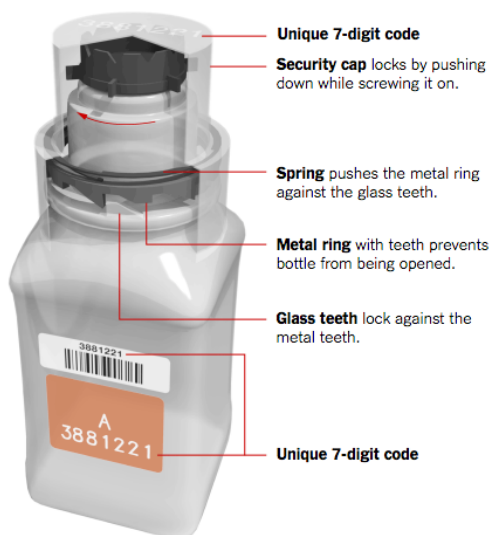


Figure 1: The official Berek-kit glass bottle used for collecting doping samples. The spring was the critical piece manipulated in order to be able to re-open the bottle once the cap was screwed (adapted from wpaquatics.org.com)

Doping Agency (WADA) updated and changed the regulatory landscape.;

Cleaning Dirty Samples by Swapping Urines

According to the allegations made by GR about details of the cheating system, preparations for Sochi began as early as the fall of 2013. It was around that time that a man began showing up at the laboratory in Moscow, inquiring about the security bottles (Figure 1) used for storing the urine samples tested for banned

substances. The man took a particular interest in the toothed metal rings that lock the bottles when the cap is twisted to the locked position. He collected hundreds of them. GR came to believe he was working for the FSB.

GR received the list of named athletes on the doping programme on Jan. 21 2014, two weeks before the Winter Games and shortly after he arrived in Sochi to begin work at the Olympic laboratory. This list was to be used as reference during competition and to outline the competition schedule for each athlete.

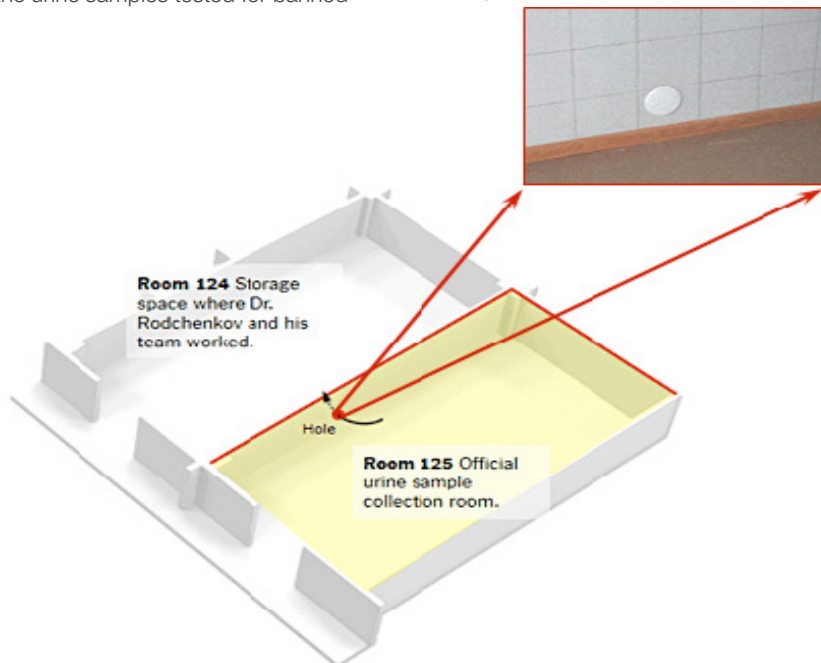


Figure 2: A schematic drawing of the two rooms where the swapping of doping samples apparently took place during the 2014 Sochi Olympic Games - with a small picture of the mouse's hole allowing the passage of the urine samples (adapted from www.motherjones.com/files/blog_russia)

How the suspected Sochi doping scam worked

1. Ahead of the Games, athlete gives clean urine sample when performance enhancing drugs are not in system



2. Russian authorities store it in freezer



3. Athlete resumes doping



4. At the Games, athlete gives urine samples watched by independent doping control officer - as usual



5. The samples are smuggled out of the laboratory at night through a "mouse hole" between rooms and taken away by an FSB agent disguised as a sewer engineer



6. The tamperproof lids are removed in a manner which does not break the seal and the contaminated urine is replaced with the athlete's defrosted clean sample.



7. The bottle, now containing drug-free urine, is passed back into the laboratory to await testing



BBC

Figure 3: Diagram explaining the probable process of the doping cheating disclosed in the two McLaren reports (adapted from BBC internet)

If any of them won a medal, their urine samples had to be substituted with a clean one!

During the Games, a sport's official each night sent GR a new list of athletes whose samples needed to be swapped. To allow the Russian officials to identify which urine sample were theirs', athletes also sent photos of their doping control forms to transmit the unique numbers printed on them that corresponded to those marked on the sample A and B vials.

Upon receiving a signal, usually after midnight, GR and co-workers went to Room 124. The room was officially a storage space outside the strictly controlled area of the anti-doping laboratory's space (Figure 2). He and his team had converted it previously into a laboratory. Room 124 was situated wall to wall next to Room 125, the official sample collection room of the anti-doping laboratory. With the list of targeted numbers in hand, a colleague in Room 125 passed the bottles through a hole in the wall near the floor. The opening, made before the opening of the Winter Games, was covered with white plastic caps and kept hidden on the collection room side by a small cabinet during the day.

In Room 124, GR received the securely sealed bottles through the hole and handed them to a man who would take them to an adjacent building. Within a short time, the bottles were returned to the room with the caps loose and unbroken. The team emptied and dried the bottles with filter paper and filled

them with clean urine collected from the athlete. These old urine samples were collected from each of the athlete months prior to the Olympics, before they started doping. They were delivered in soda bottles, baby formula bottles, and other miscellaneous containers.

The cheating system was so refined that a laboratory technician would also add a few drops of a NaCl (table salt) solution or pure water to balance out any inconsistencies in the specifications (pH and specific density) of the A and B samples that were recorded during their collection. The colour of the urines was adjusted with dry soluble cafe powder whenever necessary. As these three parameters were first measured during the collection of the urine and written on the official doping control forms, they would completely match those later recorded at the anti-doping laboratory and the swapping of the urine would remain undetected (Figure 3).

The Science Behind the Cheating

Dr. Rodchenkov said it was up to him to ensure that Russian athletes won the most medals, preferably gold ones. Reflecting on his career, he said in the first IP report that he was open about his role in Russia's doping programme: he considered it simply as a condition of his employment. To receive funding and support for his lab, he had to follow the Kremlin's instructions. By his own admission, GR, who received a PhD. in analytical chemistry, used his expertise to help athletes who used banned

substances to go undetected.

He had been director at the Russia's anti-doping laboratory in Moscow since 2005, and was considered one of the world's experts in performance-enhancing drugs in sport since before 2000. He was a guest at the annual anti-doping symposia organised by WADA or NADOs and attended highly confidential meetings of the exclusive members of the World Association of Anti-Doping Scientists (WAADS, <http://www.waads.org>).

After Sochi, President Vladimir V. Putin awarded the prestigious Order of Friendship to GR. At the end of 2015, however, GR had a dramatic change in fortune when WADA's IC report identified him as instrumental in covering up positive drug tests and destroying hundreds of urine samples. Russian officials forced him to resign. In addition, two former RUSADA officials died unexpectedly in February 2016, within weeks of each other. Fearing for his safety, he moved in March 2016 to Los Angeles. Later in 2016, Putin call Rodchenkov a "man with a scandalous reputation".

To date, it has not been disclosed exactly how Russian officials could have executed such a complex operation. The second, more detailed report from Prof. McLaren has offered better clues. Most of the information that has been collected so far focused on Russia and suggested a deep-rooted culture of cheating with apparent state complicity. This remains to be confirmed by more investigations and testimonies but this scandal might result in larger scale issues. Indeed, the

planned additional inquiries headed by WADA might include different sports in other geographic areas at various levels of their respective national anti-doping systems. The number and importance of these future investigations will depend on the financial resources that WADA will agree to dedicate to these investigations.

One can question how such unethical behaviour could remain undetected for such a long time. Quite a few members of the Moscow laboratory should have been implicated at least as early as 2011. If a robust quality insurance programme was applied strictly during the Winter Games, one could have uncovered spurious changes made, for example, in the chain of custody, pointing out the inconsistencies between the samples' results produced automatically from the analytical instruments and those results introduced manually into the database of WADA. This Athlete Data Administration Managing System (ADAMS) (<https://www.wada-ama.org/en/adams>) could have been examined more closely and compared with the entries made by the Moscow laboratory (if access to this data is permitted); any sign of undue manipulation in data transcription would appear.

Daytime security was particularly tight in the Sochi laboratory. There were numerous surveillance cameras and anyone wishing to enter the laboratory required security clearance. It was later at night when the urine samples were swapped in Room 124. Several laboratory staff members were most certainly involved. How could they not have been suspect, when so many

foreign specialists were present for collaboration? The testing laboratory for the Sochi Games had a staff of nearly 100 people, including employees of the laboratory in Moscow, as well as a dozen international anti-doping experts, flown in from cities like Beijing, China; Doha, Qatar; and Lausanne, Switzerland. Each had their unique identification initials and signature, so it is still possible to know exactly who was doing what during those critical days.

The WADA independent observers who watched over the laboratory at random times during the day and night (WADA 2014a) observed that there were indeed a number of different entities operating within the Sochi laboratory. They revealed in their report, the presence of a representative of the Ministry of Sport of the Russian Federation who was not part of the Laboratory Games staff or the IOC Medical Commission and whose role was unclear to them.

Initial Russian Response

Confronted about these embarrassing revelations, the Russian Sports Minister claimed that the first McLaren report, which provided the basis for the banning of Russian athletes from the 2016 Summer Olympics and Paralympics in Rio, Brazil, would not stand up to legal criticism. According to him, this IP report lacks the basic due process required in any legal system.

First, any dispute resolution proceeding requires neutrality. Indeed, WADA

selected Richard McLaren, as an “Independent Person” to write this report. Prof. McLaren, however, “was previously a member of WADA’s three-person Independent Commission ... which exposed widespread doping in Russian Athletics.” It is, therefore, not surprising that Prof. McLaren ended up agreeing with his previous findings. In order to insure fairness and credibility, the IP, in the opinion of some commentators, should have been someone who was previously not associated with this issue.

A second way to insure fairness and credibility is to require that the accused have the right to confront the witnesses against them. In the IP reports, evidence is cited from witnesses who are not even identified. It is obviously difficult for Russia to defend itself against unnamed accusers.

The second IP report does not give many names of other people involved at the laboratory level nor does it indicate precisely the identity of athletes who had benefited from the swapping procedure. Further, it doesn’t contain any evidence that members of the Russian Olympic Committee were involved in this conspiracy. In the near term, CAS is expecting many requests from IFs in relation to these cases. When this happens, more solid defence arguments will be revealed and a better understanding of the mechanisms in place at each level of responsibility will become more evident.

Credibility of the Testimonies

Professor McLaren finds the main accuser of Russia to be credible. According to some journalists, however, GR is an informant who might have an agenda other than the truth. The only way that those another agenda can be revealed is through cross-examination – an essential component of due process in Courts – but no one has yet the opportunity to cross-examine him.

More importantly, some of the key manipulations were demonstrated by forensic examinations in the second IP report as follows:

- Samples given by two female ice-hockey players were found to contain male DNA, indicating sample swapping. One sample did show two different DNA profiles
- Cleaned B samples were altered so that the specific gravity matched that declared on the Doping Control Forms (DCFs) of the dirty B samples by diluting with water, adding salt, sediment or Nescafé granules, leading to non-physiologically viable concentrations of salt
- Microscopic examination of the lids indicated that sample bottles were not tamper proof. The lids of the Berlinger BEREK-KIT urine sample bottles could be removed by inserting thin flexible strips of metal or plastic between the cap and the glass bottle, by lifting the metal ring and by turning the lid anti-clockwise. Indeed, marks of strips due to such opening tools were documented on many caps

All these points are considered as fully objective, un-disputed and non-refutable

proof of manipulation of the samples.

Finally, it doesn't matter so much who did it, nor the protection of the clean athlete demanding corrective measures to stop such cheating forever (Figure 4). In balance stands the credibility of the whole anti-doping system. Due to the many incidents occurring during these five years, it is imperative to impose robust corrective measure(s).

What Shall Be Done at the Laboratory Level?

Reinforce Trust in All the Accredited Laboratories

As the mechanism of cheating appears to be vast and – in a way - so easy to perform, the relationship between all the accredited laboratories and WADA is now open to many uncertainties! With the discovery that International Federations (IFs), National Anti-Doping Agencies (NADOs), and States' governments are interfering directly with the results produced by some accredited laboratories, the current system is open to major conflicts of interest (WADA, 2013). Thus, credibility in anti-doping governance has now reached an all-time low. It is time for those who rule anti-doping in sports to put it back on track by creating more independent structures to ensure transparency, democracy, and accountability. To contribute to the restoration of the WADA system, the accredited laboratories must revise their position within the system.



Figure 4: Russian drug doping just the tip of the iceberg in world sport drawn by Dom Nelson (adapted from cartoonmovement.com)

In practice, WADA defines and imposes the rules of good governance on the accredited laboratories and gives them the permission to work. In addition to the Code, a complex set of obligations called International Standards for Laboratories (ISL, WADA 2016d) is applicable. Consequently, WADA has been, until

now, reasonably confident of the scientific robustness of the tests used. Meaning that if the tests are properly administered and the samples are properly analysed by the accredited laboratory following ISL, one can have confidence in the reliability of the results and the science below them, notwithstanding occasional

complaints about accuracy.

Today, however, WADA does not have confidence that all the accredited laboratories are equally able to meet the performance criteria required by the ISL. It seems increasingly clear that not all accredited laboratories have the necessary equipment and skill sets to derive the full benefit of the science available to them (WADA, 2013). At the end of 2016, six out of the 34 accredited laboratories were suspended for a variety of reasons. Thus, WADA-accredited laboratories, owing to weaknesses in following strict quality management procedures and protocols, do not always deliver the expected level of testing. In reality, they are moving in a very complex and specialised field of scientific expertise that is evolving rapidly.

Assure Complete Reliability in the Detection Procedures

New analytical techniques are introduced annually following the evolution of the use of doping and to take advantage of the newly developed detection tools. This has resulted in new detection approaches not being fully covered by the older analytical approaches. A detailed demonstration on the difficulties involved in reconciling new specialised analytical methods with the traditional structure of the ISL was recently covered (see Giraud et al, 2014).

As an example, the old and unique position based on the evidence of the presence or not of a forbidden substance in urine is not tenable anymore to qualify all doping offences in respect to the 2015 Code. The introduction of new

analytical approaches like the Athlete Biological Passport or the detection of Growth Hormone Abuse has modified the basis of the classical administration of the proof. Statistical evaluations are new decisive elements in these mixed scientific and legal processes. Now more than ever, all stakeholders in anti-doping are encouraged to develop the «translation» skills needed for lawyers and scientists to develop a common language. In short, this “new” science of anti-doping and the law in sports have to collaborate together (Viret, 2014).

In relation to these newest technological developments, the 2015 edition of the Code appears to be insufficiently precise about several general principles concerning the operation’s levels between all stakeholders. It was pointed out in detail (Viret, 2015) how these shifts in doping detection strategies may modify evidentiary assumptions implicit to the Code regime. This thesis has discussed the position of the accredited laboratories and WADA officials in various places (Viret, 2015; e.g., pp 220-224, and 229-233) as well as with respect to CAS expertise (pp 607-609, and 644-645).

Since 2000, WADA has set up a closed system deliberately to avoid anti-doping analytics being challenged. At the same time, there is an unwillingness to share too much laboratory analytical information, as they don’t want those who are cheating to know how sophisticated they have become in their detection methods. Anti-doping science is under the control of a very small group of specialists (for example: WAADS is composed of approximately

50 individuals). These scientists think that they are creating good science because their results are often published in peer-reviewed international journals. Unfortunately, this quality control before publication is not a fool proof guarantee of valid results (Smith, 2006)! Additionally, there is a limited number of other, independent, scientists involved in this narrow research topic. Independent oversight is critical for ensuring full objectivity and quality in this economic-scientific business area, as it is in any other credible industry. It is highly desirable that researchers stay open to criticism when it is meant to be constructive.

Reinforce the Indispensable Trust upon the Laboratory's Directors

According to WADC, the ISL sets out the procedures a laboratory must follow when handling and analysing athletes' samples to ensure test results are valid and reliable. It also specifies the minimum standard of harmonisation and criteria that must be fulfilled by anti-doping laboratories to achieve and maintain WADA accreditation, which a laboratory must have in order to test doping control samples. The vast majority of the ISL articles are targeting technical points and just a few concern the personnel. Even less cover the qualifications of the responsible people heading the anti-doping laboratories.

The accreditation process is a lengthy one. Once accreditation has been obtained, steps must be taken to maintain it. The procedure for each

of these steps is set out in the ISL. During the accreditation process, an independent certifying body is requested to visit the laboratory and produce a report of conformity with the ISL and assure that all standard operating processes are following GLP requirements. In fact, more requirements exist for the certifying team than for the direction of the examined laboratory:

- The certification body should not be owned, operated, or controlled by a sport entity
- Members of the certification body should not have any ownership or financial interest in any sport organisation
- Should not accept anything of value from anyone in connection with the establishment being audited other than the programme/audit fee. The term "anything of value" includes, but is not limited to, gifts, gratuities, reimbursement of expenses, entertainment, loans, or any other form of compensation in cash or in kind
- The certification body should maintain records pertaining to the financial interests of the personnel involved in the certification programme
- Fees charged or accepted should not be contingent or based upon the report made by the certification body or any personnel involved in the audit process
- The certification body and its auditors should be free from any other conflicts of interest that threaten impartiality

These are nowadays considered as standard requirements for independence,

objectivity and transparency. Why are they not formally included yet into the accredited laboratory's governance?

Governance Structure of the Anti-Doping Laboratory

Anti-doping laboratories, public or private, are financed in various ways: they might be funded by the state, by an association, or they might have their own revenues. Income is, most of the time, a mix of those three sources. Thus, the scope of their activities, the equipment and the human resources made available to them by their respective owners vary considerably. This particular situation was exploited by WADA who imposed very little margin of manoeuvre on them. As explained by Viret (2015, pp 684-685) the laboratories are completely caught in the middle of irreconcilable obligations, a few of them are described below.

The ISL make clear in Article 4.1.8 that the laboratory shall be established and remain operationally independent from ADOs to ensure full confidence in its competence, impartiality, judgment or operational integrity. This operational integrity implies that the laboratory shall have a separate budget permitting the laboratory to manage its own affairs without hindrance or interference.

When looking at the actual governing structure of the 34 key partners of the WADA accredited laboratory's network (<https://www.wada-ama.org/en/what-we-do/science-medical/laboratories/accredited-laboratories>), major

differences can be seen, as they are:

- laboratories belonging to universities
- laboratories belonging to national sports organisations
- laboratories belonging to private companies

Complex Financial Implications of the Anti-Doping Business

Clearly, these structural schemes do not provide sufficient guarantees for the independence of all anti-doping laboratories. Most of the time, if an important part of their income is granted directly by the organisation they belong to, a large part of their revenues are originating from their clients (for example: local, national and/or international anti-doping agencies). They can also get paid directly by WADA, sports federations, and the IOC for conducting special investigations and research projects.

As a consequence, these service contracts may have unpleasant obligations and biased content. For example, IFs can impose on their own rules and negotiate for best prices for adapted or reduced analytical menus. As the 2015 WADC requires laboratories to publish their analysing capabilities, methods and prices on ADAMS, ADOs like to compare several laboratories' offers before making their choice. As a result, a real competition has built up over the years between some accredited laboratories. In fact, the number of samples collected every year is limited

and places a very restricted business framework for anti-doping analyses. Consequently, it is difficult for the laboratories that are often under strong financial pressures to grow, to develop new analytical approaches, and to find the additional resources to renew the sophisticated and costly instrumentations that they are required to have. In the end, the heads of the accredited laboratories are exposed to multiple contradictory influences and much too dependent on the goodwill of their owners for their survival.

If not financially independent, how can they be independent in regards to other aspects? First, whilst WADA-accredited laboratories have supposedly to be independently funded, without such accreditation, laboratories could not have anti-doping testing authorities as clients. Then, the laboratories' indirect financial dependency on the WADA accreditation could build a financial predisposition and a duty of loyalty towards the organisation.

In order to overcome this uncomfortable situation, it was proposed to drastically reduce the number of accredited laboratories: just a few important institutions could be accredited on the five continents and make them directly dependent of the authority of WADA. Whatever the issue, it is, more than ever, critical that stricter principles of ethics must be imposed on all anti-doping laboratories.

Compliance with the Code of Ethics

One can find mandatory sections of the professional ethics' principles in the Code of Ethics (Annex B of the ISL). In practice, every year, the laboratory shall communicate the Code of Ethics to all employees and ensure the understanding of and commitment to the different aspects of it, signed by the director. How credible can such a document be? In practice, as shown recently by the Moscow laboratory's cheating episode, it is clearly not a fool proof guarantee!

In order to verify these specific points, as well as all the other technical issues, the ISL make provision for inspections and visits of the laboratory at any time. In exceptional situations, these can be unannounced. The relevant (most of the time, national) accreditation body is responsible for the inspector's visits. This inspector will send a report to WADA.

Other documents must be provided to WADA upon request to ensure conformity with the rules established under the Code, as part of the maintenance of WADA accreditation. This includes all contracts with Code-signatory clients or testing authorities. Commercial or financial data, however, are generally not communicated in detail because that information is considered commercial or proprietary and is treated in a fully confidential manner.

Necessary Transparency

As pointed about by Duval (2016a), *"Sports governance in general is plagued with a regrettable transparency and*

accountability deficit and WADA is not immune to it."

In order to remedy this actual unsatisfactory situation, Duval (2016b) would recommend "WADA to:

- Publish all individual compliance reports/audits on a yearly basis
- Publish all anti-doping decisions at national and international level in a publicly available repository
- Commit to systematically publishing scientific reports even when they are not amenable to WADA
- Ensure that noncompliance decisions are taken by a fully independent body
- Ensure a greater voting power inside its executive bodies for the main affected party: the athletes."

All these critical points can be applied to the accredited laboratories. Fundamentally, it is in the direct interest of the clean athlete to know, in detail, the whole range of activities in each accredited laboratory to be assured that they are fully in compliance with the Code.

Independent Laboratory's Service without External Influences

Unfortunately, any opening to the scrutiny of the clean athlete or the public in general does not appeal to WADA (Viret, 2015, pp 582-591). The anti-doping system is generally afraid that outside

experts might understand too well the limitation of the tests in place and that these weaknesses would become opportunistic loopholes allowing the other party to argue publicly against detection protocols. Holistically, it would make the system weaker. For examples, in Courts, scientists are often prevented from providing evidence if they want to challenge the findings because they, the external experts, haven't access to the same level of knowledge and experience and so are less credible. WADA considers, at most of the disciplinary panels, that the accredited laboratories are essentially infallible: they fit into the very small group of scientists who are absolute experts into this area. Their values have been always outstandingly good and beyond question (see Viret, 2015, pp 640-644).

Anti-doping science is, however, not written in stone. Analytical protocols and detecting approaches are evolving rapidly. What is considered to be correct today might very well be inadequate in a few years from now. Perhaps it is because the WADA experts wrote the technical documents for testing, they did not imagine any unethical or non-scientific behaviour from the heads of the accredited laboratories.

Certainly, it is stated in the Code that the laboratory should have no privileged relationship with any political, administrative or economic organisation or movement. The laboratory does not conduct any surveillance, control or inspection tasks. Its role is limited in principal to that of a consultant or expert. If the laboratory is fully committed to

respecting all the procedures and rules of quality control and professional ethics, it will guarantee complete impartiality and independence from its clients. While this is fine in theory, in practice, however, a conflict of interest exists because WADA is expected to serve as a neutral arbiter of science and as a prosecution witness at the same time – both roles that are not particularly compatible.

In most practical situations, the laboratory expert's opinion will be influenced by his strong dependence on the WADA accreditation system. The observed aggressive behaviour of WADA toward scientists raising questions around WADA's practices in front of CAS, for example, call for investigation of the ability of WADA to implement a robust and fair scientific approach to anti-doping. In reality, if an accredited laboratory staff's neutral opinion is not in line with WADA's position, the scientist would most likely decline to testify, even as a neutral expert, for fear of questioning the integrity of the official anti-doping programme. From the athlete view's point, there exists an inherent disadvantage in mounting any scientific defence against anti-doping charges (St Cyr Clarke, 2016).

Introducing Corporate Governance to Accredited Laboratories

Corporate governance broadly refers to the mechanisms, processes and relationships by which corporations

are controlled and directed (https://en.wikipedia.org/wiki/Corporate_governance). Governance is about how companies are directed and controlled. Good governance is an essential ingredient in corporate success and sustainable growth. Such an approach could be easily applied to the anti-doping laboratories whatever the system under which they are governed.

Small or large, the anti-doping laboratories are much too involved in the world of business, its power and economic tensions to remain in a state of structural underdevelopment. The accredited laboratories are similar to contemporary industries concerned with conflicts of interests and credibility. The directors might become totally isolated from the clean athletes' realities, the base for which they fundamentally work. At the same time, they have to be independent from any anti-doping organisation and, of course, from WADA; these unique entities that allow them to work and survive.

Ways to prevent these contradictions include the processes by which the laboratories are structured and organised, their accountability and how these are made transparent to the whole range of stakeholders, including the clean athletes, in the fight against doping in sport.

Principles of Corporate Governance

Contemporary discussions on corporate governance tend to refer to several general principles. They can be applied

to the anti-doping laboratories provided WADA agree to adapt their requirements to them:

- Rights and equitable treatment of all stakeholders:
 - Laboratories should respect the rights of stakeholders and help them to exercise those rights
 - They can help by openly and effectively communicating information and by encouraging stakeholders to participate in their scientific meetings
- Role and responsibilities of the directors:
 - The directors need sufficient relevant skills and understanding to review and challenge management performance
 - It also needs adequate size and appropriate levels of independence and commitment
- Integrity and ethical behaviour:
 - Integrity should be a fundamental requirement in choosing corporate officers and directories' members
 - Organisations should develop a code of conduct for their directors and executives that promote ethical and responsible decisions' making
- Disclosure and transparency:
 - Laboratories should clarify and make publicly known, the roles and responsibilities of directors and management's staff to provide stakeholders with a level of accountability
 - They should also implement procedures to independently verify

and safeguard the integrity of the company's financial reporting

- Disclosure of material matters concerning the organisation should be timely and balanced to ensure that all stakeholders have access to clear, factual, information

Good Over Insufficient Governance

Many points listed above could be a good basis for achieving a good governance level in an anti-doping laboratory. This is essential because insufficient or bad governance had cast doubt on an laboratory's reliability, integration and correct obligations to their stakeholders including the clean athlete and the public at large (Kromberck, 2015). Ignorance, tolerance or support of illegal activities can create scandals like the ones touched on here.

As far as their corporate organisation is concerned, these units don't have a formal board of Directors. If they have one executive director, most of the time, it is a scientific one. In spite of the complexity of the field, other professionals (administrative or economic) placed with an equal level of responsibility are rarely in place. Similarly, an individual with full proficiency in sports law is often lacking. In addition, someone with a strong forensic background, a person able to understand both science and law, could well complete this ideal directors team.

Apart from the IOC, the IFs and the NADO's, very few bodies have shown interest in been involved in the evolution

of the rules around the fight of doping in sports. Athletes are shy in expressing their opinion and when they do, it is indirect and mostly through platforms set by their senior bodies like the Athletes' commission at the IOC. There are, however, a few rare exceptions, the true independence of which is not always guaranteed.

For example, the Sport Integrity Global Alliance (SIGA, 2016; <http://siga-sport.com>) claims to be the only organisation to bring together sport, governments, academia, international organisations, sponsors, business, rights holders, non-governmental organisations (NGOs), and professional services companies, from every region in the world, around a common cause of fostering greater integrity throughout sport.

This, as claimed “independent and neutral coalition of more than 70 international multi-industry individual members, established in November 2015”, announced on October 2016 the release of a draft set of universal integrity standards for sport. It will cover good governance, financial integrity and sports betting integrity. This document is currently under consultation. Not surprisingly, they have excluded the doping problems from their scope, leaving to WADA the responsibility to tackle this problem. Consequently, and as confirmed by similar initiatives that have emerged recently, sports anti-doping good governance is considered globally to be WADA business only.

If the credibility of WADA is still considered high, a new autonomous

institution(s) could create revised guidelines and impose more efficient rules to anti-doping laboratories. firstly, WADA itself must become more independent from its historical partners, who share the responsibility of sports governance worldwide. Transparency and accountability are the most important keywords for being credible and successful.

Conclusion

The debate about a more independent WADA to deliver new clean sports principles are high on the political agenda and sport needs to lead that discussion. Sport has both the power and the financial capacity for it. Crucially, though, does it have the vision to find good and sustainable solutions and the will to avoid political imposition? This should be the way forward but for now, why not start to impose better governance rules where it is easy to do this?

Most of the stakeholders in anti-doping are giving full autonomy to WADA to take care of a large revision of the system. They consider anti-doping being part of WADA and do not want to interfere in this territory.

The first step would be to impose rigorous scrutiny and strict application of the rules and best practice. This means better controls and a stricter follow-up of each member of the anti-doping chain. Anti-doping laboratories may still appear as black boxes where undue manipulation is always possible. This loophole in the doping detection chain cannot continue and should be

eliminated. Trust in individuals is not sufficient. By installing a board of several directors responsible for fully and publicly reporting all activities of each accredited laboratory may be the first move for transparency, leading to a greater trust by all stakeholders. One further step to

reinforce the whole system, would be to place all anti-doping laboratories under the responsibility of WADA. The clean athlete, the principal stakeholder in the sports universe, will certainly benefit most from better governance leading to more dialogue, integrity and trust.

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Reflections on Return- to-Sport Issues in Competitive Sports

Boris GOJANOVIC

‘A ‘no’ uttered from deepest conviction is better and greater than a ‘yes’ merely uttered to please, or what is worse, to avoid trouble’

Mahatma GANDHI

(Leader of the Indian independence movement)

Abstract

Return-to-Sport decisions after injury are complex and could be interpreted as an exercise in risk management.

Clinicians face them on a daily basis and need to navigate the multi-stakeholder environment of competitive sports, where athletes and medical staff must collaborate with coaching staff, sports managers and agents, notwithstanding the media and financial stakeholders. Some key questions emerge from the recent literature and also from problematic situations discussed here. Measurable criteria of tissue healing need to be available and should be major goals of rehabilitation, but psychological factors are important as well. Next come contextual factors which vary depending on the type of sport, the timing of the season, the stage of the career and the future risk for the athlete. In order to make adequate Return-to-Sport decisions, a process must be followed, one which should integrate optimal planning, communication between stakeholders, appropriate levels of expertise and understanding by all parties and a thorough documentation that allows optimal transparency in the team-injured athlete dyad, and adequate integration of the coach/sport organization as well. Various models are presented, that come from clinical best practices, behavioural sciences and economics, as well as management and governance. The reunion of different skills and raising the level of education and health literacy of all stakeholders plays a key role in optimizing Return-to-Sport decisions and ultimately protecting the health of the athlete.

Introduction

“Hey Doc, when will I/he/she be able to play again?”

This is what a sports medicine physician will invariably hear within minutes after an athlete is hurt on the pitch. The first to ask is usually the coach, wanting to know whether the player can return immediately to the ongoing competition. At the same time, fans and spectators will ask themselves that same question, echoing the media broadcasters when the event is of that importance. If the player cannot return immediately, very soon the team or sports organization manager(s) will want to know, maybe the sponsors, and of course, the athlete him/herself.

Clinicians in sports medicine face this very difficult question on a regular basis. What seems to be a fairly straightforward question, one that calls for a direct and precise answer, is actually one of the most complex and challenging task in the field of sports medicine. It is complex because it also asks about the values and priorities of sports. What is the goal of athletic endeavor? The answer may differ depending on the stakeholders. To a sports medicine physician, the goal should always remain the same: to develop the skills and competence of the athlete or human being so that he or she can perform in sports and in life to the best of their potential, whilst staying healthy. Healthy in the short term (protecting the athlete from injury) and healthy in the long term (protecting the athlete from negative consequences of any illness or injury for the future of his/her life). For a sport organization, the goal might differ a little,

as the short term performance goals might be at the forefront, without a full understanding of the health implications.

In a world of elite sports that is ever developing, with constantly rising stakes, whether personal, financial or political, one thing remains absolutely clear: elite sports performance leads to health hazards and injuries will occur. No matter how much is invested in the medical care and the protection of the athletes, the simple fact is that athletes will go faster and higher to push beyond the limits of what was once deemed impossible. Recently a study looked at the various movements in the game of football and how it evolved in recent years, only to show that the speed and number of fast-paced actions increased dramatically, putting players under a higher load, one generally linked to the occurrence of injuries (Barnes et al.). For example, although the care of elite footballers has tremendously improved in the last decade with various types of preventative measures ranging from improved general fitness, strengthening of the most frequently injured muscles and applying modern recovery enhancing therapies, to optimized treatment and adequate staffing, we still seem to observe a similar if not rising rate of sports-specific injuries. In elite football, the rate of hamstring muscle injuries has steadily increased by 4% per year (Ekstrand, Walden and Hagglund). We know that one of the main risk factors for new injuries is the history of previous ones, and that injuries tend to recur sooner after returning to sports rather than later. It then becomes absolutely essential to manage the Return-to-Sport (RTS) processes optimally, keeping in

mind that an injured or diminished athlete will not be able to successfully perform at the level required by all stakeholders. There is no performance without optimal health and this should put the athlete's well-being as the top priority in elite sports. This short review will try to outline the multiple reasons for the complexity of RTS decisions, and then provide some guidance on how optimized processes should be thought about and implemented.

What does Complete Recovery Mean?

Successful RTS might mean different things to different people, and can be dependent on context and outcome. The athlete might want to return as early as possible to be seen on the field of play, the coach might define success viewing it through a performance lens (can the athlete bring a meaningful performance, whether individually or for a team), whilst the clinician will have a definition that integrates the avoidance of recurring injuries and preservation of the medium to long-term health of the athlete (Ardern, Glasgow, et al.).

Recovery criteria. In order for an athlete to come back to the playing field, some key parameters need to have been met. There are various elements to take into consideration: first, RTS must be understood as a sports-specific decision, since the demands of various sport activities will differ. Not only due to the type of sport, but also in light of the level at which the athlete wants to resume his/her participation. Second, the

injured body part must have recovered its full functional capacity. Table 1 defines what this means for some of the most common injuries encountered in competitive sports. An important element is that functional capacity must be understood as not only satisfying anatomical restoration of tissues, but also recovery of neuromuscular abilities, as well as psychological readiness to face

the challenges of full sports participation. The obvious factors are linked to the absence of movement limitation (e.g., knee range of motion after a surgical intervention, swelling of a joint or inflammation of the tissues), or significant muscular atrophy resulting from the body part being offloaded, immobilized or underused during the initial phases of the injury.

Condition	Range for time to RTP	Main criteria needed for full capacity	Valid for all injuries
Concussion	7 to 15 days	Absence of typical concussion symptoms upon exertion, appropriate balance and hand-eye coordination, full cognitive capacity (neurophysiological testing). Graded return-to-play protocol.	Psychological readiness, tissue healing, complete sports-specific rehabilitative process
ACL injury	8 to 12 months	Joint mobility and lack of swelling, lack of pain, adequate strength in lower limbs, optimal proprioception and joint position sense, symmetrical movement quality with side-cutting manoeuvres, adequate and symmetrical power generation ability (jumps, acceleration), confidence in ability to perform without apprehension.	
Ankle sprain (grades II to III)	2 to 4 months	Joint mobility and lack of swelling, restoration of joint stability (surgically or through rehabilitative process), lack of pain, adequate strength and power in leg and calf muscles, optimal proprioception and joint position sense, symmetrical movement quality.	
Hamstring muscle tear	3 to 12 weeks	Absence of pain upon stretching and forceful contraction, adequate strength and power, high-speed and load retraining, confidence in ability to perform without apprehension.	

Table 1: Common sporting injuries and criteria for full functional capacity

The less obvious factors relate to the functional capacity. In elite sport environments that benefit from a multidisciplinary sports medicine and sports science team, athletes will undergo various performance tests at regular intervals, and these can be used as benchmarks to attain when recovering from an injury. Unfortunately such baseline healthy tests are not always available and it doesn't always suffice to compare the injured limb to the non-injured one, because we know that the injury will lead to a loss of function (strength, coordination, power) in the unaffected limb as well. On the other hand, even when good benchmark parameters are available, it appears that most football players returning to sport successfully still have muscular strength deficit that do not limit them in their performance capacity (Tol et al.). This reminds us of the complexity of performance capacity, and of its multifactorial nature. The body is indeed capable of compensating in different ways, especially in sports that allow for multiple ways of contributing to success. Naturally, a sprinter will require maximal force generating capacity, but an athlete in team sports might contribute through a range of actions requiring less absolute physical performance. We can recall an example from the 1970 basketball NBA Finals: New York Knicks center Willis Reed (who had been named Most Valuable Player of the regular season that year) suffered a hamstring muscle injury in game 5 (in the best of seven series) against the Los Angeles Lakers. He sat out game 6, which his team lost, and was uncertain for the decisive game 7 on their home court. As he hobbled

onto the court during warm-up, his teammates and the sold-out Madison Square Garden crowd knew they had a chance. He contributed as he could and his teammates did the rest to win the championship in what became a legendary moment in NBA basketball. Reed would later say: *"I didn't want to have to look at myself in the mirror 20 years later and say I wished I had tried to play"*. Obviously his thigh muscle had not fully recovered, but it is the unique ability of a leader on the field to empower and motivate his teammates to outperform the opponent. Had a medical doctor been asked about his ability to play, the answer would inevitably have been: "he is not fit to play".

Contextual factors. As we saw in the example above, these factors will influence the decision-making process in RTS and they comprise the following: the type of injury/illness, the age or the career stage of the athlete, the importance of the upcoming competitions (e.g., Olympics, World Championships), and the social and financial stakes. All of these will modify the way risk is interpreted. Shrier has described a model of risk management for RTS under the acronym StARRT, for Strategic Assessment of Risk and Risk Tolerance in RTS (Shrier). The first two steps of the risk assessment comprise an evaluation of tissue health (medical factors, functional tests, medical imaging) and tissue stresses (to be applied to the recovering body part during the planned activity). The third step assesses risk tolerance, which includes the contextual factors (timing of the season, desire to compete, external pressure, etc.).

When risk assessment exceeds risk tolerance, the decision should be to not RTS. Contextual factors will always play a role in the decision-making process, but should be integrated with a clear understanding of the risks and must be made absolutely transparent to the athlete. In the next section, we look at some actual cases.

A few Examples of Problematic Situations

Concussion. Concussion in sports fuels a lot of discussions on injury management in elite sports. The main reasons being that concussions go frequently unnoticed and players continue playing, although they may be limited in their ability to perform and make optimal judgements on the field, and expose themselves to an elevated risk of a more severe, and potentially life-threatening injury. In the 2014 Football World Cup, a few concussions sparked a heated debate (Gojanovic). In the final between Germany and Argentina, Christoph Kramer suffered a severe blow to the head with rotational force impacted to the brain early in the match. Although he seemed obviously dazed, he continued playing another 15 minutes. He notoriously asked the referee shortly after the blow: "Is this the final, I need to know"? The referee later stated that he thought Kramer was joking. He eventually had to be pulled out in a state of confusion, and later said he could not remember anything from the time of the concussion to later in the locker room. Similarly, earlier in the competition, Uruguay's Alvaro Pereira

suffered a severe knee kick in the head that left him unconscious on the pitch. As he recovered and was taken to the sideline, his team doctor examined him and signaled for a necessary substitution in light of the obvious concussion. The player was agitated and refused the decision of the doctor, pushed him away and signified he wanted to resume playing, which he ultimately did. He apologized officially the next day for his gesture, acknowledging that he should have respected the decision of his medical staff. Having said that, he also concluded by saying that he must have done the right thing nonetheless, since he was able to help his team defeat England in that match. The problem is that not only have these players been exposed to a danger of more severe injury, but they have done so on the biggest world stage, for all (kids, parents, coaches, managers everywhere) to see that it was alright to leave them on the pitch. *"If it is ok on that stage, it must be ok in my regional kids games, is it not?"*

These two examples raise quite a few questions around the management of acute injuries. How can an optimal decision be made, one preserving the safety of the athlete and of the game, whilst avoiding any form of overt medicalization of bodily contacts which are inevitable in competitive sports. The stakes are sometimes high on the sporting level (major competition, media coverage, national pride, financial interests), and can be career-defining for an athlete. But they are also high on the health and safety level, whereby the risk taken by continuation of play after an injury puts the athlete at risk of a more

severe injury, one which can end a career or lead to permanent health damage (Quintana).

Anterior cruciate ligament (ACL)

injuries. The discussion is a bit different when we look at knee ligament injuries. Assuming a basketball player tears his ACL, we know that the likelihood that a non-operative treatment allows him to RTS at the highest level of play is extremely limited. Surgery will invariably require a type of ligament reconstruction that will never be the exact anatomical replication of the uninjured knee, neither structurally, nor biomechanically, and will be followed by a lengthy multistage rehabilitation. Once the athlete has successfully completed all steps as we currently define them (these will be refined and optimized in the future) and cleared to RTS, he now faces the following statistics: the risk of tearing the graft in the first year is at around 5%. Assuming an athlete completes a fast rehabilitation and achieves some functional milestones quickly, he could possibly be cleared for RTS at 6 months. If that same athlete decides to wait another month before RTS, he will reduce his re-injury risk by 28%, and this is true for each additional month he trains and rehabs before RTS. We know that 1 year after RTS at the highest level, about 65% still compete at that level, and the number falls to 38% at 2 years post RTS (Ardern, Taylor, et al.). Yet the media keep telling us that a professional footballer or skier can RTS in 6 months after their injury. These messages are driven by a few exceptions and never mention the fact that they entail a much higher risk of re-injury. Lindsay Vonn injured her ACL

in February 2014 towards the end of the season. She quickly underwent surgery and naturally started her rehabilitation as promptly and seriously as possible, in order to get back on skis as quickly as possible. And she did return to competition, only to re-injure her ACL in November 2014. We can look at this and simply say that these types of injuries are part of elite sports and that the athletes are familiar with them and take risks they can understand. This may be true in some cases for adult athletes, but the same cannot be said for younger developing athletes, who are sometimes pushed to take these risks despite not having a full understanding of the potential consequences.

Injuries on the pitch. In the closing minutes of the second match of the Premier League season on August 8th, 2015, Chelsea player Eden Hazard was tripped and fell to the ground lying still. The referee signaled for the bench medical staff to come to the pitch, signal immediately followed by the physiotherapist and team doctor Eva Carneiro jumping off the bench onto the pitch. This all seems perfectly normal, as it is their role and duty to follow the referee's call and to tend to an apparently injured player. Following their sprint on the pitch, Chelsea's coach, José Mourinho, can be seen gesticulating and screaming at his medical staff, which he would then confirm at the press conference. He would call team doctor Carneiro "naïve and impulsive" and imply that she did not understand the game, and that it was obvious that Hazard was simply tired (he did not have any significant injuries indeed, yet

he was lying still, face down, for quite some time). She would be side-lined in the next games and eventually let go by the team despite a major uproar by the whole medical expert community. The lawsuit that followed was eventually settled by Mr. Mourinho's lawyers for an undisclosed amount. This case calls for some very important questions as to who is making decisions regarding an athlete's health conditions as an acute injury occurs. Various statements have been issued by medical and sport associations in the following weeks and months to remind of the chain of command in such cases: the medical staff is the only one

able and competent to make such calls.

Who should Decide on RTS?

"If the guy wants to play, well... he plays" – Christian Constantin, Sion FC president.

The player will ultimately be the one who returns to play, and if he does not feel ready, he should not go. The athlete's psychological readiness is an essential component in the RTS decision, although it has long been overlooked. But we

1. INJURY MANAGEMENT



2. CLINICAL REHABILITATION

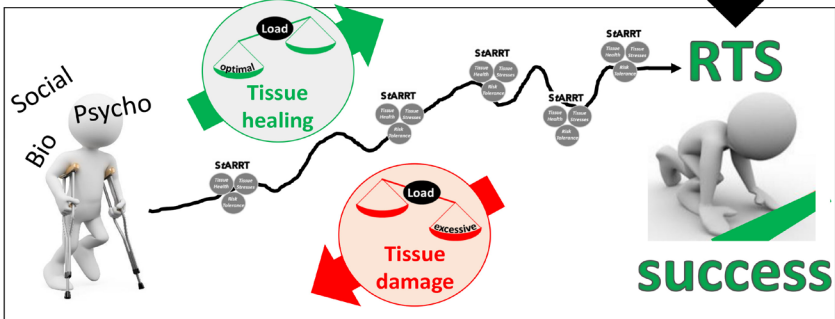


Figure 1: RTS models

know that the pressure he can be under, or the context at hand might push the decision. We recognize the need to have a multidisciplinary team with complementary skills to effectively guide the athlete towards recovery and help all stakeholders understand and decide adequately.

Recently, a study asked the various professionals in Canadian sport about the most appropriate person to evaluate the possibility of RTS (Shrier, Safai and Charland). Sports medicine physicians, physiotherapists, athletic therapists, chiropractors, massage therapists, athletes, coaches and representatives from sport organizations were surveyed. The authors concluded from the surveys that all clinicians (doctors, physios and athletic trainers), except massage therapists, were considered best able to assess factors related to RTS. Each of these three clinician groups believed their own profession to be the most capable for this assessment, although there was some variation in the criteria they would utilize to make a decision. The authors call for more research on and implementation of shared decision-making practices in the sport injury context, as it appears that most stakeholders can add valuable elements to the process.

Theoretical models. In order to optimize the time of RTS, we need to ensure that the athlete undergoes an optimal and comprehensive rehabilitation process. This process needs to be supported by the current best practices and models and three need to be mentioned.

1. The StARRT model defines a framework of 3 steps to lead to the assessment of RTS (Shrier): tissue health achieved, tissue stresses to be applied, risk tolerance modifiers as discussed above.

2. The Biopsychosocial model, which takes us beyond the usual physical factors to integrate the myriad other factors influencing health outcomes (Wiese-Bjornstal).

3. The optimal loading theory, which is the bedrock of training science, ensuring that a constant progression of tissue resistance without overload can be achieved by an adequate loading rate and frequency, without neglecting the need for recovery between training units or tissue stressors (Blanch and Gabbett).

When these principles can be applied, and when the roles of the various stakeholders have been defined, sport organisations have a setting for good decisions for every RTS situation (Figure 1). This decision should be made within the shared decision-making model that represents current best clinical practice (Elwyn et al.).

Good Governance and Return-to-Sport

In a nutshell, the RTS process is one that requires multiples steps in a multi-stakeholder environment. When the medical team can establish that the required physical criteria have been fulfilled, and then only, should RTS be considered. There may be some debate

as to what the key criteria are, and this is where subjective and contextual factors will intervene (Dijkstra et al.).

The rider and the elephant. The context of elite sports calls for emotions before rationality. Behavioural sciences teaches us about the complexity of decision-making, and the existing polarization between our emotional (System 1) and our rational (System 2) brain as described by Kahnemann in *Thinking fast, thinking slow* (Kahneman). Jonathan Haidt builds on these elements and introduces in the *Happiness hypothesis* the allegory of the rider and the elephant. Picture the rider sitting on top of the elephant. Who do you think decides where the elephant is going? The rider is our rational brain, full of logical thinking, scientific certainties (sometimes scientifically proven false by further research) and intellectual determination. The elephant is our visceral or emotional brain, it is impulsive, reacts before it thinks and moves according to its own rules. The rider tries to steer the emotional elephant (Haidt). When this is applied to decision-making in RTS, we can consider that the elephant is the compound powerhouse of coaches, management, public pressure, national pride, player motivation. The elephant decides that Lindsay Vonn competes earlier than what should be “reasonable”, or that Christoph Kramer stays on the pitch despite an obvious concussion. The elephant screams out loud that Dr Carneiro was impulsive to jump onto the pitch and jeopardized the team’s success by removing Eden Hazard from play for a few minutes at the end of a tied football game. The best way to achieve a positive

outcome is through a combination of efforts, to direct the rider (the clinician), motivate the elephant, and shape the path that the pair must follow (Heath and Heath).

Three Steps to Improve

In order to shape the path, Heath recommends the following three steps.

1. Adjustments in the environment

A potentially concussed player should be evaluated in a calm setting (hint: not in front of cameras on the pitch), where the medical expert can carry out a correct examination to reach a medical decision. The ground rules should also empower the clinician (the rider) to own his decision and have it respected by all other stakeholders, no matter the level of pressures exerted. Some changes have occurred in rugby, as they introduced the Pitch Side Concussion Assessment (PSCA) tool, which establishes some strict rules and protocol to follow in case of a suspected concussion. It also empowers the referee, the team doctor or the neutral game doctor to remove the player from play without possible contestation (Fuller, Kemp and Decq). In football, some changes have been implemented (FSEM), like the introduction of a neutral medical doctor, whilst others have been rejected. The most interesting one to be rejected was the proposal of an extra “concussion substitution”, which would put less pressure on a team to remove a concussed player. It remains a bit of a mystery as to why this is not implemented, but some cultural and conservative aspects in sports must not

be underestimated.

2. Building habits for better decisions.

It is absolutely essential to develop good reflexes in the face of injuries, whether in the acute setting calling for an immediate decision, or in the case of an athlete having gone through a lengthy rehabilitation and who is eager to compete again. It is our opinion that education and proper information of all stakeholders can help develop better habits. It starts with the medical teams, which have to be regularly updated on the latest knowledge available. There is unfortunately a large variation in the level of knowledge amongst clinicians and this needs to be improved in the first place. Education opportunities exist, staff members should attend certification courses and sport organizations should only hire competent and certified medical staff.

3. Rally the herd to harvest the power of peer-pressure.

Successful programs or changes must be communicated and replicated. Research should serve that purpose, as ideally any study should provide some meaningful new information that can lead to implementation in a reasonable time-frame. When positive experiences are replicated, they can become contagious, as the power of peer-pressure teaches us through many examples (Gojanovic).

Improving communication. It may be too simple to say that communication is the mainstay of any team environment, yet this seems oftentimes neglected

in the sport setting. There are multiple components that can lead to effective communication between the various stakeholders of elite sports: it starts with people understanding the need to exchange information, which in turn has to be delivered in an understandable way (think of the appropriateness of medical jargon being transferred to a sports manager or the athlete him/herself). The information also needs to be communicated in a timely and relevant fashion in order to be properly received and adequately interpreted. The communication tools must be agreed on, etc. We have experienced many an elite sports setting where most of these simple principles were not even considered. Now when we take the case of an athlete going through an ACL injury and needing an operation, there will be multiple opportunities for miscommunication and misunderstanding to happen, and it often happens.

RTS as a project to manage. We could consider that such an ACL injury is a project to manage. Project management is best understood by defining what a project is: a temporary endeavor to create a unique result, ensuring optimal outcomes and protecting the assets. Return-to-Sport may fit the bill, with steps geared towards helping athletes achieve their individual (unique) goals. In this case, RTS has a clearly identifiable beginning (injury) and progresses towards a unique result, returning to the highest level of competition. Each RTS project also defines the scope and resources, and is unique although the processes remain the same. Uniqueness comes from the

Monitoring and visualizing weekly RTS progression

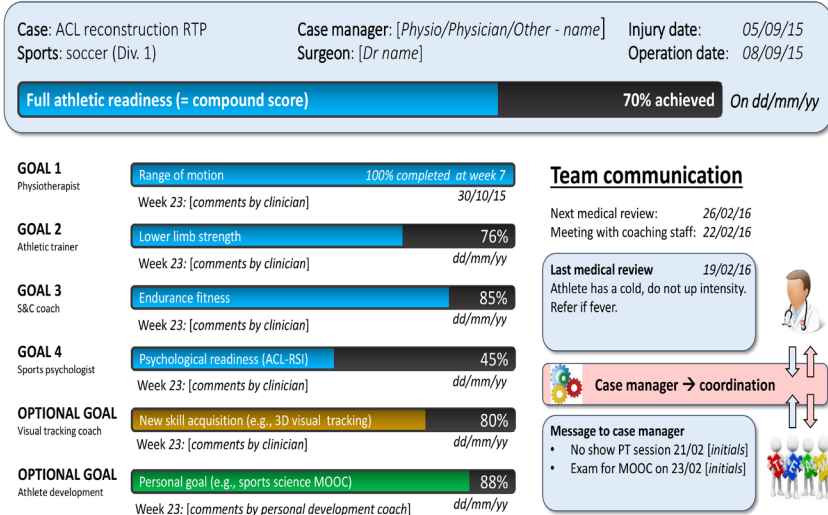


Figure 2: RTS Framework

fact that each athletic injury or illness has its own anatomical and physiological characteristics, notwithstanding changing environments and stakeholders. The resources available for rehabilitation and the stakeholders need to be known. In our example (Figure2, a professional football athlete with ACL reconstruction), a physiotherapist and an athletic trainer might work together with a sports medicine doctor. A sports psychologist and a nutritionist might be consulted, and the coach, agent and team management (including media relations) are informed regularly. How, when and what is communicated is part of planning. The roles are clear and goals are set on a timeline. The progression is decided by incremental functional milestones reached, not by time. A

system for communication is put in place and all staff are familiar with the process and the use of the tool. Figure 2 depicts how the central part (execution and monitoring) can be managed to facilitate informed shared decision-making and communication. Each member of the rehabilitation team has access to the RTS progression document and fills its part on a regular basis (weekly usually). This allows all team members to have an instant visual overview of the state of progression and this can be shared with the athlete as a basis for discussion and decisions. Such tools do not preclude the team members from meeting, but it strengthens the common understanding of the path to follow, or we could say that it shapes the path towards

the one goal, RTS (Gojanovic et al.).

Educating future leaders in sports.

The AISTS (Académie Internationale des Sciences et Technologies du Sport, aists.org) hosts a masters in sports administration, in which future managers learn about sports medicine and the RTS process, helping to shape that path towards better governance in the RTS discussion and in the wider context of health-related issues in elite sports. It is only through the shared knowledge of the processes involved in sport injury rehabilitation and the consequences of injuries that uncomfortable situations and bad decisions can be minimized. We therefore encourage all stakeholders to develop their understanding of the health-related issues in sports, first in order to be a better leader and empower medical staff on their organizations, and second because any amount of improved health literacy can be beneficial to every individual.

Towards a new dimension for good governance in sport. With these reflections in mind, sport organizations can implement effective and respectful processes based on current best practice from medicine, behavioural sciences and psychology, and management (Gojanovic et al.). The principles of good governance in sports mostly apply to elements of transparency, integrity, controlling, representation and solidarity, as defined by Chappelet and Mrkonjic (Chappelet and Mrkonjic). There are no precise definitions of what good governance means in the athlete health domain, and perhaps this should be developed in the near future. The

IOC medical code has worked towards an emphasis on athlete well-being and self-determination, being supported by its sport organization and medical staff (IOC). The following articles are of utmost relevance and should be kept in mind at all times (bold sections by the author of this review):

- Article 1.2.1: “Athletes must be **informed**, in a clear and appropriate way, regarding their health status and any specific diagnosis; preventive measures; proposed medical interventions, together with the **risks and benefits** of each intervention; alternatives to proposed interventions, including the **consequences of non-treatment for their health and for their return to sports practice**; the **progress of treatment** and rehabilitation measures and their ultimate prognosis”.
- Article 1.6.1: “The same **ethical principles that apply to the practice of medicine apply within the practice of sports medicine**. The principal duties of physicians and other health care providers in sport settings include: a. doing no harm; b. making the **health of athletes a priority**”.
- Article 1.6.2: “Health care providers who care for athletes must **possess the necessary education, training and experience in sports medicine**, and **maintain their knowledge and skills up to date** through continuous professional development”.
- Article 1.6.4: “When due to their medical condition, the health or well-being of an athlete is at increased risk,

health care providers must inform them accordingly. **When the risk is severe, they must strongly discourage the athlete from continuing training or competition** including if necessary by providing a written certificate of unfitness to practise. When there is a risk to third parties (players of the same team, opponents, family, the public, etc.), **health care providers may also inform the competent persons or authorities**, even against the will of the athletes, about their unfitness to participate in training or competition, subject to applicable legislation”.

- Article 1.6.8: “At sports venues, it is the **responsibility of either the team or competition physician to determine whether an injured athlete may continue in or return to the competition** according to the rules of the competition. At all times, the **overriding priority must be to**

safeguard the health and safety of athletes. The **decision must not be influenced** by the potential outcome of the competition”.

We definitely support and applaud the positive raised awareness that the Olympic Movement Medical Code brings to the protection of the health of the athlete. In future developments and discussions, the athletic career should be considered with a sustainable health and performance perspective, one which integrates the early phases of the sport career (athlete development pathways), the inevitable occurrence of injuries and setbacks, and the post athletic career medical and social consequences. It is only when these elements are integrated in the world of elite sports that we will be able to ensure that the health and development of the athlete is protected and looked after, with benevolence as another key element in governance.

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From Proving that You are not a Man to Proving that you are Woman Enough

The Challenges of Sex Policing in Elite Female Sport

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List of abbreviations

- AIS - Androgen Insensitivity Syndrome
- CAH – Congenital Adrenal Hyperplasia
- CAIS – Complete Androgen Insensitivity Syndrome
- CAS – Court of Arbitration for Sport
- DSD – Disorders of Sex Development
- IAAF – International Association of Athletics Federations
- IF – International Federation
- NF – National sports Federation
- IOC – International Olympic Committee
- Kgs. – Kilograms
- min - Minutes
- PCOS – Polycystic Ovarian Syndrome
- PCR – Polymerase Chain Reaction
- s - Seconds
- SC – Steeple Chase
- SD – Standard Deviation
- SRY – Sex determining region Y
- UNESCO - United Nations Educational, Scientific and Cultural Organization
- WHO- World Health Organization



‘Governance is the process whereby people in power make decisions that create, destroy or maintain social systems.’

Maria RAMOS
(Portuguese business woman)

Author's note: The IOC Regulations on Female Hyperandrogenism described in this study was in force for the London 2012 Olympic Games. It was, however, rescinded by the IOC ahead of the Rio 2016 Olympic Games. The last IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism in November 2015 recommended stakeholders to revert to CAS with evidence to support the reinstatement of its hyperandrogenism policies.

Abstract

Background: Since 1900, there have been increasingly more opportunities for women's participation in elite sport on and beyond the field. Despite obvious gains, the environment remains tense as they continue to face demanding policies compared to their male counterparts. "Gender verification" tests have historically presented intricate situations, which most recently has drawn focus on those with disorders of sex development.

Aims: To explore sex eligibility policies through history and identify challenges, with a particular focus on the current policies in place under the jurisdiction of the International Olympic Committee, whose basis of eligibility to compete as a woman is on the serum levels of androgens.

Methods: Review of available policy guidelines and documents was done. Three case studies of athletes who faced the gender debacle and two key informant interviews were conducted to identify issues encountered from both athlete and governance perspectives.

Results: From the case studies, it was evident that all three athletes faced difficulties in coping with the gender situation but to different degrees. Maria Jose and Caster Semenya had better support systems to enable them to return to sport. The themes raised from the interviews included the commitment from the IOC and IAAF to support female participation in sports, work towards addressing challenges of existing female eligibility policies and

provide the most up to date and informed professional management for affected athletes. Document review showed that information pertaining to the policies were not readily available publicly. However, there were ongoing reviews on these policies at the IOC and IAAF over the period when this study was conducted.

Conclusions: Eligibility policies are necessary in sex segregated sport. To achieve fairness and respect for all athletes, further research, capacity building among stakeholders at all levels and scaling up of support systems for affected athletes are warranted.

Introduction

When the Olympic Games were established in the 8th Century, one of the criteria for participation included being male. From its inception, the International Olympic Committee (IOC) held the prevailing cultural notion that women did not fit the strength and stamina image of sport, over aesthetic qualities. It was not until 1900 in Paris, four years after the first modern games in Athens, that 22 women participated in the modern Olympic Games. They competed in sailing, croquet, equestrian, tennis and golf but only the latter two had events for women only (Committee). Female participation has steadily increased over the years. In London, at the Games of the XXX Olympiad, a record more than 44% of represented athletes were female and for first time in history, women competed in every sport on the Olympic programme. Today, women are also represented beyond the competition field, in governance and administrative

structures (IOC).

Sex segregation into men and women's categories, then and now, remains the concept of levelling the playing field at all levels of sport. This is not only explained on a socio-cultural basis that deemed women unfit to partake physical activity but also because of how women differ from men biologically. Further, from a governance perspective, the inclusion of women's categories has played a key role in boosting women's participation in sport. Despite the obvious gains, the environment in elite sport remains tense for female athletes. While some policies have been used to advance women's sport, others might be outright offensive (Sanchez, Martinez-Patino and Vilain).

As segregated competition creates the possibility of sex fraud, some athletes have attempted to gain competitive advantage in the past by competing under an assumed gender identity (Reeser). Also, since sports are divided into male and female categories, many female athletes consider it unfair if they have to compete against a woman who has the advantage of male physiology (Bermon et al.). The practice of mandatory gender verification by sports governing bodies arose following cases of three world champion athletes who competed as women in the 1930s and 1940s but subsequently underwent sex reassignment surgery to become males. One individual, Herman Ratjen, competed as Dora in the 1936 Berlin Olympic Games and later admitted to being a male impostor who was forced into this role by Nazi Germany (Dickinson et al.).

The World Health Organization (WHO) defines the terms sex and gender as follows - "Sex" refers to the biological and physiological characteristics that define men and women. "Gender" refers to the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for men and women. Further, "men" and "women" are sex categories, while "masculine" and "feminine" are gender categories. "Gender verification policies" in elite sports are meant to distinguish competitors based on sex-linked biology – that is, sex rather than gender (Wilson; Karkazis et al.). Parameters of biological sex fall under six categories: chromosomal, genetic, hormonal, internal genitalia, external genitalia and brain sex. From the time of conception, the human being undergoes sex determination and differentiation processes which determines the individual's biological sex (Vilain). The methodology of sex verification in sport can be said to have evolved over time based on these biological parameters.

In 1966, the International Association of Athletics Federations (IAAF) took the lead, by requiring all female participants in the European Track and Field Championships parade naked before a panel of female doctors in order to confirm their "femininity" (Reeser). Initial methods thus involved inspection of the athlete's external genitalia. In 1968, the IOC followed suit by requiring all female athletes to produce proof of their sex in order to be permitted to participate in the Mexico-City summer Olympic Games. To spare embarrassment, all female athletes participating in these games

were tested by histological inspection for the presence of the Barr body in cells scraped from the buccal (cheek) mucosa.

In 1985, the IAAF disqualified Spanish hurdler, Maria Jose Martinez-Patino from competitions and withdrew her records because she was chromosomally male (Martinez-Patino). However, she was born with 46 X,Y chromosome and Complete Androgen Insensitivity Syndrome (CAIS) which made her completely unresponsive to testosterone giving her a female phenotype (Martinez-Patino; Karkazis et al.). Pursuant, the IAAF abandoned routine laboratory testing, returning to the initial method of physical examination for female athletes whose sex was questioned.

In 1992, in an effort to further improve the sensitivity and specificity of testing, Polymerase Chain Reaction (PCR) was adopted to determine the absence or presence of DNA sequences from the testes-determining gene located on the Y chromosome (Reeser) known as the Sex determining region Y (SRY). At the Summer Olympic Games in Atlanta, in 1996, eight of 3387 female athletes had positive test results for SRY, seven had partial or complete androgen insensitivity, and the other had undergone gonadectomy and was presumed to have 5alpha reductase deficiency. All of these females were allowed to compete (Dickinson et al.).

Over time, it became more apparent that laboratory based methods were inadequate for the task at hand (Reeser). Genetic based testing identified an athlete whose phenotype was clearly

female as having male genotype such as Maria Jose Martinez-Patino. The shift to PCR-based techniques replaced one diagnostic test with another but did not alleviate problems. False negatives arose as one of the DNA sequences used to prime the PCR was in fact not specific to males (Reeser). It failed to identify females who actually had a competitive advantage e.g. virilising forms of Congenital Adrenal Hyperplasia (ADH). Therefore finally in 1999, the IOC conditionally rescinded its 30-year requirement for on-site gender screening of all athletes, starting with Sydney Summer Olympic Games in 2000. Intervention and evaluation of individual athletes by appropriate medical personnel could be employed if there was any question about gender identity (Dickinson et al.).

In May, 2011, more than a decade after the IAAF and IOC abandoned sex testing, Caster Semanya, a South African athlete won a gold medal during the 2009 World Athletics Championships (Karkazis et al.) and concerns regarding female eligibility resurfaced. New policies adopted by the IAAF in 2011 and similar ones by the IOC in 2012 ahead of the London 2012 Olympic Games, focuses on the levels of androgens as the determinant of eligibility for an athlete to compete as a woman, citing female hyperandrogenism a condition in which females produce amounts of androgens above the normal range. In the case of these regulations, it is defined by levels that are in the range of men i.e. above 10 nmol/L as measured by testosterone levels in serum.

Body size and composition are similar

in boys and girls during childhood and differences between the sexes begin to appear at puberty with the onset of endocrine (hormonal) changes. Testosterone increases bone formation leading to larger bones, increased protein synthesis leading to increased muscle mass and stimulates erythropoietin production by the kidneys leading to increased erythropoiesis (Wilmore and Costill). This has been scientifically proven to be linked to the advantage men have in the areas of strength, cardiovascular and respiratory function as well as metabolic response to exercise. It is the scientific basis on which both the IAAF and IOC regulations for female hyperandrogenism are founded. Androgenic hormones have performance- enhancing effects, particularly on strength, power and speed, which may provide a competitive advantage in sports (IOC).

Although women produce androgens – mainly secreted by their adrenal glands – their levels are markedly lower than the levels in men (Sanchez, Martinez-Patino and Vilain). The normal testosterone range i.e. the interval in which 95% of the population falls for each sex is markedly different 0.7-2.8nmol/L in adult women versus 6.9-34.7nmol/L in adult men. Statistically speaking, a woman’s testosterone levels would have to be 9.5 standard deviations (SD) above the mean to break the lower limit. Consequently, the limit set by the IOC i.e. 10nmol/L is a very high one to cross (Vilain and Sanchez).

Human biology, however, allows for forms of intermediate levels between the conventional categories of male and

female, sometimes referred to as Intersex (IOC) or Disorders of Sex Development (DSD). Intersex female athletes with elevated androgen production give rise to a particular concern in the context of competitive sports, which is referred to as female hyperandrogenism (IOC). DSD may be chromosomal, gonadal or phenotypic in origin (Dickinson et al.). Disorders of chromosomal sex occur when the number or structure of X or Y chromosome is abnormal. Disorders of gonadal sex occur when chromosomal sex differentiation is normal but the gonads is abnormal, resulting in conditions in which gonadal sex does not correspond to chromosomal sex. Disorders of phenotypic sex occur in individuals with appropriate gonadal sex but in whom development of the urogenital tract is inappropriate for the chromosomal and /or gonadal sex (Dickinson et al.).

Congenital Adrenal hyperplasia (CAH): 21-hydroxylase or 11 beta-hydroxylase deficiency
3beta-Hydroxysteroid dehydrogenase deficiency
5alpha-Reductase type 2 deficiency
Androgen Insensitivity Syndrome (AIS)
Ovotesticular DSD (previously true hermaphroditism)
17beta-Hydroxysteroid dehydrogenase type 3 (17beta-HSD3) deficiency
Polycystic Ovarian Syndrome (PCOS)
Adrenal carcinoma
Luteoma of Pregnancy

Table 1: *Conditions Leading to Female Hyperandrogenism (Karkazis et al.)*

Several medical and professional societies endorsed resolutions or adopted policy statements in the 1980s and 1990s calling for the elimination of “gender verification”, including American Medical Association (AMA), the American Academy of Paediatrics, the American College of Physicians, the Endocrine Society, the American Society of Human Genetics, and the Canadian and Australian genetic societies (Dickinson et al.). Previously used laboratory methods, and even the current IOC policies on female hyperandrogenism, therefore, single out female athletes whose genetic makeup (although not ‘normal’) do not always provide them with an undue competitive advantage (Reeser).

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) defines fair play as “much more than playing with the rules. It incorporates the concepts of friendship, respect for others and always playing within the right spirit. Fair play is defined as a way of thinking, not just a way of behaving. It incorporates issues concerned with the elimination of cheating, gamesmanship, doping, violence (both physical and verbal), the sexual harassment and abuse of children, young people and women, exploitation, unequal opportunities, excessive commercialization and corruption.”

Further it states that Governments, Sports and Sports related organisations as well as individuals must give the highest priority to fair-play. In particular, sports and sports related organisations have the following responsibilities in setting a proper context for fair-play (UNESCO):

- To publish clear guidelines on what is considered to be ethical or unethical behaviour and ensure that, at all levels of participation and involvement, consistent and appropriate incentives and/or sanctions are applied.
- To ensure that all decisions are made in accordance with a Code of Ethics for their sport which reflects the European code.
- To raise the awareness of fair play within their sphere of influence through the use of campaigns, awards, educational material and training opportunities. They must also monitor and evaluate the impact of such initiatives.
- To establish systems which reward fair play and personal levels of achievement in addition to competitive success.
- To provide help and support to the media to promote good behaviour.

Different biological markers have been used to justify the segregation of sport into men and women categories. Do policies which single out individuals with DSDs achieve fairness or fulfil universal obligations to their human rights?

United Nations Human Rights defines human rights as rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of

treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

While international sports organizations and governments have a critical role in protecting all athletes, many have evidently been affected (Martinez-Patino; Karkazis et al.). The aim of this study was to explore gender eligibility policies in elite female sport over a course of time and identify challenges from a multidimensional perspective, with a particular focus on the current IOC Regulations regarding female hyperandrogenism highlighting athletes', governance, human rights and fair play perspectives.

Research Methodology

Case studies were conducted to analyse the implications of sex verification policies from athletes' perspectives over a course of time. A search was conducted by the primary author in medical databases, grey literature and the Court of Arbitration in Sport (CAS) databases to identify cases with relevant information to answer the research question.

A document review was also performed. Based on the close theoretical framework, policy development and application similarities between the current IOC Regulations on Female hyperandrogenism (IOC 2014) and the

IAAF Regulations governing Eligibility of Females with Hyperandrogenism to Compete in Women's Competition (IAAF 2011) as well as previous policies in place, the theories and concepts pertaining to the latter were extrapolated to the former.

Two elite interviews were conducted with key persons directly involved in the implementation of gender eligibility policies at the IOC and IAAF between September and October 2013. Dr. Richard Budgett is the Director of the Medical and Scientific Department at the IOC while Dr. Martial Saugy is a member of the Medical and Antidoping Commission at the IAAF. A semi-structured interview approach was used, with the aid of a questionnaire developed a priori. An unstructured component was included in the interview to give the interviewees freedom on the information that they could disclose/give. These interviews were mainly for purposes of seeking clarity and further insight into the regulations of the IOC and IAAF, rather than subjective opinions.

Results

Case studies

Due to the highly confidential nature of medical information in sport, the number of case studies was limited to those who suffered the unfortunate media debacle. Further, many organised sports have not implemented "sex testing" or female hyperandrogenism policies, limiting the sample space to Track and Field. There were no legal cases pertaining to disputes in the context of Regulations

regarding female hyperandrogenism in the CAS database. 3 athletes were identified for the case studies. A summary of athlete profiles for the case studies is presented in Table 2 below.

Athlete	Maria Jose Martinez-Patino	Santhi Soundarajan	Caster Semanya
Country represented	Spain	India	South Africa
Sport	Track & Field	Track & Field	Track & Field
Discipline	400m hurdles	800m, 1500m, 3000m SC	400m, 600m, 800m, 1500m
Years active	1983 - 1992	2004 - 2006	2008 - Present
Policy in place	Buccal smear	Targeted investigation	Targeted investigation
Condition	CAS	Undisclosed	Undisclosed
Outcome	Reinstated in sport	Stripped of medal and titles	Retained medal, prize money and titles. Fuelled development of the policy on female hyperandrogenism
Current status	Professor in Political and Sports Science, University of Vigo	Retired. Attempted suicide in 2007	Active athlete

Table 2: Case summaries of athletes included in case studies

Maria José Martínez-Patiño

Maria José was a Spanish national champion hurdler who had her sex contested in the 1980's, but was the first to successfully appeal for reinstatement into competition.

She was born and raised in Northern Spain as a girl. At the age of 22 years, she competed at her first international event. During the 1983 World Track and Field Championships in Helsinki, she passed her first 'sex test' and was given a Certificate of Femininity. However, in 1985 at the World University Games in

Kobe, she had her sex contested. She was diagnosed with XY karyotype and androgen insensitivity. In the events that ensued, her story was leaked to the media, sports scholarship revoked and records erased from the national books. She also lost her friends and fiancée. It was not only until 3 years later that the IAAF certified her to run again. She had support from a few medical personnel within the industry, who helped her get reinstated. She is currently a professor in political and sports science and continues to support sports women with genetic variance pursue their careers. (Martínez-Patiño).

Santhi Soundarajan

A middle-distance runner from India, Santhi overcame a tough childhood to achieve success in sport. In addition to more than 50 medals for her state, she won twelve international medals for India, having competed at the Asian Games, South Asian Games, Asian Indoor Games, Asian Athletics Championships, the Asian Sports Gran Prix and the International Sports Peace Festival. Her events were 800m, 1500m and 3000m (Wikipedia). Despite her success, she disappeared into oblivion after a short sports career.

In 2006, Soundarajan competed at the Asian Games where she won a silver medal in the 800m event. Following her triumph, she was subjected to a physical examination and blood tests by IAAF medical experts without explanation. She had to leave the games and learnt from the news that she had been stripped of her medal and could no longer compete as she was not a woman (Shapiro). She cited language as a major barrier to understand her ordeal, as everything was communicated in English, not her native language. She was soon back in her village, humiliated, depressed and attempted suicide a few months later (Shapiro). Santhi, watched Caster Semanya's case unfold with great interest. "The people in her country supported her and fought for her," she said. "Nobody supported me. The people in my government didn't support me and the local sports federations did not support me." Soundarajan thinks it's because of her caste. "If I came from a bigger, stronger caste with more power,

or if I had been rich, they would not have allowed it to happen to me." (Shapiro).

Caster Semanya

Caster was a South African middle distance runner competing in 400m, 600m, 800m and 1500m (IAAF). At the London 2012 Olympic Games, she won a silver medal in the women's 800m event.

In 2009, at the World Athletics Championships in Berlin, she won the women's 800m race by a margin of 2.45 seconds (Clarey). Controversy was sparked off by her competitors who questioned her sex based on her appearance (Levy). In the events that ensued, Semanya endured a humiliating experience particularly from the media ridiculing her appearance, calling her names including 'hermaphrodite' and cries for her medal and prize money to be returned (Levy). She was also subjected to a physical examination and reports from the media indicated that she had an intersex condition, forcing her to go into hiding and seek trauma care (Levy). After an 11-month investigation, Semanya was cleared to compete again by the IAAF. She had considerable support from the South African government and sports organisations which played a key role in protecting her rights. South Africans rallied around their 800-meter world champion as she returned home from Berlin, and even President Jacob Zuma vowed that he would not permit her gold medal to be taken away, no matter what gender tests say (Jacobson).

Interviews

The recurring theme was the prioritisation

of women's participation to international sports organisations, and the need for sex eligibility policies to level the field in segregated sport.

"If men and women were competing together, women would never have a shot at the Olympic Games in many sports. The IOC is very committed to increasing women's opportunities to take up sport and I also believe that is very important." - Dr. Richard Budgett IOC.

"But there must be reasons why the federations keep competitions that way. In athletics, it is always separated into men and women." - Dr. Martial Saugy, IAAF.

"As long as sex segregation in sports exists, we must have criteria for who is eligible or not eligible to compete as a woman. The difficulty has been and will always be where to draw this line." - Dr. Richard Budgett IOC.

"..... but it cannot be avoided if competition continues to be played in men and women categories." - Dr. Martial Saugy, IAAF.

There seemed to be a consensus that current policies do target people's DSDs but implications were mixed.

"That is very difficult. Sex verification has always faced challenges because it tends to firstly discriminate women and now with this, probably a certain group of women will be targeted." - Dr. Martial Saugy, IAAF.

"Also it comes in good timing for people with intersex conditions to discover life

threatening conditions....." - Dr. Richard Budgett IOC.

Interpretations of the scientific basis for fairness was also mixed.

"There has been no established upper limit of androgens, specifically, testosterone for men. There is no limit, which is unfair but the limit is not known. So men can compete with whatever amount of testosterone they have in their bodies. Biological markers are always looked on a continuum of normal distribution and for a man, it is ok for him to lie at the extreme end of the curve which end has not been determined." - Dr. Martial Saugy, IAAF.

"Of course, there are many factors that contribute to performance but for the purposes of eligibility in women's sport, we chose androgen levels." - Dr. Richard Budgett IOC.

With regard to the Semenya case, there was a consensus that cases are now handled in a more acceptable manner following the incident.

".....the rules may not be perfect but after the Caster Semenya case there have been no high profile scandals surrounding hyperandrogenism." - Dr. Martial Saugy, IAAF.

"We managed to handle some cases well during the London Games and we hope to continue this way." - Dr. Richard Budgett IOC.

Both administrators expressed commitment from the IOC and IAAF in reviewing these guidelines and handle

cases as professionally as possible in the future.

"The policy may not be perfect but the IOC will aim at continuously reviewing it and applying the latest technology or scientific evidence. but come up with recommendations that can help sports organisations in future. It is important to make suggestions on what could be the solutions to this issue." - Dr. Richard Budgett IOC.

"We continuously need to consult with various stakeholders to come up with the most practical policies." - Dr. Richard Budgett IOC.

".....but in development of policies for high performance sport..... The lawyers have a heavy role in this and they were consulted. There must be a legal perspective applied in this case....." – Dr. Martial Saugy, IAAF.

They also mentioned systems in place and activities underway, which are aimed at addressing challenges of the current female eligibility policies.

"IAAF also provides affected athletes with resources and solutions up to the level of IAAF approved specialist centre so that the final decision can be made by the athlete on what to do." – Dr. Martial Saugy, IAAF.

".....we have put in place a system which will enable the athlete to make an informed decision, however IOC will not meet the costs of treatment." - Dr. Richard Budgett IOC.

"IAAF conducted a mandatory androgen

profile of all competing athletes during the 2011 World Athletics Championships in Daegu with the aim to provide more evidence to this policy..... But indeed, all athletes including the men were tested during the Championships. It was mandatory. The results of this study have not been published yet."– Dr. Martial Saugy, IAAF.

There were also sentiments that some stakeholders may not be well informed about the policies.

".....we are not sanctioning or suspending athletes, we are only setting the bar to be eligible to compete as a woman. It is more like a qualification standard rather than a violation. This needs to be understood." - Dr. Richard Budgett IOC.

Documents Review

At the time this research was conducted, the policy documents pertaining to current IOC Regulations on female hyperandrogenism (IOC 2014) and the IAAF Regulations governing Eligibility of Females with Hyperandrogenism to Compete in Women's Competition (IAAF 2011) were not readily available publicly. Some of the relevant material was obtained from the key informants as these policies were undergoing review.

Discussion

Physical examination, laboratory based tests including buccal smear and SRY gene testing, as well as the current serum testosterone tests have been and are carried out on the basis of

single biological markers i.e. external sexual characteristics, chromosomes and hormones respectively. From this study, it was evident that they have been challenged on an array of scientific, social and legal grounds.

With regard to the limit indicated by both the IOC and IAAF, findings from the study suggest that a level of 10nmol/L though liberal has limited scientific evidence confirming that a female athlete confers advantage specifically above this level and is medically or even athletically justified to seek treatment (Karkazis et al.; Xavier and McGill). Female athletes with CAIS like Maria Jose have actually been successful athletes, even when their body in no way responds to testosterone. Considering sterility and increased risk of breast cancer from hormone replacement therapy, there are ethical concerns over seeking treatment and making tough lifetime decisions about one's sexual identity for short-term performance over long-term health (Xavier and McGill).

From a governance perspective, a central focus for enforcing regulations on eligibility of females by both the IOC and IAAF was to level the playing field for women. Determinants of athletics performance come in various biological and non-biological forms. Considering the continuum of other individual characteristics, it is challenging to admit that having more testosterone functionally circulating in your body as more unfair than being taller or the technology, finances and environment that athletes may or may not have access to, to boost their careers. Although a

recognized physiological factor, solely targeting naturally occurring testosterone is unfair (Karkazis et al) and raises fear that with this line of thought, all athletes will be required to be 'normalized' in different aspects so that no athlete has a biological advantage over others (Vilain and Sanchez) in order to achieve fairness.

Men are not tested to find variation in endogenous testosterone levels to determine whether there are some men who have so much testosterone that no man can hope to compete fairly with him (Dworkin and Cooky). On the other hand, female athletes have been and continue to be subjected to a variety of discriminatory and prejudicial practices that have affected their access to sport (Reeser). Ultimately, these policies could be seen to be sexist (Crincoli; Vilain and Sanchez) and the regulations further seeks to discriminate women with DSD in particular, denying them of their rights to participate in sport.

Although relatively rare, CAIS is in fact over represented in sport, with higher prevalence among elite athletes than in the normal population (Karkazis et al.). Overall, compared with an incidence of 1:20000 to 1:40000 in the general population, one in 421 female athletes had CAIS from 5 Olympic Games preceding Sydney 2000 (Elsas et al.). Notwithstanding the fact that the IOC regulations state that "Nothing in these Regulations is intended to make any determination of sex.", for women subjected to these policies and declared ineligible to compete as one the implicit message is that they are not women (Viloria and Martinez-Patino). Degrees of

femininity are created, defined by serum testosterone levels and reinforce existing stereotypes of sports women and masculine females in particular.

Perception of femininity varies across cultures, targeting based on subjective cue and the dominant Western ideologies of what women stirs further discrimination. The IAAF prioritized the complaints of fellow female athletes over human rights for the case of Caster Semenya (Levy). Leonard Chuene, the President of Athletics South Africa was quoted, "We are not going to allow Europeans to describe and define our children." after Semenya's triumph in Berlin (Jacobson).

The case studies illustrated the impact that the policies had on each of the athletes after they were embroiled:

- The shock of being told that one is not actually a woman as they had believed all their lives;
- A general lack of awareness, technical skill and resources among coaches, team doctors and even sports federations to properly handle such cases. For the case of Caster Semenya, the IAAF and Athletics South Africa failed in their mandates to protect her;
- Undue media attention accorded to all the three athletes, including exposure of some very confidential and private medical information;
- Stigmatisation from society and even fellow athletes;
- Decline in (After being away from sport for three years, Maria Jose

failed to qualify for the 1992 Barcelona Olympics) or end of a sports career, for the case of Santhi Soundarajan;

- Loss of records and medals, for the case of Maria Jose and Santhi Soundarajan.

All of the above are reasons for heavy psychological torment, especially for young athletes (Maria – 24 years, Semenya – 18 years, Santhi – 25 years at the time when each of their cases were brought to light) to drive them to depression and even attempted suicide. The ordeal suffered by Caster Semenya is irreversible. And in her own personal account, Maria-Jose attests, "I paid a high price for my license – my story was told, dissected, and discussed in a very public way, and my victory was bitter sweet" (Martinez-Patino). Mental health is a key component of athlete support that does not come by easily for many athletes.

Although intersex athletes can be placed in the male or female group on the basis of their legal sex (IOC), no formal system seems to protect or support these athletes (Viloria and Martinez-Patino). From the case studies, the situation varied for each of the athletes. But particularly for Santhi Soudarajan, she suffered loss of her athletic career and lack of a support system in India pushed her to isolation, poverty and finally attempted suicide in 2007.

Importantly, the strong commitment from the IOC and IAAF to support elite female sport was clear. It might be controversial to have men and women categories in sport where androgens confer no

decisive advantage e.g. shooting, but it does increase women's participation. In this 21st century where gender identity and sex are fast evolving, the regulations governing female eligibility has a key role in defining boundaries and protecting female athletes. The IOC is also looking into establishing eligibility policies for transgender athletes.

We found that sports organisations have been working towards addressing some of the challenges of the current female eligibility policies. The IAAF collected samples from all competing athletes, male and female during the 2011 World Athletics Championships in Daegu in a bid to conduct studies aiming to provide further scientific evidence on the role of testosterone. The international athletics body also provides resources and support for affected athletes. During the drafting process of the IAAF and IOC regulations, all DSD matters were discussed (genetics, endocrinology, gynaecology, sports physiology, psychology, ethics) and this diversity was maintained for both the Miami and Lausanne IOC meetings (Bermon et al.). Those affected by these policies were not involved (Viloria and Martinez-Patino), but the administrators from both organisations expressed their commitment to constantly review the guidelines through engagement of various stakeholders.

Since the Caster Semenya case came into light, there have been no major media spectacles surrounding athletes with DSDs. For example, affected athletes identified during the London Games were handled with utmost

professionalism and confidentiality. From a governance perspective, these are sources of considerable optimism and confidence in sports leadership at the highest level to implement their sex eligibility mandate with respect for all athletes, including those with hyperandrogenism.

Conclusions and Recommendations

The basis of the IOC and IAAF policies to define eligibility to compete as a woman and level the playing field is justified to some extent. Drawing a line at any point on a complex continuum historically has, and will continue to target women with DSD. This leads to undue unfairness on their side and violation of their rights to equal opportunity. Modern sex segregated sport, however, cannot do without policies to define eligibility. In this respect, existing policies could be streamlined to address challenges that have emerged from the current study.

Further research is warranted to provide sound scientific evidence on the specific levels and to what extent they contribute to unfair advantage in athletic performance. Medical guidelines on management of athletes with DSD are also needed to guide practice beyond the International Federations (IF) or IOC levels. Mental health care is also needed.

Athlete support systems from various stakeholders: entourage, other IFs, NFs, governments, lawyers and media need to be strengthened. Firstly, guideline documents need to be

made more available to sensitize and empower them for these situations when they arise. Clarification of each of their roles in the guidelines as well as provision of resources will facilitate the implementation of these policies. Practical aspects such as language services for athletes receiving specialised care also need to be considered.

The integration of athlete perspectives is paramount to fill the gaps. By involving those who are affected most, i.e. the athletes with DSDs in the policy making process, IOC and IAAF can further advance the cause for these athletes.

Because sports can never be a truly “level playing field” (Vilain and Sanchez), fair sports does not require that athletes be equal in every imaginable respect (Murray). The IOC has an opportunity to live up to its values of Friendship,

Excellence and Respect by embracing and promoting diversity through harmonising the participation of all women in sport.

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The Emergence of the “FIFAgate” and the Governance Strategy Adapted to Overcome the Crisis

Emmanuel BAYLE & Hervé RAYNER

‘Fighting corruption is not just good governance. It’s self-defense. It’s patriotism’

Joe BIDEN

(Former Vice-President of the United States)

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Abstract

The article examines the social forces underlying FIFAgate. Why do corrupt practices, which are often highly consolidated or even institutionalised, suddenly become scandalous? Why did FIFA fall into crisis in 2015 and not before? What are the scenarios for overcoming the crisis?

The only way to answer these questions is to examine the sequence of thrusts and parries between the parties involved. In order to study how the FIFAgate scandal unfolded, we compiled information from numerous sources. By centring our scandal analysis model around the notion that social processes are based on relationships, we were able to obtain insights into why and how denunciations can lead to long-tolerated corrupt practices suddenly becoming sufficiently compromising to force an organisation's leaders to implement measures that would previously have been unimaginable (resignations, desertions, revisions to rules).

Our research shows that FIFA's structures and practices gave the Federation a large degree of "resilience", which enabled it to overcome previous critical situations and successfully neutralise allegations against it. When a concentrated series of "mobilisations" against FIFA created a domino effect and facilitated further denunciations of wrongdoing, however, FIFA's resilience finally broke down, allowing the FIFAgate scandal to break. The scale of the scandal and public outrage against the corruption within FIFA forced the Federation to introduce

a series of unprecedented measures in order to overcome the crisis. We discuss the limitations of these reforms took in 2016 and ways in which they could be extended.

Introduction

Christian Favre, journalist, radio news presenter: *"To conclude, does Sepp Blatter, as we are often told, does he run his FIFA honestly or not?"*

Joël Robert, journalist, head of the sports desk: *"Well, you know, he runs it honestly because, logically and legally, there have been legal proceedings, but Blatter and FIFA have never been caught out. There are still proceedings under way. I tell you that Blatter will be re-elected very comfortably. He will keep going. He's been at FIFA for 30 years, president since '98, but, clearly, if a corruption or some other sort of scandal breaks, well, in that case, Blatter will fall from his throne. But, at the moment, he is solidly seated on that throne."*

*RSR (Radio Suisse Romande),
Forum, 28 August 2014.*

This exchange between two journalists speaking live on Swiss public radio shows that suspicions of corruption within the Fédération Internationale de Football Association (FIFA) had already emerged long before the "FIFAgate" scandal broke in 2015. More than just rumours, they were explicit allegations of wrongdoing within FIFA, levelled by whistleblowers, linked to varying degrees with national interests (Andrew Jennings, ChangeFIFA, Transparency International,

Play the Game), police enquiries and media investigations. Nevertheless, these allegations never managed to directly tarnish the organisation’s Swiss president, Sepp Blatter. The ability of the world’s most powerful sports institution, alongside the International Olympic Committee (IOC), to neutralise allegations of corruption contributed to the widely shared idea, even among Blatter’s opponents, that its leader (“the unbudgeable”) would always manage to dodge accusations against him. This reputation of invincibility made it more difficult to denounce goings on at FIFA and added to Blatter’s aura. Like all organisations, however, FIFA was vulnerable to changes in its relationships with other institutions (sport, political, economic, legal, media), and “FIFAgate”, like every other scandal (Rayner, 2015), is the result of a sudden reconfiguration of these intra- and inter-institutional relations.

The present article examines the social forces underlying FIFAgate. Why do corrupt practices, which are often highly consolidated or even institutionalised, suddenly become scandalous? Why did FIFA fall into crisis in 2015 and not before? Why did some accusations have much greater impact than others? What are the possible scenarios for overcoming the crisis? In order to answer these questions, it is necessary to look at the sequence of thrusts and parries between the numerous parties involved, including sports executives, public relations companies, sports marketing agencies, politicians, journalists, magistrates, lawyers, heads of television networks and multinational sponsors.

By embracing the notion that social processes are based on relationships, our analysis model provides insights into why and how denunciations can lead to long-tolerated corrupt practices suddenly becoming compromising enough to force an organisation’s leaders to implement measures that would previously have been unimaginable (resignations, desertions, revisions to rules). We begin by discussing the limitations of most previous research into corruption, which has tended to focus on governance (in management) or transgressions (in the social sciences), and which have paid little attention to a factor we believe to be crucial, that is the extremely variable and sometimes exceptionally high cost of denouncing wrongdoing. A presentation of our relational approach to analysing scandals and the methods and sources used in our case study is followed by an examination of the way FIFA overcame previous critical situations (bankruptcy of the marketing company ISL, allegations against former president João Havelange, etc.). We then analyse the constituent mobilisations of FIFAgate, and their domino effect, including the measures FIFA took to contain the scandal. The final section presents the governance strategy chosen to overcome the crisis and its limitations.

Corruption as a Research Object: the State of the Art

Although corruption has been widely researched in the social sciences, few studies have examined corrupt practices

in the world of sport (exceptions include Duret & Trabal, 2001, and Hill, 2009). Studies of corruption by researchers in sports management are equally rare (Chappelet, 2001) and have tended to focus on deficiencies in control and reforms to the governance of international sports organisations (Mason et al., 2006, at the IOC; Geeraert & Drieskens, 2015, at UEFA and FIFA), accountability (Pielke, 2013, at FIFA; Chappelet 2011, at the IOC) and, more recently, social responsibility (Chappelet, 2009; Parent & Chappelet, 2013; Bayle, 2015b). The issue of “good” or “better” governance first appeared on sports organisations’ agendas following the introduction of new legislation and regulations introduced in response to a number of high-profile scandals (e.g., the Sarbanes-Oxley Act of 2002, in the United States, which was drawn up after the Enron crash in order to prevent and more severely punish fraudulent accounting practices). Since then, around 40 studies of the governance of international and national sports organisations have been published (Chappelet, 2015).

Corruption is a more sensitive issue in the field of sport than it is for for-profit companies, as international sports organisations present themselves as non-profit bodies with humanistic goals such as “building a peaceful and better world through sport”, in the case of the IOC, and “to build a better future through the power of the game”, for FIFA. The fact, however, that these bodies oversee flourishing businesses while advocating the sport ethic means they have to reconcile potential conflicts of identity and values. In today’s globalised and

multi-polar world, the increased stakes (economic, media, political) surrounding football also explain the vast potential for instrumentalising the “king of sports”. What is more, four characteristics of sports institutions mean they are less able to take effective steps to prevent corruption:

- They are hybrid organisations (Bayle, 2007) with both non-profit and commercial goals (termed “mixed rationale” organisations by Koski & Heikalla, 1998); consequently, they are complex to manage (commercial activities to obtain finance but hard-to-evaluate social goals, collaboration between volunteers and paid staff).
- They are international organisations at the head of large networks of continental and national associations that are very heterogeneous in terms of their professionalism and culture. The “political equilibrium” within the international federation is conditioned by the fact that their constituent associations are legally and politically independent.¹
- Systems of control, both external (the market, public regulators, NGOs) and internal (members), and counterbalances are weak or inexistent.
- Their administrators, some of who receive a form of remuneration, do not always have the skills and/or

¹ FIFA is made up of six continental confederations, each of which has a seat on the Executive Committee. Sepp Blatter understood the importance of this issue in the run up to his election as president, which is why he campaigned extensively outside Europe-UEFA (2/3 of the votes at the general assembly and at the Executive Committee).

time needed to run and control these organisations effectively.

Corruption has been a research object in the social sciences for many years, giving rise to numerous studies (Rose-Akerman, 1999; Dard et al., 2014) based on a variety of concepts, methods, disciplines, sources and fields of observation. Nevertheless, analyses of political corruption continue to dominate this vast literature (Heidenheimer, Johnston & Levine, 1989; Johnston, 1996; Cartier-Bresson, 2008). Although the tortious dimension of these shadowy practices makes observation, especially participant observation, difficult, there is no lack of sources. Whether information is provided by administrative, judicial, police (including the secret services) or journalistic sources, it is rarely collected scientifically and is, therefore, likely to contain biases that have to be taken into account. Furthermore, much of the research into corruption has been carried out at the instigation of powerful international organisations (IMF, World Bank, UNO, OECD, Council of Europe and the Group of States Against Corruption - GRECO), NGOs (Transparency International) or government ministries. This has greatly influenced the focus of studies, which have tended to concentrate on practical issues (how to measure and fight corruption), thereby impinging on the objectification required for scientific enquiry. For example, since the 1960s numerous researchers have examined the effects of corruption on development in third world countries. Some consider corruption to be a necessary step towards economic growth and the

emergence of “civil society”, whereas others see it as a vicious circle, especially for public confidence. Outside the developing world, corruption is often analysed in the light of its supposed influence on social inequalities (Ward, 1989; Uslaner, 2009). The resulting focus on costs (economic, political, social) within comparative quantitative studies raises the risk of decontextualisation. In the wake of the corruption indices produced by Transparency International, researchers are increasingly using surveys and questionnaires to examine “ordinary” citizens’ perceptions of small-scale and large-scale corruption (Lascoumes, 2011; Giannakopoulos, Maras, & Tänzler 2011). Here, corruption is seen as contributing to people’s distrust of both government authorities and business.

All this work has furthered understanding of corruption but a fundamental point in understanding the mechanisms underlying corruption scandals the - feasibility of denouncing corruption - is never addressed. Nevertheless, the practices covered by the catchall word corruption (misappropriation of funds, bribery, breach of trust, fraudulent use of property, etc.) only become scandalous when the people who would like to see them considered scandalous manage to gain support in several social spheres. Although the committing of scandalous acts and scandal are often considered synonymous, including by many researchers, scandalous acts only turn into a scandal when their revelation strips the people and institutions accused of committing them of their credibility (Rayner, 2012). In addition, a

simple revelation of wrongdoing may not always be enough to create a scandal, as indignation cannot be taken for granted. The mobilisations underlying denunciations of wrongdoing must be strong enough and wide enough to create an outcry that cannot be ignored.

A Model for Analysing Scandals

Although scandals are frequent events in contemporary societies, they remain ill defined by social scientists, most of who consider them to be controversies centred around wrongdoings by well-known figures, minor affairs inflated by the media. Hence, the research community's attention continues to focus on the misdeeds committed, rather than on the process that allowed the scandal to break, with the result that, despite a small number of general studies (Sherman, 1989) and reviews (Thompson, 2000; Adut, 2008) of scandals, little is known about the processes by which scandalous acts are revealed.

Scandals occur when the people challenging another person's or organisation's probity are supported by simultaneous "multisectoral mobilisations", that is mobilisations that take place in and between several social sectors (Dobry, 1986). A scandal can occur even if the "scandalous facts" are unfounded (e.g., false accusations), but most "scandalous facts" (such as paying bribes) fail to lead to scandals. Consequently, it would be misleading to equate scandal with transgression. The multisectoral mobilisations needed to turn

a dispute between a few individuals into a scandal, are quite rare because they require concurrent action by separate, and often isolated, parties. Initiating and maintaining such collective actions becomes even more difficult when the people and practices being challenged are protected by collusions, which may not be illegal or explicit, within and between powerful institutions. These collusions are frequently the result of the shared expectations of leaders, who tend to close their eyes to another party's activities (accepted as a field of competence), feeling that they would have acted in a similar way. Such tacit agreements contribute greatly to the consolidation of institutions (Dobry, 1986). As a result, only a miniscule fraction of supposedly scandalous acts result in scandals. Moving the focus from transgressions to the protagonists' mobilisations and perceptions makes it easier to consider another central property of scandals, that is, their configuration as a series of feedback loops in which "causes" produce "effects" which, in turn, react on the "causes". This process is extremely important in determining changes in how the protagonists perceive a situation (Rayner, 2015).

A scandal depends on an entanglement of independent and reversible points of view produced in the light of the mobilisations. Without these mobilisations, there is no scandal; if the mobilisations stop, the scandal stops. These mobilisations, which create and re-create each scandal, are highly dependent on changes in the protagonists' evaluations. They are

linked to the concomitance of oscillations in perceptions of what is (im)possible (Rayner, 2005), that is, assessments of a situation arising from the senses, calculations and habitus (Bourdieu, 1977) of the parties involved. If an individual's opinion of what is (un)feasible convinces or dissuades that person to relay an accusation, other parties will do so, too, because people base their actions on their perceptions of what others are doing or will do and of what is/is not doable. Because perceptions of what is possible are interconnected, they can change very quickly, with one perception reflecting on another. People's contributions and their dependence on the “context” (i.e., the meaning they give to their environment) depend on this reflective interplay. People act by observing others and react to fluctuations in their expectations. This is why scandals can abruptly invert the balance of power. During the Festina affair at the 1998 Tour de France, the “law of silence” that had long been obeyed by most of the protagonists (cyclists, doctors, sports managers, journalists, organisers, politicians, etc.) was suddenly challenged when the Festina team doctor was arrested in possession of a stock of performance-enhancing drugs and then cooperated with investigators by giving details of how teams obtained banned substances. Our main thesis is that analysing these variations in what the different players are prepared to do (and, therefore, the things they are not prepared to do) will provide insights into how scandals, of any sort, erupt, grow and die out. Hence, accurately mapping the sometimes-disconcerting variations in the feasibility of denouncing transgressions is central

to understanding scandal, especially for explaining the collapse of collusions – a crucial factor in removing a protagonist's credibility. For example, in 2007, the credibility of the organisers of the Tour de France was threatened by desertions and threats of desertion by the media (two German television networks suddenly stopped broadcasting the race), sponsors (two major German companies stated they would not renew their sponsorship), the IOC (leading to a rumour that cycling would be excluded from the Olympics) and the Danish cycling federation (which excluded yellow-jersey holder Michael Rasmussen from the national team for the world championships), etc.

An often-neglected aspect is that scandals evolve as they progress. Whether to continue or halt one's efforts, accuse or remain silent, desert or stay loyal, deny, counter-accuse or retract – all these decisions depend on their makers' evaluations of the situation. These intersubjective evaluations may be hazy and fickle, but they are crucial to the relations between protagonists. Swept along by unpredictable changes in relationships, new projections lead people to adopt a (new) position on whether to support or oppose a public accusation. A scandal's dynamic depends on these micro-turning points (Rayner, 2007). This type of self-propagation means that each scandal, rather than following a pre-established path, can be viewed as an open process whose players, location, duration, stakes, balances of power and outcome are not fixed in advance. Instead, they depend on a complex series of thrusts

and parries with an uncertain and partly contingent outcome. The size of a scandal depends on the size of the mobilisation and the amplitude of the oscillations in perceptions of what is (im)possible. These two processes are correlated as the more the occupiers of a space are confronted with intrusions by outsiders, the more likely it is that these intrusions will affect their assessments and actions. Thus, in the case of the

scandals affecting the Tour de France, the sudden and unexpected scrutiny of their actions by journalists, police officers, customs officers, investigating magistrates and sports ministers, etc., may have increased the temptation felt by some competitors to spill the beans about doping. Using a relational perspective to move on from studying the object of scandal to studying scandal as an object allows this type

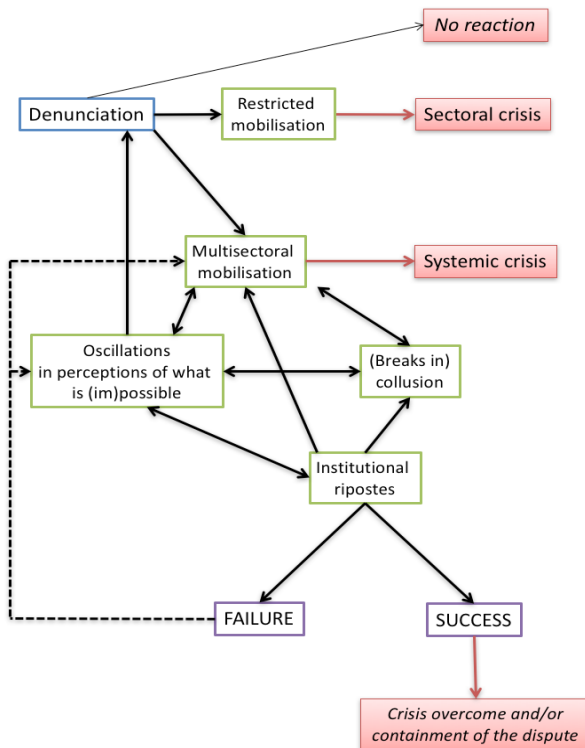


Figure 1 - Model for analysing scandals

of dynamic to be resituated in the *continuum* of social relations. A scandal is a reconfiguring process involving the restructuring of relations between and within several sectors. The motors of this dynamic – multisectoral mobilisations and oscillations in perceptions of what is (im)possible – co-vary by varying the feasibility of denunciation.

Scandals can pose a major threat to the targeted institution, as they have the potential to wreak havoc on its hierarchy, rules and agenda. This is why officials, whether they like it or not, have to set in motion institutional countermeasures (implement reforms, suspend staff who have been targeted, adopt or strengthen a code of ethics, etc.) in order to contain or neutralise the accusation. From the officials’ point of view, the effectiveness of these countermeasures, which sometimes go against powerful interests and can therefore be very costly (in 2012, the Union Cycliste Internationale was forced to stop protecting Lance Armstrong after years of collusion), is measured in terms of their ability to stop the multisectoral mobilisations. Reducing these mobilisations and oscillations in perceptions of what is (im)possible allow the threatened institution to overcome the crisis by enabling it to regain some of its autonomy. If this is not achieved, the crisis worsens and becomes systemic (see Figure 1).

Our case study examined an on-going scandal and, therefore, faced a number of methodological problems, including the protagonists’ lack of time and/or reticence to give interviews, no access to archive records, a fluid chronology and

dependence on journalistic sources. On the other hand, an advantage of this type of situation is that it is not subject to the “retrospective illusion” (Dobry, 1986).

We collected data from newspaper articles from around the world (Switzerland, France, United States, Germany, Italy, United Kingdom – approx. 500 articles), FIFA’s files, general investigative media (*Mediapart* in France, *Il Fatto Quotidiano* in Italy, *Der Spiegel* in Germany, *Sunday Times* and *The Guardian* in the UK, the *New York Times* in the USA, *Le Temps* in Switzerland), specialist sports newspapers (most notably, *L’Equipe* and *France Football*), materials produced by the protagonists (investigative journalists: Jennings, 2006, 2014, 2015, Yallop, 1999), a FIFA consultant (Pieth, 2014), television documentaries (ARD, BBC, RTS etc.), USA v. J. Webb et al. (2015), NGO reports (Transparency International, 2011, 2015; Play the Game), governmental and inter-governmental reports (FATF, 2009; GRECO, 2015), the IOC (report, 2014), and reports of measures taken by FIFA (FIFA.com) between 2010 and 2015. We also interviewed an executive close to Sepp Blatter about FIFA’s governance (on 30 April 2015; this person declined a further interview after the scandal had broken). These data allowed us to reconstruct the exceptional dynamics of the scandal and to show the customary ability of FIFA’s leaders to protect themselves. We were also able to look back on earlier FIFA crises and, therefore, to more clearly describe the context surrounding the FIFagate scandal.

FIFA's Resilience: Neutralising Allegations

Although allegations of corruption have been levelled at FIFA officials at numerous times in the Federation's history, especially since João Havelange's long presidency (1974-1998), until 2015 FIFA had always been able to isolate its accusers and quash any litigation. A non-comprehensive list of more recent cases includes the circumstances surrounding Blatter's election as president in 1998, the awarding of the World Cup to Germany in 2000, the bankruptcy of ISL in 2001, and Blatter's re-election in 2011 after the attribution of the 2018 and 2022 World Cups. Before analysing the measures introduced by FIFA to contain these crises, we will look back at the accusations and the people who made them, most of who were journalists or senior managers/staff at FIFA.

In his book *How They Stole the Game*, the English journalist and best-selling author David Yallop (1999) suggests that Blatter, supported by the powerful outgoing president, João Havelange, for whom Blatter served as secretary general, was elected president of FIFA (by 111 votes to 80) thanks to votes bought from African representatives. These allegations were never proven and Blatter won a legal battle to prevent the book being published in Switzerland. In 2006, the Scottish journalist Andrew Jennings, working for the BBC's current affairs programme *Panorama*, investigated allegations of bribes paid in relation to the attribution of the World Cup. This was the first of a long series

of documentaries and books about corruption within FIFA (Jennings, 2006, 2014, 2015), with Jennings willingly taking on the role of public accuser, as he had done previously in relation to corruption at the IOC and the attribution of the Olympic Games (1992, 1996, 2000). In *FIFA's Dirty Secrets*, broadcast by the BBC in 2010, he accused the president of the Confederation of African Football (CAF), Issa Hayatou, and the president of the South American Football Confederation (CONMEBOL), Nicolas Leoz, of accepting bribes. In 2010, journalists from *The Sunday Times*, a newspaper that had been in the front line of accusations of doping in cycling, published compromising recordings obtained by presenting themselves to FIFA officials as lobbyists for the USA's bid to host the World Cup. In April 2010, South African journalists associated with Jennings published a book (Schulz Herzenberg, 2010) lambasting FIFA for its predatory way approach to the World Cup, accumulating revenues and tax breaks while leaving all expenditure to the host country. In June 2014, *The Sunday Times* claimed that a FIFA vice-president, the Qatari Mohamed Bin Hammam, had spent \$5 million to obtain votes, most notably from the presidents of 30 African federations, for Qatar's bid to host the World Cup. One of FIFA's most influential representatives, Jack Warner, was once again implicated. It was claimed that Warner, a Trinidadian businessman and politician, FIFA vice-president and president of the Confederation of North, Central American and Caribbean Association Football (CONCACAF) since 1990, had accepted \$1.6 million from Bin Hammam. In April 2015, two *Sunday*

Times journalists published *The Ugly Game* (Blake, Calvert, 2015), a blistering account of how Qatar allegedly bought the votes of members of FIFA’s Executive Committee.

Criticisms by FIFA officials and managers are by no means rare, especially in the run up to or following election congresses and Executive Committee votes to choose host countries for the World Cup. Although these squabbles are picked up by the media and prolong infighting, they are of no real consequence. In 2000, Germany was narrowly awarded the 2006 World Cup (by 12 votes to 11) ahead of South Africa, possibly thanks to the abstention of the Oceania Football Confederation’s president, the New-Zealander Charles Dempsey. One of the reasons Dempsey gave for his subsequent resignation from FIFA’s Executive Committee was the pressure he had been put under. In 2002, it was the turn of FIFA’s secretary general, Michel Zen-Ruffinen, to resign after noting in his report “abuses of power” and Blatter’s “dictatorial” management (Suisse-info, 3 May 2002). In May 2011, Blatter’s challenger, Bin Hammam was accused by Chuck Blazer, the secretary general of CONCACAF, of attempting to buy votes at a meeting of Caribbean representatives by distributing envelopes containing \$40,000. He allegedly did this with the complicity of Jack Warner, who was suspended from FIFA during an internal enquiry and who then accused Blatter of making a donation of \$1 million to his confederation. The accusation was quickly swept aside and Bin Hammam withdrew shortly before the election, making Blatter the only candidate.

Although the Court of Arbitration for Sport (CAS) quashed Bin Hammam’s suspension due to a lack of evidence, on 17 December 2012, FIFA’s new ethics commission banned him for life from all activities linked to football.

Accusations can also come from whistleblowers who take part in or who witness illicit transactions. In a documentary shown on the German public television channel ARD on 4 May 2015, a former employee of the Qatar bid, already named by the *Sunday Times* in 2011, repeated her accusations (published in *France Football* in December 2014), this time naming three African members of FIFA’s Executive Committee who had been offered \$1.5 million “incentives” by the Qatar delegation. Nevertheless, no sanctions were handed down. More commonly, FIFA is called to task, or even targeted, in critical reports published by NGOs (FATF, 2009; Transparency International, 2011). Because these accusations are not just allegations by journalists and/or insiders and are in the public domain, FIFA is forced to react.

Through a repertoire of actions ranging from threatening libel suits (against Jennings or the *Sunday Times*) to sacking one or more administrators, and from adopting a code of ethics to reforming the federation’s rules, FIFA is usually successful in quashing such accusations. Thanks to its crisis-management experts, the co-option of members of internal commissions of inquiry and a large degree of (self-)censorship, investigations intended to get to the bottom of allegations always remain confidential

and only the resulting decisions are divulged. This is also the case for external checks, such as those carried out by the auditors KPMG, which reported hardly any irregularities in FIFA's accounts for 2007-2010. Critical voices within FIFA are removed by pushing people to resign (Michel Zen-Ruffinen in 2002, the marketing director Guido Tognoni in 2003), expelling representatives who lack protection, often those from small federations, launching disciplinary procedures, which have been unending since 2013 to the detriment of officials from Sri-Lanka, Mongolia, Nepal, India and Tahiti, and, more rarely, sanctioning important officials (vote carriers). In 2006, a FIFA-commissioned report by the auditors Ernst & Young found that Warner had lined his own pockets to the tune of \$1 million through the illegal sale of World Cup tickets.

The reforms introduced by FIFA are one of the main ways in which it responds to mobilisations it sees as hostile. An ethics committee and code of ethics were set up in 2004, with revisions added to the code of ethics in 2006, 2009 and 2012. In 2011, following Blatter's campaign promise to steer the "FIFA boat back into clear, transparent waters", an independent governance committee was formed, presided by Mark Pieth, a Swiss university professor and expert in governance. Some of the recommendations contained in Pieth's report (Pieth, 2014), including dividing the ethics commission into investigatory and adjudicatory chambers, were adopted. On 25 May 2012, the amendments to FIFA's statutes were put to the vote at the Federation's congress and massively

approved. They included strengthening the audit and compliance commission, introducing a code of conduct, appointing a woman to the Executive Committee, appointing two women as observers, and attributing one World Cup at a time. Age limits and length of mandate were not addressed but the measures that were passed increased FIFA's credibility. Nevertheless, they did nothing to challenge the organisation's culture of clan-ism, conflicts of interest and nepotism (one of Blatter's nephews heads Infront, the company responsible for managing FIFA's TV rights; Blatter's daughter is the press officer for the Sepp Blatter Foundation). Pieth (2014) called this system a "patronage network". These shady dealings provide enough revenue to satisfy the 24 members of the Executive Committee and 10 directors, who received a total of \$36.3 million in "indemnities" in 2014 (Jennings, 2015), and FIFA's partners, especially as the Federation's turnover has never grown so quickly. Between 2011 and 2014, FIFA's revenues amounted to \$5.7 billion, most of which came from television rights for the World Cup (\$2.45 billion in 2014, 20 times more than in 1998) and sponsorship contracts (\$1.6 billion). During the same period, FIFA redistributed over \$1 billion to national Federations. These funds are intended to finance development projects, but some of them end up in the pockets of individuals who, in return, provide "packets of votes" for the president. These powerful forms of collusion are based on an institutional architecture that sanctions the "political" power of the continental associations and the independence of national associations,

over which the Zurich head office has no direct control and whose officials are careful to keep their eyes closed.

The way in which the collapse of International Sport and Leisure (ISL) was handled shows that FIFA's ability to protect itself also depends on the benevolence of other institutions. ISL was founded in 1982 by the head of Adidas, Horst Dassler, as a specialist sports marketing company. Although it had exclusive responsibility for managing FIFA's media rights during the 1990s, the company went bankrupt in 2001. An investigation was carried out by Swiss magistrates, but the case file was not made public until 2012. In fact, ISL had paid out CHF160 million in bribes between 1989 and 2001 (Jennings, 2015). According to documents quoted by PlaytheGame, former FIFA president J. Havelange and his son-in-law, Ricardo Teixeira, who was president of the Brazilian Football Confederation (CBF) and a member of FIFA's Executive Committee, received payments totalling CHF41 million. Nevertheless, Swiss magistrates refused to prosecute. In 2011 Havelange resigned from the post he had held at the IOC for 48 years and in July 2013 he stepped down as honorary president of FIFA. In 2012 Teixeira also left FIFA, for “medical reasons”, after 22 years at the head of the CBF, where he had survived numerous allegations of embezzlement (Jennings, 2015), avoiding conviction despite several police investigations. At FIFA, the new ethics commission cleared Blatter in 2013: “President Blatter's conduct could not be classified in any way as misconduct with regard to any ethics rules... .. (even if it)

may have been clumsy”.

The collusion that helped protect FIFA from the accusations made against it arise from a vast network of inter-institutional relationships, starting with those that are tolerated under Swiss law. Corrupt practices in the private sector are not prosecuted automatically and it was not until 2004, in response to pressure from the OECD (and its Financial Action Task Force - FATF) and GRECO, that the Swiss government made private corruption a misdemeanour (included in the Unfair Competition Act but not in the Penal Code). Until then, bribes paid abroad by Swiss companies had been tax deductible! On the grounds that international sports organisations are not subject to competition, on 10 November 2004 Switzerland's Federal Council (government) assured them they would not be subject to the Unfair Competition Act. Corrupt practices would be prosecuted only if one or more of the protagonists (corrupter or corrupted) filed a complaint. As a result, there were no convictions for private corruption between 2004 and 2014. This form of immunity, alongside other powerful collusions (banking secrecy, failure to prosecute tax evasion, little regulation, low rate of corporation tax - 4.25%) and other advantages (political stability, protection of privacy) explain why around 60 international sports organisations are based in Switzerland, earning the country more than CHF1 billion every year (Rutter & Partner, 2013). Nevertheless, on 12 December 2014 the Swiss parliament passed a bill clamping down on money laundering. The bill's title, “Lex FIFA”, clearly indicates

its main target. According to one of the bill's main supporters, Roland Büchel, who works for the IOC's marketing department, "Switzerland's Parliament and people are fed up with corruption. And they haven't understood that at FIFA" (Le Monde, 11 December 2014). Between 2000 and 2014, 25 of the 35 parliamentary speeches concerning FIFA mentioned suspicions of corruption (Le Temps, 30 May 15). Although the legal pressure in Switzerland has increased slightly, a large majority of MPs are happy to let the status quo continue.

On 26 September 2014 Hans-Joachim Eckert, the president of the adjudicatory chamber of the ethics commission, minimised the conclusions of a report by the president of the investigatory chamber, Michael J. Garcia, into suspicions of corruption in the attribution of the 2018 and 2022 World Cups. FIFA announced that it would not publish the report, as the requirement to maintain confidentiality contained in its code of ethics did not allow it to do so. Nevertheless, on 18 November 2014 Eckert ordered FIFA to provide Switzerland's attorney general with a copy of Garcia's report. This ruling was not enough to stop the former U.S. Attorney for the Southern District of New York resigning (on 17 December) because of his indignation over the censorship of his findings. The reason Garcia gave for quitting was a feeling of impotence: "No independent governance committee, investigator or arbitration panel can change the culture of an organisation".

Although for decades many players

inside and outside FIFA saw the Federation as almost untouchable, FIFA's resilience was situational – as long as accusations were not simultaneously and massively relayed in several sectors, the Federation could easily maintain an image of stability.

FIFAgate: How the Scandal Damaged FIFA's Credibility

For many years, the accusations of corruption against FIFA led to no more than internal sanctions and sectoral crises. So, why did things change in 2015? In order to grasp the size of the scandal and the Federation's sudden vulnerability, it is necessary to consider the multisectoral and simultaneous dimension of the accusations that, from 27 May, turned the situation upside down and allowed the unthinkable to happen.

On 27 May, the eve of the 65th FIFA congress, the United States Department of Justice (DoJ) published a 161-page indictment against 14 defendants (9 FIFA officials, including 2 vice presidents, and 5 sports company executives), drawn up by the Brooklyn federal court on 20 May. The indictment refers to corruption that had become "endemic" within the FIFA "system" (United States v. J. Webb et al., 2015, p. 32) "over a period of approximately 25 years" (p. 31), and lists 47 counts of racketeering, fraud, money laundering, bribes and kickbacks amounting to \$150 million. The investigation, carried out under the Racketeer Influenced and Corrupt

Organizations Act (RICO), which encourages defendants to cooperate with the justice system, had taken several years. Jennings and Garcia also provided information to the investigation. The bribes related to FIFA's presidential election in 2011, broadcasting rights, marketing contracts for competitions such as the Copa America, and sponsorship agreements with Nike for Brazil's national football team (p. 74). Ten other defendants pleaded guilty between July 2013 and May 2015, including Blazer and two of Warner's sons. Over a period of 19 years, Blazer (“Mr 10%”) had accumulated \$11 million that he had not declared to the Internal Revenue Service (IRS). Following his indictment, he resigned as secretary general of CONCACAF and pleaded guilty to ten charges of racketeering, money laundering and tax evasion, etc., in an American court with which he had secretly cooperated for 16 months while remaining a member of FIFA's Executive Committee. In fact, the collusion between Warner and Blazer had come to an end in 2010 when Warner supported Qatar's bid for the World Cup and Bin Haman's attempt to become FIFA president, while Blazer had supported the United States and Blatter.

In conjunction with the publication (on the Internet) of this indictment, the Swiss police, acting on an American warrant, arrested seven officials in a luxury hotel in Zurich (New York Times journalists, tipped off by Brooklyn's district attorney, were at the scene). FIFA's head office was searched under a warrant issued by Switzerland's attorney general, who was investigating the attribution of the

2018 and 2022 World Cups, while the US authorities searched CONCACAF's headquarters in Miami. At the same time, the head of the DoJ, Loretta Lynch (who, importantly, had supervised the investigation as a federal prosecutor in Brooklyn) held a news conference in New York alongside the heads of the FBI, James Comey, and of the IRS's Criminal Investigation Division, Richard Weber, who spoke of a *“World Cup of fraud”* spanning “at least two generations of football officials”. Lynch stated: *“the indictment alleges corruption that is rampant, systemic, and deep-rooted both abroad and here in the United States”* (Financial Times, 28 May). The cooperation between the Swiss and American authorities surprised many commentators (“Switzerland is playing an unexpected double role”, 24 Heures, 28 May), as it had no solid legal basis. In fact, this action was part of the wider cooperation between the USA and Switzerland that had arisen out of the banking scandals involving Swiss UBS (fined \$780 million) and Crédit Swiss (fined \$2.6 billion, paid in 2014 in order to keep its trading licence in the USA), which were prosecuted under the 2010 Foreign Account Tax Compliance Act (FATCA), which came into force in 2014.

This operation, which was unprecedented in terms of the resources employed and its multi-level coordination, led to an almost immediate response from FIFA. On 27 May the ethics commission's adjudicatory chamber temporarily suspended 11 FIFA representatives. Another three officials were suspended between 28 May and 2 June. FIFA's director of

communications, Walter de Gregorio, repeatedly stated that Blatter was not implicated and many people, including Blatter's declared opponents, believed he would be re-elected president once the scandal had blown over. Jennings went as far as to say: *"all the evidence is against Blatter, but he is still there. This entire affair, which mostly concerns the last nine years, is already ancient history for him and will have no impact on his re-election"* (Le Nouvelliste, 28 May). At the end of a congress marked by an unprecedented media mobilisation and demonstrators brandishing signs reading "Game over for Blatter", the president's re-election (by 133 votes against 73 votes for Prince Ali, who decided not to force a second round) suggested that the "unbudgeable" would extricate himself again: "Despite the scandals, Sepp Blatter manages to win" (Le Temps, 30 May), "The secrets of the unsinkable "captain" (24 Heures, 30 May).

Nevertheless, the prediction by the chairman of the English Football Association that Blatter would last no more than two years was soon borne out, as subsequent desertions on an unprecedented scale quickly precipitated Blatter's fall. In fact, by 28 May most Swiss newspapers had already turned against him: "Mr Blatter, go" was the title of an editorial in the Vaud canton's biggest daily paper, 24 Heures; "Blatter has lost his credibility" was the headline in Le Matin, while an editorial in Le Temps announced "The end of impunity" and L'Hebdo wrote of "Sepp Blatter's seven deadly sins". In the UK, members of parliament called for a boycott of the 2022 World Cup and, as a gesture of

protest, England's FIFA representative David Gill refused to serve on the Executive Committee. At the same time, FIFA's corporate sponsors (more than a third of its revenues) voiced their concerns by threatening to review their sponsorship, as the scandal had given them the opportunity to renegotiate their contracts. Long-term critics of the "FIFA system" were even harsher, with Guido Tognoni writing: *"for the last 40 years, since Havelange was enthroned, FIFA has had a culture of corruption. Blatter didn't start it, but he has always tolerated corruption. It was a way of staying in power"* (he estimated Blatter's annual "salary" to be CHF15 million L'Hebdo, 28 May 2015). Two members of the Swiss parliament put forward an action plan to combat corruption in sport and, on 3 June, the New York Times noted "the widespread impression of FIFA as a corrupt rogue state". At the same time, the European newspapers behind many of the investigations of FIFA renewed their enquiries (Mediapart in France, Il Fatto Quotidiano in Italy, Der Spiegel in Germany, etc.). Some referred to "practices worthy of a mafia clan" (L'Hebdo, 4 June 2015), and it became quite common to draw parallels between FIFA and a mafia organisation. Others, which had previously supported Blatter, distanced themselves from him.

Nevertheless, some collusion continued. By sitting next to Blatter at the opening of the congress and having defended him the day before at the Swiss Media Forum, Switzerland's Minister of Defence and Sports, Ueli Maurer, showed his continuing support, while Peter Gilliéron, the president of the Swiss

Football Association and a member of UEFA's Executive Committee, carefully avoided direct criticism. In the eyes of some of FIFA's staff, Blatter had not lost his credibility and on 3 June he was applauded when he arrived at FIFA headquarters. The same day, Switzerland's Council of States (the upper chamber of parliament) refused by 23 votes to 22 to follow the Federal Council's recommendation on prosecuting private corruption, which would not, therefore, be prosecuted automatically. What is more, some people were still happy to publicly acknowledge instances of give and take. For example, the president of the French Football Federation, who had supported Blatter's election because France had just been awarded the 2019 Women's World Cup, claimed: “our relations with FIFA are extremely good (...) I like to return a favour when someone has given us something” (Reuters, 28 May 2015).

After his re-election, Blatter insisted on the impossibility of controlling FIFA: “it has to stop here and now. I know many people hold me ultimately responsible for the actions and reputation of the global football community... .. (but) I cannot monitor everyone all of the time.” In another dramatic turn, on 2 June, Blatter, who was visibly marked by events, announced: “I have decided to lay down my mandate at an extraordinary elective congress”. This decision was taken following an article in the New York Times accusing Jérôme Valke, FIFA secretary general and Blatter's right-hand man, of involvement in a payment of \$10 million to CONCACAF in 2008 as a “commission” in exchange for votes

to award the 2010 World Cup to South Africa. This turnaround made denouncing FIFA much easier (“Blatter, the fall of FIFA's big boss”, ran the headline in *Le Nouvelliste* on 3 June), with the American media suggesting that the FBI was investigating Blatter. The destruction of Blatter's and FIFA's reputations led Swiss political leaders to voice their fears about Switzerland's reputation (“Switzerland fears for its image”, *Le Matin*, 4 June). The heads of several western governments (especially in the UK, France and Germany) simultaneously came out against Blatter, something that only the British prime minister, in 2010, and the Brazilian president, Dilma Rouseff, had done previously. In fact, in 2014, Rouseff had seriously admonished FIFA officials: “we were hoping for harmony, but FIFA and our football confederation have brought conflict and corruption...” (quoted by Jennings, 2015). On the other hand, President Putin gave Blatter his official support against “yet another flagrant attempt (by the United States) to extend its jurisdiction to other states” (*New York Times*, 29 May). These official positions reflected other powerful geopolitical interests, with governments seeing sport as an important vector of soft power (Gygas, 2012).

Many people quickly realised how vulnerable FIFA had become, a turnaround (effect) resulting from a series of defections (cause), which, in turn, facilitated further defections, thereby creating a form of chain reaction. The crisis achieved a dimension never before seen at FIFA, which had to face a concomitance of large oscillations in perceptions of what was (im)possible.

“It is a shock, the surprise we no longer expected to happen, we had got so used to seeing Sepp Blatter weather every storm”; “The extent of the abuses exposed in recent days is such that other continents, other federations could be affected” (Le Temps, 3 June). The term FIFAgate, first used as a Twitter hashtag on 27 May and quickly picked up by most other media (“what is now commonly referred to as FIFAgate”, Le Monde, 6 June), neatly summarises these tumultuous events. The scandal has affected positions and stances, with the head of the audit and compliance commission, Domenico Scala, who was given the task of devising a programme of reform, suddenly being seen as a “Mr Clean” and the reformer of FIFA. The sudden departure from Zurich of the CBF’s president, Marco Polo del Nero, just after his predecessor was arrested, shows the extent of the turnaround in the thinkable that produced and was produced by the scandal. It forced many people to change their plans. These events also explain why, on 29 May, Brazilian senators hastily decided to set up a parliamentary commission of enquiry into the CBF and the justice minister’s announcement that Teixeira was to be investigated in relation to suspicions of money laundering and fraud. Brazilian police had found that several of his bank accounts had been swollen by “unusual” payments totalling €133.5 million between 2009 and 2012, when Teixeira was president of the 2014 World Cup organising committee. Several attacks that had formerly been considered too risky, such as threatening to withdraw the 2018 and 2022 World Cups, were suddenly seen

as doable, especially in the eyes of British and American officials. For example, the chairman of the English Football Association said: “We can go back and look at those two World Cups. If I was in Qatar today, I wouldn’t be feeling too confident” (Wall Street Journal, 2 June).

Encouraged by the multisectoral mobilisations and large oscillations in perceptions of the (im)possible, FIFAgate has triggered a flood of other revelations and accusations. On 4 May John Delaney, the president of the Irish Football Federation, admitted that his federation had accepted a large sum of money from FIFA in exchange for not pressing a complaint against France for a refereeing error during a 2010 World Cup qualifying match (a figure of €5 million has been suggested). On 26 October the German World Cup affair resurfaced. Der Spiegel claimed that a slush fund had been set up and, for the first time, Franz Beckenbauer admitted “a mistake” had been made while insisting that “no votes had been bought” (L’Equipe, 26 October). Some allegations were made in order to colour opinions of certain protagonists. For example, on 3 June, the DoJ made Blazer’s confession public. The same day, in an interview with the Frankfurter Allgemeine Zeitung, Lynch said information had been passed on to other countries, including Switzerland.

In this context of great uncertainty linked to the desectorisation of the dispute, the standings of the leading contenders to succeed Blatter as FIFA president fluctuated as the scandal went on. Originally the firm favourite due to his opposition to Blatter, Michel

Platini soon found himself the subject of new allegations. On 29 July he officially announced his candidature in a letter to officials of FIFA's 209 member associations. Prince Ali went on the attack and Blatter was quick to point out that Platini had voted for Qatar (recruitment of his son, agreement between president Sarkozy, Qatar's crown prince Al-Thani, his prime minister and a representative of Colony Capital, the owners of PSG, during a dinner Platini attended at the Elysée Palace on 23 November 2010). On 25 September Switzerland's attorney general began investigating Blatter for “disloyal management” and “abuse of trust” in relation to the signature of “an unfavourable contract” with the Caribbean Football Union. Blatter was also accused of making a “disloyal payment” of €1.83 million to Platini, with the result that Platini lost a section of his support from the French media. On 2 October FIFA's largest American sponsors (Coca-Cola, McDonald's, Visa, Budweiser) demanded Blatter's immediate resignation after a criminal investigation against him was launched in Switzerland. On 8 October Platini, Blatter and Valcke (who had already been relieved of his functions as FIFA secretary general and who had been rumoured to have had his eye on the presidency) were given 90-day suspensions by the ethics committee. In addition, a former FIFA vice president, Chung Mong-oon (candidate in the forthcoming presidential election), was suspended for six years and fined CHF100,000. At the deadline for registering as a candidate in the presidential election, on 26 October, Platini was one of eight candidates,

but the decision by UEFA's Executive Committee to support the candidacy of its secretary general, Gianni Infantino, was seen as a “disavowal of Platini”. On 21 December 2015 FIFA's ethics committee finally sanctioned Platini and Blatter for “conflict of interests” and “disloyal management”, suspending them for eight years and imposing heavy fines.

At FIFA's extraordinary congress on 26 February 2016, Gianni Infantino was elected the organisation's new president and a number of governance reforms were passed. What were these reforms and how could they modify an organisational culture that has allowed so many abuses and protected their perpetrators?

The Governance Strategy Chosen to Overcome the Crisis and its Limitations

In the minds of its protagonists, FIFAgate has a precedent in the scandal surrounding the awarding of the Olympic Games to Salt Lake City in 1998, especially as the measures subsequently taken by the IOC were generally seen “as effective, if partial” (Chappelet, 2011). The Salt Lake City scandal is what Thomas Schelling called a “focal point” (Schelling, 1960), that is, a point where expectations converge (“The IOC, an example to follow?”, 24 Heures, 5 June 2015). Many of the players involved felt that similar measures to those introduced by the IOC would provide a way for FIFA to overcome its crisis. Hence FIFA's riposte, announced on 11 August 2016, was to

create a reform committee, to be chaired by 77-year-old Swiss lawyer, François Carrard, a former general manager of the IOC and the coordinator of the “IOC 2000” reform committee.

Although the reforms announced by FIFA modified the Federation’s organisational governance, they had little impact on its “network” or on the systemic (Henry & Lee, 2005) or collaborative (Shilbury & Ferkins 2015) governance of FIFA’s ever-expanding network of stakeholders. In fact, FIFA’s response to the crisis was to set out a pathway to “responsible autonomy” (Chappelet, 2015), as had been done earlier by the IOC. Previous micro-changes to FIFA’s governance, introduced between 2013 and 2015 in response to earlier accusations of corruption, had been applied and monitored internally. In contrast, the latest round of reforms would be supervised by external institutions, including the US DoJ and the FBI. In fact, the DoJ required FIFA to stand as a plaintiff in the corruption cases being brought against its members. The DoJ’s work at FIFA’s headquarters is being carried out in conjunction with an American law firm (Quinn Emanuel).

The most recent step in this direction was taken at an Extraordinary FIFA Congress in Zurich on 26 February 2016, which approved a set of reforms presented by the chair of the 2016 FIFA Reform Committee, Dr François Carrard. These principles and recommendations were incorporated into an amended version of the FIFA Statutes and pave the way for further significant and much-needed changes to FIFA’s governance structure.

The main reforms introduced by FIFA are to its organisational governance and the way its headquarters is run. They include ensuring a clear separation between “political” and commercial decision-making, introducing term limits for the president and council members, eligibility and integrity checks for elected directors, and disclosure of individual compensation packages.

Other reforms, such as promoting women in football, controlling money flows and introducing statutory principles of good governance for confederations and member associations, concern FIFA’s network.

Two additional reforms are designed to improve the federation’s systemic governance by creating a Football Stakeholder Committee and reinforcing FIFA’s commitment to human rights.

The separation between “political” and commercial decision-making functions will be achieved by making the FIFA Council (replaces the Executive Committee) “responsible for setting the organisation’s overall strategic direction, while the General Secretariat oversees the operational and commercial actions required to effectively execute that strategy”.

Another possibility would have been to introduce a dual board system in order to limit the president’s powers. In the first instance, more effective control could be achieved by remodelling the Executive Committee, which should meet frequently, not just four times a year, as is currently the case. In addition, it should have a wider spectrum of members, not

just representatives of the continental associations, be reduced in size, contain more women, be more professional and include independent administrators with skills in areas such as marketing, law and finance. Although FIFA announced the creation of a “Football Stakeholder Committee”, this committee does not appear to be a true “Football Supervisory Council” capable of overseeing the work of football’s administrative bodies. Hence, this new committee, which has no equivalent at the IOC, could go much further and include more representatives of all of football’s key stakeholders (players’ unions, managers’ associations, referees’ associations, professional leagues, professional clubs, continental confederations), together with independent experts. Transparency International has also suggested appointing outside observers to key commissions and committees, which have been reduced in number from 26 to 9. Revising FIFA’s organisational governance in this way would avoid having the same individuals “involved in both the management and control of decision-making” (Mason et al., 2015) and improve accountability, control and organisational performance. This would prevent future FIFA presidents signing “cheques with no counter signature by another official” (Jennings 2015). As Pielke (2013) noted “it is no exaggeration to conclude that in both design and practice, FIFA has no formal hierarchical mechanisms under which the president and Executive Committee can be held accountable. The scope and pace of any reform effort will be dictated by what is deemed acceptable by the FIFA leadership”. Pielke’s analysis was echoed

by Carrard’s conclusions as president of the 2016 Reform Committee: “controlling the role of the continental confederations is a fundamental aspect of FIFA. These bodies are not members of FIFA, but they can take decisions within the organisation... I don’t know what I would do if I were president and had to live with 23 people over whom I had no authority and who are responsible to me” (Le Matin, 9 September 2015).

- “Term limits for the FIFA President, FIFA Council members and members of the Audit and Compliance Committee and of the judicial bodies (max. 12 years)”. This reform mirrors the limits on terms of office introduced by the IOC (8 years + 4 years for the IOC president; 8 years for a certain category of IOC members), but FIFA has not introduced any restrictions on terms of office for the presidents of the continental confederations and national associations. Doing so would improve democracy throughout the organisation and prevent cults building up around omnipotent, lifelong leaders. The question of officials simultaneously occupying several positions must also be addressed. Should someone be allowed to be president of a national association and, at the same time, a member of a continental association and/or a member of FIFA’s Executive Committee? The IOC also tackled the question of the age of its members and president by introducing an age limit of 70. FIFA has not done this.
- “Election of Council members supervised by FIFA and in accordance with FIFA’s own electoral regulations; all candidates are subject to

comprehensive eligibility and integrity checks conducted by an independent FIFA Review Committee”. This proposal does not explain how and by whom eligibility and integrity checks will be conducted.

- “Disclosure of individual compensation on an annual basis of the FIFA President, all FIFA Council members, the Secretary General and relevant chairpersons of independent standing and judicial committees”.

In order to ensure true transparency, FIFA headquarters and the continental and national associations² must publish full accounts, including statements of the remuneration and benefits awarded to executives and any fees paid. FIFA should also publish the fees it pays to advisers and marketing agencies. Since 2014, the IOC has published details of the remuneration it pays to its president and members. As a result, we know that the IOC’s president receives an annual indemnity of €225,000, a sum approved by the ethics commission, in addition to the reimbursement of expenses and accommodation costs. The annual report does not, however, mention how much tax the president pays. Members of the IOC’s Executive Committee receive 2 x \$450 per day, whereas ordinary IOC members receive \$450 per day, in addition to expenses (IOC, 2014). Each member also receives \$7,000 per year in administrative support, and is considered to be a volunteer whose indemnities, recorded as “losses in earnings”, are not

² A report by Transparency International (2015) noted that 179/209 national federations did not publish an annual report or financial records, and only 2/6 continental federations (UEFA and African football) publish annual accounts.

subject to income tax.

Other reforms concern FIFA’s network include:

- “Greater recognition and promotion of women in football with a minimum of one female representative elected as a Council member per confederation; promotion of women as an explicit statutory objective of FIFA to create a more diverse decision-making environment and culture”. Compared with the IOC’s objective of reserving 30% of decision-making positions in NOCs and IFs for women, this reform looks like an entirely token measure. What position will FIFA’s woman administrator hold and how much power will she have?
- “Enhanced control of money flows”. This measure seems very vague and no details have been given of how and who will control the huge amount of money redistributed across FIFA’s network. The ways in which FIFA handles and redistributes its huge revenues could be reformed by separating the management of funds for developing football (e.g., through the ‘Goal’ programme) from the political system. Entrusting the control of these projects to an independent organisation, such as a foundation, would lead to more effective evaluation and reporting of their implementation and success
- “Universal good governance principles for confederations and member associations”. These principles were adopted by the IOC in 2008 but have not really been applied across the Olympic movement (Bayle, 2015). How

and by whom will be it done?

- “FIFA’s commitment to human rights to be enshrined in the FIFA Statutes”. This measure seems to relate mostly to the organisation of the World Cup but, again, no details have been given as to how and by whom it will be done.
- “New Football Stakeholder Committee to ensure greater transparency and inclusion through broader stakeholder representation (including players, clubs and leagues)”. This proposal is coherent with FIFA’s new governance model (see above). UEFA, has already set up a similar committee (the UEFA Strategy Council), consisting of UEFA members, representatives of the clubs, professional leagues and players.

Another issue the 2016 reforms do not cover is FIFA’s performance model, that is, the way it evaluates its success and that of the football movement. We would suggest modifying this model so societal performance becomes its central measure of performance (in a specific societal report evaluated by an independent expert and included in the published annual report). Sports organisations to have done this include the French Football Federation, which, through its foundation, has tried to draw up an overview of football’s social impact (Bayle, 2014; see Hoye et al., 2015, for an evaluation of social return on investment within a community Australian-rules football club). FIFA could adopt similar ideas and tools, which have emerged since 2010, and promote their use within the football system. A first step for FIFA would be to decide which areas of society to target, which indicators to use to assess success, which reporting

systems to use, and how to ensure accountability (via societal indicators).

Going beyond football, FIFA could bolster its image by helping create a world agency for regulating sports governance, perhaps modelled on the World Anti-Doping Agency, which was founded in 1999 (Chappelet, 2001 & 2002), as a partnership between the international sports movement, governments and NGOs. Such an agency would facilitate the implementation of new forms of governance and regulatory mechanisms at the international and national levels. A step toward achieving this could be made by creating national agencies for regulating both governance, as some countries have done for doping (national anti-doping agencies - NADA), and online sports betting. The resources needed (police and tax enquiries, Interpol etc.) to successfully combat misconduct, whose stakes go far beyond the international sport movement, justify the involvement of national governments and the European Union.

As Mark Pieth noted: “pure self-regulation is a slow and uncertain process” (2014). Michael Garcia, the former president of the ethics commission, was more circumspect when he suggested that it was difficult, or even impossible, for such institutions to reform themselves without intense outside pressure to do so (Pielke, 2013; Bayle, 2010). Sociologically, this is very understandable, given such organisations’ inertia and the “arrangements” between their officials. These new principles of governance must change the culture of the FIFA system (Pieth, 2014), although this will

be a long and difficult process given the specificities of national contexts (in non-democratic or barely democratic countries, in countries where anti-corruption systems are non-existent or extremely weak, etc.). This is why we believe that certain measures, most notably the creation of a world agency for the governance of sport, are essential.

Conclusion

We have shown how, for many years, FIFA's executives managed to contain the mobilisations that formed around allegations of corruption. Then, on 27 May 2015 these mobilisations became multisectoral, creating an uncontrollable and self-perpetuating process consisting of serial feedback, most notably with respect to the feasibility of denunciation. Within just a few weeks, it became much easier for numerous protagonists with a variety of motives to level accusations at FIFA's top executives, resulting in an irresistible public outcry against the corrupt practices within the federation.

The primary contribution of the present paper is to propose a new theoretical and methodological framework for analysing scandals. It also describes the measures introduced by FIFA in order to try and overcome the crisis, highlighting weaknesses in the current proposals and possible ways of reinforcing the reform process.

The lessons to be learnt from the IOC scandal (in 2000) and the current FIFAgate scandal are that the involvement of a powerful institution (in this case, the DoJ and FBI) is a necessary but insufficient condition for a scandal to break, as the multisectoral and simultaneous dimension of mobilisations is a decisive factor in generating a crisis within the collusions that allow a culture of corruption to form within an institution. In this respect, the current situation, arising from changes in perceptions of what is (im)possible, which have led to a series of sport scandals (IAAF, FINA in November 2015, etc.), is a window of opportunity for introducing innovative governance reforms.

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The Governance of Para- divisions in Olympic Sport Federations

Opportunities and Challenges

Géraldine HEINEN & Jennifer SMITH MAGUIRE

‘Governance and leadership are the yin and the yang of successful organisations. If you have leadership without governance you risk tyranny, fraud and personal fiefdoms. If you have governance without leadership you risk atrophy, bureaucracy and indifference.’

Mark GOYDER
(British author, speaker and business man)

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Abstract

The governance of para-sports has always been a contested issue by the sport movement. This report analyses what steps have already been taken in terms of integration and what the opportunities and challenges are for International Federations (IFs) interested in integrating a para- division.

This study included a lecture on sports governance in the specific area of para-sports, an understanding of our role as future leaders in sports management and an analysis of official documents.

In addition to this review, the research covered interviews with key para-sports coordinators, as well as a data analysis of the evolution of the Paralympic Games since 1960.

The key objective of the study was to understand the challenges and opportunities for IFs to integrate a para-discipline and how the para-organisations could work towards joining the movement correctly.

By combining the results of the analysis, it could be concluded that integration is a long process but IF's structure are a strength that can benefit the fast and professional growth of para-sports. They should work primarily on breaking down the barriers, simplifying the movement and communicating correctly with all the stakeholders involved.

Introduction

"No country can afford to turn its back on

10% of its population." – ILO/UNESCO/ UNICEF/WHO proclamation, 3 December 1997

Will one of the legacies of London 2012 Paralympic Games be a stimulus for even greater inclusion for individuals with disabilities both in society and in sport that resonates a "within, not beside" paradigm shift in both philosophy, values and action? (Wolff, 2012).

The legacy left by the London 2012 Paralympic Games and this research has the purpose of making an inventory of what exists today concerning integration and to propose useful recommendations to IFs interested in integrating a para-division within their structure in the future.

Since the origins of the Paralympic Games at Stoke Mandeville, the key challenge has been putting basic building blocks in place and overcoming issues of prejudice. The Beijing 2008 Paralympic Games was a clear breakthrough, as illustrated in various press reports, but the London 2012 Paralympic Games heralded the real coming of age for the movement: full stadiums, magnificent athletic performances, consistent brand values that resonated with the public, and true global coverage of the event (Craven, 2013).

The Paralympic Games are gaining international recognition as an elite sports product. Along with this growth, numerous questions arise regarding the Paralympic movement. One of the first issues deals with the integration of athletes with disabilities into mainstream able-bodied sport. Some IFs have already integrated competitions and rules

(Grevemberg, Hums, & Wolff, 2001). This research paper supports the integration and believes sports managers will have to deal with the integration of para-divisions in the future. As the Paralympic Games continue to grow, the governing bodies associated with the Games, including the IPC, National Paralympic Committees (NPC), and International Federations (IFs) will need to adjust to an ever-changing environment. They will need to be responsive to governance decisions made by able-bodied sports organisations that may impact events, rules, and eligibility for athletes with disabilities. (Hums, 2004).

There is an opportunity to benefit from the momentum given by the last Paralympic Games' legacy and move forward rapidly to educate organisers, federations and specialists. The integration and equity between women athletes, athletes with a disability and able-bodied athletes must be the same, it is a social responsibility, which must be taken into account.

Sport remains simply another area where discriminatory attitudes and practices toward persons with disabilities are perpetuated. Even when the decision is made to make sport more accessible and inclusive, without basic steps to foster understanding, knowledge and communication about how to adapt sports appropriately, intolerance can be intensified and discord can ensue. With appropriate communication, knowledge and skills, sport can be a powerful tool for transforming community attitudes and empowering individuals through the acquisition of new physical and

social skills, self-confidence and positive relationships (Right to Play, 2013).

In 1993, the United Nations adopted The Standard Rules for the Equalisation of Opportunities for Persons with Disabilities, which also addressed the right to sport for persons with disabilities. The variety and flexibility of sport makes it an excellent showcase for strategies of inclusion and adaptation (Right to Play, 2013).

The purpose of the research is to analyse the way sports for athletes with a disability are evolving and what the next steps are in the future to enable it to grow in a professional and sustainable manner. The goal is to focus on the specific managerial aspect of the movement, which is the integration through its International Federation.

The first part of the research paper is an investigation into how the stakeholders of para-sports are connected and what kind of agreement exists concerning sports for athletes with a disability. This part focuses on the IPC. We analyse how it works, what is its vision and mission. The second part is an analysis of the relation existing between the IPC and International Federations, which already fully integrate a para-division within their structure.

Then the purpose is to know more about the agreement that exists between the IPC and the IOC, the umbrella of all International Federations.

The red thread of the research is to understand the principles and challenges of integration. To have a

better understanding of this concern, we interviewed two experts in para-cycling and paratriathlon working in two International Federations, the ITU and the UCI. We also reviewed different shared documents from these two Federation and undertook an analysis of the data to answer our questions.

Literature Review

The International Paralympic Committee

The final stage in the evolution of the institutional basis for the Paralympic Games was the establishment of the International Paralympic Committees in 1989: an organisation similar in structure to the IOC itself.

Based in Bonn, it serves as the umbrella organisation for 177 National Paralympic Committees, four regional bodies, and 17 International Federations recognised by the IPC as the sole representative of a Paralympic Sport. Its purpose is to organise the summer and winter Paralympic Games and it also acts as the international federation for ten sports, which date back to the origins of the IPC, supervising and coordinating World Championships and other competitions. (IPC, 2016).

Its vision is to enable 'Paralympic athletes to achieve sport excellence and inspire and excite the world' (IPC, 2006c, p.3). Crucially, since 1992, it is now the sole coordinating body for Paralympic sport recognised by the IOC.

It employs nearly 70 people from 20

countries and is composed of a General Assembly (highest decision making body), a Governing Board (executive body), a Management Team and various Standing Committees and Councils (Appendix I: IPC Operational Structure).

As members of the IPC, International Sport Federations (IFs), National Paralympic Committees (NPCs), International Organisations of Sport for the Disabled (IOSD's), and Regional Organisations have the right to submit motions, vote at meetings, nominate candidates for appropriate IPC bodies and participate in IPC activities (IPC, 2013).

International Sport Federations

International Federations are independent sports federations recognised by the IPC as the sole representative of a Paralympic Sport.

International Federations' responsibilities include technical jurisdiction and guidance over the competition and training venues of their respective sports during the Paralympic Games.

The IPC currently recognises 17 International Federations:

- Boccia International Sports Federation (BISFed)
- Badminton World Federation (BWF)
- World Archery (WA)
- International Equestrian Federation (FEI)
- World Rowing Federation (FISA)
- International Canoe Federation (ICF)

- International Federation for CP Football (IFCPF)
- International Tennis Federation (ITF)
- International Table Tennis Federation (ITTF)
- International Triathlon Union (ITU)
- International Wheelchair Basketball Federation (IWBF)
- International Wheelchair Rugby Federation (IWRF)
- International Cycling Union (UCI)
- World Curling Federation (WCF)
- World ParaVolley (WPV)
- World Sailing
- World Taekwondo Federation (WTF)

National Paralympic Committee

National Paralympic Committees (NPCs) are national organisations recognised by the IPC as the sole representatives of athletes with an impairment from their respective countries.

The IPC currently has around 177 NPCs, which are responsible for the entry, management and team preparation for the Paralympic Games and other IPC-sanctioned competitions (IPC, 2013).

Recognised International Sport Federations

In its Mission Statement, the IPC commits to 'promote and contribute to the development of sport opportunities and competitions, from initiation level to elite level, for Paralympic athletes as the foundation of elite Paralympic sport'.

To achieve this, the IPC recognises the

importance of creating a Paralympic Family network of recognised international sport federations that are not eligible to be IPC members but contribute to the development of sports opportunities for athletes associated with the Paralympic Movement and have organisational goals that are compatible with the Vision and Mission of the IPC.

The following are IPC recognised international sport federations:

- International Bobsleigh & Skeleton Federation (IBSF)
- International Federation of Powerchair Football (FIPFA)
- International Golf Federation (IGF)
- International Handball Federation (IHF)
- International Hockey Federation (FIH)
- World Flying Disc Federation (WFDF)
- Union Internationale de Pentathlon Moderne (UIPM)
- World Armwrestling Federation (WAF)
- World Squash Federation
- World Karate Federation

The IOC and the IPC: The Evolution of a Relationship

Since the late 70s, the IPC and IOC have managed to overcome their difference to create what the current IOC President, Jacques Rogge (2001), describes as a 'fruitful relationship'. This relationship ensures that consultation takes place between the two bodies on financial, sponsorship and marketing deals, and that the Paralympic Games is always staged after the Olympiad using the same facilities and technical support.

Another step forward was made in 2000 by the appointment of the IPC President, Dr Robert Steadward (1989-2001), to the IOC Commission of Ethics and Reform, and his election as a full member of the IOC itself (IOC, 2012).

- Four agreements between the IOC and IPC signed between 2000 and today clarified the relationship between the two organisations, set out the principles for further cooperation and provided financial support for the IPC. An agreement in October 2000 brought the workings of the two organisations closer by co-opting the IPC President to the IOC and including an IPC representative on 11 of the IOC Commissions, including the Evaluation Commission – the body that examines the competing bids from cities seeking to host the Olympic Games. The IOC also undertook to pay an annual subvention towards IPC administration costs (\$3 million per annum), annual sums for development projects, and specific assistance to help athletes from developing countries attend the 2002 Salt Lake City Winter Paralympic Games and the 2004 Athens Summer Paralympics (IOC 2000a).
- An agreement in June 2001 elucidated the organisation of the Paralympic Games, confirming that the location would always be the Olympic host city and would take place ‘shortly after’ the Olympic Games using the same facilities and venues. From the 2008 Summer Games and 2010 Winter Games onwards, there would be full integration of the two Organising Committees (IOC, 2001).
- An agreement on revenues for broadcasting and marketing the Paralympics (August 2003) guaranteed IOC payments to the IPC of \$9 million for the 2008 Games and \$14 million for 2010 and 2012 (IOC, 2003a). The final agreement (June 2006) extended these arrangements through to 2014 and 2016, increased funding for the IPC, and set out the respective roles of the IOC and IPC in the planning, organisation and staging of the Paralympics, the use of technical manuals, the sports programme, and the number of accredited individuals (IOC, 2006a).
- In May 2012, the IOC and the IPC signed an extension to their current agreement, which will continue to see the IOC support the IPC and the Paralympic Games through to 2020. The extension of the agreement continues in the same vein as the previous document signed in 2006 and underlines the IOC’s continued support for the IPC and commitment to help ensure the Paralympic Games’ long-term future. This support includes not only an increased financial contribution from the IOC but also the systematic inclusion of the IPC in a wide range of programmes and activities such as IF development, Olympic Solidarity and Transfer of Knowledge, and greater cooperation in the areas of event planning and delivery. IOC President Jacques Rogge commented on the signing of the agreement: “Our continued financial support to the Paralympics shows that the Olympic Movement is universal and also indicates the importance that the Paralympic Games have in promoting sport to the youth of the world – one

of the fundamental principles of Olympism (IOC, 2012).

Paralympic Sports Governance

Sports Independence and Model of Governance

In the past 10 years, significant steps have been made to integrate para-sports into the overall world sport stage. Para-sports is benefiting from better media coverage, new partners, and new sponsors. Its recognition throughout the world of international sport is greater than ever and the recognition/meaning of the movement has never been higher. In fact, there is a reduction of barriers: for example, the United Nations Office on Sport for Development and Peace partnered with SportAccord for a social responsibility project. Participants, builders, athletes, organisers, volunteers and structures need to surf on that wave and ensure the viability, the development, the growth and the explosion of the Paralympic movement.

In 2003, the IPC officially included in its constitution and mission a direction to encourage and support integration of sports:

“To promote the self-governance of each Paralympic sport either as an integral part of the international sport movement for able-bodied athletes, or as an independent sport organisation, whilst at all times safeguarding and preserving its own identity.”

At this point in time, there are different situations in the world of international para-sports. There are para-sports with

a counterpart, such as cycling, tennis or judo. There are specific sports with no counterpart, as they have been created specifically for people with a disability, such as goalball and boccia. Then there are sports with a counterpart but which cannot easily be integrated such as wheelchair rugby or wheelchair basketball.

As a result of these different situations, different models of governance are emerging. In the actual sports system there are three models:

1. Integrated within IF or as independent sport organisation
2. International Organisation of Sport for Disabled
3. IPC Sports.

Each of the existing para-sports and any future ones will choose a model of governance according to its situation and that is in compliance with its reality, needs, mission and vision (Phillie, 2011).

The Cycling Case (UCI)

Since 1994, the UCI Disability Committee has cooperated closely with the IPC. Cycling and meetings have been held once each year. Those meetings ensured that technical regulations of the UCI have been used in all IPC sanctioned competitions including the 1988 and 1992 Paralympic Games.

From 1997, there was a period of stagnation within IPC Cycling and many changes needed to be made.

In 1999, the UCI Committee and the IPC Cycling Committee have effectively worked as a single committee with common goals. A great deal of progress was made.

At the Sydney 2000 Cycling Sport Assembly, a complete re-write of IPC Cycling Rules was approved, together with an endorsement for the continued use of UCI Technical Regulations for all IPC Cycling Competitions. The Sports Assembly also approved the IPC Cycling plan to seek close collaboration with the UCI, with a view to the incorporation of regulations for Cyclists with Disabilities into the UCI Technical Regulations.

In 2011, the IPC Cycling and UCI disability Committee agreed that both instances would work closely together for their mutual benefit. Their proposition to create an “Agreement of Cooperation” and a 4-year Disability Cycling Development Plan for integration was approved by the UCI Management Committee. From that moment, the UCI dedicated a part time staff resource to follow the different steps of the joint committee toward the integration process.

In 2006, the UCI hosted the last IPC Cycling World Championships together with the last IPC Cycling Sport Forum, where the official motion of change of governance was presented and accepted:

“The IPC Cycling Sports Forum recommends to the IPC Governing Board to approve the transfer of governance of IPC Cycling from the IPC to the UCI, based on mutually agreed “Terms and Conditions”.

In February 2007, at UCI headquarters, the complete transfer of governance was signed and the first UCI para-cycling Commission was appointed by UCI President, Mr Pat McQuaid (Phille, 2011 and Cheseaux, 2013)

The Triathlon Case (ITU)

The first ITU World Championship took place in Cleveland, USA in 1996 with athletes with disabilities as part of the Age Group races.

In 2005 an annual World Championship under the ITU as part of the Age Group took place and was monitored by the athletes with a disability commission until 2005.

The election of Marisol Casado as ITU President in 2008, triggered ITU’s determination to take Paratriathlon to a higher level of success.

ITU Secretary General, Loreen Barnett, commits ITU Senior staff to support the promotion of Paratriathlon towards Paralympics inclusion (2008). Thanos Nikopoulos was appointed as ITU staff liaison for Paratriathlon in 2005, as well as Eric Angstadt in 2011.

In 2009, the ITU created the Paratriathlon Committee. Their work was to set and deliver the strategic plan for Paratriathlon.

The British Triathlon Federation led the development of profile based classification system, later amended and adopted by the ITU in 2007 (Angstadt, 2013).

Research Methodology

This study is an investigation of four areas, all having an impact on the integration of para-sports within their own International Federations.

The Complex Structure of Disability-specific Sport Governance

To investigate this area, we decided to go to the IPC library in Bonn, Germany and to read literature on sports governance in the specific area of sports for athletes with a disability.

Studying sports governance requires the ability to see the big picture, to understand how individual sports organisations fit into the greater industry, and to see the similarities and differences among the different industry segments. Learning about the governing structures and documents for sports organisation illustrates where power and authority exist within the industry (Hums, 2004).

The Social Responsibility of International Federations

The goal of this part was to have a better understanding of our role as future leader in sports management. What is our social responsibility while working in an International Federation and how can we work with this agenda in mind? We visited and used all the relevant documentation coming from “SportAccord”, “inside the games”, “sportanddev.org”, and “United Nations Millenium Development goals” official websites.

The Strategies in Place

The actual strategies in place for this topic were primarily found in press releases of General Assemblies or meetings but also found on the official documents received from the International Triathlon Union, the International Paralympic Committee, and the Union Cycliste Internationale.

The Reality on the Ground

Data was also collected from the 1st Paralympic Games in 1960 to the last one in London 2012 to challenge or confirm our thoughts.

Interviews

Two interviews were conducted. The interviews were recorded with the permission of the respondent and notes were taken during the conversation. The selection criteria for choosing the two interviewed individuals was to be the coordinator of a para-discipline within an International Federation.

The objective of interviewing Eric Angstadt from the ITU and Christophe Cheseaux from the UCI was to learn more about their role as an agent of change in the question of integration of sports for athletes with a disability.

A semi-standardised interview script was used with a number of predetermined questions and special topics. Additional questions arose from interactions during the interview itself. This method of interviewing was chosen as authors were unfamiliar with the exact role of para-divisions coordinators within an International Federation. Interviews were fully transcribed and analysed.

Data analysis

The goal of this data analysis is to find useful information, suggesting conclusions and set recommendations. We studied all Paralympic Games since 1960 in terms of the number of participants, number of medal events, differences between men and women, number of sports, etcetera.

A SWOT Analysis: Integration of a Para- division within an International Federation

Strengths

- a.1. Integration into a large structure (Cheseaux, 2013)
- a.2. More than simply following the UCI rules to organise their event, organisers now have a UCI Paracycling Commissioner present at their competition (Cheseaux, 2013)
- a.3. Experience and internal resources (Angstadt, 2013)
- a.4. The best athletes competing frequently at iconic venues on iconic courses with passion, before the eyes/ears of the sport world (Angstadt, 2013)
- a.5. Integration, inclusion and sharing resources across the whole IF (policies and procedures, events, education-certification, coach development, science & technology, media opportunities) (Angstadt, 2013)
- a.6. Financial support through sponsorship and core funding

(Angstadt, 2013)

Weaknesses

- b.1. If the IF is not 100% involved, athletes might suffer from the integration (Angstadt, 2013)
- b.2. Development of the discipline needs to fit in with the IF structure (Cheseaux, 2013)
- b.3. Integration is a long process (Cheseaux, 2013)
- b.4. Must receive support from the President or Executive Board to work (Angstadt, 2013)

Opportunities

- c.1. Agreement between the IOC and the IPC. The IOC will continue to support the IPC through 2020. A financial contribution but also systematic inclusion of the IPC in a wide range of programmes and activities such as IF development, Olympic Solidarity and Transfer of Knowledge (IOC, 2012)
- c.2. Platform and annual opportunity for exchanges of information and feedback from nations
- c.3. Still space for other sports in the Paralympic Programme (Appendix IV: Data analysis – Evolution of the Paralympic Games)
- c.4. Media coverage, new partners and new sponsors
- c.5. Professionalisation of the movement
- c.6. Increase in participants
- c.7. As there are not specific statements about how to integrate the

para-sport, a certain freedom is given to the IFs and this can help it to act more rapidly (Angstadt, 2013)

Threats

- d.1. Complex and fast evolving structure
- d.2. Still in process, no clear statement
- d.3. Critical mass and knowledge about Para-sport (Angstadt, 2013)
- d.4. Implementing IPC principles/ guidelines (Angstadt, 2013)
- d.5. Achieving IPC classification code compliance (Angstadt, 2013)
- d.6. Disabled-specific Federations are not as open as we imagine about the integration. They might slow down the process more than the able-bodied Federation (Cheseaux, 2013)
- d.7. Problem of communication with the NFs: The politics of each country is different concerning para-sports (Angstadt and Cheseaux, 2013)

Paralympic Games				
	IFs	Specific IFs	IOSD	IPC Sport
International Level	<ul style="list-style-type: none"> • Badminton World Federation (BWF) • World Archery (WA) • International Equestrian Federation (FEI) • World Rowing Federation (FISA) • International Canoe Federation (ICF) • International Tennis Federation (ITF) • International Triathlon Union (ITU) • International Cycling Union (UCI) • World Curling Federation (WCF) • World Sailing • World Taekwondo Federation (WTF) 	<ul style="list-style-type: none"> • Boccia International Sports Federation (BISFed) • International Federation for CP Football (IFCPF) • International Wheelchair Basketball Federation (IWBF) • International Wheelchair Rugby Federation (IWRf) • World ParaVolley (WPV) 	<ul style="list-style-type: none"> • Cerebral Palsy International Sports and Recreation Association (CPISRA) • International Blind Sports Federation (IBSA) • International Sports Federation for Persons with an Intellectual Disability (INAS) • International Wheelchair and Amputee Sports Federation (IWAS) 	<ul style="list-style-type: none"> • IPC Athletics • IPC Powerlifting • IPC Shooting • IPC Swimming • IPC Wheelchair Dance Sport

Table 1: Summer Paralympic Sports Organisation

Discussion

The Para-sport movement is a complex structure (d.1), not only at the international but also at the national level (d.7). See Table 1 for an overview of the summer sports.

Because of this complexity, two relevant issues came out of the research and one solution is suggested:

1. Some sports are in the Paralympic Games with only one or two paradiscipline (i.e. judo only for blind athletes, football only for cerebral palsy and blind athletes). It is because these are governed by one or two IOSDs. Because of this, athletes with other disabilities cannot compete in the Games
2. The International structure is complex and the national structure is even more complicated due to other stakeholders as, for example, the politics of each country. It makes everything complicated for the sports managers but also for the athletes.

It is suggested for the para-sport to follow the same linear structure as the IOC. Today the different governances divide the athletes by disability (IBSA) or by sport (IPC, IFs) or by the way they move (IWAS). It could be worth considering dividing governing bodies only by sport and be governed by the actual able-bodied IFs or by a specific IF if it is not possible (such as the BIFED for Boccia).

The Social Responsibility of International Federations

“The practice of sport is a human right. Every individual must have the possibility of practicing sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play.”

(Fundamental Principles of Olympism, Olympic Charter)

The integration within an able-bodied Federation allow athletes to compete at iconic venues on iconic courses with passion, before the eyes/ears of the sport world (a.4)

The goal of London 2012 was to break down stereotypes and to bring equality. The purpose was to break down societal barriers, stigmas and stereotypes and to help foster a broader paradigm shift to see individuals with disabilities from the perspective of inclusion and equality and not from the perspective of pity and charity. International Federations could also help to foster empowerment and social change for individuals with and without disabilities throughout the world.

Involvement of IFs have the potential to inspire a greater awareness, understanding, and commitment for building inclusive and equitable communities. The power of sport to engage many to give back and to work toward building the next generation of leaders, on and off the field (Wolff, 2012).

The Strategies in Place

There are agreements that exist between

the IOC and the IPC (c.1). Specially for the organisation of the Paralympic Games but it is possible that some agreements are missing in the governance part of the International Federations. Considering this, there are two approaches:

- 1) Leave the freedom to IFs to integrate para-sports or not and the way they want to integrate it (as is happening today c.7)
- 2) Require the integration and set a deadline.

The interview with Mr Cheseau and Mr Angstadt suggested the first approach. They are thinking the same by saying that if the IF is not 100% dedicated (b.1) and if the Executive Board do not give its support (b.4) to integrate its para-sport, it will not be good for the movement. It could end up even worse than the way it works today. On the opposite, if the governing bodies do not set regulations and deadlines (d.2), some para-sports could lose years in their development and the more they wait, the more the others develop. Going this way, we could see a huge difference in term of professionalism, performance (c.5) and increase of participants (c.6) between sports.

Event	#Men	#Women	#NFs
2007 Hamburg	38	13	13
2008 Vancouver	24	14	10
2009 Gold Coast	30	10	14
2010 Budapest	66	17	16
2011 Beijing	55	21	19
2012 London	165	43	N/A

Table 2: Paratriathlon World Championships Participation

Event	#Men	#Women	#NFs
2016 Rotterdam	92	43	26

The Reality on the Ground

The movement is still in process, there are no clear statement (d.2) but there are some required principles/guidelines (d.4) to follow coming from the IPC. Some of these guidelines, like the IPC classification code compliance (d.5) is very complicated and experts are needed. We think the IFs interested in integrating the para-sport must not take the whole responsibility directly on their shoulders.

This is a long process (b.3) and even longer if the sport is new and wants to be integrated in the Paralympic programme. The IF should use its large structure, expertise (a.1), experience and internal resources (a.3) but also consult the senior IPC representative athletes about decision-making and ongoing changes (Angstadt, 2013). The integration is about sharing resources across the whole IF structure (a.5). The Federation must identify the added value it can offer to the Paralympic movement. The Paralympic programme had 24 sports in London

and had 26 sports in Rio. The Olympic programme has 41 sports. The Olympic Games will have to remove sports if they want to add new sports while there is still space for new sports (c.3) for the Paralympic Games. Disabled-specific Federations are not as open as we imagine about the integration. They might slow down the process more than the able-bodied Federations (d.6). This is why it is very important to work together in the same direction. More platforms and annual meetings should be organised for IFs but also for sports manager to exchange information and gather feedback (c.2).

Conclusions and Recommendations

The Para-sport movement is a complex structure. Because it is complex at the international level, it is even more complex at the national level. This way, the Paralympic movement cannot evolve normally and the movement is losing time trying to deal with all the stakeholders involved.

Our main and first recommendation is to break down the barrier, stop thinking that the management of para-sports is complicated and only high level experts are capable of doing it. Actually, it is the opposite. International Federations have all the system already in place. They must consider para-sports as a division of their Federations and integrate them in exactly the same way as they integrate other disciplines.

According to Slack (1997), planned

change can occur in four different areas of a sports organisation: the structures and systems of the organisation, the conduct of the organisation's personnel, the products and services delivered through the organisation, and the technology supporting the organisation (Hums, 2004). The three first points must be considered for a good integration. Personnel should receive a training to be able to work toward developing it correctly within the structure and to offer good services to para-athletes.

At the beginning of the research, we focused only on able-bodied IFs. Now we also open the research to independent specific IFs (i.e. WOVD for sitting volleyball) because we understood that it is not always possible to integrate the para-sport as we thought. We suggest to adopt a linear structure, the same as the IOC. The governance of para-sports must be as simple as possible, definitely more simple than the complex structure that exists today.

The practice of sport is a human right. Today, the access to sport for all is not respected. It cannot be tolerated anymore. The IPC and the IOC should work together more and require IFs to set policies and regulations. They must require it in the same way they require the promotion of women in sport. The problem is that it is not an easy task. Tools, services and platforms must be available to help the able-bodied IF or independent specific IFs to develop para-sports effectively.

SportAccord might be a solution to the question of help, services and

platforms. SportAccord is the umbrella organisation for all (Olympic and non-Olympic) federations. The organisation provides services to its international sport federations and associate members (SportAccord 2016). We understood, due to this research, that integration only works with the support of executives. Changing mindsets is not an easy task and is a long process. Awareness should be raised through conferences and conventions, where this subject should be integrated and open discussions between federations enabled.

Para-sports organisations already in place are, understandably, not eager to leave the management of their sport to another Federation. It has, however, happened already and should continue in this way. The communication and collaboration between the different bodies must be the main focus at the beginning. A mixed commission must be created with existing bodies, IFs and para-athletes. There will be a moment when the complete transfer of governance will be signed.

The Paralympic programme will have 22 sports in Tokyo. The Olympic programme has 33 sports scheduled for 2020. The Olympic Games has to remove sports if they want to add new sports while there is still space for new sports for the Paralympic Games. Para-sport is a developing sector. It is growing fast and IFs should be aware of that and try to leverage the opportunity from the last Paralympic Games' legacy to work on it.

Integration is a long process and even longer if the sport is new and wants

to be integrated in the Paralympic programme. The Federation must be 100% prepared and open to integrate it. Change is inevitable. The future of para-sport will be full of changes. How sports governing bodies respond to these facts will determine their success in the future. The international sports movement possesses considerable potential to contribute positively to change, IFs must identify the added value they can offer to the Paralympic movement.

Through our research we faced some issues and limitations. The first and most important was the impossibility of interviewing employees of one or more IPC sports. At the beginning, the aim was to compare two kind of governance: The IPC and the IFs.

In the end, it was decided to focus on IFs and instead of doing a comparison, to work on opportunities and challenges of this kind of governance and to make recommendations for the IFs.

From the beginning, we decided to work with a certain kind of disabilities, the one integrated in the Summer Paralympic Games, meaning sensorial (blind), motor, physical and intellectual disabilities.

Deaf athletes are completely separated from the Paralympic movement and, for the moment, wish to remain that way. This should not stop future research to work on their integration too.

The website Right to Play makes Policy and Programme recommendations about the inclusion in sport of persons with disabilities and is a good source of articles.

From what we learned from the research, we adapted some of the points to make them specific for the International Federations.

Policy Recommendations:

- Federations are encouraged to formally include the full participation of persons with disabilities in the federation's development strategies and allocate resources accordingly
- Identify and eradicate stigmatising and discriminatory attitudes, policies and practices within the Federation itself
- Emphasise the importance of developing sports opportunities for people with different types of disabilities and equal opportunities for females and males to participate
- Ensure that policies and practices are rights-based, with suitable and effective enforcement mechanisms. Define the terms "sports for all", "disability", "participation", "mainstream sport", and "disability-specific sport"

Programme Recommendations:

- Ensure that coaches, technical delegates and organisers are trained in the technical aspects and inclusion of

para-sports (Angstadt, 2013)

- Invest in programmes to produce and make available low-tech, low-cost adaptive aids (Cheseaux, 2013)
- Disseminate resource materials on the sport for athletes with a disability to include photographs and positive role models, including women with disabilities
- Organise forums where National Federations can gather, share experiences and ideas, and network
- Encourage partnership and collaboration
- Exercise flexibility when partnering with national Federations (Angstadt, 2013)
- Develop a forum to enhance the capacities of stakeholders globally to include para-sports

As already mentioned, the world of para-sport is wide and is developing. Future research could investigate the point of view of the IPC about the integration through the IFs. Surveys could be distributed to all the IFs to understand their needs. Interviews with para-athletes would be interesting in order to understand their point of view and what they think is the best for the development of their discipline.

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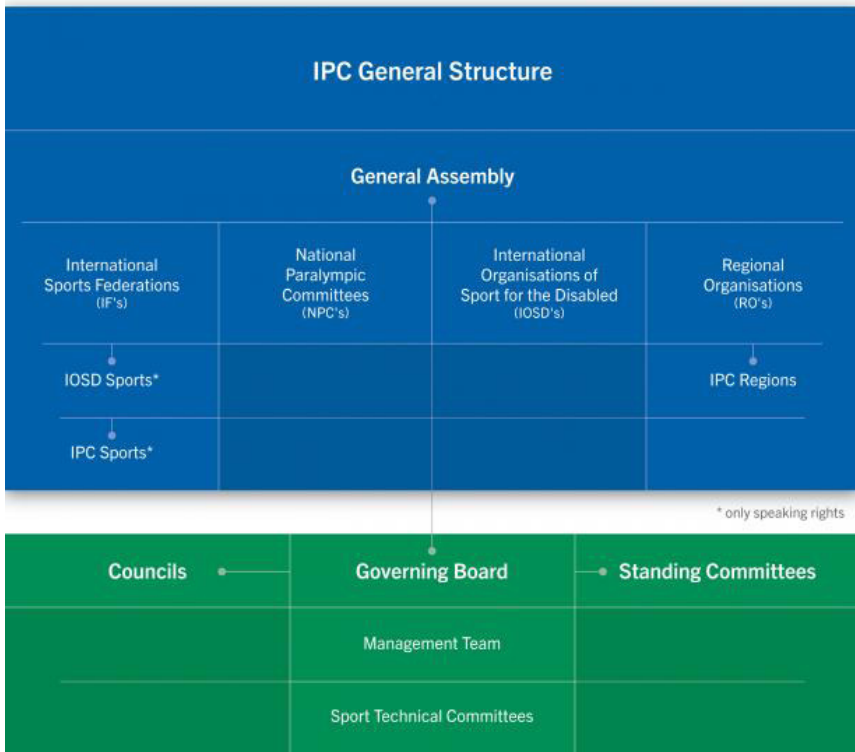
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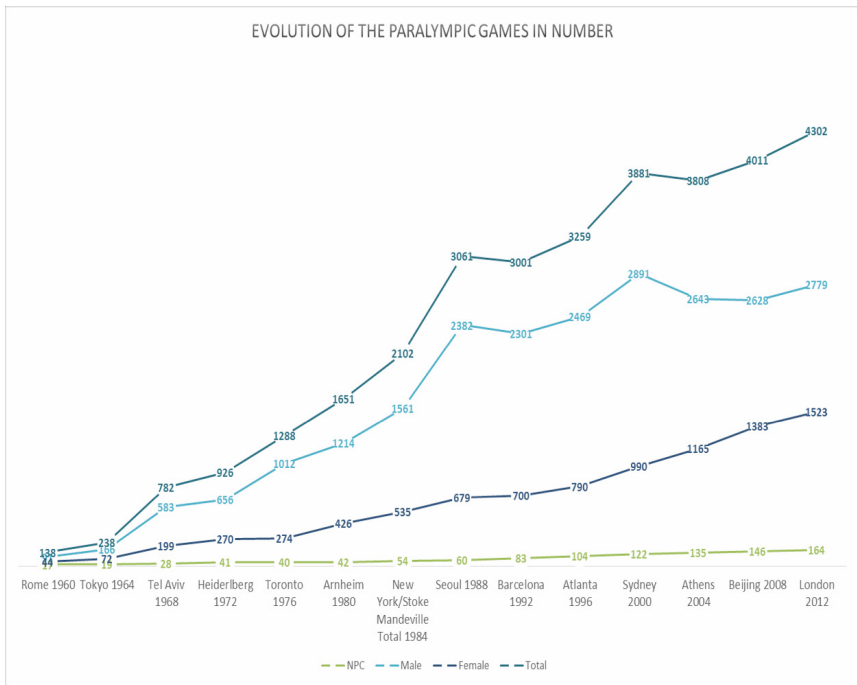
Appendix I

IPC Operational Structure (IPC, 2013)



Appendix II

Data analysis – Evolution of the Paralympic Games



Women’s Development Programs in International Federations:

What Impact are they having on their
Stakeholders?

‘Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance’

Kofi ANNAN

(7th United Nations Secretary General and Nobel Prize winner)

Abstract

Sport has been recognised as a powerful tool to promote gender equality and empower women, both on the playing field and in leadership roles in the work place. Numerous international frameworks support women's participation in sport with some international laws requiring equal access and opportunities for females. The United Nations, the Brighton Declaration, the International Working Group on Women and Sport as well as the many numerous international and national organisations all call for the development of programs designed to empower women and promote health, education and gender equality. The purpose of this study is to evaluate the impact that specific International Federation Women's Development Programs are having on their stakeholders. The main stakeholders have been identified as female athletes, women in 'non-sport' roles and women in leadership. Three International Federations are assessed by interviewing their programme coordinators and also surveying top level athletes from these federations. Furthermore the aspect of whether women are working in these programs in non-sport roles such as management, administrative, coaching or officiating roles will also be evaluated.

Executive Summary

The purpose of this study is to evaluate the impact that specific International Federation Women's Development Programs are having on their stakeholders. The main

stakeholders have been identified as female athletes, women in 'non-sport' roles and women in leadership. Current research has recognised the fact that barriers exist between the creation and implementation of women's development programs (Hancock et al. 2013). Three International Federations are assessed in regards to their strategic objectives, their implementation process and the outcomes being achieved. Furthermore the aspect of whether women are working in these programs in 'non-sport' roles such as management, administrative, coaching or officiating roles will also be assessed, as this is a key element for the success of such platforms (Hancock et al. 2013).

Women have always been underrepresented in all areas and in all levels of sport (Pfister & Radtke 2009). Initiatives from various organisations have attempted to address the invisibility of women within all areas of sport, however barriers still exist. Sport has the potential to facilitate change. Two different approaches to sport and development have been suggested: a dominant vision, in which sport essentially reproduces social relations, and an interventionist approach in which sport is intended to contribute to more fundamental change and transformation (Hartmann & Kwauk 2011). Hence, the overall theory of this latter approach believes that sport development programs should be constructed with educational initiatives designed specifically to address the strategic ideals and objectives. Along with this method, the Sport for Development theory states that if programs reflect the

social and cultural needs of a group or community then this assists in identifying the specific needs and concerns of its participants and also help practitioners tailor education information (Hancock et al. 2013). Training of coaches and instructors is vital and women should also play a key role within the programme as coordinators, coaches, mentors or in leadership. In addition, defining and measuring outcomes to determine if a programme is achieving its intended objectives and goals is also vital (Hancock et al. 2013). Both theories are taken in to consideration throughout the methodology and discussion stages of this paper.

The findings discussed in this paper draw from three semi-structured interviews with Women's Development Programs/ Commissions coordinators and fifty-four top level athletes who completed an online survey. Raw data was also collated from all International Federation's websites in relation to how many programs are currently operating and how many women hold current leadership positions within these federations. This data was then utilised to decide what federations were to be interviewed, and a selection was made also in regards to the type of sport and its culture.

It was found that general improvements across all three federations have included the formation of women's commissions, the creation of full time women's coordinator positions, the implementation of various new events, series and world cups and the creation of successful social media presence by all. 75% of all athletes surveyed stated that they felt that their

sport had grown in popularity, increased in participant numbers and also attracted more media attention. The statistics and numbers of women involved in 'non-sport' roles within each federation however is difficult to ascertain, and this reflects the invisibility of women within these organisations.

The common theme that was evident through all three federations was that of male traditionalism. Although each sport comes from a different history and involvement in such events like the Olympic Games, the depth of this tradition seems to have cemented the barriers and challenges that regularly arise for women's presence in both the sport and non-sport worlds. It is partly due to this that a lack of women represented in either administration or officiating roles is evident. This element was also stated at the recent 6th International Working Group on Women and Sport World held this year in June, 2014.

The media also plays an important role in maintaining the invisibility of women in sport structures (Wadesango et al. 2010). The media still continues to display men playing sport as a 'normal', but at the same time giving less time, credit and respect to women, therefore reinforcing the gendered stereotypes common in today's society (Packer et al. 2014). This dominant vision or position is evident by the underrepresentation of female athletes in the public eye and is an explicit reminder that sport is a male domain and women should not participate in 'men's sports'. Federations need to develop stronger links with the media to ensure the appropriate portrayal of their female participants is

occurring.

However, sport can combat this type of prejudgement and can offer a valuable pathway to provide information on important social issues, including health and wellbeing. It can be used as an educational tool for social empowerment, via participation and competition, through the learning of skills and values such as leadership, communication, teamwork, respect and negotiation. Gender education has a role to play in promoting change and forming positive gendered notions in the younger generation, rather than reinforcing the pre learned dominant notions that are still common today.

Measures are being developed through various federations for the increase of female decision makers, however further support and guidance is needed. Women's specific programs must address the needs of their stakeholders through opportunities and education, and measure outcomes regularly. Success breeds success and sport has the potential to facilitate change. As more positive outcomes arise for women within sport organisations and more role models are evident within society, sport for women will continue to increase in priority and attain equal place on the podium.

Introduction

The purpose of this study is to evaluate the impact that specific International Federation (IF's) Women's Development Programs are having on their stakeholders. The main stakeholders have been identified as female athletes, women in 'non-sport' roles and women

in leadership. Current research has recognised the fact that barriers exist between the creation and implementation of women's development programs (Hancock et al. 2013). Three IF's are assessed in regards to their specific women's development programs and their impact they are having on their current stakeholders. Furthermore the aspect of whether women are working in these programs in non-sport roles such as management, administrative, coaching or officiating roles will also be assessed, as this is a key element for the success of such platforms (Hancock et al. 2013). The impact and worth of these programs will be assessed in regards to their strategic objectives, their implementation process and the outcomes being achieved.

Sport has been recognised as a powerful tool to promote gender equality and empower women, both on the playing field and also in leadership roles in the work place. Women's participation in sport has a long history. It is a history marked by division and discrimination, but also one filled with significant accomplishments by female athletes and important advances for gender equality and the empowerment of women and girls (United Nations 2009). A concerted effort to remobilize sport as a vehicle for various modes of social development, especially amongst the minority sectors of the world, has become very popular (Kidd 2008). In particular, the international movement for promoting women's involvement in sport has slowly risen in stature. Numerous international frameworks support women's participation in sport, with some international laws requiring equal

access and opportunities for females. The United Nations, the Brighton Declaration, the International Working Group on Women and Sport (IWG) as well as the many numerous international and national organisations all call for the development of programs designed to empower women and promote health, education and gender equality (Hancock et al. 2013). Such initiatives from various organisations have tried to address the invisibility of women within all areas of sport, however there are still barriers that exist. This study will attempt to identify these barriers for women in both sport and non-sport roles within federations and recommend future initiatives that may contribute to the positive visibility of women in sport.

Literature Review

There is a plentiful amount of research into women, gender inequalities, sport and development and women in leadership, particularly over the past few decades. Women have always been underrepresented in all areas and in all levels of sport (Pfister & Radtke 2009). The question of whether research should be focused on men, rather than women, has also been raised by numerous authors and raises a number of issues, reactions and opinions that are very relevant to the gender debate in sport today. The literature on women in sport draws upon many different aspects in regards to inequality and disparity on and off the field. "There is a historical basis in the difficulty, largely but not wholly experienced by men, of accepting the female body participating in sport activities" (Ferez 2012). The process of acceptance has been long and slow

due to historical known opinions like Barron Pierre de Coubertin stating during the 1912 Stockholm Olympics.

"The true Olympian hero is, in my opinion, is the individual male adult. The Olympic Games have to be restricted to men, the role of women should first be to crown the winners" (Ferez 2012, p.273).

Twenty years ago the 'Women, Sport and the Challenge of Change' conference took place in Brighton, England. It was organised and hosted by the British Sports Council and supported by the International Olympic Committee (IOC). The outcome of the conference was the 'International Strategy on Women and Sport' and included in this was the landmark 'Brighton Declaration on Women and Sport'. This declaration set forth ten essential principles to be considered for the development of a sport culture that enabled and valued the full involvement of women in every aspect of sport (Fasting et al. 2014). Since then the Declaration has been signed by 415 organisations, federations and/or associations and continues to be a guiding force for equality in sport (Fasting et al. 2014). The purpose of the Declaration was to use it as a lever of change (Fasting et al. 2014). There were numerous examples of the Declaration being used as a basis for specific charters and platforms, and the need for early success to continue was crucial. Other conferences and legacies built on this progression and all have focused on continuing this momentum. The Sydney Scoreboard was developed in 2010 with a change in focus to women 'beyond sport'. Its aim was to increase women's representation on sports boards globally with an interactive online tool to

assess this progress. The twenty year anniversary for the first conference was marked this year in Helsinki at the IWG for Women and Sport Conference and it can be seen that progress has been made, however there is still more work to be done.

Since women's inclusion in the modern Olympics, women have struggled to participate as equals (Teetzel 2011, p.273). The rules of participation and eligibility for various events have progressed slowly over time, with inequities still evident today in some aspects of the Games. In the last 20 years, the IOC has gradually increased the number of women's events on the Olympic programme, in cooperation with the IF's and the Organising Committees, however the treatment of women as unequal or inferiors is still evident (Teetzel 2011). Some events are still less in either length, time or distance when compared to men's events which implies value judgments about women's skills and fitness capabilities (Teetzel 2011). Sport influences some people's assumptions about women's value as human beings and the organisation of sport can create and magnify gender differences in society (Teetzel 2011). A small selection of researchers have suggested that sport is adding to this gender gap and that the separation of women's sport could contribute more to the gender inequalities that are evident in today's society. Hegemonic masculinity is said to exist when the attributes of masculinity are viewed as superior to femininity and holding more power, reinforcing the dominant ideology and gender inequalities (Massengale 2009). It is argued that sport cultures tend to affirm male dominance

and this can be seen in leadership and coaching roles within sport organisations as well (Massengale 2009).

Sport does have the potential to facilitate change. Hartman and Kwauk have suggested two different approaches to sport and development: a dominant vision, in which sport essentially reproduces social relations and a interventionist approach, in which sport is intended to contribute to more fundamental change and transformation. Sport offers a vehicle for reproducing dominant conceptions of masculinity and unfortunately can be counterproductive (Smith 2010). This conception involving men having a dominant social position over women in society can be accentuated in sport, hence nullifying the fundamental purpose of a women's development programme. Simply having a sport programme or initiative of some kind will not automatically or inevitably serve the development goals of equality and fairness (Hartmann and Kwauk 2011). Hartmann and Kwauk state that a combination of sport and non-sport programming necessities need to be designed to specifically address the requirements of the focus group, enabling participants to discover and acquire new life skills, social knowledge and values and leadership qualities.

The interventionist approach, on the other hand, looks to sport to play an alternative role in society. It recognises the social inequalities and seeks to reshape social order by focusing on the empowerment of the focus group through education, socialisation and intervention (Hartmann and Kwauk 2011). This approach is a more radical approach where sport is

re-theorized in its political engagement and educative practice to contribute to more fundamental, systemic changes in social life (Hartmann & Kwauk 2011). Hartmann and Kwauk believe that sport development programs should be constructed with educational initiatives designed specifically to address the strategic ideals and objectives. Sports programming and participation does not automatically lead to prosocial outcomes and effects. These effects intensify only under the correct or sufficient conditions, with appropriate resources and with comprehensively designed and directed programming (Hartmann and Kwauk 2011).

Sport for Development (SFD) programs have focused on empowering girls and women through participation and increased access, however with an onus on them changing their behaviours, actions and attitudes in order to achieve gender equality (Hayhurst 2011). The SFD theory more specifically was designed to address the gap between theory and practice by using scientific procedures to assess three components: content, process and outcome (Hancock et al. 2013). Content refers to the type of sports (individual or team) and educational themes (health, relationship, conflict resolution, environmental etc.) used in the development initiatives. The SFD theory states that if programs reflect the social and cultural needs of a group or community then this will help in identifying the specific needs and concerns of its participants and also help practitioners tailor education information (Hancock et al. 2013). Collection of basic demographic data is also important. Process refers to the examination of organisational

structures including policies, staffing structure, programme agenda and goals and the delivery of the programme activities. Training coaches and instructors is vital and women should play a key role within the programme as coordinators, coaches, mentors or in leadership. Furthermore, programs should connect with a range of stakeholders so as to provide the most up to date educational information. According to the SFD theory the content and process stages should promote organisational change, utilise problem based learning and aim for the transfer of knowledge to the community (Hancock et al. 2013). Lastly the SFD theory suggests that long term and short term monitoring and evaluation plans should be used to measure the impact or outcomes of the experience for its different levels of stakeholders. Defining and measuring outcomes are vital to determining if a programme is achieving its intended objectives and goals (Hancock et al. 2013). The SFD theory is an important tool for examining development programs across the world and can be used as a tool to assess programs that lead to development (Hancock et al. 2013).

Barriers for women participating in sport include not only gender notions, stereotypes and segmentations but also other obstacles like gender identity, culture, body image, assumed concepts of femininity, sexuality and homophobia. How each of these aspects effect the role of women in sport and leadership could benefit from further research.

Not surprisingly, limitations experienced within this study were mainly in regards to inadequate data from federations.

Data is a key measure when assessing the impact of development programs, as stated in the SFD theory. Two out of three federations did not have current official statistics or numbers of their stakeholders involvement, in either participation or administration levels, and also did not complete the questionnaire. The details of the questionnaire were discussed, however the document was not returned. Another significant limitation is the difficulty of measuring 'impact'. This is due to the fact that impact needs to have measurable indicators. If these indicators are not appropriate then the ability to monitor a programme's effectiveness is extremely difficult. Also most IF's do not have direct access with a lot of athletes, so a snowball selection, participants contacted through mutual associations within each federation, had to be made in regards to the online survey. Lastly, the results discussed are solely the opinion of the women's programme managers so therefore may hold some bias.

Data from these surveys were collated and analysed with respect to the relevant themes addressed within the semi- structured interviews and the main concepts of this research task. Raw data is presented in table and graph form on the number of programs and the number of women in leadership positions presently and also relevant survey results. Due to confidentiality the specific federations will not be named in this research.

Methodology

The findings discussed in this paper draw from three semi-structured interviews with Women's Development Programs/

Commissions coordinators and fifty-four athletes who completed an online survey. Semi structured interviews were the most appropriate for this study as each federation has its own unique history and culture within the organisation and also within the sport. Raw data was also collated from all IF's websites in relation to how many programs are currently being run and how many women there are currently in leadership positions within these federations. This data was then utilised in regards to the selection of federation's interviews, and a selection was made in regards to the type of sport and its culture. The size of the federation, the gendered history and the age of the programme were all taken into account, and an encompassing selection was made from this. The federations will remain anonymous throughout this paper and will be referred to as A, B and C.

Federation A has a long-standing history as both a recreation activity and a sport, and offers a variety of individual disciplines. Federation B's history dates back to the late 1800's and is a male dominated, team sport. Federation C is an individual sport with a rich and thrilling history of male participation, in both recreational and racing events. The phrase 'women in men's sports' is unfortunately very common and is applicable to all three federations, due to the nature, culture and historical notions of each sport.

The interviews were conducted in October and lasted from one to two hours. Interviewees were asked to complete a questionnaire prior to the interview on the more statistical data and information needed so as to streamline the interview

process. The interviews were structured into six different sections. These sections were created after consulting the SFD theory and also various federations' strategic outlines. Out of the federations chosen, two have specific women's programs; one that was established five years ago and the other established nine months prior to the interview. The third federation was chosen because it has a long standing women's commission, rather than a specific programme. This commission was formed eight years ago. From the raw data collected there is a large proportion of commissions when compared to specific programs and this was why a commission was investigated. Two interviews were with women who were directly coordinating the women's programme within their federation and one interview was with a retired commission coordinator. The current coordinator is on leave. Variables identified for the analysis of the interviews were the IF's participation rates and numbers, the strategic goals and mission of the programme, the structure, system and culture of the federation, educational programs, media portrayal and the gender gap.

All interviews were recorded and later transcribed and analysed in regards to their themes and concepts. Athletes from within these federations, ranging from amateur to professional, completed an online survey of twenty questions in regards to the role their federation was playing in their career. Questions were asked in relation to how their federation had helped them in regards to events, finances, coaching, leadership, equality, media attention, funding and further career opportunities. Snowball sampling

of elite athletes occurred via the women's development programme coordinator or commission coordinator. Another group of randomly selected amateur athletes were also contacted through various clubs and teams via the women's coach or coordinator. From the fifty four total entries the majority came from North America and from Federation B (see Figures 1 & 2).

The results from these surveys were collated and analysed with respect to the relevant themes addressed within the semistructured interviews and the main concepts of this research task. Raw data is presented in table and graph form on the number of programs and the number of women in leadership positions presently and also relevant survey results. Due to confidentiality the specific federations will not be named in this research.

Results

From the list of ninety IF's currently functioning a total of seven federations have specific women's programs. Sixteen women's commissions currently exist and two federations have their own specific entity (WTA, WPGA) (see Figure 3). Within the total number of federations, nineteen women are currently in the position of chief executive officer (CEO) and eight women are currently Chair of the Board.

At present, women throughout the world are largely underrepresented in decision making positions in sports organisations and institutions in all areas, at all levels. (Olympia: European Chart of Women's Right in Sports December 2011). Whilst there has been a marked increase in the number of women participants in

sport in recent years, the role of women as top-level administrators has not always increased to the same degree (Wadesango et al. 2010). Various initiatives like that from the IOC and the IWG are slowly helping to shift the barriers that still prevent women from gaining access to leadership roles, however more work is needed. At present 22.6% of the active IOC members are women, this figure has improved since 2011 when it was just 17% (Olympia: European Chart of Women's Right in Sports December 2011). However the average women as board chairs across all IF's is currently only 13% (Sydney Scoreboard September 2014).

A similar underrepresentation can be found in the current results from this research within the three federations interviewed. One federation had no female board

directors, whilst the other two federations had one female representative each.

In regards to gender and the total IF's Chair of the Board members there are eight women in 2014 in these positions (Sydney Scoreboard 2014). This figure has increased from 2013 where there were six women in chair positions (Sport Accord 2013).

Semi-Structured Interviews

All interviews were digitally recorded, transcribed and analysed. These interviews concerned the rationale, strategies, structures, experiences and perceptions of two women's development programs and one women's commission. The interviews were split into six main sections focusing on current statistical

Athlete Survey Responses by Region

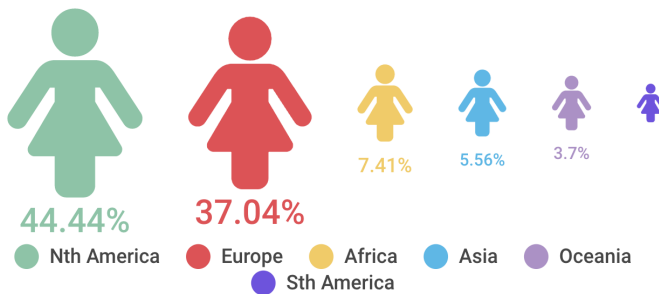


Figure 1: Survey response by region

data, the programs strategic goals, education within, gender equality, media and empowerment. This was done after consultation with various strategic plans that were available online from different federations and also using the SFD theory as a guide, with a particular focus on the content, process and outcome of each programme.

The interviewees all had different backgrounds. Federation A's interviewee is an active athlete within the sport, and has competed professionally for a number of years. Federation B's interviewee, although not a player of the game, is an official referee and umpires matches on a regular weekly basis. Federation C's interviewee, although a retired commission coordinator, still works within the federation in a different role and is a recreational participant of the sport.

Statistical Data and Numbers

Statistical data from all three federations interviewed showed a marked increase in female participation within each sport discipline. This data is difficult to measure though, and each federation commented on the variance in data depending on what target group was being addressed. Differences occurred within the individual sport discipline in some cases, however generally though there was a clear rise in female participants. The differences within these disciplines related to the history of the sport and its strong masculine origins.

The history of all federations in regards to women participating in sport is quite recent. Federation C's commission commenced in 2006, Federation B women's programme commenced in 2009

and Federation A commenced as a full time programme in 2014. Federation C is not an Olympic sport, Federation B will be played for the first time in the upcoming Rio 2016 Olympics and Federation A has been part of the Olympics since 1980's. For women, all sports are relatively 'new' and have a limited history of equality and empowerment.

Generally speaking, the main stakeholders identified by the three federations are athletes and participants, followed by event organisers, national federations and the media.

Sport development over the years has established the 'sports development metaphor' of the participation pyramid. The base of the pyramid represents mass participation and the top, elite participation. This metaphor has shaped the thinking, conceptualizing and planning for sport development in many countries and was referred to throughout the semi-structured interviews by all three federations (Sotiriadou et al. 2008). In simple terms, the aim of a development programme has been to attract a large participant base, therefore increasing the likelihood of a larger number of elite athletes progressing to higher levels in the pyramid. Throughout the interviews though it became apparent that each federation had a slightly different approach to this pyramid, and this is illustrated below (Figure 4).

The key element when using this type of development metaphor is to give grassroots participants the opportunity to progress through the sports pathway to a level that is appropriate for them, with the pinnacle being an elite athlete.

The pyramid involves the foundation of the basic skills required for the sport, followed by participation for either health, fitness and/or social reasons, thirdly the performance at a competitive level with increased proficiency, and then lastly excellence, reaching the top of the pyramid and accomplishing national and internationally recognized performance (Sotiriadou et al. 2008). Federation A has a focus on the general public mainly due to the recreational component of the sport. It has a long history of both genders participating, however competitively women were only allowed to compete thirty years ago. Since then the elite level athletes have performed well at the Olympics, but there are large gaps within different disciplines. Federation A reported that their focus within their participation pyramid was to the:

“... elite sports and to provide excellent elite series, excellent media exposure, excellent quality of work for them [women],

then it will inspire the rest of the pyramid to come and be part of it”.

Hence, Federation A's pathway for development starts from the top of the pyramid and moves down, providing growth and development from elite to grassroots. This 'trickle down' effect asserts that successful performances by elite athletes encourages people to take part in physical activity, and specifically in Federation A's sport, and will lead to an increase in mass participation numbers at the base of the pyramid (Sotiriadou et al. 2008).

Federation B has very deep male roots, with the team sport being played historically by upper-middle class males. It has a strong school sport presence for boys and therefore its grassroots programme is very important. Federation B, however, is doing the opposite to Federation A and appears to be putting more emphasis on the foundation

Has your IF had a positive impact on you in regards to your training, competitions and career?



● Positive impact for individuals

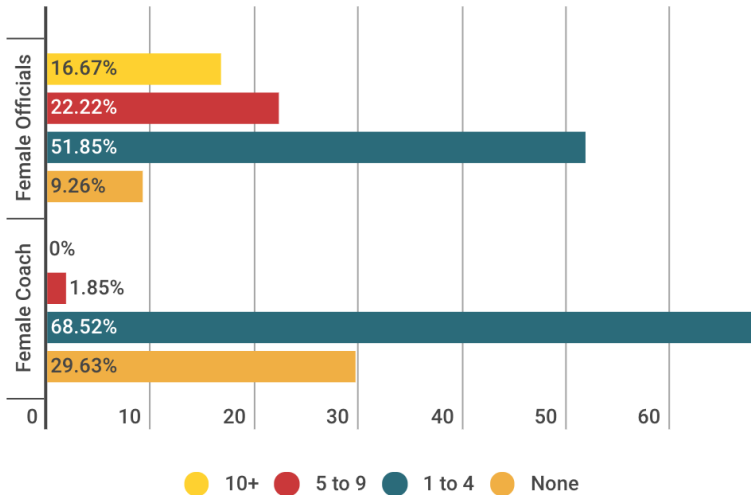
Figure 2: IF impact on women

and participation phases within their programme, thus using the 'trickle up' effect. The goal of the 'trickle up' is to increase the number of participants at each level so as to increase the number of potential elite athletes flowing through to the top of the pyramid (Sotiriadou et al. 2008). They have a developed a

successful grassroots programme that is bringing large numbers of players to the sport. Through this programme there are pathways that focus on attraction, retention and advancement, with a key focus on girls in a mixed gender environment.

Federation C is an individual sport that

How many female coaches and officials have you had in the past 5 years?



“ Women are significantly under-represented in management, administration, coaching and officiating, particularly in higher levels”.

6th IWG World Conference on Women and Sport, 2014

Figure 3: Female coaches

requires expensive equipment and has always been very male dominated. Women have been invisible within the sport until recently due to the gendered notions associated with the sport. Federation C do not focus on their grassroots participants due to the nature of the sport and the high costs involved. Sports that depend on expensive and scarce facilities, might not build their competitive excellence from a broad foundation of participation (Sotiriadou et al. 2008). Their focus is on athletes already participating in the sport, and developing their skills and competencies through gender specific training camps.

In general, it can be seen that improvements across all three federations have included the formation of a women's commission, the creation of a 100% women's coordinator, the implementation of various new events, series and world cups and a successful social media presence. Athletes were asked the question of how their federation women's programme had helped them as an individual and an increase in events was the most popular response, followed by training and performance and media attention.

The statistics and numbers of women involved in 'non-sport' roles however, within each federation, was difficult to ascertain. Only Federation A was able to provide up to date figures on the presence of women in their organisation. These numbers however are a clear indication that a larger presence of women in leadership positions is required within the non-sport environment.

Federation B, although greatly lacking in female leadership, stated that:

"... we have to focus on [some] key pillars before we could really make a case at a leadership level. In terms of getting an impressive competition structure in place, have the girls playing at a standard that is impressive so that actually they get [positive] attention and people notice them, to get numbers up so people recognise that [the sport] is for girls; then you create an environment where we can now move on and progress at all levels at all areas, and I think that is where we are".

In regards to top-level elite coaching, in Federation B, at the recent women's World Cup there was only one female coach out of twelve teams. Federation C unfortunately did not have any current data available.

Athletes were asked if they currently had a female coach, how many female coaches they had had over the past five years, an estimation of how many female officials, referees, umpires currently involved in their sport and lastly whether female athletes within their sport were encouraged to take on non-sport roles.

The final result for non-sport roles is mixed. Female coaches are not very common however there is proof that women are becoming more involved in 'beyond' their sport. Further research is needed to see what specifically these roles are and whether they are volunteered positions or paid. Research does state that a majority of women involved in sport are in unpaid positions when compared to men, and are only given a small remuneration (Pfister 2013).

Strategic Planning and Goals

All three federations had varying ideas and opinions on their strategic plans and goals. Federation A had a relatively new document that was still a work in progress in some small areas. Federation B had planned and extensively developed a very effective and functional document that

had been revised and simplified so that all stakeholders could be engaged. Finally, Federation C had a strong emphasis on the 'beyond sport' sector for women and their involvement. All federations measured their programs developments by data collection, media attention and social media engagement. Broadcast figures was particularly important for Federation

What can your IF do more to help you as an athlete?

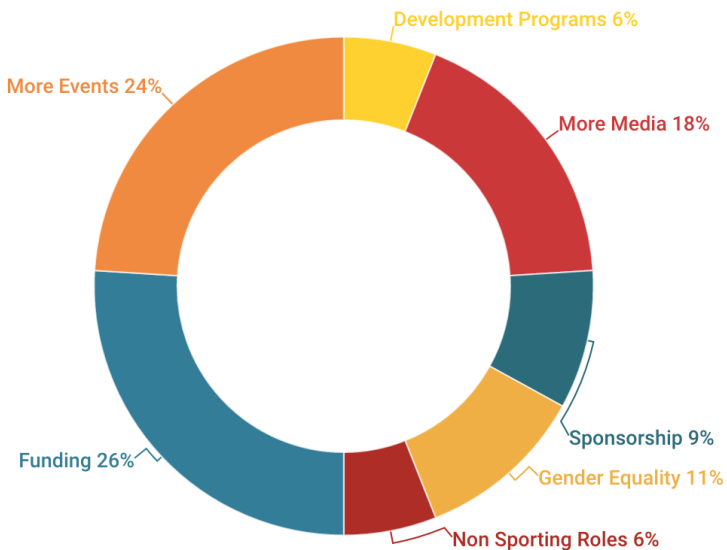


Figure 4: IF support to athletes

A and B, however this is a new aspect to the sport.

History and Culture

The common theme that was evident through all three federations was that of male traditionalism. Although each sport comes from a different history and involvement in such events like the Olympic Games, the depth of this tradition seems to have cemented the barriers and challenges that regularly arise. The belief and inherent culture that women should not be playing a 'man's sport' has been lengthy and ingrained within these federations sport subcultures. Federation B stated that:

"... [it's] a man's sport, only men played it, watched it, got involved in it. Women made the tea and sandwiches".

Hence a change in culture is needed within all three federations. The traditional events or disciplines seemed to enhance the gender divide, however, the newer more modernised events seem to obtain more equality. Federation A said that this was because these newer disciplines had begun around the same time women's emancipation began, so because of this the event and equality grew together, creating a new culture. The need to change the culture of the more traditional disciplines is required, but this however is a 'journey'. This journey was referred to throughout each interview, and it is a positive process that has already begun. Federation A sees the requirement to create the same events and the same opportunities for both sexes as crucial for this journey, and believes that through this an equal culture can be cultivated.

Federation B stated that:

"[due to] the nature of it, I do think we face challenges of it all the time because it is such a traditional male sport... I see this as a process and we are helping to facilitate movement through it".

Attitudes are changing within this federation as the skills and performance of elite female athletes are being recognised. Federation B stated that:

"... we are just trying to create opportunity".

Unfortunately though, within Federation B there are no female representatives on the international council. This is something that is in the process of being addressed by the federation but due to the culture of the sport may take some time.

Federation C has also a very strong male dominated culture and history. Money, culture and time were all listed as the biggest obstacles for women's involvement, however the federation has been working on getting women involved in 'beyond the sport' for some years now. There is a presence of women through some commissions and an equal amount of female presence in the federation's working environment.

Education

Federation A offers a variety of educational programs through their training centre, 'academy', which target athletes, coaches and officials. A women's specific camp was organised this year and was successful, along with women's specific coaching courses. Also within the commission there is now one female

representative on each committee. This is helping to challenge gendered notion and promote women's presence within all aspects of the sport.

Federation B, within their grassroots programme, has an educational section to assist coaches who may not have experienced working with girls due to the nature of the sport. The federation also delivers training and courses to coaches, however nothing specific for women or girls.

Federation C has developed training camps this year for women to become more involved in their main discipline. These camps have been a success and will continue in the future. Seminars are offered to all officials and referees within the federation but there are vast differences in the number of men and women participating in these. Specific seminars for women are being investigated as this may provide a preferred environment for women in a very male dominated culture.

Specific promotion by the media on certain female athletes on social media and YouTube as proven to be successful for Federation C and has increased the general public's awareness about women in their sport. Similar to the other federations though, women's presence in the media is quite new so increased time is required for a greater impact to occur. Another positive step for Federation C is the recognition of the top female athletes at the annual awards ceremony. Although only small, these steps are continuing to challenge the gendered notion within each federation and influence and change the

culture both within the sport and also the governance. Athletes were asked for their general opinion on whether they felt they had experienced improvement within their sport and also what impact their IF has had on them as an athlete. 50% of athletes said that they had seen improvements occur, which is a positive result, however there was mixed opinions on whether the IF had had any impact on them personally.

As a final question in the online survey athletes were asked as to what specifically their federation could do more to help them. The three main areas that athletes saw as a priority are funding, more events and more media attention.

All of these factors mentioned above are interrelated. Funding is needed to create more events, sponsorship is needed for events to occur, the media is needed to attract sponsorship, sponsorship and gender equality are affected by each other and the media can reinforce the gender divide in society. Hence a complicated puzzle of needs and requirements must be carefully placed together to gain a positive outcome for all stakeholders involved.

Discussions

Sport is a powerful tool. The United Nations have recognised this and with great optimism believe that sport can address all eight of UN's Millennium Development Goals (2003). The UN states that:

"The world of sport presents a natural partnership for the United Nations system. By its very nature sport is about participation. It is about inclusion and

citizenship. Sport brings individuals and communities together, highlighting commonalities and bridging cultural or ethnic divides. Sport provides a forum to learn skills such as discipline, confidence, and leadership and teaches core principles such as tolerance, cooperation, and respect. Sport teaches the value of effort and how to manage victory as well as defeat. When these positive aspects of sport are emphasized, sport becomes a powerful vehicle through which the United Nations can work towards achieving its

goals” (United Nations Inter-Agency Task Force on Sport for Development and Peace 2003, p. i).

Sport has the potential to change social order and decrease the gendered gap that is still prevalent in today’s society. It can be used as a tool to promote gender equality and empower women, however to do this, carefully planned women’s specific programs must be implemented that emphasise the positive aspects of sport and meet the needs of all stakeholders,

Women in International Federations

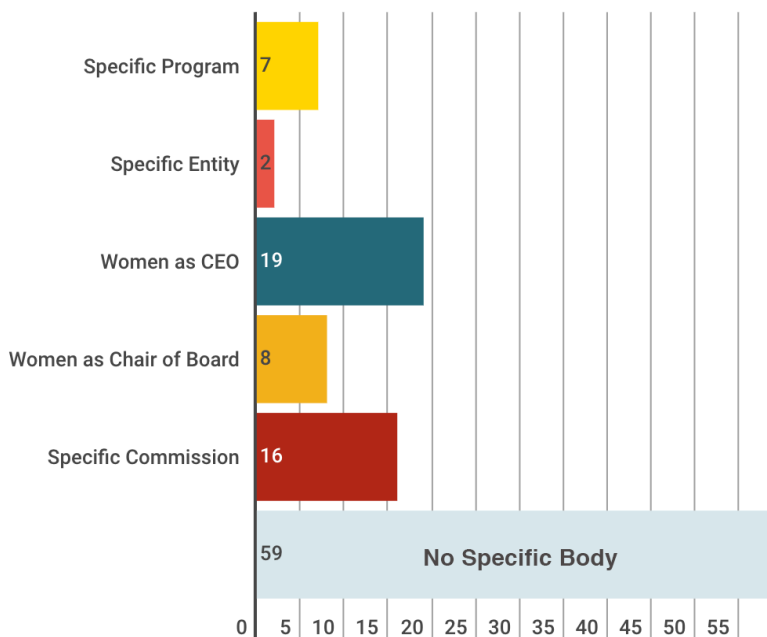


Figure 5: Female representation in IFs

on all levels. These levels can be ranked in a similar style as the 'sports development metaphor' and are illustrated below through the pyramid of participation and involvement (see Figure 5).

In this example the 'trickle up' effect would be the most effective pathway, with the main group being athletes and participants. From this main group, pathways for individuals to become more involved in their sport through refereeing, officiating, coaching, being members of a commission or working within the federation must be made available. The 'opportunity' for all women involved within their sport is key, not only through active participation but also the governance of the sport. This will progress to more women being involved within the sport and hence provide the much needed stepping stones into leadership positions within federations, clubs, organisations and councils.

It is clear from the results of this study that there has been an increase in elite and amateur levels of women's participation within the three federations. However, a lack of women represented in either administration or officiating roles is evident. The 6th IWG World Conference on Women and Sport held this year in June (2014) states that:

"Despite growing participation of women in sport and physical activity in recent years and increased opportunities for women to participate in domestic and international arenas, increased representation of women in decision making and leadership roles within sport and physical activity has been slow to follow. Women are

significantly under-represented in management, administration, coaching and officiating, particularly in higher levels".

One of the barriers for women in obtaining a leadership or board position has been the male-dominated culture of sports organisations (Adriaanse 2013). Sport organisations are often immersed in tradition. The people and events in history often reflect the views and values of particular groups (Shaw 2007). The implications of favouring such historical moments can have long-lasting effects on sport organisations. All three federations in this study have strong male governance, each with a long, traditional history of male participation. Subsequently this is reflected within the administration of each federation, in particular within leadership roles. Steps are being taken to address this under-representation, however gendered relations within each federation need to be better understood. Further studies on how gender is working in sports governance and the how the role of men can help to advance gender equality should be examined so as to help develop more effective leadership pathways. A lack of female administrators, coaches, referees and officials can promote the stereotypical belief that women do not possess the competence and leadership abilities necessary for holding such positions (Wadesango et al. 2010).

"This may act as a stumbling block for all those females who may want to penetrate the domain of sports management" (Wadesango et al. 2010, p. 72).

The media also plays an important role in maintaining the under-representation of

women in sport structures (Wadesango et al. 2010). Women still receive lower levels of media coverage and in a recent study done by Packer et al. (2014) in the United Kingdom found that the coverage of women's sport in UK newspapers is still extremely low and there is a large disproportion of written articles. The study also found that there was no evidence that hosting an Olympic Games would improve the representation of women in newspapers, even though the London 2012 games had the highest level of female athletes ever and at least one female representative from every country. This under-representation or absence of female athletes in the public eye has been argued by Harris and Clayton (2012) to be an explicit reminder that sport is a male domain and relates to Hartman and Kwauk's theory of dominant vision. The media portrays sports as a normal activity for men, but at the same time is giving less credit and respect to female athletes and sportswomen, therefore reproducing the social relations of masculinity and power. This portrayal contributes to girl's and women's views about their ongoing and future participation in sport and can greatly affect all levels of sport organisations from development through to elite competitions (Packer et al. 2014). The Gender Equality in Sport Proposal (2014) states that women are often framed as suitable only for individual sports or sports with an aesthetic element, not 'men's sports'. They are portrayed differently than male athletes, both in images and language. Often they are presented in a non-sport context and in traditional feminine poses or roles. Moreover, female athletes are still being depicted in a way that contributes to the marginalisation of women's sport due

to the emphasis placed on femininity and sexual attraction, instead of strength and beauty (Gender Equality in Sport Proposal 2014). This gendered stereotyping needs to change to promote a fair portrayal of female and male athletes, particularly for sports where women are not playing the so called 'men's sports' like Federation's B and C.

The relationship between the media and sponsorship for female competitions or athletes can also add to these gendered issues. Skogvang (2013) states that the relationship between these two entities seems to increase the gender gap in some sports, in particular women's football. The differences in media coverage and salaries between men and women create tension and conflict within individual sports and this adds to the gender gap. Federations need to develop strong links with the media to ensure appropriate portrayal of their female participants is occurring. The need to increase media attention is vital for the success of any sport event and the commercial value of women's sport needs to be a priority for this to occur. The media shapes the public's perceptions of the accomplishments of women playing. It also shapes the dreams and aspirations of girls. Boys grow up watching television, bombarded by heroic and confident images of themselves playing sports and being honoured for their accomplishments. They know they are expected to play sports and are encouraged to do so by everyone around them. Girls do not receive these messages (Lopiano 2008). Athletes identified this need within this study, however the necessity of portraying women's sport appropriately is vital. A study completed, in the UK during the

time of the London Olympics, found that women, when they were represented in the media, tended to be demonstrated in non-active roles or feature 'female appropriate sports', and that much of the commentary of female athletes was irrelevant to their sport role and was a 'major contributor to the trivialisation of sportswomen's accomplishments' (Harris & Clayton 2012). The need for sport federations to enforce gender equality and fairness upon their media stakeholders is essential. If an increase in positive media attention occurs for women's sports then a stronger commercial value will be produced, resulting in more sponsorship and funding. Federation A has gained some success already with this aspect of their programme by educating their media clients in being 'gender aware'.

Sport is not only about achieving equality in women's participation and treatment within sports, but it is also about promoting sport for gender equality and social empowerment. Sport offers a valuable pathway to provide information on important social issues, as well as health and wellbeing. It can be used as an educational tool for social empowerment through the skills and values learnt such as leadership, communication, teamwork, respect and negotiation. Hartmann and Kwauk's interventionist approach main focus is to reshape social order through education. Education can provide a very effective pathway for fundamental and systematic changes in social life. The Strengthen Sport for Development and Peace Strategy (2014) states that a number of studies have shown that education through sport and play allows children and youth to better enjoy and engage with the

learning process, while enhancing social contentedness between participants. Gendered notions and beliefs are created at a young age and are learnt from social environments. Gender education could be implemented into grassroots programs through formal and non-formal settings to help change and form positive gendered notions, rather than reinforcing the dominant ones of today. Federation B through their grassroots programme does not separate the boys from the girls at a young age. This is purposely done so as not to segregate or imply that the genders are different, or one gender is more important within the sport than the other. They do not however have any type of formal or non-formal education in regards to such topics of gender, equality and other such social issues. This could be integrated within the programme and be beneficial in the long term in helping to confront gender norms.

Conclusions

In conclusion, it is clear from this research that women's specific programs and commissions are playing a positive role in the sport world and are having an impact on their main stakeholders, female athletes. The organised international women in sports drive has slowly gained momentum, and more recently has started to climb in stature. Although there are a limited number of specific women's programs within IF's, it seems that these programs are helping in providing girls and women with an opportunity to be part of the sport environment. Results from this research suggest that most athletes have seen improvements within their sport, particularly for professional female

athletes. More growth is needed though in sponsorship, education and future career opportunities within this main group. To gain a clearer picture on this further research could be conducted into other IF's that have specific women's programs. More data could be collected and then compared with other non-specific IF's to see what differences are occurring.

An increase of women's presence is also needed in leadership roles. Despite the fact that generally male and female members of executive bodies have similar qualifications, similar positions in their professional lives and a similar commitment to sport, women are not represented in positions of leadership in equal volumes as their male counterparts in sports organisations (Pfister 2009). A clearer pathway for women to advance from a participant towards an administrative role, and then if applicable, into a leadership position within their sport, is needed if an increase in female decision makers is sought after. The barriers that affect this are largely associated with the gender gap and the dominant social position that men have within sports federations that is still present in today's society. It has been said that sport can accentuate this notion, however this was not the case with the three federations analysed in this study. Each federation is aware of the importance of women within their organisation and, although slowly, they are making provisions to balance their administrative numbers. Other research

states that women require assistance in being able to balance work and home life, as it is women who are faced with the responsibility of balancing work inside and outside the home. This, therefore, affects their position in the labour market (Pfister 2009).

Finally, the various initiatives and frameworks that have been set up to support women's participation in sport, like the IWG and IOC framework, need to continue to further develop pathways for women into decision making positions. Measures are being developed through various federations, however further support and guidance is needed. Women's specific programs must address the needs of their stakeholders through opportunities and education, and measure outcomes regularly. Funding for athletes needs to be allocated more equally to each gender, as well as the need for media coverage to represent both genders equally. Sponsorship, funding and the media are all linked together and all greatly impact the opinion and attitudes of society and their views on gender. Success breeds success and sport has the potential to facilitate change. As more positive outcomes arise for women within sport organisations and more role models are seen within society, sport for women will continue to increase in priority. Developing a positive change for women in all sports requires a cohesive effort by everyone involved.

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Integrity Management in International Sport Federations

Status Quo and Future Perspectives

‘You must be the change you wish to see in the world . . .’

Mahatma GANDHI

(Leader of the Indian independent movement)

Abstract

In the recent years, a surprisingly wide range of sports have been touched – and in some cases sadly overwhelmed – by a considerable number of recurring scandals involving corruption, match-fixing and betting frauds. The roots of these phenomena can be ultimately traced to the increasing commercialisation of sport as well as to the explosion and rapid growth of the global online betting market. The expansion and evolution of the sport business on a global scale has been linked to the distortion of the traditional inherent values of sport, being recently portrayed as a self-oriented money making business (McGowan, 2008; Madigan and Delaney, 2009). The ideal of sport as an arena driven by social and moral strength, aspiration, inspiration and fair play is gradually losing its lustre. Moving from this premise, the ultimate goal of the paper is to delineate, analyse, and compare the different governance approaches and tools adopted by the sport movement and by the most important International Federations to better tackle corruption in sport, with particular focus on match-fixing. To this purpose, the report has identified a model of integrity management based on four strategic pillars and has highlighted some good practises that are currently proliferating.

Introduction

In the recent years, a surprisingly wide range of sports have been touched – and in some cases sadly

overwhelmed – by a considerable number of recurring scandals involving corruption, match-fixing and/or betting frauds. The roots of these phenomena can be ultimately traced to the increasing commercialisation of sport as well as to the explosion and rapid growth of the global online betting market. The expansion and evolution of the sport business on a global scale has been linked to the distortion of the traditional inherent values of sport, being recently portrayed as a self-oriented money making business (McGowan, 2008; Madigan and Delaney, 2009). The ideal of sport as an arena driven by social and moral strength, aspiration, inspiration and fair play is gradually losing its lustre. In this context, the integrity of sport relies on the authenticity of the outcome of sport competitions being entirely and exclusively based on the competing merits of the participants involved. In a crescendo of public concern, match-fixing, along with doping, hooliganism and racism has undoubtedly become one of the most severe pathology faced by the sport movement in the 21st century. It is not a case that the integrity of sport competitions is a subject which has been rising in prominence on the agendas of the sport environment, and is now unanimously recognised as an overriding priority and fundamental core value to be firmly preserved. Symmetrically, such topic has also received a great academic attention in the last years because of its alarming pervasiveness. A multitude of reports and studies in this critical area illustrates how the manipulation of sport events is commonly carried out by transnational organised criminals exploiting gambling

and thriving on the lack of international regulations (for instance ICSS, 2014; UNODC/IOC, 2013; IRIS, 2012). At a public level, governments, regulators, supranational institutions, prosecutors and law enforcements authorities have intensified their dialogue over the last five years, culminating with the adoption of a Council of Europe's Convention in September 2014, as an international instrument aimed at fighting the manipulation of sports competitions.

On the other side, the sports organisations, and particularly International Federations, have contributed to this institutional framework and have started to implement internally tools, models and regulations addressing the integrity challenges that they are facing. Moving from this premise, the ultimate goal of the research is to delineate, analyse, and compare the different governance approaches and tools adopted by 28 Summer Olympic International Federations (members of ASOIF), to better tackle corruption in sport, with particular focus on match-fixing.

A Definitional Framework: The Concept of Integrity in Sport

Integrity is one of those concepts that emerges over and over in debates about modern sports, particularly in the commercialised and professional era that now prevails. However, there is yet no clear consensus and acceptance in

the institutional and academic worlds around the definition of the concept of integrity of sport (Chappelet and Mrkonjic, 2013). Indeed, without a clear understanding of its meaning, sport integrity is impossible to protect, monitor and preserve. In everyday speech, the word integrity evokes concepts like wholeness, undividedness and purity.¹ Similarly, in the world of sports, the investigated word assumes analogous connotations: it refers to the wholeness, honesty and incorruptibility of both the sport and its players (Danaher, 2014). It reflects a set of collective ideals and agreed values, including but not limited to bravery, goodness, sportsmanship, fair play and discipline. However, despite being something typically perceived and understood by everyone, it is a concept that refuses to be contained within well-defined boundaries. As a starting point in a definitional attempt, it should be highlighted that what de facto drives the popular devotion to sports is its integrity: the authentic, unscripted ethos of a contest that engages athletes who strive to win in a genuine and honourable way, and generates a level of excitement and admiration rarely reached by other forms of entertainment (Monitor Quest, 2011). Integrity thus constitutes the salience of sport, as well as the authenticity seal and ultimate guarantee of the innate values incorporated in it. Undeniably, one of the most fundamental pillars of sport resides in the unpredictability of the outcome of the competitions, which constitutes a *condicio sine qua non* of its

¹ Interestingly, Merriam-Webster Dictionary (2014) defines integrity as "the quality of being honest and fair" and as "an unpaired condition", but also as "firm adherence to a code of especially moral or artistic values".

authenticity and reliability. Fair and honest performances and outcomes presuppose immunity from illegitimate enhancements and/or external influences.

Where a sport ordinarily demonstrates integrity, it is usually linked to a greater level of public confidence, fan engagement, support and trust. In light of this, it is feared that if the public starts to perceive the result of a sport contest as predetermined or affected by external factors exceeding the sphere of the competing merits of the participants involved, then all the interest is likely to wane and the people to get disillusioned. This potential vicious cycle constitutes a threat not only for fan and sportspeople in general, but also for all the diverse actors in the ecosystem, such as sponsors, broadcasters, manufacturers, betting operators and others who depend on sport for their livelihood and/or business. As a matter of fact, today sport is confronting with a plethora of dilemmas and challenges to its integrity that, in their scope, dynamics and consequences, threaten sport's commercial and social appeal (Monitor Quest, 2011).

One of the most comprehensive and substantiated definitions of the concept of sport integrity has been elaborated by Monitor Quest (2011) as follows:

“Sports integrity consists of two broad commitments on the part of competitors, teams, governing authorities, and associated parties in sport to the broader public. These are: 1) to preserve the fundamental character of sport competition as an honest test of skill

and ability; 2) to act on and off the field in ways consistent with preserving the social and economic value of sport.(p. 15)”

This definition emphasises two critical dimensions: the authenticity of the competition itself, and the conduct – on and off the field – of sport related professionals consistent with the scope of preserving the social, economic and recreational value of sport. In view of these considerations, any form of behaviour which might have the effect to alter or distort the natural outcome of a competition, as well as any detrimental conduct capable of inflicting reputational, financial or social damage, can be subsumed under the notion of threat to the integrity of sport. Within this broad framework, what constitutes an integrity breach varies depending on the sport, its competition dynamics, its regulations and governance peculiarities. In a similar vein, integrity management has been defined by Maesschalck & Vanden Auweele (2010, p.2) as ‘the activities undertaken to stimulate and enforce integrity and prevent integrity violations within a particular organisation’.

The Major Threats for Integrity in Modern Sport

As just observed, attempting to define the concept of sport integrity is a necessary preliminary step when exploring the best strategies to maintain sports immaculate from the plethora of integrity threats happening with greater frequency on a

global scale. Symmetrically, the spectrum of integrity threats currently assaulting sports is as diverse as sophisticated. Indeed, adopting such a broad definition for sport integrity inevitably results in a similar wide-ranging connotation for the area of integrity threats. Within this broad theoretical framework, a methodical classification of the most relevant threats to the integrity of sports is an important preliminary step that can facilitate in preventing, anticipating and mitigating the

or sport officials and the purpose is typically to influence the outcome of a match. This category notably includes betting and/or sport related match-fixing, manipulation of competitions, doping, insider information, conducts detrimental to sport and technological performance enhancement;

Non-competition related, where the threat usually affects the management process. The professionals commonly



Figure 1: Map of Integrity Threats

possible breaches.

Some authors (Maenning, 2005) have theorised a categorisation based on the distinction between competition (or on-field) and non-competition (or off-field) related integrity threats:

Competition related, where the threat usually affects a competitions or match. The professionals commonly involved are athletes, coaches and/

involved are managers, administrators and/or other employers and the purpose is typically to influence decisions and determinations related to sport events, funding, elections, appointments and rights (i.e. hosting events, marketing rights, apical management positions, etc.). This category notably includes corruption, money laundering, management malfeasance, financial irregularities, conflicts of interests and money laundering.

Other potential ways to differentiate all the existent integrity threats could be to look at whether the primary purpose is to gain economic or sport benefits, whether the threats are uniquely in conflict with the disciplinary rules (and hence can be punished only by sport judicial bodies) or also in conflict with the law (and therefore can be prosecuted by public authorities), or whether the threat takes root in individual or collective interests (Oxford Research, 2010).

The scope of this paper is limited to the study of actual and potential strategies in place within International Federations in order to prevent solely match-fixing. However, it should be noted that, given the strong interrelationship and correlation between the different integrity threats observed, a solid strategy against match-fixing is likely to generate positive effects towards the other integrity threats just identified. The manipulation of sports competitions, including match-fixing, is regularly cited, together with doping, as one of the most serious threats to the integrity of sport. Concerns have substantially multiplied as new technologies have globalised betting and organised crime seems to be targeting the market. In the last years the amount of detection activity that took place has been really shocking (Brown, 2014). Match-fixing has been recently defined by the Council of Europe (2014) as *“an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sports competition in order to remove all or part of the unpredictable nature of the aforementioned sports competition with a view to obtaining an undue advantage*

*for oneself or for others”*²

Given the growing amount of recent scandals across a broad spectrum of sports, it is difficult to determine which particular sports are more exposed to match-fixing. Distinguished researchers (Forrest et al., 2008) and betting regulators (Norwegian Gaming and Foundation Authority et al., 2013) have outlined a series of common factors conducive to increasing and facilitating the incidence and scale of match-fixing. These have been generally regarded as the most influential circumstances:

- High betting volumes;
- Wide number of betting types available;
- Athlete or officials with low salaries;
- Athlete or officials can take single actions able to determine, on their own, the outcome or part of the outcome of the competition;
- Single competitions do not affect the final placing in a tournament;

² COUNCIL OF EUROPE (2014), Convention on the Manipulation of Sports Competitions, Article 3 – Definitions. Interestingly, a broader definition has been coined by the Australian Sport Minister as follows: “Match-fixing involves the manipulation of an outcome or contingency by competitors, teams, sports agents, support staff, referees and officials and venue staff. Such conduct includes: a) deliberate fixing of the result of a contest, or of an occurrence within the contest, or of a point spread; b) deliberate underperformance; c) withdrawal (tanking); d) an official’s deliberate misapplication of the rules of the contest; e) interference with the play or playing surfaces by venue staff; f) abuse of insider information to support a bet placed by any of the above or placed by a gambler who has recruited such people to manipulate an outcome or contingency” (SPORT AND RECREATION MINISTERS’ COUNCIL COMMUNIQUE (2011), National Policy on Match-Fixing in Sport).

- Weak and/or superficial scrutiny of the competitions;
- Salary levels are regarded as unjust;
- General level of corruption in the community.

These factors could be used by sport bodies and authorities as guiding principles to analyse how vulnerable to match-fixing their sport is and to implement effective measures aimed at preventing and combating it.

The growth of match-fixing for the purpose of betting frauds has mirrored the tremendous expansion of global online betting and live sports coverage (Squires, 2014). Indeed, recent studies from Marketline (2013) and H2 Gambling Capital (2013) have unveiled the exceptional growth of the global online gambling industry during the period 2006-2013. By 2012, H2 Gambling Capital valued the industry at an estimated €50.7 billion (Bozkurt, 2012). This impressive rate of expansion is forecasted to continue to manifest itself during the period 2014-2017 at an increase of 51.4% since 2012 (MarketLine, 2013). In other words, the betting segment has experienced an exponential expansion, primarily thanks to the advent of new online betting platforms. As a matter of fact, gambling and betting have always been at the forefront of technological advancement and have recently sustained a massive 'cyber revolution'. With the constant emergence of new operators in the market and the explosion of the online betting sector, users today experience an unprecedented spectrum of offers and betting types, which varies depending on

each specific sport.

Although football, tennis, cricket, horse racing and badminton appear to be the most lucrative sports for match-fixers, there have been multiple less sonorous match-fixing cases in as many other sports.

A recent study (2013) published by the international law enforcement body, INTERPOL, highlighted that match-fixing "was reported in over 70 countries across six continents" only during the period of time from June 2012 to May 2013. Similarly, in January 2013, FIFA stated that it believed that "about 50 national leagues outside of Europe are being targeted by organised crime figures in the betting market".

In this line of considerations, the ICSS Report (2014) suggested that "numerous clues lead one to think that the cases so far identified make up only the tip of the iceberg".³ The implications from this development are two-fold; online betting does not only pose a threat to sports integrity but the exposure it has to money laundering should not be underestimated. There are a number of factors that contribute to the latter such as; the wide variety of online betting products offered by gaming companies especially by those that operate in poorly regulated markets, which gives them the opportunity to accept higher cash flows and have a relatively high pay-out percentages and tax-free winnings.

³ The report highlighted the occurrence of 37 reported scandals in Europe, 17 in Asia, 5 in America, 4 in Africa and 4 in Oceania, over the last three year.

Given this context, at a governmental and institutional level it is essential to understand the need for a coordinated, cross-jurisdictional, supranational approach in order to deal efficiently with this globalised phenomenon. It is not a case that the issue of the manipulation of sports competitions has undeniably become, today, an issue of international public interest, that has escalated the agenda of prominent European and international institutions. Within this new framework, one of the most interesting initiatives is certainly the Council of Europe Convention on the Manipulation of Sports Competitions, which was adopted and opened for signatures in September 2014. The Convention aims to “prevent, deter, detect and combat” sports manipulation by promoting “national and international cooperation between the public authorities concerned, as well as with the relevant bodies or organisations particularly those representing the sports movement and betting operators” (Article 1).

It is certainly true that sports institutions cannot deal with the proliferation of cases of match-fixing on their own – *a fortiori* if this phenomenon is linked to sports betting and criminals’ affairs, which can potentially affect public order.

However, it is equally undeniable that the sport movement as a whole and especially International Federations are urgently required to take new stringent steps in order to create and implement measures, regulations, tools and management protocols aimed at addressing the issue. A report from the EU Commission’s Expert Group on Good

Governance in Sport (2012) highlighted that “a lack of respect for good governance principles may contribute to conditions that facilitate instances of match-fixing. Therefore, a sound financial management, transparency, risk management plans and strategies at association and federation level are crucial to prevent fraud in sport, notably match-fixing, and to safeguard the integrity of sport” (p.10). Similarly, the European Parliament in its Resolution on Match-Fixing and Corruption in Sport (2013) called upon “all sports governing bodies to commit to good governance practises in order to reduce the risk of falling victim to match-fixing”. Other policy platform such as the Council of Europe⁴, UNESCO⁵ and the Commonwealth Advisory Board on Sport⁶ have equally expressed the need for better sports governance to help the fight against match-fixing, primarily through a system of proper sport rules and sanctions (ESSA, 2014). The ICSS Report (2014, p.4) corroborates these findings and warns that: “the lack of resources in some federations needed for the detection of fraud and weak surveillance of competitions in lower leagues, junior’s competitions and also women’s team sports and local competitions, lead to the conclusion that cases of manipulation could be a lot more numerous than those yet uncovered” (p. 4). Monitor Quest (2011) reiterated this concern as they observed how governing bodies of sports have often been unable to keep pace

⁴ Cf. Council of Europe Convention on the Manipulation of Sports Competitions (2014), Article 7.

⁵ Cf. UNESCO Declaration of Berlin (2013).

⁶ Cf. Commonwealth Advisory Body on Sport (CABOS), Chair’s Statement 12 June 2013.

in their efforts to detect and mobilise against the actual integrity threats and consequently have found themselves in playing catch-up.

The Virtuous Cycle: The Pillars of Integrity Management

Unfortunately, the history of integrity management within the international sport bodies is connoted by an alarming lack of interest and superficiality. Some International Federations have always tended to believe that integrity

breaches (and especially match-fixing) constitute isolated cases that do not require a structured approach and can be addressed with reactive measures in case of occurrence. Alternatively, some sports organisations have always asserted a natural impermeability to match-fixing, stressing that only certain sports or competitions are being touched by this pathology.

However, this trend is currently moving towards an authentic awareness of the risks at stake, and the sport bodies are starting to understand the crucial importance of preserving integrity as necessary condition of the



Figure 2: *The Integrity Cycle - the Four Pillars of Integrity Management*

commercial and social value of their sports. As it will be noted in the next paragraph, there are examples of International Federations implementing this philosophy, establishing effective regulations and investigative systems and adopting a proactive and preventative strategy instead of a reactive one. Despite few federations seems to be adequately resourced and staffed to detect and deal with this phenomenon, some good practises are currently proliferating, also thanks to the positive pressure and guidance of prominent sport governing bodies.

The authors have identified a model of integrity management based on four strategic pillars (or operational elements), which aim to tackle the different facets and components of the sophisticated dynamics ascribable to the manipulation of sport competitions.⁷ However, it should be preliminarily underlined that a critical prerequisite for an effective strategy is to consciously recognise the existence of this phenomenon and to accept the scale of the problem.

Regulations

The adoption of clear, detailed and stringent regulations is imperative in order to define what is match-fixing, which conducts are subsumable under this category, who are the targets involved and what are the sanctions for such actions. In general, it is desirable to enclose these specialised provisions into

⁷ In general, an analogous approach has been observed and discussed by multiple authors: inter alia, Aquilina and Chetcuti (2013), Monitor Quest (2011), Sportradar (2014), ICSS (2014), Oxford Research (2010).

a separated, autonomous, body of rules that specifically deals with all the integrity threats identified above. This *corpus iuris* should assume the most enforceable architecture and can appear in different juridical vests (i.e. code of conduct, anti-corruption and integrity rules, anti-manipulation code).

These regulations should apply to athletes, management, officials, support personnel, agents, doctors, etc., in order to reinforce at every level the integrity of the sport and promote exemplary ethical standards. From a pure substantial perspective, a system of severe sanctions is required in order to compensate and attain optimal deterrence. However, an efficient strategy and clear policy for combating threats to sports integrity must be built upon a profound understanding of the scale and nature of each threat. Therefore, before drawing up the regulations, an exercise of 'threats assessment' would surely be a wise passage (especially for corruption and management malfeasance), able to suggest the shapes of structure, governance and operational controls needed.

To be credible, rules ought to be strictly and uniformly applied to ensure consistency within a sport and ideally also across different sports so that minimum standards, to which everyone must adhere to, can energetically take root within the whole sport community.⁸ The same consistency must apply also to enforcement and prosecution.

⁸ In a similar sense, cf. Monitor Quest (2011) and Oxford Research (2010), which calls for a "lowest common denominator" in international sports movement.

Education

Surveillance and disciplinary sanctions cannot be efficient on their own. They should be integrated and combined with prevention strategies. In this light, educational initiatives constitute a fundamental integrity protection measure with a long lasting impact.

Education strategies usually consist in the implementation of comprehensive programmes for athletes and other central actors in sport to prevent them from engaging in unacceptable behaviours and warning them of the surveillance they are under and the severe repercussions of breaking the rules. These education programmes should target all the broad spectrum of sports actors, including athletes, referees, officials, supporters, managers, sports journalists, public prosecutors, etc.

Education should focus on informing targets about the threats to sport; why it is wrong for athletes to engage in behaviours which are contrary to the values of sport; how corruption can ruin and endanger athletes' careers; what code of conduct athletes are required to follow; how match-fixers operate and target sports participants; how to behave if contacted in relation to actions which constitute a threat to sport; how gambling can lead to addiction; how inside information can be used for betting purposes; what the sanctions and consequences are if the rules are breached; how to recognise and resist match-fixing, etc. Education should be specifically tailored for the different targets at stake and can be implemented

through e-learning programmes, face-to-face lectures, pre-competition briefings, workshops, seminars, online programmes, quizzes and certifications.

Monitoring

With regard to betting related match-fixing, monitoring of betting activities is certainly an area of critical focus. Through surveillance of both betting patterns and athletes' behaviours it can be ascertained whether the integrity regulations or codes of conduct have been breached. Each sports governing body should therefore ensure to have effective mechanisms in place to guarantee compliance with their rules. A credible and extensive monitoring and detection of the global betting market is a crucial requisite to tackle manipulation of sports competitions. In recent years considerable progress has been made with the development by betting operators of advanced warning systems to alert sports organisations of any suspicious activity. These mechanisms can be achieved mainly through the support of betting operators, who generally have comprehensive means to detect and deter possible instances of manipulations, by providing data and intelligence via centralised platforms for exchange of information. However, the betting industry does not have the power to impose disciplinary sanctions on athletes or officials in breach of integrity rules. This is the responsibility of sport authorities and, consequently, International Federations should have strategic partnerships with betting operators in place in order to leverage such useful information and intelligence.

Surveillance of betting activities and sports competitions should include:

- monitoring of odds and odds movements within the international betting market;
- analysis of the course of actions of competitions;
- in case of unusual patterns, exchange of information with sport governing bodies;
- analysis of the probability of a competition being manipulated (via special algorithms);
- monitoring of betting accounts and volumes of stakes;
- detection of suspicious individuals in sport venues during competitions;
- databases of all scandals, with alerts on athletes and officials previously involved;
- platforms for confidential exchange of data.

Reporting

The establishment of an appropriate reporting system is a necessary tool to 'close' the integrity virtuous cycle and ensure that all the unusual conducts and instances of manipulations are brought to the attention of the sport bodies. An effective way to achieve this goal is undoubtedly the creation of a telephone 'hotline' (or 'whistleblower') for athletes and other participants involved in sport as a confidential platform to report integrity threats. Particularly, as long as there are no means in place able to guarantee the athletes' protection, in terms of anonymity, confidentiality and independence, athletes will continue to

be reluctant about reporting instances of manipulations and/or disclosing incidents. The International Olympic Committee highlighted the importance of this (and in fact implemented such measure at the Sochi Winter Games 2014) – often snubbed – type of prevention:

“Recognising the need for a reporting system for athletes, their entourage, as well as referees, it is strongly recommended that sports organisations and sports event organisers establish a system whereby anyone can report, in a confidential manner, if he or she has been approached or has witnessed any wrongdoing related to match-fixing or irregular and illegal betting” (IOC Recommendations from the Working Group on the Fight against Irregular and Illegal Sports Betting, 2013).

In view of these considerations, it should be conclusively underlined that the primary scope of this tool should be to protect athletes and sports, and not to help convict or arrest third parties.

Owing to the exploratory nature of this study, it must be stressed at the outset that the underlying aim of devising this framework was not to 'test' the 28 International Federations from a statistical point of view, but to generate rich insights into how each of these federations are reacting to these issues based on their size, resources, history of dealing with match-fixing in their sport and culture (values system). Indeed, all ASOIF federations websites were scanned and published data in relation to the existing regulations, platforms and

tools they were using to preserve sport integrity, was added to provide valuable insight into the value system that these organisations sought to promote. These insights could serve as a reference point to other IFs, which are contemplating to introduce/improve such measures and tools.

The Conceptual Model Applied: Current Status within ASOIF International Federations

Once identified a potential theoretical model to minimise the likelihood of integrity breaches, it is important to determine the current level of implementation in place within the sport movement. To this purpose, the interesting Table 1 illustrates the current integrity status quo of the ASOIF federations and investigates the presence or absence of each critical factors observed in the theoretical framework. The table below provides a simplified overview of the general advancement of integrity management strategies within ASOIF federations umbrella that encompass the following sports: archery, athletics, aquatics, badminton, basketball, boxing, canoeing, cycling, equestrian, fencing, field hockey, football, golf, gymnastics, handball, judo, modern pentathlon, rowing, rugby union, sailing, shooting, table-tennis, taekwondo, tennis, triathlon, volleyball, weight-lifting and wrestling. From examination of the data, it seems prima facie apparent the

scarce level of attention towards this novel management area. Indeed, from a cursory glance, it can be easily noted that the number of “No” (60% of the investigated cases) in the table is way larger than the number of “Yes” (40% of investigated cases). However, on a brighter side, it should also be noted that some recent trends appear relatively encouraging. From a governance point of view, a best practice for IFs to effectively implement all the integrity functions observed in the preceding paragraph, is to establish a separate integrity ‘unit’ or, depending on the size of the federation, a single integrity ‘officer’ or ‘point of contact’. Despite only 6 out of the 28 federations scrutinised, today have a specific functional unit or officer in place, it seems safe to affirm that a dramatic improvement is expected in this regard in the close future. From this point of view a good solid initiative comes from the International Tennis Federation, that has established a fully operational ‘Tennis Integrity Unit’ since 2008. Since its inception, a growing number of players were sanctioned with a life ban for committing match-fixing offences. However, recent allegations do not seem to completely validate such a positive view; the reference is to an investigation conducted by two media companies (BuzzFeed News and BBC, Jan 2016) according to which, in past years the TIU had omitted to take actions against a number of professional players, despite repeated warnings of match-fixing. The findings of the joint investigation unveiled that a US Open champion and doubles winners at Wimbledon were among a group of 16 players who had repeatedly been reported for losing matches when

highly suspicious bets have been placed on their games. Further evidence also demonstrated the existence of gambling syndicates in Russia and Italy, suspected of having earned substantial amounts of money placing highly suspicious bets on the concerned games. Further to this investigation, the ITF has announced the institution of an independent Review Panel aimed at reviewing and reporting on the appropriateness and effectiveness of the Tennis Anti-Corruption Program and making recommendations for possible changes (TIU Media Release, Jan 2016). As a part of the ambitious mission of the panel, a structural review of the ITU seemed to be contemplated:

How the TIU can be more transparent without compromising the TIU's need for investigative confidentiality; additional resources for the TIU both within the unit and at tournaments; structural and/or governance changes that enhance the independence of the TIU.

It remains to be seen whether the announcement paves the way for a concrete restructuring and strengthening of the TIU's functions and powers, but for now it is being hailed as a necessary step to fully restore the effectiveness of the ITF's integrity strategy.

As to the monitoring field, a closer look into the data indicates that more than 20% of the federations under the scope of the study appear to have a specific monitoring system in place (of their own). A model practice in this regard is undoubtedly the 'Early Warning System' implemented by the Federation

Internationale de Football Association (FIFA). Two private companies leaders in the services of monitoring of betting are Genius Sport and Sportradar, which provide some federations (e.g. FIBA, UEFA) with tailored fraud prevention systems. Along similar lines, another important recent initiative is the 'Integrity Betting Intelligence System' (IBIS) established by the International Olympic Committee (IOC) with the aim of supporting International Federations and event organisers in the fight for clean competitions and clean athletes, by providing them with alerts and intelligence via a specialised platform for exchange of information. On this front, it should be noted that as of early 2016, all ASOIF federations have adhered to IBIS and can use it also at their own events. Interestingly, IBIS remains operational between editions of the Olympic Games for the benefit of the federations to use at their major international events and other multisport events. In the event that a federation suspects one of its events is at risk, the federation may ask IBIS for information on the betting market.

In terms of educational provision based on the available sources, approximately 30% of ASOIF federations including: badminton, equestrian, football, rugby, table-tennis and tennis, have developed solid educational initiatives to raise awareness and educate their stakeholders in matters of match-fixing. This said, a best practise has been identified within the World Rugby, that presents a dedicated online e-learning platform (financed through EU Commission's funding) translated in 13 languages and aimed at raising

Integrity Management in International Sport Federations

Status Quo and Future Perspectives

International Federation	Integrity Officer / Unit	Monitoring of Betting*	Educational Initiatives	Integrity Code/ Policy**	Hot Line
Federation International de Natation	No	No	No	Yes - "Rules on the Prevention of the Manipulation of Competitions"	No
World Archery Federation	No	No	No	Yes - "Betting & Anti- Corruption Appendix"	No
International Association of Athletics Federation	Yes	No	No	Yes - "Betting, Manipulation of Results & Anti-Corruption Rules"	No
Badminton World Federation	No	Yes (i.e. partnership with Bwin)	Yes - seminars to raise awareness on match-fixing & briefings pre-tournaments	Yes - "Code of Conduct of Participants related to Betting, Wagering & Irregular Match results" (Appendix 5)	Yes – Whistle Blower Reporting System
Federation Internationale de Basketball	Yes	Yes - with Genius Sport & Sportradar	No	No	No
Association Internationale de Boxe	No	No	Yes	No	No
International Canoe Federation	No	No	No	No	No
Union Cycliste Internationale	No	No	No	No	No
Federation Equestre Internationale	Yes	Yes	Yes - "Clean Sport" Programme	No	Yes
Federation Internationale d'Esgrime	No	No	No	Yes - "Betting & Anti Corruption Rules"	No

* This criterion should be considered met only if a specific monitoring system is provided. However, it should be reiterated that all ASOIF federations have signed up to the IBIS platform implemented by the IOC.

** This criterion should be considered met only if a specific code, corpus of rules and/or separate comprehensive section is provided. See Table 2 for a more detailed breakdown of the policies related to betting and match-fixing.

Federation Internationale de Hockey	No	No	Yes	Yes - "Anti-Corruption Regulations"	No
Federation Internationale de Football Association	Yes	Yes - Early Warning System (EWS)	Yes - seminars & programmes - multiple partners (i.e. INTERPOL)	Yes - "Code of Conduct"	Yes – FIFA Integrity Hotline
International Golf Federation	No	No	No	No	No
Federation Internationale de Gymnastique	No	No	No	No	No
International Handball Federation	No	No	No	No	No
International Judo Federation	No	No	No	No	No
Union Internationale de Pentathlon Moderne	No	No	No	No	No
Federation Internationale des Societes D'Aviron	No	No	No	Yes - "Integrity, Manipulation of Competition and Betting" (Appendix 1)	No
World Rugby	Yes	No	Yes - dedicated online platform	Yes - "Anti-Corruption and Betting"	Yes
International Sailing Federation	No	No	No	Yes - "Betting & Anti-Corruption" (Appendix 5)	No
International Shooting Sport Federation	No	No	No	No	No
International Table Tennis Federation	No	Yes - through Sportradar and Genius Sport	Yes - seminars on prevention	Yes - "Regulations against Illegal Betting and Corruption"	No

World Taekwondo Federation	No	No	No	Yes - "Bylaws on Betting and Corruption"	No
International Tennis Federation	Yes	Yes - Multiple partners (i.e. Sportradar)	Yes - dedicated online platform	Yes - "Tennis Anti- Corruption Program"	Yes
International Triathlon Union	No	No	No	No	No
Federation Internationale de Volleyball	No	No	No	Yes - "Betting and Corruption Rules"	No

Table 1: Integrity Management and Tools with ASOIF Federations

awareness about betting risks and match-fixing among athletes and officials.

As to the reporting mechanisms, findings reveal that this constitutes the weakest aspect (together with the presence of an 'integrity unit') in the target group, with only 5 federations having a specific hot line or whistle-blowing system in place in 2016. Most federations have been reticent to date in this regard, as it generally perceived that the act of whistle-blowing will be detrimental to the image of their organisation. However, as Maesschalck & Vanden Auweele (2010) argue, this could actually serve them well in the long run as the more reporting channels a federation opens up, the less likely it is for affected individuals to turn to the press or other public reporting channels, hence preventing a major public scandal. Albeit being a relatively complex and sensitive matter, federations should seek to draft and implement a robust whistle-blowing policy that comprises of two aspects: the first that a reporting channel is opened and the second that the individual and information are protected.

The IOC seems to have taken a significant step in this direction with the creation an Integrity and Compliance Hotline open to athletes, coaches, referees as well as the general public, in order to report any suspicious behaviours or activities related to competition manipulation and infringements of the IOC Code of Ethics or other matters falling under the IOC's jurisdiction, including financial misconduct or other legal, regulatory and ethical breaches (IOC Press Release, Jul 2015).

With regard to the state of integrity regulations, given the importance of this pillar, Table 2 builds a detailed picture of the current integrity rules and policies in place.

As noted in the preceding section, a set of stringent regulations is an indispensable measure in the fight against match-fixing. Table 1 highlights that 15 federations have currently in place a separate comprehensive *corpus of rules* addressing and regulating integrity breaches. This figure seems significant if compared with the general trends. However, when breaking down the

regulations in place in the federations, the data suddenly show some alarming facts: despite almost all federations prohibit any form of participation in betting activities for their athletes and officials, more than 35% of the targets do not impose any sanction for such behaviours. On a more

encouraging note, more than 80% of the analysed federations currently have an ad hoc anti match-fixing provision or policy in place. However, from a qualitative perspective, the overall picture reveals a clear need for standardised integrity model rules or code of conducts,

International Federation	Participation Prohibited	Promotion Prohibited	Anti Match-Fixing Provision	Insider Information Prohibited	Sanctions for betting activities
Federation Internationale de Natation	Yes	Yes	Yes	Yes	Yes
World Archery Federation	Yes	Yes	Yes	Yes	Yes
International Association of Athletics Federation	Yes	Yes	Yes	Yes	Yes
Badminton World Federation	Yes	Yes	Yes	Yes	Yes
Federation Internationale de Basketball	Yes	No	Yes – Light Provision	No	Yes
Association Internationale de Boxe	Yes – Light Prohibition	No	Yes	Yes	Yes
International Canoe Federation	No	No	No	No	No
Union Cycliste Internationale	No	Yes	No	No	No
Federation Equestre Internationale	Yes – Only in the Olympic Games	Yes – Only in the Olympic Games	Yes	No	No
Federation Internationale d'Escrime	Yes	Yes	Yes	Yes	Yes
Federation Internationale de Hockey	Yes	Yes	Yes	Yes	Yes

Federation Internationale de Football Association	Yes	Yes	Yes	Yes	Yes
International Golf Federation	No	No	No	No	No
Federation Internationale de Gymnastique	No	No	Yes – Light Provision	No	No
International Handball Federation	Yes	No	No	No	Yes
International Judo Federation	Yes – Light prohibition	Yes – Light prohibition	Yes	No	Yes
Union Internationale de Pentathlon Moderne	Yes	Yes	Yes	No	Yes
Federation Internationale des Societes D'Aviron	Yes	Yes	Yes	Yes	Yes
World Rugby	Yes	Yes	Yes	Yes	Yes
International Sailing Federation	Yes	Yes	Yes	Yes	Yes
International Shooting Sport Federation	Yes	Yes	Yes	Yes	Yes
International Table Tennis Federation	Yes	Yes	Yes	Yes	No
World Taekwondo Federation	Yes	Yes	Yes	Yes	Yes
International Tennis Federation	Yes	Yes	Yes	Yes	Yes
International Triathlon Union	Yes	Yes	Yes	No	No
Federation Internationale de Volleyball	Yes	Yes	Yes	No	No
International Weightlifting Federation	Yes	Yes	Yes	Yes	Yes
United World Wrestling	Yes	Yes	Yes	Yes	Yes

Table 2: Betting Related Regulations with ASOIF Federations

applicable harmoniously and uniformly across all the IFs. These model rules can serve as minimum standards to which everyone – irrespective of the sport played – must comply, and federations can then establish more stringent regulations in certain critical areas and if necessary implement special measures depending on the scale of the challenges faced. In this vein, considerable hopes have been placed on the recent adoption by the IOC of the ‘Olympic Movement Code on the Prevention of the Manipulation of Competitions’ with the aim of providing the Olympic Movement and its members with harmonised regulations to protect all competitions from the risk of manipulation (IOC Press Release, Dec 2015):

The Code is a regulatory framework defining the different kinds of violations, minimum standards of disciplinary procedures and the scope of sanctions. All NOCs, IFs and their respective members at the continental, regional and national levels, as well as IOC recognised organisations, are called upon to implement regulations in compliance with the Code. This does not prevent sports organisations from having more stringent regulations in place. In order to The first implementation of the Code took place at the Rio 2016 Olympic Games, albeit it remains to be seen whether the tools envisaged by the new legal framework will be effectively adopted and implemented by federations and sports governing bodies.

Strengthening Integrity via Future Action and Collaboration

From the foregoing, it can be deduced that match-fixing linked to betting poses a number of integrity challenges to IFs, albeit they vary in scale and depth, as it has been demonstrated in the preceding sections of this chapter. All stakeholders of the sport movement are aware that actions must be taken now in order to safeguard the universal values of sport and maintain people’s interest. In recent years, there have been some innovative steps taken in the fight against match-fixing, however from the available evidence there is still room for improvement even for the more established and resourceful IFs. Tennis is a case in point, and in spite of the central role that the TIU holds, the international tennis governing bodies have been criticised both in recent media allegations and, more importantly, in a report commissioned by the European Union, that they ‘do too little in terms of education and prevention’ (Asser Institute, 2014, p.114). It seems not to be a coincidence, in fact, that further to recent scandals highlighted in the previous section, the newly-born TIU Review Panel has been empowered also with the task of analysing ‘how to extend the scope and reach of the tennis integrity education program’ (TIU Media Release, Jan 2016).

On the basis of the evidence currently available, it seems fair to suggest that more pedagogical tools should be

developed and more events should be organised to raise awareness of the integrity issues involved in all levels of the sport. Tennis is not the only sport going through this predicament but as the second most bet on sport in Europe, attracting almost €1 billion annually of the total of bets placed worldwide, it definitely needs to assume a greater responsibility in educating its players and fans in the betting risks involved (Sportradar in Rebeggiani & Rebeggiani, 2013: 171). As abundantly highlighted in this study, a critical prerequisite for an effective integrity management strategy is to consciously recognise the existence of these phenomena and to assess the scale of the problem. The findings indicate that to date only few of the 28 federations investigated are in fact duly equipped with the necessary managerial resources and tools to confront and mitigate the current integrity threats, relating to betting-related match-fixing. In light of these theoretical and empirical findings, a great deal of interest arouses around the recent creation by ASOIF of special Taskforce on Governance, with the mission of developing a comprehensive set of principles and indicators for IFs in the field of good governance, serving exactly as a tool to assess the status quo of IFs in terms of transparency, integrity, democracy, sport development & solidarity and control mechanisms (ASOIF Media Release, Jan 2016). Building upon an already existing theoretical framework (Chappelet and Mrkonjic, 2013), the goal is to enable IFs to objectively measure and ensure good governance throughout their own structure:

The assessment shall take into consideration the different sizes and resources of the IFs and put a strong focus on the evolution of governance processes in the respective organisations. Good governance shall thus be treated as an ongoing process that needs to be deeply rooted as a culture within each IF and should be regularly reviewed and improved. Accordingly, some of the indicators are likely to further evolve with time and new ones may be added (ASOIF Media Release, Jan 2016).

The results of this initiative are still unknown at the time of this publication. However, consensus seems to be emerging that the task of devising adequate procedures to prevent and deal with integrity breaches is today more pressing than ever for IFs. Despite some laudable initiatives, it is still rare to observe sports governing bodies that make integrity management a top priority and have installed model practices, sustained by appropriate investment throughout their sports (Monitor Quest, 2011). This study can hopefully serve as an inspiration to those federations that are aware of the risks that integrity threats pose to their sports and have realised the need for new regulatory and operational approach within their management structures. On these grounds, this study has identified a model of integrity management based on four strategic pillars and has highlighted some good practises that are currently proliferating, mainly thanks to the positive pressure and guidance of international sport bodies, such as the International Olympic

Committee and ASOIF. Unfortunately, there is no solution that will instantly eradicate match-fixing from sport. But it is only through a structured and multi-directional integrity management approach that sports can tackle the sophisticated facets and dynamics of the actual integrity threats.

This calls for a blended approach both at state level, where federations should build partnerships with gambling commissions and regulators and also at supranational level, by engaging into discussions with law enforcement agencies and European institutions such as the Council of Europe. Going forward federations must increase their willingness to discuss these issues more openly and demonstrate their commitment to maintaining their sport clean by implementing good governance principles to mitigate the risk of occurrence of match-fixing cases. As denoted by the EU Expert Group on Good Governance in Sport, federations have a dual role to play since they set the rules of their sport and are also responsible for organising lucrative major sport events globally. 'This double role of international bodies implies that standards of good governance applicable to them should be higher than those at lower levels of the sport pyramid' (EU Expert Group, 2013, p.4). In fact federations should set the standard for good practice and support their member associations at regional and national level to establishing and maintaining appropriate standards of good governance based on their size, resources, vulnerability and level of risk. As highlighted in this paper, there are a myriad of risks associated with

match-fixing in sport that fall directly under the responsibility of international sport governing bodies. In order to mitigate such risks, concrete measures should be implemented and should include monitoring/alert systems, raising awareness, education and prevention, certification, the establishment of risk management tools and re-addressing sport regulations. The EU Expert Group recommends:

A flexible approach is proposed based on a set of minimum standards that can be applied universally but which can be supplemented as appropriate depending on risk, resource and other relevant factors relating to the sports body concerned.

In line with these considerations, it seems apparent the need for a new scrupulous attention towards the integrity sector within the governance structures and strategic management processes of the International Federations. Of course it remains to be seen to what extent the federations will adopt and implement these minimum principles globally as to date much of the discussions have taken place uniquely within the European institutional context. Given the topicality of the issue, there is certainly scope for future research to examine and assess the effectiveness of the principles of good governance adopted and implemented by federations, within a framework of integrity management as demonstrated here, in dealing comprehensively with cases of betting-related match-fixing.

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CAS Mediation

Potential and Future Development

‘You cannot legislate good behaviour’

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Abstract

CAS Mediation deserves to be better known and promoted. Mediation allows swift resolution of sport related disputes in the interest of athletes, trainers, clubs, sports federations and generally all actors and stakeholders. The present contribution examines the current Mediation rules of the CAS and formulates recommendations for improvement. The systematic inclusion of med-arb provisions making mediation mandatory as a first step in the dispute resolution process, the possibility for Federations to organize internal mediation in addition to CAS mediation, and the change of name of the CAS-TAS are some of the topics addressed in the present article.

Introduction

Everyone knows about the Court of Arbitration for Sport (CAS) today. The Court made international headlines with the Russian doping case, days before the opening of the Rio Olympic Games. There have been times when the CAS has been more discreet. The adoption of the Mediation Rules and the practice of mediation at the CAS is one of these instances. The present article is a reflection on what has been done in the field of mediation at the CAS, and how to improve the use of mediation in the interest of all stakeholders. The last changes of the Mediation rules are in force since January 1, 2016¹.

CAS Mediation has a large potential for resolving sport related disputes. As

¹ CAS Mediation rules: <http://www.tas-cas.org/en/mediation/rules.html>

Meroni rightly states: “...the world of sport needs an alternative, better, richer, sophisticated and more nuances and suitable system of dispute resolution” (Mironi 2016, §7). The more systematic use of mediation would meet this need.

CAS Mediation – Brief History

The Court of Arbitration for Sport (CAS) was founded in 1984. The CAS is dedicated to dispute resolution in the world of sport. The original idea was to create a separate and specialized body to help clubs, athletes, trainers, sports federations and generally all stakeholders resolve disputes independently from any sport federation or national court system. Over the years, the CAS has gained recognition as a specialized, independent and neutral arbitration institution in a multicultural environment. In disputes brought before the CAS, stakes are usually important in terms of finance, image, reputation, time and sport's career.

The specificities of the world of sport and the need for an independent venue contributed to the success and international reputation of the CAS.

In 1994, the International Council of Arbitration for Sport (ICAS) was established to manage the CAS and its financing, safeguard the independence of the institution and allow the CAS to assume its role as a dispute resolution institution through arbitration. In 1999, the CAS adopted the Mediation Rules. The CAS realized that it was necessary to

diversify dispute resolution services and implement mediation.² The rules have been amended over time and their latest version dates back to 1st January 2016.

Arbitration and Mediation are complementary processes. Arbitration offers an adjudicative procedure to deal with disputes whereas mediation allows the parties to find solutions by engaging in assisted negotiation with the help of a CAS mediator. Mediation provides a confidential setting and allows preserving relationships when possible.

A number of mediators from different countries and legal cultures are appointed by the CAS.³ For several years, mediation remained barely known and rarely used. To this day, CAS has registered approximately sixty mediation procedures.⁴ In 2016, ten mediation procedures were administered by CAS, among which six were successfully terminated and three were cancelled (i.e., before the mediation meeting took place) and one was still pending mid-January 2017. It is interesting to note that all ten mediation procedures in

2016 were related to football, as many arbitration cases do. One mediation was of disciplinary/governance nature and the others were commercial disputes.⁵

This recent increase in the number of CAS mediation cases -although not impressive as to the actual number, but significant because the number of cases doubled this past year- is certainly due to CAS efforts to inform about mediation by systematically proposing CAS mediation when a new arbitration procedure is registered and also to the general awareness of the advantages of mediation as a dispute resolution process.⁶

In a further effort to promote mediation, the CAS organized its first conference on mediation in May 2014 at the Olympic museum in Lausanne. The conference was preceded by a workshop for CAS mediators from around the world. The two days were a success, attracting 130 participants (sport professionals, arbitrators, mediators and representatives of sport federations) from over 40 countries.⁷ Although mediation may have slightly distinct characteristics in different languages and legal cultures, CAS rules makes it possible to have one set of rules to use in relation to sport disputes.

² Today, there are four entry doors at the CAS: (1) Ordinary Arbitration, (2) Appeal Arbitration, (3) Mediation (since 1999) and (4) Ad-hoc divisions of the CAS- to swiftly settle disputes during major world sport events such as the Olympic games (since 1996 – decisions often reached within 24h to allow the games to continue).

³ The list of CAS mediators with a short biography is available under: <http://www.tas-cas.org/en/mediation/list-of-mediators.html>.

⁴ If we compare this number with the number of arbitration procedures administered by the CAS annually, it seems indeed very low. However, there is without a doubt a growing interest for mediation in general and in the world a sport specifically as indicated in the increasing number of articles published on this topic.

⁵ The authors owe a very special thank to Ms. Despina Mavromati, Head of research and mediation at CAS, for her valuable contribution of the above mentioned not yet published recent statistics.

⁶ Mediation was suggested by CAS only in ordinary procedures until 2014. Since then, CAS systematically proposes mediation in both ordinary and appeal procedures see Mavromati, "Mediation", p. 27.

⁷ The CAS published the workshop and conference report, see Mavromati, "Prospects."

CAS Mediation Rules – Overview⁸ and Suggestions for Improvements

Definition

According to art.1 of CAS mediation rules,⁹

“CAS mediation is a non-binding and informal procedure, based on an agreement to mediate in which each party undertakes to attempt in good faith to negotiate with the other party with a view of settling a sport related dispute. The parties are assisted in their negotiation by a CAS mediator.”

The definition of mediation, as provided by CAS rules, is quite standard. Mediation is intended primarily for contractual disputes, although, in certain cases, if all the parties agree, disciplinary matters¹⁰ may be submitted to CAS mediation (art. 1 §2). Doping issues, match fixing and corruption cases are

⁸ CAS Mediation Rules of January 1, 2016.

⁹ CAS Mediation rules: <http://www.tas-cas.org/en/mediation/rules.html>.

¹⁰ Many disputes encompass both aspects, contractual and disciplinary, since the disciplinary aspect derives from the alleged violation of the contract; see e.g. transfer cases in football where the player goes to another new club without the end of his contract with the current club. See for instance, CAS Award of 2 July 2013 rendered in Arbitrations CAS 2013/A/3091, 3092 and 3093 involving Al Nasr Sports Club, FC Nantes, FIFA and the player Ismaël Bangoura. In such “mixed” cases, there is room for splitting disciplinary and commercial aspects and using both arbitration and mediation processes combined.

excluded from CAS mediation.

As soon as the dispute arises, the parties may engage in CAS mediation and do so at any stage of the conflict. This means that the parties do not have to follow the adjudicative procedures provided for in the Federation statutes at the national or international level before going to CAS mediation. This is quite different from cases when CAS has jurisdiction as an appellate court in arbitration when the litigants must exhaust all internal procedural stages.

CAS mediation rules offer peculiarities when compared with other sets of international mediation rules.¹¹ This is the case for the representation of the parties (2.2) and the role of the mediator (2.3). There is also room for improvement in the drafting of the rule regarding the focus on settlement (2.4) and the need to make mediation more compelling at the outset with a mandatory process (2.5).

Representation of the Parties

One of the peculiarities of CAS mediation rules is the possibility for parties to be “represented or assisted” in the mediation.¹² When assisted, the parties will be present and engage in the mediation process. On the contrary, representation in this context means that the party will not be present at the mediation and that “the representative must have full written authority to settle the dispute alone, without needing to consult the party she/he is

¹¹ A comparison can be made with ICC Mediation rules, CEDR rules, CEPANI rules, CMAP rules, or WIPO rules.

¹² Art. 7 – CAS Mediation Rules.

representing”.¹³

This may have simply been a “cut and paste” from CAS arbitration rules. However, the impact is different in the mediation process. It is usually considered that the parties should be present at the mediation in order for the process itself to work best as it is based on the good faith of personal involvement of the parties - and their counsel, as the case may be - to try and find a solution to the dispute. It is interesting to note in this regard that CAS includes the possibility of handling online processes as a valuable tool for impecunious athletes who are not in a position to finance a trip from their home country to CAS’ seat in Lausanne (Mavromati, 2014, p. 27).

Recommendation: Making it mandatory for parties to be present, even if assisted, may be a better choice for CAS mediation. The promotion of phone and online mediation practice could be a way to allow more “presence” of the parties to the mediation. The presence of the parties in dispute allows mediation to offer its full potential, discuss related issues that may not have been considered at first, even if it may be uncomfortable at first. This opens the door to maintaining relationships between the parties who may continue to interact or encounter each other in the small world of sport with different titles and functions over time.¹⁴ The presence of the parties may be useful even if there will be no further interaction between the

¹³ Art.7 §3 – CAS Mediation Rules.

¹⁴ Indeed, an athlete today may become a coach/trainer/arbitrator tomorrow or become involved in the management of a sport federation or in sport’s related media or commerce.

parties, because the process will in many cases allow closure and appeasement.

Role of the Mediator

Another particularity of CAS mediation is the possibility for the mediator to propose solutions.¹⁵ The rules do provide that the mediator may not impose a solution to either party (art.9 §2).

Most mediation rules, whether international or national, provide specifically that the mediator should not give his/her opinion or offer solutions.¹⁶ In this sense, CAS mediation rules stand out. In most countries, an amicable dispute resolution process where the neutral offers solutions is called conciliation and not mediation. This is not simply an academic distinction. Mediation and conciliation are different processes with specific sets of rules, the frontiers of which vary from one jurisdiction to another (Guy-Ecabert, 2011 Mirimanoff, 2016, p. 226). CAS chose to make mediation closer to conciliation than in most jurisdictions.

Recommendation: Providing that the mediator may offer solutions to the parties usually comes from the idea that this is the only way to move forward, to be concrete and not get caught in endless discussions. This is however a

¹⁵ Art. 9 c – CAS Mediation Rules.

¹⁶ The extent to which a mediator participates in the search for solutions vary from one judicial culture to another. There is a variety of practices. It may also depend on the phases of the mediation process and the profile of the mediator appointed (facilitative, evaluative, or transformative). Still the express invitation to propose a solution included in the CAS mediation rules stands out. In this sense, CAS mediation is clearly an evaluative mediation, see Gay, p. 24.

misconception of mediation in the sense that the role of the mediator is not to bring the parties where he/she wants them to go. It is a process in which the parties will decide the direction they want to take and the mediator assists them in this process. The role of the mediator is not so much to instruct the parties on the best solution to their dispute, but rather to allow the parties to have this conversation in a structured and confidential setting. Often, this space is exactly what is needed, allowing the parties to discuss and agree on issues in a way that suits them and not necessarily the mediator. This may happen in the mediation process even if the parties have been negotiating directly and through their respective counsels for a long time, then got stuck (Gay, 2012, p. 14-26). The dynamics and the organisation of the mediation process and the presence of a neutral will make the difference.¹⁷

Focus on Settlement

Reading the CAS mediation rules, it becomes apparent that the sole focus of the mediation process is to reach a settlement. In this sense, mediation will

¹⁷ It should be noted that conciliation also exists at the CAS in the ordinary arbitration process, (rule 42) or the appeal arbitration (rule 56 §2). It is important to notice that this conciliation refers to the power of “amicable settlement” of the arbitrator. No more. It is not a separate conciliation procedure parallel to or prior to the arbitration, with a different neutral. It is an effort, if the parties agree and truly engage in the conciliation effort with the help of the arbitrator, to settle the dispute amicably. Conciliation is neither a mandatory process, nor a step in the arbitration procedure. If the parties reach an agreement during the conciliation, it will be included in the arbitration award by the arbitrator.

be a success if, and only if, a settlement is reached. Although it is evident that, if the parties reach an agreement, the mediation process is a success, mediation may also be useful in different ways, whether a settlement agreement is reached or not during the mediation process. Indeed, when a dispute arises, parties need a place to lay down their views, be heard, and when possible, reach a closure that each can take back and live with. Mediation may have allowed the parties to enter into dialogue again, and although no agreement was reached during mediation, the parties may very well reach a common understanding or a settlement at a later stage, in a more informal setting. It may be that mediation allowed the parties to see more clearly into the dispute to tackle the issues at stake and although arbitration is undertaken later, it may speed up the arbitration process substantially. For all these reasons, and in particular when no agreement is reached at the end of the mediation process, it seems that the sole focus of the CAS mediation rules on reaching a settlement may not have captured fully the essence of mediation and its potential in the world of sport.

Recommendation: It would be useful to revisit the Mediation rules with a broader view of what mediation can bring to the table. The CAS has the power and ability to define, introduce and develop a culture of mediation taking into consideration what mediation can offer as a dispute resolution process and not simply a short cut of the arbitration procedure.¹⁸

¹⁸ In this respect, see also Mironi.

A Voluntary Process – Mandatory Mediation

As of today, CAS mediation is a voluntary process. It starts with an agreement to mediate when the dispute arises or a mediation clause in a contract.¹⁹ There is otherwise no possibility to force anyone to engage in mediation. This is quite common in many countries and institutionalised mediation rules. There are many ways to promote mediation and one of them is to make the use of mediation mandatory as a first step to resolve the dispute.

Recommendation: CAS has taken the stand so far of not making the mediation process a mandatory step before arbitral proceedings are commenced. CAS should consider including a default mandatory²⁰ med-arb clause in its rules. What would be the advantages of doing so?

First, mediation could have a “funnel effect” according to which it would limit the number of litigious topics to be later resolved by arbitration.

Second, the med-arb two-step process allows for some chronological distance

¹⁹ Art. 2 - CAS Mediation rules. See also ATF 4A_628/2015 considering that the sanction for not respecting a mediation or conciliation clause in a contract results in the temporary incompetence of the arbitrator, and comment by Lévy.

²⁰ The CAS already provides for consensual Med-Arb clauses, combining both the advantages of the mediation process in terms of impact, time and cost and the assurance of a having a decision, even if it will be imposed on the parties by an arbitration award. See, model clauses provided by CAS on its website: <http://www.tas-cas.org/en/mediation/standard-clauses.html>.

with the arbitration stage and helps parties realize that they are in control of the fate of their case if they are capable of agreeing on a mutually satisfactory solution. If the parties do not find an agreement during the mediation process, they know a third-party (the arbitrator) will then be empowered to solve the dispute in a way they do not control anymore. In this respect, a med-arb clause could be seen as “mediation with muscle,” inasmuch as the parties are made aware of their potential loss of control which would incentivise a good faith negotiation.

Third, with such an approach, going to mediation (an assisted negotiation) would be as binding as going to arbitration (an adjudicative process). As seen above, mediation is a voluntary process and is, like arbitration,²¹ known as a “creature of contract”, hence consensual in nature. Arbitration, as an alternative dispute resolution method implying a waiver to resort to national courts, may only take place through the consent of the parties involved. However, the peculiar monopolistic structure of professional sport shows how “forced” arbitration can be. Indeed, where statutes of an

²¹ See, e.g., the USA where the Supreme Court notes that there is near universal agreement that arbitration is a creature of contract, and that a party is bound to arbitrate only to the extent that it has agreed to do so, and then only with regard to the specific issues that are contemplated by the party's arbitration agreement, see, e.g., *Volt Information Services, Inc. v. Board of Trustees of Leland Stanford Jr. Univ.*, 489 U.S. 468, 469-470 (1989). See also, Landrove, p. 1 et seq. with case law and scholarly references. In addition, see *Scherk v. Alberto-Culver Co.*, 417 U.S. 506, 519 (1974) (“The statute's [FAA's] underlying premise [is] that arbitration is a creature of contract.”).

international sport's federation provide for CAS arbitration in their rules, an athlete has no choice but to become a member of the structure "as is" (i.e., with the arbitration obligation) if he/she wants to earn his/her living as a professional athlete. Consequently, his/her consent may not be considered to be totally free. However, this situation is viewed as acceptable by the Swiss Federal Court ("SFT").²² The same reasoning would certainly hold for a mediation clause making it mandatory to initiate the assisted negotiation process, yet allowing the parties to opt-out at any stage.

As potential drawbacks (that in our view do not supersede the above mentioned advantages), one could theoretically imagine that a party does not genuinely participate in good faith in the mediation so as to delay tactically the process in order to reach the statute of limitations or to exhaust the other party.²³ Another potential drawback could be to follow the isolated and unsatisfactory practice provided for in the CAS rules of appointing a single person who would first act as mediator and then as arbitrator in the same case within the frame of a med-arb clause.²⁴ This "double

²² See, e.g., SFT decision ATF 133 III 235, 243-244, §4.3.2.2. On the issue of forced arbitration, see also Rigozzi, §§475 et seq. and 811 et seq. and cited references.

²³ Indeed, in most jurisdictions, commencing mediation, be it *per se* or as a first step of a multi-tiered dispute resolution clause such as a med-arb clause, does not suspend, let alone interrupt the running of the statute of limitations, see, e.g., EU: art. 8(1) Directive 2008/52/CE, as well as *Résolution du Parlement européen du 13 septembre 2011 sur la mise en œuvre de la directive relative à la médiation (2011/2026(INI))* ¶H: art. 62 I et 213 I CPC / art. 135 ch. 2 CO.

²⁴ Art. 13 §3 of the CAS Mediation Rules; See

hat" approach makes it very difficult for the mediation to be successful. It actually prevents parties from fully cooperating and exchanging information (as to notably their interests, needs and priorities) within the mediation process and no confidential information is disclosed during the private caucuses with the mediator for the parties fear this might, even unconsciously, be used in the second step of the process by the former mediator who became an arbitrator in the same case.²⁵

Consequently, mandatory CAS mediation through a med-arb approach implying the appointment of a mediator and subsequently a different person as an arbitrator seems to be the most efficient way of promoting CAS mediation as well as fostering good and efficient governance of dispute resolution methods within CAS.²⁶

Improving Governance in Sport Federations through the Implementation of Mediation in their Statutes

As a more general recommendation, it

also, e.g., 2007 Swiss Mediation Rules which still exceptionally authorize it (art. 22 al. 2).

²⁵ Accordingly, art. 13 §3 of the CAS Mediation Rules, which provides for the possibility of the mediator to act subsequently as an arbitrator if all parties agree, ought to be cancelled. On the fluctuating approach of the CAS to med-arb clauses with one neutral, prohibiting such practice until 2013, and then allowing for the same neutral to act as a mediator then an arbitrator, see Dutoit, §§45 et seq.

²⁶ On promoting mandatory mediation for sport related disputes, see Mironi, §7.2. For a governance study of a dispute resolution mechanism, although not dealing with mediation in particular, see WTO.

would be useful for the CAS to engage sport federations to include a mandatory CAS mediation clause in their statutes and rules. This would contribute to lessen the level of conflicts and disputes in the sport world by offering a dispute resolution mechanism based on restoring communication and allowing the parties to find solutions early on, without the cumbersome need to exhaust remedies within the pyramidal sports federation structure as required where dealing with arbitration.

The authors are aware that CAS proposes its services, but that the decision as to the inclusion of the mediation clauses in their statutes pertains to the federations, so that the issue might be better suited for ICAS (rather than for CAS) to address. Consequently, a different approach to CAS mediation, could be Federation mediation.

In some of the bigger federations, mediation services could be organized internally with independent mediators (appointed, selected and financed) by the federations.²⁷ As seen above, in other cases involving smaller federations recourse to CAS mediation with CAS mediators could be referred to.

In any case, Federations should make mediation a mandatory step (CAS mediation or Federation mediation), as is the case for internal decision making through arbitration at the CAS. Mediation should be made accessible and easy to

²⁷ In a comparable way as the inclusion of arbitration at the international federation level, as made by FIBA with BAT (Basketball Arbitration Tribunal), see <http://www.fiba.com/bat>.

initiate. This could give mediation a new dynamic and allow resolution of sport related disputes quickly with less harm done within the federations.

This would be an opt-out process – mandatory to enter into mediation and be present at one mediation session at least– in person or online. The mandatory character would only apply to the introduction of the process, not to its duration and not to reaching a settlement of course.²⁸

The inclusion of mandatory mediation within sport federations and clubs is being implemented slowly. The European Clubs Association (ECA), the World Boxing Council (WBC) and the Canadian SDRCC²⁹ have pioneered in the field of mandatory mediation (Mironi 2016, §6). FIFA has recently appointed two mediators to deal with employment related disputes. In addition, a number of sport cases going to mediation are the result of mandatory mediation imposed by a specific jurisdiction through court-ordered mediation like in the United States.³⁰

²⁸ A number of countries have introduced mandatory mediation in their judicial system on a broad scale, like Italy with very good results; see Law Decree no. 69/2013, reintroducing mandatory mediation following a constitutional battle on Legislative decree no. 28/2010. There is currently a legislative project in Belgium to introduce mandatory mediation as well. Also in favor of mandatory mediation, see European Parliament Study.

²⁹ Canadian centralized dispute resolution system covering all fields of sport.

³⁰ See, e.g., 2011 NFL owners and players dispute went through mediation as ordered by the court, with involvement of multiple representatives from each side. See, *BusinessWeek* (June 9, 2011); *WKRN* (May 6, 2011). A similar possibility exists in

For the reasons stated above, mandatory federation mediation and mandatory CAS mediation ought to be put in place.

In addition to the already stated grounds for mandatory mediation inclusion one may consider the following:

- Mandatory mediation ought to be made available for both commercial and disciplinary proceedings, even where keeping in mind the prohibition in principle set by CAS as to doping, match-fixing and corruption cases (art. 1 §2 of CAS Mediation Rules).
- Such “in principle” prohibition ought to be refined in CAS Rules so as to state clearly that in such cases the principle of sanction is in no way jeopardized, but that the modalities of serving the sanction could be made more efficient and creative. Would it not be useful to leave some space for converting part of an athlete’s suspension based on racial discriminatory remarks in an obligation to follow a course on the issue and on additional obligations to educate juniors in his/her sport on such issues during a period much longer than the initial suspension period? This is a solution mediation can achieve that no arbitration (where law is the single decisive parameter) could ever bring.³¹
- As is the case for CAS ordinary arbitration, mediation is confidential and should be able to prevent a negative image of the world of sport through discreet dispute resolution

Switzerland, see art. 213 and 214 of the Code of Civil Procedure.

³¹ Holding the same view, with a reference to the increased interest on restorative justice, see Mironi, §8.

not automatically appearing on the newspapers headlines. Disputes could still be solved “within the sport family”. As to disciplinary cases, transparency could be fully preserved by providing for the systematic publication of non-confidential parts of the agreed settlement such as the sanction modalities.

- CAS could also easily make a widespread publicity of mediation provisions in all sport related commercial contracts by suggesting the inclusion and the wording of a specific med-arb provision.
- The obstacles to mediation, such as the need for a clear decision that sets an examples or provides users with some transparent case-law in an unexplored topic are fairly unique and do not seem to overturn the general advantages of including mandatory mediation.
- The apparent obstacle of lack of enforcement of mediated settlements is being currently studied at the highest level to reach an equivalent of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.³² When arbitration proceedings are pending, the settlement agreement reached in mediation, following a med-arb provision, can easily be included in

³² See, the so called NYC II project: The UNCITRAL Convention on Enforceability of Settlement Agreements Resulting from International Commercial Mediation At its forty-seventh session (New York, 7-18 July 2014), the UNCITRAL agreed that the Working Group should consider the issue of enforcement of settlement agreements resulting from international commercial mediation proceedings.

a consent award.³³ When there are no arbitration proceedings pending, the enforceability of the settlement agreement reached in CAS mediation should be pragmatically solved by a new CAS rule allowing the settlement agreement to be included in a consent award. The new CAS rule could provide an extra fee to be paid by the parties wishing a consent award to be rendered.

- Finally, there could be a choice of venue for the mediation process that would not infringe upon the fact that any settlement would be considered to have been reached at the CAS seat in Lausanne.

Conclusions on Fostering the Use of Mediation in Sport Disputes

Improving good governance of effective dispute resolution methods in sport is a challenge because there are no such things as two identical disputes and there is no single dispute resolution method ideal for each and every case. More often than not it is a combination of available alternative dispute resolution methods that appears to be the most effective tool. Keeping in mind the flexibility of mediation proceedings that can take place either before, in parallel, or even after arbitral

³³ Which represents no novelty to CAS because it is the way frequently used when CAS conciliation is successful within the frame of pending arbitral proceedings; For information and statistics on CAS Conciliation, See Mavromati/Reeb, pp. 305-310 (for ordinary procedure) and pp. 495-502 (for appeal procedures).

proceedings,³⁴ mediation seems to be an effective dispute resolution tool per se and in combination with arbitration.

As internationally recognized, the use of mediation, is a good practice as it “results in significant benefits, such as reducing the instances where a dispute leads to the termination of a commercial relationship, facilitating the administration of international transactions by commercial parties and producing savings in the administration of justice.”³⁵ When compared with arbitration, mediation offers “efficiency and flexibility, privacy and parties’ autonomy, better discourse and more optimal substantive outcome, preserving, restoring and transforming business and personal relationships, sustainability of outcome – voluntary compliance and enforcement...”. (Mironi 2016, §3).

Finally, in addition to revising the CAS Mediation Rules as developed in the present contribution, in particular with respect to mandatory mediation, the authors strongly recommend to rename the institution by keeping the acronyms CAS-TAS and make them CAS-CMS and TAS-CMS standing for “Center for Mediation for Sport” and in French “Centre de Médiation du Sport.” The

³⁴ Again, an arbitral award may decide what the sanction is, and a subsequent mediation solve how the sanction ought to be served, see supra Section 3.

³⁵ As recognized by the United Nations Commission on International Trade Law (“UNCITRAL”) in its Resolution 57/18 of 19 November 2002. See also, UNCITRAL Secretariat’s Note of 28th November 2016, A/CN.9/WG.II/WP.200, including items to be discussed during its forthcoming Sixty-sixth session in New York, 6-10 February 2017.

authors believe that keeping the current name and adding the same acronyms in both English and French would be a strong signal of CAS changing gear and developing not only arbitration for sport related disputes, but also mediation with its full potential.

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About the AISTS

The AISTS (International Academy of Sports Science and Technology), one of the world's premier Sports Management education and research academies, is committed to professionalising sports management through the three core activity areas of continuing education, applied research and providing an engaging platform for industry connections.

Founded as a not-for-profit foundation in 2000, the AISTS Founding Members: the International Olympic Committee, the EPFL, the University of Lausanne, the University of Geneva, IMD Business School, Ecole Hôtelière de Lausanne, the City of Lausanne and the Canton of Vaud, all recognise the importance of meeting the evolving knowledge needs of today's sports managers.

The AISTS's applied research arm conducts independent and commissioned research projects, in addition to helping sports organisations and federations navigate an increasingly complex sport landscape through advisory and consulting services in the fields of:

- Economic Impact Studies;
- Developing Women's Leadership;
- Sport Sustainability and Corporate Social Responsibility; and
- Sports Development Initiatives.

The AISTS's flagship programme, the Master of Advance Studies (MAS) in Sports Administration and Technology has been educating aspiring sport managers from all over the world for over a decade. Frequently ranked amongst the top Sports Management programmes worldwide, the AISTS brings together over 140 international sport experts in the sciences of Management, Technology, Law, Medicine, and Sociology to produce strong and inspired industry leaders.

Through this combination of research and educational the AISTS is in a unique position to connect the world of academia with the sport industry. Through a range of dynamic and engaging platforms such as roundtables, seminars, workshops, and open conferences, the AISTS aims to create opportunities that broker dialogue, broaden networks and deepen relationships.

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