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# The unstoppable rise of athlete power in the Olympic system

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## ABSTRACT

The last two decades have seen athletes in sports whose main competitions are not run by professional leagues demand better remuneration and a greater say in their national and international federations, especially with respect to the Olympic Games and other major competitions. This paper traces the history behind these demands (section 1) and describes the ways sport organizations have responded to them so far (section 2). It then presents current solutions, centered round the more-or-less representative groupings of athletes that have been created since the mid-20<sup>th</sup> century, and suggests a more innovative proposal that would require federations to change their legal form (section 3).

## KEYWORDS

Athletes' representation;  
athletes' commission;  
athletes' voice;  
sports cooperatives;  
athletes' union

With each Olympiad, the organizations involved in staging the Olympic Games since 1894 have become ever more powerful. This is particularly the case for the International Olympic Committee (IOC), which has gradually gained ascendancy over ephemeral bodies such as Organizing Committees of the Olympic Games (OCOGs), and even over the permanent bodies which govern individual Olympic sports, such as international sport federations (IFs) and national Olympic committees (NOCs). These bodies, together with national sport federations (NFs), form the “classic Olympic system”, which turned into the “regulated Olympic system” during the second half of the 20<sup>th</sup> century, as it gradually encompassed new stakeholders such as the media, governments, sponsors, the Court of Arbitration for Sport (CAS) and the World Anti-Doping Agency (WADA) (Chappelet and Kübler-Mabbott 2008).

This system is built on the performances of Olympic athletes (also called “Olympians”) at four-yearly events that are considered the pinnacle of achievement for sportspeople in Olympic disciplines. However, athletes, whether Olympians or “run-of-the-mill” athletes (who will never compete at the Olympics), have traditionally had very little direct representation within this system. Ideally, they are members of sports clubs, which are affiliated to a regional or national federation (NF), itself affiliated to the corresponding IF. Of course, since the end of the 20<sup>th</sup> century, the IOC, NOCs, and many NFs and IFs have set up “athletes’ commissions”, whose voices are heard to varying degrees. In the 2010s, athletes in general, and particularly Olympians, began demanding a larger share of the economic

benefits generated by their sporting prowess, as well as more power and influence within the system of which they form the heart.

This paper traces the history of athletes' increasing demands within the Olympic system and the questions this raises about the way elite sport and the Olympic Games are currently organized. Section one shows how Olympians historically had little influence within the system and describes the problems athletes have begun raising with respect to their participation in it. Section two examines the initiatives taken within the Olympic system in recent years in order to give athletes a greater voice in the way their sports are governed. The final section presents another possible way of improving athlete representation and addressing issues concerning athletes, based on athletes, sport organizations, and other stakeholders in a given sport coming together within a single entity with a new legal form. In conclusion, I suggest that athlete power will become unstoppable in the years to come.

### **The history of Olympians' involvement**

The modern Olympic Games, like the Ancient Games at Olympia before them, have always been centered on competitions between athletes. At the next edition of the modern Olympics, Tokyo 2020, "Olympians" chosen by the NOCs of more than 200 countries and territories throughout the world will compete in approximately 300 events in around 50 disciplines. NOCs choose the athletes they send to the Olympics on the basis of recommendations made by the NFs for each sport, taking into account the minimum qualifying standards set by the relevant IF, and the athlete or team quotas set by the IOC for each sport (which usually requires the IF to run qualifying events). However, in order to guarantee universal participation, each NOC can put forward up to two athletes (a man and a woman) in athletics and swimming who have not achieved the minimum performance standard. Olympians' expenses are covered entirely by their NOC and the OCOG (accommodation in the Olympic Village, travel to the host country and between Olympic venues, uniforms, etc.), but they do not receive any remuneration for taking part. In this respect, the Olympics differ from many world championships (e.g., athletics, judo) or other competitions (e.g., tennis tournaments), in which participating athletes receive prize money or, in some cases, appearance money.

Amateurism was the sovereign credo of the Olympic system until the 1970s, which meant that athletes who wished to compete in the Games were formally prohibited from obtaining any financial reward from their sporting activities (whether Olympic or not). As a result, the history of the Olympics is peppered with famous examples of athletes who were disqualified for breaching the amateurism rules (e.g., Jim Thorpe, who won the decathlon at the 1912 Olympics in Stockholm and was later forced to return his medal because he had played baseball professionally; the middle-distance runner Jules Ladoumègue, who was banned from taking part in the 1932 Los Angeles Games despite being the favorite; and the skier Karl Schranz, who was excluded from the 1972 Sapporo Olympics).

The only benefit athletes could draw from competing in the Games was a degree of celebrity, but very few Olympians managed to capitalize on this fame to make a living. Perhaps the best known exception to this rule was the American swimmer Johnny Weissmuller, whose performances at the 1924 and 1928 Olympics, where he won five gold medals, helped him become a movie star, his most famous role being Tarzan. However, the case of Jesse Owens is much more typical. Despite winning four gold medals at the 1936

Berlin Olympics and being given a hero's welcome, including a tickertape parade on Broadway, when he returned to the United States, Owens ended up doing a series of demeaning, dead-end jobs until he managed to launch a new career in public relations in the 1960s (Tomlinson 2005, 127).

As the Olympic system gradually abandoned amateurism in the 1970s, some Olympians were able to extract greater financial benefit from their sporting prowess by attracting personal sponsors. As well as giving athletes the financial stability needed to train, sponsors sometimes helped athletes with their career transitions when their competition days were over. In the 1980s, some NOCs even began contributing by rewarding athletes who won gold, silver, or bronze medals at the Olympics, either in cash or in kind (as victors at the Ancient Games were rewarded by their home cities).

In fact, the growing importance of the Olympics in the years following World War II had already led many countries to begin supporting their elite athletes throughout their sporting careers, either via more-or-less notional jobs in the country's civil service or armed forces (Germany, France, Soviet Bloc, etc.), or through university grants (Canada, United States, etc.). In the 1980s, the IOC began officially allowing professional athletes in some sports to take part in the Games (e.g., football from 1984, tennis from 1988, basketball from 1992, ice hockey from 1998, golf from 2016). Nevertheless, even professional athletes do not receive any direct remuneration for taking part in the Olympics; they continue to draw either their salaries from their employer (in the case of team sports) or their revenues from their regular sporting activities (in the case of individual sports, e.g., tennis, golf). Today, most of the world's best athletes, even those in sports considered amateur (i.e., sports in which there is no professional league), live entirely for their sport and do not have the time to take on a salaried job. Consequently, they derive their incomes from personal sponsorship, if they can attract it, and/or different types of remuneration/subsidy provided by (semi) public bodies.

However, for many years up until June 2019 (see below), Rule 40 of the Olympic Charter prevented athletes from capitalizing on their status as Olympians during Olympic Games. Rule 40 stipulated that: "Except as permitted by the IOC Executive Board, no competitor, team official or other team personnel who participate in the Olympic Games may allow his person, name, picture or sports performances to be used for advertising purposes during the Olympic Games" (IOC 2018a). This ban, reinforced by Rule 50.1, especially with respect to sports equipment, was designed to protect the IOC's international sponsors and the OCOG's domestic sponsors, who pay large sums for their exclusive association with the Games during the four years of an Olympiad (or longer) and, of course, during the actual Games.

This ban covered a period ("the Games period") of about a month, from the opening of the Olympic Village to its closure, and prevented Olympians monetizing their participation through advertising. For example, an Olympian taking part in the Games could not take out an advert thanking a personal sponsor or be photographed for commercial purposes at an Olympic venue (including non-sporting venues) during the Games period. Many athletes at the 2012 London Olympics criticized this rule, whereas others got round it by engaging in ambush marketing. For example, the American Olympian Dawn Harper posted a photograph of herself wearing a gag marked "Rule 40" on Facebook, while several swimmers at London 2012 turned up for their competitions wearing "Beats" headphones that could be seen clearly in television pictures. Section two discusses the IOC's 2019 decision to relax this rule.

In addition to impacting their earnings, some athletes feel that Rules 40 and 50 infringe their right to free speech, enshrined in the Universal Declaration of Human Rights (article 19). For example, according to Rule 50.2 of the Olympic Charter, “No kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas” (IOC 2018a). In the past, most athletes respected this rule, but a small number have flaunted it by making a distinctive gesture during medal ceremonies and/or at certain moments during a competition (finish, national anthem, etc.) in order to express an opinion or draw attention to a non-commercial cause.

The most famous distinctive gesture in the history of the Olympic Games is undoubtedly Tommie Smith’s and John Carlos’s protest at Mexico 1968. After winning the gold and bronze medals in the 200 meters, the two American sprinters decided to use the medals ceremony to protest the inequitable treatment of black people in the United States. They did this by wearing black socks but no shoes and by silently bowing their heads and raising their black-gloved fists as the American national anthem was played. Peter Norman, the Australian who won the silver medal, also protested, but more discreetly, by wearing a badge supporting the Americans’ cause. A storm of protest from the public, the media, and the Olympic authorities led to Smith and Carlos being excluded from the American team and sent home from the Games, while Peter Norman was gradually pushed out of Australian athletics. Not until the beginning of the 21<sup>st</sup> century did public opinion begin to shift towards acknowledging the courageous and principled nature of their act. The photograph of this medals ceremony in Mexico went around the world and is still one of the strongest images in Olympic history. The next day, the three American sprinters who swept the board in the 400 meters protested against the punishment meted out to Smith and Carlos, but their act (wearing Black Panther berets on the podium) attracted much less media attention and they were not sanctioned. Consequently, all three men later took part in the 4 × 400-meters relay. Similarly, Czechoslovakia’s Vera Caslavská, who, after winning a gymnastics silver medal at Mexico 1968, was not sanctioned for ostentatiously lowering her head and turning away from the Soviet flag as it was raised in honor of the gymnast who had won the gold medal. (The Soviet army had recently occupied Czechoslovakia.)

More recent examples of athletes using distinctive gestures as a form of protest at the Olympics include the Swedish wrestler Ara Abrahamian at Beijing 2008 (who lay his medal on the podium in protest against the refereeing) and the Ethiopian marathon runner Fiyesa Lilesa at Rio 2016 (who won the race and crossed the finishing line with his forearms crossed above his head to protest political oppression in his country). Such gestures have also been used outside the Olympic Games, most notably by Joël Kaepernick, an American football player who kneeled during the American anthem at a game in 2016. Kaepernick’s gesture was subsequently repeated by many other athletes, including the fencer Race Imboden, who made his protest at the 2019 Pan-American Games. Also in 2019, two swimmers at the World Aquatics Championships in Gwangju refused to step onto the podium or to shake the winner’s hand in protest against his suspected doping.

In another aspect of the fight against doping, many elite athletes have objected to the need to provide their whereabouts every day of the year (article 5.6 of the World Anti-Doping Code) so testers can take urine or blood samples between 6 am and 11 pm. However, in 2019 the European Court of Human Rights ruled that this demand was justified and proportional (Butler 2018). At the end of 2018 many athletes and other stakeholders condemned WADA’s decision – taken too hastily in their opinion – to reinstate the Russian

anti-doping agency as compliant. Voices raised against WADA's decision included that of Beekie Scott, the chair of WADA's Athlete Committee until 2019 and an IOC member from 2006 to 2014, by virtue of being elected to its Athletes' Commission (Roan 2018).

Athletes also sometimes complain about not being consulted when sporting rules are changed or competition hosts are chosen (decisions taken by each sport's IF and, for the Olympics, by the IOC). Recently, some athletes criticized the sudden decision to move the marathon and walking events at the 2020 Tokyo Olympics to Sapporo, further north in Japan. The IOC argued that this change was necessary to protect competitors from the extreme heat expected in the Japanese capital and thereby avoid the problems encountered at the 2019 World Athletics Championships in Doha (Qatar), where several athletes collapsed in front of the cameras.

### **The Olympic system's responses to the issues raised by athletes**

The first response aimed at increasing athletes' involvement in the Olympic system was to create "athletes' commissions", first within the IOC, and then in most IFs and NFs. In fact, this is an old idea that can be traced back to the preparations for the 1973 Olympic Congress in Varna, or even to the athletes' associations that existed in Antiquity (Wassong 2018). Nevertheless, athletes were not invited to participate in an Olympic Congress until 1981, when the organizing committee invited 30 Olympians to attend that year's Congress in Baden Baden. Six of these athletes (in alphabetical order: the German fencer Thomas Bach, the British middle-distance runner Sebastian Coe, the Norwegian skier Ivar Formo, the Kenyan long-distance runner Kip Keino, the Bulgarian rower Svetla Otzetova, and the Russian ice-hockey player Vladislav Tretiak) were given the opportunity to speak to all the participants. After the congress, the IOC's president, Juan Antonio Samaranch, created a new IOC commission – the IOC Athletes' Commission – initially comprising the six athletes who had spoken at the 1981 Congress, together with the Finnish yachtsman Peter Tallberg, an IOC member who had competed at the 1964, 1968, 1972, and 1980 Olympics, who was appointed the commission's chair. Thomas Bach, who had won a team gold medal in fencing in 1976, went on to be elected IOC president in 2013, more than 30 years later.

The Athletes' Commission was regularly expanded under Juan Antonio Samaranch's presidency (to around 20 members) and its credibility was increased in 1999, when it was decided that 12 of its members would be elected by secret ballot of Olympians in the Olympic Village, a decision taken as part of the IOC governance reforms introduced in the wake of the Salt Lake City scandal (Wenn, Barney, and Scott 2012). Four of these members are elected at an edition of the Summer Olympics (this happened for the first time at Sydney 2000), two are elected at the following Winter Olympics (Salt Lake City 2002), another four are elected at the subsequent Summer Games (Athens 2004), and the final two are elected at the next Winter Games (Turin 2006). At the end of each edition of the Games, the athletes elected are automatically coopted by the IOC for eight years (as for other members), thereby ensuring a large degree of turnover among these elected athletes' representatives, who will serve only for eight years unless they are reelected at another Olympics (this has happened only once, in contrast to other IOC members, who are generally re-elected). Candidates, who must have never been sanctioned for doping, must be nominated by their NOC and must be "active athletes" in the sense that they are competing in the current Olympics or competed in the previous Games. These twelve elected members occupy the majority of

the Commission's seats (in line with Rule 21.1 of the Olympic Charter), but the IOC president can appoint other active athletes to the Commission in order to ensure a better balance between geographical regions and sports than cannot be provided by an election. The chair and vice-chair of the Athletes' Commission are now elected by the commission's members and the chair has a seat on the IOC's Executive Board (its governing body), which meets regularly with the full Athletes' Commission (IOC 2020b). Some elected athlete members occasionally express views at odds with those of the IOC leadership, but most generally support its decisions.

Following this reform, the IOC encouraged IFs and NOCs to set up their own athlete commissions. Many have done so, but without giving them real power, as Houlihan (2004) noted with respect to doping issues and as Jackson and Ritchie (2007) reported for Canadian sport. Whether or not an IF provides for representation of athletes is now one of the indicators the ASOIF's Governance Task Force uses to assess the governance of the IFs responsible for Olympic sports (indicator 4.7, ASOIF 2019). In 2016, the IOC's Athletes' Commission published a guide to help organizations within the Olympic Movement create effective athletes' commissions (IOC n.d. [2016]) and since 2018 the IOC has stipulated that these commissions' members must be elected democratically.

The IOC has also ensured greater athlete involvement by coopting, from the very beginning, numerous former Olympians. The World Rowing Federation's statutes go further, as they stipulate that members of its Council (board) must have rowed at world championships, the Olympic Games, or the Paralympic Games (article 40). In 2018, the United States Olympic and Paralympic Committee bowed to pressure from the US Senate and modified its statutes to ensure that athletes make up at least 20% of its decision-making bodies (The Ted Stevens Olympic and Amateur Sports Act, section 220504).

In a move to increase the IOC's legitimacy, as of Samaranch's presidency, lists of IOC members and members' biographies began systematically indicating those who had competed at Olympic Games, something that had not necessarily been highlighted in the past. Thus, in 1995 the IOC coopted Jean-Claude Killy, a triple gold medal winner at the Grenoble 1968 Winter Olympics and a man Samaranch saw as a potential successor (Chappelet 2018). Although this was not to be, the person who took over from Samaranch in 2001 was another Olympian, Jacques Rogge, who had competed at Mexico 1968, Munich 1972, and Montreal 1976 (without winning medals). Thomas Bach, who succeeded Rogge in 2013, is also an Olympian (he who won a gold medal in the team fencing (foil) event at Montreal 1976).

In 2014, the year after Bach's election as president, the IOC published its Agenda 2020 strategic roadmap for the future of the Olympic Games, which stresses the importance of athletes, who are acknowledged as being "at the heart of the Olympic Games" (IOC 2014, 5). Athlete is a keyword that appears around 30 times in the document. For example, Recommendation 18 is to: "Strengthen support to athletes: 1.The IOC to put the athletes' experience at the heart of the Olympic Games. 2.The IOC to further invest in supporting athletes on and off the field of play" (IOC 2014).

Following the adoption of Agenda 2020, the IOC launched the "Olympic Athletes' Hub" (IOC 2016), a digital platform for providing elite athletes with information on issues affecting them and short training videos on a variety of topics (event organization, entrepreneurship, etc.). In line with several Agenda 2020 recommendations, the Hub stressed the

importance of protecting “clean athletes”, notably with respect to the risks of doping, match-fixing, corruption, and harassment. It also included advice sections for avoiding injury, protecting one’s health, and developing one’s career.

The Olympic Athletes Hub was later integrated into a new digital platform called “Athlete365”, which combines all the IOC’s recent initiatives for supporting athletes during and after their sporting careers: Olympic Athletes’ Hub, Athlete Career Programme (sponsored by Adecco since 2005), Athlete Learning Gateway, IOC Space (IOC 2018b). Athlete365 was unveiled in November 2017 at the Olympic Museum, during an “Athletes’ Forum” organized by the Athletes’ Commission as part of its new strategy (IOC n.d. [2016]). The forum also discussed a “Charter of Athletes’ Rights and Responsibilities” (Athlete365 2018a), which was approved by the IOC Session, held during the Summer Youth Olympics in Buenos Aires in October 2018. Details of the process that led to the charter’s adoption are provided by a document called “The Athletes’ Declaration” (Athlete365 2018b). The Charter of Athletes’ Rights and Responsibilities is a sort of response to WADA’s “Anti-Doping Charter of Athlete Rights” (WADA 2018), adopted during another “Global Athlete Forum”, held by WADA and its Athlete Committee in Calgary in June 2018 (WADA 2018a). The Anti-Doping Charter provides a précis of the fourth edition of the World Anti-Doping Code’s rules for athletes, which was approved in 2019 for application as of 2021.

Following the forum at the Olympic Museum, the IOC’s Athletes’ Commission decided to bring together representatives of all the athlete committees that had been created by NOCs, IFs, and WADA, etc. Held in Lausanne in April 2019, this subsequent forum was the largest gathering of athletes ever organized (it was attended by approximately 300 athletes), who confirmed their support for the charter adopted by the IOC in 2018 and created a “Global network of athletes’ commissions”. This meeting was followed by an “Olympians Forum”, organized by the recently relaunched World Olympians Association (WOA, the association was originally created in 1994). This WOA forum decided to give Olympians the right to add the suffix “OLY” to their names (after registering in a database and agreeing to a code of conduct), in the same way that some people can append “MD” or “MBA” to their names.

The most recent development in terms of meeting athletes’ demands is the IOC’s decision to slightly relax Rule 40 of the Olympic Charter (see section 1). According to a new rule, adopted in June 2019:

“Competitors, team officials and other team personnel who participate in the Olympic Games may allow their person, name, picture or sports performances to be used for advertising purposes during the Olympic Games in accordance with the principles determined by the IOC Executive Board” (IOC 2019, 76).

The principles “determined by the IOC Executive Board”, which had already been relaxed for Rio 2016, authorize a number of practices that had been banned until the middle of 2019 (see above). However, they still forbid Olympians or their personal sponsors from using “Olympic Properties” (rings, logos, pictograms, motto, wordmarks such as “Olympic”, “Olympics”, “Olympiad”, etc. in all languages) for advertising purposes. Words such as “medal”, “gold”, “silver”, and “bronze” are authorized. NOCs are responsible for ensuring that “their” Olympians (i.e. the members of their Olympic teams) respect these rules (Pavitt 2019), which can vary from one country to another (see the version adopted by the Irish

Olympic Committee, based on the principles adopted by the IOC (OFI 2020)), as under the Olympic Charter, each NOC holds the commercial rights to the Olympic properties in its territory and can authorize their use by sponsors. Only the world rights belong to the IOC, which markets them directly via its exclusive sponsorship and broadcasting contracts.

This change became necessary following a 2018 ruling by Germany's Federal Cartel Office (*Bundeskartellamt*), which found that Rule 40 was an abuse of the NOCs' dominant position and therefore contravened Germany's competition laws (Butler 2017). All 27 European Union countries were likely to make identical rulings, as the European Union has adopted a similar law to the competition law in force in Germany.

The new guidelines undoubtedly weaken the NOCs' negotiating position with potential sponsors, as they can no longer guarantee a sponsor an exclusive association with an Olympian and her or his Olympic performances. Nevertheless, several NOCs – notably the German, United States, French and British Olympic committees – have followed the IOC's lead and introduced rules allowing their Olympians to make commercial use of their image during the Olympic period. Following strict guidelines set by the IOC Executive Board (OFI 2020), it will be possible, for instance, for an Irish Olympian to have his personal sponsor congratulate him for winning a gold medal after the Games period (not during the Games period) as long as it does use "Olympic properties" (rings, flag, Games logo, etc). In the long term, relaxing Rule 40 may also affect the IOC's international sponsorship program (The Olympic Partners: TOP) because, outside the Games period, global sports stars would be able to associate their Olympic participations or successes with a sponsor that competes with a TOP sponsor. For example, Roger Federer's long-time sponsor, Rolex, is a competitor of Omega, a longstanding TOP sponsor.

In the face of this threat to a major source of revenue, in 2020 the IOC reminded its stakeholders that Olympic Solidarity redistributes a large proportion of the revenues it receives from sponsorship and broadcasting to the NOCs. Hence, these revenues benefit NFs, clubs, and, indirectly, all athletes; not just a few stars who are capable of obtaining advertising contracts. The IOC presents this principle of solidarity with the NOCs as the "European model", in contrast to the "American model", where competitions belong to stakeholders who distribute revenues as they see fit – mostly to themselves (Pavitt 2018).

At the same time, the IOC continues to combat the argument that Rule 50 (and not just Rule 40 concerning advertising) limits athletes' freedom of speech. Richard Pound, the IOC's longest-serving member and a former president of both WADA and the IOC's Marketing Commission, restated the IOC's position in a newspaper column published in Canada, his home country (Pound 2020), and reprinted in newspapers around the world, as well as in an IOC press release (IOC 2020a).

In a similar vein, Thomas Bach, the IOC's president, used his 2020 New Year's message to try and preempt any attempts by athletes to make political statements during the Tokyo 2020 Olympics (as Smith and Carlos did at Mexico 1968), and not just protest restrictions on advertising. Thus, he urged athletes not to try and make political capital from their moments of Olympic fame because: "The Olympic Games ... are not, and must never be, a platform to advance political or any other potentially divisive ends" (Bach 2020). The IOC followed up this warning by publishing directives from its Athletes' Commission reminding athletes that no political messages or acts were allowed at Olympic venues but that Olympians

were free to express their opinions via press conferences, interviews, or comments in the media or on social networks (IOC 2019).

## Innovative solutions

Since the turn of the century, athletes have put increasing pressure on the Olympic system, often through the athlete organizations and unions that have been formed in the last few years. One of the oldest athlete unions is soccer's World Players' Union (FIFPro), founded in 1965. Initially a mostly European organization, it now brings together 42 national footballers' associations (maximum one per country) from around the world. FIFPro works closely with FIFA and its confederations, as well as with the European Commission, in order to improve employment conditions for football players and to participate in the EU's cherished "social dialogue" in sport. In 2007, representatives of FIFPro's European division (alongside representatives of European clubs and professional leagues) were invited to sit on a new Professional Football Strategy Council that UEFA was creating to advise its executive committee (whose members are elected from among the representatives of UEFA's 55 constituent national football associations/federations). In 2012 FIFPro presented the Council of Europe with its "Black Book Eastern Europe" on (the poor) working conditions for players in Eastern Europe, and in 2015 it filed a complaint with the European Court of Justice claiming that FIFA's transfer regulations, especially the "solidarity compensation mechanism", is anti-competitive and illegal (Laskowski 2019). This case had still not been resolved by the time of writing. Another FIFPro report on working conditions in professional football resulted in FIFA setting up, in 2020, a US\$16 million fund to pay (until 2022) players who had not been paid by their clubs (UNFP 2020). This fund is managed by a joint FIFA-FIFPro supervisory commission.

In fact, the idea of forming representative bodies for athletes within a sport originated in the United States. Each of America's major team sports (football, baseball, basketball, ice hockey, soccer) has its own players' union that negotiates with professional team owners and sometimes calls strikes. For example, the 1994 American baseball season was interrupted when the Major League Baseball Players Association (MLBPA) called a strike over the team owners' plans to introduce a salary cap. The ensuing 232-day stoppage – the longest break in the history of American professional sport – led to the season, including the "World Series" championship finals, being abandoned (Cosmell 2011). A similar disagreement over salaries between team owners and the National Basketball Players Association in 1999 led to a lockout that interrupted the NBA championship for 204 days (Cosmell 2011).

Players' associations have also been set up in individual sports, the best known arguably being the Professional Golfers' Association (PGA, founded in 1901), Association of Tennis Professionals (ATP, founded in 1972), and Women's Tennis Association (WTA, founded in 1973). Athletes' associations in lower profile sports include the Association of Volleyball Professionals (for beach volleyball, founded in 1983), World Surf League (founded in 1976 under the name International Professional Surfers), and International Jumping Riders Club (founded in 1977). These associations represent the interests of elite athletes in their sport and often organize competitions in conjunction with or in competition with the IF recognized by the IOC for their discipline. In 1999, as the IOC was introducing major reforms to its governance following the so-called Salt Lake City scandal, some Olympians created

an association, called Olympic Athletes Together Honorably (OATH), to promote their point of view (Lenskyj 2000, 103), but it was not a long-term success (Koss 2011).

In athletics, Christian Taylor, an Olympic and world triple jump champion, recently called for change and a stronger voice for athletes in the wake of the changes made to the 2019 Diamond League by World Athletics (the IF for track-and-field). He created the Athletics Association and gave it the slogan “We are the sport”. In a poll conducted by the Athletics Association in March 2020, 78% of the 4,000 athletes questioned said they were in favour of asking the IOC to postpone the Tokyo Games (Reuters 2020).

The European Elite Athletes Association (known as EU Athletes), created in 2008, is Europe’s largest multisport federation of athletes’ associations/unions. In 2020 it claimed to represent more than 25,000 elite athletes through its 35 members in 17 European countries. The association’s mission is to express athletes’ concerns and protect their interests with respect to issues such as doping, match-fixing, betting, dual careers, and sport’s governance. To this end, it has representatives on several EU expert groups and is a member of the Council of Europe’s Enlarged Partial Agreement on Sport. EU Athletes also coordinates a variety of European projects within the Erasmus + program and focuses on educating professional athletes about dangers associated with sport. It is based in Amsterdam and has offices in Brussels.

Like FIFPro and the MLBPA, EU Athletes is a member of the World Players Association (WPA), the sports branch of UNI Global Union, a worldwide union based in Nyon (Switzerland). According to its website, the WPA brings together more than 100 player associations representing 85,000 athletes in around 60 countries ([www.uniglobalunion.org/sectors/world-players/about](http://www.uniglobalunion.org/sectors/world-players/about). Last consulted 24.02.20). Its vision is: “To champion the dignity of the player and the humanity of sport.” However, the WPA is rarely mentioned in the media. In addition, the various organizations within the Olympic system, especially IFs, also claim to represent the athletes in their sport (via their clubs and regional and national federations). More recently, in 2018, several elite athletes from different sports came together to create Global Athlete, an association based in Canada. It is currently run by Rob Koehler, a former deputy director general of WADA, who resigned from the organization in 2018, just before Russia’s anti-doping agency (RUSSADA) was reinstated. This association’s aim is to:

“inspire and lead positive change in world sport, and collectively address the balance of power between athletes and administrators. We aim to help athletes gain a more represented voice in world sport, recognizing that the neglect and suppression of the athlete voice has gone on for too long. We aim to bring sport into the twenty-first century by mobilizing athletes, following the unprecedented uprising in which athletes have called for enhanced rights and major changes to the way sport is run. Whether it be athlete welfare, unlocking athletes’ marketing potential, ensuring athletes receive Olympic revenues or simply better representation at the decision-making table, Global Athlete will fearlessly tackle the issues that really matter, working with athletes to determine what needs to change and how to go about changing it” (Global Athlete website: <https://globalathlete.org/about>. Last consulted 24.02.20).

In February 2020 Global Athlete published the results of a survey of 491 athletes in 56 sports and from 48 countries, including many Olympians and Paralympians (registration with the website, either as an athlete or a non-athlete, is free). According to the survey, 58% of respondents said their financial position was unstable and too dependent on their

performances and 57% felt that the IOC should pay them to take part in the Olympic Games. In addition, 57% of respondents felt that Rule 40 should be abandoned completely. With respect to the issue of athlete representation, 87% of respondents would like athletes to have half of the votes in decisions concerning them directly, and 54% thought that current athlete representation was “moderate”. Finally, 16% felt unable to express themselves at the Games for fear of retribution and the same percentage felt exactly the opposite (Global Athletes 2020).

In March 2020, when governments around the world were introducing strict confinement measures to try and contain the coronavirus pandemic, the World Players Association and Global Athlete called on the IOC to postpone the Tokyo 2020 Games and to consult more broadly with athletes. Following a request from USA Swimming and USA Track and Field [federations], the United States Olympic and Paralympic Committee (USOPC) carried out a survey of 300 potential 2020 US Olympians (Houston 2020) and found that 70% of them supported postponement. Some athletes warned that (individual or NOC) boycotts could ensue if this did not happen. Thirty-four per cent of the athletes surveyed said they needed more information. Several IFs (including World Athletics) also supported postponement. (On 24<sup>th</sup> March 2020 the IOC announced that the Tokyo Games would be postponed until 2021.)

The athletes’ associations and unions that have long existed in the United States, and more recently in Europe (with global ambitions), arise from the American conception of sport as a form of entertainment. Under this conception, sport’s commercial aspects justify treating it as a business more-or-less like any other, even if it may warrant certain exemptions from anti-trust law (in the United States) or measures to take into account its “specific nature” (as stipulated in article 165 of the 2009 Treaty on the Functioning of the European Union). The difficulty all these athletes’ associations face is proving their legitimacy to the bodies governing their sport (i.e. IFs and NFs). Many have conducted “email races” aimed at compiling the largest possible database of contacts that can be mobilized almost instantaneously, notably via social media. The European Commission recently decided to use Erasmus + funding to support the Strengthening Athlete Power in Sport (SAPIS) project for the period 2020-22 in order to map existing athlete representation bodies and develop new ones (Play The Game 2020).

Setting aside the issues of legitimacy and representativeness, there is also the question of income for the world’s best athletes. Since the beginning of the 21<sup>st</sup> century, a number of entrepreneurs have created brand-new for-profit competition circuits in sports which receive little media coverage outside the Olympic Games, such as show jumping (Global Champions Tour) and swimming (International Swimming League). Although these circuits offer substantial prize money, they are lucrative only for a tiny number of exceptionally talented (and invited) athletes, as is the case for sports with long-established professional circuits, such as tennis and golf. If each of the approximately 10,000 Olympians who competes in an edition of the Games had to be paid from the share of Olympic revenues redistributed to the NOCs via Olympic Solidarity (approximately US\$500 million), each athlete would receive US\$50,000 every four years. Although this is a considerable sum in some countries, it is relatively little in others and, most importantly, it is highly ephemeral.

The type of sport represented by the (pyramidal) Olympic system has always claimed to be much more than a business and a way of earning a living; it also sees itself as a societal activity with a political dimension. FC Barcelona, one of Europe’s largest professional

football clubs, has almost 200,000 members (called “socios”) who have decision-making powers within the club, notably with respect to electing its president. Other football clubs in Spain, the United Kingdom, and elsewhere in Europe are run on similar lines and many clubs have begun copying the system in order to give fans a voice. Paris Saint-Germain football club, for example, has given its fans the opportunity to vote on certain issues concerning the life of the club by buying “virtual tokens”, with each token giving its owner one vote. Twenty million “tokens” were made available to fans, each of whom could buy up to 200 at a cost of two euros per token (Brocart 2020).

This desire to involve fans could be extended to athletes. As noted above, most active athletes are members of a club, but not members of their NF or IF, which are usually associations of associations (clubs or NFs). In order to make sure athletes are fully and directly represented, it would be necessary to change the legal form taken by these bodies in order to turn them into consortiums of athletes and other stakeholders (clubs, referees, fans, etc.). On the other hand, individual clubs could keep their statute as associations whose members, and therefore their athletes, have a voice at general assemblies, that is, their governing bodies.

Furthermore, most NFs and IFs combine their traditional activities, that is, their “sovereign” or “ideal” role in setting rules, fixing the calendar, and choosing competition venues, etc., with sometimes substantial, for-profit commercial activities (selling broadcasting rights, sponsorship rights, merchandising rights, etc.). A non-profit association is not the best legal form for combining these two types of activity, although this is the type of structure adopted by most federations and sport organizations, even the largest and richest (e.g., IOC, FIFA, UEFA).

A stakeholder cooperative is a much better structure for combining commercial and ideal activities. Adopting this type of legal form would allow organizations to give a voice to athletes and other stakeholders who want to participate, on a voluntary basis, with each member of the cooperative having one vote. Cooperative structures exist in numerous jurisdictions and are used in many sectors (banking, insurance, distribution, etc.) in which the “beneficiaries” of the cooperative’s services wish to have a direct say in how the organization is run. In Switzerland, which is home to a large number of international sport organizations, cooperatives are regulated by articles 828 and subsequent of the Code of Obligations (a major Swiss law). France, where cooperative structures have existed since 1947, created a new form of cooperative, called a Public Interest Cooperative Society (SCIC), in 2001. France’s minister for sport has recently suggested that sport organizations should adopt this legal form in order to enable “shared governance” of French sport (MDS 2019). Such cooperative structures are in line with the idea of a social and solidarity economy (Utting 2014).

## Conclusion

The present paper retraced the history of athletes’ demands to have their voices heard in the Olympic system. Starting in the 1970s, athletes began asking the Olympic authorities to address three main grievances: their lack of say in decisions that affect them directly, their inability to obtain commercial benefit from their Olympic fame during the Games period, and the ban on expressing political opinions within Olympics venues. These last two grievances were the result of restrictions placed on athletes by Rules 40 and 50 of the Olympic Charter in order to protect the exclusivity enjoyed by the Olympic sponsors and

broadcasters who finance the Olympic system. The main ways in which sport organizations, led by the IOC, responded to these demands were to create athletes' commissions and appoint athletes to their consultative and executive bodies. In addition, the IOC took steps to slightly relax Rule 40 (commercial use of the athlete's image during the Games period) while requesting athletes to respect Rule 50.2 (banning demonstrations in Olympic venues).

The continuing increase in the number of athlete associations and unions, which are expressing athletes' demands ever more forcefully, suggests there is a need for a new approach to governing sport that gives every stakeholder a voice. One possible solution would be to adopt a social and solidarity economy approach by changing the legal form of sport federations from associations (of associations) to cooperatives (of athletes and other stakeholders) which give their members a direct voice, rather than a very indirect say.

Pierre de Coubertin, the founder of the modern Olympic Games, believed that "Olympism is in no way a system, it is a state of mind" (de Coubertin 1918). Since the 1950s, the IOC has widely used the expression "Olympic Movement", which Fundamental Principle 3 of the Olympic Charter defines as: "the concerted, organised, universal and permanent action, carried out under the supreme authority of the IOC, of all individuals and entities who are inspired by the values of Olympism." (IOC 2019). On the other hand, the expression "Olympic family" has gradually been abandoned because of its negative connotations. Fundamental Principle 3 also highlights a major difference between "movement" and "family" or "system" via its definition of the Olympic Movement as involving the actions of "individuals" who are "inspired by the values of Olympism". Therefore, individual Olympians are, in theory, more members of a movement, than components of a system. As sport organizations' frequently declare, they are at the heart of this movement, or, more exactly, they are the basis of the Olympic system and its legitimacy. Hence, it has become ever more important to heed athletes' voices in order to improve "sports democracy" and the governance of the Olympic and sport movement (Donnelly 2015). The years to come will undoubtedly see a continuing and unstoppable rise in athlete power.

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