

STRENGTHENING ATHLETE POWER IN SPORT

A multidisciplinary review and framework

Literature review / September 2021



Mike McNamee (ed.)



Co-funded by the
Erasmus+ Programme
of the European Union

STRENGTHENING ATHLETE POWER IN SPORT

Title

Strengthening Athlete Power in Sport: A multidisciplinary review and framework

Author

Alberto Carrio, Arnout Geeraert, Evie Ham, Andy Harvey & Alban Zohn

Editor

Mike McNamee

Layout

Play the Game

Cover photo

Getty Images/Icon Sportswire

Edition

1. edition, Aarhus, September 2021

Price

The report can be downloaded for free through the knowledge bank at www.playthegame.org.

ISBN

978-87-93784-57-4 (pdf)

Published by

Play the Game

c/o Danish Institute for Sports Studies

Frederiksgade 78B, 2.

DK-8000 Aarhus C

T: +45 3266 1030

E: info@playthegame.org

W: www.playthegame.org

Quoting from this report is allowed with proper acknowledgements.



Co-funded by the
Erasmus+ Programme
of the European Union

Content

1. Introduction.....	7
2. Theoretical framework: three models of democracy	9
2.1 Introduction.....	9
2.2 Representative democracy.....	9
2.3 Participatory democracy.....	10
2.4 Deliberative democracy.....	11
2.5 The evolving meaning of <i>demos</i>	12
2.6 Applying the three models to sport governance.....	12
3. Democratic Principles and Procedures as a requirement of Legitimacy of Sport Governance Bodies.....	14
3.1 Democracy as a basic principle of legitimacy.....	14
3.2 The moral basis of the democratic principle.....	15
3.3 Democracy as non-domination.....	16
3.4 Free political arrangements.....	17
4. Sport and athlete rights: theoretical frameworks, socio-economic and legal considerations.....	18
4.1 Classical theories of industrial relations.....	18
4.2 Unitarism.....	18
4.3 Pluralism.....	19
4.4 Marxist (conflict) theories.....	20
4.5 Critiques.....	20
5. Socio-economic and legal approaches.....	21
5.1 The specificity and autonomy of sport.....	21
5.2 The ‘peculiar’ economics of sport.....	22
5.3 The labour market in sport.....	23
5.4 Sport governance.....	24
5.5 Athletes representative structures in sport.....	25
5.6.i Legal challenge and change: FIFPro and the impact of the Bosman case.....	27
5.6.ii Social dialogue in professional football.....	28
5.6.iii Agents.....	29
5.6.iv Athlete commissions.....	30
6. Athlete activism.....	32
6.1 Marvin Miller and the abolition of the ‘reserve clause’ in baseball.....	32

6.2 Billie-Jean King and equal pay for equal play in tennis	32
6.3 Jean-Marc Bosman and freedom of movement in football	33
6.4 Caster Semenya and the rights of intersex athletes in sport	34
6.5 Athlete activism concluding comments.....	34
7. Review of the grey literature on athletes' rights.....	36
7.1 Background.....	36
7.2 Cricket.....	38
7.3 Rugby.....	39
7.4 Other sports	40
7.5 Dual careers athletes and career transitioning.....	41
7.6 Career transitioning.....	43
7.7 Women in sport.....	44
7.8 New challenges	46
References	47

1. Introduction

Mike McNamee, Scientific coordinator, SAPIS, & Professor, Swansea University

The overarching aim of the Strengthening Athlete Power in Sport (SAPIS) is to develop a nuanced mapping of the opportunities for athletes in order to provide an evidence base on which to enhance athlete's representation and influence in the governance of sport.

By identifying the existing structures and practices and evaluating them against the research literature and existing policies it is hoped that achievable advances in their representative capabilities and legitimacy may more readily be secured.

Moreover, it is envisaged that this will enhance sports governance by ensuring that the collective interests and views of athlete stakeholders can contribute to decisions about sport that are taken by the range of authorities whether as governing bodies, leagues, clubs and/or public authorities.

The present output is the combination of multidisciplinary scholarship employing a range of tools and frameworks. The multidisciplinary review incorporates theory and methods from ethics, history, law, as well as social, economic and political sciences and theoretical perspectives. It presents a view of the rise of awareness of athletes as stakeholders, as well as certain intellectual and historical landmarks in this development.

Section 2 operates at a deliberate level of abstraction so as to cover three fundamental political perspectives on democracy (i) representative; (ii) participatory; and (ii) deliberative. Stakeholder engagement must be understood in relation to one or more of these perspectives. It then seeks to frame sport governance in relation to these different models, each of which inform and influence competing models of organisation and stakeholder engagement.

Section 3, again operating at a level of abstraction, philosophically articulates the case for democracy as a basic tenet of legitimation. Understood thus, democratic forms embrace certain moral and political principles against which sport governance could be evaluated:

- (i) popular control/sovereignty
- (ii) political equality
- (iii) deliberative contestability
- (iv) protection of human rights

These principles secure for the polity (whomever they are) the conditions of respect – at least in the minimal sense of non-domination.

These fundamental characteristics of the topography of moral and political aspects of democracy serve as a backcloth in which to situate athlete representation in sports governance. Thus, in Sections 4 and 5 greater political detail over industrial relations models, and socio-legal approaches to the specificity of sport are presented along with key factors,

actors and landmarks in the development towards the current status quo of athlete representation in sports.

Section 6 describes in detail the models of athlete activism. It offers concise accounts of key cases in sport ranging from the American civil rights movement to the contemporary debates over hyperandrogenism in sport, illustrated by the participation debates over gender eligibility in the case of women's middle distance running.

The debates surrounding athlete representation has not culminated in a deep body of literature. It was thus necessary to investigate the literature that exists below this scientific level (often referred to as "grey" literature) in order to capture what happens "on the ground" so to speak. Thus, Section 7 articulates policy level literature on athlete representation, highlighting the founding of sport political structures and groups that have emerged to promote athletes' interests in selected sports and groupings.

2. Theoretical framework: three models of democracy

Arnout Geeraert, Utrecht School of Governance, Utrecht University

2.1 Introduction

Democracy is one of the most ambiguous normative political concepts. Conceptualisations of democracy are subject to endless debate because they are linked “to specific problems (theoretical and empirical, scientific and real) that emerge and change in different historical periods” (Della Porta, 2013, p. 4).

While specific definitions are thus constantly changing, there is general agreement on a broad understanding of democracy as *rule by the people*. This entails, more specifically, that power “derives from the people, belongs to the people, and must be used for the people” (Della Porta, 2013, p. 4).

Indeed, it is the ideal of a self-defining *demos*, that is, the members of a polity, which clearly distinguishes a democracy from nondemocratic regimes (Dahl, 1989). This implies, more specifically, that “individuals are morally and legally equal” and that they “are equally capable of autonomy with respect to citizenship – that is, conscious self-determination – all other things begin equal” (Urbinati & Warren, 2008, p. 395). From this follows the basic democratic norm that “collective decisions affecting self-determination should include those affected” (Ibid.)

Though there is general agreement on these basic principles, scholars disagree on how they ought to be implemented into political systems. Normative democratic theory focuses on the ethical foundations of democracy and democratic arrangements, justifying democracy both in terms of instrumental values and non-instrumental values. Far from providing a united argument, this vast body of literature comprises different strands of theory that put emphasis on different aspects of democratic processes and practices.

Three models are commonly distinguished: representative democracy, participatory democracy, and deliberative democracy (Bexell, et al., 2010; Della Porta, 2013). This section first provides an overview of the key features of these models. Next, it discusses the evolving meaning of *demos* to assess the applicability of the models beyond state governance. The final section explores the way forward by discussing if and how the models of democracy can be meaningfully applied to assess the democratic features of sport governance in relation to athletes.

The following overview outlines the key features that distinguish the three models of representative democracy, participatory democracy, and deliberative democracy.

2.2 Representative democracy

The first model, representative democracy, is still the dominant model in liberal democracies. Though this model departs from the core idea of rule by the people, it considers the direct participation of all constituents in decision-making to be both unrealistic and

undesirable. Given collective action problems and an unexperienced and (overly) emotional electorate, it is argued that power is best delegated to a limited number of political agents (Weber, 1974, p. 256). The latter should nonetheless demonstrate “continuing responsiveness” to the preferences of their constituents, which are considered as “political equals” (Dahl, 1971, p. 1).

Consequently, accountability of those who govern by the governed is a key component of representative democracy. It is to be ensured through free, fair, competitive, and recurrent elections, which not only make governing elites “sensitive to the people’s judgement” (Della Porta, 2013, p. 8). They also allow citizens to “choose between competing political elites with alternative political agendas” (Bexell et al., 2010, p. 83).

Elections thus confer legitimacy on an elite, which governs through majoritarian institutions that constitute the core “democratic arena” (Della Porta, 2013, p. 9). Political (inter)action, then, is the prerogative of those who are elected, who should not be overloaded with citizen demands between elections (Schumpeter, 1943). Nonetheless, representative democracy has an important constitutional component in that the power of the ruling majority is subordinated to judicial control and limited by checks and balances and the constitutional protection of certain fundamental rights (Della Porta, 2013).

2.3 Participatory democracy

Participatory democracy constitutes the second model of democracy. It advances the ideal that citizens should be granted genuine opportunities to participate directly in collective decision-making (Arnstein, 1969; Pateman, 1970). Importantly, all significantly affected constituents must have equal access to participation and exclusion and marginalisation should be avoided (Young, 2000).

These characteristics can be seen as a direct reaction to representative democracy’s perceived shortcomings. Participatory democrats consider that elections do not give citizens sufficient power over the elected and that they leave important themes out of citizens’ assessment and can be manipulated (Della Porta, 2013, p. 7).

Participation, by contrast, prevents abuses of power, increases the legitimacy of decisions, and makes these decisions more informed and, thus, more effective (Smith, 2009, p5). It also enhances the trust of those that are ruled by giving them increased oversight of those that rule, allows for the introduction of new, important issues into the political debate, and enables those affected by decisions to demonstrate the intensity of their preferences (Della Porta, 2013).

Participatory democrats take particular issue with the idea that citizens do not have the inclination or ability to participate in political decision-making (Pateman 1970). On the contrary, they argue that, when incentivized and given the opportunity, citizens can, would, and should participate effectively (Böker & Elstub, 2015).

Spaces of participation, moreover, function as “schools of democracy” and create a “virtuous circle” since “opportunities to participate stimulate trust and activism, thus reproducing the stimulus to participate and improving the effects of participation itself” (Della Porta, 2013, p. 42).

It is therefore important for authorities to create “multiple and varied channels of participation” (Della Porta, 2013, p. 42) such that citizens can participate directly in the key institutions of society (Held, 1997). However, participation risks becoming ritualistic when citizens’ voices are “heard” but not “heeded” (Arnstein, 1969, p. 217). A “transfer of power” is thus required to prevent the “manipulation of public opinion” (Della Porta, 2013, p. 40).

2.4 Deliberative democracy

The third model, deliberative democracy, emphasizes deliberation between free and equal citizens and between these citizens and their representatives as the essence of democracy (Fishkin, 1991; Habermas, 1996). Deliberation is “a social process” in which “deliberators are amenable to changing their judgements, preferences, and views during the course of their interactions” (Dryzek, 2000, p. 1).

Deliberative democracy thus emerged as a corrective to representative and participatory democrats’ treatment of identities and preferences as “exogenous to the democratic process” (Della Porta, 2013, p. 43). In both these models, preferences are determined “prior to political interaction” as the democratic process is largely limited to the aggregation of preferences via voting or participation (Dryzek, 2000, p. 11). By contrast, proponents of the deliberative model only consider decisions democratically legitimate “to the extent that they receive reflective assent through participation in authentic deliberation by all those subject to the decision in question” (Dryzek 2010, 23).

Visions of deliberative democracy not only hold that deliberation increases citizens’ trust in political institutions and their compliance with decisions through their “reflective acceptance” (Dryzek, 2000, p. 11). They also argue that it has a positive impact on the quality of decisions as a result of “the information that citizens bring into the process” (Della Porta, 2013, p. 64). Consequently, deliberation must be embedded in the political process. This means that authoritative institutions should “incorporate authentic deliberation” (Dryzek, 2000, p. 12).

Yet deliberation must not be confined to these institutions. The ideal of deliberative democracy entails that citizens must be encouraged to form opinions instead of merely expressing them and this can occur in multiple deliberative arenas both inside and outside formal institutions (Habermas, 1996). Consequently, there is a division of labour between these integrated arenas, which constitute the deliberative system that influences the decisions of the central authority (Parkinson & Mansbridge, 2012).

According to deliberative democrats, authentic deliberation requires interactions based on communicative rationality, that is, reasoned argument (Habermas, 1981). They should “involve persuasion rather than coercion, manipulation, or deception” (Dryzek, 2000, p. 1).

Participants should be open to transforming their initial preferences by taking “into account the points of view of the others” (Miller 1993, 75). While reaching a consensus standpoint should be the aim of the interactions, this is not always possible. A form of “meta-consensus” on values, beliefs, preferences or discourses can nonetheless ensure the functioning of a deliberative arena (Della Porta, 2013, p. 63; also Dryzek, 2010, p. 94, 114).

Though all affected actors should, in principle, be able to participate, proponents of deliberative democracy realize that, in practice, a limited number of citizens will be involved and that some may have privileged access (Dryzek, 2000, p. 18). Moreover, when deliberation takes place in the dark, it may be subject to manipulation by political elites (Smith, 2000, p. 33). Deliberative forums should therefore be part of broader deliberation and preference-formation by producing narrative accounts that “justify decisions, actions and results in the eyes of the broader citizenry” (Torfing et al., 2009, p. 291).

2.5 The evolving meaning of *demos*

According to the traditional (representative) conceptualisation of democracy, there needs to be a *demos* that precedes representation in order for there to be a democracy (Pitkin, 1967). Indeed, without a polity with members, democracy simply cannot exist.

More recent scholarship, however, notes how the emergence of global governance questions the traditional boundaries of political communities. It thus abandons the notion that these boundaries must be defined on a (strictly) geographical basis and suggests new forms of issue-based representation (MacDonald, 2008).

At the same time, the models of participatory and deliberative democracy also nuance the territorial conception of a *demos*. These models stress the participation of those that are significantly *affected* by decisions in the deliberative and participatory processes that are constitutive to these decisions (Dryzek 2010; Young, 2000).

The logical consequence is that, depending on the issues at hand, polities may have multiple *demos* of directly affected people. *Demos*, then, can be defined as the actors that constitute the addressees of a particular decision, rule, or policy. These actors subsequently have the strongest claim for enjoying (institutionalized) democratic rights (Martens, van der Linden & Wörsdörfer, 2019). This conceptualisation extends the applicability of the three models of democracy beyond the sphere of state governance.

2.6 Applying the three models to sport governance

We have presented an overview of the three commonly distinguished models of democracy: representative democracy, participatory democracy, and deliberative democracy. At first sight, the differences between these models appear stark, especially when one considers that the ideas advocated by participatory and deliberative democracy developed in large part out of (mutual) criticism. Some scholars indeed regard the models as mutually exclusive. Others, however, find that they are “mutually supportive” (Elstub, 2018, p. 187).

Realising that different models constitute “ideal democratic systems” that are difficult, if not, impossible to implement “under real-world circumstances” (Moravcsik, 2004, p. 337), these scholars advocate “mutual engagement” to overcome the deficiencies of isolated models and allow for meaningful evaluation of existing systems (Smith, 2009, p. 11).

The evolving conceptualisation of *demos* shows that the three models of democracy can be meaningfully applied to assess the position of athletes in sport governance.

Defining a *demos* as the actors that constitute the addressees of a particular decision, rule, or policy shows that (different groups of) athletes constitute important *demoi* for various entities in sport governance.

For example, national governments, clubs, national sport federations, National Olympic Committees, National Anti-Doping Organisations, international sport federations, and the International Olympic Committee all issue decisions, rules, and policies that address (specific groups of) athletes. In addition, representative organisations for athletes act on behalf of athletes and directly represent their interests.

The three models of democracy constitute useful analytical tools for scrutinizing the relationship between all these institutions and athletes. Nevertheless, the models should not be treated as isolated, independently functioning, benchmarks. Rather, they can provide ideal typical templates against which to appraise actualised arrangements in their particular contexts.

In setting this broad theoretical framework an attempt is made to enable the appraisal of what “current arrangements are the best that are feasible under ‘real-world’ circumstances” (Moravcsik, 2004, p. 337) and “to locate and interrogate the spaces for democratization that really do exist” (Dryzek, 2000, p. 80). Such location and interrogation can take many forms. Among the forms or discourses are ethical¹, legal, and socio-economic ones. These form the sections that follow.

¹ For the purposes of this report no distinction is drawn between the terms “ethical” and “moral” though it is noted that they are not synonyms.

3. Democratic Principles and Procedures as a requirement of Legitimacy of Sport Governance Bodies

Alberto Carrio, Faculty of Law, University Pompeu Fabra, Barcelona

3.1 Democracy as a basic principle of legitimacy

The concept of 'legitimacy' can be understood in two different ways, descriptive (typically social scientific) and normative Buchanan and Keohane (2006). Sociological approaches to legitimacy take its meaning to refer to the widespread belief that an institution (eg a government) has the right to rule. It is worthy to note that legitimacy in this sense is understood as a social convention, which is, by definition, independent of any ethical or legal reasons.

There is no doubt that this understanding of legitimacy can be easily applied to national and international Sport Governance Bodies (SGB), as FIFA, IOC, World of Athletics and so on, since they have been shaping and ruling sport organisations since the latter part of the nineteenth century. Nevertheless, this sense is not the kind of legitimacy that SGB claims when they rule, nor the one which their codes of ethics announce.

The normative meaning of legitimacy is significantly different. It is not related with any belief or social convention about the right to rule to a given institution or government, but with the right to rule they really ought or ought not to have.

Thus, when scholars or policy makers, for example, dispute WADA's legitimacy, the disagreement is not about what people merely believe to be the case at hand. Rather, they disagree about whether WADA properly has the right to determine the regulatory landscape of pharmacologically induced enhancement in sport. The focus for such critique is the grounds from which any legitimate actor(s) or institution should enjoy the right to rule the increasingly global world of sports.

No doubt that any plausible standard of legitimacy must respect democratic principles, which is much more demanding than the application of a single simple democratic procedure, i.e. a vote. Indeed, democratic procedures are a necessary but not sufficient condition to satisfy democratic principles. In fact, democratic procedures, such as public, fair and frequent elections, are already incorporated as a criterion of good governance of Sport Governing bodies.

Nevertheless, these democratic procedures do not guarantee the core requirement of the democratic principles, which are effective popular control and non-domination (Pettit, 2012). So, it is noteworthy that to retain that the basic test of legitimacy of a given institution is directly related to the power that keeps all persons relevantly affected to observe its laws or regulations.

3.2 The moral basis of the democratic principle

Disagreements about legitimacy are usually related with the normative sense of that word. That is, disagreements about FIFA and IOC to rule the world of sport are not related to people beliefs, they are related to the right to rule, i.e., to the legitimacy the institutions properly (or otherwise) have to rule and their capacity to demand compliance.

Yet it is important to note that both meanings of legitimacy are important. The sociological one is important, because SGBs play an important role promoting international cooperation and enacting regulatory frameworks in sport, as it is clearly the role that WADA plays in fighting doping, or the role that the IOC plays in staging the Olympic Games.

The normative sense is important because, even if legitimacy is not the same as justice, SGBs must meet a minimum standard that allows people to evaluate and, where appropriate criticize, their actions. Note it plays a very similar role to that of a government, since they enact rules and usually sanction compliance failures that can have important consequences for States and individuals, again the IOC and WADA serve as good examples in this sense.

Because of this power, a public minimum standard of legitimacy can help citizens and States committed to democratic standards to evaluate the action of SGB and support them or indeed withdraw their support for them. Since SGB are not so much different from any other political community, the Aristotelian conception of humans as social animals (*Politics*, 1253a) gives us an important clue of the social interdependency of human goods and the constraints of justice in the pursuit of individual plans of life.

A political community is essentially defined by three basic facts (Christiano, 2016, 222) namely: i) a set of morally mandatory aims that each member has reason to acknowledge; ii) substantial disagreement about how to specify the aims and how to pursue them effectively and fairly and, as a consequence of these facts; iii) some kind of decision process by which to negotiate the disagreements and conflicts of interests in choosing how to cooperate in realizing the aims.

All of these aims, and the processes to solve the inevitable conflicts that arise from disagreement and opposed interests, points to the necessity of social and political cooperation. Cooperation properly conceived is only possible among people who recognize each other as equals and, consequently as holders of the same rights.

This conception of basic equality is what justify the existence of social institutions aimed at setting up and promoting some basic rights, as Hobbes (Hobbes (1991; 1993) and Hart (1994) argued. But probably it was Kant who best expressed the idea of basic equality through the human transition from natural accidents (*homo phaenomenon*) to moral beings (*homo noumenon*). That is, the recognition of the equal dignity of every human being, which impose, at the same time, the duty of respect for each other (Kant, 1997: 433-6).

The consolidation of the idea of basic equality or deep equality, as Dworkin (1985: 273) calls it, is according to Scanlon (2013:5) the most important moral progress of humankind. Because of that this idea is at the basis of each conception of justice. As Rawls (1971) affirms moral persons are entitled to justice because they are distinguished by two salient features: i) they are capable of having a conception of their good; and ii) they are capable of having a sense of justice.

3.3 Democracy as non-domination

According to Rawls, moral persons are conceived as autonomous agents. That is, they are capable of acting in their reasons and will rather than by arbitrary reasons imposed by others (Pettit, 2012). In other words, an autonomous agent can accept authority over her/him when this authority is based on public reasons that authority give.

That is a salient feature of democratic authorities and particularly important since they allow (and promote) deliberation with others. Consequently, they encourage people to engage in a public debate that can lead the agents to change the reasons they have and commit to.

On the contrary, autonomous agents lose this defining feature when they are manipulated and misled in order to act on the reasons of others rather than their own. This is because the problem of normative legitimacy is clearly linked to democratic principles. Indeed, it is possible to affirm that an authority/institution is legitimate precisely when it meets the following democratic principles:

1. The principle of ultimate, effective popular control, i.e., popular sovereignty
2. The principle of political equality
3. The principle of deliberative contestability
4. The principle of human rights protection, Bessons aMartí (2018: 7).

As it is easy to see that each of these principles coheres with both the basic definition of a political community and the conception of human goods and sense of justice. We briefly elaborate on each of these democratic principles below.

The principle of popular sovereignty conjoins two elements: the mandatory aim that each member of a community has reasons to believe and promote and also the requirement for a decision-making process to overcome disagreements about how to achieve the mandatory aims of the community (Christiano, 2016). It allows the people to delegate their power to an authorised institution, which in turns confers democratic legitimacy into the outcome of democratic representation.

The respect of the **principle of political equality** is a requirement of the concept of basic/deep equality of all human beings. That is, since every moral person is entitled to justice, the respect of human dignity imposes an equal participation in political decision-making process (Buchanan, 2004).

The **principle of deliberative contestability**, at its side, promotes open public discussion and deliberative processes in order to frame collective policies. At the same time this principle reflects the pluralistic interest of the political community rather than values of the institutional authority or a particular section of the community (Christiano, 2008). That is to say, the principle of deliberative contestability (where different visions of the good life compete) is preserved and supported by a public (a demos) that acknowledges fair and appropriate procedures by those to whom it applies (Rawls, 1971).

Finally, the **principle of humans rights protection** is a basic requirement of justice that any legitimate institution/government must secure or at least make all necessary efforts to fulfil to the maximum level possible. In the specific case of sports, this principle coheres with the protection of the basic rights of athletes at any level, that is, representative, labour and health rights.

According to the above, then, SGBs should be considered legitimate insofar as they meet these principles. It must be noted, however, that the satisfaction of these principles is not a straightforward matter to be evaluated. They cannot simply be audited like a checklist. Rather, each of the principles are scalar: they allow for the assessment of legitimacy of a given institution according to the degree(s) it meets these four requirements.

3.4 Free political arrangements

As a result of the requirements of democratic legitimacy and the deliberative process it simultaneously allows and promotes, it could be said that any political arrangement is representative of the interest of athletes as well as other stakeholders. They provide athletes the freedom from non-domination of SGB that a republican account requires (Pettit, 2010).

On the other hand, these requirements force SGB to refrain from using their coercive powers without consent and protect the common interest of all stakeholders with full respect for the human rights of athletes. The forms of rights, the degree of their recognition, and the sports contexts that make sense of them are considered in the following sections.

4. Sport and athlete rights: theoretical frameworks, socio-economic and legal considerations

Dr Andy Harvey, Evie Ham and Alban Zohn, School of Sport and Exercise Sciences, Swansea University

4.1 Classical theories of industrial relations

Industrial relations have typically been taxonomized into three broad categories since the pioneering work of Fox (1966, 1974) who introduced the notion of 'frames of reference' into the study of workplace relations. Fox argued that relations between employers and labour could be categorised as a function of how the researcher perceives the phenomena. This might be as a description of employment relations but is more likely to have a normative component - i.e., how any particular person undertakes this task will depend to a significant level on the political position that is adopted.

The classical categories that have been developed to understand industrial relations are: i) unitarism; ii) pluralism, and Marxist (or conflict) systems.

4.2 Unitarism

Unitary systems of industrial relations broadly attempt to erase differences of interest in the work environment. From an ideological perspective, companies (and other work organisations) are seen as pursuing objectives that benefit both employer and workers and which are achieved through a process of cooperation. While conflicts may break out from time to time, these are viewed as aberrations (Abbott 2006).

Chand (2017) argues that unitary systems obscure significant power differentials as sources of authority are located solely within management structures rather than dissipated amongst other actors, such as union representatives (Fidler 1981).

Abbott identifies three typical examples of unitary systems:

- a) Scientific management as popularised by Taylor (1911) and which developed into what became known as 'Fordism' for large scale manufacturing systems. The purpose of such systems was a highly efficient working environment that could support relatively high wages for employees.
- b) Human relations theory (e.g. Maslow 1954; Child 1969) that aimed to erase tensions and potential conflict in the workplace by allowing workers a degree of influence in work design and an attention paid to job satisfaction.
- c) Human Resource Management (HRM) (e.g. Stone, 1995; Guest 1989). An HRM system aims to erase workplace conflicts through the conscious construction of a collaborative work environment through a pursuit of common organisational goals.

Within unitary systems, workers' organisations, such as trade unions are either treated as hostile to organisational goals and excluded from the workplace or are integrated in some way within organisational structures and processes.

In the sports environment, athlete commissions, established by SGBs, might fit into this category. Alternatively, sports where there is little formal athlete representation could also be said to operate within a unitary framework.

4.3 Pluralism

A pluralist system of industrial relations acknowledges differences of interest between employers and workers as well as external parties but seeks to resolve those differences through formal and informal mechanisms, such as free collective bargaining.

Kaufmann (2008) argues that pluralism has been the system favoured in academic studies as the most practical solution to inevitable conflicts. He summarises pluralism as, 'a form of workforce governance composed of various partially autonomous, competing, and conflicting groups and associations both inside and outside the firm. These groups, representing the interests of stakeholders such as employers, employees, the local community and policymakers, set the rules of the IR system and govern the firm through a process of negotiation and compromise among more or less equals' (p. 321).

Abbott (2006) identifies two sub-categories of pluralism within the literature: Systems theory and strategic choice theory.

Systems theory: Anglo-Saxon twentieth century industrial relations theory was heavily influenced by Dunlop's ground-breaking text, *Industrial Relations Systems* (1958) which adopted the then dominant structuralist-functionalist sociological framework most closely associated with his near contemporary and compatriot, Talcott Parsons (1951). Systems theory holds that industrial relations is a sub-system of wider social relations and that a whole set of rules are developed by stakeholders (e.g., on pay, pensions, hours etc) to enable the system to work more or less effectively. Critically, the industrial actors share an interest in ensuring the smooth working of the system through negotiation, arbitration and other conflict resolution mechanisms.

Strategic choice theory. Most closely associated with Kochan et al. (1986), strategic choice theory acknowledges the changed industrial relations landscape since Dunlop's text, notably the decline of organised labour and collective bargaining across large tracts of industrial sectors. They observe that management decision making involves strategic choices in areas such as marketing, investments in technology and recruitment will have significant impacts on employees in areas that lie outside of traditional collective bargaining agendas. The theory is influenced by the growth of HRM and seeks to integrate more traditional pluralist thinking with modern paradigms.

In the sports sector, pluralist models can be found in the sports which have strong collective bargaining systems, notably in professional sports in the United States. Such

arrangements are less developed in Europe, although some PFAs in Europe have nascent CBAs with governing bodies and/or leagues.

4.4 Marxist (conflict) theories

Kaufmann (2008) describes early workplace relations as a matter of commodity exchange between the buyers and sellers of labour, each of whom pursued narrow economic self-interest. Within a Marxist (1950, 1967, 1978) terminology, this process involved a struggle between workers and the owner of the means of production that would lead to the development of a revolutionary class consciousness among those workers who came to see their inevitable exploitation within a capitalist economic system.

Proponents of a Marxist paradigm include Hyman's (1975) seminal study of labour unions, the employment relationship and industrial relations within Britain and western capitalist societies, from radical and Marxist perspectives. Kelly (1998) also adopts a broadly Marxist position in developing his influential theory of mobilisation within trade unions and other workers' organisations.

As far as we are aware there are no sports employment relations systems at either national or workplace level which fall explicitly within a Marxist frame, or any athlete representative body that adopts a Marxist orientation towards industrial relations.

4.5 Critiques

Hicks (1941) and Commons (1934) predicted that industrial relations would move over time from a conflict model, passing through a pluralist system towards an end point of a unitary model as cooperative systems would be more economically efficient than systems that were distracted by conflicts and dispute resolution.

In a critique of the three-model taxonomy derived from Fox's seminal work, Cradden (2011) argues that the categories remain relevant to 21st century industrial relations but need finer granulation. He proposes that the model is extended to nine categories: i) deliberative unitarism; ii) high commitment unitarism; iii) integrative pluralism; iv) bureaucratic unitarism; v) low commitment unitarism; vi) adversarial pluralism; vii) ethical conflict; viii) localised conflict; ix) radical/class conflict.

While a more refined taxonomy enables a more sophisticated understanding of the nuances within the broader categories, Cradden's work remains within the dominant traditions of industrial relations theory.

5. Socio-economic and legal approaches

5.1 The specificity and autonomy of sport

The 'specificity' of sport is the term often used to signify that sport is somehow different from other arenas of human life. It is where, in the phrase coined by the Dutch cultural theorist, Johan Huizinga (1949), we become *homo ludens* or 'playful, sporty beings', as distinct, for example, from the world in which we work or the domestic sphere. For some play theorists such as Callois (1961), Castronova (2005) and Salen and Zimmerman (2003), the space of play or games is marked off with its own distinct and self-contained rules from those other domains of human activity.

While the sphere of play and sport may be differentiated from other realms of life, Huizinga emphasised that this should not be taken to be equated to something frivolous or unimportant, but that play not only pre-dates human society but forms an essential aspect of it – i.e. we should think in terms of the play *of* culture rather than play *in* culture. Similarly, Guttmann (2004) has argued that the idea that sport is separated off from other aspects of life such as religion emerged only with the birth of modern sports in the second half of the nineteenth century.

Notwithstanding these academic debates over sport's place in culture and society, the notion that sports is different to other productive human spheres was recognised by the European Union in the Nice Declaration (2000), which stated that it was necessary to 'take account of the social, educational and cultural functions inherent in sport and making it special' (Annex IV).

EU institutional acknowledgement of the specificity of sport was confirmed in Article 165 of the Treaty on the Functioning of the European Union (TFEU), 2009 where it was agreed that the 'the Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.'

The traditional European model, as conceived by the European Commission in its draft document, *The European Model of Sport* (1998) observes that sports are governed in a hierarchical but unified structure with a single global body such as FIFA at the apex and grass-roots participation at the base. As discussed below, this model has been subject to sustained critique in the twenty-first century.

Deriving from its special status as rooted in its modern history as a voluntary activity, sport has traditionally enjoyed considerable autonomy in its governance procedures. In 2013, the President of the IOC, Thomas Bach, commented that, 'sport [is] truly the only area of human existence which has achieved universal law. But to apply this universal law

worldwide, sport has to enjoy responsible autonomy. Politics must respect this sporting autonomy.²

In respect of football governance, FIFA has been equally determined to preserve its own freedom of action against interference from national governments. The FIFA Statutes, Article 19, (i) state that, 'each member association shall manage its affairs independently and without undue influence from third parties.'³

Despite arguments that the autonomy of football is a relic from a bygone era (Andersen, 2015), FIFA has nevertheless banned or suspended a number of countries, including Kuwait and Benin, from its competitions as a result of what it sees as government interference in the affairs of a national association.

5.2 The 'peculiar' economics of sport

Contemporary sport extends well beyond its voluntary, social and educational remit. There is a general acknowledgement that professional sport represents a significant economic domain. According to Kearney's analysis (2011), the global sports market is worth between €350 – €450bn per year, taking into account 'infrastructure construction, sporting goods, licensed products and live sports events. The substantial financial dimension of sport is derived largely through the creation of elite sporting contests that display specific features marking them out from other spheres of economic life to the extent that the economics of sport are sometimes described as 'peculiar' (Neale, 1964; Gratton, 2000).

These so-called 'peculiarities' of sports economics have been well documented in the literature (e.g. Andreff 2011; Downward & Dawson 2000; Szymanski 2003, 2009). To summarise the general position, it can be said that sport competition is organised as a 'joint product' between clubs in order to create and maintain 'competitive balance' and 'uncertainty of outcome' that forms the foundation of the elite and professional sport economies.

While there is some dispute as to the precise importance of these twin concepts (e.g. Berri *et al* 2007) it is undeniable that they underpin the formal organisation of sporting contests across the globe. To achieve these aims, it is said that sport needs exemptions from liberal economic policy regulations that are designed to promote competition in business between non-sport economic actors.

In the United States of America (US) these regulations fall under the heading of antitrust legislation and in the European Union (EU) under the auspices of EU competition policy (see O'Leary 2017 for a full explication). Consequently, sports leagues may (and do) operate as business cartels (Berry *et al.*, 1986; Dabscheck 2004; Schwab, 2017) that are partially exempt from the laws of competition regulating other sectors of modern liberal capitalist economies.

² <https://www.olympic.org/news/historic-milestone-united-nations-recognises-autonomy-of-sport>

³ https://resources.fifa.com/mm/Document/AFFederation/Generic/02/78/29/07/FIFAStatutswen_BEN_Neutral.pdf?t=1461659845938

5.3 The labour market in sport

Sport not only displays ‘peculiar’ cartel-like economics but also features unique labour market regulations compared to the rest of the economy (Barry, *et al* 2016; Mason 2016; O’Leary 2017). In the highest profile global sport, football (soccer), these characteristics include (but are not limited to) restrictions on the ability to move from one club to another outside of the transfer windows; an obligation for selected players to be released to represent a national team; restrictions on seeking redress for breaches of the employment contract by the employer; and, severe financial penalties imposed on players who wish to change club while still in contract (Parrish, 2011; Pearson 2015; Szymanski 2015). The rules that govern the status and transfer of players in football fall within the remit of FIFA, the global governing body, and apply to the game on a worldwide basis.⁴

The purpose of these labour market constraints is said to be, ‘maintenance of contractual (employment) stability; promotion of solidarity (redistribution of resources); promotion of competitive balance (ensuring competitors have a reasonable prospect of winning); ensuring stability of championships and competitions [and]; ensuring stability of clubs’ (Szymanski 2015).

The major North American sports have different measures, including salary caps, player rosters, and recruitment drafts, to achieve the same aims of promoting the economic integrity of leagues and competitive balance between franchise teams, that are less frequently adopted in European sport.

In summary, sports might be said to have hybrid labour relations systems that combine elements of transnational (where applicable) law, national law, and sport specific regulations that act as modifiers to the general legal frameworks. In addition, collective bargaining agreements operate alongside a multiplicity of individually negotiated employment contracts that are most often negotiated by player agents.

Despite the formal regulative restrictions to the labour market that are designed to promote a level playing field between clubs to better enable competitive balance and uncertainty of outcome (or perhaps, paradoxically, as a consequence of them) the football sector has produced exaggerated inequality of wealth between both clubs and individual players. For example, it was reported in 2016 that Spanish giants, Real Madrid, generated more than ten times the revenues of the sum of all Romanian football clubs.⁵

The inequalities of wealth within football were highlighted by FIFPro’s Global Employment Report (2016), which revealed *inter alia* that 45% of players earned less than \$1,000USD per month and that less than 2% earned more than \$720,000USD per year.⁶

⁴ https://resources.fifa.com/mm/document/affederation/administration/02/70/95/52/regulationson-thestatusandtransferofplayersjune2016_e_neutral.pdf

⁵ <https://www.romania-insider.com/romanian-football-clubs-highest-revenues/>

⁶ FIFPro’s research also uncovered a litany of other employment abuses, including failure to pay wages on time, bullying and unfair treatment of players.

Global professional football can be represented as a commodified pyramid, with a small number of elite clubs and players at the apex of the game with a much larger base of often financially insecure clubs and precariously positioned players working in lower leagues (FIFPro 2016⁷). When the average length of career for a footballer is just eight years is taken in to account it becomes clear that the professional game has significant issues in regards to the terms and conditions of employment of much of its workforce. This is exacerbated by the specialization and precariousness of sporting labour itself where a single injury can easily end a player's career and thus their financial livelihood.

5.4 Sport governance

As noted above, the traditional European model, as conceived by the European Commission in its draft document, *The European Model of Sport* (1998) observes that sports are governed in a hierarchical but unified structure with a single global body at the apex and grassroots participation at the base.

Although some football studies still make use of this traditional pyramidal theory of governance (e.g. Marston *et al* 2017), limitations of the model have been identified by scholars (e.g. Gammelsæter & Walters 2020; Garcia 2009; Geeraert *et al* 2012; Geeraert 2015) who note that it fails to acknowledge the influence of other significant actors at national and international levels, particularly the European Union and national governments, but also sponsors, broadcasters, players' associations, agents, and fan groups.

According to Ferkins and Shilbury 2020, governance theories in sport can be broadly divided between single organisational theories, (e.g. stewardship and agency), and systemic theories, (e.g. network, stakeholder, collaborative). Network, stakeholder and collaborative theories of governance are now well-established as appropriate frameworks through which to explore relationships between institutions in sports (e.g. Babiak *et al.*, 2018; Byers *et al.*, 2012; Ferkins & Shilbury 2015; Henry & Lee 2004; Parent, 2016; Parent, *et al.*, 2017).

Yet, with the exception of Parent (2016) and Parent *et al.*, (2017) who explored the network of large multi-sports events from the standpoint of the non-governing stakeholders, the focus of these studies has primarily been to analyse the network and its stakeholders from a governance perspective – i.e. how it comes into being, who belongs, its features, qualities and problems. As a result, systemic theories have been effective in mapping the governance landscape and analysing the disparate relationships that exist within the network.

Arguably however, despite recognition by Walters and Hamil (2013) of the importance of power among football stakeholders, a lacuna remains in respect of an under-theorisation of the dynamics of the relationships that exist in a negotiated systemic governance environment, specifically between athletes and sport regulatory bodies.

⁷ <https://www.fifpro.org/en/industry/men-s-global-employment-report>

To address this lacuna, Harvey (2020) drew on an interdisciplinary framework of theories of trade union power and theories of network governance in order to better understand the positioning, strategies and tactics deployed by the Professional Footballers Association, Scotland in respect of its evolving influence within the Scottish professional game.

5.5 Athletes representative structures in sport

Traditionally, the critical actors in the economy that purport to improve the employment conditions of workers are trade unions. In the overwhelming majority of the non-sports sector of the economy unions organise members collectively to increase bargaining power for wage and non-wage benefits beyond those that can be negotiated individually (Drakopoulos & Katselidis 2012; Dunlop 1944; Ross, 1947).

A primary strategy of unions to achieve these objectives has been to try to shield workers from the full force of free market capitalism, especially individualised wage bargaining, which they believe would result in a 'race to the bottom' in employment standards. In contrast, a persistent and 'peculiar' strategic objective of sports trade unions, notably in the major US sports, recognising the significant individual bargaining power of their highly skilled members, has been to open up the labour market to competition and secure the free agency of players to move from team to team and negotiate their own contracts (Staudohar 1986; Quirk & Fort 1999; Mason 2016).

In England, the first professional footballers' association was formed in 1897 as The Association of Football Players' Union precisely with the aim of reforming the Retain and Transfer System that tied players to clubs during and beyond their contractual period.

The history of the PFA in England since shows how struggles for improved terms and conditions of employment for its members have often revolved around ending restrictive labour practices by employers, such as the maximum wage and constraints on players to move from one club to another, in order to create a freer market economy for its members (Dabscheck 1986; Harding, 1991; Taylor 2004; O'Leary, 2017; Walters, 2004).

However, such a strategy comes at a cost: as their highly skilled members are freed from the shackles of employer-imposed terms and conditions, they have been able to negotiate individual contracts of significant value to the point where the union's role in wage bargaining is attenuated and the role of agents acting on behalf of the individual player has risen in inverse proportion (Parrish, 2011; Rossi et al., 2016).

Some PFAs in Europe, for example the Hungarian PFA, have responded to the competition posed by agents by setting up their own agencies that act for players on an individual basis. Such moves are indicative of the problems that sports unions face to represent collectively a small but diverse workforce in which earning power is highly differentiated between individuals, depending on where a player sits in the sports hierarchy.

As Berry *et al.*, (1986) have noted, 'a players' union is not an ordinary trade association. It deals with a special kind of management and attempts to serve the needs of a very select

group of workers. [...] The membership of a players' association is diverse. Differing skill levels, star appeal, crafts, and attained salaries, produce different outlooks and interests among players' (p. 14).

Many sports unions, especially and paradoxically those that have succeeded best in organising labour in their sport, can no longer claim wage bargaining as a primary task, although basic compensation issues (e.g. pensions) remain on the negotiating table with the aim of increasing labour's overall share of industry revenues (Staudohar, 1986; Mason, 2016).

Staudohar glosses this situation as comparable to the 'star' system in entertainment, showing the flexibility of sports unions to adapt to the individualised bargaining environment which they have helped to create. In such circumstances, union strategy has been to focus on obtaining greater influence over the industry for the benefit of those outside of the elite performers (Staudohar, 1986, pp.6-7).

Nevertheless, as Walters (2004) and Marston et al. (2017) observe, players associations have shown a diversity of tactics to organise and represent players within the sector, despite their significant absence from the wage bargaining arena. In his single union study of the PFA in England, Walters argues that high levels of union density are maintained as a result of their being positioned as a provider of benefits (e.g. educational, welfare, and legal) to their members.

The power of the union's industrial leverage should not be under-estimated. In the PFA's dispute in 2001 with the Premier League over its share of broadcasting revenues, the union successfully mobilised its members in support of its claim. As Walters (2004) notes, 'when put to a member vote, a 92% turnout resulted in 2290 voting in favour of strike action in contrast to 22 votes against - 99% favouring strike action - from an original ballot number of 2496' (p. 12). With such a resounding mandate from its members, PFA England was able to settle the dispute on better terms without resort to strike action.

In exploratory and descriptive research that studied the governance relationships between players and management in 25 countries, Marston et al. (2017) found a large diversity of representational models. They found that players' representatives might be found at club, league, and national federation levels, with memberships of committees and even at board level. However, participation in such structures was far from universal.

Representation at club level was rare, while at league level, 6 out of 17 respondents reported player representation on boards or committees. At national association level, the situation was different with 72% reporting representation. Notably, for the women's game this dropped to just 33% (Marston et al., 2017, pp. 52 - 62).

Their research, which was funded by FIFA as part of an ongoing series of studies into the football governance landscape, also reported an array of negotiating structures and mechanisms that are deployed as means to represent players.

For the men's game these include 15 collaborative agreements and Memoranda of Association that are not legally binding but constitute 'letters of intent'. Collective bargaining agreements (CBA) that are (in most countries) legally binding were found in 18 countries. Standard player contracts, that contain fundamental terms and conditions of employment, such as salary, length of contract and holiday entitlements, were also found in 18 countries (Marston et al., 2017 pp. 78-101).

While the limitations of the research precluded any significant analysis of these diverse arrangements, nevertheless the text offers a starting point in mapping the industrial relations landscape in professional football.

5.6.i Legal challenge and change: FIFPro and the impact of the Bosman case

At the European level in football, FIFPro has also followed a strategy of attempting to free up the labour market for players. One of the primary tools that FIFPro has used to implement this strategy has been an appeal to European legal regulations that are designed to create a broadly free market economic environment within the EU. One of the key pillars that has supported the European single market is the free movement of labour between member countries.

As discussed above, the labour market in football has traditionally restricted the freedom of players to move between clubs in order to achieve the goals, *inter alia*, of competitive integrity and balance, or, more cynically, to maintain employer power and control over the employment relationship. The central argument of FIFPro, as in the case made by the PFA against the 'retain and transfer' system in England in the early 1960s, is that the restrictions go beyond their stated aims and constitute an unfair restraint on players to sell their labour on the free market.

On 15th December 1995, the European Court of Justice ruled in the celebrated 'Bosman case' that the football transfer system in the EU conflicted with Article 39 of the EC-Treaty.⁸ The ruling has had a significant impact on the labour market for football, enabling top players to sell their skills on the open market, creating the conditions for the talented few to earn millions of Euros a year. Further, the longer-term consequences of the ruling have been to create a more polarised football landscape with the bigger teams and leagues growing ever more financially distanced from the rest (e.g. Dejonghe and van Opstal 2010; Ericson 2000).

For FIFPro, the Bosman case demonstrated its ability to leverage the transnational legal environment of the EU to the advantage of professional players (Dabscheck 2003, 2006 a; Davies 2014; Parrish & McArdle, 2004). Further, the decision prompted FIFA to introduce new rules in 2001, the FIFA Regulations on the Status and Transfer of Players, in order to strike a balance between the legitimate needs to promote sporting integrity and the rights of players to move freely (Parrish, 2015). Arguably however, FIFPro's eventual influence over the

⁸ Case C-415/93 in Reports of Cases before the Court, 1995, 4921.

content of the regulations was marginal due to its relative weakness as a negotiating body at the time (Geeraert, 2015).

Since *Bosman*, footballers' associations have scored further significant court victories at the ECJ in the *Bernard*⁹ case on training compensation payments (Hendrickx 2010; Pijetlovic, 2010) and at the Court of Arbitration of Sport in the *Webster*¹⁰ case on a player's right to breach his contract under the terms of Article 17 of the FIFA Regulations.

A more ambiguous decision was reached, ultimately by the Swiss Federal Tribunal, in the *Matuzalém* case (Levy, 2012), which, according to FIFPro, is not a revision of the *Webster* case but has elements that were less favourable to the player, but which nevertheless highlighted the risks of taking cases to court where the desired result is, of course, not assured.

The full significance of *Bosman* was revisited by scholars as part of the twentieth anniversary of the ruling in Duval and Van Rompuy (eds) (2016) where the authors discuss the impact of the ruling on the sports governance in Europe.

Some of the limitations to a legal approach by player associations to labour market reform include the length of time that cases take to progress through the court system; the need for a player to act as a plaintiff in the case, often to significant personal detriment; and the uncertainty of outcome in a ruling that may set a precedent for many years thereafter. As discussed below, these uncertainties were brought into sharp relief in the *Jess Varnish* case, where the British cyclist was found not to have employee status and therefore not entitled to legislative employment protections (Roberts & Sojo, 2020).

5.6.ii Social dialogue in professional football

Acknowledging these constraints, in parallel to a strategy of testing football's internal labour market regulations in the courts, FIFPro has also made use of the EU's policy of encouraging dialogue between what it calls the 'social partners' who are usually thought of as employers, trade unions and sometimes national governments.

The Sectoral Social Dialogue Committee for Professional Football (SSDCPF) was established in 2008 between FIFPro, the EPFL and the ECA. UEFA participates as an associate partner and chairs the meetings (Colucci & Geeraert, 2012; Geeraert, 2015; Keller, 2016, 2018; Parrish, 2011, 2016; O'Leary, 2017).

The social dialogue process operates in tandem with European football's internal consultative structures and processes of the advisory Professional Football Strategy Council (PFSC). The main outcome of the social dialogue process to date has been the Autonomous Agreement of 2012 that sets out the basic content of the standard players contract (SPC) of employment, which should be 'in writing, define the obligations of the employer and employee, outline the player's salary and leave entitlements and entitlement to insurance, and

⁹ C-325/08

¹⁰ CAS2007/A/1298/1299/1300

contain a provision concerning the agreement by the player and the club to comply with the anti-doping regulations of the football authorities, amongst other things' (O'Leary 2017: pp.138-139).

Responsibility to implement the contract at national level is voluntary and devolved to the social partners at that level with the European level social dialogue committee retaining a monitoring role only (e.g. Siekmann, 2004; Smokvina, 2016). Further, the discussions in the SSDCPF must first be agreed at the PFSC, a process that Geeraert argues helps UEFA to control the agenda of a body that would otherwise be outside of its orbit of influence (Geeraert, 2015).

Discussions by the author with senior figures in FIFPro have indicated that the Social Dialogue Committee for Professional Football agreement has not been renewed and the strategic focus of FIFPro has shifted to FIFA since the election of former UEFA Vice-President Gianni Infantino to the position of President of FIFA where he has replicated the UEFA Professional Football Strategy Council with a FIFA Football Stakeholders Committee.

A limited literature exists beyond football that examines the potential of social dialogue in the sports sector. Whereas Cattaneo (2018) sees great potential for SD in the sports sector due in part to the transnational nature of sport, Pierre and Buisine (2013) acknowledge the difficulties that persist in establishing effective SD, notably the absence of strong European institutions, especially on the employers' side, that are willing to enter into such an agreement.

5.6.iii Agents

As noted above, in the environment of player representation, the presence of agents for individual players has been a common feature for decades (Sloane, 1969). Much of the literature on player agents, however, emanates from the United States and focusses on the specific legal environment and regulatory mechanisms there (e.g. Becker, 2013; Heitner et al., 2011; Miller et al., 1992; Mason, 2006; Rypma, 1990; Sobel, 1987; Wilde, 1992).

Surveying the global player agent scene, Mason and Duquette (2005) deploy agency theory to critique the role of agents, noting especially conflicts of interest that arise when agents develop close relationships with sponsoring corporations. Reviewing the sports agency business in Australia and America, Johnson (2006) also notes conflicts of interest emerging out of the consolidation of the sports agency market into fewer and larger firms.

The value of standard principal-agency theory as an analytic tool to understand player representation has been questioned by Mason and Slack (2005) while Karcher (2006) argues that problems of inconsistent, and sometimes incompetent, representation of players by agents could be partially overcome by vesting more responsibilities in players unions as accredited representative organisations.

In contrast, given the ubiquitous presence of agents, the European Parliament's Mavrommatis report considered 'that players' agents should have a role within a strengthened social dialogue in sports' (cited in Parrish, 2011, p.221).¹¹

In professional football, Poli (2010) provides an overview of the functions and strategies of agents while Rossi et al., (2016) afford a comprehensive account of the historical development of agency, the roles of agents and their impact on the labour market in football. Hancock et al., (2010) take a management skills approach to agency, identifying the developmental stages of an agency career in (ice) hockey whereas Shropshire et al., (2016) provide a full text treatment on the legal and commercial aspects of sport agency. Dabscheck (2006 b) examines the legal position of rugby players' agents in Australia while Gobikas et al., (2005) consider the fledgling market for agents in the poorly paid Lithuanian football leagues.

5.6.iv Athlete commissions

In recent years sport governing bodies have attempted to include athletes in policy and decision-making outside of merely labour relations. One means by which this representation is achieved is by installing athlete commissions or panels made up primarily of current and former professional athletes.

The best known of these bodies is the IOC Athlete Commission that was established in 1981 and whose purpose is to increase athlete input in decision-making (Thibault et al., 2010; Koss 2011). Its position was strengthened in 2001 in response to social criticisms of SGBs for making decisions that athletes had very little voice in, or at worst were not even aware of (Koss, 2011). WADA also established an athlete committee in 2005 to provide feedback about anti-doping measures in response to similar criticisms (Thibault et al., 2010; Schwab, 2018).

The presence of athletes around the decision-making table should, in theory, provide a platform for athletes to engage in deliberative democracy, thereby strengthening their voice in sport governance. An alleged achievement of the Commission is the 2018 IOC Athletes Declaration¹² which outlines a common set of rights and responsibilities to which athletes within the Olympic movement should aspire to.

However, major problems exist with these attempts at athlete representation. Firstly, sport policy in general is still made without consulting athletes and almost never in partnership with those athletes (Thibault et al., 2010; Donnelly, 2015; Schwab, 2015). The commission or committee is theoretically independent, but they remain separate from major decision-making, and they act in the interests of the IOC rather than the athletes.

¹¹ European Parliament, Motion for a Resolution on the White Paper on Sport (A6-0149/2008, 14 April, 2008), Rapporteur: Manolis Mavrommatis, para 99

¹² <https://www.olympic.org/news/all-for-one-one-for-all-the-athletes-declaration>

Some critics claim that athlete commissions like the IOC's are merely a voice of the IOC to athletes instead a voice of the athletes to the IOC. The Athlete Commission Charter of the IOC states that the commission should act "solely in the best interest of the committee", as opposed to in the best in interest of athletes (Schwab, 2018).

The power is not equally distributed between players and other decision makers, and this is problematic because the interests of both parties do not always align (Thibault et al., 2010; Koss, 2011). For example, athletes are concerned about building their future lives at the end of an athletic career, but sport governing bodies do not prioritize retired athletes in decision-making (Koss, 2011).

The athletes that make up commission are also not always the best representatives since current athletes, between training and travelling, do not have the time or energy to be involved in governing their sport (Thibault et al., 2010; Donnelly, 2015). Additionally, these commissions are often only comprised of high-powered and popular athletes who are appointed as opposed to elected. Appointed reps lack a legitimate bond with athletes as opposed to elected reps and the literature finds the communication between these appointed representatives and their constituents is weak (Thibault et al., 2010).

Finally, it is practically impossible for any athlete, appointed or elected, to represent the enormous range of athlete interests from all levels, countries, and different sports (Thibault et al., 2010; Donnelly, 2015; Koss, 2011). Unsurprisingly, the literature notes that athlete commissions are usually tokenistic and severely limited (Thibault et al., 2010; Koss, 2011).

However, athlete commissions could be improved given recent developments. In Germany, an athlete panel is attempting to become independent of sporting bodies to truly represent athlete's needs (Butler, 2018). The IOC opposes the move because it threatens the autonomy of sport, but if this new independent commission is successful, it could radically change athlete representation in sport.

Athlete representation could turn into smaller-scale commissions in individual national federation independent of sport governing bodies entirely (Thibault et al., 2010). The context of the issues they discuss would be locally relevant, and they would not have to rely on administrative and financial assistance from sport governing bodies.

Recently retired athletes may be the best representatives for these individual sub-committees because they are no longer subject to the demands of competing, thus they can focus primarily on governance (Donnelly, 2015; Marston et al., 2017). Incentivising them to engage in athlete representation should be a priority for sport organizations if they are serious about providing athlete voice and representation in athlete commissions and panels (Thibault et al., 2010).

6. Athlete activism

Although the boundary between sport and society is always porous to the extent that sport is always in society and, despite claims of autonomy, never apart from it, this section focuses on athlete struggles to reform sport itself rather than wider social campaigns such as civil rights and Black Lives Matter.

Given the long history of athlete activism in sport, the selection made here is partial and oriented towards activism geared towards improving the governance and management of sport and the working conditions of players within their sport.

In his study of the possibilities and pitfalls of athlete activism, Schwab (2018) identifies three models of activism - individual, collective and institutional. This section focusses on how athletes have managed to impact their sport on an individual and collective level on a range of issues - namely, the campaign to secure free agency of players undertaken by the Major League Baseball Players Association (MLBPA); the fight by Billie-Jean King and fellow women tennis professionals for equal pay for equal play; the legal battle fought by Jean-Marc Bosman and FIFPro freedom of movement under EU law for professional footballers; and Caster Semenya's struggle for the rights of intersex athletes to be able to compete in athletics competitions.

6.1 Marvin Miller and the abolition of the 'reserve clause' in baseball

Although Marvin Miller was not an athlete himself but a professional trade union economist, he was critically instrumental in the development of the Major League Baseball Players Association (MLBPA) into one of the strongest players' unions in the world (e.g. Burk, 2015; Davies, 2013; Korr, 2002; Miller, 2013).

The MLBPA has followed a range of tactics in pursuit of its objectives to improve players' working terms and conditions. These include traditional trade union organising (e.g. Dworkin, 1981; Lowenfish & Lupien 1980; Miller, 1991); negotiation of collective bargaining agreements (CBAs) (e.g. McCormick, 1982; Sloane, 1977; Staudohar, 2002); industrial action, including strikes (e.g. Marburger (ed.) 1997; Staudohar 1997; Zimbalist, 2003); and legal actions brought by Curt Flood, Andy Messersmith and Dave McNally, to challenge the so-called 'reserve clause' in players' contracts in order to secure free agency of players to move from club to club (e.g. Abrams, 1998; Boucher, 2008; Heuer nd; Schwab, 2018).

As a consequence of the ensuing free agency, baseball players became highly paid professionals with significant bargaining power for those in the top tier of talent. Baseball remains the only major US sport with no cap on players' salaries and the MLBPA's objective to secure free agency for players has been copied by unions in other sports.

6.2 Billie-Jean King and equal pay for equal play in tennis

Billie-Jean King is one of the greatest tennis players to have competed in the sport, winning a total of 39 grand slam titles during her career. However, she will be remembered equally for her pioneering activism to secure better pay for women players, the establishment of

the Women's Tennis Association, a women's professional tour, and perhaps most of all, for her defeat in 1973 of former men's Wimbledon champion, 55 year-old hustler, Bobby Riggs, in what was termed The Battle of the Sexes, an exhibition match that drew a US television audience of 50 million (Roberts, 2005).

King's tennis career and work for gender equality in tennis has been recounted in a number of book length biographies (e.g. Gitlin, 2011; Lannin, 1999; Ware, 2011) and autobiographies (King, 1982, King & Brennan, 2008). A short summary of King's social activism is recounted in Shelton's contribution to case studies in women's leadership which acts as a reminder that King has also pursued goals for more opportunities for coeducational tennis and for civil and LGBT rights (Shelton, 2016).

More overtly academic treatments of King's career include a discourse analysis of the narrative surrounding the match against Riggs (Spencer, 2000), an intertextual analysis of the announcement of her relationship with Marilyn Barnett (Birrell & McDonald, 2012), and an examination of the media rhetoric's surrounding it (Nelson, 1984). In popular culture, the Battle of the Sexes has been the subject of two films, the most recent in 2018 with Emma Stone starring as King.

6.3 Jean-Marc Bosman and freedom of movement in football

As outlined above, the Bosman case was a landmark legal decision by the European Court of Justice in 1995 that established the right of professional players to move freely to another club once out of contract in accordance with EU law on freedom of movement for workers. Not surprisingly, given the legal nature of the case, many academic commentaries of the case have emerged from legal scholars (e.g Duffy, 2003; Kranz, 1998; Morris et al., 1996; Van den Bogaert, 2013).

In an overview of the court's decision, O'Leary (2017) argues that the labour market adapted quickly to the ruling, concluding players' contracts increased in length, but with early termination of contracts becoming more commonplace so that clubs could recoup money in a transfer fee. Critically, it 'resulted in increased competition for players' services' (125) with an attendant increase in wages for the most sought-after players (Dejonghe & van Opstal 2010; Ericson, 2000).

Simmons (1997) has argued that the case was of significance to the transfer market but that a market would continue to be needed to help pay less economically advantaged clubs with training fees, development and replacement players.

Parrish and McArdle (2004) note that the decision was an unremarkable (in legal terms) application of EU law to the professional football sector that nevertheless left football authorities scrambling to try to preserve as much as possible of their precious 'autonomy' within the EU's regulatory environment.

A major retrospective of the case was undertaken by the Asser Sports Law series in *The Legacy of Bosman* (2015) that marked the twenty-year anniversary of the decision with an edited

series of chapters that examined the effect of the case on, *inter alia*, FIFA's Regulations and Status of Players; EU Competition law; nationality based quotas; and the relationship between EU Law and *lex sportiva*.

Less commented upon in the academic literature was the effect the case had on Bosman personally, who was unable to continue a career in football, sank into debt and alcoholism and received a one-year suspended sentence in 2013 for assaulting his then girlfriend. By 2015 he was reduced to living on handouts by FIFPro.¹³ Such may be the price of athlete activism.

6.4 Caster Semenya and the rights of intersex athletes in sport

Caster Semenya is a South African athlete who shot to fame at the 2009 athletic world championships when she posted a time of 1:55:45 for the 800 metres which was 3 seconds faster than the existing world record.

Semenya was brought up as a girl and has always thought of herself as female in all respects. However, she has Difference in Sexual Development (DSD) syndrome where she has XY sex chromosome, which is typically associated with the male sex. This condition, which only affects a very small number of people, can sometimes result in hyperandrogenism, giving the women who are sensitive, some of the genital features of men. The condition is also referred to as intersex.

The literature in relation to Caster Semenya has fallen into several disciplinary areas. A significant body of work has interrogated the question of sex segregation in sport from a philosophical perspective (e.g. English, 1978; Ryall, 2016; Sailors, 2014; Shin, 2017); medical ethics approaches (e.g. Foddy & Savulescu 2011; Ljungqvist, 2018) and gender studies (e.g. Giordana & Harris, 2018; Tamburrini, 2017; Wells & Darnell, 2014).

A further set of ethical literature takes the trans* and/or intersex athlete and the challenges posed to the sports system as the focus of study (e.g. Davis & Edwards, 2014; Ryall, 2016). From the field of scientific ethics, a number of studies question the validity of sport policy and regulations on sex verification (e.g. Camporesi, 2016; Martinez-Pantino & Vilain, 2016; Karkazis et al., 2012; Karkazis & Carpenter, 2018; Pielke et al., 2019).

Analysis of the CAS decision in May 2019 to uphold the rules of World Athletics in relation to gender verification have emerged over the past year with critiques from a human rights perspective (e.g. Greenhow & Weinert, 2019; Krech, 2019; Pielke, 2019) with Coleman (2019) providing an alternative view supportive of the CAS decision on the grounds that it properly protects women's sport as a discrete category of competition.

6.5 Athlete activism concluding comments

These brief case studies demonstrate both the possibilities and limitations of athlete

¹³ see https://en.wikipedia.org/wiki/Jean-Marc_Bosman#cite_note-15

activism. At the individual level, the pursuit of equal and better treatment has often come at a heavy cost – neither Curt Flood nor Jean-Marc Bosman ever played professional sport again and suffered significant personal issues in subsequent years.

As Schwab (2018) notes, there are significant barriers to athlete activism erected by sport's governing bodies that include contractual requirements that prevent 'political statements' by athletes as well as the possibility of reprisals for taking a stand. Nevertheless, progress has also been made through a combination of individual determination and collective action to improve the working terms and conditions of athletes in many sports.

7. Review of the grey literature on athletes' rights

7.1 Background

In common with other workers in Europe, athletes are granted the right of assembly and to collectively bargain. Player associations and unions serve as vital sources of support for athletes in the sports sector, operating as an independent voice of the athletes, representing, and protecting their interests and welfare in the workplace via methods of collective bargaining and social dialogue (EU Athletes, 2018).

Due to the increasing professionalisation, the sports sector has seen a growth in sports unions and players associations worldwide, and are especially thriving in men's football, cricket, and rugby (International Labour Organisation, 2020). Striving to integrate the principles of human dignity, human rights, and basic labour rights within the world of sport, they actively fight for athletes to have the same fundamental rights and power as other employees.

Through harnessing international human rights standards and employment laws, player associations negotiate employment contracts and regulate relationships with athletes' employers and sport's governing bodies, to determine employment standards, pay, hours of work, holidays, health and safety, insurances and other benefits.

The Universal Declaration of Players Rights is a key document established by the World Players Association in 2017 and is specifically created to protect athletes from human rights violations globally in sport. As the first declaration in sport of its kind, it outlines the duty of care that sports organisations have towards athletes and the standards that must be met to protect and uphold the fundamental rights of athletes (UNI Global Union, n.d.).

Further declarations that are harnessed to leverage the position of athletes in sport are the United Nations Universal Declaration of Human Rights, the European Convention on Human Rights, and EU employment laws.

Notably, player associations and unions operate separately from athlete commissions or committees due to their capacity to self-govern. Established and democratically governed by the players themselves, players' associations are autonomous and operate independently from sports organisations and federations.

Arguably, Athlete Commissions and Committees' function as internal departments of sports organisations and act as an essential channel of communication between athletes and the governing boards. Being governed and funded by sports organisations limits their capabilities and powers during disagreements with the federations and renders them incapable of attaining collective bargaining agreements or the ability to negotiate through methods of social dialogue.

Highlighting the significance of player associations, research has indicated that sports are thriving where sports federations and clubs collaborate with well-established player associations, thus improving the sport for all stakeholders involved (EU Athletes, 2018).

A lack of employee recognition is a major obstacle facing athletes globally across sports. Without this recognition, athletes are prevented from attaining the employment status of a worker or an employee in sport and subsequently the workers' rights associated with such status. This renders them unable to receive and rely upon the labour rights enshrined in national and European law that establishes the minimum standards of employment that employers must meet, provides social security benefits and employment protections.

Renewing the debate on athlete's employment rights in sport the recent legal challenge involving former British cyclist Jess Varnish, this landmark case signified a regression in the legal status of athletes. The momentous ruling saw the classification of the relationship between professional athletes and British Cycling as similar to that between a student and a university, denying the athlete her employee status.

Consequently, Varnish could not rely on employment law protections that incorporates safeguarding from abuse, discrimination, and dismissal. Instead, she was forced to rely upon the internal policies and procedures created by the sports body itself (Roberts & Sojo, 2020). The ruling is a stark contrast to the consensus that the status of an athlete as a worker or an employee is a basic right that encompasses the right to work, the free will of employment, minimum wages, and the freedom to organise and collectively bargain.

Owing to a dearth of comprehensive research and statistics on the employment issues athletes are experiencing in sport including, the working conditions, social protection and employment contracts, it is challenging to analyse and develop evidence-based strategies in response to the often-poor working conditions (International Labour Organisation, 2020).

Striving to address this lack of information, player associations and unions are increasingly researching the extent of the substandard working environments that athletes experience. These sports industry employment reports produced by player associations, athlete unions, and government departments often fall under the umbrella of 'grey literature', a term used to characterise information that is not controlled by commercial publishing (Third International Conference on Grey Literature, 1997).

Whilst agreements and recommendations have been previously made on the minimum requirements of employment contracts and conditions in the sports sector, issues are continuing to arise (European Association of Sport Employers, 2008, International Labour Organisation, 2020).

Several problems have been identified to exist across the sports sector, with professional sport facing issues of a scarcity of employment contracts, contractual instability, a lack of employment rights, health and safety failures, insufficient medical and insurance provisions, a lack of equal rights and opportunities and a lack of support for dual career

opportunities when transitioning out of sport. Similarly workers and athletes in the not-for-profit voluntary sports sector experience contract instability and a lack of contracts altogether. This is owing to the sector largely consisting of part-time occupations, low wages, volunteers, state-supported roles, and fixed-term short contracts (UNI Global Union, 2016, EU Athletes, 2017a.)

In addition to supporting employment positions, player associations can also help to empower athletes through education. Due to their positive influence and relationship of confidence with athletes, player associations are appropriate ambassadors to promote awareness and disseminate educational campaigns on the integrity issues facing the world of sport.

As sports unions are generally comprised of retired professional athletes, they can serve as trusted role models to foster a culture of acceptance. Good examples include, the PROtect Integrity and PROtect Integrity Plus programmes founded by the EU Athletes, that utilises player associations to communicate anti-corruption education and promote the reporting mechanism of the Red Button App.

The associations were able to endorse the Red Button App and validate its anonymous feature protecting the identity of the informing individuals, owing to the established relationship with athletes. Overall, the educational campaigns were successfully delivered by player associations, with 90% of the athletes trusting the player association staff conveying the programmes. Crucially, the projects also increased the player's associations understanding and awareness of match-fixing and betting in sport (EU Athletes, 2017b, EU Athletes, 2019).

7.2 Cricket

As reported by the Federation of International Cricketers Association (FICA) within their Global Employment Report, since the launch of T20 cricket (a short form version of the game) the sport has been experiencing a global shift in the employment landscape. Players are increasingly moving from the traditional vertical and internationally focused employment market and towards a new domestic T20 development pathway, which has established a new horizontal free agency market as well as a hybrid of the two.

The development of separate and conflicting pathways within the same game has subsequently produced a lack of a global structure, that requires players to choose between the distinct career paths and unable to play both international and domestic cricket.

Owing to the rising popularity, the highly respected nature of the players, the simple and annual format, and the higher wages available in T20 cricket (especially in the Indian Premier League), the vertical employment market is seeing the departure of players and remains under considerable threat. Whilst 81% of players have a positive outlook on the future of the game, 59% of players believe they have no clear voice in the direction of the game within their country.

Notwithstanding the attractiveness of the horizontal market, the fast development of the T20 pathway has produced a lack of standardized regulations, employment structures, contract securities, agent roles, and doping and integrity approaches. Crucially, most players consider themselves to be placed in insecure employment contracts due to the short lengths of one year or under, which as a result drives the players to pursue additional lines of employment outside of cricket to support their salaries.

Overall, substantial differences exist in the employment conditions both between countries and the three different types of employment markets, although these differences are typically lessened where established player associations exist. It is projected that the employment shift to free agency will continue in parallel with the rising T20 revenues and player value (Federation of International Cricketers Association, 2017).

7.3 Rugby

The International Rugby Players Unions (IRPU) has highlighted a range of diverse issues affecting the sport and players globally, mainly regarding the specific demands and dangers associated with the game. The main concerns identified amongst the men's international 15s players from every 2019 Rugby World Cup qualifying team in addition to Germany, Kenya, Hong Kong and Romania are specific to the sport and primarily concern player welfare, risk of injury and availability to play internationally.

The sport sees many players sustaining injuries due to the physicality of the sport, especially head injuries that can often lead to serious concussions. Within a season 47% of players are unable to play up to five matches in the year due to an injury, with 19% of players missing 11 games or more at the Tier one level and 10% at Tier two.

The risk of work overload is a common issue reported within the sport that often leads to injuries, with international and fringe players who shift between club and country being most at risk. Moreover, most Tier two players experience a lack of recovery time outside of the games played due to their overall workload.

A concerning number of players (45%) also indicate they have been encouraged to play by coaches and staff at times when they have not been fully fit to do so. Likewise, 54% of players from emerging nations have felt compelled to play when still carrying injuries. The research indicates that players require greater protection from the physical and mental demands of the game as well as the pressures from coaching staff, to prevent overload and preserve their health and welfare (International Rugby Players, n.d.a).

Other research by the European Elite Athletes Association identified significant differences in the contractual conditions and salaries between professional rugby players in France and Romania. There is a stark variance between the average salaries of players from both countries: Romanian players receive significantly less pay, do not have agents, and regularly receive late payments that as a consequence drives them to pursue additional work outside of the game to support their income.

Similarly, the IRPU research found that a substantial number of players surveyed considered their career pathway to be a risk to their health and safety, with the players losing on average 41 days of work due to various injuries. Surprisingly, only 50% of players surveyed have insurance to protect and support them from instances of career-ending injuries. Additionally, in contrast to French players, Romanian athletes reported a lack of support available within their country due to a lack of a players' union to assist and represent their interests in the sport. Most players would like to see a collective bargaining agreement in their sport to oversee the working conditions and contractual agreements, such as minimum wages, insurance provisions, schedules, and pension terms (EU Athletes, 2017a).

7.4 Other sports

Further analysing the working and employment conditions of professional athletes, research by the European Elite Athletes Association highlighted several common employment issues in basketball, ice hockey and handball across Europe.

Interesting findings were reported by female handball athletes in Spain where overall players' wages are declining due to an absence of wage agreements. Consequently, players' contracts are independently bargained, leaving income largely unregulated in the sport.

Another reason reported for the decline in income is the departure of Spanish players to other parts of Europe, with countries such as Norway, France and Denmark profiting from that movement. As a result, and in combination to budgetary restrictions, the remaining teams in the Spanish Premier League have no choice but to recruit non-professionals with lower skillsets.

Moreover, both male and female players reported a generally poor view of agents within their sport. They also made observations on the generally unregulated nature and the disparity in the earnings of players, which is dependent on the club's positions, their bargaining capabilities and the scope of commercialisation (EU Athletes, 2017a).

In basketball, nearly all of the players sampled had formal employment contracts with only a minority of players in France (3%) Poland (3.8%) and Germany (2%) remaining without. As a result, it can be said that the majority of athletes do not pursue additional employment outside of the sport to support their income.

Surprisingly, except for Belgium, there is a general lack of insurance provisions held by athletes across the sport, offering financial protections in situations of possible career-ending injuries.

In 2009 this issue, in addition to the late payment of wages, was the subject of a strike held by the Professional Basketball Players Association that saw players boycotting games for a week. Backed by 89.5% of the players, demands were made to improve the player's insurance policies, the security provisions provided, and for stricter regulations for clubs that fail to pay players. Negotiations through social dialogue were initiated but proved

unsuccessful. This led to the escalation of matters in the form of protest and resulted in the postponement of the season (EU Athletes, 2017a).

Overall, the research by the European Elite Athletes Association indicated that the majority of the professional athletes surveyed across the four sports evidenced a lack of formal employment contracts. Concerningly, there are still many players without formal and legally binding employment contracts in the EU that subsequently creates employment insecurity and obstructs the application of employment law. This results in athletes being unable to rely on the associated protections and labour rights under national law.

The subject matter of the late payment of wages is a common issue reported across all the sports and countries that requires focus and attention. A lack of support from employers to pursue education and training outside of sport to help prepare for life after sport is also an issue for athletes.

As noted, the continuing issue could well discourage many future athletes from pursuing professional careers in sport. The perception that a career in sport carries high risks to athlete's health and welfare is unsurprising considering the intensity, physicality and the dangers associated with many sports. This is mirrored in the extent of injuries sustained across all sports that often translates into a significant number of days off work and missed events/matches that across the four sports totals 32.64 days in a year.

Considering the scale of injuries incurred a surprising number of athletes work without insurance protections, only 31.4% are safeguarded from a potentially career-ending injury through insurance policies. Perhaps unsurprisingly, an overwhelming number of athletes across all sports and countries endorse the establishment of a comprehensive and sector-wide collective agreement to manage minimum standards of employment and working conditions (EU Athletes, 2017a).

7.5 Dual careers athletes and career transitioning

Whilst some athletes can dedicate their full attention to training and performance commitments, others face additional challenges of balancing sport alongside a part or full-time career or education. Student-athletes and athletes requiring second careers for additional income are faced with a unique and constant juggling act, managing the demands of being an athlete alongside educational commitments, additional occupations, and their personal lives.

For instance, many athletes require a dual career for additional financial stability. 60% of paid female rugby players report the requirement of a second career for additional financial support (International Rugby Players, n.d.b - International Rugby Players", n.d.a). Subsequently, athletes who jeopardise their educational, occupational and skill development engagements in order to concentrate on their sporting commitments has become a matter of concern.

Existing research has indicated how dual-career support can help to improve athletes' performance levels and assist athletes in managing their transitions for a life after sport. Thus, identifying the specific needs of the distinct group of athletes and offering dual career support and guidance to achieve better-balanced lives is an essential priority for all player associations (EU Athletes, 2015).

More recently, sports organisations, governments and player associations have sought to increase research in the area to develop support, guidelines, and recommendations (International Labour Organisation, 2020).

The European Elite Athletes Association in 2015 drafted a guide for Player Associations to expand and improve their support for athletes managing dual careers through identifying instances of best practices. In general, initiatives should focus on the player's psychological wellbeing, an identity outside of sport, encouraging the attainment of new skills and provide access to educational courses. Individual assessments of players' needs and the creation of personal development plans that assess and review short- and long-term goals are identified as key methods to also implement.

Successful examples in action include the Jockeys Education and Training Scheme (JETS) that rewards athletes who have made the greatest career transitions; and the French Basketball Players Association that has developed a support system of former players, offering advice and guidance on dual careers and transitioning beyond sport competition and training life.

Also recognised as a model of good governance for player associations to implement, the creation of a Player Development Manager to offer dual career support and advice, anti-doping and match-fixing education, and promote personal growth outside of sport. To support this position the Talented Athletes Lifestyle Support (TALS) course developed by the Talented Athlete Scholarship Scheme (TASS) provides skills training to individuals assisting and mentoring dual career athletes (EU Athletes, 2015).

With student-athletes representing a sizable proportion of dual-career athletes, special focus has been placed on supporting students completing their higher education and university studies whilst simultaneously excelling as athletes.

Demonstrating examples of good practice, the Gaelic Players Association (GPA) and the Women's Gaelic Players Association (WGPA) conducted a comprehensive Student Report in 2019 on the unique struggles faced by student-athletes in Ireland. Students reported often feeling overwhelmed, struggling to cope with all their commitments and the financial pressures associated, that consequently limits the opportunities to socialise and engage in other activities outside of sport. With training commitments negatively affecting the students' academic achievements and progress, the prioritisation of duties appears the greatest issue for student-athletes to achieve balance.

Student-athletes everywhere face similar challenges in prioritising and managing the demands of the student-athlete dual role. And whilst many students are successful in achieving both academic and sporting successes, the GPA student report indicates that support and guidance are required for most of their athletes to do so (Gaelic Players Association, 2019).

As a result, recommendations were proposed to introduce mental health and financial guidance programmes to squads, provide staff with mental health, first aid and gambling awareness training, develop cross-sport elite athlete-friendly programmes and to establish athlete representation on educational committees to launch minimum standards of care policies.

Moreover, European governments and Universities are increasingly working to assist dual-career athletes through the development of flexible specialised programmes taking into account their unique needs. Examples include the Elite Sports Career study path in Belgium and the Advanced Apprenticeship in Sporting Excellence Programme in England (International Labour Organisation, 2020).

7.6 Career transitioning

Athletes are often encouraged and/or required to plan well in advance for the end of their sporting careers and life after sport. Consequently, athletes that have managed dual careers alongside sporting commitments often have a head start in transitioning or retiring from sport due to the skill sets developed (International Labour Organisation, 2020).

With up to 89% of athletes required to seek further work for financial security after their retirement, Player Associations need to extend their work to encompass support for transitioning athletes (Lyons et al., 2018). Whilst research has demonstrated high employment rates of over 80% in the UK by the Professional Players Federation in 2018, over 50% of these retired athletes reportedly encountered financial troubles up to five years after their retirement, subsequently causing a number to develop mental health issues (International Labour Organisation, 2020).

Research by the UNI Global Union on athletes transitioning from Olympic sports, football, ice hockey, cricket, Australian rules football and basketball identified similar experiences to dual athletes. Players report difficulties in balancing their sport with work and education, with 21-50% of cricket and rugby players and up to 90% of footballers reporting difficulties in this achieving balance.

Whilst the project found no correlation between education and sporting success, the findings emphasised the importance of education and qualifications for preparing and managing for a life after sport.

A prominent theme that emerged was the need for greater support to be offered throughout a player's career and during retirement, notably increasing mental health awareness and management amongst retired payers. With a higher prevalence of mental health issues

reported in retired players, the greatest impacts are involuntary retirement, career dissatisfaction, a shift in body perceptions, injuries, and a loss of identity (Lyons et al., 2018).

Research on dual-career and retirement support for athletes identifies the specific needs and the issues faced by the unique groups. To support capacity and personal development during and after sport, preparation is key. Player associations can assist athletes by creating personal development plans or programmes established on education, financial guidance and mental health management that also incorporates family and friends as the main source of support. The use of former athletes as role models can also help to create an additional support network and possible mentoring opportunities.

For the most part, research has indicated that whilst many athletes successfully manage dual careers and benefit from the skills developed, support from player associations can assist athletes to achieve and manage better-balanced lives during and life after sport.

7.7 Women in sport

As women's sport has progressed and gained greater recognition, more attention is now being paid to the crucial support female athletes require to achieve equal representation, opportunities and rights. Player associations are raising awareness of the unique issues women face and are subsequently challenging the duties of sports federations and governments.

Reporting upon the employment and working conditions, several player associations have demonstrated how elite sportswomen in Europe commonly experience inadequate and unequal provisions, protections, and support through their professional careers (Federation of International Cricketers Association, 2018).

Female sport is an evolving economic activity, and many sports are beginning to develop and thrive. For example, women's cricket is seeing an increase in competitions, games broadcast, including live games, audiences, salaries, and recognition. Despite these signs of progress, players have identified and voiced issues of inequality of opportunities, insufficient pay, lack of stable contracts and representation still present in the sport (Federation of International Cricketers Association, 2018).

An absence of secure, long-term, and standardised employment contracts in professional female sport remains one of the leading issues identified by female athletes across a range of sports. To the extent that athletes have reported a lack of employment contracts entirely, female Spanish futsal, Greek volleyball, and 25% of cricket players reported a lack of written contracts offered within their sports. Of the cricketers that do have written contracts, many are short term and insecure with 71% being a year or less in length (Eu Athletes, 2018b, Federation of International Cricketers Association, 2018).

Along with insecure employment contracts, inadequate pay is a recurring issue reported across women's sport, that consequently drives many female athletes to assume dual careers. Most Spanish futsal, Greek volleyball and 52% of professional female cyclists require

second jobs alongside their sporting career to compensate for their low salaries of an average 10,000 Euros a year.

Additionally, over half of female cyclists have had to reimburse their team for basic provisions received through their careers, including medical treatment, equipment, travelling and food expenses (Cyclist Alliance, 2017, Eu Athletes, 2018b).

The need for greater representation is also a common issue expressed by female athletes across sports, with professional female cyclists appealing '*we need people to stand up for us*' (Cyclist Alliance, 2017). Throughout the top levels of global sports governance, women remain underrepresented, that as a result influences policymaking practices in sport and affects the position and power that female athletes hold (International Labour Organisation, 2020).

Across women's cricket the need for greater representation persists at the board, decision-making levels and from player associations. 59% of players believe that they don't have an explicit voice in the sport, one third have poor relations with their home board and a sizeable number of players globally continue to be underrepresented. With most teams being coached exclusively by men, more specific attention to the needs of the women's game is required. (Federation of International Cricketers Association, 2018).

Player associations are an essential source of support for female athletes, to represent and protect the career interests, to help achieve equal rights and opportunities and to provide a vital voice in sport. Both player associations and national federations are increasingly acting in response to the issues outlined.

In response to the inadequate provisions lacking basic training facilities, showers, equipment, medical support, food and travel expenses offered to professional female athletes in Ireland, the Women's Gaelic Players Association (WGPA) successfully negotiated 1 million Euros of funding for all elite-level Gaelic teams from the Irish government (Eu Athletes, 2018b).

Moreover, in 2017, the Norwegian Football Association announced it would be addressing the disparity in salaries between men and women athletes by providing equal pay to all athletes that represent the country subsequently increasing the salaries of professional female footballers by almost double. (EU Athletes, 2018b).

Considering the unique challenges faced by women in sport there exists the need for player associations to increasingly reach out to female athletes to collectively raise employment standards and increase the expectations of what is required as professional athletes. To ensure fair and accurate female representation, current or retired athletes should be established into and account for the majority of management and board positions of player associations (EU Athletes, 2018b).

7.8 New challenges

The world of sport is facing unprecedented challenges in the face of the Covid-19 pandemic. Sport globally has been suspended for months causing economic destruction and a loss of jobs, consequently affecting the wellbeing of athletes and individuals working within the sector.

Exemplifying the significance of player associations, EU Athletes identified how the pandemic has positively increased unionisation in sport by impelling athletes to affiliate with their player associations in such times of crisis. Athletes are increasingly turning to their sports player associations seeking financial support, advice, and legal advice to address issues of termination or modification of contracts, with many employment contracts being unlawfully terminated by employers during the crisis.

Whilst player associations are experiencing a positive increase in membership, 55% are also anticipating financial deficits this year. It is noteworthy that 76% of associations reported having received no support from the government during these unprecedented times.

Moreover, many players are unable to obtain government support as they are denied employment statuses being professional athletes. Consequently, this constrains their ability to acquire employment contracts and the associated employment protections and national income support that employed individuals are entitled to.

The pandemic will likely have a long-term impact on the sports sector, 90% of associations predict that athletes' salaries will decrease along with less professional employment contracts and an increase in mental health issues. Player associations as a source of support will be more important than ever for athletes experiencing hardships during the Covid-19 pandemic (EU Athletes, 2020).

To offer greater support and to empower athletes in sport, the difficulties facing athletes in establishing the existence of an employment relationship between their sports club or organisation should be a primary focus to establish adequate employment conditions and rights.

To address such issues, solidarity and cooperation between stakeholders, whether unions, federations, sports clubs, or organisations are vital components in the sports trade union sector is essential. The potential need for the development of an international and centralised body of representation for player unions to collaborate and bargain with international sports bodies like the IOC and WADA will be important to consider (EU Athletes, 2018a).

References

- Abbott, K. (2006). A Review of Employment Relations Theories and their Application. *Problems and Perspectives in Management*, 4(1).
- Abrams, R. (1998). 'Before the Flood: The History of Baseball's Antitrust Exemption'. 9 *Marq. Sports L. J.* 307.
- Andreff, W. (2011). 'Some comparative economics of the organization of sports: Competition and regulation in north American vs. European professional team sports leagues'. *The European Journal of Comparative Economics, European Association for Comparative Economic Studies and Universita Carlo Cattaneo*, 8 (1), pp.3-27. ffhalshs-00677436f
- Babiak, K., Thibault, L. & Willem, A. (2018). 'Mapping research in interorganizational relationships in sport management: current landscape and future research prospects'. *Journal of Sport Management*, 32 (3): 272-294, doi: 10.1123/jsm.2017-0099.
- Barry, M., Skinner, J. and Engelberg, T. (eds.) (2016). *Research Handbook of Employment Relations in Sport*. Cheltenham: Edward Elgar Publishing. (International)
- Becker, R. (2013). 'No Enforcement, No Problem: How Inefficient Regulatory Statutes Have Demonstrated the Need for a Federal Registration of National Football League Player Agents'. *Mississippi Sports Law Review*, Vol. 2, Issue 2, pp. 391-420.
- Berri, D. J. et al (2007). *The Wages of Wins: Taking Measure of the Many Myths of Modern Sport*. Stanford: Stanford University Press.
- Berry, R., Gould IV, W., Staudohar, P. (1986). *Labor Relations in Professional Sports*. Dover, Mass.: Auburn House Pub. Co.
- Besson, S., & Martí, J. L. (2018). Legitimate actors of international law-making: towards a theory of international democratic representation. *Jurisprudence*, 9(3), 504-540.
- Bexell, M., Tallberg, J., & Uhlin, A. (2010). Democracy in global governance: the promises and pitfalls of transnational actors. *Global Governance*, 16(1), 81-101.
- Birrell, S. & McDonald, M. (2012). 'Break Points: Narrative Interruption in the Life of Billie Jean King.' *Journal of Sport and Social Issues*. Volume: 36 issue: 4, page(s): 343-360.
- Boker, M. and Elstub, S. (2015). The Possibility of Critical Mini-Publics: Realpolitik and Normative Cycles in Democratic Theory. *Representation*, 51: 125-44.
- Boucher, G. (2008). 'Baseball, Antitrust and the Rise of the Players' Association'. 4 *U. Denv. Sports & Ent. L.J.* 121.

- Buchanan, A. (2004). *Justice, Legitimacy and Self-Determination*, New York: Oxford University Press.
- Buchanan, A. & Keohane, R. (2006), "The legitimacy of Global Governance Institutions", *Ethics & International Affairs*, 20 (4), pp. 405-37
- Burk, R. (2015). *Marvin Miller: Baseball Revolutionary*. Urbana, Chicago and Springfield: University of Illinois Press.
- Byers, T., Parent, M., & Slack, T. (2012). *Key Concepts in Sport Management*. Thousand Oaks, CA: SAGE.
- Camporesi, S. (2016). 'Ethics of Regulating Competition for Women with Hyperandrogenism'. *Clinics in Sports Medicine*, vol. 35, pp. 293-310.
- Callois, R. (1961). *Man, Play and Games*, trans. Meyer Barash. New York, Free Press of Glencoe.
- Castronova, E. (2008). *Synthetic worlds: The business and culture of online games*. University of Chicago press.
- Cattaneo, A. (2018). 'Social Dialogue and the regulatory power of governing bodies. *Int Sports Law J* 17, 119-127.
- Chand, A. (2017). *Industrial Relations Theory & Policy*. Suva: University of the South Pacific.
- Child, J. (1969), *British Management Thought: A Critical Analysis*, George Allen & Unwin.
- Christiano, Th., 2008: *The Constitution of Equality: Democratic Authority and Its Limits*, Oxford: Oxford University Press.
- Christiano, T. (2016), "Replies to David Alvarez, David Lefkowitz, and Michael Blake", *Law, Ethics and Politics* (4), pp. 221-36.
- Coleman, D. L (2019). 'Semenya and ASA v IAAF: Affirming the Lawfulness of a Sex-Based Eligibility Rule for the Women's Category in Elite Sport', 19 *Sweet & Maxwell's International Sports Law Review* 83-90 (2019)
- Colucci, M. & Geeraert, A. (2012). 'Social Dialogue in European professional football'. *Comp Labor Law Policy Journal* 33 (1): 202-234.
- Commons, J. (1934). *Institutional Economics: Its Place in Political Economy*. Macmillan.

Cradden, C. (2011). *Unitarism, pluralism, radicalism... And the rest? Why the frames of reference approach is still relevant to the study of industrial relations, but why we need nine frames rather than just three*. Sociograph - Working Paper n°7 / 2011. University of Geneva.

Dabscheck, B. (1986). 'Beating the off-side trap: the case of the Professional Footballers Association.' *Industrial Relations Journal*, 17(4): 350-361.

Dabscheck, B. (2003). 'International Unionism's Competitive Edge: FIFPro and the European Treaty'. *Relations Industrielles*, 58 (1): 85-108. doi:10.7202/007370ar.

Dabscheck, B. (2004). Industrial Relations in Australasian Professional Team Sports, 4, 30 *Otemon J. of Australian Studies* 3.

Dabscheck, B. (2006 a). 'At the top table: player unions in soccer'. In Andreff, W. & Szymanski, S. *Handbook on the Economics of Sport*, Cheltenham: Edward Elgar, pp. 661-67.

Dabscheck, B. (2006 b). Rugby Union's Player Agent Accreditation Scheme Survives Legal Attack [online]. *ANZSLA Commentator, The*, Vol. 63, 2.

Dahl, R.A. (1989). *Democracy and its Critics*. New Haven, CT: Yale University Press.

Davies, C. (2014). 'Football's transfer system post-Bosman: freedom of movement for players versus football's financial future'. *Eur Compet Law Rev* 35(1): 8-15.

Davies, R.E (2013). 'Along Comes the Players Association: The Roots and Rise of Organized Labor in Major League Baseball'. 16 *N.Y.U. J. Legis. & Pub. Pol'y* 32.

Davis, P. & Edwards, L. (2014). 'The new IOC and IAAF policies on female eligibility: old Emperor, new clothes?' *Sport, Ethics and Philosophy*, vol. 8, no. 1, pp. 44-56.

Della Porta, D. (2013). *Can democracy be saved? Participation, deliberation and social movements*. Cambridge: Polity Press.

Dejonghe, T. and Van Opstal, W. (2010). 'Competitive Balance between National Leagues in European Football after the Bosman Case', *Rivista di Diritto ed Economia dello Sport*, 6 (2): 41-61.

Donnelly, P. (2015). What if the players controlled the game? Dealing with the consequences of the crisis of governance in sports. *European Journal for Sport and Society*, 12(1), 11-30. doi:10.1080/16138171.2015.11687954

Downward P. & A. Dawson (2000), *The Economics of Professional Team Sports*, London: Routledge.

- Drakopoulos, S. & Katselidis, I. (2012). *The Development of Trade Union Theory and Mainstream Economic Methodology*. MPRA Paper No. 39239: Munich Personal RePEc Archive.
- Dryzek, J. (2000). "Discursive democracy vs. liberal constitutionalism". In: M. Saward (Ed.), *Democratic innovation. Deliberation, representation and association* (pp. 78-89). New York: Routledge
- Dryzek, J.S. (2010). *Foundations and frontiers of deliberative governance*. Oxford: Oxford University Press.
- Dunlop, J. (1944). *Wage Determination Under Trade Unions*. New York: Macmillan.
- Dunlop, J. (1958), *Industrial Relations Systems*, Rhinehart & Winston, New York.
- Duval, A. & van Rompuy, B. (eds.) (2016). *The legacy of Bosman: revisiting the relationship between EU law and sport*. TMC Asser Press: the Hague.
- Duffy, W. (2003). 'Football May Be Ill, but Don't Blame Bosman'. *10 Sports Law. J.* 295.
- Dworkin, J. B. (1981) *Owners versus Players: Baseball and Collective Bargaining*. Boston, Mass.: Auburn House.
- Dworkin R (1985), *A Matter of Principle*, Cambridge, Massachusetts, Harvard University Press.
- English, J. (1978). 'Sex Equality in Sports' in *Philosophy and Public Affairs*, vol. 7, no. 3, pp. 269-277.
- Ericson, T. (2000). 'The Bosman Case'. *Journal of Sports Economics*, 1 (3): 203-18.
- Ferkins, L., & Shilbury, D. (2015). 'Board strategic balance: an emerging sport governance theory'. *Sport Management Review*, 18 (4): 489-500, doi: 10.1016/j.smr.2014.12.002.
- Ferkins, L., & Shilbury, D. (2020). 'Theoretical underpinnings of sport governance'. In D. Shilbury and L. Ferkins (eds.) *Routledge Handbook of Sport Governance*. Abingdon: Routledge, Ch.2.
- Fidler, J. (1981), *The British Elite: Its Attitudes to Class, Status and Power*, Routledge & Keagan Paul, London.
- Fishkin, J.S. (1991). *Democracy and deliberation: new directions for democratic reform*. New Haven: Yale University Press.
- Foddy, B. & Savulescu, J. (2011). 'Time to Re-evaluate Gender Segregation in Athletics?'. *British Journal of Sports Medicine*, vol. 45, pp. 1184-1188.

- Fox, A. (1966) *Industrial Sociology and Industrial Relations*, HMSO, London.
- Fox, A. (1974) *Beyond Contract: Work, Power and Trust Relations*, Faber & Faber, London.
- Gammelsaeter, H., & Walters, G. (2020). 'Ownership and Governance in Men's Professional Football in Europe'. In D. Shilbury & L. Ferkins (eds.) *Routledge Handbook of Sport Governance*. Abingdon: Routledge, Ch. 10.
- Garcia, B. (2009). 'Sport governance after the White Paper: the demise of the European model?' *International Journal of Sport Policy*, 1 (3), pp. 267-284.
- Geeraert, A., Bruyninckx, H. and Scheerder, J. (2012). 'The Governance Network of European Football: Introducing New Governance Approaches to Steer Football at the EU level'. *International Journal of Sport Policy* 5 (1): 1-20.
- Geeraert, A. (2015). 'The European Sectoral Social Dialogue Committee in Professional Football: Power Relations, Legitimacy and Control'. *Soccer and Society* 16 (1): doi: 10.1080/14660970.2014.882825.
- Giordana, S. & Harris, J. (2018). 'What is Gender Equality in Sports?', in William J. Morgan (ed.), *Ethics in Sport*, Human Kinetics, Ch. 27.
- Gitlin, M. (2011). *Billie Jean King: Tennis Star and Social Activist*. Edina, MA: ABDO Publishing.
- Gobikas, M., Čingienė, V., & Mason, D. (2005). 'Towards A Sport Professionalization: The Situation of The Player Agents in the Lithuanian Football League A'. *Baltic Journal of Sport* 4 (58) 36-40.
- Gratton, C. (2000) 'The peculiar economics of English professional football', *Soccer & Society*, 1:1, 11-28, DOI: 10.1080/14660970008721245
- Greenhow, A. & Weinert, K. (2019). 'Diversity, Equity and Inclusion (or Exclusion) in Sport: A Review of the Caster Semenya Case'. *Griffiths Journal of Law and Human Dignity*, 7 (2) 48 – 74.
- Guest, D. (1989), *Human Resource Management: Its Implications for Industrial Relations and Trade Unions*, in J. Storey (ed.), *New Perspectives on Human Resource Management*, Routledge, London.
- Guttman, A. (2004). *From Ritual to Record: the nature of modern sports* (2nd ed.). New York: Columbia University Press.
- Habermas, J. (1981) *Theorie des kommunikativen Handelns*. Frankfurt am Main: Suhrkamp.

Habermas, J. (1996). *Between facts and norms: contribution to a discourse theory of law and democracy*. Cambridge: Polity Press.

Hancock, D. J., Ste-Marie, D. M., & Schinke, R. J. (2010). 'The Development and Skills of Expert Major Junior Hockey Player Agents' *Talent Development & Excellence* Vol. 2, No. 1, 2010, X-X

Harding, J. (1991). *For the Good of the Game: Official History of the PFA*. London: Robson Books.

Harvey, A. (2020). 'Fixing it for PFA Scotland: building union influence out of a transnational project to tackle match-fixing in football'. *International Journal of Sport Policy and Politics*, Vol. 12, No. 3, 423-438. DOI: 10.1080/19406940.2020.1801797

HART, H. (1961). *THE CONCEPT OF LAW*. Oxford University Press, 1994, 2^a ed.

Heitner, D. A., Wolf, J. B., & Seidmon, E. M. (2011). In *Baseball's Best Interest-A Discussion of the October 2010 MLBPA Regulations Governing Player Agents*. Va. Sports & Ent. LJ, 10, 249.

Held, D. (1997). *Modelli di democrazia*. Bologna: Il Mulino.

Hendrickx, F. H. R. (2010). 'The Bernard-case and training compensation in professional football'. *European Labour Law Journal*, 2010(3), 380-397.

Henry, I., & Lee, P. C. (2004). 'Governance and ethics in sport'. In S. Chadwick & J. Beech (eds.) *The Business of Sport Management*. Harlow: Pearson Education, pp. 25-41.

Hicks, C. (1941). *My Life in Industrial Relations*. New York: Harper & Bros.

Hobbes, T. (1991). *Leviathan* (1st pub. 1651), ed. R. Tuck.

Hobbes, T. (1998). *Hobbes: On the citizen*. Cambridge University Press.

Huizinga, J. (1949). *Homo Ludens: A Study of the Play-Element in Culture*. London: Routledge & Kegan Paul.

Hyman, R. (1975). *Industrial Relations: A Marxist Introduction*, London: Macmillan.

Johnson, S. (2006). 'Show Me the Money!!! Player Agents and Conflicts of Interest'. *Australian and New Zealand Sports Law Journal*, Vol. 1 (1), 103-120.

Kant, I [1797], *Groundwork of the Metaphysics of Morals*, Cambridge: Cambridge University Press, 1997.

Karcher, W. (2006). 'Solving Problems in the Player Representation Business: Unions Should Be the Exclusive Representatives of the Players'. *Willamette Law Review*, Vol. 42, p. 737

Karkazis, K., Jordan-Young, R., Davis, G., & Camporesi, S. (2012). Out of bounds? A critique of the new policies on hyperandrogenism in elite female athletes. *The American journal of bioethics*, 12(7), 3-16.

Karkazis, K. & Carpenter, M. (2018). 'Impossible "choices": the inherent harms of regulating women's testosterone in sport'. *J Bioethical Inq* 4, pp.579-587

Kaufmann, B., (2008). Paradigms in industrial relations: original, modern and versions in-between. *British Journal of industrial relations*, 46 (2), 314-339. doi: 10.1111/j.1467-8543.2008.00676.x.

Keller B. (2016). 'Sectoral social dialogues in professional football. Freeway or dead end towards Europeanization?', in Larsen T. and Ilsøe A. (eds.) *Den Danske model set udefra*, Copenhagen, Jurist-og Okonomforbundets Forlag, pp. 369-383.

Keller, B. (2018). 'Sectoral social dialogue in professional football: social partners, outcomes and problems of implementation', *ETUI Working Paper 2018.04*. Brussels: ETUI.

Kelly, J., (1998). *Rethinking industrial relations: mobilization, collectivism and long waves*. London: Routledge.

King, B. J. with Deford, F. (1982). *The Autobiography of Billie Jean King*. London: Granada Publishing.

King, B. J., & Brennan, C. (2008). *Pressure is a Privilege: Lessons I've Learned from Life and the Battle of the Sexes*. LifeTime Media.

Kochan, T., Katz H. & McKersie, R. (1986), *The Transformation of American Industrial Relations*, Basic Books, New York.

Korr, C. (2002). *The End of Baseball as We Knew It: The Players Union 1960-1981*. Urbana and Chicago: University of Illinois Press.

Koss, J. (2011). 'Athletes' rights and Olympic reform: a discussion with Johann Koss, Ann Peel and Alexandra Orlando'. *Sport in Society*, 14(3), 309-318. doi:10.1080/17430437.2011.557267

Kranz, A (1998). The Bosman Case: The Relationship between European Union Law and the Transfer System in European Football. *5 Colum. J. Eur. L.* 431.

Krech, M. (2019) 'The Misplaced Burdens of 'Gender Equality' in Caster Semenya v IAAF: The Court of Arbitration for Sport Attempts Human Rights Adjudication' *International Sports Law Review*, Issue 3

Lannin, J. (1999). *Billie Jean King: Tennis Trailblazer*. Minneapolis: Learner Books.

Levy, R. (2012). 'Swiss Federal Tribunal overrules CAS award in a landmark decision: FIFA vs Matuzalem'. *The International Sports Law Journal* (Issue 3-4).

Ljungqvist A. (2018). 'Sex Segregation and Sport'. *Br J Sports Med*, Vol. 52, No.1, p. 3

Lowenfish, T. & Lupien, L. (1980). *The Imperfect Diamond: The Story of Baseball's Reserve System and the Men who Fought to Change it*. New York: Stein & Day.

Marburger, D. (ed.) (1997). *Steer-rike Four: What's Wrong with the Business of Baseball?* Westport, CT: Praeger

Marston, K. T., Boillat, C., & Roitman, F. (2017). *Governance relationships in football between management and labour – Players, Clubs, Leagues and National Associations*. Neuchâtel: CIES.

Martinez-Pantino, M. J. & Vilain, E. (2016). 'The Unfinished Race: 30 Years of Gender Verification in Sport'. *The Lancet*, vol. 388, pp. 541-543.

Marx, K. (1950), 'The Communist Manifesto', in Marx and Engels, *Selected Works*, Moscow.

Marx, K. (1967), *Capital*, vol. 1 International Publishers, New York.

Marx, K. (1978), 'Wages, Labour and Capital' in R. Tucker (ed), *The Marx and Engels Reader*, Penguin, London.

Maslow, A. (1954), *Motivation and Personality*, Harper & Row, New York.

Mason, D. (2016). 'Industrial Relations in Sport'. In: Russell Hoye and Milena Parent (eds.) *The SAGE Handbook of Sport Management*, Ch 28.

Mason, D. & Duquette, G. H. (2005). 'Globalisation and the evolving player-agent relationship in professional sport'. *International Journal of Sport Management and Marketing* Vol. 1 No. 1-2 <https://doi.org/10.1504/IJSMM.2005.007123>

Mason, D. S. (2006). 'Player Agents'. In: Wladimir Andreff & Stefan Szymanski (ed.), *Handbook on the Economics of Sport*, chapter 74, Edward Elgar Publishing.

Mason, D. S. & Slack, T. (2005) 'Agency Theory and the Study of Sport Organizations', *Sport in Society*, 8:1, 48-64, DOI: 10.1080/1743043052000316614

McCormick, R. A. (1982). 'Baseball's Third Strike: The Triumph of Collective Bargaining in Professional Baseball'. 35 *Vand. L. Rev.* 1131.

Miller, L. K, Fielding, L. W, & Pitts, B. G. (1992). 'A Uniform Code to Regulate Athlete Agents', *Journal of Sport & Social Issues*, Vol. 16, Issue 2, 98-100.

Miller, M (1991). *A Whole Different Ball Game: The Inside Story of the Baseball Revolution*. Rowen & Littlefield.

Miller, P. (2013). 'Introducing Marvin Miller'. 16 *N.Y.U. J. Legis. & Pub. Pol'y* 350.

Morris, P., Morrow, S. & Spink, P. (1996). 'EC Law and Professional Football: Bosman and Its Implications'. 59 *Mod. L. Rev.* 893.

Neale, W. C (1964). 'The Peculiar Economics of Professional Sports', *The Quarterly Journal of Economics*, Volume 78, Issue 1, February 1964, Pages 1-14, <https://doi.org/10.2307/1880543>

Nelson, J. (1984) 'The Defense of Billie Jean King'. *Western Journal of Speech Communication*, 48:1, 92-102.

O'Leary, L. (2017). *Employment and Labour Relations Law in the Premier League, NBA and International Rugby Union*. The Hague: T.M.C Asser Press.

Parent, M. (2016). 'Stakeholder perceptions on the democratic governance of major sports events'. *Sport Management Review*, 19 (4): 402-416, doi: 10.1016/j.smr.2015.11.003.

Parent, M., Rouillard, C., & Leopkey, B. (2017). 'Network governance of a multi-level, multi-sectoral sport event: differences in coordinating ties and actors'. *Sport Management Review*, 20 (5): 497-509, doi: 10.1016/j.smr.2017.02.001.

Pettit, P. N. (2010). *Legitimate International Institutions: A Neorepublican Perspective*.

Pettit, P. (2012). *On the People's Terms*, Cambridge: Cambridge University Press.

Pettit, P. (2014). *Just Freedom: A Moral Compass for a Complex World (Norton Global Ethics Series)*. WW Norton & Company.

Parrish, R. & Mcardle, D. (2004). 'Beyond *Bosman*: The European Union's Influence upon Professional Athletes' Freedom of Movement'. *Sport in Society*, 7:3, 403-419, DOI: 10.1080/1743043042000291712

Parrish, R. (2011). 'Social Dialogue in European Professional Football'. *European Law Journal*, 17(2), 213-29.

Parrish, R. (2015). 'Article 17 of the FIFA Regulations on the Status and Transfer of Players: compatibility with EU law'. *Maastricht J Eur Comp Law* 22(2): 256-282.

Parrish, R. (2016). 'The European social dialogue: a new mode of Governance for European Football? In: Duval, A. & van Rompuy, B. (eds.). *The legacy of Bosman: revisiting the relationship between EU law and sport*. TMC Asser Press: the Hague, pp. 187-210.

Parsons, T. (1951). *The Social System*. New York: The Free Press.

Pearson, G. (2015). 'Sporting Justifications under EU Free Movement and Competition Law: The Case of the Football "Transfer System"'. *European Law Journal*, Vol. 21, No. 2, March 2015, pp. 220-238.

Pielke R. Jr. (2019). 'Caster Semenya ruling: Sports federation is flouting ethics rules'. *Nature* 17 May. <https://doi.org/10.1038/d41586-019-01606-8>

Pielke, R., Tucker, R., & Boye, E. (2019). Scientific integrity and the IAAF testosterone regulations. *The international sports law journal*, 19(1), 18-26.

Pierre, J. & Buisine, S. (2013). 'Social dialogue in the sports sector at EU level', *Transfer* 19(4) 581-595.

Pijetlovic, K (2010). 'Another classic of EU sports jurisprudence: legal implications of Olympique Lyonnais SAAP v Olivier Barnard and Newcastle United'. *Eur Law Rev* 35(6): 357-868

Poli, R. (2010). 'Agents and Intermediaries'. In: Hamil and Chadwick (ed.) *Managing Football: An International Perspective*. Elsevier.

Quirk, J. & Fort, R. (1999). *The Abuse of Power in Pro Team Sports*. Princeton: Princeton University Press.

Rawls, J. (1971). *A theory of justice*. Harvard university press, 1999.

Roberts, S. (2005). *A Necessary Spectacle: Billie Jean King, Bobby Riggs, and the Tennis Match That Leveled the Game*. New York: Crown

Roberts, V. L., & Sojo, V. E. (2020). 'To strive is human, to abuse malign: discrimination and non-accidental violence of professional athletes without employee-style statutory protection'. *British journal of sports medicine*, 54(4), 253-254.

Ross, A. (1947). 'The Trade Union as a Wage-Fixing Institution.' *The American Economic Review*, 37 (4): 566-588.

- Rossi, G., Semens, A. and Brocard, F. (2016) *Sport Agents and Labour Market: Evidence from World Football*. Routledge: London.
- Ryall, E. (2016). *Philosophy of Sport: Key Questions*, London: Bloomsbury, ch. 11.
- Rypma, C. D. (1990). 'Sports Agents Representing Athletes: The Need for Comprehensive State Legislation', 24 Val. U. L. Rev. 481, 514-19.
- Sailors, P. R. (2014). 'Mixed Competition and Mixed Messages' *Journal of the Philosophy of Sport*, 41:1, pp. 65-77, DOI: 10.1080/00948705.2013.858398
- Salen, K. & Zimmerman, E. (2003). *Rules of Play*. Cambridge, MA: MIT Press.
- Schumpeter, J.A. (1943). *Capitalism, socialism, and democracy*. London: Allen and Unwin.
- Schwab, B. (2017). "'When We Know Better, We Do Better.'" Embedding the Human Rights of Players as a Prerequisite to the Legitimacy of *Lex Sportiva* and Sport's Justice System'. *Md. J. Int'l L.*, 32 (1): Article 4. Available at: <http://digitalcommons.law.umaryland.edu/mjil/vol32/iss1/4>.
- Schwab, B. (2018). "'Celebrate Humanity": Reconciling Sport and Human Rights through Athlete Activism'. *Journal of Legal Aspects of Sport*: 170-207
<https://doi.org/10.18060/22570>
- Shelton, C. (2016). 'King, Billie-Jean'. In Goethals, G. & Hoyt, C. (eds.) *Women and Leadership: History, Theories, and Case Studies*. Great Barrington, Mass.: Berkshire Publishing.
- Shin, P. S. (2017). 'Sex and Gender Segregation in Competitive Sport: Internal and External Normative Perspectives'. *Law and Contemporary Problems*, vol. 80, no. 4, pp. 47-62.
- Shropshire, K. L., Davis, T., & Duru, N. J. (2016). *The Business of Sports Agents*. University of Pennsylvania Press.
- Smith, G. (2000). "Toward deliberative institutions". In: M. Saward (Ed.), *Democratic innovation. Deliberation, representation and association* (pp. 29-39). New York: Routledge
- Siekman R.C.R. (2004). 'Promoting the social dialogue in professional football in the new EU Member States', *The International Sports Law Journal*, (3-4): 31-33.
- Simmons, R. (1997). 'Implications of the Bosman ruling for football transfer markets'. *Economic Affairs*, 17 (3), 13-18.
- Simon, J. (2006). 'Show Me the Money!!! Player Agents and Conflicts of Interest' [online]. *Australian and New Zealand Sports Law Journal*, Vol. 1, No. 1, 103-120.

Sloane, A. (1977). 'Collective Bargaining in Major League Baseball: A New Ball Game and Its Genesis'. *Labor Law Journal; Chicago* Vol. 28, Iss. 4, 200.

Sloane, P. (1969). 'The Labour Market in Professional Football'. *British Journal of Industrial Relations*, 7(2), 181 - 199.

Smokvina, V. (2016). 'New issues in the labour relationships in professional football: social dialogue, implementation of the first autonomous agreement in Croatia and Serbia and the new sports labour law cases', *Int Sports Law J* 15: 159-171

Sobel, L. (1987). 'The Regulation of Sports Agents: An Analytical Primer', 39 *Baylor L. Rev.* 701-786.

Spencer, N. (2000). 'Reading Between the Lines: A Discursive Analysis of the Billie Jean King vs. Bobby Riggs "Battle of the Sexes"'. *Sociology of Sport Journal*. Vol. 17 Issue 4, p386-402.

Staudohar, P. (1986) *The Sports Industry and Collective Bargaining*. ILR Press: Ithaca, New York.

Staudohar, P. (1997). 'The Baseball Strike of 1994-95'. 120 *Monthly Lab. Rev.* 21.

Staudohar P. (2002). 'Baseball Negotiations: A New Agreement'. 125 *Monthly Lab. Rev.* 15.

Stone, R. (1995), *Human Resource Management*, (second edition), Wiley & Son, Milton.

Szymanski S. (2003). 'The Economic Design of Sporting Contests'. *J Econ Lit* 41(4): 1137-1187.

Szymanski, S. (2009). *Playbooks and Checkbooks: An introduction to the economics of modern sports*. Princeton: Princeton University Press, 2009

Tamburrini, C. (2017). 'Queer Genes? The Bio-amazons project: a response to critics'. In Anderson Eric and Travers, Anne (eds.), *Transgender Athletes in Competitive Sport*, Abingdon: Routledge, Ch. 16.

Taylor, F. (1911). *Principles of Scientific Management*. Reprinted in Frederick Taylor, *Scientific Management*. New York: Harper & Bros.

Taylor, M. (2014) 'Trade unionism in British sport, 1920-1964'. *Labor History*, 55 (5): 622-637

The Philosophy of International Law, ed. J. Tasioulas and S. Besson. Oxford University Press.

Thibault, L., Kihl, L., Babiak K. (2010) Democratization and governance in international sport: Addressing issues with athlete involvement in organizational policy. *International Journal of Sport Policy and Politics*, 2(3), 275-302.

Torring, J., Sørensen, E., and Fotel, T. (2009). Democratic anchorage of infrastructural governance networks: The case of the Femern Belt Forum. *Planning Theory*, 8: 282-308.

Urbinati, N. & Warren, M. (2008). The concept of representation in contemporary democratic theory. *Annual Review of Political Science* 11, 387-412.

Van den Bogaert S. (2013) 'From Bosman to Bernard C-415/93; [1995] ECR I-4921 to C-325/08; [2010] ECR I-2177'. In: Anderson J. (eds) *Leading Cases in Sports Law*. ASSER International Sports Law Series. T.M.C. Asser Press, The Hague, The Netherlands.

Walters, G. (2004). *The Professional Footballers' Association: A Case Study of Trade Union Growth*. Available at <http://www.sportbusinesscentre.com/wp-content/uploads/2012/08/sotg20062.pdf>

Walters, G., & Hamil, S. (2013). 'The contests for power and influence over the regulatory space within the English professional football industry, 1980-2012'. *Business History*, 55 (5): 740-767, doi: 10.1080/00076791.2013.771339.

Ware, S. (2011). *Game, Set, Match: Billie Jean King and the Revolution in Women's Sports*. University of North Carolina Press.

Wells, C. & Darnell, S. (2014). 'Caster Semenya, Gender Verification and the Politics of Fairness in an Online Track & Field Community'. *Sociology of Sport Journal*, 31, 44 -65.

Wilde, T. J. (1992), 'The Regulation of Athlete-Agents', 2 J. Legal Aspects Sport 18, 26-27.

Zimbalist, A. (2003). 'Labor Relations in Major League Baseball'. *Journal of Sports Economics*, Vol. 4 No. 4, 332-355 doi: 10.1177/1527002503257388

Grey Literature

Gaelic Players. (2019). *A Juggling Act, GPA Student Report*. <https://www.gaelicplayers.com/wp-content/uploads/2019/11/GPA-Student-Report-2019.pdf>

EU Athletes. (2017a). *An analysis of the working conditions of professional sports players*. <https://www.euathletes.org/wp-content/uploads/2017/06/2013-UNI-An-Analysis-of-Working-Conditions-of-Professional-Sports-Plyers-ilovepdf-compressed-1.pdf>

EU Athletes. (2017b). *Evaluation of the effectiveness of the PROtect Integrity player education programme*. <https://euathletes.org/wp-content/uploads/2018/02/2017-EU-Athletes-Evaluation-of-the-effectiveness-of-the-PROtect-Integrity-player-education-programme.pdf>

EU Athletes. (2018a). *Common Position Paper of the Members of the European Elite Athletes Associations*. https://euathletes.org/wp-content/uploads/2019/04/EUA_COM-MON_POS_2018_FICHES.pdf

Eu Athletes. (2018b). *Improving Player Association Support for Women Athletes*. <https://euathletes.org/wp-content/uploads/2018/02/2017%20-%20SWAFE%20-%20Improving%20player%20associations%27%20support%20for%20women%20athletes.pdf>

Eu Athletes. (2015). *Improving Dual Career Support for Players*. <https://euathletes.org/wp-content/uploads/2017/06/2015-EU-Athletes-Improving-Dual-Career-Support-For-Athletes-ilovepdf-compressed.pdf>

EU Athletes. (2020). *Preliminary Research on the impact of the COVID-19 Pandemic on Players and their Player Associations*. <https://euathletes.org/wp-content/uploads/2020/07/Covid-research-results-FINAL.pdf>

EU Athletes. (2019). *Report on Protect Integrity Plus: Roll-out of The Red Button App to New Sports and New Countries*. <https://euathletes.org/wp-content/uploads/2020/01/REPORT-ON-PROTECT-INTEGRITY-PLUS-FINAL-19.12.19.pdf>

International Labour Organisation. (2020) *Decent Work in the World of Sport*. https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_728119.pdf

Federation of International Cricketers Association. (2018). *FICA Women's Global Employment Market Report and Survey*. <https://www.thefica.com/wp-content/uploads/2018/10/FICA-Womens-Global-Employment-Report-Survey-2018-final.pdf>

Federation of International Cricketers Association. (2017) *FICA Mens Professional Cricket Global Employment Report 2017*. <https://www.thefica.com/wp-content/uploads/2018/04/FICA-Mens-Employment-Report-2017-dp.pdf>

International Rugby Players. (n.d) *International Survey highlights player concerns* <https://www.rugbyplayers.org/international-survey-highlights-player-concerns>

European Association of Sport Employers. (2008). *Joint Recommendations on minimum requirements of employment contracts in the sport sector* <http://www.eas-sport.org/pdf/Joint%20Recommendation%20Contracts%209-12-2008.pdf>

UNI Global Union. (n.d.). *Players Rights Policies and Resources*. Retrieved 24 November 2020, from <https://www.uniglobalunion.org/fr/sectors/uni-world-athletes/dignity>

UNI Global Union. (2016). *Strengthening employability in the sport and active leisure sector*. https://www.uni-europa.org/wp-content/uploads/2016/11/ESD_Sport_opinion.pdf

Cyclist Alliance. (2017). *The Cyclists' Alliance Rider Survey*. <https://cyclistsalliance.org/2017/12/the-cyclists-alliance-rider-survey>

Third International Conference on Grey Literature in 1997 (ICGL Luxembourg definition, 1997 - Expanded in New York, 2004).

Lyons, D., Williams, L., van Gerven, N., Söderlind, S., & Herber, J. (2018). *Transition from Sport: A Review of Player Association Research into Retired Players*. https://www.uniglobalunion.org/sites/default/files/imce/wp_transition_from_sport_review_2018.pdf

International Rugby Players. (n.d.b). *Women's Survey: Who's Playing the Game? - International Rugby Players*. <https://www.rugbyplayers.org/womens-survey-whos-playing-the-game/>

Web sources

Andersen, J. (2015). 'The year that killed the autonomy of sport'. Found at: https://www.playthegame.org/news/comments/2015/021_the-year-that-killed-the-autonomy-of-sport/ Accessed 09 05 2020.

A. T. Kearney (2011). *The Sports Market*. <https://www.kearney.com/communications-media-technology/article/?a/the-sports-market> Accessed 29 12 2020

Butler, N. (2018). 'German athlete group to receive Government funding to ensure independence from DOSB', <https://www.insidethegames.biz/articles/1066036/german-athlete-group-to-receive-government-funding-to-ensure-independence-from-dosb> Accessed 29 12 2020

Heuer, B. (n.d.). 'The Boys of Winter: How Marvin Miller, Andy Messersmith and Dave McNally Brought Down Baseball's Historic Reserve System.' https://www.law.berkeley.edu/sugarman/Sports_Stories_Messersmith_McNally_Arbitration.pdf Accessed 29 12 2020

Schwab, B. (2015). 'The Role of Athletes in Delivering the Good Governance of Sport, 2015 FIFPro Sports Law Conference: Legal Legends in Sport and the Future of Sports Law' (Dec.15,2015), http://www.uniglobalunion.org/sites/default/files/imce/brendan_schwab_fifpro_legal_conference_paper_15_dec_15.pdf Accessed 29 12 2020

Scanlon, T.M. (2013) *When Does Equality Matter?..* https://www.law.nyu.edu/sites/default/files/upload_documents/Lecture%201%20revised%20October%202014.pdf

Szymanski, S. (2015). 'FIFPro's Challenge to the Player Transfer System in Europe'. Found at: <https://www.soccernomics-agency.com/?p=850> Accessed 09 05 2020.

The Internet Classics Archive | Politics by Aristotle. (n.d.). Classics.Mit.Edu. Retrieved 23 June 2021, from <http://classics.mit.edu/Aristotle/politics.html>



Play the Game