

CHAPTER 19 – THE CONTRACT TO COMPETE, DEVIANCE and the LAW

The contract to compete

The **contract to compete** is an **unwritten** code within sports where participants agree to **'do their best'**, to strive to win, to play within the rules, and to do this with a degree of sportsmanship. Playing to win is said to be a good thing as long as it is within the **'spirit of the game'**. This implies that a person should allow his or her opponent to do the same, and not be unduly upset if that opponent wins. Respect is to be given to the rules, to opponents, and to officials attempting to administer a contest. The whole thing should be undertaken within the spirit of **'fair play'**.

Fair play is an idea developed from Victorian attitudes and ethics about amateurism, athleticism, and the taking part that is important.

Sportsmanship and gamesmanship

Sportsmanship

Sportsmanship is not just what you play, but how you play in a sport. If the sporting activity involves competition, then it should always be performed with a **spirit of sportsmanship**.

In sport, we have problems of **violence** on the field and the use of **performance enhancing drugs** (PEDs). This tells us that the ethic of **fair play** is under attack. Without fair play, sport as a noble pastime is doomed. It is possible to look at games on the television or during school sport and test the behaviour of performers. The behaviour will vary from the high point of players making moral decisions to the other extreme of deliberate violence against others.

Fair play will exist as long as you at least accept the referee, but it's better if you accept the rules of play.

- Perhaps there can be no true sport without the idea of fair play, where the spirit in which the activity is played is more important than a **'win-at-all-costs'** attitude?
- Sportsmanship is **functional** if the rules of a game or sport are accepted, or the decisions of a referee or umpire are accepted, and **dysfunctional** if a performer has no regard for others or deliberately subverts the rules of a game in order to gain advantage (figure 19.1).

Gamesmanship

Gamesmanship is the term which describes behaviour outside the rules of a sport or game which aims to gain advantage over an opponent, and has been defined as: **'the intention to compete to the limit of the rules and beyond if you can get away with it'**.

Some professional performers and coaches maintain that **'you get away with what you can'**, an admission that potential rewards, millions in sponsorship and wages, can outweigh moral considerations.

Gamesmanship is driven by a **'win-at-all-costs'** attitude and shows no regard for the well-being of the opponent.

Examples of **gamesmanship** are:

- A boxer or fighter thumbing the eye of an opponent.
- A soccer player deliberately fouling an opponent with the aim of getting him or her off the pitch.
- A rugby player stamping on an opposing player.
- A cricket team 'sledging' their opponents when batting – extreme verbal banter – destroying confidence and concentration.

figure 19.1 – sportsmanship / gamesmanship



The Olympic Ideal

The **Olympic Creed** was and is an ideal hope for human behaviour when faced with sporting adversity or success. It was put forward in 1908:

'The most important thing in the Olympic Games is not to win but to take part, just as the most important thing in life is not the triumph but the struggle. The essential thing is not to have conquered but to have fought well.'

The **Olympic Charter** states *'Olympism is a philosophy of life, exalting and combining in a balanced whole the qualities of body, will and mind. Blending sport with culture and education, Olympism seeks to create a way of life based on the joy found in effort, the educational value of good example and respect for universal fundamental ethical principles.'*

These statements revolve around the fact that athletes should be free to participate irrespective of race, colour or creed. Mass access to sport requires that **constraints** upon cultural and sub-cultural groups should be removed. But in order for minority groups to have equality they must also have **access** and **provision**. **Access** can be denied by a numerically superior culture, self-imposed cultural constraint, and economic and topographical limitations.

The major issue at the beginning of the modern Olympic movement was the **exclusion** of racial minorities from existing opportunity, or the failure to **extend provision** to all. **Olympic Solidarity** programmes and the various IOC commissions are responsible for education and provision in areas of need, which are funded these days by income from television rights.

Deviance and performance enhancing drugs or products

Deviance

The term **deviance** describes behaviour in which people find a way around the rules, however they are framed. This behaviour can be institutional, group specific, or individual. Deviant behaviour could be one of three possibilities:

- **Voluntary**, the performer decides to take drugs.
- **Co-operative**, the performer decides to take drugs, because all his friends are doing so.
- **Enforced**, a former East German swimmer took drugs because her coach gave them to her.

Deviance in sport concerns the **intention to cheat** as part of deviant behaviour, and includes aggression and violence among competitors and spectators, as well as the issue of doping.

Positive and negative deviance

In sociological terms, deviance means the variation of behaviour from the norm (what is normal). This can be upwards (**positive**) or downwards (**negative**) deviance.

Examples of positive deviance include training through injury, adopting a 'no pain, no gain' attitude which implies an 'over' commitment to sport.

For example, it used to be a common occurrence within rugby union, to continue 'playing through' an injury in the interests of the team as a whole. This behaviour has largely disappeared with the advent of substitutions, but used to be the major reason for the ending of a promising career in the sport.

Violence in sport

This issue arises when acceptable **aggression** (assertion) in sport becomes **violence**.

Violence is normally where aggression goes beyond the agreed codification in that game or activity. There is an additional dimension, in that acceptable aggression in the activity may not match up with the laws of the land and so players can misunderstand their **legal** position. But spectators certainly need to recognise that no matter how much they get worked up, their violence is measured in legal terms.

Figure 19.2 summarises the issues affecting player violence.

figure 19.2 – aggression and violence in sport



Player violence

Physical aggression and an unacceptable level of **verbal abuse** may be identified as part of player violence:

- The presence of spectators can increase player arousal.
- Many games require players to be **hyped-up** to perform at their best, making aggression and outbreaks of violence more likely.
- More recently, the use of **drugs** may have increased this tendency.
- On the other hand, some sports require calmness and focus. For example, darts, snooker, dance and gymnastics, and players in these sports are less likely to be violent.
- **Gamesmanship**, aimed at putting an opponent off, can be equally unacceptable.

Aggression by **sports performers** is a part of their sporting life. The need to be competitive and the **frustration** felt at failure can lead sportspeople to be violent as an extreme expression of this aggression. The level at which aggression becomes violence varies according to the **activity**.

For example, boxing involves punching an opponent, which would be violence in any other sport. In this case, it is argued that the essence of boxing is '**the art of self-defence**' and that boxing has its own code of acceptable behaviour with a referee to see that this is observed, as well as the safety precaution of gloves. There is also a difference here between amateur and professional boxing and also regulations for junior competitors as against seniors. This rules difference also is relevant to a variety of other activities and games, such as tag rugby with young children.

Causes of violence in sport

The **causes** of violence among players are summarised in figure 19.3.

- **Players** will be violent for the reasons outlined above.
- The **crowd** response to player activity (chanting, booing, name calling) can affect player tendency to violence.
- The confrontational nature of most top professional games (the **gladiatorial** influence) can increase the tendency to violence.
- The **popular** nature of some sports can lead to player expectation of violence as part of the game culture.
- The presence of a **large number** of spectators and the significance of victory can increase the **emotion** of a sporting occasion, and again make violence more likely.
- The failure of sports **administrators** to adequately punish players who are persistently violent can cause players to cynically commit further violent offences on the field.

figure 19.3 – causes of violence in sport



The **solutions** lie in the code of behaviour being part of the tradition of the activity from school onwards and the quality of control by officials (figure 19.4) during the game. Officials should include an explanation of their action. The increased use of **TV play-back** at agreed times can help. Punishments by controlling bodies should be seen to be fair and consistent, and should therefore fit the offence. But the essential element is the attitude of each player.

Spectators and violence

Spectators get very emotionally involved, desperately wanting their side to win. They often direct this emotion at players on the pitch, and also at opposition supporters. This can lead to violence on the terraces and on the streets, but can also involve extreme verbal abuse. In such instances the law is probably being broken, but access by the stewards and the police is not possible because of the crowd effect. The **facilities** of a stadium, in respect of the mixing of the fans of opposing teams, can be a cause of spectator violence particularly in professional soccer.

figure 19.4 – referees have the power to punish



Hooliganism

The dominance of a youth culture, where gangs identify with a professional football club and are prepared to fight an opposition group in a chosen place, is a frightening extension of **soccer hooliganism**. Although there is a strong working class peer group culture associated with soccer, this has, occasionally, involved middle class male groups. The media can encourage **confrontational** situations by highlighting players' comments about opponents and giving these hooligan gangs publicity.

There are numerous **causes** in what is naturally an **antagonistic** and often **frustrating** situation. For example, the tendency towards violence by a supporter group is linked to whether or not their team is winning. Supporters of a winning team are more likely to be benevolent and good natured, whereas supporters of a losing team often turn to violence, particularly in 'derby games'.

This has been explained as a form of social deviance:

- Caused by being in a crowd, where there is **confinement**.
- High emotion and the likelihood of **shared aggression**.
- Particularly if **alcohol** has been consumed.
- There is also an element of **depersonalisation** that a crowd gives an individual, where it is 'easy to be lost in a crowd'.

In the case of hooliganism, the question arises as to whether these are **hooligans at football** or **football hooligans**. In the case of the former, the **solution** lies in the conditions and control needed to prevent this antisocial behaviour. If, however, football **makes** them behave as hooligans, then one must look at the behaviour of the players and the causes of frustration.

Solutions

Measures (figure 19.5) which have been taken to **reduce** the chances of spectator violence are:

- **Segregation** of home and away supporters.
- The introduction of **all-seater stadia**.
- Increasing the **'family'** concept.
- Increasing the number of **stewards** and **police**.
- Ensuring that **alcohol** cannot be bought or brought into grounds.
- Detecting trouble using **CCTV**.

In addition, campaigns like **'kick racism out of football'**, sponsored by major soccer clubs, player and Governing Bodies, can defuse unacceptable racial aggression.

figure 19.5 – prevention of hooliganism



The drug issue

The **reason** sportspeople take drugs (PEDs) or other nutritional ergogenic aids is to attempt to gain an advantage over other competitors or players. Some drugs are against the law and others against sporting regulations, but young people can be attracted to these **unethical** and **dangerous** substances because their heroes and **role models** are presumed to have taken them.

- Thus taking drugs ceases to be only a personal decision. This is part of the **win ethic**, the willingness to win at all costs, or simply a desire to excel in something as an unbridled ambition (see figure 19.6).
- The International Olympic Committee and International Sports Authorities view drug taking as **cheating**, where it is deemed totally unacceptable for the unscrupulous to be allowed to take unfair advantage. Let's not forget the Olympic oath sworn on behalf of all participant States.

figure 19.6 – performance enhancing products



The Olympic oath

'In the name of all competitors, I promise that we shall take part in these Olympic Games ...without doping and using drugs in the true spirit of sportsmanship.'

Testing

Testing for drugs (figure 19.7) is subject to **stringent** procedures for supervising **sample taking**, where urine and blood samples are now being taken. The procedures for observing the taking of urine samples were made all the more rigorous after two male winners in the Athens Olympic athletics programme were found to be using prosthetic (false) genitals and a hidden storage bag for the production of their sample.

- The **British Olympic Committee** and **UK sport** have a widespread **random drug testing programme**.
- To miss two of these random tests results in sanctions and to miss for a third time produces an automatic one year ban.
- This happened to Christine Ohuruogu – World and Olympic champion in track and field athletics.
- This was in spite of her passing many other tests during the period when this was happening. She was forced to miss the 2006 season during her ban.
- Under the **WADA** rules brought in January 1st 2009, athletes in all Olympic sports are required to state 3 months in advance their locations for 1 hour per day, 7 days a week.
- This is the time during which random testing could take place.
- This is called the '**whereabouts rule**' and this rule has provoked anger from tennis players, such as Andy Murray, Rafael Nadal and Roger Federer, who feel that the European Union privacy law has been breached.
- In season, testing normally takes place after competitions or matches.

Punishment

Punishment can be by a temporary ban on performers, with usually a second offence involving the most serious drugs leading to a permanent ban. Some sports have punished coaches and have the power to confront guilty officials. Also there are examples of the punishment of Governing Bodies as in weightlifting (where the whole national team will be suspended if a drug positive is found on just one weightlifter), as well as putting pressure on transgressing governments.

Policies adopted by **Governing Bodies** to reduce drug taking by sportspeople include liaison with other Governing Bodies so that a unified approach is made. This has led to the initiation of **educational programmes** for players and coaches, while government bodies, like **UK sport**, provide resources for research into more effective testing.

WADA

The **World Anti-Doping Agency (WADA)** is the World body set up in 1998 tasked with enforcing the international regulations on doping or drug taking. WADA aims to bring together governments, the IOC, international Governing Bodies and National Governing Bodies (NGBs) to sort out the difficulties posed by athletes performing on the international stage. This issue was brought to a head at the Athens Olympics 2004, when two of the host nation's best athletes went missing just before the games and a compulsory drug test. These athletes faked a road accident and sought hospitalisation falsely in order to avoid taking the test. The same athletes had a record of going missing from international training venues just before the IAAF drug testers arrived – and even being found registered under false names in hotels so that their whereabouts could not be definitely fixed.

Innocent or guilty?

Great care has to be taken when testing takes place. Britain's Diane Modahl failed a test in 1994 just prior to the Commonwealth Games of that year. It was later discovered that her urine sample had undergone changes while being stored in the testing laboratory, and she was cleared of the doping offence. She then sued the British Athletic Federation for their mishandling of the situation. This led to the eventual near bankruptcy of the BAF and the destruction of Diane's athletic career. Although she was reinstated, she was unable to regain the fitness and excellence needed to compete at elite level.

figure 19.7 – possible solutions to drug abuse



STUDENT NOTE

You will find a discussion and table (4.4) of the categories and effects of the various drugs used in sport on page 37 above.

The athlete passport

WADA has introduced the '**Athlete passport**' which contains an on-going collection of an individual's urine and blood profiles which have so far been collected and tested during the international athlete's performance lifespan. Samples are stored and then made available for retro-testing when appropriate. It is projected that future profile collection could include endocrine information. For further information go to: www.wada-ama.org/en/dynamic.ch2?pageCategory.id=870

For or against doping in sport?

Although most **top performers** would say that performance enhancing drugs (PEDs) should not be allowed in sport, it is almost certain that many such performers are **actually using** such drugs.

Some people feel that it would be better to avoid the costs of testing, of developing new tests for new drugs, and of defending the subsequent court battles, and that therefore we should allow drugs to be used in a controlled manner.

The fact that **detection** of drugs depends on the **efficiency** of the testing procedure, and that some countries and sports have little or no such procedure, means that the playing field is relatively bumpy for top performers.

The argument to allow drugs (in a controlled manner) would:

- **Remove** dangerous substances (known to inflict harm on participants).
- **Allow** people to take drugs in a controlled manner.
- Allow everyone to compete on a **level playing field**.
- Create the possibility that **more records** would be broken by greater amounts, and therefore create more spectacular sport for spectators.

Unfortunately:

- Some people would **not be prepared to take drugs** - so there would not be a level playing field after all.
- The **dangerous side effects** of many performance enhancing products are known and inevitable.
- It would be assumed by some coaches and athletes that success would **not be possible** without drugs, and peer pressure would force people to **participate in illegal programmes** against their better instincts.
- The **cost** of taking some substances would be substantial, since the costs of developing new and effective drugs would have to be borne by someone.

What about the notion that sports should be about the testing of one performer against another (or team against team), with the best, most talented and best prepared athlete winning?

The law and sport

In the early years of rational sport, the people who established the Governing Bodies and controlled the activities and games were the **upper or middle classes** who also established the **law of the land**. Hence there was little direct conflict between the law of the land and the codes in amateur sport.

The first problems arose when reforms to professional sports came into conflict with the **upper class** who controlled them. The clearest example of this was in the Prize Ring, where the Duke of Cumberland accused Broughton of throwing his fight with Jack Slack. Cumberland's reaction was to take it to the House of Lords in 1750, and attempt to invoke a ban on the Prize Ring.

The important point to make is that laws in society and laws in sport were not always 'reformed' **at the same time**. Because the codes adopted by sports bodies were private, there was a conservative retention of traditional rules long after national legislation had been reformed. The argument stressed is that the **field of play is a private venue**, separate from the real World and in some cases blood sports like pigeon shooting continued despite local politicians objecting to the 'carnage'. At the end of the 19th century, middle class urban sensitivities were often ignored, particularly when the rural gentry were involved. The relatively unsuccessful banning of fox hunting in England (today) shows how a social elite can find ways round the law.

Sport law

However, the traditional argument for exclusivity has been gradually lost as sport law has been forced by legal representation to exist within international law:

- The **Bosman ruling** on the employment of professional players has resulted in sport law being superseded by employment legislation.
- As regards violence in sport, the UK Crown Prosecution Service has the right to prosecute players and spectators for violence in football grounds as well as outside.
- Significantly, this legislation also applies to officials, leading to problems of accusations of bribery.
- Also referee responsibilities became no longer in the sole control of Governing Bodies of sport, but open to an interpretation by law.
- The legislation arising from the **Hillsborough disaster** is a major example of how responsibility in sport is now answerable to international law and no longer contained within the jurisdiction of a specific club or sport.

Rule enforcement

Rule enforcement is usually down to the officials who are responsible for ensuring that players abide by the written rules of a sport or game. If players fail to do this, then officials have the duty and power to punish players as necessary. For example, David Beckham was sent off during the 1998 World Cup Argentina game when he deliberately kicked another player.

As mentioned above when talking about the contract to compete (see page 121 above), there are unwritten 'rules' that determine how a player should behave during a game, covering fair play, sportsmanship, and sporting ethics.

The need for the law in sport

Whilst it would be nice to believe that individuals who participate in sport always adhere to the rules, there are many who try to gain personal advantage from the sports they play. Thus, in recent years, sporting laws have become more and more common.

Figure 19.8 outlines the areas in which the law may impact on sport.

- **Fair competition** can be related to teams' actions surrounding a game, and it is important that teams start on a level playing field, and if this does not occur, the responsible team should be made accountable for their actions.
- **Player contracts** are concerned with ever-increasing wages in professional sports. It is important that players have legal documents which ensure wages are correctly paid. Equally, clubs require such documents in order to ensure players meet the demands laid out within their contracts.
- **Violence control** is relevant to actions made both off and on the field of play, for example, players injuring other players with deliberate intent, and hooliganism and crowd control.
- **Eliminate discrimination** concerns an extremely important type of law. It is illegal for any club to disallow an individual to become a member of an institution on the grounds of colour or race.
- **Players' rights** is related to players' contracts. It is now legal for players to leave a professional soccer club for no transfer fee once a player's contract has expired.
- **Drug misuse.** By taking drugs to enhance performance, players are essentially cheating in order to gain the upper hand over their opponents. Thus, it is against sporting regulations to take performance enhancing drugs (PEDs) such as anabolic steroids, although not against the law of the land. Hence testing procedures need to be foolproof in the case of a performer being banned for taking such drugs, since a person's right to earn a living is being removed in the case of a drug ban. This is what happened in the Diane Modahl case discussed above on page 125.

figure 19.8 – the law in sport



- The issue of **television rights** is especially relevant to football, as large revenues are generated in this way. Clubs are arguing that it is unfair that the Premier League negotiates TV rights for premiership games (in the premiership as a whole), and some clubs believe it is their right to organise their own TV deals.
- **Players vs officials.** It is now law that officials take responsibility for the reasonable care of players. For example, the case of *Smolden v Whitworth* (1991), in which a young rugby player was permanently paralysed when a scrum collapsed during a bad-tempered game. It was later ruled that the referee had not acted with competence, and thus was liable for the player's injuries.

Practice questions

- 1) Sportsmanship and gamesmanship are two opposites. Explain the differences between the two in a game of your choice. 6 marks
- 2) Explain what is meant by 'a contract to compete'. Describe ways in which gamesmanship breaks this code. 7 marks
- 3) Give reasons for spectator violence at professional association football matches. 5 marks
- 4) Hooliganism has affected football over the past 40 years.
 - a) Define the term 'hooliganism' and discuss the reasons why it might occur. 4 marks
 - b) What steps have been taken to reduce the incidents of hooliganism in Premiership football? 3 marks
- 5) Discuss the problem of illegal drug-taking in sport. Focus your answer on one performance-enhancing drug. 14 marks
- 6) The taking of performance enhancing drugs is a serious issue in elite sport.
 - a) Outline the major steps in the drug-testing procedure that may face an elite level performer. 3 marks
 - b) In 1998, the head of the IOC (Juan Antonio Samaranch) told a newspaper that 'substances that do not harm an athlete's health should not be banned and should not be considered as a case of doping'. Discuss this statement. 6 marks
- 7) Explain the differences between sport law and national law and discuss how this has changed. 8 marks