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Playing with the Rules: Influences on the Development of Regulation in Sport

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Sport today is a rule-governed practice: constitutive rules, both prescriptive and proscriptive, define required equipment and facilities as well as setting the formal rules of play; auxiliary rules specify and control eligibility; and regulatory rules place restraints on behaviour independent of the sport itself. This article offers a broad sweep examination of the historical process of rule development in sport including an assessment of the influence over time of gambling, fair play ideology, economic pressures, technological developments and legal intervention. En route a seven-stage scheme of constitutive rule development is postulated which it is hoped will set a research agenda for sports historians to test with case studies of particular sports.

I

Introduction

Sports need rules: competitive sports require them to decide a winner; ritual ones to show participants how to play their part. It is rules that differentiate one sport from another. It is also rules that distinguish the sophisticated games of sport from the more naïve ones of play. Participants in the latter have the freedom to improvise and alter how the game is played whilst it is in progress, but in sport the rule book must be obeyed, at least for the duration of the event. Where sports were religious and ritualistic the rules were often considered god-given and inviolate; even folk games of the pre-industrial period were often run by customary rules, part of an oral tradition handed down through the generations; those of modern sport, in contrast, are man-made, written down, and rendered fit for purpose by constant change. It is this change and the reasons for its occurrence that form the major theme of this paper.[2]

Rules matter. They matter because they can affect the diffusion of a sport: without standardised rules a game cannot spread. Although other factors contributed to making soccer more popular than rugby, it was also the brevity of the original set of Football Association (FA) Rules, thirteen in all, that, according to Melvyn Bragg, made it one of the books that changed the world.[3] They matter because they can reflect the sporting and possibly social visions of the rule-makers, demonstrating their attitudes towards violence, equality, gambling, winning and losing, and even race and gender. They matter because they can change when contemporary circumstances alter the context within which the sport is played. Early organised football played under the FA rules had no offside, no penalties and no referee, a scenario incomprehensible to the modern fan, though the game is still played under rules published by the FA.

Generally rules can define the size of the space on which the sport is played, the length of time that a contest can last, the actions that are permitted, and how a result is determined. They identify the legitimate means by which targets can be attained. Usually these serve to make a sport more difficult by providing a challenge: how much easier would it be to achieve low scores at golf if the ball could be thrown out of a bunker! They set a limit to the degree of violence that can be employed: contrast the body contact in rugby with that of touch football. Some rules are in place for reasons of equity, to provide all competitors with the same rights and chances to win; others are designed to put an element of luck into a game such as tossing for ends in football or innings in cricket, the draw for lanes in athletics, or even the shape of the ball in rugby.

Some historical enthusiasts such as Brodribb on cricket laws and customs, Chapman on the rules of golf, and Lennon's tripartite work on Irish hurling and football have ventured into the area of the history of rules in British sport, but only a few academic sports historians, notably Brailsford and Harvey have followed them - though *en passant* when dealing with other issues.[4] This article is an attempt to fill the historical gap and will explore the nature of rules in sport by proposing an historical schema of their development, including an examination of who determines the rules. It will argue that primacy (but not exclusivity) in the formation and development of rules can be attributed to gambling, though, at later stages, economic factors have had more importance and, at times, fair play ideology has also played a role. It will be illustrated by material drawn mainly from British sport, though with restricted references to horseracing because of its special relationship with gambling.[5] The schema is advanced as indicative only at the current stage of research. In any event it is an ideal-type model, a heuristic device designed to provide a framework to aid in understanding the processes by which rules develop and by which real world situations can be assessed and compared with each other.

II

Sport today is a rule-governed practice: constitutive rules, both prescriptive and proscriptive, define required equipment and facilities as well as setting the formal rules of play; auxiliary rules specify and control eligibility; and regulatory rules place restraints on behaviour independent of the sport itself.[6]

A Schema of Constitutive Rule Development

It is argued here that the development of formal playing regulations comes in stages:

- [a] One-off rules for head-to-head contests individually negotiated.
- [b] Rules for head-to-head and all-comers contests using common features.
- [c] Rules for contests using standardised rules.
- [d] Codification of rules by ‘national’ authorities.
- [e] Rules developed to ensure acceptance of the nationally-codified rules.
- [f] Codification of rules by ‘international’ authorities.
- [g] Rules developed to ensure acceptance of the internationally-codified rules.

Rules emerge because of competition. Not all early sports had rules. Hunting, shooting and fishing were traditional British blood sports with the ‘kill’ as an end product, but they operated on custom and social convention.[7] Yet cockfighting, another animal sport with death as the outcome, developed a complex set of rules under which the determination of victory and the role of the bird handlers was carefully defined. Although not specifically attributed to any particular source, a set of 19 rules for cockfighting was published in both Cheny’s *Racing Calendar* for 1743 and Heber’s *Racing Calendar* in 1751. These probably came about because it was a competitive event often involving large-stake gambling.[8] Many other brutal animal sports similarly had rules because gamblers bet on the endurance of baited beasts and the dogs that attacked them, on the number of rats killed by a particular terrier, or on the ultimate winner of dogfights and other contests in which animals were pitted against each other. In well-conducted bull-baiting, for example, arrangements were made to ensure that the dogs attacked head-on.[9] But mostly these were [public]house rules, relating to a particular location with no necessary consistency from place to place. Human blood sports too were often gambling-oriented and hence required rules of conduct and result. Cudgelling and singlestick, both forms of

duelling with wooden weapons, had rules which, for example, prevented the seizing of an opponent's weapon and determined what parts of the body could not be struck. These rules varied between regions as did those for the various forms of wrestling.[10]

Early written rules featured in the 'articles of agreement' that were common to most stake-money contests during the eighteenth and early nineteenth centuries.[11] In essence they were 'play or pay' contracts between the contending parties which set out the particular terms of the intended contest such as times, places, stakes and the means of settling disputes. Those for a cricket match in 1727 between teams organised by the Second Duke of Richmond and Mr. Alan Broderick, heir to Viscount Middleton, included the following points:

[a] That 'tis lawful for the Duke of Richmond to choose any gamesters, who have played in either of his Grace's last two matches with Sir William Gage; and that 'tis lawful for Mr Brodrick to choose any gamesters within three miles of Pepperharowe, provided that they actually lived there last Lady Day.

[b] That twelve gamesters shall play on each side.

[c] That each match shall be for twelve guineas [21 shillings] of each side.

[d] That there shall be one umpire of each side; and that if any of the gamesters shall speak or give their opinion, on any point of the game, they are to be turned out and voided in the match; this not to extend to the Duke of Richmond and Mr Brodrick.

[e] If any doubt or dispute arises on any of the aforementioned articles, or whatever else is not settled therein, it shall be determined by the Duke of Richmond and Mr Brodrick on their honours; by whom the umpires are likewise to be determined by any difference between them.[12]

Initially the rules agreed to before the start of a contest might be relatively simple, but as results became more meaningful, particularly to those betting on the outcomes, more specific regulations needed to be drafted to prevent omissions and loopholes being exploited by those seeking an advantage, either within the sport or in the betting market. Of course a sharp negotiator would insert clauses to favour his boxer, horse or team. In the above articles for the cricket match one party insisted that the other could only choose men who had played in the team's last two matches and in return his opponent only allowed men who had resided within three miles of the venue since Lady Day [the usual hiring time for new servants].

These early rules were all one-off, specific to a particular contest, but gradually, perhaps as a sport gained in popularity in an area, certain features became commonplace in challenges and match arrangements as participants saw sense in building upon what already existed. Rules for specific events were giving way to rules of sport. Standardisation and universality were in the offing, but local and regional interests and circumstances remained influential. Named sets of rules emerged which were often voluntarily adopted for contests. In the 1770s the *Racing Calendar*, by now being issued by Wetherbys, made reference to 'the usual rules of cockfighting as it is practised in London and Newmarket' and was publishing a model form of 'An Article for a Cock Fight' which could be copied out with names, stakes and venue inserted as appropriate.[13]

One of the first set of named rules was that issued in 1743 by pugilist-turned-boxing-promoter, Jack Broughton to control the conduct of prize fights in his London

amphitheatre. Other ex-cathedra pronouncements on the rules by leading personalities in a sport involved the wrestler Parkyns and the hawking enthusiast Thornton.[14] It can be presumed that all these were codifications of existing good practice. Broughton's code had seven clauses:

[a] That a square of a yard be chalked in the middle of the stage; and on every fresh set-to after a fall, or being parted from the rails, each second is to bring his man to the side of the square, and place him opposite to the other; and till they are fairly set to the lines, it shall not be lawful for the one to strike the other.

[b] That, in order to prevent any disputes as to the time a man lies after a fall, if the second does not bring his man to the side of the square within a space of half a minute, he shall be deemed a beaten man.

[c] That, in every main battle, no person shall be on the stage, except the principals and the second. The same rule to be observed in bye-battles, except that in the latter, Mr Broughton is allowed to be upon the stage to keep decorum, and to assist gentlemen to get their places; provided always, he does not interfere in the battle; and whoever pretends to infringe these rules, to be turned immediately out of the house. Everybody is to quit the stage as soon as the champions are stripped, before they set-to.

[d] That no champion be deemed beaten, unless he fails coming up to the line within the limited time, or that his own second declares him beaten. No second is to be allowed to ask his man's adversary any questions, or advise him to give out.

[e] That in bye-battles the winning man to have two-thirds of the money given which shall be publicly divided upon the stage, notwithstanding any private agreement to the contrary.

[f] That to prevent disputes in every main battle, the principals shall, on the coming on the stage, choose from the gentlemen present, two umpires, who shall absolutely decide all disputes that may arise about the battle; and if the two umpires cannot agree, the said umpires to choose a third, who is to determine it.

[g] That no person is to hit his adversary when down or seize him by the hair, the breeches, or any part below the waist; a man on his knees to be reckoned down.[15]

Even though the rules were few, they demonstrate the complexity of regulating a violent, spectator sport involving gambling with rules to determine the result, outlaw crowd disorder, choose adjudicators, disallow certain practices by the fighters, and prevent financial impropriety. Significantly Broughton noted that they were approved of by ‘the gentlemen’ who sponsored the fighters. Although formulated for his own amphitheatre, the rules were quickly accepted for all fights of any importance and, despite competing codes, continued to be the dominant form till the extinction of the sport in Victorian times. The one major omission – the legitimacy of falling without being struck – began to be specified as foul play in the articles of agreement [which continued as explicit additions to rules to remove ambiguities for a particular contest]. Over time this became unnecessary and later articles were often simplified to cover only basic details of any stakes.[16]

Sufficient games of cricket were being organised (and advertised) without specific mention of rules to suggest that at least some rules were common currency even if not written down for perhaps a century before they were clarified in the articles of agreement for the match in 1727 noted above.[17] The 16 points within the agreement were skeletal about the sport - concerned with umpires, choice of pitch and the

method of scoring runs - but had more detail on wagers and the means of arbitration, reflecting that cricket was often a high-stake sport when played away from the village green. A published version of the rules in 1744 by the 'Cricket Club' which played at the Artillery Ground in London showed that the game had taken on many of its permanent features such as the length of the pitch, the size of the wickets, and the forms of dismissal. As in boxing the general rules were supplemented by specific articles of agreement which defined the terms of the individual matches. Revisions of the rules in 1774 and 1784 by 'a committee of noblemen and gentlemen of Kent, Hampshire, Surrey, Sussex, Middlesex and London' continued to have a special section relating to bets. In contrast to Broughton's prize-fighting rules, it is clear that by 1774 (and possibly even in the version 30 years before), that these rules of cricket (or laws as they were symbolically labelled) were intended to be more universally applied than at one specific venue.[18]

The first printed rules of golf were issued in 1744 by the Gentlemen Golfers of Leith (later the Honourable Company of Edinburgh Golfers).[19] One of the 13 rules was a local one dictated by the geography of the links but the others governed the order of play, interference by an outside agency, holing out, making a stroke and lost balls. Other major sets of rules followed from several clubs, all of them Scottish, apparently often borrowing from one another's regulations. Those from Aberdeen in 1783 were more detailed than the others, possibly because golf was new to that area. Although golf was played for wagers, none of the rules mention gambling; nor for that matter how a winner was determined.[20]

The next stage of progress involved the development of governing bodies. By the 1820s, and in some cases much earlier, several sports had a recognised central organisation. Coursing had the Swaffham Club, sailing the Cumberland Club, prize-fighting the Pugilistic Club, archery the Toxophilite Society, and cricket the Marylebone Cricket Club (MCC).[21] Although Hambledon was the dominant cricket club on the field of play in the late eighteenth century, it was never a national rule-making body, perhaps because of its location in rural Hampshire. The role of supreme authority for the laws of the cricket was taken by the MCC which emerged in 1787 out of White's Conduit Club, a meeting place for aristocratic players and supporters of the game. It issued its first set of cricket rules in 1788 and, although this was primarily for use in its own matches, others opted to adopt the rules and began to refer disagreement and enquiries to the London-based organisation. A similar situation occurred in horseracing where the Jockey Club became a focal point for adjudication of disputes. Such was the MCC's pre-eminence that in July 1791 several of its members who were watching a rural match between Hampshire and 'England' were called on to resolve a disagreement over a catch: power had clearly been accepted on all sides. In 1800 notes on the MCC rules were published in the north of England which suggests that they were being applied in northern matches. By 1835 when a new code was instituted the MCC had become recognised as the sole authority for drawing up cricket's laws and for all subsequent alterations.[22]

Widely accepted codes of rules did not exist in eighteenth-century football as soccer had not yet emerged out of the chaotic varieties of the folk game where rules varied with locality. In some regions the ball was mainly kicked, in others it was primarily thrown or carried. Sedgefield (Northumberland) had two teams of unlimited numbers;

Atherstone (Warwickshire) had no teams at all, the winner being the player 'holding the ball at 5 p.m'. The Atherstone game had no goals; Ashbourne (Derbyshire) did but they were three miles apart, more than twelve times the distance that separated them at Alnwick (Northumberland). Hallaton's Easter Monday football match was called bottle-kicking but employed neither a ball nor a bottle, instead using a small wooded cask of ale. There was no need for standardisation as there was no likelihood that villages would want to challenge others, apart from those where inter-village rivalry was traditionally the focus of the game such as Hallaton versus Medbourne in Leicestershire.[23]

Recently Harvey has shown that football matches (as opposed to folk football games) played under defined, printed rules were more prevalent by the 1830s than previously thought.[24] Nevertheless, although there were common features among these rules, they were still local and regulated only the match for which they were proposed. He has also shown that throughout Britain in the next three decades there were clubs playing under rules of various levels of sophistication with differences in the amount of handling allowed, size of pitch, type of goal, and the level of violence permitted. Yet despite this popularity football was unlikely to have further developed without standardised rules, a matter of importance as transport improvements made possible matches outside a team's immediate locality.

Conventionally credit for the coming of uniformity of football rules is given to the public schools, or at least their old boys. These schools developed their own brands of the game but pupils could find sufficient competition within their own school via the house system. However when former students wished to play at university and

elsewhere problems arose. In London, teams of 'old boys' followed a variety of rules leading to either agreements on composite rules for a fixture or home and away matches under each side's conventions. The FA was founded in 1863 in an attempt to bring some order. Its initial proposals allowed for both handling and hacking but these were later erased after discussions with Cambridge University on their own recently published code of rules. This led to a split within the Association's constituent clubs (some going on to form the Rugby Football Union in 1871) and by 1867 dissolution was being considered until support was received from the strong Sheffield Association. Sheffield, like many other places, had substantial organised football played by teams unconnected to the public schools. Indeed it had become a major centre for football and in 1862 the Sheffield Football Club had published a set of rules under which it played. These had been rapidly adopted in the area, possibly because of the high social status of the club's members, in this instance predominately from the professional classes. Some of the Sheffield rules were taken on board by the FA and it became the dominant football authority in England. Although the FA's Laws were not immediately accepted nationwide, adoption was aided by the institution of a cup competition in 1871, the development of local associations who sought standardisation of rules within their districts, and the fact the Sheffield Association itself took up the FA code in 1877.[25]

Golf varied from most other early sports in not having articles of agreement – at least none have been traced – and in being slow to develop a central organisation. Until 1888 the rules emanating from the Royal & Ancient Golf Club (R & A), first issued in 1754 when the club was known as the Society of St Andrews Golfers, specified that they related to the game as played on St Andrews links, but then they became titled

Rules of Golf by the Royal & Ancient Club of St Andrews with the local rules included as a separate item. Although many clubs adopted these rules or, more precisely, adapted them to suit their own circumstances, there was no single recognised rule-maker in golf till the 1890s when the R & A responded to calls from within the sport, first to consolidate existing rules and then, in 1897, to establish itself as the ultimate rule-making authority. There was a brief attempt to widen the membership of the Rules of Golf Committee to include representatives from other clubs, but the vast majority preferred to have a sole arbiter, particularly the R & A with a status based on longevity and the composition of its membership.[26]

Although the authority of a central organisation was welcomed in most sports by those who sought the benefits of uniform regulations, there were always the recalcitrant who preferred other versions. The next stage of the schema thus involved the development of mechanisms and processes to enforce acceptance of these rules more generally, hence meeting a key requirement of Guttman's model for the modernisation of sport.[27] These included licensing systems and non-recognition of those who did not agree to the adoption of the rules. In the 1870s the Jockey Club developed the idea of 'recognised' meetings held under its rules and any jockey, trainer, or horse who participated in unrecognised ones was prohibited from the approved variety. In rugby union both Scotland and Wales refused to play Wales in 1897 when the Welsh authorities broke the rule on professionalism by donating a house to a star player.[28] Once their position was cemented these codifying bodies became the agency through which new regulations were debated and imposed.

As sport became first internationalised and then globalised, pan-national organisations emerged to determine both the constitutive rules for a particular sport and also auxiliary rules for international competitions. Stages four and five of the schema became repeated at the international level, though with global politics sometimes coming into play, to the chagrin of British rule-makers. The establishment of the International Olympic Committee (IOC) in 1894 was a precursor but this body, unlike later organisations, did not threaten the autonomy of the British bodies that had pioneered rule-setting in their particular sports. In contrast, in soccer for example, although the home nations retain special voting rights, the power base of both FIFA and UEFA is now rarely influenced by the founders of the game.[29]

The sports in which Americans set or influence the rules tend to be those invented or popularised in the United States and not played extensively internationally at an elite level, in particular baseball and American football. Golf is an exception. Americans so enthusiastically adopted the Scottish game that they sought to have a say in its rule-making and in 1922 the United States Golf Association set up its own Rules of Golf Committee. Almost immediately it went its own way by approving steel-shafted clubs, something not acceded to by the R & A until 1929. There have been major disputes between the two organisations in the 1950s over the size of the ball and in the 1960s on penalties for unplayable balls, but now there is an agreed power-sharing arrangement with quadrennial meetings to revise the rules.[30]

In cricket, perhaps the imperial sport *par excellence*, the English authority managed to hang on to power until the late 1980s. An Imperial Cricket Council, comprising England, Australia and South Africa, had been set up in 1909 and, despite expanding

to bring in other test-playing nations, it remained virtually an off-shoot of the MCC and one firmly under the control of the parent body. By 1989, however, the political strength of the Asian bloc had forced the transformation of the group into the International Cricket Council; the initials remained but the imperialism had gone.[31] It was more than symbolic when in 2005 the headquarters of the ICC was shifted from Lord's to Dubai. Increasingly the politics within the new organisation led to formal codification of regulations for international cricket rather than a system based on unspoken and unwritten codes of behaviour. Notwithstanding that all umpires are supposed to be independent arbitrators, 'neutral' umpires began to be appointed to matches not involving their home nations and referees were sent to observe their actions and also act on their reports of player misbehaviour and malfeasance.[32] Although the MCC remains the only body entitled to change the laws of cricket, this would not be done without discussion with the ICC of which England is but one of the ten full members.

Rules of Eligibility

Once competitions are organised, rules auxiliary to those of the game are needed to determine eligibility to participate. Few rules of sport specify who can compete in a particular sport; it is the organisers of events who set such regulations. There is nothing in the nature of sport itself which determines who can and cannot play. In the purest form of sport only self-exclusion should apply. Small people may be at a disadvantage in basketball or high jumping but in theory they are at liberty to compete, albeit probably unsuccessfully. Exclusion is a cultural creation specific to sports in a certain domain at a particular time. Consider women's football. Women can play soccer in Britain at both amateur and semi-professional level, but in many Muslim

countries they cannot play at all. However, even in Britain, between the 1920s and 1970s they could not kick a ball on any ground registered with the FA as its executive committee had decided to take a firm stance against female participation. Yet, prior to this exclusory decision, women's teams such as the Dick, Kerr Ladies had been major charity fundraisers.[33] At any point in time it is social mores that determine who is allowed to participate: although bare-knuckled prize-fighting was the first sport of modern times to match contestants from different racial groups, its successor, gloved boxing, did not allow black boxers to fight for British boxing titles until 1948. Religious discrimination against Jews in golf clubs too is well documented as is Glasgow Rangers F.C.'s traditional refusal to knowingly employ a Catholic player. In contrast the British Professional Golfers' Association (PGA) gave the South African Non-White Golf Association full affiliation in 1963 which allowed its members open access to British tournaments, something denied them in their homeland events.[34]

Some eighteenth-century sports, especially wrestling, restricted participation by residential and/or birth qualifications or, as in a Thames waterman's race, to those who worked 'below the bridge'. This may have been for practical reasons [larger numbers might have been unmanageable], to prevent community pride being upset by successful outsiders, or perhaps a local gambling market required competitors of known abilities. In the late nineteenth century labour markets in several professional sports were severely constrained by regulations designed to prevent the wealthier clubs from monopolising the better players. County cricketers either had to be born in the county for whom they played or have resided there for at least two years. If they wished to change employers this could be done only by spending two years in their preferred county and thus being out of first-class cricket during that time. Except for a

two-year residential qualification for cup and county matches between 1885 and 1889 there were no location qualifications on footballers but, once they had signed for a League club, they could only leave if their existing club approved, even if they were out of contract; and their employer could demand a transfer fee from the new club.[35]

Many auxiliary rules in Victorian sport were designed to keep amateur, middle-class sport untainted by professionalism, a category often defined on class rather than economic grounds.[36] Inevitably such rules were eventually swamped by the wave of commercialisation. English football accepted professionalism by 1885, but it took time in other areas. Cricket had always relied on professionals but retained its distinction between gentlemen and players until 1963; tennis did not go open till 1968; and rugby union not until 1995, almost a century to the day when the Northern Union had split away to form what became the Rugby League with paid players. However, in the interests of respectability, even the Northern Union set auxiliary rules to restrict eligibility to play. In order to be allowed to participate on Saturday afternoon, players had to be in full-time work during the week and only in approved occupations which did not include working in public houses or assisting bookmakers. Exclusion through cost kept Wimbledon's tennis whites unsullied. Entry to the [world] championships in the 1880s was a guinea (21 shillings), a fee high enough to deter those on ordinary wages. In contrast when entry fees were introduced to the Open golf championship in 1892 – as a means of augmenting the prize fund – they were set at 10 shillings, a sum generally paid by the professional's employing club. On occasions it has been amateurs that have been prevented from competing against professionals. Golf tournaments organised by the PGA often operated as a closed

shop with membership of the association being a condition of entry and from the 1880s ‘any gentleman wishing to ride in races on even terms with jockeys’ needed to obtain special permission from the Stewards of the Jockey Club.[37]

Eligibility generally is now more to do with ability than social position. Tennis and golf use ranking systems to determine both entry to events and seedings where applicable: organisers have only limited discretion to invite wild-card entries. The Open Championship in golf is now just that, open to all-comers prepared to pay to enter, but those not good enough to have a reserved place have to emerge through a series of qualifying rounds to make the competition proper.

For the bulk of the nineteenth century half the population of Britain was excluded from participation in competitive sport solely because of gender. When women were allowed to participate genderised rules were sometimes enforced such as a limit of three sets in tennis for women, ‘ladies’ tees in golf, and, more recently, lower nets in volleyball. Once women’s sport became established it was men that had to be kept out. Gender testing was introduced into sport in 1966 at the Commonwealth Games in Kingston, Jamaica and the European Athletic Championships in Budapest because it was suspected that a few men were masquerading as women. Risk assessment might have suggested that the problem was a minor one but, until the development of less intrusive tests, thousands of women were forced to undergo the humiliation and embarrassment of body examination. More recently golf authorities have had to consider the case of transsexual Mianne Bagger and, in line with IOC decrees [though golf is not an Olympic sport], they have opted to drop their ‘female at birth’ clause. Golf is also facing a challenge from female players who wish to enter events restricted

to males. The organisers of the Open Championship have decided to lift the ban but no places have been reserved for women – unlike ranking male players – and they have to participate in the qualifying tournament.[38]

As sport became international and competitions between nations developed, rules were required to determine eligibility to represent one's country. Early Olympiads allowed joint teams for Australasia (as did the Davis Cup in tennis)) and even pan-national teams in cross-country and tennis where a German partnered an Englishman in the men's doubles. Since then, as in most team international events, entry has been by specific nationality, but tightened rules have been circumvented by the ease of nationality change offered by some sporting-ambitious countries, grand-parent citizenship clauses, and threats of restraint-of-trade challenges, all of which allow flag-of-convenience athletes to represent nations other than that of their birth or residence.[39]

Competition Rules

Impinging on eligibility is another important set of auxiliary rules, what can be termed competition rules which specify the regulations not of the sport but of the event, be it a league, a cup contest or even a one-off promotion.[40] Organisers of such events are [relatively] free to decide who can compete, how the tournament will be decided, and what disciplinary actions may be taken against those who flout the competition rules, but, for the events to be legitimised, they still must be played according to the rules of the sport as laid down by the governing body. It is these constitutive rules that show how a result will be determined but it is the competition rules which specify how

many league points might accrue for that win or whether the actual margin of victory will be of significance.

Those in the national and international governing bodies are rarely, if ever, concerned with the organisational niceties of a local league but, at a higher level, questions can be raised over participant eligibility and disciplinary procedures. Historically friction has occurred at the elite level over who has the ultimate authority within a sport. The FA established its cup competition in 1873 as the first nation-wide football contest. This was 15 years before the Football League emerged to offer regular high-level matches. After two decades of intermittent dispute, rapprochement was agreed with the Association retaining the right to set punishments for on-field misconduct and limit payments to players while the League set the rules for promotion and for the distribution of gatemoney between clubs. The Scottish Football Association had already banned its constituent clubs from playing in the English cup competition because of concern over whether the English or Scottish Association would run any disciplinary proceedings.[41]

Regulatory Rules

Both constitutive rule-makers and auxiliary rule-makers, as well as participating clubs, also impose regulatory rules. These are independent of both the game and competition but serve to reinforce expected behaviour. To some extent the regulations imposed on professionals to keep them in their place might be viewed as this type of rule. More certainly falling into this category are dress codes such as that on the first official tennis notice of the All-England Club which requested gentlemen ‘not to play

in their shirt sleeves when ladies are present'. Golf clubs were a prime instigator of such rules. In the early twentieth century at North Hants G.C., for example, games of chance and the use of dice were prohibited and bridge could only be played in the Gentlemen's Smoking Room and never on a Sunday. Additionally those members who brought dogs with them were warned that they 'must have them tied up in places provided for them'. Behavioural standards expected of players in their off-field activities or when on tour are other examples of regulatory rules. Out of competition drug testing in many sports allows for the detection of recreational drugs, users of which can be penalised by the relevant authorities. In athletics Mark Lewis-Francis was stripped of his silver medal from the European Indoor Championships when he tested positive for cannabis and Keith Piper, a Warwickshire player, was banned from first-class cricket for a season and later sacked by his employers following a similar offence.[42]

Whose Rules?

Another group of auxiliary rules determines who are the rule-makers. Although rules are vital to the playing of a sport, significant for those included or excluded from participation, and of relevance for the construction of social convention, the composition of rule-making bodies and the associated power structures await their historian. Nevertheless some reasoned speculation can be advanced.

When the local populace involved themselves in petty betting on animal endurance sports at the alehouse or backing their champion at the annual fair, they accepted the rules as laid down, either by custom, the landlord or the promoter. They had no influence on the formulation of the rules. This was not the case with the wealthier

members of society who, although using gambling as a form of conspicuous consumption in which they demonstrated that they could afford to stake large sums, still wished to set the rules by which their money was at risk. Possibly some of these men involved in the setting of articles helped form or became members of private sports clubs which created rules for their own organisations. In turn these regulations became adopted by others who, in a desire to rationalise their activities, turned to those to whom they deferred. These socially-influential groups thus began to rule by common consent. Although a few early rule-makers, such as Broughton, were accepted because of their experience and personality, most became rulers by virtue of their social position [and involvement in sport]. The ruling bodies to which they belonged were not democratic institutions – as private clubs they were at liberty to determine who could be members - so the rules of sport in the eighteenth and early nineteenth century generally were being developed by the aristocracy and gentry.

By the time the FA in 1863 and the Rugby Football Union (RFU) in 1871 came into being the social context had changed. The middle classes were becoming enfranchised both in politics and in sports. Certainly in the latter meritocracy was becoming more influential than social position and democracy, in the form of club or association representation, was being enshrined in the constitutions of these rule-making bodies. Similarly lawn tennis was a game developed for the suburban, upper middle classes and was run by representatives of that social group. Patented as *sphairistikè* by an English entrepreneur but popularised as lawn tennis by a host of imitators, the first successful attempt to consolidate the rules came from the All-England Croquet and Lawn Tennis Club in 1877. Telescoping schema stages one and two into a brief time frame, the Club, keen to stage a major championship at Wimbledon, consolidated and

revised the constitutive rules. In essence these still hold, even after a rival organisation, the Lawn Tennis Association, was ceded the rule-making rights in 1888 by the All-England Club in return for having the ‘world championship’ in perpetuity. When prize-fighting was revived in a more sanitised form as boxing, it was middle-class entrepreneurs, men from business and trade, who formed the National Sporting Club in 1891 which administered the sport in Britain for the next four decades. Like the tennis and football authorities, these administrators were determined to keep their sport free from corruption, but, unlike them, this was because they wished gamblers to patronise and support boxing.[43]

Apart from the IOC, aristocratic involvement in the control of sport is now generally confined to figurehead patronage. Rules in most sports are made by elected representatives aided by paid administrators. Perhaps the bureaucracy involved – an essential feature of Guttman’s modernisation hypothesis – occasionally hinders a quick response to a problem as with the current delay by the FA in implementing the recommendations of the Burns’ Report on the structure of the organisation, but, politically, decisions are generally more acceptable [not just accepted] because issues have been overtly discussed and debated not just imposed by an oligarchy of self-selected individuals.

III

Rules are not set in a vacuum but are affected by a variety of factors often reflecting the social, economic or even political environment of the time. This section discusses

major influences on the development of rules in British sport over the past three centuries.

Gambling

Rules for sport emerged as ‘children of a sometimes uneasy but generally workable alliance between the gambling impulse and the law of contract’.[44] Gambling, often with high stakes, featured extensively in eighteenth-century cricket, pugilism, pedestrianism, rowing, sailing and wrestling [which gave the language ‘stickler for the rules’ from the use by judges of a stick to ascertain if a participant’s shoulders were truly flat to the ground].^[45] Although all these sports developed codified rules, it is not being argued that all sports developed rules because of an involvement with gambling or indeed that betting on the outcome was the prime motive for an involvement in sport. Challenging an opponent may in some instances have been purely for the enjoyment of the contest, but it is suggested that in many cases pleasure might be heightened by the added spice of backing one’s ability, or that of one’s fancy, to ride faster or run further than someone else. Claims that ‘my horse or messenger is faster than yours’, ‘my bodyguard is tougher than yours’ or simply ‘I’m better at this game than you’ inevitably led to stake-money challenges. Once this occurred then rules had to be formulated to determine how the contest would be organised and decided.

The rules of sport were influenced by gambling in two ways. One concerned creating equality of opportunity to win; the other involved regulations to eliminate cheating and sharp practice. It is not conducive to gambling that the race should always go to the swiftest, the fight to the strongest, or victory to the most talented. Such

predictability of outcome does not create a betting market as every potential punter knows who will win. One way to bring about more uncertainty was to exclude the better participants. Harvey has suggested that many events, notably pigeon shooting, excluded individuals above a certain ability. Similarly the original Doggett's Coat and Badge races were limited to six selected watermen who had recently completed their apprenticeship and when insufficient entries were forthcoming the regulations were relaxed to allow previous *losing* rowers to race. Other rules that made for more equality in the contest included having equal weights in cockfighting: the published rules for that sport refer to the '*matching and fighting of cocks*'.^[46] Whether the introduction of weight divisions into boxing was also influenced by the need for more equal contests is conjectural. The commonest method, however, was to make some participants run further than others, carry more weight, have a disadvantaged starting position, or play against a team with more players. Nevertheless, it should be stressed that, within this system of handicapping the better performers, most other rules of the sport continued to be applied. Allowing the slower runners to trip the faster ones or the weaker boxers to carry cudgels was not contemplated. If the result is predictable there is no betting market; equally, if corruption renders form and skill meaningless, bettors will also withdraw. Although, as shown below, the fair-play movement attempted to ban gambling because of its perceived evil influence on sporting participants, the gambling industry itself has generally sought to protect the integrity of sport. Gamblers were more concerned with fair betting than fair play, but, inevitably, the latter was a by-product of the former.

‘Fair Play’ Ideology

Although chivalrous sporting conduct dates back to medieval tournaments, the concept of ‘fair play’ within sport emerged as part of the games revolution in mid-Victorian Britain.[47] Subsequently it spread internationally with the export of British sport and the accompanying cultural baggage of sporting ethics.[48] Even parts of the world that were not part of Britain’s formal empire adopted British sporting ideals. By the 1890s fair play featured as one of the aims of the modern Olympic movement. Fair play thus can arguably be classed as an early example of an ideoscape, the ideological dimension of social change associated with global cultural flows.[49]

Fair play means more than simply adopting the norm of playing by the written rules of the sport, accepting what is prescribed and proscribed by the authorities. There were also unwritten rules which conveyed expectations on the manner in which the game ought to be played by true adherents of fair play. These denoted behaviour that was not specified in the written rules but which encompassed human virtues such as self-discipline, modesty, generosity, tolerance, respect and courtesy, characteristics that became embedded in the athletic ideology of muscular Christianity.[50] To the real advocates of fair play the ideological traffic was two-way: sport was also a classroom for the teaching of moral values that would transfer into the wider world, as reflected in vernacular phrases such as ‘hitting below the belt’ and ‘it’s not cricket’. Some former unwritten rules have become printed ones as in the etiquette section of the golf handbooks which for a long time has appeared as a prologue to the actual rules of play, explaining that players should be quiet when their opponents are taking a shot, that divots should be replaced to help maintain the course, and that bunkers should be raked after use. In 2003 the golf authorities brought in a rule stating that

serious breaches of etiquette such as club throwing or verbally abusing an opponent could lead to disqualification. Codes of conduct too are now often published and often mention possible penalties, thus becoming rules in their own right.[51] And, of course the rules of many sports still contain references to ‘ungentlemanly conduct’ and ‘bringing the game into disrepute’.

So what influence did the fair-play advocates have on rule making? Ideally, one suspects, they would have preferred to have a minimum of constitutive rules, a level sufficient to allow a game to proceed with all other matters left to the players themselves. Unfortunately not all players subscribed to their principles. This forced the introduction of rules to combat the antics of those participants who felt winning was everything. Ironically those who advocated fair play had to abide by the new rules even when they were anathema to them. The introduction of the penalty kick in football in 1891 – designed to counteract the professional foul – was denounced by C.B. Fry, a leading British amateur sportsman, as ‘a standing insult to sportsmen who have to play under a rule which assumes that players intend to trip, hack and push their opponents and to behave like cads of the most unscrupulous kind’.[52] Nevertheless the soccer fields on which Fry played had to have the penalty area marked out. Fair play cannot take precedence over written rules; indeed some sports have a written rule specifically stating that players cannot agree not to apply the rules.[53] The informal understanding that, despite hacking being forbidden under RFU rules, teams could agree to allow it had disappeared by 1880. This particular rule reflects how views can change. Whereas many middle-class supporters of the football codes believed that hacking was an acceptable reflection of manliness, such conduct

began to be seen as reprehensible when working-class players brought their own traditions of ‘kick shins’ and ‘purring’ into the game.[54]

Of more significance was the belief of the fair-play lobby that gambling had no place in sport. To them gamblers, like professionals, had an instrumental attitude in which any means to ensure victory in a sport or bet was justified. This ran contrary to the fair play view that, while winning was the point of competitive sport, the manner in which it was sought was even more important. The amateur ethos that began to dominate British sport thus cleansed a large part of British sport and, by implication much of imperial sport, of its Georgian gambling associations.[55] However, this did not lead to wholesale constitutive rule changes, merely the dropping of clauses relating to the making and settling of wages.

A recent worldwide study of sporting conduct – as fair play seems to have been relabelled – showed that there was a lack of consensus in conceptualising fair play, an unsurprising occurrence as this failure to agree on a definition is a constant feature of the literature on ethical conduct in sport.[56] Sporting conduct is a nebulous concept that can mean different things to different people within different sporting cultures. It is often implicit rather than explicit. References to rugby league players behaving in a way contrary to ‘the true spirit of the game’ or to cricketers not showing respect for ‘the game’s traditional values’ infer that those to whom the comments were directed intuitively understand what was being meant. Since 2000, however, ‘The Spirit of Cricket’ has featured as a preamble to the *Laws of the Game* with clarification provided of expected behaviour. Golf too makes an attempt to define its leitmotif by noting that ‘unlike many sports, golf is played, for the most part, without

the supervision of a referee or umpire. The game relies on the integrity of the individual to show consideration for other players and to abide by the Rules. All players should conduct themselves in a disciplined manner, demonstrating courtesy and sportsmanship at all times, irrespective of how competitive they may be. This is the spirit of the game of golf'.[57]

In its absolute, ideal-type form, fair play probably rarely existed except amongst the most Corinthian of players, but recent years have witnessed concerns that fair play and ethical sporting conduct have diminished in Britain. Several reasons have been advanced for the decline. These include the increased financial rewards in sport which have led to a growing tension between playing to win and playing by the written and unwritten rules; the poor role modelling exhibited by many professional and high performance athletes which has permeated into the lower reaches of sport at both adult and children's level; and an increased disrespect for authority in wider society which has inevitably affected the behaviour of both players and spectators. Today, especially at the elite level, fair play might be seen as an anachronism. In modern professional sport etiquette has become ritualised, more a matter of protocol than imbued with meaning and professionals are more likely to be taught how to beat the rules than respect them.[58]

Economics

Although even pre-modernised sport had commercial aspects to it, economic influences [apart from gambling] on the rules of sport were relatively minor until the beginnings of mass spectator sport. Economics possibly had a role to play in the rules that standardised space. The urban industrial environment – scene of much marketed

gate-money sport – could not cope with unlimited boundaries. Restricting the space available by putting in touchlines was a simple way of controlling the spread of play, producing a reasonably standardised playing area, and, in turn, developing standardised rules. More importantly, the spectator became the focus of the gate-money clubs and in rugby league, for example, following its split from rugby union the rules were changed to make the game more attractive to the paying public. Hence the number of players was reduced, play-the-ball introduced and the line-out abandoned.[59]

Constitutive rules have been affected by the argument of economists that uncertain results bring higher attendances [and presumably also larger television audiences].[60] In Formula 1 racing, for example, the rules were changed for the 2005 season in an attempt to make the races less predictable and hence more attractive to fans. Earlier in the 1920s changes were made to the offside rule in football in an effort to increase the number of goals and improve attendances.[61] However there is a tension between equality and quality. Close, unpredictable events attract spectators but so do events of high quality: the Premier League has larger crowds than Division Two of the Coca-Cola Championship. Hence auxiliary rules on eligibility to competitions have brought in the use of rankings in both tennis and golf to determine who can compete in particular events. The allocation of the favoured lanes in swimming to the faster athletes and seeding both in tennis and in the UEFA Champions League soccer comes because the crowd wants to see the best performers in the finals.

As sport has become even bigger 'big business', particularly with global television audiences, economic imperatives increasingly have come to the fore. Constitutive rules have been changed to ensure that the paying customers get a positive result as with the introduction of the Duckworth-Lewis statistical calculations to determine the winners in a one-day cricket match affected by rain. Auxiliary rules in the same type of competition at international level have been changed to award bonus points so that teams do not just go through the motions, thus keeping both the fans and television stations happy. Pressure is continually exerted on rule-makers by television and other economic interests. Football's legislators have recently tinkered again with the offside rule in an attempt to produce more goals, a policy allegedly driven by the demands of television.[62] Within sport quality control is often exerted by the use of promotion and relegation but in some competitions, notably the major league sports of the United States, club owners wish to safeguard their investment by a guarantee that the league cartel will continue undisturbed. This has already occurred in British rugby league and there is a growing economic pressure for it to be adopted in British rugby union, but currently it is counterbalanced by the argument that relegation battles attract crowds. The play-offs for promotion in English football suggest that this also occurs at the other end of the divisions. In both Scottish football and English rugby, promotion has been denied to clubs because their stadiums were deemed inadequate for the higher level of competition. Most major sports now have a players' union but they have not sought to change the constitutive rules, though they have exerted an influence on auxiliary and regulatory ones such as eligibility for competitions, disciplinary proceedings, safety provisions and drug-testing.

Technology

The growing economic importance of getting decisions correct has led rule enforcers to improve their decision-making by using technology to determine if the rugby ball was grounded correctly, whether the tennis ball landed in or out of court, and generally to improve communication between referees and their assistants. These are merely the culmination (so far) of previous technological applications such as the introduction of goal nets to football in the 1890s and the photo-finish camera brought to the racetrack in the 1940s. The process is ongoing. Currently in cricket the umpires, but only them, can ask a third umpire to use video replays for assistance in deciding if a player was run out, stumped, or caught where the ball was close to the ground. Consideration is being given by the ICC to extend the use of the technology to lbw determination and also to allow sides up to three appeals per innings against decisions made by on-field umpires, a process similar to that pioneered in American football.[63] The application of scientific developments have also helped officials in regards to both drug and gender testing.

On balance, however, the application of improved technology is more likely to cause problems for the rule-makers than assist them. Decisions have to be made as to whether to prohibit the new technology or, if allowed, then how to accommodate and regulate it. For example, improvements in golf ball and club design have been a perennial issue for the sport's rule-makers. They allowed the introduction of the rubber-cored ball in the early twentieth century despite protests from professionals who had become skilled in playing its predecessor, the less free-flying gutta percha ball. Later legislation focussed on size and weight and did nothing about the dimpling on the ball's surface until aerodynamic improvements offered compensation for the golfer's slice or hook, thus no longer fully penalising the player who failed to strike

the ball accurately. Now what has developed is the concept of 'performance standard' by which no golf ball, regardless of method of manufacture and type of composition can fly longer than a specified distance when hit with a specified force. However, this leaves the issue of the implement providing the force to be reckoned with. In contrast to early ball developments, club design faced a plethora of rules working to restrict the impact of technology. In response to the number of unusual clubs that were coming on to the market, in its revised rules of 1908 the R & A intimated that it would 'not sanction any substantial departure from the traditional and accepted form and make of golf club'. In practice such adherence to tradition outlawed centre-shafted putters and steel shafts for any club for a couple of decades. Over time, however, putters of many shapes and lengths have been legalised, steel shafts have replaced those made from persimmon or hickory, the tautologically named 'metal woods' have entered the golfer's bag, and large-headed drivers have become popular though currently there are limits set to the length of the shaft, the area of the club face and the overall volume of the head.[64]

Cricket, another bat and ball game, has been more conservative in restricting technological change. The present maximum width of the bat was set at 4¼ inches back in 1771 after one player defended his wicket with a blade as wide as his stumps. A length limit of 38 inches was added in 1831. There have been no restrictions on the shape or weight of the bat which has given batmakers the freedom to experiment with hollow-backed bats, bats with shoulders, and the like. However attempts to change the composition of the blade from wood to aluminium were blocked though thin plastic protective coverings have been allowed providing that they do cause 'unacceptable damage' to the ball. The 1744 code laid down that the ball must weigh between 5 and

6 ounces. This was narrowed to between 5½ and 5¾ ounces in 1774 and these dimensions still stand. There was no specification on circumference till 1838 when between 9 and 9¼ inches became the rule, a figure reduced slightly in 1927 to accommodate the official makers who had been producing a technically illegal ball for some years! Generally, apart from some mechanisation in production, technology has left the ball alone until the introduction of floodlit matches when a suitable white ball had to be devised for greater visibility. Strangely there is no rule on the composition of the ball which by tradition remains leather.[65]

Law

The law was resorted to in Georgian England to settle disputes, normally over betting, at a time when there was a virtual absence of final authority within the sports themselves.[66] The regulatory bodies, if they existed at all, were still uncertain of their powers and few, if any, had begun to recognise themselves as ruling institutions even at the end of the Georgian era. However, as central rule-making authorities then consolidated their positions there was less recourse to the courts. Now the law is becoming interventionist once more, partly because trust in professionals has returned to late Victorian levels and in some quarters the courts have been seen as the way to police their activities. This was not considered appropriate or necessary in the nineteenth century when amateurs were in charge of sport and their decisions accepted virtually without question. Equally the economic and financial implications of any judgements by sports authorities now often lead to legal challenges.[67]

The law has forced changes in the rules of some sports, most significantly in those that were banned such as cockfighting and bare-knuckled boxing. Once they became

underground activities they lacked any central organisation or codified rules. Prize-fighting died in the mid nineteenth century, prosecuted out of existence as a corrupt, illegal sport with no defenders in high places. When it was resurrected in the guise of boxing, bare knuckles were covered with gloves, fixed time rounds were introduced, and results could be determined on points rather than by exhaustion, all of which were acceptable to the law. More generally the law has forced greater precision in those rules dealing with disciplinary procedures so that transgressors cannot escape punishment on technicalities or because their legal or human rights were infringed. The ICC had to change its disciplinary regulations after a punishment handed down by a match referee was successfully challenged on the grounds that it was against natural justice for the referee to have the role of investigator, prosecutor, jury and judge.[68]

A major contribution of the law has been to bring the outside world into sport, forcing administrators to accept that sport is not a separate, isolated entity devoid of responsibilities for discriminatory policies, the rights of their labour force, and the on-field behaviour of players. Handbooks of many sports now include clauses relating to discrimination such as that of the FA which forbids participants from carrying out ‘any act which is discriminatory by reason of ethnic origin, colour, race, nationality, religion, sex, sexual orientation or disability’. Golf now allows modification of its rules to accommodate disabled golfers.[69] The right of sportspersons to enjoy similar labour contracts to other workers has also developed. In 1963 the law specifically recognised professional sport as a trade when, in *Eastham v Newcastle United*, Justice Wilberforce enshrined a sportsman’s right to act against any ‘association of employers whose rules and regulations place an unjustifiable restraint on his liberty of

employment'. Later in 1978 the challenge of World Series Cricket led to a High Court decision by Justice Slade, in *Greig v Insole*, that 'a professional cricketer [and presumably any professional sports person] needs to make his living as much as any man'.^[70] It was now clear to those running sport that informal understandings, however hallowed by tradition, counted for little in law. It is likely that rules of sporting eligibility may be further influenced by developments in European law which could illegalise those rules seen as detrimental to the free movement of labour as well as those affecting human rights: while the Bosman judgement paved the way, the Kolpak ruling, which allows European Union working rights to nationals of any country that has an associate agreement with the EU, has opened up the labour market even more.

Although there is still a preference by both legal and sporting authorities to keep disciplinary procedures in-house, there is now more likelihood of the law intervening in cases of assault outside the rules of the game. The police are also concerned that actions by players might stimulate crowd misbehaviour and recently, in light of the sectarian tensions in Scotland, a Celtic goalkeeper was cautioned for taunting opposing Rangers' fans. On-field cheating such as simulated fouls, faked injuries or ball-tampering has not yet reached the courts but off-field is another matter. Usk, which for tourist reasons proclaimed itself as an 'historic town', albeit with a population of only 2,187, was disqualified from the national 'village' cricket competition in 2000 for breaching the competition rules and the team lost its subsequent High Court appeal.^[71]

IV

Conclusion

Any schema of rule formation must take account of the fact that sport has changed in character and that professional/elite sport is a different product from that which emerged during the ‘games revolution’ of mid-Victorian Britain. Moreover the pressures leading to change in sport – and in its rules – have also altered. Commercial factors may have had a role in the nineteenth century, but one much less significant than today, and the media at that time had little influence. Rule-setting is a dynamic process and few regulations are set in concrete: even the Gaelic Athletic Association has now abandoned the rule that forbade even discussion of whether the clause in its constitution preventing non-Gaelic sports being played at Croke Park should be revoked.[72] Rules can be changed to allow something previously prohibited: the lifting of players in the rugby union lineout is a fine example of this. Or the reverse can occur, particularly as the administrators combat pharmacists on performance-enhancing substances. Throughout sport new offences are created, rule innovations are tested, and regulations are changed. In football, for example, recent years have seen time-wasting and simulation become bookable offences rather than licit, if uncondoned, gamesmanship that used the letter of the law to undermine the spirit of the game; golden goals, silver ones and penalty shootouts have been used as a means of determining victory; and the consequences of the Bosman ruling are still being felt throughout the football labour market.

Rule changes affect more than just elite players. Golf, though highly economically oriented at the elite level, remains a major recreation activity and the high-handicap amateur plays under the same set of rules as the tournament professional. Efforts to

make the rules comprehensive enough to cover any anticipated situation have led to the rule book becoming thicker and thicker. The quadrennial review of the rules of golf in 2003 produced more than 40 changes, mostly to do with the clarification of existing rules. Although it is a rule of golf that a player is responsible for knowing the rules, increasingly tournament players have become dependent on officials who are among the few to grasp the complexities and recreational amateurs rely on assumed, often erroneous, knowledge and pocket-sized guides to the rules.[73] More widely the decline of fair play in most sports at the elite level has necessitated the development of even more rules to control the behaviour of participants. What once might have been assumed to have been generally-accepted behaviour no longer holds and has to be legislated for. However, many of the new rules brought in to combat the bending of the old ones at the top level filter down to, or are imposed on, sport at lower levels.

Gambling was one of the original influences on the formulation of rules, but, as overt betting on sport declined under the influence of the amateur hegemony, so the idea of fair play for its own sake came to the fore. Only in horseracing, dog-racing and in football [via 'the pools' from the 1930s] did gambling continue on any scale. Now it has returned to all sports through internet betting exchanges and the development of spread betting that allows gambling on aspects of games not just the result. With it has resurfaced the danger of corruption, this time also at international level, and one supra-national authority, that of cricket, has already imposed a police-and-punish disciplinary regime. [74]

Some of this corruption is attributable to poor financial rewards to the unsuccessful or, in some cases even to the relatively successful. In contrast the decline in

sportsmanship is often blamed on the high economic rewards for winners in elite sport which has led the ends to justify the means. In football for every striker who refuses to shoot when the goalkeeper is injured there are many more who are praised by their managers and team-mates for bending and breaking the rules to get the 'right' result. Leading sports philosopher, Loland has followed D'Agostino in arguing that the ethos of a sport involves a common interpretation of the key constitutive rules by those who take part. Hence sub-groups of both players and officials can share a view that some rule-breaking is acceptable and indeed expected. Paradoxically, though sports need rules in order to be defined as sports, they often only exist in practice because the rules as stated are not fully enforced. Match officials could destroy a sport by adhering strictly to the rules and halting proceedings whenever there was an infringement, however technical and minor. In practice this does not happen and they opt at times to ignore the constitutive rules. Hence a blind eye is often [but not always] turned to physical contact in basketball, punching and stamping in rugby union and verbal abuse in soccer. Associated with these impermissible but accepted actions is the ethos of some sports which tolerates rule-breaking as 'part of the game'. Professionals have integrated rule-bending into their onfield skills of deception so that 'efficient deceit and tactical fouls are parts of what counts as skilful performance in sport. Footballers are expected to commit a 'professional foul' [and accept the consequences] to prevent an opponent from scoring and the law on altering the condition of the ball is routinely broken in cricket.[75]

Cheating and gamesmanship break only the laws of sport themselves, but although the subculture of sport legitimises violence, when it has gone beyond the rules of the game, the law has sometimes intervened and assaults on the sports field have led to

criminal court appearances and gaol sentences or civil law proceedings and damages. As sportsmanship declines, so the intercession of the law is likely to increase, either to defend those financially penalised because of their rule-breaking or to prosecute those whose on-field actions are actually illegal. Whether professionalism in the courtroom will accentuate or diminish the influence of sports professionalism on the rules of the game is debateable.

Those who decry the lack of adherence to the unwritten rules of etiquette and fair play could take some solace in that other undeclared rules have fallen to the challenge of law and government policy. These were the ones that offered a darker aspect, the very opposite of fair play, in essence the ‘nod and wink’ associated with the discriminatory policies practised but not openly espoused by some sports bodies. In the past such policies were rarely challenged but now human rights legislation, anti-discriminatory laws, and the requirements of government and lottery funding have eroded some of the worst aspects of unwritten auxiliary rules.

Notes

[1] Thanks are due to the Leverhulme Trust, the British Academy, and the Faculty of Management at Stirling University for financial help towards the research costs of this paper and to Emma Lyons for research assistance.

[2] Guttman, *Ritual to Record*, 16-36; Collins, Martin & Vamplew, *Traditional Rural Sports*, passim.

[3] Bragg, *12 Books*, 89-118.

[4] Brodribb, (*Next Man In*) on cricket laws and customs, Chapman (*Rub of the Green*) on the rules of golf, and Lennon’s (*Playing Rules; Comparative Analysis*); and

Philosophy for Legislation) tripartite work on Irish hurling and football have ventured into the area of the history of rules in British sport, but only a few academic sports historians, notably Brailsford, *Taste for Diversions* and Harvey, *Commercial Sporting Culture*.

[5] Readers who wish to explore this avenue are directed to the archival-based studies of Kay, 'From Coarse to Course', Kay & Vamplew, 'A Modern Sport', Middleton & Vamplew, 'Yorkshire Leisure Calendar', Vamplew, 'Reduced Horse Power', Vamplew, 'Sporting Innovation' and Vamplew & Kay, *British Horseracing*.

[6] The descriptive terms are based on ideas in D'Agostino, 'The Ethos of Games', Meier 'Restless Sport' and Reddiford, 'Institutions, Constitutions and Games'. The concept 'regulatory' has been used to differentiate such off-field regulations from the penalty-invoking 'regulative' rules which are part of the constitutive set that cover proscribed on-field behaviour.

[7] Itzkowitz, *Peculiar Privilege*, 2-4.

[8] Middleton, 'Cockfighting in Yorkshire', 131-132.

[9] Harvey, *Commercial Sporting Culture*, 116.

[10] Hathaway, 'Cudgelling and Singlestick', 89; Collins, 'Wrestling', 283.

[11] Brailsford, *Taste for Diversions*, 22.

[12] Birley, *English Cricket*, 18-19.

[13] Brailsford, *Taste for Diversions*, 22.

[14] Brailsford, *Taste for Diversions*, 22; Harvey, *Commercial Sporting Culture*, 118.

[15] Brailsford, *Bareknuckles*, 22.

[16] Brailsford, *Taste for Diversions*, 32, 169-171; Harvey, *Commercial Sporting Culture*, 118-9.

[17] Birley, *English Cricket*, 14-15.

- [18] Birley, *English Cricket*, 18-19, 27, 31.
- [19] The chronological coincidence of published rules in prize-fighting (1743), golf (1744) and cricket (1744) warrants further investigation. One speculative possibility is that it has something to do with the decline in horseracing (and gambling opportunities) following Parliamentary legislation in 1740 setting minimum levels of prize-money.
- [20] Chapman, *Rub of the Green*, 15, 212-225.
- [21] Brailsford, *Taste for Diversions*, 161.
- [22] Bowen, *Cricket*, 57-58; Vamplew, 'Reduced Horse Power', 94-97; Birley, *English Cricket*, 365; Underdown, *Start of Play*, xviii, 161; Brodribb, *Next Man In*, xi.
- [23] Collins, Martin & Vamplew, *Traditional Rural Sports*, 34, 115-118, 241; Corbishley, *Shrovetide Football*; Garnham, 'Patronage, Politics and Modernization'; Morison & Daisley, *Hallaton Hare Pie Scrambling*.
- [24] Harvey, *100 Years*, 75-91.
- [25] Harvey, 'Football in Sheffield'; Goulstone, 'Working-Class Origins of Modern Football'; Harvey, *100 Years*, 210.
- [26] Behrend, Lewis & Mackie, *Champions and Guardians*, 63-71.
- [27] Guttman, *Ritual to Record*, 45-47.
- [28] Vamplew, 'Reduced Horse Power', 100-101; Woolgar, *The Official RFU History*, 23.
- [29] The International Football Association Board (IFAB), comprising England, Ireland, Scotland and Wales, was founded in 1886 to develop a common set of rules which could be applied internationally. When FIFA, the international organising body for football, was formed in 1904 it declared that it adhere to the rules laid down by the IFAB and in 1913 FIFA representatives were added to the Board. The current voting

rights were established in 1958 with each home nation having one vote as have the four FIFA representatives. The key point is that a three-quarters majority is necessary for any change to be accepted

[30] Chapman, *Rub of the Green*, 199; Holt, Lewis & Vamplew, *Professional Golfers Association*, 82; Steel & Lewis, *Traditions and Change*, 117-122.

[31] Haigh, *Game For Anything*, 86.

[32] Although there is no space here to explore the nature of rule enforcement agents, the point should be made that constitutive rules have to be both interpreted and enforced. Legal formalism – the view that the law consists solely of a body of rules to be applied by judges in syllogistic fashion to the facts of particular cases – has its adherents in the culture of adjudication in sport (Russell, ‘Are Rules All an Umpire Has to Work With’, 31). For the preponderance of a contest this might appear justified, but the rules of a sport that set the terms for cooperation and competition are never fully authoritative. The imprecision of language may render the rules ‘open textured’ so that they have to be interpreted by match officials (Russell, ‘Are Rules All an Umpire Has to Work With’, 32). Discretion and subjectivity then enter the regulatory equation. Should advantage be played despite a foul? Is a player in an offside position interfering with play? [For a discussion of formalism related to sport see McFee, *Sport, Rules and Values*, 33-52.] More generally interpretation comes from particular incidents which lead to rule revisions. Here there are parallels with the legal system where Statute Law sets down the rules and Case Law is used to establish how these should be interpreted. However, in the legal arena these are done by different bodies, respectively Parliament and the Judiciary, whereas in sport the rule-setting body is often also the interpreting institution.

[33] Williams, *A Game for Rough Girls*, 33-36.

- [34] Golesworthy, *Boxing*, 55; Alderman, *Modern British Jewry*, 336; Murray, *The Old Firm*, 270; *Golf World*, April 1963, 56.
- [35] Harvey, *Commercial Sporting Culture*, 126; Brailsford, *Taste for Diversions*, 223; Vamplew, *Pay Up*, 192, 211-213 .
- [36] Vamplew, *Pay Up*, 302-307.
- [37] Collins, *Rugby's Great Split*, 168; Minutes of Northern Rugby Union 1895-1900, passim.; Gillmeister, *Tennis*, 193. Behrend, Lewis & Mackie, *Champions and Guardians*, 45; Vamplew, *Pay Up*, 185; Holt, Lewis & Vamplew, *Professional Golfers Association*, 18-23; *Racing Calendar* (1889), Rule 96.
- [38] Lennartz & Schantz, *International Olympic Committee*, 167; *Daily Telegraph*, 17 February 2005; *Financial Times*, 14 May 2005.
- [39] Howell & Howell, *Aussie Gold*, 6-38; Wong & Trumper, 'Global Celebrity Athletes'.
- [40] In arguing that sports competitions are rule-governed practices, sports philosophers have concentrated on the constitutive rules of competitive sport to the neglect of those rules pertaining to organised sport competitions (for example, Loland, *Fair Play in Sport*, 2.)
- [41] Vamplew, *Pay Up*, 124-138.
- [42] Gillmeister, *Tennis*, 162); Littlewood, *North Hants Golf Club*, 11-13; *Daily Telegraph*, 14 May 2005; *Independent*, 13 June 2005.
- [43] Gillmeister, *Tennis*, 182-189; Deghy, *Noble and Manly*, 17-18, 92.
- [44] Brailsford, *Taste for Diversions*, 169.
- [45] Underdown, *Start of Play*; Radford, *Captain Barclay*; Brailsford, *Taste for Diversions*, 69, 223; Lile, 'Professional Pedestrianism' 95; Collins, 'Wrestling'; Tripp, 'Wrestling'.

[46] Dodd, 'Doggett's Coat and Badge', 112; Middleton, 'Cockfighting in Yorkshire', 132.

[47] One authority has argued that there was no direct link between Victorian 'fair play' and the honour principle of medieval tournaments. Müller, 'Reflections', 478-9.

[48] Müller, 'Reflections', 478-80; Sheridan, 'Conceptualizing Fair Play', 164.

[49] Appadurai, 'Disjuncture and Difference'.

[50] MacAloon, 'Muscular Christianity', 687-689.

[51] McIntosh, *Fair Play*, 27; Royal & Ancient, *Rules of Golf*, 14; Vamplew & Dimeo, *Sporting Conduct Initiative*, 10.

[52] Quoted in McIntosh, *Fair Play*, 80.

[53] In 1999 a cup-tie replay was offered by Arsenal to Sheffield United when a goal was scored by a player who broke a sporting convention, but this threw over the competition rules not the constitutive ones.

[54] Collins, 'Violence, Gamesmanship and the Amateur Ideal', 178.

[55] Allison, *Amateurism*, 3-49.

[56] Vamplew & Dimeo, *Sporting Conduct Initiative*; Sheridan, 'Conceptualizing Fair Play', 163-184.

[57] Rugby Football League, *Rugby Laws*, 38; Oslear, *Laws of Cricket*, 13; Royal & Ancient, *Rules of Golf*, 19.

[58] McNamee, *Sporting Conduct*, 8; Sheridan, 'Conceptualizing Fair Play', 164; Loland, 'Fair Play'; Müller, 'Reflections', 480; Loland, 'Varieties of Cheating'.

[59] Collins, *Rugby's Great Split*, 209-212.

[60] For a synthesis of the literature see Borland & McDonald 'Demand for Sport' and Symanski 'Economic Design of Sporting Contests'.

[61] *Scotsman*, 5 March 2005; Butler, *Football League*, 75-76.

- [62] Kay & Vamplew, *Weatherbeaten*, 143-144; *Australian*, 24 January 2005; *Scotsman*, 5 March 2005.
- [63] *Guardian*, 13 May 2001; *Evening Standard*, 24 September 2004; *Sunday Telegraph*, 16 July 2006, S3.
- [64] Broadribb, *Next Man In*, 37, 42-44, Oslear, *Laws of Cricket*, 38-40.
- [65] *Weekend Australian*, 17 May 2003; Vamplew, 'Sporting Innovation', Machat & Dennis, *Golf Ball Book*, Holt, Lewis & Vamplew, *Professional Golfers Association*, , 33, 83.
- [66] Brailsford, *Taste for Diversions*, 173.
- [67] For detail on the growing involvement of the law in sport see Gardiner et al., *Sports Law* and Greenfield & Osborn *Law and Sport*. For a novel legalistic examination of the rules of one sport see Fraser, *Cricket and the Law*.
- [68] Anderson, 'Pugilistic Prosecutions'; Haigh, *Game for Anything*, 195.
- [69] Football Association, *Handbook*, 74; Royal & Ancient, *Rules of Golf*, 2.
- [70] Gardiner et al., *Sports Law*, 232.
- [71] *Daily Telegraph*, 29 August 2006, 2; Fraser, *Man in White*, 24.
- [72] *Irish News*, 18 April 2005.
- [73] Rutter, *Golf Rules Dictionary*.
- [74] Condon, *Report on Corruption*.
- [75] Loland, 'Varieties of Cheating', 15-16; Russell, 'Are Rules All an Umpire Has to Work With', 39-40; Loland, 'Fair Play', 87; *Daily Telegraph*, 26 April 2005.

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