

Sports (criminology) illustrated

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In many cases it may be a good thing for the proceedings of a domestic tribunal to be conducted informally without legal representation. Justice can be done in them better by a good layman than by a bad lawyer. This is especially so in activities like football and other sports, where no points of law are likely to arise, and it is all part of the proper regulation of the game. (Lord Denning [1971] *Enderby Town FC v The Football Association*)

No points of law are likely to rise? This separation of sport and law has largely fallen in the face of the sub-discipline of sports law and, as we shall see, international law. And does it remind us of the desire by some to keep politics out of sport? But sport still retains a considerable amount of power to decide its own business. Particularly its own rules on pitch, piste, table or court and even over competitors' and spectators' private behaviour. The *lex olympica* (Mestre, 2009) sees the International Olympic Committee demand State-like and quasi, extra-territorial powers in Olympic years. FIFA makes similar demands for World Cups which State Crime and politically acute criminologists need to follow up.

In this article I hope to show that sport offers rich opportunities for research and teaching materials in criminology: sport criminology, if you like. A few stories from the week of writing (ending 12 March 2012, the week randomly chosen, the stories not) illustrate some of the issues:

"Italian football clubs face trial in match-fixing scandal"

"Portuguese police to question Manchester United over Bébé transfer"

"Frank Warren is right to call British Boxing Board of Control's bluff over David Haye v Dereck Chisora"

"You cheat! Amir Khan slams Lamont Peterson over failed drugs test"

"F1 rejects zero-tolerance system penalties for going off the track"

It is a matter of chance that two boxing stories appear here but we should not be entirely surprised as it involves organised violence, yet neither story involves violence directly. Indeed, boxing typically features in sports law - and general law - texts as an example of the principle of *volenti non fit injuria* - you step into a ring you can expect to be hit. And this principle of informed consent as a defence - and what one can or should consent to - informs discussion of homosexual sado-masochism ('the Spanner Trial' *R v Brown* [1993] 2 All ER 75) and Female Genital Mutilation which rightly exercise human rights-oriented criminology. In some sports there is also an informal consent to roughness beyond the rules but within the spirit (both codes of Rugby, and eagerly anticipated by the crowd in Ice Hockey).

Some of the last paragraph and even the bald headlines above should tip criminologists off that crime and deviance are imbricated in much sport. Yet I have found very little evidence of any criminological engagement with sport despite many criminologists being fans of sport. Or, perhaps,

they have no wish to disturb their 'guilty pleasures' by examining them too closely. As indicated already, law has leapt on sport with alacrity and sport sociology has long embraced deviance and occasionally tutted over crime and crowd trouble (though see Atkinson and Young, 2008 and Blackshaw and Crabbe, 2004 for more critical approaches). In the absence of a specifically criminological engagement with sport I have tried to kick start a sport criminology that steers between sports law and sports sociology (Groombridge, 2012, based on my British Criminology Conference presentation 2010). Returning to our headlined stories illustrates some of the issues.

Given the time of year it is less surprising that football should feature in these stories. Starting with the match fixing story (for *the Guardian* this was an Italian story not a sport one). We might first observe that in recent years snooker, cricket and sumo have all hit the headlines with allegations and, occasionally, findings of match fixing. This Italian one features 52 players in three teams and allegations of a Balkan gang offering payments from €5-35,000. One of the few mentions in criminology of sport is Jupp's (2001: 203) throwaway example of bribery to affect a sport result as 'hidden crime'. Stories like this should interest transnational and organised crime criminologists. Sticking with football *the Guardian* also reports that a 'judicial police national unit for combating corruption' is investigating the transfer to Manchester United of Bébé for €9m. He changed agents just before the transfer, hardly played for United and the new agent received 40% of the fee. This raises again issues of transnational and organised crime but also FIFA's own internal rules on the behaviour of agents.

International and regulatory issues are at stake in the case of the heavyweight match between David Haye and Dereck Chisora scheduled for Upton Park on July 14 2012. It is to take place under the aegis of the Luxembourg Boxing Federation as the British Board of Boxing Control (BBBC) has refused to sanction the fight. Some might remember that the two boxers were involved in a brawl at a Press Conference in Germany and were questioned by the police. We shall see whether the BBBC's threat to ban for life all involved works or is found to be compliant with European law.

Still with boxing: Amir Khan lost to Lamont Peterson in December 2011 complaining of interference from the judges; and now the rematch scheduled for 19 May 2012 has been cancelled after Peterson failed a drugs test. It is not clear whether Khan could have offered to fight Peterson irrespective but is demanding the reversal of the previous result. But the use of drugs to enhance in-game performance or training is one of the most contentious issues in sport and much of the pre-Olympic build up focuses on the rigour of the testing regime. Note also that the British Olympic Association recently lost before the Court of Arbitration in Sport (CAS) its battle with the World Anti Doping Agency over the length of bans for 'drug cheats'.

Richard Gasquet's own International Tennis Federation (ITF) employs a 'zero tolerance' policy so when minute traces of cocaine were found in his system he was in danger of a ban and fine. He was not in competition and it was accepted that he had enjoyed many kisses in a night club with a woman alleged to be a cocaine user. The CAS overturned the ban. Clearly these transnational, regulatory and drug use issues should interest criminologists. And as the last story about Formula 1 shows, some sports can decide to retain discretion for its officials and not go down the 'zero tolerance' line.

The Tour de France has, notoriously, been marked by drug and other 'doping' scandals and several athletics races are in contention for the 'most corrupt' according to Cooper (2012): the men's 100m at Seoul Olympics 1988 (Ben Johnson, famously then, and a further five of eight found guilty of doping offences in their careers) and the women's 1,500m at the 2005 World Championships in Helsinki (first five all had guilty findings in career). There are clear differences between drugs in sport and drugs in society but the trend in society towards decriminalising drugs, or at least recognising that the 'war on drugs' has been lost, appears to have had no traction in sport. We will test the athletes for performance enhancing drugs but not the performers at the Opening ceremony. Those tests are carried out in and out of competition and require the athletes to make their lives more transparent than a registered sex offender's. Drugs are an innovation too far but athletes, coaches and commercial equipment suppliers will pursue any legal advantage. An athlete at the 1948 'Austerity' Olympics

interviewed by Hampton (2012) remembers being given *Horlicks*, calling it 'drugs'. Houlihan (2002) mentions ancient Egyptian athletes' confidence in the effects of ground hooves (the rear hooves of an Abyssian ass specifically).

In the run up to the Olympics *the Guardian* has been selecting 'stunning Olympic moments' and number 28 (in the week of writing) was Dick Fosbury's introduction to high jumping of his new method 'the Flop'. I use such examples of 'innovation' to illustrate Merton's work to students. His innovation has become mainstream but others have not been so lucky. The cyclist Graeme Obree had his bikes and even riding position banned twice by the UCI.

Some of the few mentions of sport in criminology are of crime prevention, community penalties or sport as rehabilitation; Nichols (2007) reviews the issues and Meek (2012) has produced a good example of an evaluation of sport in prison. Such schemes usually receive uncritical support from media and celebrities and it may be the task of criminologists to deliver the bad news - that such schemes may be good things in their own right but cannot provably cut crime.

Sports journalists are sometimes derided as 'fans with typewriters' and increasingly retired players secure positions as commentators. Both feel tied to their sport emotionally and there are examples of 'difficult' journalists being barred by teams and Sir Alex Ferguson refused to speak to the BBC for six years after a documentary investigated his son's actions as a sports agent. In the United States, Dave Zirin (King, 2008), and UK Andrew Jennings are rare examples of journalists biting the media hand that feeds them. So who else might critically examine crime and deviance in sport?

From what we have seen sports law is largely involved with disputes between players and authorities or authorities and news media. Indeed, in the Gasquet case Adam Lewis QC represented the player and Jonathan Taylor the ITF, yet they edited a book together (Lewis and Taylor, 2008). Sport law follows the 'black letter' tradition sometimes tinged with equity and sports sociology largely backs the huge anti-doping edifice heaped on sportspeople.

Blackshaw and Crabbe (2004) are critical of the law and order inclinations of much criminology, but a critically informed sports criminology might borrow from cultural criminology (the massive socio-cultural role of sport), the harm perspective (drug use), green criminology (how many golf courses do we need) and gendered perspectives (nowhere is gender and sexuality more policed and judged than in sport).

You don't even have to like sport - it might help not to be too keen.

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