3.2 Good governance

3.2.1 Accountability and Obstacles to Good Governance

Because most international sports bodies are incorporated as associations – that is, voluntary membership organizations – and are legally characterized as non-profits, in general they are not subject to national or international laws or norms that govern business practices.

Even though international sport and its broader financial context have grown in size and significance, the organizations that govern the games are typically not businesses but, rather, special class non-profit associations. The fact that sports organizations sit in such an odd place in the panoply of international organizations will come as surprise to many – they are not governmental, not-intergovernmental, not corporations, not international bodies like the United Nations or World Health Organization.

It is arguably the special, non-profit status, which is at the heart of challenges to hold such bodies accountable to the same rules and norms which govern other international bodies. There are many examples of businesses, international organizations and civil society organizations which have seen governance shortfalls exposed and then improved. A recent list of examples might begin with the international banking sector, the International Monetary Fund and Greenpeace.

Professor Mark Pieth of the Basel Institute of Governance, and from 2011 to 2013 chair of FIFA's internal governance reform effort, has written that, despite its non-profit status, FIFA is "a potent corporate entity. This calls for a sequence of particular governance measures developed in the corporate world" (Pieth, 2011, p. 6). This view holds for other sports organizations as well. Because of their unique governance structures, however, such bodies are not easily held accountable to standards of good governance. For instance, companies and other organizations have typically formal accountability to stakeholders (e.g., shareholders in the case of public companies) and are often overseen by independent directors. International sports bodies have more diffuse and complex stakeholder relationships, and very few have any external directors (the World Anti-Doping Agency offers an exception).

To understand international sports requires understanding the peculiar history and organization of the institutions that oversee international sports. The most significant governance body is the International Olympic Committee, created in 1894 (see Module 1). In 2017 more than 50 different sports are part of the Olympic movement, as elements of the Olympic Summer and Winter Games.

The IOC coordinates the activities of national Olympic bodies and collaborates with international sports federations, such as FIFA, the FIVB (International Volleyball Federation) and the IWF (International Weightlifting Federation), among many others. The international federations have many other responsibilities, which go far beyond their collaboration with the IOC. For instance, FIFA oversees the quadrennial World Cup, and also oversees and

coordinates the national football associations, which, in turn, oversee (with varying degree of influence) the most popular professional leagues in the world, including the English Premier League and the German Bundesliga. There are also, of course, many significant sports leagues, such as the National Football League in the United States, that sit apart from the Olympic movement, and thus follow different sorts of governance models.

About 60 international sports organizations are headquartered in Switzerland, including the IOC and FIFA. The IOC may seem like an international body, and it does have a close relationship with the United Nations, including special recognition by the UN and shared programmes between the IOC and UN. Despite appearances, the IOC is not itself a part of the UN or any other multilateral institution. It is actually a non-profit incorporated under the provisions of Swiss law, described by one anonymous review of this piece as a "members club", which – along with several other global sports bodies – receives special treatment under Swiss law, including tax and property privileges.

For the IOC and other sports organizations, these arrangements with the Swiss government date to more than a century ago, when the Swiss were recruiting international governmental and non-governmental organizations to their country. The historical interest of the Swiss in hosting international organizations is not particular to sport, with almost 300 such bodies headquartered in the small country (Gunter, 1976.).

3.2.2 Best Practices in Good Governance

In 2011 Professor Mark Pieth was commissioned by FIFA to draft a paper on how the organization might improve its governance practices. In addition, Transparency International also published a report of FIFA governance.4 Among the recommendations of these reports was a focus on the following areas of governance:

- Executive term limits,
- establishment of a compensation committee with external membership,
- salary disclosure,
- non-executive directors on the executive committee,
- adoption of best-practice anti-corruption protocols,
- adoption of best-practice conflict of interest guidelines,
- greater financial disclosure at all levels of FIFA and its member organizations,
- greater transparency in anti-corruption investigations, proper due process; and
- Greater adoption of democratic procedures in various FIFA election processes. (TI, 2011).

Such recommendations are not unique to FIFA or football. For instance, a 2012 review of the International Cricket Council led by Lord Wolf and PricewaterhouseCoopers concluded that "The reputation of the ICC and international cricket as a whole is at risk if the right standard of Boardroom behaviour is not seen to be in place" (Lord Wolf and ProcewaterhouseCoopers, 2012, p. 4). Transparency International agreed, concluding that "Today's sports governing bodies have to start operating as big businesses, using best business practices" (Murray, 2012, https://goo.gl/yqR2sS). There exists considerable commonality in recommendations being made across sporting bodies. The so-called CIRC (Cycling Independent Reform Commission) investigation into doping in international cycling, for instance, has made similar recommendations for governance reform.5

More broadly, several scholars have more recently looked more comprehensively at governance across international sports bodies, finding many to fall well short of best practices. For instance, Jean-Loup Chappelet and Michaël Mrkonjic survey the academic, evidence-based literature to identify 63 indicators of good governance across 7 families of indicators in order to develop a governance scorecard for international sports bodies. They apply their scorecard to the IOC and FIFA, finding notable improvement by the IOC from 1998 to 2012, with FIFA still falling short (Chappelet, & Mrkonjic, 2013). In another recent analysis Arnout Geeraert and colleagues apply criteria of good

[5] See the CIRC report here: https://docs.google.com/viewerng/viewer?url=http://www.cyclisme-dopage.com/actualite/2015-03-08-circ-report.pdf

governance to 35 Olympic sport governing bodies concluding that "recent high-profile corruption scandals have been institutionally induced" (Geernaert, Alm & Groll, 2014). There is a general consensus among observers of international sport that governance practices could be much improved across many sports organizations.

Pieth argues that sports organizations ought to follow the practices widely used by corporations and international bodies alike, such as oversight by independent directors: "They are close to international organisations, but they are also businesses. There is a certain logic in applying the standards of both worlds" (Pieth, 2011, p. 17). In general, however, adopting such standards has proved difficult in practice, because sports organizations have been held to different standards than other organizations, and because of these different standards it is typically easier (though often still challenging) to identify and address corruption in corporate and other international settings than it is in sports organizations. However, expectations of governance may be changing.

3.2.3 Continuing Challenges

For those sports organizations that are located in Switzerland, there are additional challenges. These bodies are subject to the provisions of Swiss law, and the Swiss government has historically been lax in its oversight of these organizations. For example, as recently as 2006, certain kinds of bribery in the private sector were not illegal under Swiss law. The Swiss government has also taken steps to tighten its oversight of sport bodies. In December 2014 it passed a law that would classify the leaders of sports organizations as politically exposed persons, thus allowing investigators to examine their financial holdings and transactions (LEX FIFA). The legislation is part of a broader set of reforms known as 'Lex FIFA'.

In addition, other countries, notably the United States, have extended the reach of their anti-corruption investigations beyond their own borders. The US FBI (Federal Bureau of Investigation) has investigated FIFA.

All international sports organizations have corporate sponsors, and some have very large television contracts. However, sponsors have shown little interest in holding these bodies accountable when allegations of corruption have surfaced. Occasionally, a sponsor will issue a statement of concern, but, so long as sport proves popular and makes money, sponsors tend to show little interest in issues of governance and accountability.

Similarly, with respect to public reputation, sport is continuing to grow in popularity, and there is scant evidence to suggest that its popularity is threatened by alleged or actual corrupt practices among governance bodies. Some argue that the corruption of sport, such as via doping or match-fixing, has proved to be a greater threat to the integrity of sport than shortfalls in governance.

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