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Responses to Corruption in Sport

Corruption in Sport

It seems to be in the nature of the human condition that really bad news is suppressed and avoided until there is a crisis. Once the crisis occurs, there is a great deal of reactive remedial activity (or purported activity) in response to the crisis, followed by an after-the-fact examination of the cause of the crisis and what might have been done to avoid it.

Everyone concerned seems to think (or pretend to think) that the crisis was unavoidable and that it came as a complete surprise. This is typical organizational behaviour as well as human nature.

I do not think I am stating anything which is unknown to most observers of sport today when I say that there is already a crisis which has been allowed to build up over the past several years. Sports officials, athletes, governments and regulators have not addressed the problem of corruption in sport with anything near the vigour required to deal with activities which, sadly, have become endemic and have badly wounded the integrity of competitive sports, and put into question the results of many competitions.

There have been, of course, the usual statements in support of fair play. Equally sadly, these pious statements have not been matched by the necessary actions to ensure that what is promised is actually delivered. In the result, the credibility of sports officials and even of the sport itself is now very much in question and, frankly, there is little assurance which can meaningfully be given to sportsmen and the public at large that the problem can be dealt with.

It is true, however, that some attempts have been made to address the problem. I am part of two organizations which have concerns about the integrity of sport. The first is the International Olympic Committee, of which I have been a member since 1978, and the second is the World Anti-Doping Agency (WADA) of which I was the founding president in 1999. Both organizations are dedicated to improving the integrity of sport, even though they approach the problem from somewhat different perspectives.

The World Anti-Doping Agency

The IOC is positioned at the top of the Olympic Movement and has generally been accepted within the Olympic Movement as the key and directing organization, particularly in the establishment of codes of conduct and the reinforcement of the concept of sport as not only a healthy, but also an ethically-based activity.

The World Anti-Doping Agency has a more limited scope of action, established on the basis of a consensus among its many stakeholders, which include the IOC, international sports federations, national Olympic committees, Olympic athletes, Paralympic representatives, national anti-doping organizations and governments.

Its role is to lead the fight against doping in sport and to monitor compliance with an agreed-upon World Anti-Doping Code, which has been in place since 1 January 2004. This Code is amended from time to time based upon practical experience in anti-doping activities.

The role of WADA is, however, limited to monitoring compliance. It has no power to intervene or to sanction any of the stakeholders where doping activities may be found. It may only report on non-compliance, at which point the responsible stakeholder is required to act in accordance with the Code. The only operational initiative available to WADA rests in its right to institute an independent appeal before the Court of Arbitration for Sport (CAS) whenever it is of the view that a stakeholder has failed to act in accordance with the provisions of the Code. Even at that, however, it is not WADA which makes a decision, but CAS. This initiative is, nevertheless, a powerful tool available to the completely independent agency and has been used on many occasions.

As all of us know, the essence of sport is that it is an activity governed by a set of rules upon which the participants agree. Without such rules, whatever the activity may be, it is not sport. Any breach of the agreed-upon rules, particularly with a view to achieving an advantage in the competition, destroys the value and quality of the outcome. For relatively minor breaches of the rules, most sports include in their applicable rules, appropriate sanctions, such as penalties, penalty shots, disqualification and so forth. These internal sanctions reflect an agreed-upon consensus as to what is appropriate in the circumstances.

There are, however, breaches of the rules which can destroy the overall integrity of the sport. It is of the essence of sport that the outcome of any contest is uncertain, depending upon a combination of factors, including the skill of the players, the playing conditions, tactics, conditioning and many others. This is what makes sport interesting and exciting for player and spectator alike. Activities which put in doubt reality of the competition destroy the essence of the competition.

The agreement that doping should not be permitted in sport is a recognition that a doped athlete is not a "real" athlete. His performance cannot be compared properly with that of

an athlete who has followed the agreed-upon rules and has refrained from doping. It is a corruption of the competition caused by a deliberate action on the part of the doped athlete, all the more so because the activity is clandestine, undisclosed and intended to achieve an unfair advantage at the expense of those who have not cheated. Doping is, therefore, a form of corruption in sport.

The response to doping in sport, on the part of sports authorities and governments, did not come until long after the phenomenon was recognized as a serious problem in virtually every sport. Years and years and years of endemic doping in cycling passed almost without notice and, when it was noticed, it was denied or passed off as an isolated aberration. The growing use of anabolic steroids, stimulants and other doping methods in other sports were met with institutional denial, individual lies and inconsequential sanctions. Testing was introduced with enormous reluctance and testing programs were normally limited to in-competition tests, in which a positive test was, in effect, failure of an intelligence test as much as a doping test.

It was only after the Festina scandal during the 1998 Tour de France that any concerted action against doping in sport was instituted. This led to the creation of the World Anti-Doping Agency in 1999, the first time that sport and governments sat together with equal power and equal financial responsibility within a single organization and having a common agenda. This experiment has had some success but is well short of achieving its full potential.

The International Olympic Committee

The IOC's mandate, at least conceptually, is much broader than dealing with doping in sport. It has the advantage, and many of the disadvantages, of being somewhat removed from the day-to-day management of sporting activity. It has only two serious events every four years for which it is the responsible authority, namely the Olympic Games. It does, however, group under its moral authority a much broader array of sports and cannot help but be aware of the corruption which occurs within those sports on a daily basis. Likewise, it cannot help but notice that the overwhelming majority of the international federations gathered under the Olympic umbrella have not grappled with the problem of corruption with any meaningful degree of success.

While not personally involved in the initiative, isolated as I am from the current administration, I thought the IOC's decision to convoke a meeting, albeit with limited and hand-picked participants, earlier this year was a useful first step in drawing more formalized attention to the problem of corruption in sport. I thought that the idea was good, but that it focused on the wrong issue, namely betting in sport. It is not betting which is the problem. I have no objection to people betting, although personally, I work too hard for my money to waste it betting on uncertainties.

So, focusing on betting was, in my view, the wrong issue, even if it did get people thinking about the problem of corruption. Where corruption and betting intersect is when the normal outcome of the competition is altered by improper activity on the part of players, officials or third parties and the knowledge of such improper activities and the likely or potential impact on the outcome of the competition is used to influence the particular bets which are made. It is still, however, not the betting as such which is the problem, but the underlying corruption of the result or competition. Betting in those circumstances is simply a means of monetizing the corruption.

Monitoring betting can be a useful diagnostic tool, which may indicate that corruption has occurred and, for that reason, monitoring of betting activities and, particularly of certain betting patterns, is likely to be a good investment in eventual reduction or elimination of corruption. You will note that I have said that monitoring betting may show that corruption has occurred. That was a deliberate choice, because the nature of today's betting is such that it may become evident only so close to the time of a competition that, by the time it is monitored, it is already too late for the particular competition.

The most disappointing aspect for me about the IOC initiative was the response of many of the sports officials involved. Instead of focusing upon the problem of corruption, many of them saw the meeting as an opportunity to advance the proposition that because betting agencies have a profitable business in relation to sports, the betting agencies should share those revenues with the sports organizations. Quite properly, the betting agencies perceived this as little more than a money-grab by the sports organizations, rather than a serious effort to address the underlying problems. Just as they have a tendency to do so with respect to doping, sports organizations tried to lay off the problems of corruption on governments and government agencies, all but absolving themselves from any responsibility in relation to their own sports.

I believe quite firmly that sport, in and of itself, does not have all of the tools necessary to eliminate corruption in sport. This was true of the variation of corruption described as doping and it is, perhaps, even more true with respect to generalized corruption. However, the corruption of sport and the manipulation of competitive results necessarily involves players and/or officials in the sport and the corruption cannot be complete until the competitive outcome has been affected. Plans, attempts and conspiracies are all well and good, but they achieve nothing unless completed.

Sports authorities should have the best ability to know or surmise whether an outcome has been influenced. They regularly monitor play and they regularly assess the competence and independence of their officials. They regulate, at least in general terms, the payment of athletes and officials. They know areas of vulnerability within their organizations, leagues, officials and players. They should be aware of strategic wins and losses. Their rules should contemplate all known means of altering results of individual matches, particular competitions and regional outcomes.

All of that said, however, just as in the case of doping, there are many measures which sport organizations have no legal power to take or adopt. They cannot enter premises to seize evidence. They cannot tap or intercept phone and other messages which might be evidence of corruption. They cannot compel the giving of evidence under oath. They cannot seize funds. They cannot require the licensing of organizations or individuals beyond the scope of their own jurisdiction. They cannot demand access to information in the possession of public officials. They cannot demand or obtain banking records or records of transfer of funds. These measures are, uniquely, in the hands of public authorities. The interests of public authorities tend to focus on the source of funds used in betting, the transfer of funds to and from their particular jurisdictions and the taxation of profits from betting activities and from betting agencies.

Public officials have, institutionally, a lower level of interest in the integrity of competitions. Whether, for a variety of reasons, this should be a matter of higher concern, as a societal interest, is a matter for sport to convince governments. There is, I suggest, a compelling case to be made for this, but the onus for making the case must rest with the sports authorities. This is, perhaps, where the IOC can have its highest impact, since it is generally recognized that, even though the IOC has had its own failures of governance on occasion, it is nevertheless the world's leading proponent of ethically-based sport and the importance of ethical values as an essential element of the overall social contract.

To make its message more compelling however, the IOC will first have to drive change within the sports organizations. It will have to develop a comprehensive plan to combat corruption in all its forms. It will have to analyze which actions can be taken by sport, which by governments alone, and which on a shared basis. It will have to then convince sports authorities that they must buy into their own responsibilities and to make meaningful efforts to respond to these responsibilities before they can hope convince governments of the importance of governmental involvement in the whole process.

It will not be persuasive, as it is not persuasive in the case of the fight against doping in sport, to complain that the activities to combat corruption are expensive. If the sports authorities are not prepared spend whatever is required ensure the integrity of sport, they will inevitably bear the consequences of this neglect. Governments have, of course, considerably greater financial resources than mere sport organizations. On the other hand, they have far greater responsibilities to discharge with the funds provided by their taxpayers and sport must be prepared to compete with the other demands on governments.

I think it is also a fair observation to make that, on an issue such as corruption in sport, governments will not lead. They may follow, if a persuasive case is made out, or if public opinion insists. But do not look to governments to initiate the necessary actions.

The Role of Media

I am often asked, wearing either or both of my hats as a member of the IOC and WADA, what I believe the role of the media should be in the matter of corruption in sport. There is no easy answer to this question, as I am sure you know. I do not believe the media have any particular editorial duty to act as an arbiter of personal or institutional conduct.

There is a duty to inform and to do so in a balanced and independent manner. I distinguish this from editorial policy, in which an individual or organizational perspective may be expressed, provided that the editorial perspective is not disguised as independent factual reporting.

At the present time and given the instant availability of and access to information from the huge number of sources from around the world, today's media have an unprecedented opportunity to engage in what has been called investigative reporting. The amounts of money involved, the criminal organizations implicated and the impact on society of corruption in general certainly lend themselves to investigative journalism in connection with sport activities.

Strangely enough, however, apart from the German media, there has been surprisingly little serious investigation into corruption in sport. A huge percentage of the media have been curiously acquiescent in the face of statements that there is no corruption sport and in the face of obvious demonstrations of fraudulent and corrupt behaviour. In particular, the relative inaction by sport organizations when fraud has been demonstrated has not been commented upon or followed up by an active media.

Having headed up the IOC's independent investigation of the Salt Lake City bidding scandal in 1998 and 1999, I am all too aware of the ability of the media to draw attention to, and to influence public perception of, the conduct of an organization and that of its members. The amount of media attention focused on the IOC during that period came close to destroying the organization itself. It was only our ability to demonstrate that we took the situation seriously and that we were determined to fix the problem which, in the end, saved the day.

When I compare that firestorm of media attention to the relatively benign, again with certain exceptions, treatment of the remarkable conduct of FIFA and certain of its executives, I am astonished. This is a far more serious and far more extensive problem for the world's most popular sport than the relatively narrow conduct, improper as it was, of a few IOC members.

In my respectful opinion, FIFA has fallen far short of a credible demonstration that it recognizes the many problems it faces, that it has the will to solve them, that it is willing to be transparent about what it is doing and what it finds, and that its conduct in the future will be such that the public can be confident in the governance of the sport. At the moment, I do not believe that such confidence exists or would be justified if it did.

One of the measures taken by the IOC when it faced the crisis in 1998-1999 was to involve third parties, unconnected with the IOC, as part of the process. The IOC was able to borrow credibility from these independent third parties, in whom the public already had confidence and whose judgment in approving the reform package put forward could be relied upon and whose assertions that the IOC was serious, carried far more weight than similar statements made by the IOC itself.

If I were an independent advisor to FIFA today, I would counsel it to take similar measures. The risk of not doing so is that no one will believe the outcomes of whatever process it may be implementing. A good part of the problem, of course, is that we simply do not know what is being done.

We live in a period in which organizational governance is a matter of huge importance, both within organizations and with respect to perception of the organization by third parties. It is a matter of such huge importance precisely because there have been massive failures of organizational governance all around us, not just in sport, but in business, politics, education, organized religion and even medicine. Principles of good governance do not mean that mistakes will never be made, but they do ensure that there is an organizational process which will ensure that the right people within each organization will, before decisions are made, address certain important issues and that responsibility for decisions is properly assigned.

Sport, while not alone in the need for good governance, has been particularly deficient, especially with respect to transparency. Indeed, more than most organizations, sport has vigorously resisted any suggestion that its governance should be transparent and that the results, financial and otherwise, of its activities should be audited and disclosed. It is all very well to say that sports organizations are private and that there is no obligation to disclose such information. The fact of the matter, however, is that all sports organizations depend to some degree on public funds and funds provided by the public in the form of ticket revenues, sponsorships, television revenues and the use of facilities constructed wholly or partially with public funds. In many countries, the national federations affiliated with international federations depend in large measure upon government support for their activities, and even for their existence.

It would not take too much imagination to consider the possibility, as part of government responsibility in matters of corruption in sport, for them to require disclosure of such information as a condition for any activity on the part of national or international federations, and even private professional organizations or leagues, in that country.

An International Anti-Corruption Agency

There has been some talk about creation of an international anti-corruption agency for sport. The genesis of this idea has been the creation of WADA and the demonstration within that organization that it is possible for governments and sport organizations to work together within a single agency. I think it is much too early to decide whether this model would be effective in dealing with the many forms of corruption which now exist in sport and which may exist in the future.

The range of possibilities is much greater than the limited problem of doping. The experience and skill sets required to deal with corruption, particularly international corruption, are quite different from those applicable to doping. This does not preclude the possibility of creating such an organization, but its governance structure might have to be different from that of the World Anti-Doping Agency. In the case of doping, there are significant potential consequences to non-compliance on the part of a stakeholder, such as removal of a sport from the Olympic program, non-participation in the Olympic Games and removal from all positions on the WADA Foundation Board and committees. It is less clear what consequences might flow from the failure on the part of a stakeholder in a new agency to comply with its obligations.

Then, too, there is the matter of the level of representation. When we created WADA in 1999 and in the early years thereafter, there was excitement about the new initiative. Many governments were represented by ministers, who have the power to make decisions. Over time, however, this changed and the regular work of pursuing the fight against doping sport became less sexy. The ministers were gradually replaced by bureaucrats, who had no power to decide, but only to report, and to delay decision-making – this, unfortunately, in an organization which required tactical flexibility and opportunistic abilities to respond to changing situations. The danger is that WADA may sink into oblivion amongst hundreds and thousands of international organizations which meet infrequently to talk around the problems and do nothing. The most careful attention would have to be given, in the creation of a new anti-corruption agency, to avoid this risk.

It would be an exciting challenge, considering the enforcement mechanisms available to a combination of public and sports authorities in the matter of corruption in sport. I think they could be quite interesting and, perhaps, even more effective than current international mechanisms dealing with ordinary commercial fraud, money laundering and offshore financial and tax havens. The combination of confiscatory and sport sanctions might well prove to be a greater deterrent than the limited international sanctions which now exist in the commercial field. Remember, it was not the political and economic government sanctions which eventually led to the dismantlement of *apartheid* in South Africa – it was the sport sanctions – exclusion from the Olympic Movement.

This would, however, require considerable resolve on the part of sports authorities as well as governments. It is harder for me to speak from the perspective of governments, but I

would have a major concern regarding the willingness of sports authorities to act in these circumstances. Whenever tough action is required to enforce sport rules, there has always been an embarrassing reluctance to do so, usually citing as an excuse a concern for athletes whose participation may be affected by actions of their governments. This, in my view, overlooks the deterrent effect on behaviour which might come, for example, from excluding the sport in the Olympic Games or participation of athletes from a rogue country.

The Role of Sponsors in Fighting Corruption in Sport

Not to be overlooked in any consideration of fighting corruption sport would be the possible range of actions on the part of sponsors. Some argue that cycling would never have begun a serious fight to eliminate doping in sport had some of the team sponsors not walked away from their sponsorships, or decided not to renew their sponsorships.

If I were providing professional advice to potential sponsors of sporting events or sport organizations, I would be sure to advise them to insist upon anti-corruption provision in the contract, which would allow the sponsor to withdraw at any time if corruption occurred and to recover any amounts paid in respect of the sponsorship, plus amounts incurred by the sponsor in activation of the sponsorship.

Remember that if sponsorship disappears from organized sport, organized sport disappears from the face of the planet. Organized sport, particularly professional sport, depends on private sector support, not government support. The private sector is, therefore, in a position to insist that any organization it sponsors be free of corruption.

I appreciate that in drafting the clause I have mentioned, some defense must be accorded to the sponsored organization where it can demonstrate that whatever corruption may have occurred was completely beyond its ability to control, but I would make certain that the onus would be squarely upon the sponsored organization to demonstrate that it was free of all responsibility in the circumstances.

I would also require the sport organization to disclose the full extent of its anticorruption program and its activities in support of that program, which would include regular compliance reports by the senior executives of the organization.

Nothing will cause a sports organization to focus upon a problem with its full attention than something which will affect it financially.

Conclusion

I started off these remarks with a reference to the human condition and the tendency to put off, until it is too late, the solution to known problems. Something which all sport organizations should understand is that if public confidence in the integrity of competition is lost, the public will look elsewhere for its entertainment and will no longer support manipulated competitions. This happened in ancient Greece, in the Roman era, in the 19th century and even today.

If we want sport to go the way of the World Wrestling Federation, which could no longer even pretend that what it delivered was sport, and changed its name to World Wrestling Entertainment, which delivers programming ranking somewhere between a circus and a farce, all we have to do is keep going in the direction in which we have allowed sport to drift over the past decades.

It is later that many connected with sport seem to think.