

It's time for a global framework agreement in world sport

By Walter Palmer

The labour and intellectual property rights of athletes are critical to the staging and marketing of international sporting events such as world championships and the Olympic Games, yet sports organisations have been slow to allow athletes any real power over the conditions of their participation. It's time for athletes to take the initiative.

There has been progress representing workers' interests *around* the field of competition, such as the agreement between the Trades Union Congress (TUC) and the London Organising Committee of the Olympic and Paralympic Games (LOCOG) at the 2012 Olympics (TUC 2011), but the International Olympic Committee (IOC) and international sports organisations have retained almost exclusive control of the athletic workplace that fuels a multi-billion dollar sport entertainment business.

As the potential corruption and large scale social consequences of outdated governance models in international sport have become more and more apparent, the conversation needs to shift from the academic discussion prevalent today to one about action. Nothing would provide a more positive jolt to the moribund governance of international sport than if elite athletes were recognised as workers and allowed to negotiate the terms and conditions of their participation. If sports organisations engaged in social dialogue with independent, well-resourced athletes' associations with a stake in the success of the event or sport, the benefits to democracy, transparency and accountability would be lasting. Unfortunately, the past few years' experience demonstrates that international sport, instead of holding itself to a higher standard, has not yet exhausted lobbying for special treatment – a 'sporting exception' – under the guise of specificity and autonomy. Instead of honoring and respecting the rights of athletes in their workplace, international sport organisations have become adept at a practice that is becoming more and more common in the wider world of work: avoiding an employment relationship with their key workers.

The athlete as a worker

There comes a point in many elite athletes' careers where participation in sport as a leisure or youth activity turns into work. This is not to say that participation becomes less enjoyable or rewarding, although it may. Sometimes, there is a clearly defined moment, such as signing an employment contract, but more often, there is a gradual blurring of youthful enthusiasm, energy, and activity into something more focused and driven that closely resembles its contracted counterpart. Perhaps an athlete becomes a worker when the dedication and commitment necessary to succeed at the highest levels becomes all encompassing; when time and energy commitments grow beyond a certain extent; when practice becomes mandatory, even when ill; when coaches are paid; when fans buy tickets and administrators pay themselves from the proceeds; and when products

are marketed and sold. But it is definitely the case when sport shifts from being the pursuit of health or excellence to become the business of entertainment.

Clearly, it's much more convenient (and profitable) for the administrators if the athlete remains unaware that this shift has taken place and is satisfied with the status that sporting success can bring. Their hope is that a small stipend, access to medical care, housing allowance, and perhaps a car-leasing program is enough to keep that athlete engaged and satisfied. However, the cold, hard truth is that athletes in non-unionised sports are providing the labor while the administrators and sponsor companies are cashing the cheques.

Ironically, one of the most difficult challenges faced by Marvin Miller, the iconic executive director of the Major League Baseball Players Association in the USA in the 1960s, was to educate the players that they were workers and that playing baseball was, indeed, work; that they had the same rights as other workers and deserved to share in the profits and shape the future of the sport which they simultaneously loved and labored in. He also needed to educate the owners and administrators that the interests of the athletes, from better working conditions to free movement and more just compensation, were beneficial to the sport itself and in the interest of the owners. The business of baseball exploded after reforms were instituted at the insistence of the players, against owners' resistance. A similar dynamic may be at work in the Olympic sports movement today, with many athletes and administrators unaware of their rights and obligations under international and national labor laws.

Pockets of professional elite athletes have benefited from hard-fought collective bargaining and recognition as employees, but ironically many in this group still donate their labor to international sporting events such as the Olympics. As Mark Cuban, the owner of the U.S. basketball team Dallas Mavericks, told ESPN news in 2014 after a player suffered a gruesome leg injury during an international competition: 'The greatest trick ever played was the IOC convincing the world that the Olympics were about patriotism and national pride instead of money' (Stein, 2014).

Major professional stars participating in international competitions can still rely on their salaries and, perhaps, expanded marketing opportunities, but the vast majority of non-unionised athletes labour under a system designed to blur their status as workers. The participation agreement that each athlete must sign and submit before receiving their Olympic credentials contains a clause stating that it is not an employment agreement.

Like the National Football League (NFL) in the USA, the IOC operates as a non-profit organisation that splits television revenue among its stakeholders. The NFL distributed \$7.2 billion among 30 teams in 2014 (Petchesky, 2015), while the IOC split \$5 billion from the last Olympic quadrennial, keeping a significant and growing portion for its own administrative expenses (International Olympic Committee, 2014). However, unlike the NFL, whose players receive between 47% and 48.5% of all revenue, the IOC distributes only to its stakeholders.

In a keynote speech at the European Evening of Sport in February, 2013, Thomas Bach – then vice-president of the IOC – repeated a common refrain, ‘Without the athletes, there is no sport’, as he reiterated his commitment to the inclusion of an athletes’ voice within the IOC. Despite this assurance, there has been a long-term effort to maintain instead what could generously be termed a more malleable form of athlete representation, the athlete’s commission.

In the past, the role of the athlete has been highlighted in IOC governance at times of crisis. The first athlete’s commission was established after the Olympic boycott of the Moscow Olympics in 1980. The commission’s role was expanded after the 2002 Salt Lake City bribery scandal.

There are significant structural differences between independent athletes’ unions and athletes’ commissions. Athletes’ commissions are internal advisory bodies while athlete associations are discrete, separate legal entities. Athletes’ commissions may influence internal procedures for making rules but, as internal structures, are unable to negotiate and make binding legal agreements regarding athletes’ working conditions. Seven of the nineteen members of the IOC Athletes’ Commission (IOC AC) may be appointed by the IOC. IOC AC members elected by athletes become IOC members who must swear an oath to ‘defend in all circumstances the interests of the IOC’.

Therefore a clear conflict of interest develops when the commercial interests of the IOC are perceived to overlap with those of athletes. The IOC executive board determines the election rules and procedures for the IOC AC, and provides its budget and secretariat. This is like a major corporation setting down very strict rules for nominating and electing worker representatives (clearly unacceptable from the worker perspective). This type of structure could never replace democratic and independent trade unions with internationally recognised rights to negotiate working and social conditions. Essentially, IOC AC members are part of management or, at best, a weak form of a workers’ council.

As the business of sport has grown, there has been a corresponding growth in the number and sophistication of independent athletes’ associations and unions. In 2011, the first world summit for independent athletes’ unions was hosted by UNI Global Union in Switzerland. By the time of UNI Global Union’s world congress in South Africa in 2014, more than 100 player unions had been formed. The global employee social counterpart now exists and is ready to engage.

For athletes’ intrinsic role to be fully recognised in the governance of international sport, athletes must directly elect rep-

resentatives with the mandate to negotiate the terms and conditions under which they compete. This must take place parallel to any system of athletes’ commissions that might be integrated into management structures of sporting bodies. The IOC began a halting, lurching process towards accountability to its most important stakeholder when it formed the first athletes’ commission in the 1980s. Now, as its business model has matured into a multi-billion dollar enterprise, it’s time for the rhetoric that athletes are at the center of sport to be replaced by a real dialogue with independent athletes’ groups.

Walter Palmer is a consultant for players’ associations and unions. He was formerly the Deputy Executive Director for International Relations and Marketing for the NBA players union and Head of Department at UNI World Athletes. A graduate of Dartmouth College in the United States, he was the 33rd pick in the 1990 NBA Draft and played professional basketball for 13 years, 11 of them in Europe.

References

- Petchesky, B (2015) ‘[The NFL Split \\$7.2 Billion In Revenue Sharing Last Year](http://deadspin.com/the-nfl-split-7-2-billion-in-revenue-sharing-last-year-1719217695)’, *Deadspin* 21 July, <http://deadspin.com/the-nfl-split-7-2-billion-in-revenue-sharing-last-year-1719217695>, accessed 14 August 2016.
- Stein, M. (2014) ‘Mark Cuban wants “own World Cup”’, *ESPN*, August 4, http://www.espn.com/nba/story/_/id/11301340/mark-cuban-dallas-mavericks-feels-paul-george-renews-call-separate-quadrennial-competition.
- TUC (2011) ‘TUC, Acas and LOCOG sign agreement to support a smooth delivery of London 2012’, <https://www.tuc.org.uk/industrial-issues/tuc-acas-and-locog-sign-agreement-support-smooth-delivery-london-2012>. Accessed 14 August 2016.
- International Olympic Committee (2014) Factsheet IOC Financial Summary Update, July 2014. https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/How-We-Do-It/Funding/Revenue-Sources-and-Distribution/Distribution/EN-IOC-Financial-Summary-07-2014.pdf#_ga=1.94833308.142044052.1391560415.