

# Stimulating ethical behaviour and good governance in sport

## The (non)sense of codes of ethics

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### Introduction

Codes of ethics are implemented by sport organisations of all kinds—such as (inter) national sport federations, professional and amateur sport clubs, and local sport services—to prevent and counteract unethical behaviour within their organisation (De Waegeneer & Willem 2019; Mullane 2015; Walters & Tacon 2018). Since the scope of these codes of ethics has steadily increased over the years, they now often incorporate provisions on the desired conduct of staff and other stakeholders (e.g. with regard to respecting the values of the organisation, outlining conflicts of interest, and setting boundaries for relationships with external partners), on the expected good governance practices of the board of directors (e.g. in relation to such principles as transparency, democracy, and accountability), and corporate social responsibility (CSR) activities and strategies (Maesschalck & Vanden Auweele 2010).

Despite their popularity and increasingly broad scope, uncertainty remains whether codes of ethics are really effective (Constandt et al. 2019; De Waegeneer et al. 2016, 2017; Kaptein 2015, 2021). Whereas some scholars argue that a code of ethics represents the important foundation, cornerstone, and first tangible step of an organisational programme on ethics, others refer to the deceptive misuse of codes of ethics as a form of hypocritical lip service or window dressing to often falsely convince people that the organisation is really preoccupied with ethics (Constandt 2019; Greenbaum et al. 2015; Kaptein 2015; Schwartz 2013; Webley & Werner 2008). Whereas codes of ethics are frequently adopted by organisations in all types of sectors, these critiques further suggest that ethical challenges seem at least as prevalent as before the increase in popularity of codes of ethics (Downe et al. 2016; Kaptein 2021).

Codes of ethics should thus not be seen as a panacea to overcome all ethical dilemmas and issues within sport organisations (Lavorgna & Di Ronco 2015). Nevertheless, one key question remains largely unanswered: how can we make sense of ethical codes in sport organisations? In other words, how can codes of ethics be developed, implemented, and enforced to ensure that they render (maximum) effect? Positioning this question as the central focus of this book chapter, we will present and discuss current theoretical insights (originating from the fields of both business ethics and sport management) into codes of ethics in sport,

their functions, content, and structural characteristics, and their quality criteria and determinants of effectiveness.

Subsequently, we will study the case of the international football (soccer) federation FIFA (i.e. Fédération Internationale de Football Association) to highlight how the organisational policies and aims that are reflected in a code of ethics are (not) and could be brought to life in its organisational practices. On the one hand, FIFA has regularly been linked with unethical conduct and poor governance over the course of its long history (Bason et al. 2018; BBC 2015, 2020; Pielke 2013; Tomlinson 2014). On the other hand, containing 56 pages full of provisions on a wide number and different types of desired behaviours and good governance principles, FIFA's code of ethics is (at least in theory) a textbook example of a well-written code with a broad scope (De Waegeneer & Willem 2019). Drawing on the insights provided by this literature review and the FIFA case, we will conclude by highlighting the importance of internal organisational ethical leadership and external regulations. In the end, a number of avenues for further examination of codes of ethics in sport organisations will be presented.

## **Theoretical perspectives on codes of ethics in sport organisations**

### ***Conceptualisation***

A code of ethics is a management and compliance instrument that is developed and used by an organisation to determine and guide desired behaviours of the people involved in (and sometimes also with) the organisation (Kaptein 2021; Stöber et al. 2019; Schwartz 2013; Webley & Werner 2008). Terms such as business code, ethical code, code of practice, code of conduct, and (good) governance code are often used as synonyms for a code of ethics (Kaptein 2021). As an extensive conceptual discussion on the communalities and differences between these terms is beyond the scope of this chapter, we will consistently use code of ethics throughout the remaining paragraphs. Yet we would like to state that a code of ethics has become a sort of container concept for many organisations that seek to combine very specific conduct related regulations with often vaguely formulated organisational values and almost technical good governance principles in one organisational policy document. Accordingly, many aspects of some so-called codes of ethics have in practice little to do with 'ethics'.

While many definitions of a code of ethics exist, most definitions agree that a code of ethics is characterised by four main elements (Kaptein 2021). First, a code of ethics is a document that is developed within, by, and for an organisation. Therefore, codes of ethics should be seen as a self-regulative tool regardless of the fact whether or not an organisation is obliged by law to have a code of ethics (Kaptein 2021). Second, a code of ethics is a formal document, that is approved and officially confirmed by the main decision-making body of the organisation (Kaptein 2021). Third, a code of ethics is prescriptive in terms of behaviour, as it

describes how people involved in (and sometimes also with) the organisation should behave (Kaptein 2021). Fourth and finally, a code of ethics stipulates these desired behaviours in regard to a number of different topics and issues (Kaptein 2021). For example, a code of ethics of a sport club might entail different sections on expected values and behaviours on (e.g. fair play and aggression) and off (e.g. gambling behaviours and substance use) the playing field (Constandt 2019).

### **Functions and types**

A code of ethics combines different internal and external functions (Kaptein 2021). In a broad sense, a code of ethics operates as both a risk management tool to prevent and deal with ethical issues within the organisation, while it also functions as a communication and public relations tool to show people inside and outside the organisation where the organisation is standing for in terms of values, norms, and principles (Adelstein & Clegg 2016). In addition to these controlling and signalling functions, Kaptein (2021) further suggests a number of additional functions. For example, a code of ethics might also represent a clarifying (i.e. offering an overview of the behaviours that are (not) allowed), guiding (i.e. showing the right way), motivating (i.e. inspiring and stimulating people to comply with ethics policies), and correcting (i.e. providing people a base to evaluate and judge the organisation concerning its accountabilities) function (Kaptein 2015, 2021). In their study on the code creation process in a national sport federation in the UK, Walters and Tacon (2018) argue that a code of ethics is often adopted to create external legitimacy. Nonetheless, once adopted, a code of ethics can also generate internal legitimacy.

When it comes to codes of ethics in sport organisations, three types can be identified (De Waegeneer & Willem 2019). First, a so-called *sport ethical code* is directed towards athletes and aims to guide their behaviours on the playing field. Second, an *off-field ethical code* entails regulations and behavioural prescriptions outside the playing field, for often different types of stakeholders (De Waegeneer & Willem 2019). For example, a code of this type might contain regulations on gambling for players, coaches, and referees, or might be focused on the behaviours the sport organisation expects from external player agents. Third, an *ethical and good governance code* focuses on the high level decision-making actors within the sport organisation, such as the board of directors or the management, and stipulates the behaviours that are desired on their behalf, both in terms of general ethical principles and good governance standards (De Waegeneer & Willem 2019). In practice, sport organisations have often only one, often broadly conceptualised code of ethics, which focuses on different stakeholders and mixes aspects of different types of codes (Constandt 2019).

### **Quality criteria**

When considering quality criteria for assessing whether a code of ethics makes sense (i.e. is effective) in stimulating ethical behaviour and good governance,

a distinction is often made between content-related and structural determinants of effectiveness. Studying the content of codes of ethics in sport clubs, De Waegeneer et al. (2016) suggest that the use of code statements that focus on the consequences of certain behaviours (i.e. a consequentialist oriented code), a combination of regulative and inspirational tone and language, and the inclusion of clear and explicit guidelines towards board members generate a positive effect. Based on these findings, they argue that a code of ethics can be more than a regulative tool of compliance, as it can also function as a document that inspires people while raising their moral awareness at the same time (De Waegeneer et al. 2016).

Next to the content of the code, three other sets of structural characteristics of a code of ethics can be identified. First, in terms of the creation of the code, the code should be linked to a strategic planning process in which different stakeholders are consulted. The code should also be revised regularly (i.e. at least every two years) (Singh 2011). Second, concerning the implementation of the code, the code should be easy to find, communicated broadly to at least everyone that has to adhere to the code, and accompanied by ethics training and a hotline or helpdesk for questions (De Waegeneer et al. 2017). Third, a code is a 'toothless tiger' (e.g. Kaptein, 2021) when the content of the code is not enforced in practice. Therefore, the code should contain sanctions for code violations, support for whistleblowers, and evaluation mechanisms (De Waegeneer et al. 2017; Singh 2011).

To date, there is little work that assessed the (non)sense of codes of ethics in a sport context based on a longitudinal study design that enables causal claims. In their study in football clubs, Constandt and colleagues (2019) examined the effectiveness of ethical codes clubs with a three years' time horizon. They conclude that the motivation to professionalise when installing the code, the involvement of sponsors during the code creation, the availability of a helpdesk in the form of an approachable board of directors, and the presence of whistleblowing protection mechanisms all have a positive impact on the ethical climate in football clubs. Hence, these results imply that adopting a code is an essential step to create a formal organisational program on ethics, while the code itself needs to be supported by stakeholder management and organisational leadership to render more (or even any) effect (Constandt et al. 2019).

### **Walk the talk? A reflection on the case of FIFA**

The international football federation FIFA represents an interesting case to study the (non)sense of codes of ethics in stimulating good governance and ethical behaviour in sport. In other words, the case of FIFA can assist the examination of the potential discrepancy between organisational policies and practices regarding the implementation and enforcement of codes of ethics in sport organisations. While FIFA was already founded in 1904, the organisation has long lacked a code of ethics (first adopted in 2004) and an independent ethical

committee (first installed in 2006) (Bayle & Rayner 2018; Lavorgna & Di Ronco 2015; Tomlinson 2014). This observation has led Tomlinson (2014, p. 1161) to conclude that “ethical issues have been peripheral to FIFA’s concerns for most of its history”. However, other scholars have reasoned that the 2012 version of FIFA’s code of ethics complied strongly with some of the major guiding principles outlined in the academic literature (and discussed above). In particular, De Waegeneer and Willem (2019) suggested that FIFA’s 2012 version of their code of ethics was in line with most quality criteria for codes, such as being communicated broadly, revised regularly, containing a mix of deontological (focusing on intrinsic values) and consequentialist (focusing on the consequences of behaviours) statements, and offering safe reporting mechanisms as well as whistleblowing stipulations.

Albeit FIFA’s code of ethics can thus be seen as a textbook example of how a code should look like in terms of content-related and structural characteristics, its most recent versions generated considerable concerns. Moreover, FIFA’s code of ethics has not prevented numerous members of its organisation from engaging in different corrupt activities (e.g. taking bribes in regard to the allocation of FIFA’s 2018 and 2022 World Cups) (Tomlinson 2014). Due to ongoing ethical scandals and the lack of appropriate and accountable governance responses within FIFA, the organisation was considered ‘clinically dead’ by 2015 (ABC 2018; Tomlinson 2014). Accordingly, the hopes of the international football community were high when FIFA’s former president Joseph Blatter—named as a central actor in a number of corruption investigations by the US and Swiss authorities—was replaced by Gianni Infantino in 2016 (BBC 2015; Geeraert 2016). At the same time, a FIFA reform committee was charged with drafting the contours of what was then called FIFA 2.0 (Bason et al. 2018).

Despite these FIFA 2.0 reform efforts, critiques have continued to target FIFA’s alleged lack of ethical and good governance practices ever since, arguing that “nothing has changed following the handover from Blatter to Infantino” (Richau et al. 2019, p. 6). For example, negative international media attention was again directed towards FIFA when the organisation announced its updated code of ethics in 2018. Within this new version of their code, FIFA removed all references to corruption, introduced defamation towards FIFA as a severe new offense, and included regulations that bribery should be discovered within ten years to be eligible for prosecution (ABC 2018). As such, with their new code of ethics, FIFA made corruption “disappear on paper”, strongly discouraged public critique by those bound by the code, and limited the prosecution options towards bribery offenses (ABC 2018). Given the international critique, FIFA reinstalled the notion of corruption in the 2019 amended version of their code of ethics, to avoid any misunderstanding about FIFA’s stance against unethical conducts in football (Palmer 2019).

Despite its efforts to update their organisational ethical policies, scandals continue to bring FIFA into public discredit (Richau et al. 2019). In 2019, the Swiss authorities started a new investigation into a so-called secret meeting between

FIFA president Gianni Infantino and the Swiss attorney general Michael Lauber in 2017. According to the Swiss prosecutor in charge of the investigation, this meeting entailed several criminal offenses, such as breaching official secrecy and abuse of public office (Bonesteel 2020). Although Gianni Infantino is still under criminal scrutiny himself in this ongoing investigation, FIFA's ethics committee decided in the summer of 2020 that FIFA's code of ethics had not been violated and that some accusations towards their president did not even fall within the scope of provisions of the code (BBC 2020). In light of FIFA's recent history, it is clear that having a code of ethics itself is insufficient to generate and sustain an ethical culture within the organisation (Downe et al. 2016).

In times in which international sport federations, such as FIFA, are under increasing public scrutiny, codes of ethics are often developed by internal legal departments and external lawyers who approach a code of ethics exclusively as a risk management and compliance instrument (Adelstein & Clegg 2016; Constandt et al. 2020). However, an ethical code has more potential than merely functioning as regulative document. An ethical code is in essence also a guiding document, including general principles that aim to inspire, motivate, and guide people to behave ethically (Downe et al. 2016; Kaptein 2021). Nevertheless, the way in which many sport organisations are currently approaching codes of ethics entails a considerable risk. After all, scholars warn against the occurrence of what they call "loophole ethics" (e.g. Kvalnes & Hemmestad 2010) and 'hiding behind the rules' (e.g. Kihl, 2007). According to these concepts, a code of ethics is often used in a way that people consider everything that is not explicitly forbidden by the code as allowed, while some tend to neglect their own accountability when the code is not completely clear regarding their responsibilities (Constandt et al. 2020; Jurkiewicz & Giacalone 2016).

Containing simplified descriptions of complex realities, a code of ethics will never be completely comprehensive in terms of outlining the desired behaviours in all possible situations (Downe et al. 2016). Hence, more efforts than simply adopting a code of ethics are needed to use the code as a source of inspiration and a driver of positive change. Building on a positive tone and language, the often abstract regulations of the code of ethics should be translated into easily implementable examples and sources of inspiration (Stöber et al. 2019). Leadership (on different levels) within the organisation is crucial to ensure that the spirit and central message of the code of ethics fully trickles down to all echelons within the organisation (Constandt & Willem 2019). In other words, leaders should 'walk the talk' in terms of showing the way and offering the right example of how to interpret the code of ethics (Greenbaum et al. 2015). After all, a code of ethics is less likely to generate followership of people in the organisation when these people do not believe that their leaders live up to the standards of the code (Stöber et al. 2019). This issue seems to be particularly applicable to FIFA, as many people do not trust that FIFA's leadership is really respecting the clearly formulated and well-presented principles and expectations of their own code of ethics (Richau et al. 2019).

## Conclusion

### *The need for ethical leadership and external pressure*

The above review of the academic literature shows that installing a code of ethics is an important—when rooted in sincere motivations—but insufficient step to stimulate good governance and ethical behaviour in sport organisations (De Waegeneer & Willem 2019; Webley & Werner 2008). A telling metaphor in this regard is proposed by Lavorgna and Di Ronco (2015), who argue that a code of ethics operates as some kind of placebo in many sport organisations, meaning that it tackles symptoms but fails to root out the causes of the problem. Although codes of ethics—on its own—will never be able to make unethical behaviour and poor governance disappear completely, we believe their utility can be maximised when a number of critical points are taken into consideration. In this conclusion section, we summarise and discuss these points which relate to elements both internal and external to the organisation.

As reflected in the FIFA case, a code of ethics only makes sense when the leadership within the organisation actually lives up to the expectations and principles of the code of ethics (Downe et al. 2016; Jurkiewicz & Giacalone 2016; Kaptein 2015). As role models, leaders are essential when it comes to convincing organisational members of the desirability and necessity of adhering to the norms and values as outlined in the code of ethics (Kaptein 2021; Stöber et al. 2019). Leaders are also required to embed the code of ethics in the culture and climate of the organisation (Schwartz 2013; Webley & Werner 2008). To the contrary, when leaders do not actually translate the written and theoretical content of the code of ethics into the practices of the organisation, the code might be (mis)used as a form of window dressing or lip service to falsely convince people that the organisation is really concerned with ethics (Constandt 2019; Downe et al. 2016; Greenbaum et al. 2015). As such, we support the idea that “the formal adoption of a good governance code does not necessarily imply the actual implementation of the standards put forward” (Geeraert 2019, p. 522).

The lens of ethical leadership helps to enhance our understanding of this role modelling idea. According to the ethical leadership concept and its underlying foundations formed by social learning and social exchange theory, leaders should embody three roles, i.e. (a) being a *moral person* (e.g. being honest, reliable, trustworthy, fair), (b) promoting ethical behaviour by functioning as a *moral manager* (e.g. implementing clear communication as well as fair enforcement and empowerment mechanisms), and (c) carrying out new norms and innovative ways of thinking and decision-making by operating as a *moral entrepreneur* (Kaptein 2019). Through ethical leadership, the necessary step between developing a code of ethics and implementing its content in the culture and practices of the organisation can be taken (Schwartz 2013; Webley & Werner 2008). There is mounting empirical and theoretically supported evidence that ethical leadership—both on an organisational and supervisory level—is positively related with an ethical

climate in sport organisations (Constandt & Willem 2019; Constandt et al. 2018). Nonetheless, the case of FIFA illustrates how the opposite situation might also occur. Unethical leadership on the highest levels of an organisation may create an unethical climate that erodes the ethical beliefs and behaviours of others on lower hierarchical levels within the same organisation (Pielke 2013; Tomlinson 2014).

In practice, ethical leadership can also help to make a code of ethics more effective by developing and promoting the code in a clear and inspirational way. For example, De Waegeneer and colleagues (2016) have shown that an effective code of ethics in sport entails a consequentialist orientation by which clear consequences and sanctions are outlined for code violations. The *moral manager* role of ethical leadership can be instrumental in this regard. While FIFA's code of ethics is quite clear in terms of the consequences members face for different breaches of the code (e.g. in relation to confidentiality and reporting), the same code has largely failed to guide FIFA's members and external stakeholders in a credible way over the past years. One of the main reasons for this missed opportunity can be found in the negative attention for FIFA's leadership and top-level organisational climate (e.g. BBC 2015, 2020). In addition, the international commotion after the removal of the word 'corruption' from FIFA's code of ethics in 2018 illustrates how the organisation has neglected to communicate clearly and—as a consequence—to inspire the global world of football they are both representing and (supposed to be) leading.

As evidenced in the codes of ethics literature, key stakeholders (both internal and external to the organisation) need to be engaged during code creation and revision processes to develop and sustain support for the content of the code (Constandt et al. 2019). Ideally, the content of the code is also both regulatory and inspirational phrased, while containing explicit guidelines and being easy to assess and understand (De Waegeneer & Willem 2019; De Waegeneer et al. 2016). To further ensure that the code of ethics is no empty box, specific attention should be dedicated to internal code enforcement (Slaughter et al. 2020). In this vein, existing research on codes of ethics in sport organisations points to such recommendations as installing an accessible helpdesk for questions and developing broadly communicated and available whistleblowing mechanisms and support (Constandt et al. 2019). Moreover, the code of ethics should also be embedded in a formal and broad organisational programme on ethics, which pays attention to such elements as recruiting new employees based on their moral awareness and conscientiousness (Slaughter et al. 2020).

Besides these above considerations that aim to foster both the internal creation, implementation, and enforcement of the code of ethics, external enforcement mechanisms and sanctioning are often required to render maximum code effect (Geeraert 2019). As many sport organisations—such as FIFA for at least a considerable part of its history—indicate a lack of accountability and a limited ability of self-control, external legislation, regulations, and sanctions are needed to assess whether the internal practices within the sport organisation under scrutiny are really in line with what their code of ethics seems to suggest (Bayle &



Rayner 2018; Geeraert 2019; Pielke 2013; Tomlinson 2014). Without hard controls, the positive impact of soft controls such as codes of ethics might be in vain (Kaptein 2021). Such external control and pressure is needed to prevent that valid critique on their operation is put aside as irrelevant by sport organisations that feel untouchable or ‘supreme’ (Tomlinson 2014). For example, the major 2015 FIFA corruption allegations were only turned into an actual case with broad consequences thanks to the continuous international and multisectoral pressure of different legal and political (e.g. a Swiss legal reform on private corruption and the interest of organisations such as the FBI and OECD), economic (e.g. major sponsors withdrawing their support), and media-related organisations (Bayle & Rayner 2018; Richau et al. 2019).

### **Avenues for future research**

Whereas research attention for codes of ethics in the context of sport organisations has increased over the past decade, much remains to be uncovered about their implementation and effectiveness. In general, studies on codes of ethics are seldomly based on a sound theoretical base (Kaptein, 2021). Therefore, we advocate forthcoming scholarship to apply a clear theoretical lens to enhance our understanding about why codes of ethics in sport are (not) making sense. Specific suggestions in this regard are (non) compliance theory (e.g. Geeraert 2019), norm focus theory (e.g. Slaughter et al. 2020), and institutional theory, critical discourse theory, and normative theories (e.g. Kaptein 2021). Moreover, we advise future research to look in-depth into the processes behind the creation and revision of codes of ethics in sport. To what extent are different groups of stakeholders consulted and is external pressure taken into consideration? As current scholarship often examines codes of ethics in certain isolation of the broader organisational environment, we believe there is also much potential in the study of codes of ethics in relation to the broader formal ethics programme (if present) and the culture and climate of the organisation (Kaptein 2015).

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