

Societal Change Through Sports

By

Keanu Luttig

Submitted in partial fulfilment of the requirements for the degree

MASTERS IN LAW

in the

FACULTY OF LAW

at the

UNIVERSITY OF PRETORIA

Supervisor:

PROFESSOR R CLOETE

Date of submission

July 2023

Declaration of Originality

Full names of student: Keanu Luttig

Student number: 15348025

Declaration

1. I understand what plagiarism is and am aware of the University's policy in this regard.
2. I declare that this dissertation (e.g., essay, report, project, assignment, mini-dissertation, dissertation, thesis, etc) is my own original work. Where other people's work has been used (either from a printed source, Internet or any other source), this has been properly acknowledged and referenced in accordance with departmental requirements.
3. I have not used work previously produced by another student or any other person to hand in as my own.
4. I have not allowed, and will not allow, anyone, to copy my work with the intention of passing it off as his or her own work.

Signature of student: Keanu Luttig



Signature of supervisor: _____

TABLE OF CONTENTS

Cover Page	1
Declaration of Originality	2
Table of Contents	3
Chapter 1: Research Proposal	7
1.1 Introduction	7
1.2 Aim	8
1.3 Problem Statement	9
1.4 Literature Review	9
1.5 Research Questions	10
1.5.1 What is the historical background of the different prejudices in the sports industry?	10
1.5.2 How have the laws governing these inequalities developed throughout history?	10
1.5.3 What is the stance of the current legislation governing these issues, where does it end, and can it be expanded? If so, how?	10
1.5.4 Can there be a contractual obligation placed on athletes as well as the various sports organisations to help the communities?	10
1.5.5 Is it possible to implement a pay cap within the world of sports to help ensure that there is equal pay for all?	10
1.5.6 Can social media prevent hate speech that stems from their networks as well as identify and sanction members of the public that use hate speech on their social media platforms?	10
1.6 Motivation	11
1.7 Delimitations	16
1.8 Methodology	16
1.9 Chapter Structure	17
Chapter 2: Historical Development of Systemic Injustices in sport	18
2.1 Introduction	18
2.2 Racial Discrimination	19
2.2.1 Origins of Racial Discrimination	19
2.2.2 History of Racial Discrimination in Sport	20
2.2.2.1 Slavery	20

2.2.2.2 The Holocaust	21
2.2.2.3 Racial Segregation	22
2.2.3 Effects of Racial Discrimination on Modern Society and Sports	25
2.2.3.1 Introduction	25
2.2.3.2 Sports During Slavery	25
2.2.3.3 Sports During the Holocaust	26
2.2.3.4 Sports During the USA Segregation	27
2.2.3.4.1 Baseball	27
2.2.3.4.2 Basketball	27
2.2.3.4.3 Football	28
2.2.3.5 Sports During Apartheid	29
2.2.4 Effects of Racial Discrimination on Modern Society and Sports	30
2.3 Gender Discrimination	33
2.3.1 Introduction	33
2.3.2 History of Gender Discrimination	34
2.3.2.1 South Africa	34
2.3.2.2 United States of America	35
2.3.2.3 United Kingdom	36
2.3.3 History of Gender Discrimination in Sport	37
2.3.3.1 South Africa	37
2.3.3.2 United States of America	38
2.3.3.3 United Kingdom	39
2.3.4 Effects of Racial Discrimination on Modern Society and Sports	39
2.3.4.1 South Africa	39
2.3.4.2 United States of America	41
2.3.4.3 England	43
2.4 Recommendations	45
2.5 Conclusion	45
Chapter 3: The Wage Gap and Capping Compensation in Sport	46
3.1 Introduction	46
3.2 The History of Wage Gaps	47
3.2.1 England	47
3.2.2 United States of America	48
3.2.3 South Africa	50

3.2.4 International Labour Organisation	51
3.3 The Fight for Equality in Sports	51
3.4 Closing the Gap	60
3.5 Conclusion	62
Chapter 4: Athletes' Contractual Obligation to Support Communities	63
4.1 Introduction	63
4.2 The Power of Sports	64
4.3 The Benefits of Stadiums in Communities	66
4.3.1 The Crowding Factor	67
4.3.2 The Substitution Factor	67
4.3.3 Leakages	67
4.3.4 Effect of Housing	68
4.4 Athletes' Legal Obligation	68
4.5 Conclusion	76
Chapter 5: Online Trolling and Hate Speech	78
5.1 Introduction	78
5.2 The Current Problem and How We Got Here	79
5.3 Prevention Methods and Legislative Protection Afforded	84
5.3.1 South Africa	87
5.3.2 England	88
5.3.3 United States of America	89
5.4 Can More be Done to Curb the Problem?	91
5.5 Conclusion	94
Chapter 6: Recommendations and Conclusion	95
6.1 Conclusion	95
6.2 Recommendations	96
6.2.1 Chapter 2	96
6.2.2 Chapter 3	96
6.2.3 Chapter 4	98
6.3.4 Chapter 5	98
Bibliography	102
Books	102
Case Law	103
Journals	103

Legislation	106
Websites	108

CHAPTER 1

RESEARCH PROPOSAL

1.1 INTRODUCTION

“Sports can create hope where once there was only despair. It is more powerful than governments in breaking down racial barriers. It laughs in the face of all types of discrimination.”¹

Sport has been a constant presence throughout history with its reach and influence expanding to the furthest corners of the world, making it one of the biggest entertainment industries in the world.² Since the revival of sports after the Covid-19 pandemic, the sports industry increased its revenue to +\$350 billion in 2021. The industry further built upon those numbers in 2022 with a 41.3% compound annual growth rate taking its 2022 revenue to +\$500 billion, with the expectation that it will climb further.³

Sport is a societal activity that has developed throughout time to become known as one of the leading sources of entertainment. Regardless of socio-economic background or personal opinions, sport has the power to bring a nation together during the most difficult of times or to destroy a nation’s hope of possible victory.

With the positive attributes of sports being highlighted, so too are the negatives magnified. This leaves the issues, such as racial and gender discrimination, wage disparity, and abuse from the public continually occurring in the industry.

In this dissertation, I aim to assess the concerns that sport and society have in common, where the relevant governing legislation has fallen short and analyse whether the sports industry, and its athletes coupled with the appropriate judicial remedy can utilise their collective influence to help make a change for the better.

To help assess whether this is obtainable I will be addressing topics such as equal pay for equal play with regards to decreasing the gender wage gap in sports and if it can have an impact on the wage gap faced in ordinary businesses. I will also be looking at racial discrimination in sports and how social media is being used to discriminate against people of colour whether they are athletes or not. I will do this by analysing the applicable legislation and case law of various countries around the world and exploring how sports can tackle these injustices.

These fundamental issues have been troubling both sports and society since women were excluded from participating in ancient Greek sporting events or when men

1 “Sports have the power to change the world.” - Nelson Mandela, Laureus Awards, Monaco, 2000.

2 Woods (2015) 60.

3 Research and Markets, Sports Global Market Report 2022, <https://www.prnewswire.com/news-releases/sports-global-market-report-2022-301500432.html>, published 10 March 2022, (accessed 15 June 2022).

created myths about women to prevent them from participating.⁴ In a perfect world, these injustices would have been eradicated long ago. However, these issues have forced themselves into existence. It is up to society to formulate ideas to combat these issues. This is why I believe that new strategies could be identified with this research to address this. Athletes have accumulated a large following, as is evident with Cristiano Ronaldo and Lionel Messi being the most followed people on Instagram. They have access to a larger audience and are pivotal in addressing these societal issues for future generations. This research would also show that these athletes and the organisations that employ them can be used as powerful tools to support and affect change in society for the people and the communities who face hardships and systemic injustices embedded in society.

There have been a few examples in history as well as in recent times of athletes using their influence to help people in need. This research aims to assess the governing legal system for each of these discriminatory topics and determine the necessary legal solutions which can be paired with the relevant sport or sporting based remedy to combat each form of discrimination towards necessitated societal change.

1.2 AIM

While athletes' status, power and income kept increasing, it was clear that something had to change in the relationship between athletes and the communities that support them. Two years ago, the world was devastated by the Covid-19 pandemic, with everyone struck by hard times. That is when I formulated the idea for this research. I believed that the people with more power, like athletes, could be doing more to help those in need. Through the difficult times that created the Black Lives Movement, we saw athletes and household names alike stand up and voice their concern for the injustices in the world. During the same year we saw the world hit by a pandemic leading to many people losing their jobs which led to people from all walks of life giving what they could to help others. Marcus Rashford (England and Manchester United football player) teamed up with the poverty charity FareShare to deliver meals to children who were no longer receiving their free school meals.

I wish to further understand and bring to light the power sport has beyond trophies and winnings. The fact that it has the power to bring conflicting nations together, inspires young athletes to follow their dream so they can later help struggling communities, or show women that it is good to stand up for what they deserve.

Any battle for change starts with one person, yet that person would be better heard when given a voice. I believe that athletes and sports teams can be the voice of the people who struggle against similar prejudice. People find strength when they know that they are not alone, and athletes can provide that sense of strength and togetherness. I aim to assess if more can be done by the sporting world to help tackle the problems that plague everyday life and assist in making real changes in the society that they live in.⁵

4 Clarke (1873) 100.

5 Woods (2015) 415.

1.3 PROBLEM STATEMENT

Systemic discrimination, where a group suffers at the hand of a larger institution/organisation due to a characteristic they possess, has been a problem in the world since time immemorial. Gender and racial discrimination, the wage gap, diminishing socio-economic infrastructure surrounding sports grounds and the expanding hate over various social media platforms are among the issues that have become prevalent in different communities worldwide.

These issues have seemingly evolved with time, embedding themselves into the technological progress being made, in the form of social media as it has become easy to create several fake accounts to abuse people. Cyberbullying in schools is a good example of this. It creates a system of abuse to the point where the people being victimised do not feel safe at home. There does not seem to be any person or group of people who can escape this harsh treatment. This prejudice also affects athletes. Athletes who have a string of bad results against their names receive this unfair treatment from fans who are supposed to uplift these players. In this dissertation, I will be looking at the similarities in the prejudices that these athletes and the communities face on a day-to-day basis and in doing so I will attempt to make recommendations on how to resolve these issues.

To assess which solutions would best suit the problems that are being faced, I will be looking at various methods of solving them. Firstly, I will be looking at the applicable laws and the accompanying case law to assess where there are any shortcomings in the scope of the law and how this legislation can be expanded to address these shortcomings. I will be exploring the possibility of inserting contractual obligations for teams and their athletes to step up and support communities. I aim to ensure that a wide-reaching group of athletes help the underprivileged. When it comes to racial, religious and disability discrimination most of this prejudice is now delivered and promoted on social media. These issues have always been present. Social media however provides a quick and efficient platform for these issues. Social media platforms have a responsibility and obligation to limit the amount of hate speech stemming from their networks.

When it comes to closing the gender pay gap and ensuring that there is gender equality, I would test the plausibility of a pay cap within a sports organisation where everyone (based on position within the organisation) men and women alike earn the same, making their extra pay from incentives and sponsorships and assess if this could work in ordinary businesses.

By the end of my research, I hope to conclude that a social activity such as sport, with immense influence, can prove that it is more than a source of entertainment but a means to help those in need and combat discrimination.

1.4 LITERATURE REVIEW

I will be relying on journal articles, legislation, and case law as my primary source of information. This research will not be limited to South Africa. A comparative study of England and the United States of America will be conducted. Foreign and local

legislation promulgated to prevent these inequalities, relevant international and South African case law and journal articles will be consulted. My secondary source of information will be books and websites/news articles to fill in any gaps.

1.5 RESEARCH QUESTIONS

- 1.5.1 What is the historical background of the different prejudices in the sports industry?
- To establish a unified sporting industry, we need to assess what path we took to get here, to ensure that we learn from our past and the necessary change can be made.
- 1.5.2 How have the laws governing these inequalities developed throughout history?
- Legal systems have been deployed across history to keep certain groups of people oppressed throughout all walks of life. It is therefore only fitting that the history of these laws is examined to determine if they are on the path to a more inclusive governing body.
- 1.5.3 What is the stance of the current legislation governing these issues, where does it end, and can it be expanded? If so, how?
- It is important to ensure that current legislation continues to evolve as society moves forward. Each individual is afforded the right to have their basic human rights protected through the relevant legal system, no matter how unique or different their characteristics appear to outside parties.
- 1.5.4 Can there be a contractual obligation placed on athletes as well as the various sports organisations to help the communities?
- Besides the governing principle of statutes and case law embedded throughout the legal profession, there is a duty to ensure that morals and ethics are upheld in every legal transaction, this extends to helping those who need it.
- 1.5.5 Is it possible to implement a pay cap within the world of sports to help ensure that there is equal pay for all?
- A common theme throughout the various sporting federations is that women are grossly underpaid. Therefore, legislation which deal with equal pay fall short of their intended purpose.
- 1.5.6 Can social media prevent hate speech that stems from their networks as well as identify and sanction members of the public that use such hate speech on their social media platforms?
- With the development of social media progressing at an alarming rate, we all find ourselves in uncharted territory, which has led to massive amounts of hate seeping through the cracks. Leaving the relevant legislation a step behind.

1.6 MOTIVATION

As per 1.5.1, 1.5.2 and 1.5.3:

What is the historical background of the different prejudices in sport and how have the laws regulating these inequalities developed throughout history?

Gender discrimination in sports

Although the number of women playing sports has increased, history has revealed that men dominated the sports field. In the past, women had to endure many challenges in the pursuit of their dreams both on and off the field. These challenges proved difficult to overcome as they would struggle to shake off the one-dimensional perspective that men and society had of them.

With this question, I aim to analyse the rise of women in sports throughout history and discuss the changes that the sports industry has gone through during that time.

During the Victorian era, the idyllic woman was gentle and frail. With these ideals, a system of sexism commenced which would be evident even to this day.⁶ With men influencing women to believe that they needed a man's validation to live a fulfilled life, men then progressed in making women feel subservient and unequal by conjuring up myths about what would happen if a woman participated in sports. A good example was that if a woman participated in any sport, it would damage her reproductive organs which would make her undesirable amongst men,⁷ or that women only had a limited amount of energy within them and by exerting themselves in tackling higher educational studies or participating in sport would cause them to give birth to weaker children.⁸

This entails that women were more often than not, deprived of necessities, such as sought-after education, employment where they could add a level of their expertise from studies and even basic human rights, which had been afforded to men.⁹ Despite being disadvantaged by this type of gender influence from such an early stage in history, women never relinquished their pursuance and continued to fight for equality within society as well as in sports. The 1900 Summer Olympics in Paris introduced women's events for the first time.

This was only the beginning, as more and more women joined the struggle with other women globally to achieve their rights to compete at the senior level and be awarded equal participation rights in sport and other areas - both causes began gaining momentum and led to Title IX of the Education Amendments of

6 Wei-Haas M & Mansky J, The Rise of the Modern Sportswoman, <https://www.smithsonianmag.com/science-nature/rise-modern-sportswoman-180960174/>, published 18 August 2016, (accessed 28 October 2021).

7 Clarke (1873) 100.

8 Park & Hult (1993) 35.

9 Pokharel (2008) 80.

1972 being signed by President Nixon.¹⁰ This legislation was evidence that women had all the defining attributes to succeed in the sporting and corporate world.¹¹ Numerous Acts were then implemented around the world, e.g. Equality Act,¹² the Sexual Discrimination Act in the United Kingdom,¹³ and the Promotion of Equality and Prevention of Unfair Discrimination Act in South Africa,¹⁴ which was published in context with the “right to equality” being written into the South African Constitution.¹⁵

The campaign that women set in motion and the laws that stemmed from their struggle, along with evidence of how women have achieved great heights in industry and are thriving in the modern world of sports, will be covered in more detail further on in this dissertation.

Racial discrimination in sports

Racial segregation in sports was something that most of the world was guilty of. Some of society would try to hinder the chances of people of colour making a future for themselves in sports by not allowing them access to proper equipment and sporting facilities, thus suppressing their potential. This went along with the noticeable presence of racial segregation in a society that ensured that people of colour and their communities were excluded from employment opportunities and from participating in sports. Most of these disadvantaged individuals were often personally captured or were descendants of people of colour that were ripped from colonies of the more powerful westernised countries and forced to live in a foreign place where the people treated them as lesser humans because they were different.¹⁶

This type of suppression was not the same as that which affected women in sports, as people of colour were allowed to play sports, but were not permitted to play in the same leagues as their white counterparts. Instead, they were forced to play in underdeveloped and underfunded leagues.¹⁷ This fight for equality was occurring on two fronts. Martin Luther King, Malcolm X and their followers in the United States of America fighting for progress with the race movement and athletes like Muhammad Ali, Jesse Owens and Jackie Robinson and many others ‘made waves’ in the sporting world.

This battle did not go unnoticed by the rest of the world. Athletes of colour made it impossible for the world not to notice and take cognisance of their achievements, however, they still continued to be grossly mistreated and undermined. This was evident in the disparity of their wages and position in industry and the pure lack of sufficient representation that would have enabled

10 Title IX of the Education Amendments Act of 1972.

11 Carpenter LJ & Acosta RV (2005).

12 Equality Act of 2010.

13 Sexual Discrimination Act of 1975.

14 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

15 S9 of the Constitution of the Republic of South Africa, 1996.

16 Kamasak, Ozbilgin, Yavuz & Akalin (2019) 109.

17 These leagues were the negro leagues, where an agreement was reached to let African Americans and to a lesser extent, Latinos compete but only against other people of colour.

them to rise to equal levels of their white counterparts.¹⁸ Athletes would experience most of the abuse as they would be subjected to aggressive sports enthusiasts during the game as well as aggressive citizens who despised them while out in the streets.¹⁹ Because of these instances, as stated before, several forms of legislation which sought to ensure equality for all, along with case law, such as the Equality Act in America,²⁰ the Equality Act in the United Kingdom, and Promotion of Equality and Prevention of Unfair Discrimination Act,²¹ and the Constitution in South Africa were approved and published for citizens to abide by.²²

This dissertation will delve further into this topic and take the reader through the history of racism in sports and assess how athletes of colour went from being grossly mistreated to being some of the biggest household names in modern sports. I will also be analysing how racism in sports manifests itself in the modern-day age.

As per 1.5.4:

Can there be a contractual obligation placed on athletes as well as the various sports organisations to help the communities?

Hardships have and will continue to be a challenge in communities throughout the world for the foreseeable future. The battle for equality still exists today, however, not in the same context as it did all those years ago.

The question is: shouldn't organisations worth billions of dollars, who have the means to solve many challenging issues, be more open and willing to help the communities?

Sports franchises and the athletes they employ, have often preached that they want to win or that they find their strength to fight for a win because of their loyal supporters.²³ This level of support radiates throughout the communities surrounding every sports franchise in the world. Unfortunately, these communities are often faced with hardships such as natural disasters, poverty, and unemployment.

Using unemployed community members to build massive stadiums could help improve their lifestyle and increase the employment rate within that community.²⁴ Yet you feel that the athletes themselves could be doing more to help the struggling people. Most athletes are oblivious and do not familiarise themselves with the issues haunting the surrounding communities.

18 Kahn (1991) 396-402.

19 Carrington B & MacDonald I (2001).

20 Equality Act of 1974.

21 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

22 Constitution of the Republic of South Africa, 1996.

23 Heere & James (2007) 319.

24 Wilkins (2016) 5.

Regarding the question above, I aim to analyse whether it is possible to negotiate and form a contract between the franchises and their surrounding communities which will place an obligation on the organisation to be moral corporate citizens by helping to uplift the people in the same manner the communities uplift them in the exercise of their sporting activities .

To answer this question, I will be using the different laws of contracts, from different countries, to assess whether this type of contract is possible. I will look at how other professions in society set up their pro bono agreements,²⁵ to see if it is possible to copy these agreements and insert them into an athlete's contract.

As per 1.5.5:

Is it possible to implement a pay cap within the world of sports to help ensure that there is equal pay for all?

Women have had to fight and struggle to get where they are now in the sports industry. Even when women were allowed to occupy any position in the workforce, they were not granted equal pay for equal work.²⁶ They have gone from not being allowed to participate in any form of sports to finally having their rightful seat at the table for athletes at the highest level. In some cases, women performing on the largest stage still experience being “held back” from reaching their true potential. The inequitable gender pay gap within sports is responsible for this as it is a huge demotivating factor in their performance.

In addressing the gender pay gap question, I will not be attempting to prove whether men and women should have an equal winning share at major sporting competitions, such as the FIFA World Cup. To achieve equal pay, women's sports events would need to be supported as much as men's events which will encourage higher earnings. Men's sporting events attract more supporters, television viewers, sponsors, social media, and interest from around the world.²⁷ The aim of the study is to address the topic of basic wages earned by athletes in different sports. Those are the figures that should be equal. Female athletes have not been rewarded the same as their male counterparts in sport have been earning. It is left up to them to fight for what they believe they should be rewarded in the sporting arena. This has been the case in history and remains the position today.²⁸ Athletes could still earn extra bonuses from the club for excellent performance, as well as continued sponsorship and/or endorsement from sponsors bearing in mind that sports men and women cannot pick the sponsoring organisation that chooses to be their face to the

25 Many professions partake in community outreach programmes where they offer their help for free to people who need it but cannot afford it.

26 Blau & Kahn (2017) 790.

27 The difference in winnings between men's and women's competitions, such as the FIFA World Cup, is rather sizeable with the latest men's tournament having a prize pool of \$400 million with the winners getting \$38 million, compared to the latest women's competition where the prize pool was \$30 million with the winner getting \$4 million.

28 Steidinger J (2020).

public. This is, of course, usually based on the success or reputation of a player or team.

To address this issue, I will first need to review the comparisons between the wages of women and men in sports. After I have gauged the gap between the basic wages of men and women, I will examine the legislation and case law that regulates this issue in several countries. This may include but not be limited to the Equal Pay Act,²⁹ Equality Act,³⁰ and the Sexual Discrimination Act of the United Kingdom;³¹ in the United States of America they also have an Equal Pay Act,³² and an Equality Act,³³ as well as case law such as the *Morgan v US Soccer Federation* matter.³⁴ Finally, I will look at the South African legal system in which we have s6(4) of the Employment Equity Act,³⁵ and s9 of the Constitution.³⁶

By scrutinising all the aspects that influence this topic I wish to find solutions that will benefit all athletes. A possible option would be along the lines of a wage cap, a maximum limit, where players of similar experience within their respective leagues get paid equal wages.

As per 1.5.6:

Can social media improve postings and broadcasts by eliminating hate speech or racist comments that find a home on their networks as well as identifying the members of the public that use hate speech on their applications and bring them to book?

The Internet has developed into something beyond what anyone could have imagined. It can be used as a tool to spread joy and knowledge or it could be used as a tool to spread hate.³⁷ Athletes often have to struggle with this when they fall in and out of form and it usually comes from a handful of “fans” who praise an athlete who is playing well but as things hit a rut, these self-proclaimed critics take to the various social media platforms to spread their hate speech usually in the form of racial discrimination.^{38,39} Of course, to be fair, this is not the case for every fan as there is often a group of fans who spread love and support in an attempt to counterbalance the hate. Unfortunately, a bad apple spoils the barrel and the players focus on the bad rather than the good, depending on their ability to shrug off or swallow the negativity. This negatively affects athletes (usually the younger and more inexperienced players as they

29 Equal Pay Act of 1970.

30 Equality Act of 2010.

31 Sexual Discrimination Act of 1975.

32 Equal Pay Act of 1963.

33 Equality Act of 1974.

34 *Morgan v U.S Soccer Federation* (2020), 2:19-cv-01717 (C.D. Cal.).

35 S6(4) of the Employment Equity Act 55 of 1998.

36 S9 of the Constitution of the Republic of South Africa, 1996.

37 Syed Idrus SZ & Hitam NA, (2014), 52.

38 Hate speech can be defined as the derogatory language used to belittle another person usually based on their appearance, beliefs, intelligence or humanity.

39 Kilvington & Price, (2019), 66.

have not yet learnt how to deal with these situations) which could demotivate them to such a point that they may want to quit the sport they have chosen.

Since most countries across the world have legislation that promotes freedom of expression and the social media platforms have a privacy clause which prohibits them from releasing your personal information⁴⁰ the fans that criticise players believe that they are within their right to spread these messages. The United Kingdom have Article 10 of the Human Rights Act,⁴¹ the United States have the First Amendment of their Constitution,⁴² and in South Africa, we have s16 of our Constitution.⁴³ What these fans fail to understand is that the legislation governing freedom of expression allows it as long as one person's free speech does not encumber another person's basic human rights.

With this research question, I aim to assess if social media platforms can do more to ensure that the people spreading the hate receive the punishment they deserve.

A solution which I will look into in more detail, is the addition of a clause in the Terms and Conditions when signing up to the platform, which would state that: "If a person spreads any form of discrimination, (determined by a test similar to the one in *Harksen v Lane*)⁴⁴ their accounts will be suspended and their information may be given to the appropriate authority so that legal action may be taken against them".

1.7 DELIMITATIONS

My focus throughout this study is to ensure that I explain how every sub-topic can make a societal change.

I must further ensure that my sources, specifically websites and news article sources, are reliable as the internet makes it possible for any argument to be supported.

Coming across reliable primary sources such as books/journal articles may become a challenge, as my topic seems to be outside of the scope of what has already been researched.

1.8 METHODOLOGY

While conducting my research I will aim to assess whether social change can be made through sports, as I believe that people with influence can help to tackle bigger social issues. My study will mainly be based on non-numerical data collection which is why I will be using qualitative analysis as my main methodology approach for this research paper. I will be combining this approach with a desktop study as well as a comparative analysis comprising,

40 S86 of the Electronic Communications and Transactions Act 25 of 2002.

41 Article 10 of the Human Rights Act of 1998.

42 The 1st Amendment of the United States Constitution, 1791.

43 S16 of the Constitution of the Republic of South Africa, 1996.

44 *Harksen v Lane NO and Others*, 1997 (11) BCLR 1489.

in the main, of South African legislation, case law, journal articles and news articles, as well as foreign legislation, case law and articles from the United States of America and the United Kingdom, in order to get the best possible understanding of how all the relative topics are dealt with around the world.

This dissertation will attempt to show (with reference to the supporting information mentioned above) that the injustices faced by average people in their everyday life are also plaguing high-end industries such as sports and the people within. The best way to demonstrate this is to analyse the relative documents with the above methodologies to see where we can improve and find solutions.

1.9 CHAPTER STRUCTURE

Chapter 1 – Deals with the introduction to my research topic. It will outline why I have chosen this topic and why I believe it is important and relative. It lays down the problem statement for the topic, the research questions I formulated, my motivations for deciding to use those research questions, and the methodology that will be used in my research paper as well as a chapter exposé and the literature review.

Chapter 2 – Deals with the historical background and development of the various prejudices that affect both the sporting industry as well as everyday life such as racial and gender discrimination. In this chapter, I will also discuss the various legislation from South Africa, the United Kingdom as well as the United States of America that regulate these injustices to see how they have developed into the laws they are now.

Chapter 3 – Examines the possibility of a pay equality in the workplace where both men and women will get paid equally based on the experience that they have.

Chapter 4 – Assesses the possibility of a contractual obligation on sports franchises/organisations as well as the athletes they employ to help the surrounding communities that support these athletes.

Chapter 5 – Discusses the impact of social media with regards to the amount of hate speech that is being pushed onto each network's platform and whether these companies can do more to cut down the negative comments made on their platforms and if they can help expose the people who are making these comments.

Chapter 6 – Examines possible recommendations and solutions that I have formulated to the applicable issues at hand and finally bring my topic to an appropriate conclusion.

CHAPTER 2

HISTORICAL DEVELOPMENT OF SYSTEMIC INJUSTICES WITHIN SPORT

2.1 INTRODUCTION

Throughout history, the struggle against any one of the various injustices faced by a group of people never stagnates in the place of its origin; rather it is the opposite as it looks to spread, like a symbiote,⁴⁵ always looking for its new host. I would not need to cast a wide net when searching for these various forms of discrimination. These can be found in three separate forms of discrimination that will be assessed in this dissertation.

The first is racial discrimination, where an entire group of people, people of colour, were and continue (just not with the same severity) to be harshly mistreated by another group of people, white people. The mistreated group were denied sufficient infrastructure in their communities as well as proper advancements in the workplace and schools. They were treated as inferior or even subhuman at times purely based on the colour of their skin, which tells us nothing about the qualities of any person except for the number of ultraviolet rays in their ancestry's place of origin.⁴⁶ Yet people throughout history have used this as an excuse to motivate the oppression and segregation of people with a higher melanin count.⁴⁷ This separation spilt out into almost every aspect of life, work, academia, social life as well as the segregation of sports.

The second form is gender discrimination. This form of discrimination does not have such a brutal and violent history as is the case of racial discrimination, but women have had to fight hard to shake off the label of second tier that was placed on them by men. Throughout history men created a criterion for what a woman needed, to be considered of value in this world. They then concocted myths and misconceptions to prevent women from participating in common aspects of life such as work, academia, and sports, to maintain this criterion.⁴⁸ These old fashion views have hindered women from thriving in today's society, and have forced them to battle for the equal respect and pay they deserve in everyday life, as well as on the sporting stage.

In this chapter, I will be assessing the development of the various injustices listed above. I will start at the history of each of the forms of discrimination and how they were used as tools to oppress different groups of people, as well as the relevant legislation and case law that has governed these issues, after finally arriving at their place in the modern world and how they have affected aspects of society including the sporting community.

45 An organism that needs to bond with another in order to stay alive. Oxford English Dictionary, 2nd ed., 2004 (Oxford: Oxford University Press), s.v. "Symbiotic".

46 Jablonski N.G and Chaplin G, (2010).

47 Melanin is a dark pigment in the skin or hair which causes the skin to change colour in sunlight. Oxford English Dictionary, 2nd ed., 2004 (Oxford: Oxford University Press), s.v. "Melanin".

48 Park & Hult (1993) 35.

Each of these various forms of discrimination has had different levels of severity on different groups of people throughout history. It should be explored as the impact of each will demonstrate how these forms of discrimination have survived as long as they have. In so doing, it will assist me in gaining a better understanding of the modern-day athlete affected by these issues.

2.2 RACIAL DISCRIMINATION

2.2.1 Introduction

Racism is defined by the Oxford Dictionary as “*the unfair treatment of people who belong to a different race, violent behaviour towards them, the belief that some races of people are better than others, or a general belief about a whole group of people based only on their race.*”⁴⁹

This issue has always been topical in our world and thus will continue to be discussed throughout society. Whether these discussions take place on an academic platform such as this one or on a more casual stage amongst friends or colleagues it is an issue that will always require attention until we prove we can make the progress of coming together as a community.

Today, many people believe that we have progressed beyond the concept of racism. On the surface, it could project that façade since our communities are more diverse and enriched with many different cultures nowadays compared to the more separate communities of the 1950s. Although that is the case, beneath these multicultural communities still lies the deep-rooted issue of racism which seeps through the cracks of our society.⁵⁰ It could be argued that the modern world we live in is just a product of the watered-down racism that has continued to appear throughout time, as there have been many situations where gross racial/ethnic discrimination has occurred around the world.⁵¹ The three major events that will be discussed in this chapter are slavery, the holocaust and racial segregation around the world.

With this topic, I aim to assess the effect that racial discrimination has had on the world. To do so I will be analysing racism throughout history by discussing what motivated this discrimination as well as the legislation, if any, that governed it. I will also be addressing the mark that racism has made on the sporting community throughout history which brings us to the modern-day and highlights how racism continues to disrupt society and the athletes within.

49 Oxford English Dictionary, 2nd ed., 2004 (Oxford: Oxford University Press), s.v. “Racism”.

50 Ungur S, Cristea D.I, Sabau A.M, (2018).

51 According to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Office of the High Commissioner for Human Rights, United Nations, 1965, it was concluded that there is no distinction between Racial and Ethnical discrimination.

2.2.2 ORIGINS OF RACIAL DISCRIMINATION

2.2.2.1 Slavery

Slavery is viewed as the starting point of, and the reason for modern, racial discrimination.⁵² It is difficult to pinpoint the exact dates in which the slave trade existed but it is believed to have spanned from 1526 to 1865, with approximately 12.5 million slaves being shipped from Africa.⁵³ This continued until 1865 when the United States of America passed the 13th Amendment which made it illegal to import any slaves into the country.⁵⁴ Decades later International Statutes would be enacted to support the abolishment of slavery and promote the Right to Freedom for all.^{55 56 57}

Slavery was taking place predominately in North America, which has some sense of irony as the United States of America is currently known as the land of the free when, in fact, it was built on slavery, and Western Europe which saw countries from these areas sail to African countries and forcefully take the indigenous people for the sole purpose of using them to complete the work that was considered undesirable for white people. African men were often used to complete more strenuous tasks such as working in the fields, while the African women were used for more onerous and delicate tasks such as housework.⁵⁸ These unwanted and gruelling jobs were handed to the African slaves with no compensation or basic human rights whilst consistently being exposed to physical and mental abuse from their white masters.⁵⁹ Thus, started a class hierarchy which saw people of colour, specifically black people, placed at the bottom.⁶⁰

Slaves were seen as less than sub-human as, according to the law, they were considered property of the people who bought them.⁶¹ The status of possession was passed down to the children of slaves as well.⁶² Survival of a child born into slavery was slim whilst those who did survive were put to work by the master who owned the parents.⁶³ Slave children were considered valuable assets to the slave economy as

52 Slavery is the system of people owning people then forcing the people they own to work extremely hard without any prospect of remuneration.

53 Mintz S, "Historical Context: Facts About the Slave Trade and Slavery", <https://www.gilderlehrman.org/history-resources/teaching-resource/historical-context-facts-about-slave-trade-and-slavery>, (accessed 11 January 2022).

54 The 13th Amendment of the United States of America Constitution, 1865.

55 Slavery Convention, Geneva, 1926, League of Nations, Treaty Series, vol.60.

56 Forced Labour Convention, Geneva, 1930, International Labour Organisation.

57 Universal Declaration of Human Rights, Paris, 1948.

58 Hallam J, "The Slave Experience: Men, Women and Gender", <https://www.thirteen.org/wnet/slavery/experience/gender/history.html>, (accessed 11 January 2022).

59 Hallam J, "The Slave Experience: Men, Women and Gender", <https://www.thirteen.org/wnet/slavery/experience/gender/history.html>, (accessed 11 January 2022).

60 Smedley A, "racism", Encyclopaedia Britannica, <https://www.britannica.com/topic/racism>, published 22 October 2021, (accessed 12 January 2022).

61 Hallam J, "The Slave Experience: Men, Women and Gender", <https://www.thirteen.org/wnet/slavery/experience/gender/history.html>, (accessed 11 January 2022).

62 Greene H (2004).

63 Hallam J, "The Slave Experience: Family", <https://www.thirteen.org/wnet/slavery/experience/family/history2.html>, (accessed 11 January 2022).

they would provide the continuation of free labour.⁶⁴ Besides the fear aspect of keeping the slaves under the thumbs of their masters the white people also created laws, referred to as Slave Codes,⁶⁵ which were used to control and exclude slaves in any form from what the masters wanted. Each area where slavery was present had its own slave codes.

The following are some of the laws that were used most frequently: movement restrictions which meant that a slave could not leave the plantation unless they had signed papers from their master, they were required to wear a tag that identified them as a slave;⁶⁶ marriage restrictions were also implemented to prevent slaves from marrying another slave from a different plantation to change masters;⁶⁷ there was also a prohibition of gathering to prevent large groups of slaves from congregating; there were laws relating to the punishment and killing of slaves that stated how a slave could be punished and that there was no penalty if a master accidentally killed their slave while punishing them;⁶⁸ and there were restrictions placed on education which stated that it was illegal to teach a slave.⁶⁹

This type of hate and discrimination was not exclusive to North America and Western Europe, racism began to spread across the globe with many countries assigning higher or lower statuses according to people's race, with those who were considered lower-class being exploited for hard labour.⁷⁰

In the 20th century, the oppressive nature towards people who exhibited different characteristics had shifted and people began to categorise people with different religions or cultures as inferior which gave way for the next major ethnic discrimination in our history, the Holocaust.

2.2.2.2 The holocaust

The Holocaust is considered one of the most horrific times throughout history, spanning from 1933 to 1945, and one of the worst attempts at cultural genocide.⁷¹ After Germany's defeat in World War I, a culture of antisemitism was embedded into the country's culture by Adolf Hitler and his Nazi Party. He and his political party labelled all Jewish people as sub-humans that did not deserve the same rights as German people (the Aryan race).⁷² This led to a manhunt of any person of Jewish descent or those with Jewish features. They were gathered and put into concentration camps where they would be forced to do manual labour or be killed if they were unable

64 Hallam J, "The Slave Experience: Family", <https://www.thirteen.org/wnet/slavery/experience/family/history2.html>, (accessed 11 January 2022).

65 Slave Codes were the laws and regulations in America to govern the enslaved people.

66 Greene H (2004).

67 Ingersoll T.N (1995).

68 Morris T.D (1999).

69 Sanders R, "A History to Remember", <https://inmotionmagazine.com/track.html>, published 12 September 1998, (accessed 11 January 2022).

70 Smedley A, "racism", Encyclopaedia Britannica, <https://www.britannica.com/topic/racism>, published 22 October 2021, (accessed 12 January 2022).

71 Cultural genocide is the systematic destruction of traditions, values, language, and other elements that make one group of people distinct from another.

72 Aryan race was a Nazi ideology in which the Nazi's believed that they were the Master race and everyone was beneath them.

to complete the work. When the Nazi Party came into power they enacted two pieces of legislation, on the 15th of September 1935, which were combined to become known as the Nuremberg Laws.⁷³

One law was the Reich Citizenship Law which stated that only a person of German or kindred blood could gain citizenship in Germany. This law claimed that Judaism was a race rather than a religion and that, according to this law, Jewish people were not citizens but instead they were “subjects” of the German state.⁷⁴ The second law was the Law for the Protection of German Blood and German Honour which criminalised the marriage and sexual relations between Jewish and non-Jewish Germans as it was considered race defilement.⁷⁵ The Nazi Party used these laws and the fear of capture/violence as weapons to control the Jewish people in the country to the point where those who could not flee the country would rather hide and risk starvation than get caught.

The Nazi propaganda was not isolated to just Germany as other people around the world began to believe the lies and hate that were radiating from Germany. Jewish people across the globe were beginning to fall victim to unwarranted abuse.

Whilst these events were unfolding in Europe leading to World War II, racial segregation had begun to plague various parts of the world, such as the United States of America, the United Kingdom, and South Africa.

This issue can be attributed to the current standing of racism in the world.

2.2.2.3 Racial segregation

The first instance of racial segregation is Apartheid (apartness) which occurred in South Africa between the whites (minority) and the non-whites (majority) and persisted in the country from 1948 to 1994. Racial segregation was a common practice within South Africa before this period due to the Native Land Act ratified in 1913.⁷⁶ Daniel. F. Malan and his National Party built upon this discriminatory Act when they were elected in 1948, thus starting the Apartheid era in the country. The National Party were able to keep Whites and Non-Whites apart through a series of different prejudicial legislation aimed at the “separate development” of the two groups. The two major Acts that assisted the National Party in enforcing their agenda were: the Population Registration Act,⁷⁷ which required all South Africans to be classified as one of four options, either Black (Bantu), Coloured (Mixed-Race), White or Asian (Indian/Pakistani) which allowed the government to separate individuals into their designated land once they knew this information.

The other legislation was the Group Areas Act (later the Lands Act).⁷⁸ These proportioned sections of land, for business and residential purposes, for each race,

73 Nuremberg Laws, 1935.

74 Nuremberg Laws: The Reich Citizenship Law, 1935.

75 Nuremberg Laws: Law for the Protection of German Blood and German Honour, 1935.

76 Native Land Act of 1913.

77 Population Registration Act 30 of 1950.

78 Group Areas Act 41 of 1950.

whilst the other races were prohibited from entering these areas.⁷⁹ By the end of the Apartheid era, over 80% of the land in the country was designated to the white minority. To make sure that Non-Whites were not entering the White areas illegally or without a valid reason, the Apartheid government required Non-Whites to carry official documents, known as a “dompas” or “pass” which permitted them entrance to white areas legally.⁸⁰

These two laws were the main foundation on which the National Party was able to build their Apartheid regime. Other legislation would later be enacted to help enforce the National Party’s goal of restricting Non-Whites from developing or progressing. The Bantu Education Act dictated the separation of schools,⁸¹ this ensured that people of colour were awarded their schools, however, not of the same quality as the schools that White people attended. This caused deterioration of Non-Whites’ education abilities before the race even began. The Prohibition of Mixed Marriages Act,⁸² and the Immorality Amendment Act,⁸³ made it illegal for a white person to marry or have intercourse with a person of colour.

If these legislations failed to enforce the National Party’s will to their satisfaction the Indemnity Act would help strengthen their hold on the people of South Africa.⁸⁴ In this Act, the police officials of the country were not held liable for any gross acts of violence they committed in the line of duty. This led to a rise in acts of violence committed against people of colour by the White police force with no consequence. The police force that was meant to protect and serve the community only fulfilled their duties to the white population.

This form of segregation was not just present in South Africa with people of colour suffering from racial prejudice; it was evident in North America, Western Europe, and Australia.

The racial segregation in Western Europe, specifically England, was present and harmful to those who fell victim to it, but it never reached the same severity as the segregation in South Africa or the United States of America. Black individuals, who immigrated from the Caribbean in search of a better life, were subjected to acts of violence from racist far-right groups such as the National Front throughout the 1970s and 80s.⁸⁵ Black footballers were also subjected to racist abuse on the pitch, in the form of chants, by the hecklers in the stands.

After the discrimination, poverty and the general feeling of being powerless in their new country had reached its boiling point, the Caribbean immigrants took to the streets

79 Britannica, the Editors of Encyclopaedia, “apartheid”, Encyclopaedia Britannica, <https://www.britannica.com/topic/apartheid>, published 30 September 2021, (accessed 12 January 2022).

80 A Dompas was an official document which black South Africans had to carry around with them to prove their identity and where they could live or work. Oxford English Dictionary, 2nd ed., 2004 (Oxford: Oxford University Press), s.v. “Dompas”.

81 Bantu Education Act 47 of 1953.

82 Prohibition of Mixed Marriages Act 55 of 1949.

83 Immorality Amendment Act 21 of 1950.

84 Indemnity Act 61 of 1961.

85 The National Front is a far-right, fascist, political party in the United Kingdom, which historically leans towards racial supremacism and Nazism.

and organised several protests around the country in an attempt to achieve equality and to improve their circumstances.⁸⁶ During the same period, a controversial and infamous speech was given by Enoch Powell, “River of Blood”, which was an attempt to warn people of the dangers of “Black immigration”.⁸⁷ Powell stepped away from the more conventional stage of politics and used instigation politics on the street which gained a large following of working-class citizens.⁸⁸ After Powell was sacked, the working class took up arms to protest against these actions which resulted in racist and anti-immigrant movements leading to several violent attacks on people of colour, which would later become known as “Paki-bashing”.⁸⁹ Where the segregation in South Africa and the United States of America was mandated by legislation and enforced by the fear of violence, in Britain, the racial injustices took the form of violence from the working class against people of colour which was fuelled by the propaganda of far-right politicians.

Racial segregation within the United States of America could be compared to the same level of severity as that of the racial abuse in South Africa. After slavery, it was believed that Black people would be granted equal opportunities due to the 13th,⁹⁰ 14th,⁹¹ and 15th Amendments.⁹² This was not the case as the government issued the Jim Crow Laws in an attempt to restrict the development of people of colour in the country.⁹³ This was a collection of rules that legalised racial segregation in the country.⁹⁴ Each State had their unique laws that sought to restrict African-Americans, some of the most common “black codes” amongst the different States were as follows: African-Americans had to live in a separate area from White people, they had to attend different schools,⁹⁵ they had to go to different facilities for recreational events such as restaurants, movies and sports, and they were not granted voting rights in the country.⁹⁶ These were all repelled in 1964 by the Civil Rights Act.⁹⁷ As if the odds were not stacked against them already, African-American people found it difficult to thrive and move forward in the country as they would fall victim to acts of violence at the hands of former Confederate soldiers employed as police officers.⁹⁸ They would also

86 “A Different Reality: Minority Struggle in British Cities”, (2011), Wayback Machine University of Warwick, Centre for Research in Ethnic Relations.

87 Hillman N (2008).

88 Street politics was a way for people to preach their ideologies to strangers passing by which would often get heated and turn violent.

89 Ashe S, Virdee S, Brown L (2016).

90 The 13th Amendment of the United States of America Constitution, 1865.

91 14th Amendment of the United States of America Constitution, 1868.

92 15th Amendment of the United States of America Constitution, 1870.

93 Jim Crow was a theatre character who applied black makeup to their face to portray a black person where they would make fun of black people, it was later adapted into a set of rules for black people to obey.

94 History.com Editors, “Jim Crow Laws”, <https://www.history.com/topics/early-20th-century-us/jim-crow-laws>, published 28 February 2018, (accessed 18 January 2022).

95 Brown v Board of Education of Topeka, 347 U.S. 483.

96 In 1965 this changed after the Selma- Montgomery march took place which led to the Voting Rights Act of 1965 being passed.

97 Civil Rights Act of 1964.

98 History.com Editors, “Jim Crow Laws”, <https://www.history.com/topics/early-20th-century-us/jim-crow-laws>, published 28 February 2018, (accessed 18 January 2022).

suffer at the hands of the Ku Klux Klan (KKK) who would deal out abuse and torture to people of colour as they deemed fit.⁹⁹

Now that I have assessed the history of racism and how racial discrimination managed to come into existence in our society, I will be looking at how these injustices affected the world of sports throughout history.

2.2.3 HISTORY OF RACIAL DISCRIMINATION IN SPORTS

2.2.3.1 Introduction

Sporting culture has always been seen as one of the most dominant cultural practices within a person's social life. It is also seen as one of the most influential methods of bringing people, of all backgrounds and cultures, together through the common goal of witnessing their team emerging victorious. This has not always been possible through certain periods of history because sport mirrors the reality, which is dominant throughout society at that time, which means that if racial discrimination is present in society, sports will mirror this. Sports have never been granted immunity from the harsh treatment of racism. Throughout history, athletes of colour, in the different segments of sports, have had to navigate the abuse dealt to them both on and off the field. This abuse took various forms which all depended on the era in history, whether it was slaves being forced to participate in boxing against each other for the entertainment of their masters, or Blacks in the 50s-70s as well as their families receiving death threats for merely doing what they were employed to do. Finally, the abuse can be seen in its latest form which is racial abuse on social media.

I aim to look through history and assess how racism in society spilt over into sports and affected the athletes through different periods. This will allow me to find out how we have managed to get to where we are today. To assess this history, I will be looking into sports during slavery, sports through racial and ethnic segregation in the United States of America and Western Europe, and finally sports during Apartheid in South Africa.

2.2.3.2 Sports during slavery

From the antebellum era to the mid-20th century people of colour were subjected to gross acts of discrimination and oppression around the world¹⁰⁰ as is made clear from the information provided above. The institution of slavery was the divide between different races which saw people of colour, predominantly Black people, stripped of their basic human rights. During this period of slavery, there was no chance given to Black people to participate in any form of leisure or recreational activities such as sport.¹⁰¹ Only a handful of sports and sporting venues allowed slaves to take part in sports.¹⁰² However, their roles in these situations were one of subordination to their

99 The Ku Klux Klan were and still are a bunch of far-right, white supremacists who commit hate crimes against non-white people across America. They operate with less publicity now than when they first started but their beliefs still run strong in their communities.

100 The antebellum era is the name given to the time between the formation of the United States of America government and the outbreak of the Civil War (1832-1860).

101 Wiggins & Miller (2003) 7.

102 Wiggins & Miller (2003) 9.

white masters who would buy and sell slaves for their entertainment.¹⁰³ Plantation owners would often buy slaves who exhibited excellent physical attributes such as strength, agility, endurance or speed. Plantation owners would enter their slaves into events such as boxing, wrestling, and foot races as well as allow them to be jockeys, only under white supervision, as it was an exercise that no white person wanted to do.¹⁰⁴

The process used to acquire slaves can be compared to the scouting process of the NFL (National Football League)

2.2.3.3 Sports during the Holocaust

The life of a Jewish person before the Holocaust was one enriched with creativity, culture, religion, and tradition. Across Europe, many Jewish people competed in various forms of sports, with some going on to set records as well as competing in the Olympics.¹⁰⁵

These are a few of the many talented Jewish athletes that were successful around the world: Lilli Henoch, who was of Jewish-German descent, set World Records in discus, shot put and the 4 x 100m relay between the years 1922 and 1926. She and her family were later deported to the Riga Ghetto in Latvia, where she was shot in a mass execution by the Einsatzgruppe, a Nazi task force that specialised in finding Jewish people, in 1942;¹⁰⁶ Józef Noji, was one of the best long-distance runners to come out of Poland. He won the Polish 5 000m title 5 years in a row, from 1935 to 1939, as well as going on to compete in the 1936 Olympics. He was part of the Polish resistance to the Nazis which got him arrested and shipped to Auschwitz where, in 1943, he was shot dead.¹⁰⁷

Oskar Heks, was a Czechoslovakian long-distance runner who competed in the 1932 Olympics. He opted to exclude himself from the 1936 Olympics as he was Jewish and feared for his life. He lost his life in 1944 whilst in Auschwitz.¹⁰⁸

Once the Nazi Party was elected to power, the Jewish culture found it difficult to thrive as it once did. As the manhunt for Jewish people intensified, the athletes who had once succeeded for Germany were trying to escape the atrocities that would befall them if caught. Just as the athletes mentioned above, many others lost their lives at the hands of the German government.

103 Franklin & Moss (1994) 129.

104 Rhoden (2006) 47-48.

105 Yad Vashem, Jews and Sport Before the Holocaust,

<https://www.yadvashem.org/yv/en/exhibitions/sport/index.asp>, (accessed on 20 January 2022).

106 Dennehy C, Remembering the Star Athletes Whose Lives Were Touched by the Holocaust, <https://worldathletics.org/news/feature/athletes-holocaust-kusocinski-ladany-jacob>, published 27 January 2021, (accessed 25 January 2022).

107 Dennehy C, Remembering the Star Athletes Whose Lives Were Touched by the Holocaust, <https://worldathletics.org/news/feature/athletes-holocaust-kusocinski-ladany-jacob>, published 27 January 2021, (accessed 25 January 2022).

108 Dennehy C, Remembering the Star Athletes Whose Lives Were Touched by the Holocaust, <https://worldathletics.org/news/feature/athletes-holocaust-kusocinski-ladany-jacob>, published 27 January 2021, (accessed 25 January 2022).

2.2.3.4 Sports during the USA segregation

For most of the 20th century, the American sporting world, just like their society at the time, was segregated. In addition to the segregation and fear of abuse faced in everyday life, African-Americans were also not allowed to play sports against white people. Every sport in America, namely baseball, basketball and football, became segregated at various times with each also reaching the goal of integration at different stages. African-Americans had to go from employment conditions where they were constantly degraded and abused,¹⁰⁹ to sporting conditions where they were barely paid anything, subjected to constant abuse on and off the field,¹¹⁰ and had even less representation to fuel the dreams of other younger generations.¹¹¹

2.2.3.4.1 Baseball

Baseball created a different set of leagues where Non-White players, predominately African-Americans (also Latin-Americans) could compete with each other.¹¹² These leagues were called the Negro National Leagues. They were introduced after the Civil War due to the popularity of baseball and segregation across the country.¹¹³ However, the majority of these African-American athletes were only in America due to the slave trade which saw their ancestors and family ripped out by the roots.¹¹⁴ Only for them to be treated as lesser human beings and constantly being subjected to physical and emotional abuse.¹¹⁵ In 1876, the owners of the National League, the league for White players, struck a gentlemen's agreement to exclude players of colour. Rube Foster created the National Negro League in 1920, and it continued to enjoy its success until the integration of Jackie Robinson in 1947, which saw an enduring flow of African-American talent into the National League. By the 1960s, the remaining Negro National League teams had fallen away. In 2020, Rob Manfred, the Commissioner of Major League Baseball (MLB), released a statement acknowledging the seven Negro Leagues as Major Leagues with the players' statistics being placed into record books.¹¹⁶

2.2.3.4.2 Basketball

The early era in professional basketball for African-Americans became known as the "Black Fives" era.¹¹⁷ This period paved the way for modern basketball and has a legacy that is still experienced in today's game.

109 Kahn (1991).

110 Carrington B & MacDonald I (2001).

111 Kahn (1991).

112 Kiefer M, Racial Segregation in American Sports, <https://sportsconflict.org/racial-segregation-american-sports/>, (accessed on 25 January 2022).

113 History.com Editors, Negro League Baseball, <https://www.history.com/topics/sports/negro-league-baseball>, published 13 April 2017, (accessed 25 January 2022).

114 Kamasak, Ozbilgin, Yavuz & Akalin (2019).

115 Kamasak, Ozbilgin, Yavuz & Akalin (2019).

116 History.com Editors, Negro League Baseball, <https://www.history.com/topics/sports/negro-league-baseball>, published 13 April 2017, (accessed 25 January 2022).

117 This refers to the segregation between the white and non-white leagues in America, and the 'five' refers to the number of starters allowed on the court per team.

In 1907 the first independent Black basketball side was founded by the Smart Set Athletic Club in Brooklyn; this opened the gate and allowed other Black players across the country to start their independent teams. They were not allowed to use White facilities so they would get creative and hold games in church basements or any space they could get their hands on.¹¹⁸

With the National Basketball Association's (NBA) creation in the 1950s, it shut the door on almost 50 years of African-American excellence and segregation in basketball. The turning point of racial integration occurred in the 1949/50 season due to Jackie Robinson breaking barriers in the MLB. Chuck Cooper, the first African-American to be drafted, Nathaniel "Sweetwater" Clifton, the first African-American to sign an NBA contract, and Earl Llyod, the first African-American to play a game.¹¹⁹ These athletes would go on to break down the race barriers in the NBA and witness them usher in future generations of athletes who would take the NBA to new heights, such as Wilt Chamberlin, Michael Jordan, Kobe Bryant, LeBron James and Steph Curry.

2.2.3.4.3 Football

In the 1920s professional football struggled to stay in business for long as the concept of a pro-football league alluded to a then baseball-dominated America. It was for this reason that the National Football League (NFL), unlike the MLB, would have a handful of African-American players.¹²⁰ The owners were too desperate to chase them away and the rest of America did not care enough to protest their inclusion. Even with hints of desperation emanating from NFL owners the African-American athletes were still treated as sub-human and subjected to discriminatory and hostile work environments, including lacklustre facilities and constant abuse from fellow players and fans alike.¹²¹

In a surprise decision in 1933, which no franchise owner has owned up to, the NFL decided that it would not allow African-American players to participate in the league.¹²² Redskins owner, George Marshall was believed to be the instigator, as after he died his will stated that none of his funds may be used for any cause that supports racial integration.¹²³ The irony is that approximately twenty years after his death, the Redskins fielded the first African-American Quarterback, Doug Williams, to win the Super Bowl in 1986.¹²⁴ Once the NFL began its integration policy African-American athletes' representation increased from 12% of the rosters in 1960 to 67% in 1997.¹²⁵ Since then, African-American players like Marshawn Lynch, Lamar Jackson and Odell Beckham Jnr have taken the league by storm.

118 Kahn (1991).

119 Gay s, The Black Fives: A History of the Era That Led to NBA's Racial Integration, <https://www.sportingnews.com/ca/nba/news/the-black-fives-a-history-of-the-era-that-led-to-the-nbas-racial-integration/8fennuvt00h11odmregcrbtj>, (accessed 26 January 2022).

120 Smith T.G (1988).

121 Carrington B & MacDonald I (2001).

122 Smith T.G (1988).

123 Smith T.G (1988).

124 Coates T, A History of Segregation in the NFL,

<https://www.theatlantic.com/entertainment/archive/2011/11/a-history-of-segregation-in-the-nfl/248625/>, 17 November 2011, (accessed 26 January 2022).

125 Lomax M.E (1999).

2.2.3.5 Sports during apartheid

The institution of white dominance in South Africa was extreme on and off the field. Where other racially segregated countries were able to make progress towards integration, equality, and freedom for all through sports, as discussed above, this was not the case in South Africa as the people who controlled professional sports arenas and sports administrators had a parallel goal with government, which was to purposely exclude any person of colour from participating in sports.¹²⁶

Back then soccer was considered a sport for Black people, the leagues between White and Black people were still segregated. White people had the more developed South African Football Association (SAFA) while black people had the underdeveloped and underfunded South African Bantu Football Association.¹²⁷ This was supported by the 1956 policy passed by the Apartheid Government which stated that black and white athletes could not play sports together and only white athletes could represent South Africa at an international level.¹²⁸

The discrimination did not stop at the administrative level of South African sports. Restrictions were placed on Non-White spectators, with the different race groups falling victim to racial separation at the stadiums.¹²⁹ People of colour were not completely banned from the stadiums however they were required to use separate entrances, seats and facilities from the white people. These were often not looked after and were of the poorest quality.¹³⁰

The Apartheid government were so deeply rooted in discriminatory ideologies that they were willing to accept economic and sporting sanctions from the world rather than integrate equality into the country. These sanctions came in various forms such as the banning of SAFA by FIFA in 1964 due to the racist practices of SAFA.¹³¹ In 1963, the IOC banned South Africa from the Olympics due to their reluctance to heed their warning regarding the racial practices in the country, and would only reinstate them once they renounced these practices.¹³² In 1985, at the Commonwealth Summit, Margaret Thatcher agreed, on the advice of third-world leaders, to impose sanctions on South Africa.¹³³¹³⁴ The United Nations (UN) placed restrictions on South African weaponry in an attempt to maintain peace through a few arms embargoes.¹³⁵ Finally, the United States of America enacted the Comprehensive Anti-Apartheid Act which

126 Corrigan M, International Boycott of Apartheid Sport, <https://www.sahistory.org.za/archive/international-boycott-apartheid-sport-mary-corrigan>, published 15 August 2016, (accessed 27 January 2022).

127 Stevens S (2016).

128 Stevens S (2016).

129 Nixon R (1992).

130 Corrigan M, International Boycott of Apartheid Sport, <https://www.sahistory.org.za/archive/international-boycott-apartheid-sport-mary-corrigan>, published 15 August 2016, (accessed 27 January 2022).

131 Nixon R (1992).

132 Nixon R (1992).

133 Lelyveld J, Thatcher accepts limited sanctions on South Africa, <https://www.nytimes.com/1986/08/05/world/thatcher-accepts-limited-sanctions-on-south-africa.html>, published 5 August 1986, (accessed 27 January 2022).

134 Wintle C (2016).

135 United Nations Security Council Resolution 282 of 1970; 418 of 1977; and 591 of 1986.

saw them impose sanctions on South Africa until 1991 when steps towards equality were taken.¹³⁶

With the fall of the Apartheid government and their discriminatory rules, the country began to heal, and the people of the country needed to try to set aside their differences to move forward. Sports gradually brought the same tool that divided the country back together. Sport can bring people of all backgrounds together and we have witnessed that first-hand in the 1995 Rugby World Cup, 1996 African Cup of Nations, 2007 Rugby World Cup and 2019 Rugby World Cup when winning those trophies united all of us.

The past has been a rocky one, but it has gotten us to a time in our existence where we must take in all the bad that has happened and learn from it in order to build a better life that does not involve people being mistreated due to the colour of your skin. In paragraph 2.2.4 below, I will assess how this discriminatory past has affected modern-day sports and the athletes.

2.2.4 EFFECTS OF RACIAL DISCRIMINATION ON MODERN SOCIETY AND SPORTS

Racist behaviour from fellow athletes has been declining in recent years indicating that athletes believe that they and their colleagues have put in the hard work and deserve to be where they are. Talent respects talent. However, on the society/spectator's side of the coin racial abuse has still been very prominent in more recent years. Under this heading I aim to address how racial discrimination has affected modern-day sports. To assess this topic, I will be looking at instances where racial discrimination has affected sports, how they were handled, and the impact they made on society and/or sports itself.

The first case is an event that occurred in 2009 at a tennis match, at the Eastbourne International in England, where Australian Brydan Klein called a South African a "kaffir".¹³⁷ The Association of Tennis Professionals (ATP) expressed that they have a zero-tolerance policy for such racist behaviour on their stage and issued Klein an initial fine of \$14 000, later adding \$10 000 to the original fine.¹³⁸ Tennis Australia also expressed their utter disappointment in Klein and reserved the right to issue any additional punishment as they saw fit; they handed Klein a six-month ban from tennis.¹³⁹ In my opinion, the ATP and Tennis Australia handled the situation very well as they did not care about his rank, his potential to succeed or how much revenue he would bring in for them. They held their ground on what was right and made sure Klein would suffer the consequences.

136 Comprehensive Anti-Apartheid Act of 1986.

137 Kaffir gets its etymological roots from an Arabic word which means "disbeliever" or "non-believer", but it was also used by white South Africans during Apartheid as a derogatory word towards black South Africans. Oxford English Dictionary, 2nd ed., 2004 (Oxford: Oxford University Press), s.v. 'Kaffir'.

138 Sky sports, Aussie Suspended for Racism, <https://www.skysports.com/tennis/news/12110/5422698/aussie-suspended-for-racism>, published 9 July 2009, (accessed 28 January 2022).

139 Sky sports, Aussie Suspended for Racism, <https://www.skysports.com/tennis/news/12110/5422698/aussie-suspended-for-racism>, published 9 July 2009, (accessed 28 January 2022).

Too many sports organisations around the world still avoid their chances of winning or earning revenue and therefore will not suspend their athletes. This is not for the greater good. Organisations must do what is best for society and not what is best for them as individuals. Athletes like Klein need to think before they behave in a racist manner because people look up to them and it sets an extremely poor example to fans and other sportsmen and women. The influence athletes have on their supporters is greater than they know and they should send out positivity rather than hate.

In post-Apartheid South Africa reconciliation needed to take place for the healing to begin. The 1995 Rugby World Cup was a good starting point with Chester Williams, the only Non-White player in the team, starring in his maiden competition. Besides, the joy felt from the victory experienced, South Africa was still in a bad place with inequality lingering in the air. The African National Congress (ANC) decided that to level the playing field Black Economic Empowerment (BEE),¹⁴⁰ later renamed and endorsed as Broad-Based Black Economic Empowerment (B-BBEE),¹⁴¹ would be instituted to assist Black individuals and communities to rise out of poverty.

On the sporting front, a quota system was set up to help bring Black athletes, who previously could not get into these positions due to Apartheid restrictions, to the forefront of our sports. This was met with mixed emotions as some people still believed that Black athletes were just selected due to the colour of their skin. I would have to disagree, as it is clear that we are a talent-thriving country that would not have survived if the Apartheid regime had not been dismantled. We have been blessed with talents such as Siya Kolisi who led us to victory in the 2019 Rugby World Cup, Kagiso Rabada who took the cricketing world by storm collecting stumps wherever he went, Wayde Van Niekerk who is the 400m world record holder, and many more who took South African sports to new heights.

In England, the Football Association (FA) created the Kick It Out initiative to help tackle all forms of discrimination, from Sunday Leagues to the English Premier League, to ensure that football succeeds on a fair and equal playing field.¹⁴² When analysing the annual statistics for the 17/18, 18/19, and 19/20 seasons, I excluded the 20/21 season as there were no fans the entire season due to the COVID-19 pandemic. The statistics dropped and it would not be a fair reflection of the situation. I found that there continues to be an increase in acts of discrimination throughout the professional game, both the men's and women's leagues, at the grassroots level, this being the youth leagues, and finally on social media.

The table below indicates acts of discrimination in black and acts of racial discrimination in red.

	17/18	18/19	19/20
Pro game	214 (110)	313 (184)	446 (282)
Grassroots	105 (82)	109 (90)	94 (72)
Social media	201 (81)	159 (99)	121 (89)

140 BEE's aim was to broaden the participation of black people within the economy and redress inequalities put in place by the Apartheid government. It created a criterion and provided incentives to companies that complied with these standards.

141 Broad-Based Black Economic Empowerment Act 53 of 2003.

142 <https://www.kickitout.org/>, (accessed 28 January 2022).

Total:	520 (273)	581 (373)	661 (443)
--------	-----------	-----------	-----------

The social media aspect of discrimination will be discussed in more detail later in this dissertation. The above-tabled statistics are merely to reveal the issue at hand. In the 17/18 season, 52.5% of the reported acts of discrimination were race-related.¹⁴³ Those race-related discrimination numbers went up to 64.2% in the 18/19 season,¹⁴⁴ while the 19/20 season saw racial discrimination go up to 67% of the total number of acts of discrimination.¹⁴⁵ England has struggled to exhume footballers' racial abuse since the mid-20th century. The older footballers have learned to turn the other cheek. The most affected group are the younger footballers as they are still too young to know why they are being treated this way as well as the struggle to have to deal with the abuse which could prompt them to lash out or give up the game entirely simply so they will not face the abuse involved.

We are aware that the youth are the future, so it is imperative that the youth are motivated to follow their dreams and not harassed so that they are frightened away from participating. With the creation of social media, footballers now struggle to find an escape from the abuse as it follows them home. The FA are moving in the right direction with the implementation of the Kick It Out program however, in my opinion, it still has to be developed further, in collaboration with the police, so that there is a clear indication of punishment and encouraging people to rethink their actions. If that does not stop them, a fine and/or imprisonment should be implemented.

Besides steps and precautions taken to combat racial discrimination footballers, specifically black footballers, are still dragged through the mud and subjected to massive amounts of hate when they under perform. As was the case when Marcus Rashford, Bukayo Saka, and Jadon Sancho were exposed to online hate when they missed penalties during the 2020 European Championship.¹⁴⁶

Colin Kaepernick, a talented athlete that thrived in baseball and football, focussed on football and his decision paid off as he was drafted by the San Francisco 49ers in 2011. He was not the regular starter at the franchise but an injury to the 1st string Quarterback saw an opportunity fall into his lap and the young Kaepernick did not waste it. With him leading the offence the 49ers made it to their first Super Bowl in 18 years, losing narrowly to the Baltimore Ravens.¹⁴⁷ Fast-forward five years, to 2016, police brutality and the general hate of African-Americans in the United States are on the rise. Kaepernick decides that it is his duty as an African-American and a public figure, to do what is right, which was to sit down during the National Anthem in protest of the violence.¹⁴⁸ Nate Boyer, a former Green-Beret felt that this gesture was disrespectful towards the troops but the cause was something he eventually supported.¹⁴⁹ He emailed Kaepernick asking if they could speak about the protest. Kaepernick accepted and they both came to the agreement that it would be better if

143 <https://www.kickitout.org/>, (accessed 28 January 2022).

144 <https://www.kickitout.org/>, (accessed 28 January 2022).

145 <https://www.kickitout.org/>, (accessed 28 January 2022).

146 Evans AB, Agergaard S, Campbell PI, Hylton K, & Lennies V, (2021) 187-191.

147 Britannica, the Editors of Encyclopaedia, Colin Kaepernick, <https://www.britannica.com/biography/Colin-Kaepernick>, published 30 October 2021, (accessed 29 January 2022).

148 Muhammed EA & Thomas C (2022).

149 Muhammed EA & Thomas C (2022).

he were to kneel beside his teammates so he can display unity to the team. Boyer told Kaepernick he would be right behind him when he took the knee.¹⁵⁰ After a year of protesting Kaepernick decided to enter free agency, this would be the start of the decline of his career.¹⁵¹ Sponsors began to end their relationship with him, with Nike being the only notable sports brand to stick with him. Donald Trump also came out saying Kaepernick should leave America if he does not respect the country.

Roger Goodell (NFL Commissioner) issued an apology to Kaepernick as the organisation and the country should have heeded his concerns and he advocated for teams in the league to find a spot for Kaepernick. With teams all over the world now taking the knee before a game to show their support for the fight against racism.

This issue was poorly handled as it was something that affected most of their country, yet Americans, from the NFL to a presidential candidate, were quick to shun Kaepernick. People are quick to say that athletes should not mix sports with politics, but this is the furthest thing from politics. It was someone fighting for something they believed in while giving the voiceless a voice. More athletes who have the power to effect change should use that power constructively.

As is evident from the above cases, racism is still very prevalent in the modern sporting world, and will it continue to be like that until we stop letting a few bad apples ruin the batch.

In May 2020 an act of police brutality cost George Floyd his life which sparked the Black Lives Matter protests across the globe.

The remainder of this chapter will be used to discuss and analyse another form of discrimination which has been plaguing society. That takes the form of gender discrimination.

2.3 GENDER DISCRIMINATION

2.3.1 Introduction

Sexism is defined as any form of prejudice, stereotyping or discrimination based on sex, typically directed towards women.¹⁵² For centuries, women have been thought of as lesser than, a status which was pinned to them by the self-proclaimed dominant male. This subservient status has been embedded in our society, through the various gender roles assigned by cultures, since before the 19th century which has seen women being placed in positions such as caregivers or homemakers thus removing their drive to succeed as an individual.

This topic holds the same urgency as racial discrimination throughout society yet, in my opinion, the two issues seem unable to share the spotlight for awareness and run

150 Farmer S, The Ex-Green Beret Who inspired Colin Kaepernick to Kneel Instead of Sit During the Anthem Would Like to Clear a Few Things up, <https://www.latimes.com/sports/nfl/la-sp-kaepernick-kneel-boyer-20180916-story.html>, published 17 September 2018, (accessed 29 January 2022).

151 Britannica, the Editors of Encyclopaedia, Colin Kaepernick, <https://www.britannica.com/biography/Colin-Kaepernick>, published 30 October 2021, (accessed 29 January 2022).

152 Oxford English Dictionary, 2nd ed., 2004 (Oxford: Oxford University Press), s.v. "Sexism".

their contests for equality simultaneously. Making people choose a side for separate fights for parity leaves both causes on the back foot. Respect needs to be awarded to womenkind as a whole as they deserve to be recognised as the strong individuals they are.

It would be naïve to think that gender discrimination has been eradicated from the world just because women now hold positions of power in society and are no longer confined to predetermined roles. This does not mean that women are no longer subjected to discrimination but rather it indicates the next fight that they have to initiate to achieve the next step in equality. That fight takes the form of equal representation and equal wages. These standards of equality need to be applied across the globe as some countries fall behind when it comes to gender equality. Some countries and societies still do not allow women to vote, to obtain an education or drive a motor vehicle.

My goal with this topic is to shed light on gender discrimination and the effect it has had on women both in the office and on the sports field. To achieve this goal, I have broken this topic into three sub-topics: those being the history of gender discrimination, the history of gender discrimination in sports and finally how the first two aspects have affected the women's sporting community in present day society. With these topics, I intend to determine the progress that has been made over the years and if it is sufficient or not.

2.3.2 HISTORY OF GENDER DISCRIMINATION

The nature of gender discrimination is multifaceted, complex and beyond a reduction to a few core factors. With this topic, I will assess important moments in history that led to where we are today.

2.3.2.1 SOUTH AFRICA

South Africa is a country filled with beauty yet underneath all of that, the country was built on inequality, and discrimination towards the powerless, women included. During the 20th century, the Apartheid government worked harder than necessary to ensure that women and people of colour were oppressed. Gender discrimination was rooted in the multi-cultural communities as each culture perceived women as inferior and was indirectly supported by these women with their legislated compliance to these standards.¹⁵³ When considering the cultural aspect of gender discrimination, it seems that South Africa will continue to battle gender inequality unless we remain determined to move away from the old-fashioned cultural views of women.

In pre-colonial South Africa, women held a lot more power as they were considered the main agricultural producers in the country, but unfortunately, as farming became less valuable, women too lost their power.¹⁵⁴ Once the European colonialists arrived in South Africa, major changes began to occur that affected the women in the country. New laws were put in place that saw men being given more rights than women. One of the new laws included the regulations of women's access to land stating that their

153 Meer (1992) 31.

154 Baden S, Hassim S, Meintjies S, "Country Gender Profile: South Africa"

<http://womensnet.org.za/links/genderpr.htm>, published 23 April 1997, (accessed 2 February 2022).

access now solely depended on whether or not they were in a relationship with a man.¹⁵⁵ Boys were taught that they were strong and wise so they could provide for their wives, while girls were taught that they had to be hardworking and submissive to appeal to a man as 'wife material'.¹⁵⁶ It was apparent that society was not just going to change for women, they realised that if they wanted things to change they were going to have to fight for it and that is exactly what they did.

The Women's Suffrage Movement began in the 19th century in South Africa and, by the 1930's White women were given the right to vote, with women of colour being granted this right much later in 1980. As the Apartheid government began to dig their claws deeper into the oppressed group, women took up arms and decided to play a role in the fight against inequality in the country. By the 1970s there was an increased resistance with the movement beginning to talk about gender issues such as maternity leave, leading to the introduction of the Basic Conditions of Employment Act.¹⁵⁷ By 1992 the Women's National Coalition (WNC) was formed, and they drew up the Women's Charter of Effective Equality 1994.¹⁵⁸ As a result, the Bill of Rights and the Constitution ensured basic human rights for women, prohibiting gender discrimination and promoting women's equality.¹⁵⁹ The post-Apartheid government enacted the Commission for Gender Equality Act which outlined the functions of the Commission for Gender Equality to ensure the promotion and protection of gender equality throughout all aspects of life.¹⁶⁰

2.3.2.2 UNITED STATES OF AMERICA

Just like many other countries around the world, America's history is also plagued with the discrimination and oppression of women.

In the 18th century, English Common Law was the base of the legal systems used by American colonies. One of these laws that made it to America stated that when a man and woman get married, they become one legal entity and the legal existence of the woman is suspended through the marriage or it is incorporated into the husband's legal existence under whose wing and protection she operates.¹⁶¹ All states passed laws that prohibited women from voting; this would only be rescinded in 1920 with the 19th Amendment.¹⁶²

The 1960s saw a lot of progress being made in the fight against gender inequality in America with the Equal Pay Act which sought equal pay regardless of sex, race or religion;¹⁶³ Title VII of the Civil Rights Act set the prohibition of employment discrimination;¹⁶⁴ *Weeks vs Southern Bell* saw a victory in the fight against restrictive

155 Baden S, Hassim S, Meintjies S, "Country Gender Profile: South Africa"

<http://womensnet.org.za/links/genderpr.htm>, published 23 April 1997, (accessed 2 February 2022).

156 Bwakali (2001) 270.

157 Basic Conditions of Employment Act 3 of 1983.

158 Women's Charter of Effective Equality, 1994.

159 Constitution of the Republic of South Africa, 1996.

160 Commission for Gender Equality Act 39 of 1996.

161 Blackstone (1962).

162 The 19th Amendment of the United States of America Constitution, 1920.

163 Equal Pay Act 1963.

164 Title VII of the Civil Rights Act 1964.

laws thus opening male-only jobs to women;¹⁶⁵ *Griswold vs Connecticut* overturned the prohibition of contraceptives used by married couples.¹⁶⁶ The exclusion of women from the education system was also prohibited by Title IX of the Education Amendment Act.¹⁶⁷

2.3.2.3 UNITED KINGDOM

Women's suffrage movements have occurred across the globe with the main goal of gaining the basic human right to vote for the political party of your country. Women have obtained this right at various stages of history, New Zealand allowed their women to vote in 1893, whilst Saudi Arabia only granted their women this right in 2011. This right is usually granted to women after many years of fighting and determination.

In England, these movements attempted to achieve this goal through peaceful means, while the suffragettes within the movements, chose a more aggressive approach such as entering parliament to heckle its members or even chaining themselves to the property whilst taking abuse from the media and the police. The fight paid off as in 1918 women over the age of 30 were allowed to vote and from 1928 women over the age of 21 could vote.

The extent of a woman's rights in England would solely depend on a woman's marital status with her historical role being to raise a child. They were also denied the opportunity to own any land. The law even placed restrictions on a woman's right to inheritance as England had primogeniture succession, which meant that daughters would only inherit if the deceased lacked male children. This only changed in 2013 with the Succession to the Crown Act.¹⁶⁸ England had obscure rules when it came to women and marriage. The Married Women's Property Act was one of them which stated that the woman was the man's property,¹⁶⁹ children from the marriage were also the property of the man, and finally, because a woman was her husband's property a husband could not rape his wife as her consent was assumed upon marriage. This was outlawed in 1991.

Just like many other aspects of life as a woman in England, schooling was also off-limits. When women were lucky enough to receive some form of education it often revolved around the focus of housework so that they could thrive as wives and mothers, whereas men received more mathematical or scientific-orientated education. The education of a woman would also depend on her class/status in society. If she was a higher-class lady her education would focus more on becoming an obedient wife while lower-class women were taught to be domestic workers.

It is quite evident that most of the world began by treating women within their societies as inferior. While many countries have taken steps in the right direction to erase the gap left by these prejudicial times, women are still excluded from every aspect of life whether it is on an employment level or a recreational level such as being denied access to participate in sports.

165 *Weeks v Southern Bell Telephone and Telegraph Company*, 408 F. 2d 228 [5th Cir. 1969].

166 *Griswold v Connecticut*, 381 U.S. 479 (1965).

167 Title XI of the Education Amendment Act of 1972.

168 Succession to the Crown Act of 2013.

169 Married Women's Property Act of 1870.

2.3.3 HISTORY OF GENDER DISCRIMINATION IN SPORTS

2.3.3.1 SOUTH AFRICA

As discussed previously, the governing policies of the Apartheid government seeped into every aspect of life throughout the country. Sports was no exception to this and thus conveyed the oppressive political views that were dominant within the country at the time. Even though there were no express laws prohibiting White or Non-White women from participating in sports. A large number of social norms regarding women and the enforcement of these policies made it very difficult for these groups to partake.¹⁷⁰

When it came to a representative body for the fight for non-racial sports during Apartheid, the South African Council on Sports (SACOS) was created to fill this void.¹⁷¹ Men and women would work together to arrange sporting fixtures which would serve as a cover for their political meetings.¹⁷² However, when it came to the main objective of SACOS, the actual sports, the body was gendered with the majority of its funding going to the men's teams, with the women having to work a lot harder just to keep their side of sports alive.¹⁷³ During these tough times when men and women of colour were fighting together, women still found themselves at the bottom of the gender and class structure. The combination of racial and gender discrimination would set the Non-White women's sporting community back even more. With the implementation of the Separate Amenities Act, women of colour had lost rights over any facility, with men of colour having priority.¹⁷⁴

In 1988 SACOS hosted its second sporting festival for non-racial sports which was known as the "Olympics of the Oppressed", where the best of the best could show up and compete.¹⁷⁵

Despite all the hardships faced, the obvious lack of resources and the relentless efforts to keep them down, women of colour still managed to keep their sporting hopes alive. This instilled a resilience in the generations to follow which produced some incredible athletes, such as Caster Semenya (a World Record holder), Portia Modise (the top goal scorer for Banyana Banyana), and Shabnim Ismail (the all-time leading wicket-taker in one-day Internationals and T20i).

During this period, white women would also set out and attempt to break down the barriers within sports. They would start their soccer league which became popular amongst women. A young athlete named Zola Budd took the athletic world by storm but unfortunately could not represent South Africa due to the sanctions placed on it which led to Budd representing Great Britain at the Olympics, however, she did represent South Africa in the 1992 Olympics. Elana Meyer also represented South

170 Hain P (1982) 243.

171 Hargreaves J.A (1997) 195.

172 Hargreaves J.A (1997) 195.

173 Hargreaves J.A (1997) 196.

174 Separate Amenities Act 49 of 1953.

175 Hargreaves J.A (1997) 197.

Africa at the 1992 Olympics where she became the first woman to win a medal for the country after the sanctions.

White women did not take part in non-racial sports as they were led to believe that there was racism in the country. This form of propaganda exposed to the youth is how the government were able to keep groups oppressed.

2.3.3.2 UNITED STATES OF AMERICA

During the 19th century, it was a common misconception that people had a fixed amount of energy, and physical or intellectual activities would deplete this energy,¹⁷⁶ this was more specifically related to women. Therefore, women would only partake in sporting activities, such as horseback riding, swimming and showboating, for fun rather than as competitors.¹⁷⁷

Towards the end of the 1880s, women began to get more competitive and formed informal clubs across the country. With Colleges sponsoring co-ed competitions. However, even though colleges allowed them to compete they would all compete against other students and never against other colleges.¹⁷⁸ This was the main method for women's participation at the collegiate level.

Women physical educators set out to bring sports and education together for women but around the same period the American College Athletics Report was released by the Carnegie Foundation for Advancement of Teaching which stated that college sports were a money field waiting for them to harvest it, so they wanted to "give athletics back to the boys".¹⁷⁹ This led to the creation of the Women's Division-National Amateur Athletic Federation (NAAF) to spread and organise intercollegiate competitions for women.¹⁸⁰ With the goal of "play for play's sake", limited awards and travel, protected the participants from exploitation and placed qualified women in charge of the athletes.¹⁸¹

With the approach of the great depression leaving many without jobs, a campaign to keep women at home and out of the workforce, to make room for jobs for unemployed men, left the fight for equality at a standstill.¹⁸² This changed with the start of World War 2 and the drafting of most of the men thereto. Women were left to fill the gaps that men left in the workforce and they were up to the task, thus thrusting the fight for equality forward.¹⁸³ World War 2 also left the majority having withdrawal symptoms from their favourite pastime, baseball. Enter the All-American Girls Baseball League to fill that gap and increase the competitiveness and number of organisations in women's sport.¹⁸⁴

176 Park & Hult (1993) 35.

177 Gerber E.W, Felshin J, Berlin P & Wyrick W (1974) 562.

178 Hult J.S (1994).

179 Thein J (1994).

180 Park & Hult (1993) 35.

181 Gerber E.W, Felshin J, Berlin P & Wyrick W (1974) 562.

182 Lucas J.A & Smith R.A (1982).

183 Chafe W.H (1972).

184 Gerber E.W, Felshin J, Berlin P & Wyrick W (1974) 562.

With the introduction of Title IX in 1972, which prohibited gender discrimination in schools as well as school sports, America was on the right path to equality which would yield some of the best sporting talents in the world such as the Williams sisters, Simone Biles and Sha'Carri Richardson.

2.3.3.3 UNITED KINGDOM

England's sporting history has very few cases of gender discrimination in the history of their sports. The most notable one was the exclusion of women from football for 50 years, from 1921 to 1971, as they believed it was too physical for women.

Sports just like society have suffered because of discrimination and exclusion of women from participating, but one must not fixate on the bad that happen but rather look forward and mend the mistakes they made. The above information shows that these countries took steps toward mending their mistakes, even though they were not huge bounds. Under the next heading, I will discuss how the past has affected change in the modern sporting world.

2.3.4 EFFECTS OF GENDER DISCRIMINATION ON MODERN SOCIETY AND SPORTS

We are experiencing a period in our society where exceptional athletes are being moulded at every corner. We get to watch women's sport as it takes its place at the highest level where so many people have fought to get it there. At the same time, women's sport still has to close the gap, smaller now than 50 years ago, that was left by our prejudicial past that left women in sports underappreciated, under-represented and overlooked.

It is therefore important to assess where women's sport falls today and the impact its discriminatory past has had on their gender group. To understand the full scope of this topic I will be looking at three different countries from around the world, South Africa, the United States of America and England, the legislation each country has enacted to balance out their previous discrepancies and finally women's representation within the three biggest sports of each country. Once I have assessed these issues, I will be able to determine if each country has sufficient gender equality in their sports or is at least taking the appropriate steps to reach equality.

2.3.4.1 SOUTH AFRICA

Due to the difficult times that women had to endure concerning sports during the Apartheid era, the post-Apartheid government decided to tackle this issue, along with racial discrimination, head-on to ensure that there was an equal opportunity to participate in the game they loved. To tackle these issues, they enacted several legislations aimed at combating women's participation in sports as well as being party to a declaration with the same goal. South Africa was one of the first nations to sign the Brighton Declaration in 1994.¹⁸⁵ This was an international treaty created by the International Working Group (IWG) on Women and Sports. Since then, this treaty,

¹⁸⁵ International Working Group on Women and Sport, Brighton Declaration (1994).

updated in 2014, has become the guide to supporting the development of a fair and equitable sports system which is inclusive of women.¹⁸⁶

Along with the Brighton Declaration, the South African government set in motion their blueprint for achieving equality. The government's solution to combat the exclusion of women in sports was to implement numerous policies which were aimed to ensure higher participation of women in sports. These policies included; the National Sport and Recreation Amendment Act,¹⁸⁷ which was enacted to redress the inequalities in sports and other recreational activities. This required sporting organisations to make provisions for women and disabled individuals at the highest level; the next one is the South African White Paper on Sport and Recreation, where the Department of Sports and Recreation pledged to put special emphasis on the inclusion and promotion of priority groups which included women;¹⁸⁸ the final policy is the Transformation Charter of South African Sport, which identified women as a marginalised group within sports and therefore called for increased access, representation and opportunities for women in sports.¹⁸⁹ The question I hope to answer is whether or not these policies have done their job and increased women's participation in sports.

For a country that thrives on sports, South Africa has not made sufficient progress regarding the participation of women in sports. When analysing representation statistics, it is important to note that they only serve as an outline of the problem and do not convey the complexity of social or societal views that contribute to gender discrimination within the country. Issues such as lack of access to sport at a school level discourage young girls; safety and transport issues frighten girls and therefore they would rather stay home; the social stigma that society is attempting to wash away still plagues women as some are bullied for playing sport; if a school does not offer sport for them, the girls are forced to look outside the school for clubs which costs money that many don't have; as girls go up levels in sport their facilities and general quality of the game/coaching decreasing below the level of the boys game which forces girls out; and finally the lack of sporting role models who take the focus away from the high standards of societal beauty and the pressure of their peers also leads to fewer girls playing sport. With South Africa developing into a Westernised country while still rooted in culture, traditional and tribal heritage also causes women to be stuck in two minds.

The above reasons when left unchecked to root themselves deeper into our society would leave women under-represented from a youth level right up to high-placed administrative positions within sport's governing bodies. A survey done in 2018 showed that the Department of Sports and Recreation of South Africa was male-dominated. At a Ministry level, there were 6 people, of which only 2 were female, showing male dominance at a political level.¹⁹⁰ While on a Directories level there were 33 women, these women held mostly assistant and secretary jobs.¹⁹¹

186 International Working Group on Women and Sport, Brighton Declaration (1994).

187 National Sport and Recreation Amendment Act 18 of 2007.

188 South African White Paper on Sports and Recreation (2012).

189 Transformation Charter of South African Sports (2012).

190 Department of Sport and Recreation South Africa (SRSA), Ministry, <http://www.srsa.gov.za/pebble.asp?relid=1347>, (accessed 15 February 2022).

191 Department of Sport and Recreation South Africa (SRSA), Directories, <http://www.srsa.gov.za/pebble.asp?relid=3>, (accessed 15 February 2022).

When it comes to female representation in the big three sports, soccer, cricket and rugby in South Africa, women's soccer would have the best representation throughout the different levels. At the youth level, South Africa has a u-17 girls' side (Bantwana), which means 'children', where their players are scouted from high school sides.¹⁹² The u-20 side (Basetsana),¹⁹³ meaning the 'girls' get their players from the youngsters in the women's national soccer league as well as the Varsity Cup, which was started in 2013 with four teams and has since grown to eight teams, displaying evidence of the progress being made in this sport. At the local senior level, there are three leagues, two provincial and one regional, which demonstrates good development through the ages to allow the Women's National side (Banyana Banyana)¹⁹⁴ to cast a wide net to find talent that would help them succeed on the international stage.

When it comes to rugby and cricket, they are far less represented. The South African Rugby Union's (SARU) and Cricket South Africa's (CSA) websites contain very little information with regards to women's sport and were more focused on the men's sides. For cricket, there was no mention of any youth levels. There are three provincial leagues, two T20 and one 50 over.¹⁹⁵ With rugby, there is also no mention of any youth level and only two leagues; a premier and first division, however, their records do not extend passed last year.¹⁹⁶ ¹⁹⁷ With no youth level to acclimatise these girls to the intensity and tempo of the game, it would be like throwing a baby into the deep end. The same could be said about a poorly structured league system that should actually ensure that a country's international players are at the forefront.

The legislation put in place by the government is not effective as the promotion of women's participation is not much higher than before and it is only a fraction of their male counterparts. An Act has just been put in place and left to rot with no further attempt to promote women's sports.

2.3.4.2 UNITED STATES OF AMERICA

America, like South Africa, also decided to tackle the issues left by its discriminatory past by enacting legislation. Similarly, to South Africa, they were also one of the signatories of the Brighton Declaration to improve the participation of women in sport.¹⁹⁸ To accompany that treaty they also enacted legislation which was aimed at the promotion of women in sports.

The most prominent is Title IX of the Education Amendment Act,¹⁹⁹ which prohibited any form of sexual discrimination within schools as well as in the sports played by them. The Office for Civil Rights provided a three-prong test for compliance with Title IX. First, was the Proportionality Test which assesses whether a school's athletic programs are proportionate to their student body i.e., If the school is 50% male and

192 <http://www.safa.net/womens-u17/>, (accessed 15 February 2022).

193 <http://www.safa.net/womens-u20/>, (accessed 15 February 2022).

194 <http://www.safa.net/banyana-banyana/>, (accessed 15 February 2022).

195 <http://cricket.co.za>, (accessed 15 February 2022).

196 <http://www.sarugby.co.za/tournaments/women-s-premier-division/>, (accessed 15 February).

197 <http://www.sarugby.co.za/tournaments/women-s-first-division/>, (accessed 15 February).

198 International Working Group on Women and Sport, Brighton Declaration (1994).

199 Title IX of the Education Amendments Act of 1972.

50% female, the sports played there must be a 50/50 split as well. The second test was for expansion to assess if a school with previously insufficient female representation was making plans to establish more women programs. The third prong was the Accommodating Interest Test which stated that if a school was not proportionate or did not have an expansion plan, the school could show compliance by proving that they meet the interests of the student body. Some say this legislation is a “quota” system and does not deal with discrimination outside of athletic programs. I do however believe that it is a good building block to make sports accessible to women. The other legislation came in the form of the Equality Act,²⁰⁰ which prohibits sexual discrimination, sexual orientation discrimination as well as gender identity discrimination. This was aimed at combating prejudice outside of the schooling system. The next step was to determine if these legislations had been successful in increasing women’s participation.

The most advanced representation within the three biggest sports, basketball, football and baseball, would originate at the hands of women’s basketball as they, unlike football or baseball, have an ever-growing and successful professional league for their women to thrive in. The Women’s National Basketball Association (WNBA) was founded in 1996. Twelve teams compete against one another with five of those teams having direct involvement in the NBA.²⁰¹ The youth development leading to the WNBA is also exceptional in America with high schools having their own competitive girls’ leagues, which then leads to the collegiate level where colleges are split into three divisions, depending on how good they are, set up by the National Collegiate Athletic Association to crown a National Champion.²⁰² This sets up a good developmental system which would ultimately support young women in achieving their goal of being drafted by the WNBA.

When it comes to the representation of women in football almost no progress has been made to set up a successful professional league. There have been many leagues over the years that have been formed and then dissolved due to a lack of funding or the unwillingness to pay athletes. The most recent league that is currently running is the Women’s Football Alliance which was founded in 2009 and has had three divisions since 2016.²⁰³ Another league that has been operating since 2009, is the Legends Football League where the women wear lingerie and shin-pads while they play,²⁰⁴ but it could be said that the only reason this is the most well-known league is that it is a way for the men in the country to sexualise the players.

With regards to baseball, there has been no professional league in America since the AAGPBL ceased to exist in 1954. A couple of organisations attempted to step in and fill the gap that the AAGPBL left but no real progress has come from them yet. The American Girl’s Baseball was created to pursue the dream that was taken away from women with the fall of the AAGPBL and to set up a professional baseball league for women.²⁰⁵ The path to get involved at a young age is there for those who want it but the problem arises when they wish to continue through college as colleges do not offer

200 Equality Act of 2019.

201 <http://www.wnba.com>, (accessed 16 February 2022).

202 <http://www.ncaa.com/sports/basketball-women>, (accessed 16 February 2022).

203 <http://www.wfaprofootball.com>, (accessed 16 February 2022).

204 <http://www.lflus.com>, (accessed 16 February 2022).

205 <http://americangirlsbaseball.com>, (accessed 16 February 2022).

women's baseball scholarships; only softball scholarships. This makes women accept softball scholarships to get an education and then join the baseball league afterwards to represent the Women's National side.

The United States of America's representation of women is just as poor as that of South Africa's, which is dreadful for a so-called "first world country". Revamping of women's collegiate baseball and football is required. Inspiration should be taken from basketball and WNBA in order to build successful sporting industries going forward. There is no justice in enacting legislation and Title IX needs to be reassessed to include equality for every specific sport, not just the entire sporting program, combined together.

2.3.4.3 ENGLAND

England has also been one of the most progressive when it comes to allowing women to participate in sports as sport, in general, is one of the backbones of their community. That, however, never eliminated individuals from expressing their personal and foreign discriminatory views on the women that did participate. Thus, to prevent this prejudicial behaviour, the English government thought it best to enact legislation to combat these issues. This came in the form of the Equality Act,²⁰⁶ which is considered the main anti-discrimination law in the country. This legislation stated that England's Sport was required to follow its blueprint to help secure equality and opportunity across the various sports in the country.

The next step is to assess the representation of women across sports to determine if this legislation is performing its duty.

The Rugby Football Union for Women (RFUW) was founded in 1994, over a hundred years after the men's Rugby Football Union (RFU) was founded. It now consists of two hundred clubs, one hundred student sides, two hundred junior teams (u15 and u18), as well as operates in fifty schools. The majority of these women's sides joined an existing men's team.²⁰⁷ In 2010, the RFUW was integrated into the RFU as an independent body, maintaining its management while adopting RFU structures.²⁰⁸ The tight-knit relationship between the RFU and the RFUW is reflected in the structure of the women's club system. The system contains twenty-two leagues across five levels, with the Women's Super-Rugby being the top level.²⁰⁹ There is also a National Knockout Cup competition for women's sides to participate in. At a youth level, there are two age groups, u18 (15-17 years old) and u15 (12-14 years old), the same as the boys. Girls cannot play in the adult sides until they turn 18 years of age.

Participation across the country through different youth levels and various league systems allows for the best growth of the sport and ultimately makes the strength of the international team a lot better. Evidence of this is that the Red Roses have been dominating the international stage, ranking at number one for the majority of the last decade, winning two World Cups as well as a competitive 7's side.

206 Equality Act of 2010.

207 Rugby History, <https://rugbyredefined.com/wp/rugby-history/>, (accessed 17 February 2022).

208 Historic Change for Women's Rugby in England, <https://www.scrumqueens.com/news/historic-change-women%E2%80%99s-rugby-england>, published July 2012, (accessed 17 February 2022).

209 <https://www.englandrugby.com/england/womens-development#index>, (accessed 21 February 2022).

Women's cricket in England is represented by England's and Wales Cricket Board (ECB) which was founded in 1997.²¹⁰ The ECB also offers several youth opportunities to get involved in the game, starting with softball cricket for 5–8-year-olds, then having several age groups, u9, u11, u13, u15 and u17, which starts with the basics, softer balls and small field at the younger ages and the dynamics gradually increase as the ages increase.²¹¹ This is the same process as the boys. At the senior level, the ECB provides two T20 competitions for women to participate in as well as three 50-over competitions.²¹² For the same reasons as rugby development, this wide range of participation leads to the ultimate goal, which is to strengthen their international side. The women's international team has also proven to be rather dominant, ranking second in the world currently as well as racking up four ODI World Cup titles and one T20i World Cup title.

After the fifty-year ban of women in football, the rise in interest from women in the game began in the 1990s, climaxing when England hosted the 2005 Women's European Championship. By the time the FA was reinstated, the WFA had already created their top-level league to sit beside the men's Premier League, with the men's clubs displaying their willingness to grow the game by their direct attachment with the women's clubs.²¹³ The FA took over control of the WFA to form a united front in the 1994-1995 season.

The women's league structure follows a similar layout to the men's system. It consists of ten levels, built up of approximately one hundred and twenty different leagues within these levels, the Women's Super League being the top level.²¹⁴ This creates a complex but representative system reaching almost every corner of Britain. Besides the league competitions, the women's sides can also compete in Cup competitions just like the men. These competitions consist of the Women's FA Cup, the Women's League Cup, the Women's Super League Cup, as well as the UEFA Women's Champions League for the top two Super League teams to compete. All of these opportunities are also afforded to the youngsters, just comparable in the men's game. England shows exceptional representation across these sports, showing a positive follow-through from the government on the legislation they enacted, which gives women and girls across the country the opportunity to achieve their dream of being star athletes. It is not up to the same standard as the men's game; however, it is a fast-growing industry that will only gain more traction with the more success the teams achieve. Other countries should not hesitate to look at England to help correct the errors they have made in this field.

210 <https://www.ecb.co.uk/>, (accessed 17 February 2022).

211 <https://www.ecb.co.uk/>, (accessed 17 February 2022).

212 <https://www.ecb.co.uk/>, (accessed 17 February 2022).

213 Women's Sport and Fitness Foundation, "History of Women's Football", <https://www.wsff.org.uk/resources/girls-and-education/womens-football-in-england-a-brief-histo/>, (accessed 18 February 2022).

214 Pel J, "Women's Soccer Kicks Up In England", https://www.espn.com/espnw/news/story/_/id/6534412/women-soccer-kicks-england, published 14 May 2011, (accessed 18 February 2022).

2.4 RECOMMENDATIONS

If sports were to help correct this discriminatory behaviour, it would need a continuous voice on the topic. The BLM movement is an excellent point in case. Better enforcement of the current discrimination statutes will further ensure that people respect the law.

In order for athletes to be able to stand up against these issues, they would need to be allowed by their governing regulations to perform such an action, therefore I propose that each respective league insert clauses into their regulations that would allow the athletes, dependent on a majority vote within their player association, to protest any social issue before each game thus allowing more coverage to inform more people.

A discrimination committee needs to be established in each country, which will see them oversee any discriminatory issues. Police officials are expected to handle every crime which occurs in their area, this is a lot of work for just them and leads to them not following up on “minor” and “unimportant” issues. Therefore, if a task force with the sole duty of gender and racial discrimination was established it would allow more focus on the issue as well as a better success rate with regards to prosecution.

Ordinary people affected by this discrimination are not alone and athletes with more influence are supporting them. The best way sports can make societal change with regards to racism and sexism is to have a consistent voice identifying and naming the abusers and the system(s).

2.5 CONCLUSION

In this chapter, I established the historical development of racial and gender discrimination in the world and the effect it has had on the state of modern sport. To assess these issues, I had to establish the origin of the discrimination, the history of the discrimination within sports and finally how that has affected modern society and the presence it still has in the sporting communities while using the relevant case law and legislation regulating these issues and the modern viewpoint of the law.

I found that these two groups of people have suffered prejudice far greater than any person should have had to throughout every aspect of their life, yet they never gave up or gave in to their oppressors which set the wheels in motion to move forward and away from the restraints of old fashion societal views. The problems are a long way from being solved in today’s society, however, we are stepping in the right direction and we need to do so together and with the right enforcement of the corrective legislation enacted.

In the next chapter, I will consider the possibility of including a salary cap in the sporting world to promote equality while closing the gap between men and women in the sports industry.

CHAPTER 3

THE WAGE GAP AND CAPPING OF COMPENSATION IN SPORTS

3.1 INTRODUCTION

Societal norms reflect that the abilities of women are, more than often, seen to be synonymous with the lack of physical attributes a man possesses. Throughout history, women were tasked with the upbringing of children, whereas men were able to focus on a wider range of options since they possessed such strong qualities.

After a long history of enduring struggles to win fights whenever they could, no matter how big or small, just to achieve a percentage of equality that the men held, women still suffer from direct and indirect prejudices in our society. The prime inequality that women have had to endure since they gained any form of equality in the workforce, continues to plague them in today's society. The struggle to obtain equal pay for the same work that men do still exists.²¹⁵ The gender pay gap is defined as the difference in gross hourly earnings between men and women.²¹⁶ Besides having to work harder than the average man to be promoted in the workplace, they are rewarded with a remuneration that is significantly less than the man in the same position.²¹⁷ *Morgan v United States Soccer Federation*, illustrates how hard female athletes and their respective teams have to fight, to the point where the teams accolades far surpass that of their male counterparts, only to receive less compensation for their hard work.²¹⁸ Women are also stuck in a judgmental societal loop where employers or people in the workplace believe that women are not as strong or driven because they are too family-orientated and therefore will not give an adequate amount of focus to their jobs. And on the other hand, if a woman does choose not to have a family but rather focus on her career, she is shunned by societal norms which dictate that women need to have a family to thrive in life. Women are expected to adhere to these social norms even with various countries providing a legislative right for women to be treated with parity in the workplace, including the right to equal pay for equal work.²¹⁹²²⁰²²¹

Even on the sports front, women athletes are grossly underpaid when compared to their male counterparts. This has been happening since Billie Jean King stood up against the unequal pay received between the winners of the men's and women's tournaments in the 1970s and continues to happen in today's sporting community.²²²

215 Blau & Khan (2017).

216 Understanding The Gender Pay Gap: Definition and Causes, <https://www.europarl.europa.eu/news/en/headlines/society/20200109STO69925/understanding-the-gender-pay-gap-definition-and-causes>, published 13 January 2020, (accessed 08 March 2022).

217 Steidinger (2020).

218 *Morgan v U.S Soccer Federation* (2020), 2:19-cv-01717 (C.D. Cal.).

219 Equal Pay Act of 1963 – United States of America.

220 Equal Pay Act of 1970 – United Kingdom.

221 Employment Equity Act 55 of 1998 – South Africa.

222 Chang R, How Billie Jean King Led The Equal Pay For Play Battle, <https://www.history.com/news/billie-jean-king-equal-pay-for-play#:~:text=The%20Open%20Era%20of%20tennis,Billie%20Jean%20King%20got%20%24600>, published 03 June 2021, (accessed 08 March 2022).

In this chapter, I aim to bring to light the tipped scales of inequality in the sporting world by analysing the history of the wage gap between men and women as well as the statistics and the justifications that accompany this gap throughout the various sports today. I will also address the different athletes and teams that have taken a stand against this injustice, and finally, I wish to present the possibility of initiating a wage cap within sports, in an attempt to level the playing field.

3.2 THE HISTORY OF WAGE GAPS

Wage inequalities have plagued developed and underdeveloped countries for many years. For the history and current situation on the wage gap, the position will be examined in England, the United States of America, and South Africa, along with the legislation enacted to combat this issue, as well as the laws established by the International Labour Organisation (ILO) to develop an understanding of the effectiveness of the laws meant to halt unequal pay.

3.2.1 ENGLAND

Women have been fully inducted into the British working force for about one hundred years, yet despite the difficult battles and victories achieved by women throughout history, the gap between men and women in terms of wages remains at the 18% mark. The women of England have had many arduous uphill battles to even be considered equals to their compatriots. Some of these endeavours include the first female trade union being formed to answer the men's "no women allowed" rule. The National Federation of Women Workers (NFWW) also played a vital part in the fight to achieve the right to a minimum wage for women.²²³

The 20th century brought with it, two World Wars as well as labour shortages for the countries involved due to most of the labour force, men, having to be drafted to fight the war. Women had to occupy positions usually carried out by men, thereby proving that they had what it takes to effectively do these jobs whilst, at the same time, putting their fight for equality on hold to ensure that the country could keep on running.²²⁴ World War II saw the same thing repeat itself, except when this war came to conclusion, plans were put into motion which sought to achieve equal pay for women outside of wartime.²²⁵

A strike in 1968 by female sewing mechanists, due to the unequal pay between men and women, saw the production of Fords halted. The government thought it was best to enact legislation which would guarantee women equal pay for equal work. This legislation came in the form of the Equal Pay Act, which was based on the United States of America Equal Pay Act,²²⁶ which prohibited any unfavourable treatment between men and women in terms of pay and employment conditions.²²⁷

In 1988 Julie Hayward, an apprentice cook, was unfortunate to find herself falling victim to gender discrimination when the three male apprentice cooks were granted

223 The History of the Gender Pay Gap, <https://payjustice.co.uk/history-gap/>, (accessed 10 March 2022).

224 The History of the Gender Pay Gap, <https://payjustice.co.uk/history-gap/>, (accessed 10 March 2022).

225 The History of the Gender Pay Gap, <https://payjustice.co.uk/history-gap/>, (accessed 10 March 2022).

226 Equal Pay Act of 1963.

227 Equal Pay Act of 1970.

the position of craftsman, with a pay raise, while she was only seen as a labourer, which did not include a raise, this after completing the same course as the three male cooks. The issue went to court and after three industrial tribunals and a decade-long court battle, she finally won her appeal at the House of Lords. The case revolved around the fact that even though she worked in the kitchen, the skills, training and demands placed on her matched the higher-paid craftsman position.²²⁸

In a more modern data analysis conducted it was found that the gap between men and women still exists within the workplace. The data shows the unadjusted statistics, which refers to the numbers without any controls added; the adjusted data, which adds statistical controls such as age and education; the explained statistics, which could be boiled down to worker differences for the reason of unequal pay; and unexplained statistics, which could be seen as workplace bias.²²⁹ The unadjusted data found that UK women only earn 77.1 Pence for every Pound a man earned, leaving a 22.9% advantage to men. For the adjusted, there is only a 5.5% advantage for men, equating to 94.5 Pence earned by women per £1 earned by men.²³⁰ The adjusted numbers could be misleading because even though the filter could be seen as valid, the more filters you add, the more the true numbers get watered down until you are left thinking that there is no gap at all. With regards to explained vs unexplained, it was determined that 64% of the pay gaps had an explanation as to why the men earned more, leaving room for 36% of the gap unexplained with the possibility of workplace bias.²³¹ To anyone, 23 Pence/Cents may seem close to zero, however, when one examines an entire salary, that specific 23 Pence starts to add up, for example, if a man earns £10 000 per month, women in that same position would only earn £7 700 which would affect the standard of living of a woman or her family which, in turn, could have a domino effect with regards to the level of poverty in a country.

England does have the Equal Pay Act which was enacted to prevent unequal pay for equal work, but it does not seem to be as effective as desired. To close the gap further, the legislation that has been put in place to protect the people from inequality needs to be enforced properly. The Equality and Human Rights Commission was also formed and one of its main purposes was to tackle gender discrimination and promote the values put in place by the Equality Act.²³²

3.2.2 UNITED STATES OF AMERICA

Just like the United Kingdom, America also has a long history of underpaying women which stems from the Civil War era, long before Rosie the Riveter was flexing on posters across the country. That was when the government realised that it would benefit the country to replace war-bound men with women and pay them half the wages.²³³ Fast-forward to the late 19th century and the realisation by the United States

228 Hayward v Cammell Laird Shipbuilders Ltd [1988] IRLR 257, HL.

229 Dr Chamberlain A, Demystifying the Gender Pay Gap, March 2016, Glassdor Research Report, 3.

230 Dr Chamberlain A, Demystifying the Gender Pay Gap, March 2016, Glassdor Research Report, 31.

231 Dr Chamberlain A, Demystifying the Gender Pay Gap, March 2016, Glassdor Research Report, 32.

232 United Kingdom: Parliament, Joint Committee on Human Rights, Equality and Human Rights Commission, 15 March 2010, HL 72/HC 183.

233 Dishman L, The Long and Frustrating History of the Gender Wage Gap, <https://www.fastcompany.com/90609641/the-long-and-frustrating-history-of-the-gender-wage-gap>, published 03 August 2021, (accessed 11 March 2022).

government that the potential of cheap labour through a women-led workforce was too good to pass up, thus allowing women into the workplace but exposing them to the same forms of harassment that were considered unacceptable by societal standards.²³⁴ With no incentive for women to occupy male-dominated jobs, they were restricted to “women” such as teachers and nurses. Unfortunately, this backward thinking mindset remains in today’s society with these jobs still being considered “women’s jobs”.²³⁵

Just like England, when the world was engulfed in both World Wars, the American economy took a hit with most of the men going off to fight the war. Just like England, America relied heavily on filling the gap left by the men to keep the country running. When the second war struck, women had a symbol of empowerment in the form of Rosie the Riveter, which led to thousands of women joining the workforce and “doing their part”. They were also granted equal pay for equal work during this period.

Finally in the late 20th century, laws began to be enacted to abolish the inequality between men and women in the workplace. This came in the form of the Equal Pay Act which was aimed to ensure that men and women received equal pay for equal work;²³⁶ and Title VII of the Civil Rights Act, which made it unlawful for employers to discriminate against a person based on a specific classification such as race, sex, national origin or religion, was initiated.²³⁷ After *Pittsburgh Press vs Pittsburgh Commission on Human Relations*, Title VII was updated to prohibit employers from using sex-segregated adverts such as “male help wanted” or “female help wanted”.²³⁸ After reviewing the more modern statistics, the unadjusted wage gap sits at a 24.1% advantage for men, meaning that women earn 75.9c for every Dollar a man earns, while the adjusted gap has women earning 94.6c for every dollar earned by a man, leaving them at a 5.4% disadvantage. 67% of the gap could be explained, whilst 33% of the unequal pay is allowed to escape without an explanation, therefore, leaving the possibility of a workplace bias.²³⁹

America already had the Equal Pay Act as well as Title VII governing the wage gap in an attempt to close the gap between men and women, however, more recently, the Ledbetter Fair Pay Act legislates that companies have to ensure that their workplace policies are not discriminatory and they allow employees to file a charge of discrimination against their employer within one hundred and eighty days of the last pay-check at which time the discrimination occurred.²⁴⁰ America also has a commission, in form of the Equal Employment Opportunity Commission, which was established through the Civil Rights Act to administer and enforce the rights of the employee against workplace discrimination.²⁴¹

234 Dishman L, The Long and Frustrating History of the Gender Wage Gap, <https://www.fastcompany.com/90609641/the-long-and-frustrating-history-of-the-gender-wage-gap>, published 03 August 2021, (accessed 11 March 2022).

235 Dishman L, The Long and Frustrating History of the Gender Wage Gap, <https://www.fastcompany.com/90609641/the-long-and-frustrating-history-of-the-gender-wage-gap>, published 03 August 2021, (accessed 11 March 2022).

236 Equal Pay Act of 1963.

237 Title VII of the Civil Rights Act 1964.

238 *Pittsburgh Press v Pittsburgh Commission on Human Relations*, 413 U.S. 376.

239 Dr Chamberlain A, *Demystifying the Gender Pay Gap*, March 2016, Glassdor Research Report, 17.

240 Lilly Ledbetter Fair Pay Act of 2009.

241 United States of America, Equal Employment Opportunity Commission, 1965.

With all these legal protections, the gap remains fairly large. I believe that it is because people are too trepidatious to come forward and cause trouble for the fear of losing their job, therefore, choose to not make waves. The process could be made more anonymous so people will feel more safe and secure in reporting their issues.

3.2.3 SOUTH AFRICA

In South Africa it is slightly different as we did not have a Civil War nor were we involved in the World Wars, so we did not have that opportunity for women to be thrust into the workforce.

The gender wage gap in South Africa did display a large decline, going from 40% in 1993 down to 16% in 2007.²⁴² This would be accredited to the downfall of the Apartheid regime when the influx of women into the workplace took the gap down. However, between 2007 and 2014, the gap remained static at 16% since the major injustices had already fallen away, thus leaving smaller inequalities such as unequal pay to go unchecked due to it being assumed everyone was equally paid. Today the gap sits between 23-25%, so even with the participation of women increasing in the economy, the financial gap between the income of men and women has increased.²⁴³ The South African labour market, just like the society within which it exists, has a pattern of keeping specific groups of individuals at the bottom of its ladder in this case, it is women who find themselves at the bottom, with lower-paying jobs. The biggest wage gap is reflected in the top 10 percentile of the economy.²⁴⁴

With the implementation of the National Minimum Wage Act,²⁴⁵ the government sought to increase the wage of lower-income earners, such as domestic workers (since the majority of people holding those positions were women) and that would see the gap in the lower economy being raised.²⁴⁶ The Employment Equity Act has also been a big driving force for the increased participation of women in positions where they were previously under-represented i.e. in management jobs.²⁴⁷ South Africa also has a labour commission in the form of the Commission for Conciliation, Mediation and Arbitration (CCMA) which handles all disputes about discrimination in the workplace.²⁴⁸

With the lower economy being lifted through the National Minimum Wage Act and the Employment Equity Act, coupled with the increased demand for university-educated individuals raising the higher-earning economy, the middle section (medium income earners) of our economy seems out of focus regarding wage progression thus allowing the wage gap in that section to grow. More should therefore be done to promote the

242 Mosami J, Distributional Changes in the Gender Wage Gap in Post-Apartheid South African Labour Market, 2019.

243 Mosami J, Distributional Changes in the Gender Wage Gap in Post-Apartheid South African Labour Market, 2019.

244 Mosami J, Distributional Changes in the Gender Wage Gap in Post-Apartheid South African Labour Market, 2019.

245 National Minimum Wage Act 9 of 2018.

246 Wider UNU, The Gender Gap in Post-Apartheid South Africa, Research Brief 2019/2, Helsinki: UNU-Wider.

247 Employment Equity Act 55 of 1998.

248 Commission for Conciliation, Mediation and Arbitration, 1995.

careers of women who do not want to go to university but rather go straight to work after high school as well.

3.2.4 INTERNATIONAL LABOUR ORGANISATION

Other than the National legislation that a country enacts to combat gender discrimination within their country, there is also an international agency set up to combat this. The International Labour Organisation (ILO) is an agency set up by the United Nations in 1919. One of its primary jobs is to eliminate gender discrimination in the international workplace.²⁴⁹

ILO Convention 100, The Equal Remuneration Convention, lays down the fundamental principle that both men and women deserve equal pay for equal work.²⁵⁰ Article 2 of this convention also states that each member country must combine the goals of this convention with their national regulations.²⁵¹

ILO Convention 111, Discrimination (Employment and Occupation) Convention, states that the terms and conditions of employment for any person should not consist of any discrimination based on sex.²⁵² It also deals with indirect discrimination which is more menacing as it portrays the values of neutrality. Article 2 of the Convention seeks to ensure that each member state has set up a policy designed to promote employment parity for all.²⁵³

Finally, Article 23 of the United Nations Declarations of Human Rights echoes the same values as the above Conventions by stating that everyone without distinction has the right to equal pay for equal work.²⁵⁴

3.3 THE FIGHT FOR EQUALITY IN SPORTS

The fight for equal pay started in the 1970s when Billie Jean King opposed the men's winner being awarded more than double what the women's winner was awarded. This led to the U.S Open being the first Grand Slam to offer an equal reward, with that following suit over the next 35 years.²⁵⁵²⁵⁶

It would not be an exaggeration to claim that, because of King, the modern tennis game has the most equality, in terms of winnings between men and women, compared to other sports around the world due to this opposition.

249 International Labour Organisation, 1919.

250 International Labour Organisation 100 of 1951.

251 Article 2 of International Labour Organisation 100 of 1951.

252 International Labour Organisation 111 of 1958.

253 Article 2 of International Labour Organisation 111 of 1958.

254 Article 23 of the United Nations Declarations of Human Rights of 1948.

255 Chang R, How Billie Jean King Led The Equal Pay For Play Battle, <https://www.history.com/news/billie-jean-king-equal-pay-for-play#:~:text=The%20Open%20Era%20of%20tennis,Billie%20Jean%20King%20got%20%24600>, published 03 June 2021, (accessed 08 March 2022).

256 King KR (2017).

The share of winnings between men and women was so disproportionate that after winning her first Wimbledon and being ranked number one in the world, she still needed a second job to survive.²⁵⁷ Which is why the two main goals of the Original 9 were (1) equal pay for equal work, and (2) ensure an economic livelihood for women tennis players.²⁵⁸

The wage gap as well as the general lack of competition left women generally demoralised and frustrated. It did not help that the men on the circuit were sexist, often claiming that the women should go home and look after their families. Women could have easily given up and gone home, however, instead, they chose to stay and fight for the game that they loved.²⁵⁹ King was no stranger to gender-based prejudice as she was introduced at a young age when she was not allowed to be in a group photo after a junior competition as she was not wearing a skirt, which was traditionally worn by girls.²⁶⁰

King and eight other women decided to boycott the tournaments which were grossly underpaying them and start their own which would become known as the Virginia Slims Circuit. This act of bravery later evolved into the Women's Tennis Association which was vital in achieving equal pay.²⁶¹ After King was instrumental in accomplishing equal winnings for women in the tennis arena, she decided to accept Bobby Riggs' challenge. Riggs' had been challenging various women players as he and many other male tennis players believed that their female counterparts did not belong on the circuit due to the vast physical differences between the two genders. However, before her match with Riggs both players physical measurements were taken with King's measurements coming in just under, and in some cases just over, that of Riggs.²⁶² He was known for being almost aggressively sexist and had been challenging and beating female tennis players to prove that they were inferior. This match became known as the "Battle of the Sexes" and King did not back down from the challenge at all, beating him in straight sets, with King proving that she was the 'queen' of the court.²⁶³

Sadly, this is not the same in other sporting communities with the majority of women athletes being grossly underpaid. To illustrate how large the gap between men and women's pay has become, I will provide statistics showing the difference in pay between men and women footballers, as well as the gap between the WNBA and the NBA.

Excitement surrounded the English footballing community when, in early 2020, the FA announced that both men and women international footballers would be paid the same

257 Chang R, How Billie Jean King Led The Equal Pay For Play Battle, <https://www.history.com/news/billie-jean-king-equal-pay-for-play#:~:text=The%20Open%20Era%20of%20tennis,Billie%20Jean%20King%20got%20%24600>, published 03 June 2021, (accessed 08 March 2022).

258 Tredway K (2016).

259 Tredway K (2016).

260 Chang R, How Billie Jean King Led The Equal Pay For Play Battle, <https://www.history.com/news/billie-jean-king-equal-pay-for-play#:~:text=The%20Open%20Era%20of%20tennis,Billie%20Jean%20King%20got%20%24600>, published 03 June 2021, (accessed 08 March 2022).

261 Tredway K (2016).

262 King KR (2017).

263 King KR (2017).

for matches played outside of a major competition, which was about £2,000 per game, and which all the men and some women donated to charity.²⁶⁴ This could appear as unfair when comparing the club earnings between men and women (which will be discussed later) as women earn significantly less and might need the extra cash flow for their families and may even feel pressured to donate their earnings. This could be misconstrued as an amoral act on the female stars behalf if they did not follow suit.²⁶⁵ However, this has little to do with the players attitude towards charity or giving back to the community, but rather the discriminatory history women have faced in the sport which sees them earn considerably less at club level, made them more conservative with their earnings/funds.²⁶⁶

The blame cannot be put solely on the FA as the women's game has been denied the proper structural development afforded to the men's game throughout the past,²⁶⁷ and they receive the prize money from FIFA. FIFA only allocated a \$30 million prize pot to the female competing teams, with the winner receiving \$4 million, whereas the men's competition was allocated a \$400 million prize pot for the competing teams, with the winner receiving \$38 million.²⁶⁸ This displayed a trickle-down system of inequality throughout the entire sport.

On a club level in England, there is only 1 club that pays their men and women sides equally and they are Lewes FC. When you look at the top teams in England the wage/prize fund disparity is alarming. After an interview with seventy WSL players, it was revealed that the average salary between women and men in the league was between £20 000 and £250 000 a year, which worked out to £384 and £4 807 per week.²⁶⁹ In comparison, the wages in the English Premier League (EPL) seemed to be getting bigger and bigger, with the lowest-paid player (Sean Longstaff) getting paid two and a half times more, at £962 per week and £50 000 per year,²⁷⁰ fundamentally more than the £384 per week earnings of women in the WSL. The highest-paid men's player (Cristiano Ronaldo) earned £515 385 per week working out to £26,8 million per year.²⁷¹ That equates to one hundred and seven times more in wages than the highest earning women's player in England.²⁷² The gap continues to grow larger every season and if left to go unchecked, the low earnings from the women's game will drive future stars into another profession. Ten of the twelve WSL clubs also have male counterparts in the Premier League so at least for those ten clubs, the wage gap is prevalent even though both of their sides are thriving at the highest level.

The difference in prize money awarded in the WSL vs EPL and even the FA Cup vs Women's FA Cup is also quite astonishing with the 2019/2020 season in the WSL

264 Taylor L, England Women's and Men's Teams Receive the Same Pay, FA Reveals, <https://www.theguardian.com/football/2020/sep/03/england-womens-and-mens-teams-receive-same-pay-fa-reveals>, published 03 September 2020, (accessed 22 March 2022).

265 Archer A (2019).

266 Archer A (2019).

267 Archer A (2019).

268 Poppelwell-Scevak C (2020).

269 Brobbey S, Pay Dismay Women's Super League Wages Revealed with Stars Earning 50x Less Than Male Counterparts, <https://www.thesun.co.uk/sport/17880271/womens-super-league-wages-less/>, published 08 March 2022, (accessed 22 March 2022).

270 <https://capology.com/uk/premier-league/salaries/>.

271 <https://capology.com/uk/premier-league/salaries/>.

272 Archer A, (2019).

being the first season that offered prize money (£500 000) to the teams, with the winners receiving £100 000 and the remaining £400 000 being split between the other eleven teams based on their position on the table.²⁷³ In the same season, the EPL teams shared a £2.5 billion prize pot, with the winners receiving £158 million (one thousand, five hundred and eight times more than the winners of the WSL) whilst the last-placed team received £97 million (one hundred and ninety-four times more than the entire prize pot for the WSL).²⁷⁴ The total amount that a club receives is determined in five categories: (1) merit money, based on where you placed on the table; (2) facility fees, based on how many times the team matches were broadcast; (3) domestic TV rights; (4) overseas TV rights; and (5) commercial revenue.²⁷⁵

Between both the men's and women's FA Cup last year a prize pot of £16 million was allocated, however, this was not distributed equally between the two competitions.

	MEN	WOMEN
Attendance	20 000	40 942
TV views	9 100 000	1 300 000
1 st round win	£22 629	£850
3 rd round win	£82 000	£1 250
Final's winner	£1 800 000	£25 000

²⁷⁶

With the FA's motto being "For All" this unequal balancing of funds damages the spirit of the game as the women sides, from the lower leagues, would not even be able to cover their travel/accommodation costs with the prize money. Even though the men's final drew a larger TV crowd, which could accrue to the exclusion of women from the game for fifty years which in turn allowed the men's game to grow significantly larger, leaving the women's game to make up the difference; the women's final still drew a crowd double the size of the men's final inside Wembley.

The FA met this year and decided to increase women's prizes from £430 000 last year to £3 million this year.²⁷⁷ This is a significant improvement which they have used to disguise the fact that it is still nowhere near what the men's prize pot is. That £3 million, is still less than one-fifth of the total £16 million prize allocated.

When it comes to American sports, I have always found the salary caps they have placed on their sports to be fascinating. It is a way to ensure that no one team dominates the league financially, thus taking the competitiveness away from the sport.

²⁷³ <https://womenscompetitions.thefa.com/en/Article/fa-wsl-prize-fund-230819>.

²⁷⁴ UK Pool Banker, EPL Prize Money for 2019/2020 Season: Premier League Clubs Share £2.5 Billion, <https://www.youtube.com/watch?v=FOCDT6ojh9A>, published 27 September 2020, (accessed 22 March 2022).

²⁷⁵ Goal.com, How Much Money Do Premier League 2019-20 Winners Get, <https://www.goal.com/en/news/how-much-money-do-premier-league-2019-20-winners-get/19jbaudy17cw1ieojo40yextz>, published 22 July 2020, (accessed 06 April 2022).

²⁷⁶ Gillen N, FA Cup; How Can The Disparity In Men's and Women's Prize Money Be Addressed, <https://www.givemesport.com/1801115-fa-cup-how-can-the-disparity-in-men-and-womens-prize-money-be-addressed>, published 12 December 2021, (accessed 22 March 2022).

²⁷⁷ Burhan A, Lewes FC Proposed Redistributing Between Men's and Women's FA Cup, <https://www.forbes.com/sites/asifburhan/2022/03/15/lewes-fc-propose-redistributing-prize-money-between-mens--womens-fa-cups/?sh=3a468cf561cd>, published 15 March 2022, (accessed 22 March 2022).

A salary cap is the amount of money each team receives from the league which they are limited to for the use of their player's wages. There are two types of salary caps, the first is a hard cap (which most American sports follow) and it does not allow teams to exceed their caps unless for exceptional cases. The second is a soft cap which does allow a team to exceed their cap, which, in turn, allows them to keep star players that will bring in more revenue, however, there is a tax payable for exceeding their cap.²⁷⁸

The calculation of the NBA salary cap is set out in their Collective Bargaining Agreement and states that the salary cap for each year is determined as follows: 44,74% of the projected Basketball Related Income (BRI), **LESS (-)** the projected benefits of the players for the year (such as their pension fund), **DIVIDED (÷)** by the number of teams in the league that year.²⁷⁹ This is an equitable way to distribute funds amongst the teams, it also breeds competitiveness for the title as any team can go on to win the Championship. However, when comparing the financial capabilities of the WNBA and the NBA there is a significantly larger gulf in funds.

MEN: ²⁸⁰			WOMEN: ²⁸¹		
Yrs.	MIN.	MAX.	Yrs.	MIN.	MAX.
0	\$925 000	\$28 103 550	0-2	\$60 471	\$196 267 (0-5 years in the league) \$228 094 (6+ years in the league)
1	\$1 489 000				
2	\$1 669 000				
3	\$1 729 000				
4	\$1 789 000				
5	\$1 939 000	\$33 724 260	3+	\$72141	
6	\$2 089 000				
7	\$2 240 000				
8	\$2 390 000				
9	\$2 402 000				
10+	\$2 642 000	\$39 344 970			

The above is a layout of the minimum and maximum salary a player can earn in the NBA and WNBA respectively. The amounts above are set out in each of the organisation's Collective Bargaining Agreements. At first glance of these numbers, it is difficult to think these statistics are real because the gap between the two genders is exorbitant. A minimum first-year rookie salary in the NBA is more than three times the maximum veteran salary in the WNBA, which is surely undeserved because someone who has been playing at the highest level for nearly a decade deserves more

278 Abdalazem R, How Does the Salary Cap of NBA Teams work, https://en.as.com/en/2021/10/16/nba/1634394819_996992.html, published 16 October 2021, (accessed 06 April 2022).

279 Article VII, Section 2, NBA-NBPA Collective Bargaining Agreement, 2017.

280 Article II, Section 6&7, NBA-NBPA Collective Bargaining Agreement, 2017.

281 Article V, Section 7&8, WNBA-WNBPA Collective Bargaining Agreement, 2020.

wages than someone just entering their career. In my opinion, there first needs to be a re-evaluation of the distribution of funds in the top-tier basketball leagues and I believe that the WNBA and NBA should merge to run basketball in America on a united front, as five of the twelve WNBA teams have NBA counterparts. By joining the two associations together, it could also allow for an expansion of more teams in the WNBA. There also needs to be more general support from NBA players - we witnessed them joining forces to convey a message during the Black Lives Matter (BLM) movement - their support of each other should not stop at the fight against race discrimination.²⁸²

With all these statistics available to whoever chooses to access them, there are still people out there who attempt to make justifications for the wage gap in sports. The main justifications are the difference in monetary returns brought in by the two groups; and the difference in body structure leading to different performances between the two genders.

(1) Monetary Returns:

“They do not bring in as much money as the male athletes therefore, they should earn less” this is usually the main justification that people like using to retain and justify the earnings gap between men and women in sports.²⁸³

The revenue referred to comes in the form of ticket sales, TV rights, merchandising and endorsements/sponsorships, however, these are all reliant on the teams/athletes’ viewers and fanbase which has been built up for many years. Unfortunately, due to the oppression of women’s sport throughout the years, they entered the sporting stage late.²⁸⁴

These claims that women are behind men in all these categories are misleading as, due to the late entry into the sporting world, women’s sports will take time to catch up. Better marketing of the televised matches will improve coverage of the women’s game, leading to an increase in revenue and a larger fanbase; women’s sport has also been closing the gap with regard to ticket sales, specifically on the football front, where FC Barcelona Women’s side had the largest attendance figures this season - higher than any male team.²⁸⁵

With regards to sponsorships, these are one of three ways, including prize money and salary, that an athlete can earn money.²⁸⁶ The gap in this department is extremely large as women only hold 0.4% of all sports sponsorships, which shows that companies would rather have male athletes represent their business.²⁸⁷ Improvement of this attitude would see earnings by sportswomen increase significantly.

282 Evans AB, Agergaard S, Campbell PI, Hylton K, & Lennies V, (2021) 187-191.

283 Morgan S (2021).

284 Morgan S (2021).

285 O’Conner-Simpson M, Barcelona vs Real Madrid sets attendance world record for women's football, [286 Poppelwell-Scevak C \(2020\).](https://www.90min.com/posts/barcelona-vs-real-madrid-sets-attendance-world-record-women-football#:~:text=Barcelona%20vs%20Real%20Madrid%20in%20the%20UEFA%20Women%27s,second%20leg%20of%20the%20fierce%20rivals%27%20last-eight%20meeting, published 30 March 2022, (accessed 11 April 2022).</p></div><div data-bbox=)

287 Massanos C, The Gender Pay Gap in Sports, <https://moneysmartathlete.com/2019/12/11/the-gender-pay-gap-in-sports/>, published 11 December 2019, (accessed 24 March 2022).

(2) Physical Differences:

People think that, on average, because a man tends to be stronger and faster than a woman that this allows them to perform better than women in sports. Based purely on this thought process, people believe that men deserve more money than women. However, this is just a smoke screen for people to keep women under the same oppressive thumb of wage disparity.²⁸⁸

In my opinion, this argument is completely irrelevant because, firstly, physical attributes should not be a requirement to earn more money, and secondly because being fast and strong does not mean that you are automatically better skilled at sports in general. Different sports require different sets of skills. Based on this logic does that mean that because women have better balance and flexibility that they should be paid more than men? With regards to sports where this is a defining attribute, such as gymnastics, would this be seen as fact? No, because this kind of thinking creates preconceived limitations for men and women and does not motivate them to thrive at their utmost.

Regardless of people in society trying to justify why the wage gap in sports deserves to stay, some athletes are not afraid to stand up to this injustice and make their voices heard.

The most prominent case for equal pay for equal play in recent times has been the stand the United States Women's National Team (USWNT) has taken against the wage difference between them and the United States Men's National Team (USMNT). This wage difference violates the Equal Pay Act as well as Title VII of the Civil Rights Act.

The disparity between the two teams has always been out in the open for all to see. The USWNT got tired of the inequality when they won the 2015 FIFA Women's World Cup, where twenty-three million people tuned in on TV, and they only received \$2 million in prize money.²⁸⁹ The USMNT, which did not make it past the group stages, received \$6 million in prize money. Coupled with the fact that the women's team had to play on cheaper/easier to maintain facilities such as artificial turf, something that the men's team did not have to deal with, pushed the ladies to their breaking point which led to them filing a wage-discrimination complaint to the EEOC.²⁹⁰ Thus, beginning the one thousand-plus day battle for equal pay.²⁹¹

In my opinion, the treatment of the USWNT was disgraceful. They will go down in footballing history as one of the best teams in the world and they can be considered one of America's best international sides. They have won four World Cup titles as well

288 Morgan S (2021).

289 Poppelwell-Scevak C (2020).

290 Sterling W & Bantock J, US Soccer and USWNT Reach \$24M Agreement on Equal Pay Dispute, <https://edition.cnn.com/2022/02/22/football/us-soccer-uswnt-equal-pay-agreement-spt-intl/index.html>, published 23 February 2022, (accessed 25 March 2022).

291 Archer A (2019).

as five Olympic gold medals, displaying the same longevity and dominance over a sport that can only be compared to the likes of Bolt and Phelps.

In May 2020, the U.S District Court Judge, overseeing the case, ruled in favour of the United States Soccer Federation stating that the USWNT are not underpaid but allowed the subsequent claims of unequal treatment in terms of travel, medical staff, facilities and training equipment to proceed.²⁹² His reasoning for rejecting the wage claims was as follows: both the USWNT and the USMNT agreed upon their wages in their previous Collective Bargaining Agreements where the men's side opted for a pay-for-play structure where they earn more for each victory, whereas the women's side opted for a structure with more security in terms of annual salary, maternity and child care benefits, and severance for when they are no longer contracted to the team.²⁹³ Therefore, he stated that the USWNT cannot retroactively claim that the men's CBA is superior.

The USWNT appealed the decision to the full Ninth Circuit panel in 2021. It is also important to note that the USWNT had the full support of the EEOC throughout the entire legal proceedings, by filing a "friend of the court" amicus curiae brief to the Ninth Circuit panel.²⁹⁴ Ultimately, the USWNT agreed to a \$24 million settlement, with \$22 million going to the players, with the remaining \$2 million being used to set up a female soccer charity, and the USSF agreed to pay men's and women's team equal wages moving forward.

Besides the EEOC's unwavering support for the USWNT, the United States Soccer Team Players Association (USNSTPA), the legal body that represents the USMNT released a statement backing the USWNT regarding their ongoing legal battle. Stating that "The USWNT do not deserve equal wages... they deserve more."²⁹⁵ This sets a good precedent for all other men's athletes/teams as everyone needs to synergise to ensure equality and progress in sport in order for the game to live and thrive at its full potential.

The USWNT has not been the only players/team to stand up against the gender discrimination they were being subjected to. Some of the others include The US Women's Ice Hockey team, Allyson Felix, Alysia Montano, and Nneka Ogumike. In 2017 the US Women's Ice Hockey team threatened to not partake in that year's World Championships should their negotiation with United States of America Hockey (USAH), in terms of their equal pay, remain stagnant.²⁹⁶ To display a unified front, the men's team also threatened to withdraw themselves from the tournament if their counterparts were not paid equally.²⁹⁷ The women were asking for a \$68 000 salary, while USAH were offering \$24 000, as this was the only income they received in the six-month build-up to the Olympics and they did not get paid for training or public

292 Morgan v United States Soccer Federation, Inc., 445F. Supp. 3d 635 (C.D.Cal. 2020)

293 Morgan v United States Soccer Federation, Inc., 445F. Supp. 3d 635 (C.D.Cal. 2020).

294 Morgan et al v United States Soccer Federation, Inc., 21-55356, 07/30/2021.

295 Mudaliar K, USMNT Show Legal Support to USWNT 'Equal Pay' Against USSF Saying "Not Equal But More", <https://www.foottheball.com/news/usmnt-legal-support-uswnt-equal-pay-lawsuit-against-us-soccer-federation>, published 02 August 2021, (accessed 23 March 2022).

296 Solimine C (2019).

297 Solimine C (2019).

appearances outside those six months.²⁹⁸²⁹⁹ Ultimately this succeeded and the women's team were offered four-year contracts which included a lot more benefits such as maternity leave, childcare, better marketing and more game time, placing them on the same level as that of the men.³⁰⁰

Allyson Felix and Alysia Montano are both Olympic athletes who had their sponsorships reduced when they had children.³⁰¹ Allyson Felix claimed that Nike did not support their pregnant/new mother athletes after they offered them a 70% reduction as well as not supporting the maternity safeguards, she requested, when negotiating her new deal.³⁰² During this time, Nike also requested she does a "female empowerment" advert,³⁰³ while simultaneously trying to reduce one of their female athlete's cash flows because she chose to have a child.³⁰⁴ Surely the irony entered someone's mind! After Felix made her frustrations known publicly, Nike removed the pay cut and reassessed their policies, but Felix opted to join Athleta instead.³⁰⁵

Alysia Montano became known as the "pregnant runner" after competing while eight months pregnant. She was also a driving force in why Nike reassessed their policies. She told her Nike representatives that she wanted to have a child and they replied: "we'll have to pause your contract and stop paying you".³⁰⁶ This is destructive thinking by Nike which could cause a lot of damage to society moving forward. Motherhood and a successful career do not have to be mutually exclusive. Brands have stuck with athletes through potential career-ending injuries, yet are unwilling to allow their female athletes to have a child and remain supported .³⁰⁷

Nneka Ogwumike has shown that if you want the equality you deserve, you need to get up and fight for it because the system will not just hand it to you. The WNBA Players Association President and LA Sparks star has made it one of her goals to connect the players in the WNBA with corporate sponsorships due to the lack of

298 Langone A, Before Team USA Women's Hockey Won Olympic Gold, They Won Equality Off The Ice, https://money-com.cdn.ampproject.org/v/s/money.com/usa-olympics-womens-hockey-boycott-gold/?amp=true&_gsa=1&_js_v=a9&usqp=mq331AQKKAFAQrABIIACAw%3D%3D#amp_tf=From%20%251%24s&aoh=16480248702045&referrer=https%3A%2F%2Fwww.google.com&share=https%3A%2F%2Fmoney.com%2Fusa-olympics-womens-hockey-boycott-gold%2F, published 22 February 2018, (accessed 23 March 2022).

299 Solimine C (2019).

300 Solimine C (2019).

301 Forstmann N, et al. (2022).

302 Forstmann N, et al. (2022).

303 Felix A, My Own Nike Pregnancy Story, <https://www.nytimes.com/2019/05/22/opinion/allyson-felix-pregnancy-nike.html>, published 22 May 2019, (accessed 24 March 2022).

304 Forstmann N, et al. (2022).

305 Felix A, My Own Nike Pregnancy Story, <https://www.nytimes.com/2019/05/22/opinion/allyson-felix-pregnancy-nike.html>, published 22 May 2019, (accessed 24 March 2022).

306 Scott T, et al. (2022).

307 Blades N, Alysia Montano is The Hero of This Story, <https://www.runnersworld.com/women/a33564557/allyson-felix-pregnancy-nike.html>, published 26 August 2020, (accessed 24 March 2022).

sponsorships in the women's game.³⁰⁸ She has connected the players with a company called Parity, which seeks to create equality in pay throughout sports.³⁰⁹

3.4 CLOSING THE GAP

Like most problems in life, this one can also be solved in an equitable way which ensures that everyone who plays the game receives the remuneration they deserve. There are already solutions put in place to prevent the wage gap completely which have not worked. There is also a proposal that, if tweaked, can be applied to most sports where the wage gap exists, and just like any person who is enthusiastic about sports, I too have a proposal which will be addressed alongside the other two solutions mentioned.

The most obvious solution would be to ensure that the legislation enacted to prevent this problem is enforced effectively throughout society, including the sporting environment, as people treat these laws more as a 'suggestion' than the governing declaration that they in fact are.

The next logical step to take in the journey to equality would be to correct the trickle-down effect of the wage gap. What I mean is that the disparity between men's and women's funds, mainly prize funds, starts at the leading organisation for that specific sport (like FIFA for football). Once they assign fewer funds to women's sports the nation has no choice but to give them fewer bonuses. I would propose that a committee, similar to the EEOC, opt for fairness and equality, and be charged with overseeing that the funds get equally distributed amongst both men and women.

Lewes FC, a football club in England, I previously mentioned, for being the only club to pay their men and women equal wages, has subsequently been given the nickname "Equality FC" as they continue their pursuit for equal pay in football. The club have recently released a proposal which lays out two different plans that the FA could follow to ensure that men's and women's teams receive equal winnings from the FA Cup.³¹⁰

The first one is referred to as the equality plan where there will be a 50/50 split of the £16 million pot between the women's and men's FA Cup. However, at this moment there are fewer women's teams than men's and thus could be unfair to men. At the same time, the extra fund the Women's FA Cup receives, could help catch up for the 50 years that they were excluded which would allow them to develop more teams to participate.³¹¹ The second plan is referred to as the equity method where teams will earn funds on a 'Prize per Fixture' basis. This means that there would be a base fund for every round of the FA Cup so the further a team makes it, the more they will be earning.³¹² I believe that if you adopt this proposal to a specific sport, it can be utilised worldwide to constructively combat the wage gap.

308 Cash M, The WNBA Players' Union Has a New Strategy to get its Players Paid and Increase Investment In Women's Sport, https://news.yahoo.com/wnba-players-union-strategy-players-150004438.html?fr=sycsrp_catchall, published 26 August 2021, (accessed 24 March 2022).

309 <https://paritynow.co/about-us>.

310 <https://lewesfc.com/football-for-good/equal-prize-money-campaign/>.

311 <https://lewesfc.com/football-for-good/equal-prize-money-campaign/>.

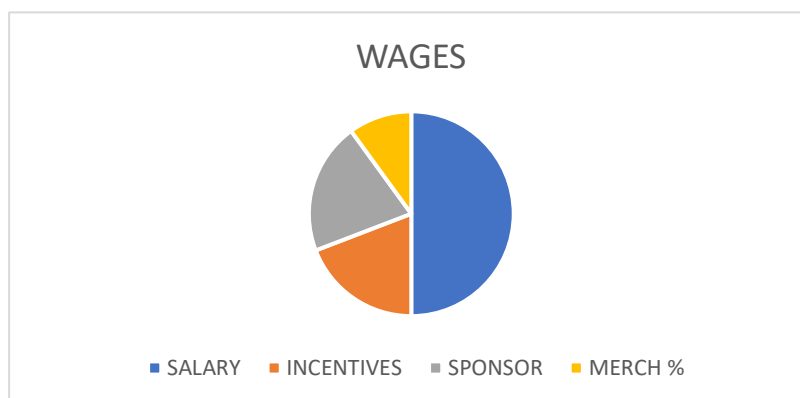
312 <https://lewesfc.com/football-for-good/equal-prize-money-campaign/>.

My proposal is based on the possibility of applying a wage cap to a player's contract which will allow the excess funds of the men's contracts (where they exceed this cap) to be allocated to women.

A player's contract should be more incentive-driven. In the ordinary workplace, you are rewarded for meeting the goals set out by the company. You are not given more money because you have a higher popularity status in the industry.

For every sport in a country, there should only be one existing governing body which oversees both the men's and women's sides of the sports so, for instance, the NBA and WNBA should merge. This would allow for a better budget for the sport and it would allow the two to average each other out with regard to their cap system. Earlier, I mentioned that the cap system ingrained into American sports is something that can be justified and therefore, I suggest that more sports should adopt this system. With this system, players will be able to receive minimum/maximum wages, no matter their gender, solely based on the years of experience they have at that level (zero to ten plus years) thus rewarding players who have been able to compete at the highest level for longer. Therefore, unequal pay for equal play would be thrown out and status-based bias within sport , along with it.

This does not mean that higher profile sportsmen will have to take huge pay cuts, but rather that they will have to earn that extra income in the form of incentives which are set out by their team, based on the job for their position and long-term goals for the team, throughout the season. A percentage of their merchandise sold could also be offered to them which could help supplement income lost from the wage cap for the more prominent players. The final part of their income could be made up of endorsements. Since this is something that companies decide, there generally will not be a gender bias as they will choose someone that will increase their sales.



3.5 CONCLUSION

In this chapter, I established how the history of the wage gap has developed throughout history with women only being granted equality through hard times, in specific countries, while assessing the presence of the wage gap in modern society and addressing the legislation and committees put in place to prevent these issues. Secondly, I addressed the wage gap in sports by analysing where the fight for equal pay started and how it continues today. I further provided the statistics between men and women athletes and their earnings in specific sports. I assessed the most common justifications for the wage gap and concluded that they are not valid at present. Finally, I assessed the possibility of closing the gap and presented opinions and an existing proposal on how the gap can be closed.

I found that even after women had to fight just to be included in the workforce they were still treated unfairly in every industry, including sports, and it took extreme events, such as the war, for them to get a percentage of equality. This issue is not something that can be solved overnight; it is something that needs to be planned out carefully so that it does not become irrelevant just as the implementation of previous legislation that was put in place to prevent this very problematic inequality.

I do believe that sports can influence this issue. Just female athletes and teams standing up and speaking out about the unequal pay they receive will motivate people to reassess the disparity in their pay checks. Just like the cases spoken about above, the support of men in this issue goes a long way and can ultimately influence change. By vocalising this issue in public, proposals such as the one I and that of Lewes FC, will eliminate the gap.

In the next chapter, I will assess the possibility of a contractual obligation on sports franchises/organisations as well as the athletes they employ to support the surrounding communities. A sports team can only be as strong as the community that uplifts and supports them.

CHAPTER 4

ATHLETES' CONTRACTUAL OBLIGATION TO SUPPORT COMMUNITIES

4.1 INTRODUCTION

Most of the world's economy is experiencing a steady rise in inflation triggered by the continuous increase in energy prices, electricity, gas, and fuels, all of which are essentials and regulate the prices for other goods, such as food. Low-income households appear to be feeling the effect of belt-tightening the most.³¹³ As the economic situation worsens, it is always comforting for people to immerse themselves in something they have passion for, like sport.

Many of the households physically surrounding stadiums are often low-income families who struggle to make ends meet. The common belief is that a stadium, which attracts hundreds of thousands of supporters yearly, should boost that economy tremendously, however, that is not the case with many teams' marketing/administrative departments enticing the idea of improving the local economy with none of these concepts coming to fruition.³¹⁴

With this research, I aim to shed some light on the influence that athletes have and how they can use that influence to make a positive difference in the world. My main idea is to explore the possibility of inserting a clause into a standard player's contract, which will impose on the player the obligation to assist the community. I will do so by first addressing the power of sport and how this power has been used in the past and currently to make a difference. I will discuss how a stadium affects the surrounding communities, in a positive or negative manner; how athletes who have experienced this struggle are giving back, how this could inspire others to do the same; and finally, the legal aspects of my proposed contractual obligation.

It is no secret that many athletes have come from struggling homes and have had to overcome many hardships to reach their goals of becoming professional athletes. Many of these athletes have accredited a coaching member in their youth team for the reason they stuck with the sport, as these coaches would often help them where there was any financial shortfall.³¹⁵

I believe that this would be the best profession to take on this challenge, as many of them would possess sympathy and empathy for how these families are surviving and how they may need assistance, thus, providing a role model for the youth who will hopefully repeat these positive actions when they are adults.

No one is asking athletes to donate their entire wages to assist other sportsman and women, but rather spend time with struggling community members so they know that

313 Claeys G & Guetta-Jeanrenaud L, who is suffering most from rising inflation, <https://www.bruegel.org/2022/02/who-is-suffering-most-from-rising-inflation/>, 1 February 2022, (accessed 12 July 2022).

314 Siegfried J & Zimbalist A (2000).

315 Hendrix H, Marcus Rashford's childhood story plus untold biography facts, <https://lifebogger.com/marcus-rashford-childhood-story/>, (accessed 4 June 2022).

they are not alone and go the extra mile by creating initiatives, as Marcus Rashford did, to ensure that no child goes to school hungry.

The main aim of this chapter is to assess the power of sport and determine whether athletes can utilise their influence to make positive changes in the community that they serve and are supported by.

4.2 THE POWER OF SPORT

Sport has always been commended for the ability it possesses to unite people, no matter their background or social status. It does this by creating a sense of shared identity amongst a group of people that, otherwise, may be hostile towards each other.³¹⁶ This is why the United Nations have recognised sport as a route toward peace and conflict prevention.³¹⁷ This is evident in the UN restoring the Olympic truce to allow athletes from warring countries, who otherwise might be concerned about tensions spilling over into the games, safe passage to compete in the games.³¹⁸ This does not mean that sport is inherently good or bad but merely a tool that can be used to advocate for both. This research will focus on sport as a tool for positivity.

Under this topic, I will be providing real-life examples of the power of sport and how it has managed to bring people together throughout the years. The instances I will be talking about are the 'Four Countries 4 Peace' initiative; and when Drogba and the Ivory Coast National side helped avert a civil war. Sport is one of the only activities that is able to unite large groups, whether they are playing a sport or watching it. It creates a web that connects people in a community at a leadership level. This has been evident on a few occasions, specifically when the Springboks won the Rugby World Cup in 1995 and 2019. In 1995 the country had just turned a new leaf after the traumatising effect of Apartheid and the Springboks were heading into the competition with no expectations of success. The Springboks went on to win the entire tournament, transporting the country into its new chapter with the prospect of unity and joy. The victory in 2019 was promising for a different reason, as the captain of the team, Siya Kolisi, had come from poverty to lead the Springboks to their third World Cup title. This gave young people who are living in similar circumstances the hope that they could achieve their dreams through sport.

One of the greatest examples of the power of sport came in the heat for battle during World War I, when British and German troops entered a cease fire on Christmas Day 1914, where both sides ate and played football together.³¹⁹ Sports provide a rehumanising effect on conflicting groups and is able to halt any tension or armed conflict between groups.³²⁰ This was the main driving point when an NGO, des Jeunes Sportif de Kigali ESPERANCE, founded the 'Four Countries 4 Peace' initiative in 2002/03. The goal was to promote reconciliation and dialogue between the youth of four warring countries, Burundi, the Democratic Republic of the Congo, Rwanda, and

316 UN, Chapter 6 sport and peace: social inclusion, conflict prevention and peace building, 2008.

317 UN, Chapter 6 sport and peace: social inclusion, conflict prevention and peace building, 2008.

318 UN, Chapter 6 sport and peace: social inclusion, conflict prevention and peace building, 2008.

319 Cardenas A (2013).

320 UN, Chapter 6 sport and peace: social inclusion, conflict prevention and peace building, 2008.

Uganda, after the Rwandan genocide.³²¹ The aim was to use football to encourage bringing warring people closer, conflict solving through football. The rules were simple. There were eight teams, and each team had an equal number of girls and boys, however, only the girls were allowed to score and there was no referees present. This meant that these kids had to solve any disagreements amongst themselves that a referee would normally handle, which taught them to solve conflicts by talking it out instead of using violence.³²² A journalist for The Guardian, Wilfred Lemke, stated that watching these games was a magical experience as he got to watch the kids learn universal values such as respect, tolerance, and fair play. He went as far as to call it a victory for sports.³²³

This is a strong example of how sport can illustrate that it is more than a source of entertainment but rather a construct for respecting others and spreading societal positivity.

In 2002, a civil war broke out and divided the Ivory Coast. By 2004, the fighting between the North and South had died down but tensions were still high with the possibility of war still occurring.³²⁴ In 2005, things were not looking good on the sports front for the country, as they needed a miracle to qualify for the next World Cup.³²⁵ African footballers are often criticised for seeming disconnected from their countries when they start playing in Europe, with people thinking that the big money contracts make them lose sight of their African roots. That is not the case as they usually give their all for their country and even use the European funds to help develop rural areas, however, that night in Sudan, the Ivorian players knew they had to pull a miracle out of the bag to give some hope to the people back home. They ended up winning against Sudan and going on to qualify for their first World Cup. The victory meant so much more to them as it was something to help ease the tension back home.³²⁶ During the post-match celebrations, Didier Drogba and his teammates sent an emotional message, where they pleaded with everyone back at home to lay down their weapons, embrace one another, friend, or foe, and just enjoy that spectacular moment.³²⁷³²⁸

Things did not change overnight but the two warring sides were closer to finding a solution, with Drogba even relocating a home game to a stadium occupied by the rebellion, which would not have been possible two years prior thereto.³²⁹ Even though the peace did not ultimately last and the conflict reignited several years later, Drogba

321 Lemke W, sport is the most unifying tool for peace in the world, <https://www.theguardian.com/global/2016/apr/06/sport-is-the-most-unifying-tool-for-peace-in-the-world>, 6 April 2016, (accessed 2 June 2022).

322 Lemke W, sport is the most unifying tool for peace in the world, <https://www.theguardian.com/global/2016/apr/06/sport-is-the-most-unifying-tool-for-peace-in-the-world>, 6 April 2016, (accessed 2 June 2022).

323 Lemke W, sport is the most unifying tool for peace in the world, <https://www.theguardian.com/global/2016/apr/06/sport-is-the-most-unifying-tool-for-peace-in-the-world>, 6 April 2016, (accessed 2 June 2022).

324 Daniel J, Mathure V & Sellstorm T (2010).

325 Daniel J, Mathure V & Sellstorm T (2010)..

326 Daniel J, Mathure V & Sellstorm T (2010).

327 <https://www.youtube.com/watch?v=KAW7DF1Ufek>.

328 Daniel J, Mathure V & Sellstorm T (2010).

329 Guiberteau O, Didier Drogba: how Ivory Coast striker helped to halt civil war in his home nation, <https://www.bbc.com/sport/football/52072592>, 31 March 2020, (accesses 3 June 2022).

and his team accomplished something that transcends any other accomplishment in sports.

Even though the contractual obligation I will be proposing does not involve armed conflict, these are mere examples of the power and influence that sport and athletes possess. I aim to use this as a stepping-stone to evidence that sport is more than a source of entertainment. All that is needed is for more athletes to look beyond their profession and into the lives of the people who are struggling and assess what role they can play to assist others. We do this by assessing the impact that teams and their stadiums have on communities.

4.3 THE BENEFIT OF STADIUMS IN COMMUNITIES

When assessing where to place a stadium, it is assumed that it is placed in an underdeveloped area in an attempt to boost the local economy thus helping the surrounding areas, as it is believed that a new stadium promotes pride and a sense of community, while it also promotes spending in the community through business attraction and tourism.³³⁰ That, however, is not always the case, as underdeveloped areas usually just mean cheaper land and keeping costs down for the organisation. The jobs offered to the locals are often low-level jobs with no opportunity to climb the employment ladder, while the higher-level jobs are generally outsourced. Organisations need to reassess this employment system as the current system mentioned creates a continuous loop of low-income households.

After the stadium has been erected in an underdeveloped area, a wave of gentrification is attempted,³³¹ with the competing beliefs of preservation of poorer neighbourhoods for the benefit of their current occupants vs the redevelopment and upgrading of those areas to attract higher-income individuals, the central aspects during an attempt to gentrify an area.³³² According to the Brook Institute, gentrification is marked by three factors: (1) the involuntary displacement of lower-income residents by higher rent or property tax bills; (2) upgrading of housing stock; and (3) change in the social fabric of the neighbourhood.³³³ All of these, coupled together, make it impossible for low-income residents to continue residing there and can cause them to relocate.

Some of the principal reasons why a city competes for a stadium is that the team signs a long-term lease, usually for twenty to thirty years, so it is a good investment for a city, and finally, it is encouraged mostly by local politicians who are looking for proliferation in support from local businesses to secure their re-election.³³⁴ With an owner's promise to gentrify the area and the local politician's desire to get re-elected, the stadiums are usually placed in underdeveloped areas, labelled as a project to improve the city or local environment, and the low-income residents are forgotten.

330 Siegfried & Zimbalist (2000), 100.

331 Gentrification is the process of change throughout a neighbourhood that replaces low-income residents with higher-earning ones.

332 Berke et al (2006), 40.

333 Kennedy & Leonard (2001), 5.

334 Siegfried & Zimbalist (2000), 100.

Politicians and sports organisations often cite economic gain as the most beneficial part of bringing a stadium to a city, with the visions of the masses flocking to local businesses used to assure business owners that it is beneficial for all.³³⁵ However, the cons seem to outweigh the benefits, with the city and its taxpayers having to pay for the expenses accumulated i.e. the security for athletes at events like the Olympics.³³⁶ \$1.5 billion was spent on security during the 2004 Olympics.³³⁷ There are three other factors that have a negative effect on the locals and their economy, namely: the crowding factor; the substitution effect; leakages; and the effect on permanent housing.

4.3.1 THE CROWDING FACTOR

Residents are often deterred from visiting any local businesses or other sources of entertainment when there is a sports fixture near them, as they do not want to deal with large crowds of intoxicated people who do more damage than anything else. This deterrence reduces the economic effect the stadium has on the local economy.³³⁸ This is evident when the Chicago's Field Museum and Cleveland's Rock and Roll Hall of Fame in America experience a decline in attendance when their NFL neighbours are hosting a game.³³⁹

4.3.2 THE SUBSTITUTION EFFECT

The substitution effect states that people's recreational budget is inflexible. When someone decides to go to watch a game, they need to compromise and not go to another recreational activity, such as the movies, thus resulting in the net spending in that area remaining the same.³⁴⁰ When there is a game, fans occupy the majority of the hotel space and the hotels raise their prices due to supply and demand, this displaces vacationers who are in the city for reasons beyond the game.³⁴¹

4.3.3 LEAKAGES

In 2000, approximately 55-60% of the NFL, MLB, NHL, and NBA went to the players' wages in each respective league. In that same year, there were four major leakages from local economies.³⁴²

1. With the players earning a higher income this meant that they had to pay higher taxes to the national government. Therefore, there was a large leak of revenue from the city to the national government;³⁴³
2. These higher incomes lead to the athletes having a higher saving/investing percentage as they attempted to secure enough money to maintain their

335 Baade, Baumann & Matheson (2008), 794.

336 Baade, Baumann & Matheson (2008), 795.

337 Baade, Baumann & Matheson (2008), 795.

338 Baade, Baumann & Matheson (2008), 797.

339 Baade, Baumann & Matheson (2008), 797.

340 Siegfried & Zimbalist (2000), 105.

341 Siegfried & Zimbalist (2000), 105.

342 Siegfried & Zimbalist (2000), 106.

343 Siegfried & Zimbalist (2000), 106.

lifestyle after they retire. This money, therefore, leaks out of the local economy and into the world market,³⁴⁴

3. The athletes only live in that city during the season and do not reside there when it is off-season, this means that they are using their income to travel or spending it in multiple economies,³⁴⁵ and
4. The revenue that flows due to the much pricier concession stands in the stadiums, is often siphoned off to that stand's parent corporation, which is oftentimes not situated locally.³⁴⁶

4.3.4 EFFECT ON HOUSING

When studying the effects of a new stadium, FedEx Field, Tu found that the traffic, noise and air pollution caused the surrounding properties of the stadium to decline in value rather than increase.³⁴⁷ The closer your home is situated to the stadium, the lower the value. He also discovered that the properties closest to the stadium received upgrades to increase the value, but this was not a direct result of the stadium.³⁴⁸ Finally, he found the stadium created low-income jobs which maintained the high minority and low education level of the original residents, whilst generating a sense of community and improving the infrastructure, which might not have occurred without the construction of the stadium.³⁴⁹

Stadiums are erected in these underdeveloped areas with the goal of making a change to help those people residing there, yet these projects are postponed once the people in power get what they needed, with these stadiums often leading to residents getting involuntarily displaced to make room for individuals with higher-income levels. These stadiums do generate a substantially large amount of revenue while, at the same time, not making a positive impact on the net revenue of the local economy itself

So how do you fix a problem such as this one, that was left by those in power? In my opinion, you look to the people who have been in these struggles before, so there is a sense of understanding i.e., those who have come out on top and now possess the influence to make a change. For me those people are athletes.

4.4 ATHLETES' LEGAL OBLIGATION

Athletes possess a large amount of influence over and power in present day society. Whilst some use their power to make a difference, there are still many who believe that it is not their job to tackle important issues. It is not out of line to suggest that professional athletes should give up some of their time to help struggling communities. After all, there are many high-end professionals, such as doctors, engineers, and lawyers, who take the time to help those in need. All three have their own respective

344 Siegfried & Zimbalist (2000), 106.

345 Siegfried & Zimbalist (2000), 106.

346 Siegfried & Zimbalist (2000), 106.

347 Tu (2005).

348 Tu (2005).

349 Tu (2005).

“Without Borders” initiatives.^{350 351 352} The time for athletes to use their influence for good has arrived.

Athletes have always held an influential role in our society. Many stars, such as Muhammed Ali and Tommie Smith, have used their celebrity status to impact key battles throughout history. The impact this profession holds has only grown over a number of years. With the rise of social media, professional athletes have become one of the main focal points on the news as well as social media, with their every move being over-analysed and judged.³⁵³ Even with all the negatives that athletes experience on social media, they have chosen to use the platform as a microphone, spreading awareness on the issues that affect them and others, to reach a larger audience. An athlete’s digital influence can be used in three ways: interacting with fans; self-branding and marketing; and communicating with stakeholders.³⁵⁴ You can take these three different methods and assemble them into a three-pronged system for good. Interacting with fans as a baseline will prove to fans that the sports professionals hear them and he/she, as one of their heroes, will do his/her best to help. The self-branding and marketing step can be used to raise awareness of a situation that requires more than just a sports professional’s personal assistance; and finally, how he/she can help raise awareness and reach people with more economic means where he/she cannot personally assist financially.

Although there have been many athletes who have emanated from struggling communities and thrived at a sport, I have opted to discuss LeBron James and Marcus Rashford to illustrate the sense of understanding and efforts to give back as I was referring to earlier.

Marcus Rashford’s family struggled financially throughout his entire childhood, with his mother doing whatever it took to provide for her family. This was not always possible as their family went without food some nights. They lived in a close-knit community so whenever those nights came around, Rashford would go to his friend’s house for a meal.³⁵⁵ Although Rashford did not have much, he did have the only thing he needed to set him up for a prosperous future and that was an old beat-up football with “Marcus’s ball” transcribed on it. This fuelled his dream of playing football.³⁵⁶

Rashford began playing goalkeeper for a local youth club where he idolised Manchester United keeper, Tim Howard. The coaches used to give him lifts home as his mother was unable to, and they stated that Rashford was on another level compared to the other kids. He used to train and then have a nap during the car ride

350 <https://www.msf.org.za/about-us>.

351 <http://www.ewb-international.org/activities/>.

352 <https://www.lawyerswithoutborders.org/where-we-work>.

353 Kutzer M, Professional athlete’s role in society via social media, <https://www.loyola.edu/academics/emerging-media/blog/2016/professional-athletes-social-media>, 2016, (accessed 18 July 2022).

354 Guerin A (2016) 71-75.

355 Hendrix H, Marcus Rashford’s childhood story plus untold biography facts, <https://lifebogger.com/marcus-rashford-childhood-story/>, (accessed 4 June 2022).

356 Hendrix H, Marcus Rashford’s childhood story plus untold biography facts, <https://lifebogger.com/marcus-rashford-childhood-story/>, (accessed 4 June 2022).

home. When he arrived home, he would continue practising the moves he learned during training that day. It became clear that with Rashford's drive and the nurturing of his talent by coaches willing to reach out a helping hand, he was going to pull himself and his family out of their daily struggle.

He joined Manchester United's youth academy at the age of seven. Due to his family's financial struggles and their inability to get him to training, Rashford's mother pleaded with the club to let him stay in their residence which were generally for older kids. They agreed and the rest is history, with Rashford going on to achieve his goal of playing for the Red Devils while picking up major accolades along the way.³⁵⁷

That, however, was not enough for Rashford. When Covid-19 flipped the world upside down, leaving many low-income households with more of a setback, Rashford thought of all the children who would be going to school hungry just as he once did. He then launched his End Child Food Poverty campaign.³⁵⁸ This same campaign later made the UK government change their mind about providing meals to the vulnerable youth in the country.³⁵⁹ He did not stop pushing to get this initiative running, with the goal being to ensure meals for kids that could not afford them.³⁶⁰ Along the way he has helped feed 1,3 million children and making sure that no child had to feel the way he did many years before. This earned him a Member of the Order of the British Empire (MBE). While he continues to promote positivity and is the youngest person to top the Sunday Times 'Giving List' he still receives online hate and racist remarks. Amongst all this hate, he remains a role model in the community and goes beyond sport to show children what they should strive toward becoming and how they should use their influence.

LeBron James was born to a teenage mother who did not have the means to provide for her child. The two of them would move around a lot, searching for a stable job for his mother. Through all the chaos James found and got into basketball, proving to be ambitious and knowledgeable about the sport from an early age.³⁶¹

James attended a local private high school with a renowned basketball program where James thrived in basketball, football, and academics. His philosophy of teamwork saw the entire team improve instead of him being a one-player team, which he was capable of according to his coaches.³⁶²

By the time he had reached the final year of his high school career he was already a star and a household name, leading his school to three out of four championships during his time; won High School Boys Basketball Player of the Year two years in a

357 Hendrix H, Marcus Rashford's childhood story plus untold biography facts, <https://lifebogger.com/marcus-rashford-childhood-story/>, (accessed 4 June 2022).

358 Lalli GS (2021).

359 Lalli GS (2021).

360 Lalli GS (2021).

361 Kozlowski J, LeBron James had a more depressing childhood than you think, <https://www.sportscasting.com/lebron-james-had-a-more-depressing-childhood-than-you-think/>, 22 April 2020, (accessed 4 June 2022).

362 Kozlowski J, LeBron James had a more depressing childhood than you think, <https://www.sportscasting.com/lebron-james-had-a-more-depressing-childhood-than-you-think/>, 22 April 2020, (accessed 4 June 2022).

row (the first player to accomplish this) and; was on the cover of Sports Illustrated.³⁶³ After his final year of High School, he declared himself eligible for the NBA Draft where the Cleveland Cavaliers signed him as the Number 1 draft pick.³⁶⁴ Since then, James has gone on to break numerous records in the NBA with a career spanning almost 20 years.

James has since looked to take that court domination and focus it on helping the community that supported him growing up.

James was born and raised in Akron, Ohio where residents face hard times: an abundance of drugs, crime, and poverty runs rampant. A local educator states that children are the main victims due to the instability of having to relocate often, therefore, missing school. James was a victim of these circumstances which is why he decided that his old community needed to undergo a change.³⁶⁵ Many Akronites were ecstatic when James moved back to the Cavaliers as this not only meant the possibility of a championship but also that the children had someone to idolise who came from their neighbourhood. LeBron's basketball was a welcome distraction from everyday life for the Akronites.³⁶⁶

James founded the LeBron James Family Foundation to make a positive difference for children, through education and extra-curricular activities.³⁶⁷ The LeBron James Family Foundation partners have invested more than \$20 million into a new school, three residential buildings, and a sports/entertainment complex which represents James' goal to advance education, stability, and social assistance in his community.³⁶⁸ Even though LeBron left Cleveland his work to help vulnerable youth did not. He launched the Wheels for Education initiative and Akron I PROMISE Network, which saw a class of at-risk youths given additional support in numerous aspects of their lives to ensure a better future.³⁶⁹ James and his developers aim to make energy efficient, environmental safety and affordability accessible to disadvantaged communities across America whilst providing necessities such as health care, recreation, good schools and safer streets.³⁷⁰

All these initiatives stem from James wanting to mend the instability he experienced growing up so future generations did not have to experience the same. With his work already making a difference, James has no intention of slowing down and has set his sights on continuing to help neglected communities across America.³⁷¹

363 Coombs DS & Cassilo D (2017).

364 Coombs DS & Cassilo D (2017).

365 Rodgers M, How Akron differs from Cleveland on LeBron James, <https://www.usatoday.com/story/sports/nba/2014/10/27/lebron-james-akron-ohio-cleveland-cavaliers/18030069/>, 27 October 2014, (accessed 7 June 2022).

366 Coombs DS & Cassilo D (2017).

367 Stansberry K & Strauss J (2016).

368 Stansberry K & Strauss J (2016).

369 Stansberry K & Strauss J (2016).

370 Schneider K, How LeBron James uses his influence to improve community development, <https://www.nytimes.com/2021/03/09/business/lebron-james-community-development.html#:~:text=James%20is%20building%20a%20model,Family%20Foundation%20and%20its%20partners,9%20March%202021,> (accessed 7 June 2022).

371 Schneider K, How LeBron James uses his influence to improve community development, <https://www.nytimes.com/2021/03/09/business/lebron-james-community->

Both Rashford and James have found success in their respective sports while the odds had been stacked against them since childhood, proving that it does not matter what kind of environment you are born into, the right guidance and value determines your success. After experiencing success, both of these athletes turned their sights to being role models and making sure that no child had to go through the same struggles they experienced. I realise that it is not just these two sports professionals helping communities but imagine the difference that could be made if there were more influential athletes doing the same. A cycle of help and positivity would be created in disadvantaged communities.

I am not suggesting that every athlete give out millions of Dollars like James, as he has been at the top of his sport for years and would have more funds than most professional athletes. There are more ways to help, even if these celebrities in a sport just speak to children to find out what affects them negatively, as lending an ear goes a long way to proving they are cared about. Even small financial gestures like buying clothes or school supplies would mean the world to some families. Athletes cannot simply ignore these people as they are all the fabric of one community and need to have a reciprocal relationship.

Law is more than the statutes and court battles that take the spotlight when the profession is portrayed.³⁷² It is a system of duties and regulations that was put in place to ensure that the morals running through our society are adhered to while enforcing a punishment where these morals are broken.³⁷³ Morals are the foundation of law and the justice system presupposes people's caring for each other.³⁷⁴ Our law and the research thereof should extend beyond the legislative responsibility placed on us and should ensure that our moral obligation to one another is upheld. This is what I aim to ensure by proposing my contractual obligation. From an ethics perspective, the case can be made that placing a contractual obligation on certain individuals is contradictory to the moral obligation we have towards each other, as it is forcing someone to uphold their moral duties. I do not, however, believe that is the case; rather, I believe that an obligation such as this one should be put in place to ensure that we do not stray from our morality. There is no major difference between the intended purpose of law and morals, with morals usually governing law. However, the biggest difference is that the law is written and possesses a more forceful method of adherence, whereas morals do not.³⁷⁵

Now that I have discussed the legal essence of the obligation, I need to discuss the obligation itself, how it will work, and the possibility thereof. A contract is a written/spoken agreement between at least two parties, especially one concerning employment, sales, or tenancy, that is intended to be enforceable by law. Each country

development.html#:~:text=James%20is%20building%20a%20model,Family%20Foundation%20and%20its%20partners, 9 March 2021, (accessed 7 June 2022).

372 Law comprises concrete obligations and responsibilities necessary for maintaining social order and resolving any disputes that arise.

373 Morals are a set of deeply held, widely shared, values within a community. These values are instilled in us from a young age and dictate what is wrong and right.

374 Cicero MT (1995).

375 Alistar E (2019).

has different requirements and remedies for a contract with the foundation of each country being very similar.

	Requirements	Remedies
England	<ol style="list-style-type: none"> 1. An offer; 2. Acceptance; 3. Consideration (the promise of money or the promise to do something); 4. An intention to be legally bound; and 5. Both parties have contractual capacity.³⁷⁶ 	Termination of the contract; Damages; Prohibitory/mandatory injunction; or Specific performance (court compels a party to perform). ³⁷⁷
USA	Enforceable requirements: <ol style="list-style-type: none"> 1. An offer; 2. Acceptance; 3. Consideration; Other requirements: <ol style="list-style-type: none"> 1. Must not be contra bonos mores; 2. Parties must have contractual capacity; and 3. Parties must have mutual assent.³⁷⁸ 	<ul style="list-style-type: none"> - Damages; - Specific performance; - Injunctions; - Restitution (return the injured party to pre-contract state); - Rescission (terminate the contract); - Reformation (alter contracts substance); - Compensatory damages.³⁷⁹
South Africa	<ol style="list-style-type: none"> 1. Parties must have a “meeting of minds” and agree on all aspects; 2. Parties must have contractual capacity; 3. The agreement must comply with all formalities; 4. Agreement must be lawful; 5. Obligation must not be impossible; and 6. Agreement must have content so obligation can be enforced.³⁸⁰ 	<ul style="list-style-type: none"> - Specific performance; - Contractual damages; - Cancellation of the contract.³⁸¹

376 <https://hallelis.co.uk/contract-law-basics-formation/#freedom>.

377 https://hallelis.co.uk/remedies-breach-contract/#_injunctions.

378 <https://www.upcounsel.com/basic-contract-law#:~:text=Basic%20contract%20law%20covers%20the%20many%20different%20phases,This%20is%20where%20basic%20contract%20law%20comes%20in>.

379 Anand S, Remedies for breach of contract under USA law, <https://lawtimesjournal.com/remedies-for-breach-of-contract-under-usa-law/>, 2 July 2021, (accessed 28 June 2022).

380 Hutchison D, et al, Law of contract in South Africa, Chapter 1, 2012.

381 Hutchison D, et al, Law of contract in South Africa, Chapter 1, 2012.

The contractual obligation I am proposing is a simple one but has the power to affect a large amount of change. I propose that athletes utilise the influence given to them by virtue of their athletic ability to help the struggling households in the communities surrounding the stadium. Celebrities, in general, hold the most power in today's society with people buying specific brands purely because their favourite athlete or actor is endorsing that particular brand. The obligation does not need to be a daily occurrence; however, it requires constant attention. If athletes continuously promote their efforts, it could lead to larger and more lucrative companies getting involved. The end goal is for this obligation to become a permanent fixture within a Standard Player Contract (SPK) alongside the requirements for a player's fitness and behaviour. It is not a matter that can be solved by more money as some people in the community only require the time and effort of the sport persons they idolise and support.

An SPK will be extremely more detailed than any other contract as there are typically more factors at play and every possible scenario needs to be addressed. The foundation of each SPK will cover these basic requirements. An SPK is usually negotiated as part of a collective bargaining agreement between a professional and the players' association. It is written in general terms but some players and teams may insert different clauses.³⁸² The last question would be where I can insert this contractual obligation into an SPK without it disturbing the integrity of the SPK? A basic SPK consists of twelve steps and is divided into three parts:

PART ONE: ESTABLISHING BASIC TERMS:³⁸³

1. Identifying the parties – the player, team and professional league need to be specified.
2. State the purpose of the contract – after the relevant parties have been specified an SPK will explain the roles of each party and the employment relationship between the player and club.
3. Discuss other activities and contract obligations – players will have other duties apart from playing sports, such as press conferences and public campaigns, and any obligations that need to be fulfilled.
4. Provides the contract's duration.
5. Includes standard legal provisions - the basic contract law of the necessary country/state will be discussed.

PART TWO: CALCULATING COMPENSATION:³⁸⁴

1. Provide the player's annual compensation – states how often the player will get paid, the amount being paid and identify the additional payments the player will make, such as taxes and insurance.

382 Mueller J, how to draft an SPK, <https://www.wikihow.legal/Draft-a-Standard-Player-Contract>, 22 January 2022, (accessed 29 June 2022).

383 Mueller J, how to draft an SPK, <https://www.wikihow.legal/Draft-a-Standard-Player-Contract>, 22 January 2022, (accessed 29 June 2022).

384 Mueller J, how to draft an SPK, <https://www.wikihow.legal/Draft-a-Standard-Player-Contract>, 22 January 2022, (accessed 29 June 2022).

2. Address bonuses – specify the extra income, such as signing and performance bonuses.
3. Address licensing and publicity – the club acquires the right to use the player’s name and image. This step states the terms and conditions for this process.

PART THREE: INCLUDING RULES AND RESTRICTIONS:³⁸⁵

1. Establishes the physical requirements for a player.
2. Includes a reference to the league and club rules – a player is obliged to agree to adhere to the various rules and regulations of the club and league before they can start playing any sport.
3. Describe any other player restrictions - these will govern what a player can and cannot do in their free time, these will be relaxed during the off-season. It will also specify that the player cannot play any other sport which they might acquire an injury from.
4. Discuss the procedure for contract termination – this will list the various reasons that a club may have to terminate a player’s contract and the procedure they must follow. Clubs have more reasons for termination than a player.

The contractual obligation I propose should be addressed in the SPK across five basic steps of the contract. The obligation will first appear under step two where the club can specify the role the player must have in the surrounding community; step three should go into detail as to how the player needs to practically fulfil this obligation; step six can provide the monetary fine or any other form of remedy the club may choose if the player fails to abide by the obligation; step eight will state that the club may use the player’s name and/or image to run campaigns to support his outreach; finally, step ten will lay out the obligation as one of the club’s rules.

Adding this obligation into a player’s SPK would not be completely out of line as there have been many instances where an athlete and their new club have agreed to insert a special or additional clause into the contract: from the Seattle Mariners’ Ichiro receiving four fully paid family vacations, a personal translator and trainer, a jeep or SUV, and a housing allowance to rent a home included in his contract extension, to Stefan Schwarz being banned from any form of space travel in the early 2000s by Sunderland.³⁸⁶

Even when an entire club is being sold, there are specific clauses added to the contract of sale by the selling party to ensure that the assets they have built up will be protected. This was the case in the sale of Chelsea Football Club where Roman Abramovich added several clauses aimed at protecting and advancing the club.³⁸⁷ The four suitors not only had to agree to the most lucrative selling price in sports history but the several subsequent clauses that came with the sale such as they were not allowed to sell their

³⁸⁵ Mueller J, how to draft an SPK, <https://www.wikihow.legal/Draft-a-Standard-Player-Contract>, 22 January 2022, (accessed 29 June 2022).

³⁸⁶ Moore M, top 20 crazy contract clauses we can’t believe these athletes got, <https://www.thesportster.com/entertainment/top-20-crazy-contract-clauses-we-cant-believe-these-athletes-got/>, 3 July 2017, (accessed 7 July 2022).

³⁸⁷ Panja T & Smith R, inside the Chelsea sale: deep pockets, private promises and side deals, <https://www.nytimes.com/2022/05/24/sports/soccer/chelsea-sale-abramovich-boehly.html>, 24 May 2022, (accessed 7 July 2022).

shares for at least ten years; invest a minimum of £125 million in the women's team; invest in the academy and training facility and; make renovations to Stamford Bridge.³⁸⁸

My argument would be that if a player, their club and a new club owner can agree to have a special or additional clause in their contract, then why not make specific pledges to play a part in developing or supporting the communities around the stadium or agreeing to assist those households that are struggling financially around the stadium?

Can this obligation work? I believe that if it is structured well for a player and does not unrealistically occupy too much of their time, it will succeed. With that being said, I also believe that an SPK that is well structured and detailed must also be regulated and enforced so as to be effective and constructive rather than simply ignored. Even if a team is focussing on financial gain, they should beware of the benefit of such clauses, as the publicity from the fulfilment of such an obligation will inevitably also lead to an increase in revenue and support which can resultantly be beneficial for a team.

4.5 CONCLUSION

In this chapter, I established the possibility of inserting a contractual obligation in the Standard Player Contract of an athlete to ensure that more players will be obliged to get involved in helping the communities surrounding their stadium and the households that are struggling within. I have done so by assessing the power that sports hold in today's society and how that power has been used in the past to help people; how a stadium affects the communities surrounding it; how some athletes have come from struggling families and how they use their influence now to make a positive difference; and finally, how this obligation will work by discussing previous special/ additional clauses in a player's contract, the foundation of contract law and how this clause will be inserted into an athlete's Standard Player Contract.

I found that, as the inflation rate continues to rise, the belt continues to tighten around the low-income households and something, or someone, needs to step up and make a difference where the political leaders have fundamentally failed to do so. I have also found that sport has always held and continues to hold massive power in society and with the development of social media, athletes have become key influencers on societal and cultural issues. In conclusion, I believe that athletes are one of the most well-equipped professions to enforce positive change. This additional clause in an SPK, coupled with the appropriate oversight and enforcement, will ensure that there will be a larger influx of athletes looking to lend a helping hand.

In the next chapter, I will discuss the impact of social media on sports specifically with regards to hate speech being spread across each platform, and whether companies and sports organisations can come together to eradicate the hate speech and expose those who are responsible.

388 Panja T & Smith R, inside the Chelsea sale: deep pockets, private promises and side deals, <https://www.nytimes.com/2022/05/24/sports/soccer/chelsea-sale-abramovich-boehly.html>, 24 May 2022, (accessed 7 July 2022).

CHAPTER 5

ONLINE TROLLING AND HATE SPEECH

5.1 INTRODUCTION

Despite the entertainment industry constantly trying to educate us on the downfalls of judging a book by its cover or teaching us the value of kindness to others, many people cannot translate these morals into real world action but instead revert to hate and intolerance of others.

Throughout the majority of democracies in the world many have set freedom of expression/speech as a cornerstone of their democratic state. Yet when this right is left unregulated and largely unrestricted it begins to tread a thin line between a basic human right and becoming a scapegoat for people to verbally assault others or spread their hateful views by converting this “free” speech into hate speech.

From bullying on the playground to belittlement in an office block, hate speech can contaminate any work or sport environment. It causes victims to display anti-social behaviour over fears of being called out due to an insecurity singled out by online trolls.³⁸⁹ Over the last several decades it is an issue that has evolved from a face-to-face epidemic to a digital pandemic by corrupting the internet and social media. This offers no escape to those who are affected and allows the hateful abuse to follow people into their own private homes. I am of the opinion that every time someone attempts to devalue or aim hatred at another we regress as a society.

Online trolling has become a sub-culture for hate groups and has provided a delivery platform for their hate speech. This leaves those who have been affected with negative effects such as low self-esteem, depression, self-harm or thoughts thereof, and even suicide in some cases.³⁹⁰ With words often cutting much deeper and leaving mental/emotional scars that last a lot longer than that of a physical wound.³⁹¹ When left unchecked some cases of hate speech result in hate crimes, when an offender has turned their verbal abuse into physical abuse. Which begs the question... why should someone’s right to freedom of speech hinder another’s mental or physical well-being?

With this research, I aim to address the forever-expanding pandemic of hate speech on and off the sports field. I will do so by assessing the historical development of hate speech, particularly the development of its delivery methods, and how it has managed to infiltrate every mainstream source of entertainment, technology, and media over the decades. Next, I will assess the prescribed coping and prevention methods for hate speech as well as the legislative protection provided and the appropriate punishments for the offence in South Africa, England and the United States of America. Finally, using the information I have gathered, I will formulate my four-step approach for

389 Cheng J, Bernstein M, Danescu-Niculescu-Mizil C, & Leskovec J (2017).

390 Psychologists Magazine, How does online trolling dangerous for mental well-being, <https://www.psychologists.com/article/how-does-online-trolling-dangerous-for-mental-well-being>, 03 August 2022, (accessed 03 October 2022).

391 Cheng J, Bernstein M, Danescu-Niculescu-Mizil C, & Leskovec J (2017).

combating hate speech, which will involve addressing the issue at the grassroots level, legal reform for the hate speech legislation, social media reform in terms of stricter access guidelines as well as a more well-versed set of community guidelines, and explanation of how the sports community can proactively make a difference. The aim is to assess and combat the issue at four different levels to ensure a more well-rounded coverage and a united front when tackling the problem.

5.2 THE CURRENT PROBLEM AND HOW WE GOT HERE

Hate speech is the use of derogatory and/or hateful language to devalue, belittle or verbally attack another person based on their race, colour, sexual orientation, gender, gender identity, religion, or national origin.³⁹²³⁹³

Every act of hate speech can have one of four purposes for the user:

- (1) To intimidate any person that belongs to an out-group;
- (2) To promote violence against an out-group;
- (3) To construct collective beliefs and memories for the people belonging to an in-group; and
- (4) To recruit and radicalise new members of the hate group.³⁹⁴

In every hate speech scenario, there are in-groups and out-groups and usually these are decided or determined by the individuals spreading the hateful messages. An in-group are the people who possess the characteristics generally described in positive and inclusive terms, usually the same people as the person/group spreading the hate. While an out-group is portrayed by dehumanising and vilifying terms.³⁹⁵ By creating a hierarchy it makes people belonging to the in-group feel like they are part of something important while at the same time for the out-group it belittles, creates a fear of harm, and rhetorically conquers them.³⁹⁶

In today's world hate speech and social media have become synonymous with one another. That has not always been the case. Social media has made committing the offence more efficient and convenient for the perpetrators yet hate speech has always managed to find room to continue moving forward through the most effective delivery methods over the decades.

Nowadays it appears that it has become the daily norm for us to be exposed to messages of hate across various social media platforms. The technological advancements that were intended for bringing us closer together within societies are quickly becoming platforms filled with anxiety and fear. It has become a recruitment centre for hate groups to find like-minded individuals to further spread their message under the guise of "free speech". These recruitment tactics are nothing new as hate groups have continuously infiltrated various delivery methods, such as music, novels, the telephone and its accessories, the internet and social media while spanning several decades in a quest for like-minded people.

392 Jedicke P, As hate speech online increases, so has the resistance, <https://www.dw.com/en/as-hate-speech-online-increases-so-has-the-resistance/a-55411555>, 27 October 2020, (accessed 02 August 2022).

393 Hietanen M &, Eddebo J (2022).

394 Waltman M & Mattheis A (2017).

395 Waltman M & Mattheis A (2017).

396 Waltman M & Mattheis A (2017).

Music is one of the oldest forms of entertainment and is often associated with joy. However, following the theme of this chapter, I will assess how hate infiltrated and spread its way through this joyous activity.

No genre of music was specifically created with the express intention of inciting hate in others, but rather they have been twisted by hate groups into create a tool to spread their hate. For example, the skinhead and punk rock cultures that were adopted by hate groups are now synonymous with these groups' messages.³⁹⁷

By the 1980s 3 record labels, Resistance, Micetrap and Tight Rope Records, were running major distribution lines for hate music which led to their genre growing to the point where the genre still lives on today.³⁹⁸

Before the phone or even the internet, the printed word was one of the most popular forms of entertainment. Meaning that there were massive amounts of data/information flowing through the pages of a newspaper or novel. Therefore, if anyone were to spread misinformation in the form of biased views through this medium it would compromise the thinking or opinion held by large groups of people.

Such was the case with William Pierce, a neo-Nazi and director of the National Alliance, who had the intent to convert and radicalise people to his cause through a series of novels, such as *The Turner Diaries* (1978) and *Hunter* (1989), that idolised fellow neo-Nazis or the characteristics that they needed to survive this "liberal corrupted world".³⁹⁹

The Turner Diaries is a novel which praises the neo-Nazi movement while assisting in the finding and radicalising new members. The book educates readers, in some detail, on how to carry out violent acts and instils a shoot first ask later attitude in its readers. This novel has apparently inspired several hate crimes including the 1984 assassination of Alan Berg and the 1999 London nail bombing.⁴⁰⁰

While *Hunter* follows a man who has made it his goal to kill interracial couples due to the disgust that they instil in him, the novel teaches readers how to master weapons, from knives to sniper rifles and machine guns and to become the best radical white supremacist.⁴⁰¹

The "lessons" from these novels have not faded away with the dying memory of William Pierce, but rather have cemented themselves into the values of hate groups.

As tape recorders began to be connected to home phones around the United States of America in the 1960s, an era of communication and convenience came to fruition as people no longer had to worry about any important messages while they were out

397 Waltman M & Mattheis A (2017).

398 Waltman M & Mattheis A (2017).

399 Waltman M & Mattheis A (2017).

400 Waltman M & Mattheis A (2017).

401 Waltman M & Mattheis A (2017).

of the house.⁴⁰² It did not take long before targeted messages, typically of a political or religious nature, began to echo through each home's tape recorder. Far-right extremists, such as the Connecticut branch of the National Socialist White People's Party and the Texas branch of the KKK, would deploy these tactics in the hope of finding recruits and spreading their messages of white superiority and the extermination of minority races. Which would later become known as "dial-a-hate".⁴⁰³ AT&T, a leading company in the telecommunication market, would attempt to curb the growth of this campaign but the regulating laws did not evolve speedily enough and the 1st Amendment prevented any legal action against these tapes.

Dr William Campbell Douglass II, known for his contrarian views and novels, would be one of the first people to realise the power of this advancement and would pave the way to spread his message of white power across the country through the creation of the "Let Freedom Ring" movement. This allowed people with the same views as Douglass to pay an annual fee for access to his scripts so they would be able to create and ship out their conservative tapes, with many homes welcoming these tapes above the "liberal propaganda".⁴⁰⁴

With the creation of the world wide web came the dethroning of other delivery methods for hate groups. The internet has revolutionised the way we live our lives to the point that we are now able to do anything we want from the comfort of our homes. Although it has done wonders for the average person it has also provided a platform of convenience for those looking to spread hate, as they no longer need to meet up in a well-protected venue in the middle of nowhere. Many of these radical websites begin recruitment from a young age with their own "just for kids" sections.⁴⁰⁵

As the internet grew so too did the web of these groups, with many building their virtual bridges in order to connect and fight in a common cause with each other, even helping each with shared goals, the recruitment of the new generation of bigots, racists, homophobes, sexists and antisemites.⁴⁰⁶

Such as the Vanguard News Network – a racist multi-media website to educate the Jewish hold on America and how viewers can apply Aryan understanding to the news,⁴⁰⁷ the Lone Wolf Survivalist – a devoted webpage to idolising and educating others on the lone wolf myth portrayed in the *Hunter* novel. Offering skills, such as sniper training, silencers, artillery, tools, and the underground economy, for the "training" lone wolf to learn; and Women for Aryan Unity – a group of racist, pre-Christian, pagan (Odinism), feminist women who work with Aryan men to protect and further the interests of their race. It aims to educate women on their role within the race religion while working with Aryan men.⁴⁰⁸

402 Melendez S, Before social media hate speech and propaganda spread by phone, <https://www.fastcompany.com/40541251/before-social-media-hate-speech-and-propaganda-spread-by-phone>, 04 December 2018, (accessed 17 August 2022).

403 Stern KS (2005).

404 Melendez S, Before social media hate speech and propaganda spread by phone, <https://www.fastcompany.com/40541251/before-social-media-hate-speech-and-propaganda-spread-by-phone>, 04 December 2018, (accessed 17 August 2022).

405 Waltman M & Mattheis A (2017).

406 Foxman AH & Wolf C, (2013).

407 Waltman M & Mattheis A (2017).

408 Waltman M & Mattheis A (2017).

The foundation laid by the internet saw it become an invaluable tool for the creation and success of social media platforms. These platforms sought to create a connective web in which anyone would be able to share their thoughts and glimpses into their life with friends and family across the world. These apps have almost addictively become an important part of most people's lives, with the good intentions of the social media companies being evident in the fact that they do bring people together, help old friends reconnect as well as provide a platform where anyone can seek help on personal, career or academic level.⁴⁰⁹ However, all the good that these apps contribute to society is being washed away by the waves of hate, which do not target a single group of people but rather attack any minority group, that generates on their platforms. These attacks are often formulated by white supremacists/hate groups who look to draw people in and further spread their radical views.

Hate groups appear to seamlessly switch between the best delivery system which will help expand their reach, as seen in their expansion from music to the ability to be on everyone's cell phone or device. While they have adjusted their delivery method by choosing social media as their desired modern-day raven, their methods for radicalisation remain unchanged and similar to those used by the Nazis. They can radicalise people through the use of propaganda that manipulates people's emotions while fuelling the fear that people have for an out-group.⁴¹⁰ The hate is disguised as "trolling" or "banter" using emojis and memes,⁴¹¹ most of which are lost through the never-ending flow of hate content, to target people of colour, women, and religious out-groups all of whom have been victims of sinister social oppression for decades.

Although social media companies cannot predict the lengths that hate groups would go to in order to deceive and prey on their more vulnerable users, they urgently need to reassess their security protocols as all of a user's sensitive data captured by the platform allows these groups to hand-pick their prey.⁴¹² This is concerning due to the fact majority of children are on these social media platforms and it leaves them open to being corrupted at a young age, with many skinhead and other radical websites aiming at corrupting youthful minds and luring them into the hate.⁴¹³ These messages of hate have no intended audience but instead, latch onto whomever they can corrupt or target and whoever falls into an out-group whether they be men, women, children, celebrities, or professional athletes.

Due to the nature of their job professional athletes spend a lot of their time in the spotlight, whether it be for a good or bad performance. However, over the last few years hate messages over social media have become increasingly more directed towards athletes belonging to out-groups, particularly athletes of colour and female athletes. The consistent waves of hate do not end when players go home but rather follow them through the front door and in some cases result in the athlete's family

409 Syed Idrus SZ & Hitam NA, (2014).

410 Hatzipanagos R, How online hate turns into real-life violence, <https://www.washingtonpost.com/nation/2018/11/30/how-online-hate-speech-is-fueling-real-life-violence/>, 30 November 2018, (accessed 07 September 2022).

411 Stern KS (2005).

412 Syed Idrus SZ & Hitam NA, (2014).

413 Stern KS (2005).

becoming a further victim of the abuse.⁴¹⁴ As seen when Jamie Vardy and his family were subjected to online abuse after the Leicester City's manager was gotten rid of in 2017 (which the fans were not happy about).⁴¹⁵

Athletes generally fall victim to online abuse due to one of three reasons:

1. A poor performance – this would happen when the fans of the team or player aim hateful trolling content at them privately and publicly over social media;
2. A good performance – this would be pretty similar to the first instance, only now it is the opposing fans abusing the winning player or team; or
3. High financial / reputational stakes – this is usually provoked by the stress or anxiety of a high-stakes game, or when someone loses a bet and they blame the player.⁴¹⁶

These instances can be damaging to an athlete's mental health, which has led to some Premier League teams bringing in therapists to help players cope with the social media abuse, which could lead to an athlete dropping out of the sport completely and ultimately losing their livelihood. This has led to teams and their players calling for more effort to formally protect an athlete's mental health.⁴¹⁷

In society today, athletes are under immense pressure. The pressure to perform week in and week out, the pressure to please their fans, and the crushing pressure to be online, the very place you get abused, to secure/fulfil sponsorship commitment. Yet they are afforded very little protection on these platforms and are left vulnerable to trolling which causes irreparable harm to the player's well-being by creating an ever-present state of fear and anxiety for athletes. The best and most recent example is Naomi Osaka.

Naomi Osaka burst onto the scene by winning the first four tennis grand slams she competed in which saw her climb to the top of the Women's ranking, the first Asian player to do so. However, in 2021 she was on a steady decline which led to her withdrawing from her media obligations for a tournament and being fined \$15000. She withdrew from the entire tournament the next day stating that her mental health was in jeopardy.

Many players have stated that there is a lack of mental health awareness on the tour. She later pulled out of Wimbledon and the Olympics for the same reason.⁴¹⁸ Her goals and ambitions extended beyond the court as she would begin fighting for social change while advocating for the equality and empowerment of young girls chasing their dreams.⁴¹⁹

Osaka possesses so much talent and compassion and she decided to look after her mental health, yet this decision resulted in even more abuse on social media. A study conducted by Twitter saw Naomi Osaka receive the most negative/hateful tweets by

414 Arimoro AE & Elgujja AA (2019).

415 Arimoro AE & Elgujja AA (2019).

416 Ahmed W & Meggs J, Online abuse in sport: why athletes are targeted and how they can end up winning, <https://theconversation.com/online-abuse-in-sport-why-athletes-are-targeted-and-how-they-can-end-up-winning-174569>, 28 January 2022, (accessed 07 September 2022).

417 Kearns C, et al (2023).

418 <https://www.naomiosaka.com/>.

419 <https://www.naomiosaka.com/causes/>.

any other professional tennis players, including men, over the course of 2021. She received 32415 negative/hateful/insulting tweets over the course of 2021, which was almost double the next person, Serena Williams with 18118 negative tweets.⁴²⁰

Osaka's struggle with mental health and depression has become synonymous with the bombardment of more hateful messages. This just illustrates how horrific the effects of online trolling are, as it has turned someone who had a long and prosperous career ahead of them into someone who is no longer passionate about her career. The hate directed at her will also look to tear down all the good she has done off the court, thus tearing down everyone who sees her as a role model.

Her situation is not unique. At the 2020 Euros abuse was directed at a few young black players due to the penalties they missed in the final, as well as Premier League, NBA and NFL players receiving constant racially motivated abuse on social media.⁴²¹ What are the current regulations doing to ensure that hate speech is curbed? As it stands current rules and regulations allow hate content to run free without any obvious consequences. Laws need to evolve to combat this issue in order to see this hateful cycle broken.

5.3 PREVENTION METHODS AND LEGISLATIVE PROTECTION AFFORDED

As online trolling begins to occur more frequently and as its effects become increasingly more harmful to the mental health of individuals on and off the field, we have to ask ourselves... what are the authorities, or people in charge, doing to reduce the number of incidents and how are they affording these individuals more protection against similar attacks on social media? Where the protective measures fall short what is being done to help these people cope with the abuse? With this research, I will assess the legislative protection and the subsequent punishments for hate speech in South Africa, England and the United States of America; secondly, the social media companies, specifically Meta, community guidelines for hate speech; and finally, the suggested coping and combat methods that individuals can use when exposed to incidents of hate speech.

When it comes to professional athletes, they must keep a healthy headspace to produce the best quality performances, as seen in the Naomi Osaka example. This has become more difficult to achieve, especially for young players who are still acclimatising to their new environment, with the constant fear of being abused by fans online. For this reason, each league's respective player organisation has urged their athletes to practice online safety, provided guidelines on how to avoid online conflict that will lead to abuse, and how to cope with hateful messages. Besides teams offering players therapists to help them through the abuse the Professional Footballers Association (PFA) have provided the following guiding principles to help achieve its goals:

420 Ciotti L, Naomi Osaka the most hated player on twitter, https://www.tennisworldusa.org/tennis/news/Inside_Tennis/109013/naomi-osaka-the-most-hated-player-on-twitter/, 10 February 2022, (accessed 12 September 2022).

421 Evans AB, Agergaard S, Campbell PI, Hylton K, & Lennies V, (2021) 187-191.

- They urge players not to build up resentment or fear of social media, but rather they encourage their players to go out and embrace the good in social media. As it connects them to grateful/supportive fans and helps them build their brand;
- They suggest that players rather stay cool, calm and collected when faced with abuse and urge them to walk away instead of getting pulled into a confrontation with fans that are looking for the player to react to the misinformation/hate being spread;
- Finally, they remind the players that they are still governed by the Football Association's regulations and any breach thereof could result in a fine, suspension or even dismissal from the league. Even though they wish to defend themselves online it is not worth losing their livelihood over.⁴²²

Although the guidelines set out by the PFA are reasonable and provide players with some of the right tools to properly conduct themselves at a professional level, it is important to remember that professional athletes are human beings as well. They cannot be the only side expected to carry the blame if they respond to the hate, with the real-world consequence of losing their job.

“A player's transfer market value can be driven by their social media presence, so if the clubs are willing to profit from that, then they also need to protect them.” – Ben Wright, Head of Sport Communication Agency Cicero.⁴²³ Players have been doing their part on the social awareness front of the issue, with Raheem Sterling and other English footballers using their high-profile positions to confront the issue head-on, thus creating an era of social awareness amongst players.

FIFA President, Gianni Infantino, has urged all football governing bodies around the world to hand out “harsh sanctions” and take a zero-tolerance policy” with regards to racism.⁴²⁴ The council of Europe and UEFA have a memorandum of understanding which contain the values which sport should uphold.⁴²⁵ Many governing bodies have been asking fans to uphold these values and where necessary step up and report abuse at any level of the game.⁴²⁶ For example, Belgian side Club Brugge, who installed QR codes on every seat of their stadium so fans can alert specially trained stewards when an incident of racism has occurred.⁴²⁷ This all helps to tackle racism on a ground level but it does not help with the abuse that individuals face every time they access their social media. These social media companies are too indecisive and subdued when it comes to reporting and taking action against the alleged offenders, which slows down the progress of flushing the hate out of society and leaves some athletes questioning whether or not the social media companies are looking out for them at all.

422 <https://www.thepfa.com/players/union-support/social-media>.

423 BBC.com, How is football tackling racism on social media?, <https://www.bbc.com/sport/football/47868752>, 17 April 2019, (accessed 19 September 2022).

424 Beus Richembergh G (2019).

425 Beus Richembergh G (2019).

426 Beus Richembergh G (2019).

427 Kunti S, Club Brugge place 24,000 QR codes in stadium to combat racism, <https://www.insideworldfootball.com/2022/04/21/club-brugge-place-24000-qr-codes-stadium-combat-racism/>, 05 October 2022, (accessed 07 October 2022).

The Premier League with all its teams and players decided to take matters into their own hands where they called for a total media boycott for four days until social media companies did more to protect them. This included but was not limited to:

- Stronger preventive and takedown measures for any hate content;
- Being accountable for the safety of their users and to protect these users by implementing more effective verification measures; and
- Ensuring real-world consequences for online abuse.⁴²⁸

Meta, previously Facebook, is one of the biggest social media companies thus I have decided to assess their policies as they own several social media platforms. Meta have laid out their community standards, which are easily accessible and frequently updated. These set out how a user should conduct themselves or their content throughout the Metaverse so no individual or group feels attacked for who they are.⁴²⁹

They clearly define hate speech as “an attack using violent or dehumanising speech, harmful stereotypes, statements of inferiority, expressions of contempt, disgust or dismissal, cursing and calls for exclusion or segregation”. They divide offences into three tiers.⁴³⁰

Tier 1 – content targeting a person or group of people based on their protected characteristics (race, religion, sexual orientation, gender identity, sex, or national origin) or immigration status with:

- Violent speech or support thereof in written or visual form;
- Dehumanising speech or imagery in the form of comparisons, generalisations, or unqualified behavioural statements; or
- Mocking the concept, event of or victims of hate crimes.⁴³¹

Tier 2 – content targeting a person or group of people based on their protected characteristics with:

- Generalisations that state inferiority with regards to physical, mental, or moral deficiencies;
- Other statements of inferiority;
- Expressions of contempt, dismissal or disgust; or
- Cursing, except in a gender-based break-up context.⁴³²

Tier 3 – content targeting a person or group of people based on their protected characteristics with:

- Calls for exclusion or segregation.⁴³³

Meta conducts the enforcement of these policies through a two-step approach. First is the detection of violations. They achieve this through combining technology and people, and they have invested substantial amounts of money into developing technology that can catch hateful content and then send it to a review team who will assess the severity of the post and determine what action should be taken.⁴³⁴

428 BBC.com, Social media boycott: football clubs, players and sporting bodies begin protests, <https://www.bbc.com/sport/56936797>, 30 April 2021, (accessed 19 September 2022).

429 <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>.

430 <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>.

431 <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>.

432 <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>.

433 <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>.

434 <https://transparency.fb.com/en-gb/enforcement/>.

The second step is to determine the sufficient action and they do so through a three-step approach:

- Remove – Meta aims at instantly removing content that violates their community guidelines;
- Reduce – even though some content is not against community guidelines it makes some users uncomfortable so Meta will attempt to remove all of these; and
- Inform – when content is misleading Meta will place labels indicating this or they will share the additional correct factual information.⁴³⁵

Although Meta is attempting to provide each of its users with a comfortable experience some of them do not wish this for others. Therefore, stricter rules need to be put in place to ensure that these users who abuse others are shown the proper punishment.

The majority of democratic countries have enacted legislation to ensure that each of its citizens has the right to free speech while simultaneously providing protection and consequences when someone uses their free speech to violate another person's rights. With this research, I aim to assess the hate speech legislation of South Africa, England and the United States of America and determine if they fall short and what should be done to halt the rise of hate speech/crime cases.

5.3.1 SOUTH AFRICA

In a country where our past frequently reminds us of the dangers of hate speech/crime if they are left unchecked, we have enacted several pieces of legislation which regulate speech. The Constitution, the Promotion of Equality and Prevention of Unfair Discrimination (PEPUDA), the common law rule of *crimen injuria* which made the act of hate speech a civil offence and withstanding it is passed the Prevention and Combating of Hate Crimes and Hate Speech Bill seeks to make hate speech/crime a criminal offence.

The Constitution regards freedom of expression as a cornerstone of our democracy and thus places narrow limitations on this right.⁴³⁶ It only prohibits speech that amounts to the propaganda of war,⁴³⁷ speech that leads to the incitement of imminent violence,⁴³⁸ and hate speech which does not have a detailed definition but is defined as the “advocacy of hatred” that “constitutes an incitement to cause harm.”⁴³⁹

PEPUDA was enacted to further the intention of the Constitution by promoting equality and outlawing hate speech.⁴⁴⁰ However, s10(1)(a) stating that words cannot be hurtful in a hate speech case was declared unconstitutional, in *Qwelane v SAHRC & Others*,⁴⁴¹ as “hurtful” sets the bar too low for a hate speech case. The case did declare s10(1)(b)&(c) constitution while simultaneously providing a clear definition of hate speech for future cases: “no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any

435 <https://transparency.fb.com/en-gb/enforcement/>.

436 S16 of the Constitution of the Republic of South Africa, 1996.

437 S16(2)(a) of the Constitution of the Republic of South Africa, 1996.

438 S16(2)(b) of the Constitution of the Republic of South Africa, 1996.

439 S16(2)(c) of the Constitution of the Republic of South Africa, 1996.

440 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

441 *Qwelane v South African Human Rights Commission and Another* 2022 (2) BCLR 129(CC).

person, that could reasonably be construed to demonstrate a clear intention to be harmful or to incite harm, promote or propagate harm.”

Crimen Injuria is where a person can be convicted in civil court for willingly and seriously injuring another person’s dignity.

The Prevention and Combating of Hate Crimes and Hate Speech Bill will be the primary legislation for hate speech/crimes if passed. The Bill sets out a clear definition of both hate speech and hate crimes. Hate crimes are defined as when a person commits any recognised offence motivated by prejudice or intolerance.⁴⁴² If found guilty of this offence an offender will be sentenced to imprisonment, periodical imprisonment, declaration as a habitual criminal, committal to any institution established by law, a fine, or correctional supervision as contemplated in 276 of the Criminal Procedure Act.⁴⁴³ Hate speech, on the other hand, is defined as a person publishing or sharing statements that intend to be harmful or incite harm, promote or propagate hatred.⁴⁴⁴ If found guilty on these grounds an offender will be sentenced to imprisonment not exceeding three years, a fine, or both if it is their first conviction and any subsequent convictions will result in imprisonment not exceeding five years, a fine, or both.⁴⁴⁵

5.3.2 ENGLAND

England’s free speech is governed by the Human Rights Act which grants everyone within the country the right to freedom of expression. Like South Africa, this law is regulated and the right is subjected to formalities, conditions, restrictions, or penalties prescribed by law.⁴⁴⁶

A variety of England’s legislation outlaws hate speech along with a team of prosecutors, the Crown Prosecution Service (CPS), to ensure that each case is handled to the best of their ability.

The Public Order Act prohibits any person from using “threatening abusive or insulting words or behaviour that causes, or is likely to cause, another person harassment, alarm or distress.” The legislation has also been amended over the years to include language that can “incite racial and religious hatred, hatred on the grounds of sexual orientation, or encourage terrorism.”⁴⁴⁷

The Football Offences Act prohibits indecent or racist chants at any designated football match.⁴⁴⁸ S127 of the Communications Act prohibits an individual or group from sending messages that are conceived as grossly offensive, or of an indecent, obscene or menacing nature via a public electronic communications network.⁴⁴⁹

442 S3 of the Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018.

443 S6(1) of the Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018.

444 S4 of the Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018.

445 S6(1) of the Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018.

446 Article 10 of the Human Rights Act, 1998.

447 S4 & s4A of the Public Order Act, 1986.

448 The Football Offences Act, 1991.

449 S127 of the Communications Act, 2003.

S29-s32 of the Crime and Disorder Act set out increased penalties for aggravated hate speech/crimes. Penalties range from 6 months to 14 years with the prospect of additional fining if needs be.⁴⁵⁰

To ensure that no cases fall through the cracks the CPS is an independent organisation whose goal is to ensure that the right offender is prosecuted for the right action and bring justice to those who deserve it while handling all the hate speech cases.⁴⁵¹ They work with a variety of different sectors to ensure that the community is kept updated and educated, that the necessary evidence is gathered and that once convicted of hate speech offenders receive a stricter sentence.⁴⁵² Since 2021 the CPS has seen 86% of offenders convicted of hate speech and 79% of those convictions received increased sentences due to the nature of the crime.⁴⁵³

5.3.3 UNITED STATES OF AMERICA

America and their interpretation of basic human rights have always been a mystery to many. Their 1st Amendment is no different due to the fact it decriminalises the act of hate speech until there is physical violence involved. I aim to assess this portion of their legal system and determine how it can be improved to ensure a decrease in hate speech offences.

The 1st Amendment states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”⁴⁵⁴ The 1st Amendment rights are protected, from state government interference, by the 14th Amendment as it is a promise that all levels of the American government have to operate within the law and provide a fair procedure for all.⁴⁵⁵

Although the 1st Amendment was enacted to defend a person’s right to free speech it does not provide us with a clear definition of freedom of speech, which has led to judicial interpretation filling the gap. The United States Supreme Court is the primary source of law on this topic, handing down two judgments regarding hate speech protection.

The first case is *R.A.V v the City of St. Paul, Minnesota*. A group of white teenagers fuelled by their enmity towards African-Americans, specifically the newly settled African-American neighbours across the street, decided to craft and set fire to a cross on their neighbour’s lawn as well as on the corner of the street. This type of activity has been associated with the KKK over recent decades.⁴⁵⁶

R.A.V was charged and convicted in the State Supreme Court under two Minnesota laws. The first prohibited assaulting someone based on their race, colour, religion, sex, sexual orientation, disability, age or national origin; and the second was a

450 S29-s32 of the Crime and Disorder Act, 1998.

451 <https://www.cps.gov.uk/crime-info/hate-crime>.

452 <https://www.cps.gov.uk/crime-info/hate-crime>.

453 <https://www.cps.gov.uk/crime-info/hate-crime>.

454 The 1st Amendment of the United States Constitution, 1791.

455 14th Amendment of the United States of America Constitution, 1868.

456 *R.A.V v City of St. Paul, Minnesota*, 505 U.S. 377 (1992).

misdemeanour of disorderly conduct for placing a symbol on private property which would cause anger or resentment based on race, religion, colour, creed or gender.⁴⁵⁷ Upon review, the U.S. Supreme Court reversed the decision because the St. Paul ordinance unconstitutionally restricted R.A.V's freedom of speech as there was no plausible verification that the message was likely to provoke a violent response from the neighbour.⁴⁵⁸

The second case is *Wisconsin v Mitchell*. A group of African-Americans began to rile themselves up after a discussion about white racist violence after which Mitchell began egging on the other members to take action. They then went outside and brutally attacked the first white person they saw.⁴⁵⁹

Mitchell was charged and convicted with aggravated battery, which carries an enhanced sentence if the offender picks their victim based on their race, religion, sex, colour, sexual orientation, disability, or national origin.⁴⁶⁰

Mitchell appealed the decision on the basis that it infringed upon his 1st Amendment right, which was sustained by the State Supreme Court. However, the U.S Supreme Court reversed the decision as Mitchell's motive and intent were to cause serious bodily harm to the victim.⁴⁶¹

Three hate speech instances are considered unprotected speech by the 1st Amendment:

1. Speech that directly threatens bodily harm. Which, depending on each state, can be considered a misdemeanor or carry 5-10 years imprisonment;⁴⁶²
2. Speech that provokes a violent reaction against the speaker (fighting words). The R.A.V case is the leading source of law for this unprotected speech. Depending on each state this offence can be charged with a misdemeanor or a 1-2 year prison sentence;⁴⁶³ and
3. Speech that incites others to violence or unlawful conduct. Depending on each state this offence can be classified as a misdemeanor, carry 6 month-10 years prison sentence, or a \$1000-\$5000 fine.⁴⁶⁴ *Brandenburg v Ohio* set the precedent for this offence. Brandenburg was a KKK leader who suggested at a rally that "if our government continues to suppress the white race it's possible that there might be some re-vengeance taken." To determine if this act met the requirement of an unprotected speech the Brandenburg Formula was created, which stated that for a speech to be unprotected, violence or unlawful actions must be imminent after the speaker advocated for it.⁴⁶⁵

South Africa and England provide a detailed and well-established legislative system for the protection of freedom of speech as well as the protection for those who have their rights violated by another's freedom of speech. These legislations are constantly evolving with the times to ensure all parties are protected. However, both states can

457 R.A.V v City of St. Paul, Minnesota, 505 U.S. 377 (1992).

458 R.A.V v City of St. Paul, Minnesota, 505 U.S. 377 (1992).

459 Wisconsin v Mitchell, 508 U.S. 476 (1993).

460 Wisconsin v Mitchell, 508 U.S. 476 (1993).

461 Wisconsin v Mitchell, 508 U.S. 476 (1993).

462 The 1st Amendment of the United States Constitution, 1791.

463 The 1st Amendment of the United States Constitution, 1791.

464 The 1st Amendment of the United States Constitution, 1791.

465 Brandenburg v Ohio, 395 U.S. 444 (1969).

learn from one another. England's legislation might cover a lot of ground but the fact that these rules are divided amongst several Acts is confusing and they should move towards a single piece of legislation that oversees the entire topic of hate speech. Whereas South Africa needs to develop an organisation like the Crown Prosecution Service which will be dedicated to ensuring that hate speech statistics decrease by having an implementation authority specifically dealing with these issues.

The United States of America on the other hand has set the bar for their legal system extremely low, besides the call from most of the country to update their hate speech laws they remain rooted in an Amendment that was put in place centuries ago. They only act on these crimes once they result in violence, they should add more preventive measures which will prevent hate crimes before they reach that point.

Individually none of the Acts, coping mechanisms, or community guidelines can bring an end to hate speech. We need to install a multi-pronged approach to tackling the issue which will see combative and preventive measures put in place across different sectors of the community.

5.4 CAN MORE BE DONE TO CURB THE PROBLEM?

Though many countries have developed and implemented extensive legislation to prohibit cases of hate speech as well as offer protection to those affected by these harmful acts, these legislations are often shown little to no respect or are not executed effectively. Leaving cases of racism, homophobia, and misogyny to run riot on and off the pitch or sports field.

In my opinion, I would implement a four-pronged rectification of the issue across multiple levels of society, which would see hate speech addressed and combated through all walks of life (grassroots level, everyday life, social media, and sports).

Step 1 – to address the issue of hate speech and its effects at a youth level. Educate the children on how to identify an incident of hate speech, how they can combat these situations and instil the fundamentals of kindness and tolerance in them so that they do not want to commit this crime.

Step 2 – provide a legal reform, ensuring that all countries have a comprehensive understanding, of regulation through legislation, penalties and/or an organisation to oversee and combat the issue.

Step 3 – re-evaluate social media companies' guidelines for the issue, suggesting where and how they can improve, as well as stricter sign-up laws for their users which will help identify and ultimately punish offenders.

Step 4 – challenging more sports leagues to clamp down on offenders. The collaboration will be needed with local authorities which will see more offenders brought in and stricter punishments if they are convicted. Set up a system which is accessible to fans so they can also report any incidents they witness.

STEP 1

Hate speech is not limited to attacks on adults, most often hate speech amongst minors takes the form of bullying, either face-to-face or online, where bullying belittles

another child based on their race, gender identity, sexual orientation, religion, disability or body image.⁴⁶⁶

This kind of exposure to hate so early in their lives can be detrimental to both the aggressor and the victim. A child is like a sponge as they soak up all the data that flows around them, so if a child is exposed to hate it will set them on a path of hate throughout their entire life which is a cycle that needs to be broken.⁴⁶⁷ Whereas if a child is the constant victim of hate speech it can negatively affect their mental, emotional and physical health, which could lead to low self-esteem, anxiety, fear for their lives or even self-harm/suicide.⁴⁶⁸

Hate speech destroys the lines of communication that its victims have, as it fills you with the fear that you will be misunderstood or even subjected to more bullying if you speak up. That is why parents and educators need to instil values in a child that will see them move away from the hateful pattern. This also helps children develop valuable lessons that they can apply throughout their lives. It is imperative that a well-equipped legal system is formulated and correctly applied to restrict individuals instrumental in spreading hate speech.

STEP 2

Many countries around the world place free speech for everyone as the foundation of their democracy and when this free speech goes too far and violates another person's basic human rights these countries, excluding America, offer protection for the rights being violated. Yet throughout these countries, this form of legislation is offered little to no respect and often is not executed according to the intention of the statute.

I believe that a reform in the legal systems that govern this offence, specifically the enforcement and penalties thereof, would offer a stronger deterrence from this crime. I propose that an all-inclusive primary source of legislation set up by the UN will provide all its members with a unified governing set of rules and regulations for hate speech. The auxiliary source of law is provided by each country's hate speech legislation, provided that their statutes are in line with the UN laws.

The UN already has two statutes that regulate hate speech. The first is the International Convention on the Elimination of all Forms of Racial Discrimination (CERD)⁴⁶⁹ which prohibits the dissemination of ideas based on racial superiority or hatred, incitement of racial discrimination, acts of racially motivated violence, incitement to acts of racially motivated violence, and the provision of assistance, including of a financial nature, to racist activities.⁴⁷⁰ The second is the International Convention on Civil and Political Rights (ICCPR)⁴⁷¹ which grants everyone the right to hold an opinion without interference and the right to freedom of expression.⁴⁷² As well as prohibits any propaganda for war and any advocacy of hatred due to race, nationality, or religion.⁴⁷³

Once the proposed Convention has been enacted each UN member will need to bring their existing hate speech legislation to the UN Convention, or a blatant disregard thereof could be interpreted as a denial of basic human rights.

466 Nazmine, et al (2021).

467 Nazmine, et al (2021).

468 <https://www.connectsafely.org/hatespeech/>.

469 General Assembly Resolution 2106A (XX), 21 December 1965, entered into force 4 January 1969.

470 Article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination of 1969.

471 General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 3 January 1976.

472 Article 19 of the International Convention on Civil and Political Rights of 1976.

473 Article 20 of the International Convention on Civil and Political Rights of 1976.

The governing statute should be clear and precise so that there is no room for offenders to evade, they can do so by making sure the legislation contains:

1. A detailed definition of hate speech, which will be used in each member's judicial system, that provides clear wording on what is and is not protected;
2. How the different levels of severity will be ranked;
 - Level 1 – direct and public incitement to genocide, or the advocacy of national, racial, or religious hate.
 - Level 2 – any speech that leads to the victim becoming violent towards the speaker, or words that lead to bodily harm.
 - Level 3 – where speech remains at speech, yet attacks someone due to their characteristics.
3. The punishment for each level of severity, with the punishments increasing as the levels of severity increase; and
4. The Convention should set up respective committees in each member state with the sole focus of hate speech, similar to that of the Crown Prosecution Services. Each committee would have to annually report back to the UN hate speech committee to ensure that they are doing their job and making progress in their respective countries.

STEP 3

Although social media companies, such as Meta, set out community guidelines which regulate sensitive issues such as hate speech, these guidelines are often criticised for being ineffective and slow acting. A total reform of their guideline to increase efficiency and effectiveness is required as well as an upgrade to their sign-up system to be able to easily identify offenders. They can do so by:

- Precisely defining and expressing prohibiting the act of hate speech in their community guidelines. With the exclusion of ill-defined “public interest” exemptions, as they are the 1st Amendment with a wider scope of exemptions, which cause more harm than good;
- They need an unbiased yet effective method of content moderation. This can be achieved through a mixture of technology, such as coding and Artificial Intelligence to pick up offensive content before it is released, and human moderators, who will be made of individuals from different backgrounds to ensure different perspectives and the essence of neutrality;
- Stricter sign-up policies are necessary to ensure a peaceful scrolling experience. A person's identity or social security number, or any other personalised document, should be required when setting up a user's account. This would make a user easily identified when they violate the community guidelines. A person's information will not be accessible to the public, only the social media company, and you may remain anonymous if no offences are committed; and
- A note in the community guidelines or Terms and Conditions should be made with regards to the consequences of violating the guidelines, i.e., the authorities will be alerted on your identity and the offence you committed and sufficient penalty will be determined and your account blocked or suspended as a result.

STEP 4

The previous steps should ensure that hate speech in the everyday world will continuously vanish, little by little, as well as curb the hate speech epidemic on social media.

Over the last few years, abuse in the sporting world has been on an accelerated rise with players experiencing mental health problems due to this. It is the responsibility of the clubs to look after their players as they bring in tremendous amounts of cash flow for these organisations.

I believe that a well-established collaboration between each respective sports league and their local authorities to assist each other in the investigation of hate speech incidents that occur at the stadiums and the prosecution of these offenders will strike fear into potential offenders and deter them from committing more acts of hate speech. Offenders receiving a permanent record and subsequent jail time, as well as a lifetime stadium ban, will help clear out the troublesome fans as well as deter potential offenders.

I also believe that each stadium should follow in the footsteps of Club Brugge and implement a system which would see fans assisting to report, any crimes which occur around them, to train stewards who will de-escalate the situation and take the necessary steps to get the police involved as and when required. This will lead to a higher success rate of prosecution and the removal of toxic support.

Harsher penalties should be dealt out to offenders who abuse players as it affects the headspace of an athlete which results in their livelihood being placed in jeopardy. It further disturbs other fans who spent their hard-earned money to attend the game when they hear offensive slurs being yelled at players with no control exercised.

5.5 CONCLUSION

In this chapter, I set out to assess what steps can be taken by the sporting world and society to combat the ever-growing pandemic of hate speech across social media. To achieve this, I laid out the definition of hate speech and proceeded to discuss the evolution of the delivery methods used to spread hate speech over recent decades and the effects this issue has on athletes as well as everyday people. I assess all the coping mechanisms provided for targeted groups, what action has been taken by sports organisations to combat the issue, social media companies' guideline for the regulation of hate speech on their platform and how they enforce these regulations, and the legislation provided by South Africa, England and the United States of America that is meant to afford potential victims the protection against acts of hate speech and where they fall short. Finally, I formulated my proposal in order to prevent and combat hate speech on multiple levels throughout society, from the grassroots level to the hate speech issues in sports.

I found that while all are afforded the right to speak, not all deserve to be heard. Hate speech has always managed to find its way into each decade and flawlessly transition between the most popular delivery methods. To make a difference, we need to start at the youth level as they are the individuals who are easily manipulated, and they are also the generation who can begin to break the cycle of hate. Therefore, they need to be taught how to identify and combat incidents of hate at an early stage.

I also found that even though some countries have well-equipped legal systems to deal with this issue, reform is needed to evolve the laws to a standard that is respected and trusted.

Most importantly it is not something that just one industry can deal with alone, as a well-structured collaboration between sectors is required to make the necessary difference.

In the next chapter, I will make recommendations for each relevant topic and its chapter and conclude my research.

CHAPTER 6

RECOMMENDATIONS AND CONCLUSION

6.1 CONCLUSION

By analysing societal issues, such as gender and racial discrimination, the gender wage gap, the socio-economic issue of households surrounding stadiums, and the flow of hate through social media, which have continued to plague groups of people over many decades, I believe I was successful in proving that sports and individuals within the industry have the influence and power to make positive changes with regards to these social issues.

In this research, I found, in chapter 5, that even though most countries are making valiant efforts to combat hate speech through their respective statutes, these laws remain ineffective due to the lack of execution thereof and the general lack of respect that offenders have for the legislation. In chapter 4 I found that the financial belt continues to tighten around those low-income households while the sports stadium around them continue to thrive while simultaneously making things worse for these households. In chapter 3 I learnt that women may have been granted the right to work wherever they please but they were not granted the right to equal pay, and even though legislation expressly grants them the right they have had to fight across every sector to get paid equally. In chapter 2 I found that the history of racial and gender discrimination runs back centuries and even though society is taking steps in the right direction these are issues that still continue to this day.

When people think of sports nowadays their first thoughts always drift to the extreme amounts of income that the sports industry makes each year. However, that is only looking at one side of the coin with people often forgetting the positive impact sport provides, from a youth level where it provides kids with good physical and mental health as well as helps them develop social and team skills to sports ability to bring anyone, supporting the same team, together.

I felt that it was necessary for me to conduct this research as these issues have become more prevalent in our society over recent years with little to no solutions being provided in that time and as a result allowing some of the good that sport can provide being overlooked. Athletes' influence and reach has steadily grown over the years and yet sport still remains more focused on the trophies and money aspect without focussing on the societal advances and growth that can result with different and more extensive input.

Through this research, I have found that with the proper planning and use of an athlete's influence this profession can lead the charge to combat critical issues plaguing society.

I achieved these findings through the formulation and answering of six specific research questions which helped me provide insight on each relevant issue, as well as helped me assess the power of sport with regards to each issue. Through this, I have provided recommendations on how sports can combat each issue.

6.2 RECOMMENDATIONS

6.2.1 CHAPTER 2

In this chapter, as per research questions 1.5.1, 1.5.2 and 1.5.3, I set out to assess the historical background of the different prejudices that plague both the sporting world and the world outside of it, how legislation has governed these issues and what our current stance on them are.

I found that although these issues are not as blatant and severe as they once were, they are still present in our current society. While society still has some way to go, I have laid out my own recommendations for how society can move forward, while providing the necessary support and education on the topic.

Statutes need to be reassessed to ensure that targeted groups are provided with the proper protection against these actions as well as provide sufficient punishment for those that wish to violate such laws. Through these legislations, a discrimination committee needs to be established in each country, which will see them oversee any discriminatory issues. Police officials are expected to handle every crime which occurs in their area, this is a lot of work for just them and leads to them not following up on “minor” and “unimportant” issues. If a task force with the sole duty of gender and racial discrimination were to be established, it would allow more focus on the issue as well as a better success rate with regards to prosecution.

If sports were to help correct this discriminatory behaviour, it would need a continuous voice on the topic, just as the presence of the athletes during the BLM movement impacted these behaviours. Further it would entail better enforcement of the current discrimination statutes to ensure that people respect the law and those who do not receive the sufficiently justifiable punishment.⁴⁷⁴

In order for athletes to be able to position themselves against discriminatory issues, they would need to be allowed by their governing regulations to perform such an action and therefore I propose that each respective league insert clauses into their regulations that would allow the athletes, dependent on a majority vote within their player association, to protest any social issue before each game; thus, allowing more coverage and resultantly inform more people.

This provides the ordinary people affected by this discrimination a sense that they are not alone and that people with more influence are there supporting them. The best way sports can make societal change with regards to racism and sexism is to have a consistent voice in identifying and naming the hate speech and other abusers.

6.2.2 CHAPTER 3

In this chapter, as per research question 1.5.5, my aim was to assess the plausibility of inserting a pay cap into financial regulations of respective sports, in order to ensure more equitable pay for all.

I found that even though women may have been granted the right to work wherever they pleased, they were not granted the right to equal pay. Legislation expressly grants

474 Evans AB, Agergaard S, Campbell PI, Hylton K, & Lennies V, (2021) 187-191.

them the right they have had to fight across every sector to get paid equally with teams such as the successful USWNT getting paid less than their less successful male counterparts. From these findings, I have concluded that sports can help combat this issue, I have formulated a system which will help initiate this pay cap.

The most obvious solution would be to ensure that the legislation enacted to prevent this problem is enforced properly throughout society, including the sporting environment, as people treat these laws more as a suggestion than the governing declaration that they are.

The next logical step to take in the journey to equality would be to fix the trickle-down effect of the wage gap. The disparity between men's and women's funds, mainly prize funds, starts at the leading organisation for that specific sport like FIFA for football. Once they assign fewer funds to women's sports the nation has no choice but to give them fewer bonuses. I would propose that a committee similar to the EEOC be established throughout each sport and be charged with overseeing that the funds get equally distributed amongst both men and women.

My proposal is based on the possibility of applying a wage cap to a player's contract which will allow the excess funds of the men's contracts to be allocated to women. In my mind, the best way to achieve this is to take parts of different sports and their pay systems to build a better pay structure, such as the salary cap implemented in American sports and mould them to govern player wages rather than the entire franchise's wages.

A player's contract should be more incentive-driven. In the ordinary workplace, you are rewarded for meeting the goals set out by the company. You are not given more money because you have a higher popularity status in the industry.

For every sport in a country, there should only be one existing governing body which oversees both the men's and women's sides of the sports so, for instance, the NBA and WNBA should merge. This would allow for a better budget for the sport and it would further allow the two to average each other out with regard to their cap system.

I mentioned that the cap system ingrained into American sports is something that I support and therefore, I suggest that more sports should adopt this system. With this system, players will be able to receive minimum/maximum wages, no matter their gender, solely based on the years of experience they have at that level (zero to ten plus years) thus rewarding players who have been able to compete at the highest level for longer. Therefore, unequal pay for equal play would be thrown out and status-based bias along with it.

This does not mean that higher profile sportsmen will have to take ridiculous pay cuts, but rather that they will have to earn that extra income in the form of incentives which are set out by their team, based on the job for their position and long-term goals for the team and throughout the season. A percentage of their merchandise sold could also be offered to them which could help supplement income lost from the wage cap for the big players. The final part of their income could be made up of endorsements. Since this is something that companies decide, there generally will not be a gender bias as they will choose someone that will increase their sales.

6.2.3 CHAPTER 4

In this chapter, as per research question 1.5.4, my goal was to determine that a contractual obligation placed on athletes and their teams to help the surrounding communities is possible.

I established that the financial belt continues to tighten around those low-income households while the sports stadium around them continues to thrive while simultaneously making things worse for these households. While sports have contributed to these households' struggles, I also found that these athletes are the individuals who can assist these communities. They can do so by implementing the contractual obligation I have formulated to assist.

The contractual obligation I am proposing is a simple one but has the power to affect a large amount of change. I propose that athletes use the influence given to them by their athletic ability to help the struggling households in the communities surrounding the stadium. The obligation does not need to be a daily occurrence; however, it is something that requires constant attention. If athletes continuously promote their efforts, it would resultantly lead to bigger companies getting involved. The end goal is for this obligation to become a permanent fixture within a Standard Player Contract (SPK) alongside the requirements for a player's fitness and behaviour. It is not something that can be solved by just throwing money at the problem; some people in the community only require the time and effort of the sport people they look up to and support.

If the contractual obligation I proposed does find life, its insertion into an SPK will be divided across five steps of the contract. The obligation will first appear under step two where the club can specify the role the player must have in the surrounding community; step three can go into detail about how the player needs to fulfil this obligation; step six can provide the monetary fine or any other form of remedy the club may choose if the player fails to abide by the obligation; step eight will state that the club may use the player's name and/or image to run campaigns to support his outreach and finally, step ten will lay out the obligation as one of the club's rules.

My argument would be that if a player, their club, and a new club owner can agree to have an special/ additional clause in their contract, then why not make pledges to develop or support the areas around the stadium or agree to help those households struggling around the stadium?

I believe that if it is structured well for a player and does not unrealistically occupy too much of their time, it will succeed. With that being said, I also believe that an SPK that is well structured and detailed also has to be regulated and enforced well so that players do not think that it is something that can simply be ignored. Even if a team is focussed on financial gain, they should be aware that the publicity from this obligation will lead to an increase in revenue and support which can only be beneficial for a team.

6.2.4 CHAPTER 5

In this chapter, as per research question 1.5.6, I set out to determine whether it was possible to implement preventative or combative actions against the rising issue of hate speech on a legislative, sporting and social media level.

Most countries are making valiant efforts to combat hate speech through their respective statutes but these laws remain ineffective due to the lack of execution thereof and the general lack of respect that offenders have for the legislation. With these findings, clearly this issue cannot be addressed in isolation, but rather requires help across all sectors.

In order to effectively combat this issue, I would recommend implementing a four-pronged rectification of the issue across multiple levels of society, which would see hate speech addressed and combated through all walks of life.

STEP 1

Hate speech is not limited to attacks on adults, oftentimes hate speech amongst minors takes the form of bullying, either face-to-face or online, where bullying belittles another child based on their race, gender identity, sexual orientation, religion, disability or body image.

This kind of exposure to hate so early in their lives can be detrimental to both the aggressor and the victim. A child is like a sponge as they soak up all the data that flows around them, so if a child is exposed to hate it will set them on a path of hate throughout their entire life which is a cycle that needs to be broken. Further if a child is the constant victim of hate speech it can negatively affect their mental, emotional and physical health, which could lead to low self-esteem, anxiety, fear for their lives or even self-harm/suicide.

Hate speech destroys the lines of communication that its victims have, as it fills you with the fear that you will be misunderstood or even subjected to more bullying if you speak up. That is why parents and educators need to instil values in a child that will see them move away from the hateful pattern. This also helps children develop valuable lessons that they can apply throughout their lives.

STEP 2

I believe that a reform in the legal systems that govern this offence, specifically the enforcement and penalties thereof, would offer a stronger deterrence from this crime. I propose that an all-inclusive primary source of legislation set up by the UN will provide all its members with a unified governing set of rules and regulations for hate speech. The auxiliary source of law is provided by each country's hate speech legislation, provided that their statutes are in line with the UN laws.

Once the proposed Convention has been enacted each UN member will need to bring their existing hate speech legislation to the UN Convention, or a blatant disregard thereof could be interpreted as a denial of basic human rights.

The governing statute should be clear and precise so that there is no room for offenders to evade and they can do so by making sure the legislation contains:

1. A detailed definition of hate speech, which will be used in each member's judicial system, that provides clear wording on what is and is not protected;
2. How the different levels of severity will be ranked;
 - Level 1 – direct and public incitement to genocide, or the advocacy of national, racial or religious hate.

- Level 2 – any speech that leads to the victim becoming violent towards the speaker, or words that lead to bodily harm.
 - Level 3 – where speech remains at speech, yet attacks someone due to their characteristics.
3. The punishment for each level of severity, with the punishments increasing as the levels of severity increase; and
 4. The Convention should set up respective committees in each member state with the sole focus of hate speech like the Crown Prosecution Services. Each committee would have to annually report back to the UN hate speech committee to ensure that they are doing their job and making progress in their respective countries.

STEP 3

A total reform of social media companies' community guidelines to help increase efficiency and effectiveness is required as well as an upgrade to their sign-up system to be able to easily identify offenders. They can do so by:

- Precisely defining and expressing prohibiting the act of hate speech in their community guidelines. With the exclusion of ill-defined “public interest” exemptions, as they are the 1st Amendment with a wider scope of exemptions, which cause more harm than good;
- They need an unbiased yet effective method of content moderation. This can be achieved through a mixture of technology, such as coding and Artificial Intelligence to pick up offensive content before it is released, and human moderators, who will be made of individuals from different backgrounds to ensure different perspectives and the essence of neutrality;
- Stricter sign-up policies are necessary to ensure a peaceful scrolling experience. A person's identity or social security number, or any other personalised document, should be required when setting up a user's account. This would make a user easily identified when they violate the community guidelines. A person's information will not be accessible to the public, only the social media company, and you may remain anonymous if no offences are committed; and
- A note in the community guidelines or Terms and Conditions should be made with regards to the consequences of violating the guidelines, i.e., the authorities will be alerted on your identity and the offence you committed and sufficient penalty will be determined and your account blocked or suspended.

STEP 4

Over the last few years, abuse in the sporting world has been on an accelerated rise with players experiencing mental health problems due to this. It is the responsibility of the clubs to look after their players as they bring in tremendous amounts of cash flow for these organisations.

I believe that a well-established collaboration between each respective sports league and their local authorities to assist each other in the investigation of hate speech incidents that occur at the stadiums and the prosecution of these offenders will strike fear into potential offenders and deter them from committing more acts of hate speech. Offenders receiving a permanent record and subsequent jail time, as well as a lifetime stadium ban, will help clear out the troublesome fans as well as deter potential offenders.

I also am of the opinion that each stadium should follow in the footsteps of Club Brugge and implement a system which would see fans assist in reporting any crimes which occur around them, to train stewards who will de-escalate the situation and take the necessary steps to get the police involved as required. This will lead to a higher success rate of prosecution and the removal of toxic support.

Harsher penalties should be dealt out to offenders who abuse players as it affects the headspace of an athlete which results in their livelihood being placed in jeopardy. This can also resultantly disturb other fans who spent their hard-earned money to attend the game only to hear offensive slurs being yelled at players.

BIBLIOGRAPHY

BOOKS

Berke PR, Godschalk DR, Kaiser EJ & Rodriguez DA (2006) "Urban land use planning" University of Illinois Press.

Blackstone W (1962) "1723-1780 Commentaries on the laws of England" Boston: Beacon Press.

Carpenter LJ & Acosta RV (2005) Title IX. Human Kinetics.

Carrington B & MacDonald I (2001) 'Race', sport & British society. Routledge.

Chafe WH (1972) "The American women: her changing social, economic and political roles, 1920-1970, New York: Oxford University Press.

Cicero MT (1995) "De Re Publica" Cambridge University Press.

Clarke EH, M.D. (1873) Sex in Education; or, a Fair Chance for the Girls. Boston: James R Osgood & Company.

Daniel J, Mathure , Sellstorm T (2010) "Play for peace" The African Centre for the Constructive Resolution of Disputes (ACCORD).

Foxman AH & Wolf C (2013) "Viral hate: containing its spread on the internet" New York: Palgrave MacMillian.

Franklin JH & Moss AA (1994) "From slavery to freedom: a history African Americans, 7th ed.

Gerber EW, Felshin J, Berlin P & Wyrick W (eds) (1974) "The American woman in sports, Reading, Massachusetts, 562.

Hain P (1982) "The politics of sport Apartheid, in Hargreaves JA (ed) "Sport, culture and ideology" London Routledge and Kegan Paul, 243-244.

Human Rights Watch (2020) They're chasing us away from sport: human rights violation in sex testing for elite women athletes. Human Rights Watch.

Hutchison D, et al, Law of contract in South Africa, Chapter 1, 2012.

Lucas JA & Smith RA (1982) "Women's sport: a trial of equality", in Howell R (ed) "Her story in sport: a historical anthology of women in sports, Westpoint New York: Leisure Press.

Morris TD (1999) "Southern slavery and the law, 1619-1860" University of North Carolina Press.

Oxford English Dictionary, 2nd ed. (2004) Oxford University Press.

Sage GH (2007) "Introduction to diversity and social justice in college sport" D Brooks & Althouse ed.

Steidinger J (2020) Stand up and shout out: women's fight for equal pay, equal rights & equal opportunities in sports. Rowman & Littlefield.

Theilin J (1994) "Games Colleges play: scandal and reform in intercollegiate athletics, Baltimore, Maryland: John Hopkins University Press.

Waltman M & Mattheis A (2017) "Understanding hate speech" Oxford Research Encyclopaedia of Communication, Oxford University Press.

Woods R (2015) Social issues in sport, 3rd ed. Human Kinetics.

CASE LAW

Morgan v U.S Soccer Federation (2020), 2:19-cv-01717 (C.D. Cal.).

Harksen v Lane NO and Others, 1997 (11) BCLR 1489.

Weeks v Southern Bell Telephone and Telegraph Company, 408 F. 2d 228 [5th Cir. 1969].

Griswold v Connecticut, 381 U.S. 479 (1965).

Hayward v Cammell Laird Shipbuilders Ltd [1988] IRLR 257, HL.

Pittsburgh Press v Pittsburgh Commission on Human Relations, 413 U.S. 376.

Morgan v United States Soccer Federation, Inc., 445F. Supp. 3d 635 (C.D.Cal. 2020)

Morgan et al v United States Soccer Federation, Inc., 21-55356, 07/30/2021.

Qwelane v South African Human Rights Commission and Another 2022 (2) BCLR 129(CC).

R.A.V v City of St. Paul, Minnesota, 505 U.S. 377 (1992).

Wisconsin v Mitchell, 508 U.S. 476 (1993).

Brandenburg v Ohio, 395 U.S. 444 (1969).

JOURNALS

"A Different Reality: Minority Struggle in British Cities", (2011), Wayback Machine University of Warwick, Centre for Research in Ethnic Relations.

Alistar E "The relation between law and morality" (2019) Research Association for Interdisciplinary Studies.

Archer A "Equal play, equal pay: Moral grounds for equal pay in football" (2019) Journal of Philosophy in Sports 46(3).

Arimoro AE & Elgujja AA "When dissent by football fans on social media turns to hate: A call for stricter measures" (2019) University of Maidguri Journal of Public Law 6(1).

Ashe S, Virdee S & Brown L "Striking back against racist violence in the East End of London, 1968-1970" (2016) Race and Class 58(1).

Baade R, Baumann R & Matheson V “Selling the game: estimating the economic impact of professional sports through taxable sales” (2008) *Southern Economic Journal* 74(3).

Beus Richembergh G “Stop hate speech and acts of hatred in sport” (2019) Committee on Equality & Non-discrimination, Doc 14842.

Blau FD & Kahn LM “The gender wage gap: extent, trends and expectations” (2007) *Journal of Economic Literature* 55(3) 790.

Bwakali DJ “Gender inequality in Africa” (2001) *Contemporary Review* 279, History Study Centre, College of DuPage, Glen Ellyn.

Cardenas A “Peace building through sport? An introduction to sport for development and peace” (2013) *Journal of Conflictology* 4(1).

Cheng J, Bernstein M, Danescu-Niculescu-Mizil C, & Leskovec J “Anyone can become a troll: Causes of trolling behaviour in online discussions” (2017) Conference on Computer-Supported Cooperative Work.

Coombs DS & Cassilo D “Athletes and/or activists: LeBron James and black lives matter” (2017) *Journal of Sport and Social Issues* 41(5).

Dr Chamberlain A “Demystifying the Gender Pay Gap” (2016) Glassdor Research Report, 17.

Fortsmann N, Meignie A, De Larochelambert Q, Duncombe S, Schaal K, Maitre C, Toussaint J, & Antero J “Does maternity during sport jeopardise future athletic success in elite marathon runner?” (2022) *European Journal of Sport Science*.

Greene H “Slave badges and the slave-hire system in Charleston, South Carolina, 1783-1865” (2004).

Guerin A “Developing a social media strategy guide for elite athletes” (2016) *Sport and Entertainment Review* 2(3).

Hargreaves JA “Women’s sport, development and cultural diversity: the South African experience” (1997) *Women’s Studies International Forum* Vol.20 No.2, 195-197.

Heere B & James JD “Sports teams and their communities: examining the influence of external group identities on team identities” (2007) *Journal of Sport Management* 319.

Hietanen M & Eddebo J “Towards a definition of hate speech - with a focus on online contexts” (2022) *Journal of Communication Inquiry* 0(0).

Hilman N “ A chorus of execution? Enoch Powell’s ‘Rivers of blood’ forty years on” (2008) *Pattern and Prejudice* 42(1) 83-104.

Hult JS “The story of women’s athletics: manipulating a dream, 1890-1985” (1994).

Ingersoll TN “Slave codes and judicial practice in New Orleans, 1718-1807” (1995) *Law and History Review* 29-30.

Jablonski NG & Chaplin G “Human Skin pigmentation as an adaption to UV radiation” (2010) *PNAS* Vol.107 1.

Kahn LM, “Discrimination in professional sports: a survey of the literature” (1991) *Industrial and Labour Relations Review*, Vol. 44 No.3 396-402.

Kamasak R, Ozbilgin MF, Yavaz M & Akalin C “Race discrimination at work in the United Kingdom” (2019) 109.

Kearns C, Sinclair C, Black J, Doidge M, Fletcher T, Kilvington D, Liston K, Lynn T, Rosati P “A scoping review of research on online hate and sport” (2023) *Communication & Sport* 11(2).

Kennedy M & Leonard P “Dealing with neighbourhood change: a primer on gentrification and policy choices” (2001) *Brooking Institute*.

Kilvington D & Price J “Tackling social media abuse? Critically assessing English football’s response to online racism” (2019) *Communication and Sports* 7(1) 66.

King KR “Sport spectacle, athletic activism, and the rhetorical analysis of mediated sport” (2017).

Lalli GS “A review of the English school meal: Progress or a recipe for disaster” (2021) *Cambridge Journal of Education*.

Lomax ME “The African-American experience in professional football” (1999) *Journal of Social History* 33(1).

Meer F “The future for women” (1992) *the Unesco Courier* 2, History Study Centre, College of DuPage, Glen Ellyn, 30-32.

Morgan S “Working twice as hard for less than half as much: A sociological critique of the gendered justifications perpetuating unequal pay in sports” (2021) *The Columbia Journal of Law and The Arts* 45(1).

Mosami J “Distributional Changes in the Gender Wage Gap in Post-Apartheid South African Labour Market” (2019).

Muhammed EA & Thomas C “Philosophy hermeneutics as an interpretive framework in the analysis of Colin Kaepernick’s NFL protest” (2022) *Methodology Innovations* 15(2).

Nazmine, Dr. Tareen MK, Noreen S, & Tariq M “Hate speech and social media: A systemic review” (2021) *Turkish Online Journal of Qualitative Inquiry* 12(8)

Nixon R “Apartheid on the run: The South African sports boycott” (1992) *Transition* no.58.

Park RJ & Hult JS “Women as leaders in physical education and school-based sports, 1865 to 1930s” (1993) 64 *Journal of Physical Education, Recreation & Dance* 35.

Pokharel S “Gender discrimination: women perspectives” (2008) *Nepalese Journal of Development and Rural Studies* 5(2) 80.

Poppelwell-Scevak C “The gender pat gap: How FIFA dropped the ball” (2020) *Jean Monnet*, Paper 4.

Rhoden WC “Forty-million-dollar slaves: the rise, fall and redemption of the black athlete” (2006) 47-48.

Scott T, Smith SVM, Darroch FE, & Giles AR “Selling vs. supporting motherhood: How corporate sponsors frame the parenting experiences of elite and Olympic athletes” (2022).

Siegfried J & Zimbalist A “The economics of sport facilities and their communities (2000) *Journal of Economic Perspectives* Vol.14 No.3.

Smith TG “Outside the pale: The exclusion of blacks from the National Football League, 1934-1946” (1988) *Journal of Sport History* 15(3).

Solimme C “The female athlete through an Olympic lens: Media coverage of women’s ice hockey and its impact on gender equality” (2019) Senior Thesis, Trinity College, Hartford.

Stansberry K & Strauss J “A cavalier approach to public relations: The unconventional image restoration of LeBron James” (2016) *Case Studies in Strategic Communications* 5.

Stern KS “Hate and the internet” (2005) *The American Jewish Committee*.

Stevens S “Boycotts and sanctions against South Africa: An international history (2016) *Columbia University*.

Syed Idrus SZ & Hitam NA “Social media use or abuse: a review” (2014) *Journal of Human Development and Communication* Vol.3 52.

Tredway K “Charging the net: Social activism in women’s professional tennis” (2016).
Tu CC “How does a new sports stadium affect housing values? The case of FedEx Field” (2005) *Land Economics* Vol.81 No.3.

UN, Chapter 6 sport and peace: social inclusion, conflict prevention and peace building (2008).

Ungur S, Cristea DI & Sabau AM “Racism in sports: a brief review” (2018) *Geosport for Society* Vol.9 98.

Wider UNU, The Gender Gap in Post-Apartheid South Africa, Research Brief (2019)
Helsinki: UNU-Wider.

Wiggins DK & Miller PB “the unlevel playing field: a documentary history of the African American experience in sport” (2003) 7-9.

Wilkins D “The effect of the athletic stadiums on communities, with a focus on housing” (2016) International Development, Community and Environment 5.

Wintle C “The human rights movement against apartheid South Africa: The impact of boycotts, divestments and sanctions” (2016).

LEGISLATION

South African

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

Employment Equity Act 55 of 1998.

Electronic Communications and Transactions Act 25 of 2002.

Constitution of the Republic of South Africa, 1996.

Native Land Act of 1913.

Population Registration Act 30 of 1950.

Group Areas Act 41 of 1950.

Bantu Education Act 47 of 1953.

Prohibition of Mixed Marriages Act 55 of 1949.

Immorality Amendment Act 21 of 1950.

Indemnity Act 61 of 1961.

Broad-Based Black Economic Empowerment Act 53 of 2003.

Basic Conditions of Employment Act 3 of 1983.

Women’s Charter of Effective Equality, 1994.

Commission for Gender Equality Act 39 of 1996.

Separate Amenities Act 49 of 1953.

National Sport and Recreation Amendment Act 18 of 2007.

South African White Paper on Sports and Recreation (2012).

Transformation Charter of South African Sports (2012).

National Minimum Wage Act 9 of 2018.

Commission for Conciliation, Mediation and Arbitration, 1995.

The Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018.

United States of America

Title IX of the Education Amendments Act of 1972.

Equality Act of 1974.

Equal Pay Act of 1963.

1st Amendment of the United States Constitution, 1791.

13th Amendment of the United States Constitution, 1865.

14th Amendment of the United States of America Constitution, 1868.

15th Amendment of the United States of America Constitution, 1870.

Civil Rights Act of 1964.

Comprehensive Anti-Apartheid Act of 1986.
19th Amendment of the United States of America Constitution, 1920.
Title VII of the Civil Rights Act 1964.
Equality Act of 2019.
Lilly Ledbetter Fair Pay Act of 2009.
United States of America, Equal Employment Opportunity Commission, 1965.
Article VII, Section 2, NBA-NBPA Collective Bargaining Agreement, 2017.
Article II, Section 6&7, NBA-NBPA Collective Bargaining Agreement, 2017.
Article V, Section 7&8, WNBA-WNBPA Collective Bargaining Agreement, 2020.

Germany

Nuremberg Laws, 1935.
Nuremberg Laws: The Reich Citizenship Law, 1935.
Nuremberg Laws: Law for the Protection of German Blood and German Honour, 1935.

England

Sexual Discrimination Act of 1975.
Equality Act of 2010.
Equal Pay Act of 1970.
Article 10 of the Human Rights Act of 1998.
Succession to the Crown Act of 2013.
Married Women's Property Act of 1870.
United Kingdom: Parliament, Joint Committee on Human Rights, Equality and Human Rights Commission, 15 March 2010, HL 72/HC 183.
the Human Rights Act, 1998.
the Public Order Act, 1986.
The Football Offences Act, 1991.
the Communications Act, 2003.
the Crime and Disorder Act, 1998.

International

International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Office of the High Commissioner for Human Rights, United Nations, 1965.
United Nations Security Council Resolution 282 of 1970; 418 of 1977; and 591 of 1986.
International Working Group on Women and Sport, Brighton Declaration (1994).
International Labour Organisation, 1919.
Article 2 of International Labour Organisation 100 of 1951.
Article 2 of International Labour Organisation 111 of 1958.
Article 23 of the United Nations Declarations of Human Rights of 1948.
General Assembly Resolution 2106A (XX), 21 December 1965, entered into force 4 January 1969.
General Assembly Resolution 2200A (XXI), 16 December 1966, entered into force 3 January 1976.
Slavery Convention, Geneva, 1926, League of Nations, Treaty Series, vol.60.
Forced Labour Convention, Geneva, 1930, International Labour Organisation.
Universal Declaration of Human Rights, Paris, 1948.

WEBSITES

- Wei-Haas M & Mansky J, 'The Rise of the Modern Sportswoman', <https://www.smithsonianmag.com/science-nature/rise-modern-sportswoman-180960174/>, published 18 August 2016, (accessed 28 October 2021).
- 'Celebrating the Legacy of our Patron on Mandela Day', <https://www.laureus.com/news/celebrating-the-legacy-of-a-hero-on-mandela-day>, published 18 July 2019, (accessed 15 August 2021).
- Research and Markets, Sports Global Market Report 2022, <https://www.prnewswire.com/news-releases/sports-global-market-report-2022-301500432.html>, published 10 March 2022, (accessed 15 June 2022).
- Mintz S, "Historical Context: Facts About the Slave Trade and Slavery", <https://www.gilderlehrman.org/history-resources/teaching-resource/historical-context-facts-about-slave-trade-and-slavery>, (accessed 11 January 2022).
- Hallam J, "The Slave Experience: Men, Women and Gender", <https://www.thirteen.org/wnet/slavery/experience/gender/history.html>, (accessed 11 January 2022).
- Hallam J, "The Slave Experience: Family", <https://www.thirteen.org/wnet/slavery/experience/family/history2.html>, (accessed 11 January 2022).
- Sanders R, "A History to Remember", <https://inmotionmagazine.com/track.html>, published 12 September 1998, (accessed 11 January 2022).
- Smedley A, "racism", Encyclopaedia Britannica, <https://www.britannica.com/topic/racism>, published 22 October 2021, (accessed 12 January 2022).
- Britannica, the Editors of Encyclopaedia, "apartheid", Encyclopaedia Britannica, <https://www.britannica.com/topic/apartheid>, published 30 September 2021, (accessed 12 January 2022).
- History.com Editors, "Jim Crow Laws", <https://www.history.com/topics/early-20th-century-us/jim-crow-laws>, published 28 February 2018, (accessed 18 January 2022).
- Yad Vashem, Jews and Sport Before the Holocaust, <https://www.yadvashem.org/yv/en/exhibitions/sport/index.asp>, (accessed on 20 January 2022).
- Dennehy C, Remembering the Star Athletes Whose Lives Were Touched by the Holocaust, <https://worldathletics.org/news/feature/athletes-holocaust-kusocinski-ladany-jacob>, published 27 January 2021, (accessed 25 January 2022).
- Kiefer M, Racial Segregation in American Sports, <https://sportsconflict.org/racial-segregation-american-sports/>, (accessed on 25 January 2022).
- History.com Editors, Negro League Baseball, <https://www.history.com/topics/sports/negro-league-baseball>, published 13 April 2017, (accessed 25 January 2022).
- Gay S, The Black Fives: A History of the Era That Led to NBA's Racial Integration, <https://www.sportingnews.com/ca/nba/news/the-black-fives-a-history-of-the-era-that-led-to-the-nbas-racial-integration/8fennuvt00hl1odmregcrbbtj>, (accessed 26 January 2022).
- Coates T, A History of Segregation in the NFL, <https://www.theatlantic.com/entertainment/archive/2011/11/a-history-of-segregation-in-the-nfl/248625/>, 17 November 2011, (accessed 26 January 2022).

Corrigan M, International Boycott of Apartheid Sport, <https://www.sahistory.org.za/archive/international-boycott-apartheid-sport-mary-corrigan>, published 15 August 2016, (accessed 27 January 2022).

News24, History of South African Soccer, <https://www.news24.com/News24/History-of-South-African-soccer-20040507>, published 7 May 2004, (accessed 27 January 2022).

Corrigan M, International Boycott of Apartheid Sport, <https://www.sahistory.org.za/archive/international-boycott-apartheid-sport-mary-corrigan>, published 15 August 2016, (accessed 27 January 2022).

Lelyveld J, Thatcher accepts limited sanctions on South Africa, <https://www.nytimes.com/1986/08/05/world/thatcher-accepts-limited-sanctions-on-south-africa.html>, published 5 August 1986, (accessed 27 January 2022).

Sky sports, Aussie Suspended for Racism, <https://www.skysports.com/tennis/news/12110/5422698/aussie-suspended-for-racism>, published 9 July 2009, (accessed 28 January 2022).

<https://www.kickitout.org/>, (accessed 28 January 2022).

Farmer S, The Ex-Green Beret Who inspired Colin Kaepernick to Kneel Instead of Sit During the Anthem Would Like to Clear a Few Things up, <https://www.latimes.com/sports/nfl/la-sp-kaepernick-kneel-boyer-20180916-story.html>, published 17 September 2018, (accessed 29 January 2022).

Britannica, the Editors of Encyclopaedia, Colin Kaepernick, <https://www.britannica.com/biography/Colin-Kaepernick>, published 30 October 2021, (accessed 29 January 2022).

Baden S, Hassim S, Meintjies S, "Country Gender Profile: South Africa" <http://womensnet.org.za/links/genderpr.htm>, published 23 April 1997, (accessed 2 February 2022).

Department of Sport and Recreation South Africa (SRSA), Ministry, <http://www.srsa.gov.za/pebble.asp?relid=1347>, (accessed 15 February 2022).

Department of Sport and Recreation South Africa (SRSA), Directories, <http://www.srsa.gov.za/pebble.asp?relid=3>, (accessed 15 February 2022).

<http://www.safa.net/womens-u17/>, (accessed 15 February 2022).

<http://www.safa.net/womens-u20/>, (accessed 15 February 2022).

<http://www.safa.net/banyana-banyana/>, (accessed 15 February 2022).

<http://cricket.co.za>, (accessed 15 February 2022).

<http://www.sarugby.co.za/tournaments/women-s-premier-division/>, (accessed 15 February).

<http://www.sarugby.co.za/tournaments/women-s-first-division/>, (accessed 15 February).

<http://www.wnba.com>, (accessed 16 February 2022).

<http://www.ncaa.com/sports/basketball-women>, (accessed 16 February 2022).

<http://www.wfaprofootball.com>, (accessed 16 February 2022).

<http://www.lflus.com>, (accessed 16 February 2022).

<http://americangirlsbaseball.com>, (accessed 16 February 2022).

Rugby History, <https://rugbyredefined.com/wp/rugby-history/>, (accessed 17 February 2022).

Historic Change for Women's Rugby in England, <https://www.scrumqueens.com/news/historic-change-women%E2%80%99s-rugby-england>, published July 2012, (accessed 17 February 2022).

<https://www.englandrugby.com/england/womens-development#index>, (accessed 21 February 2022).

<https://www.ecb.co.uk/>, (accessed 17 February 2022).
Women's Sport and Fitness Foundation, "History of Women's Football", <https://www.wsff.org.uk/resources/girls-and-education/womens-football-in-england-a-brief-histo/>, (accessed 18 February 2022).
Pel J, "Women's Soccer Kicks Up In England", https://www.espn.com/espnw/news/story/_/id/6534412/women-soccer-kicks-england, published 14 May 2011, (accessed 18 February 2022).
Understanding The Gender Pay Gap: Definition and Causes, <https://www.europarl.europa.eu/news/en/headlines/society/20200109STO69925/understanding-the-gender-pay-gap-definition-and-causes>, published 13 January 2020, (accessed 08 March 2022).
Chang R, How Billie Jean King Led The Equal Pay For Play Battle, <https://www.history.com/news/billie-jean-king-equal-pay-for-play#:~:text=The%20Open%20Era%20of%20tennis,Billie%20Jean%20King%20got%20%24600>, published 03 June 2021, (accessed 08 March 2022).
The History of the Gender Pay Gap, <https://payjustice.co.uk/history-gap/>, (accessed 10 March 2022).
Dishman L, The Long and Frustrating History of the Gender Wage Gap, <https://www.fastcompany.com/90609641/the-long-and-frustrating-history-of-the-gender-wage-gap>, published 03 August 2021, (accessed 11 March 2022).
Taylor L , England Women's and Men's Teams Receive the Same Pay, FA Reveals, <https://www.theguardian.com/football/2020/sep/03/england-womens-and-mens-teams-receive-same-pay-fa-reveals>, published 03 September 2020, (accessed 22 March 2022).
Brobbey S, Pay Dismay Women's Super League Wages Revealed with Stars Earning 50x Less Than Male Counterparts, <https://www.thesun.co.uk/sport/17880271/womens-super-league-wages-less/>, published 08 March 2022, (accessed 22 March 2022).
<https://capology.com/uk/premier-league/salaries/>.
<https://womenscompetitions.thefa.com/en/Article/fa-wsl-prize-fund-230819>.
UK Pool Banker, EPL Prize Money for 2019/2020 Season: Premier League Clubs Share £2.5 Billion, <https://www.youtube.com/watch?v=F0CDT6ojh9A>, published 27 September 2020, (accessed 22 March 2022).
Goal.com, How Much Money Do Premier League 2019-20 Winners Get, <https://www.goal.com/en/news/how-much-money-do-premier-league-2019-20-winners-get/19jbauady17cw1ieojo40yextz>, published 22 July 2020, (accessed 06 April 2022).
Gillen N, FA Cup; How Can The Disparity In Men's and Women's Prize Money Be Addressed, <https://www.givemesport.com/1801115-fa-cup-how-can-the-disparity-in-men-and-womens-prize-money-be-addressed>, published 12 December 2021, (accessed 22 March 2022).
Burhan A, Lewes FC Proposed Redistributing Between Men's and Women's FA Cup, <https://www.forbes.com/sites/asifburhan/2022/03/15/lewes-fc-propose-redistributing-prize-money-between-mens--womens-fa-cups/?sh=3a468cf561cd>, published 15 March 2022, (accessed 22 March 2022).
Abdalazem R, How Does the Salary Cap of NBA Teams work, https://en.as.com/en/2021/10/16/nba/1634394819_996992.html, published 16 October 2021, (accessed 06 April 2022).
O'Conner-Simpson M, Barcelona vs Real Madrid sets attendance world record for women's football, <https://www.90min.com/posts/barcelona-vs-real-madrid-sets->

[attendance-world-record-women-football#:~:text=Barcelona%20vs%20Real%20Madrid%20in%20the%20UEFA%20Women%27s,second%20leg%20of%20the%20fierce%20rivals%27%20last-eight%20meeting](#), published 30 March 2022, (accessed 11 April 2022).

Massanos C, The Gender Pay Gap in Sports, <https://moneysmartathlete.com/2019/12/11/the-gender-pay-gap-in-sports/>, published 11 December 2019, (accessed 24 March 2022).

Sterling W & Bantock J, US Soccer and USWNT Reach \$24M Agreement on Equal Pay Dispute, <https://edition.cnn.com/2022/02/22/football/us-soccer-uswnt-equal-pay-agreement-spt-intl/index.html>, published 23 February 2022, (accessed 25 March 2022).

Mudaliar K, USMNT Show Legal Support to USWNT 'Equal Pay' Against USSF Saying "Not Equal But More", <https://www.foottheball.com/news/usmnt-legal-support-uswnt-equal-pay-lawsuit-against-us-soccer-federation>, published 02 August 2021, (accessed 23 March 2022).

Langone A, Before Team USA Women's Hockey Won Olympic Gold, They Won Equality Off The Ice, https://money-com.cdn.ampproject.org/v/s/money.com/usa-olympics-womens-hockey-boycott-gold/?amp=true&_gsa=1&_js_v=a9&usqp=mq331AQKKAFQArABIIACAw%3D%3D#amp_tf=From%20%251%24s&aoh=16480248702045&referrer=https%3A%2F%2Fwww.google.com&share=https%3A%2F%2Fmoney.com%2Fusa-olympics-womens-hockey-boycott-gold%2F, published 22 February 2018, (accessed 23 March 2022).

Felix A, My Own Nike Pregnancy Story, <https://www.nytimes.com/2019/05/22/opinion/allyson-felix-pregnancy-nike.html>, published 22 May 2019, (accessed 24 March 2022).

Blades N, Alysia Montano is The Hero of This Story, <https://www.runnersworld.com/women/a33564557/alyisia-montano-is-the-hero-of-this-story/>, published 26 August 2020, (accessed 24 March 2022).

Cash M, The WNBA Players' Union Has a New Strategy to get its Players Paid and Increase Investment In Women's Sport, https://news.yahoo.com/wnba-players-union-strategy-players-150004438.html?fr=sycsrp_catchall, published 26 August 2021, (accessed 24 March 2022).

<https://paritynow.co/about-us>.

<https://lewesfc.com/football-for-good/equal-prize-money-campaign/>.

Claeys G & Guetta-Jeanrenaud L, who is suffering most from rising inflation, <https://www.bruegel.org/2022/02/who-is-suffering-most-from-rising-inflation/>, 1 February 2022, (accessed 12 July 2022).

Lemke W, sport is the most unifying tool for peace in the world, <https://www.theguardian.com/global/2016/apr/06/sport-is-the-most-unifying-tool-for-peace-in-the-world>, 6 April 2016, (accessed 2 June 2022).

<https://www.youtube.com/watch?v=KAW7DF1Ufek>.

Guiberteau O, Didier Drogba: how Ivory Coast striker helped to halt civil war in his home nation, <https://www.bbc.com/sport/football/52072592>, 31 March 2020, (accesses 3 June 2022).

<https://www.msf.org.za/about-us>.

<http://www.ewb-international.org/activities/>.

<https://www.lawyerswithoutborders.org/where-we-work>.

Kutzer M, Professional athlete's role in society via social media, <https://www.loyola.edu/academics/emerging-media/blog/2016/professional-athletes-social-media>, 2016, (accessed 18 July 2022).

Hendrix H, Marcus Rashford's childhood story plus untold biography facts, <https://lifebogger.com/marcus-rashford-childhood-story/>, (accessed 4 June 2022).

Kozlowski J, LeBron James had a more depressing childhood than you think, <https://www.sportscasting.com/lebron-james-had-a-more-depressing-childhood-than-you-think/>, 22 April 2020, (accessed 4 June 2022).

Rodgers M, How Akron differs from Cleveland on LeBron James, <https://www.usatoday.com/story/sports/nba/2014/10/27/lebron-james-akron-ohio-cleveland-cavaliers/18030069/>, 27 October 2014, (accessed 7 June 2022).

Schneider K, How LeBron James uses his influence to improve community development, <https://www.nytimes.com/2021/03/09/business/lebron-james-community-development.html#:~:text=James%20is%20building%20a%20model,Family%20Foundation%20and%20its%20partners>, 9 March 2021, (accessed 7 June 2022).

<https://hallelis.co.uk/contract-law-basics-formation/#freedom>.

<https://hallelis.co.uk/remedies-breach-contract/#injunctions>.

<https://www.upcounsel.com/basic-contract-law#:~:text=Basic%20contract%20law%20covers%20the%20many%20different%20phases,This%20is%20where%20basic%20contract%20law%20comes%20in>.

Anand S, Remedies for breach of contract under USA law, <https://lawtimesjournal.com/remedies-for-breach-of-contract-under-usa-law/>, 2 July 2021, (accessed 28 June 2022).

Mueller J, how to draft an SPK, <https://www.wikihow.legal/Draft-a-Standard-Player-Contract>, 22 January 2022, (accessed 29 June 2022).

Moore M, top 20 crazy contract clauses we can't believe these athletes got, <https://www.thesportster.com/entertainment/top-20-crazy-contract-clauses-we-cant-believe-these-athletes-got/>, 3 July 2017, (accessed 7 July 2022).

Panja T & Smith R, inside the Chelsea sale: deep pockets, private promises and side deals, <https://www.nytimes.com/2022/05/24/sports/soccer/chelsea-sale-abramovich-boehly.html>, 24 May 2022, (accessed 7 July 2022).

Psychologs Magazine, How does online trolling dangerous for mental well-being, <https://www.psychologs.com/article/how-does-online-trolling-dangerous-for-mental-well-being>, 03 August 2022, (accessed 03 October 2022).

Jedicke P, As hate speech online increases, so has the resistance, <https://www.dw.com/en/as-hate-speech-online-increases-so-has-the-resistance/a-55411555>, 27 October 2020, (accessed 02 August 2022).

Hatzipanagos R, How online hate turns into real-life violence, <https://www.washingtonpost.com/nation/2018/11/30/how-online-hate-speech-is-fueling-real-life-violence/>, 30 November 2018, (accessed 07 September 2022).

Ahmed W & Meggs J, Online abuse in sport: why athletes are targeted and how they can end up winning, <https://theconversation.com/online-abuse-in-sport-why-athletes-are-targeted-and-how-they-can-end-up-winning-174569>, 28 January 2022, (accessed 07 September 2022).

<https://www.naomiosaka.com/>.

<https://www.naomiosaka.com/causes/>.

Ciotti L, Naomi Osaka the most hated player on twitter, <https://www.tennisworldusa.org/tennis/news/Inside-Tennis/109013/naomi-osaka-the-most-hated-player-on-twitter/>, 10 February 2022, (accessed 12 September 2022).

<https://www.thepfa.com/players/union-support/social-media>.

BBC.com, How is football tackling racism on social media?, <https://www.bbc.com/sport/football/47868752>, 17 April 2019, (accessed 19 September 2022).

Kunti S, Club Brugge place 24,000 QR codes in stadium to combat racism, <https://www.insideworldfootball.com/2022/04/21/club-brugge-place-24000-qr-codes-stadium-combat-racism/>, 05 October 2022, (accessed 07 October 2022).

BBC.com, Social media boycott: football clubs, players and sporting bodies begin protests, <https://www.bbc.com/sport/56936797>, 30 April 2021, (accessed 19 September 2022).

<https://transparency.fb.com/en-gb/policies/community-standards/hate-speech/>.

<https://transparency.fb.com/en-gb/enforcement/>.

<https://www.cps.gov.uk/crime-info/hate-crime>.

<https://www.connectsafely.org/hatespeech/>.