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DATA OWNERSHIP, ATHLETE RIGHTS AND THE GLOBAL SPORTS GAMBLING INDUSTRY

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ABSTRACT

This chapter examines the shifting significance of data ownership and athlete rights as they pertain to the growth and expansion of the global sports gambling industry. It provides a nuanced overview of the ‘datafication’ of society, tracing how the omnipresent embrace of digital technologies has expedited new forms of organisational, political and corporate surveillance from which concerns over privacy, rights to ownership and the misuse of personal data arise. It then examines how the extraction and trade of data has revolutionised how elite sport is performed, manufactured, broadcast and consumed, shedding critical light on the role of the gambling industry in the exchange of human data as a market commodity. These insights inform a series of socio-legal and ethical questions about the relationships between athlete data and the sports gambling industry for the purpose of signposting emerging issues and opportunities for critical sociological research and intervention.

KEYWORDS: Gambling, Sport, Data, Technology, Rights,

INTRODUCTION

Just because we *can* collect personal information about professional athletes, doesn’t mean we *should*. Sports and business must ensure human rights are considered and protected where athlete data is gathered, used, and shared, including by building in protections that promote transparency, fairness, and accountability (Powles et al., 2022, p. 6).

In the summer of 2020, a coalition of elite athletes, coaches and administrators announced a landmark legal case over the allegedly unlawful use and commercialisation of personal information and statistical data by major gaming, betting and sports data analytics firms. ‘Project Red Card’, as it became known, united more than 850 current and former footballers from across the UK’s football pyramid, including the Premier league, in demanding compensation for what they allege is a breach of data ownership rights as enshrined under General Data Protection Regulation (GDPR) rules established in the UK in 2018. In issuing ‘letters before action’ to a range of commercial actors, including several high-profile sports gambling firms, the group aimed to establish a new legal and ethical precedent concerning the protection of athlete data rights in professional sport. Two years later, the international trade union for professional football, FIFPRO, published a Charter of Player Data Rights in acknowledgement of the mounting issues associated with current and future use and application of player data. The charter calls for a set of ‘collectively agreed’ industry standards to be established as an ‘absolute necessity’ if the fundamental rights of players in relation to their personal data are to be protected (p.1).

In March 2022, another precedent was established in North America when Major League Baseball (MLB) signed a Collective Bargaining Agreement that contained a new stipulation against the sale and trade of athlete data (Drellich, 2022):

It shall be illegal for Major League Baseball and any club to sell and/or license a player's confidential medical information, personal biometric data, or any non-public data used to evaluate player performance in practices or training sessions.

This protective clause comes amid growing concerns over an upsurge of commercial interest from betting and gaming firms in player data since the US Supreme Court overturned a nationwide ban on sports betting in 2018. Since then, thirty-five states have legalised sports betting. In New York state alone, \$2.4 billion was wagered in five weeks around the 2022 Superbowl, generating \$78.5 million in tax revenues (McKinley, 2022). It also paved the way for a raft of new commercial and technological partnerships between sports leagues, gambling companies and data analytics firms. In this vein, Major League Baseball signed lucrative agreements with Bet MGM and FanDuel that enabled the sharing of in-game data from Statcast, a player-tracking system that uses military grade optical cameras and wearable technologies to measure every aspect of performance. The result, as foreshadowed by an alarming *Sports Illustrated* headline, has been the creation of a 'new arms race' (Chen, 2016) which has seen athlete data become a coveted commodity in its own right.

Taken together, these examples from both sides of the Atlantic attest not just to the globalisation of sports gambling as a commercial leisure form, but to the growing salience of athlete data as a monetisable asset. It is by now accepted that sport has undergone a 'data revolution' that has facilitated an explosion in the capture, aggregation and exchange of data as a matter of workplace routine. There is also growing concern about how this data is commodified and traded among a vast ecosystem of third parties, including agents, tech vendors, broadcasters, gambling firms, as well as drug and sport integrity authorities among others. While normatively framed as 'performance data', critics argue that this ever-expanding collection of biometric, geospatial and self-report data is often highly personal and sensitive in nature, and thus should not be shared with third parties to which the original data subject did not knowingly consent to in an informed and self-governing fashion. For Powles et al. (2022), quoted in the opening passage, the net effect of this unrestricted access to, and leveraging of, data for commercial ends is an encroachment on the human rights and bodily autonomy of athletes.

This chapter examines the shifting significance of data ownership and athlete rights as they pertain to the growth and expansion of the global sports gambling industry. Our intention is to begin by providing a nuanced overview of the 'datafication' of society, tracing dramatic changes in the regulatory landscape of data protection before unpacking why such protections were needed. We then trace how data has revolutionised how elite sport is performed, manufactured, broadcast and consumed, drawing particular attention to the ever-deepening role of gambling firms therein. These insights will lead us to consider a series of ethical and legal questions about the relationships between athlete data and the sports gambling industry, signposting emerging issues and opportunities for critical sociological intervention.

DATA AND ITS SOCIETAL DISCONTENTS

Interactions with and through digital technologies have become a pervasive feature of modern living. The embrace of technology into our daily lives has extended our capabilities to communicate and connect with others. At the same time, digital technologies have expanded our ability to collect and to share personal information about ourselves (and others) with a vast social network of actors and agencies. According to Lupton (2018, p.1), the deep-seated involvement of technology in monitoring and mediating all aspects of social experience has rendered human lives into rich and highly valuable 'digital datasets' that are easily exploitable without people's prior knowledge or consent. The aggregation of digital information into larger datasets, or 'Big Data', as a result of people's daily encounters with technology, is often thought of in decontextualised and depersonalised terms. For Lupton (2018, p. 6), however, these data contain 'biovalue' and are in fact testimony to lived experience and identity that once gathered are open to a multitude of repurposing and reconfiguration by a diverse range of actors. Indeed, it is the increasing threat of exploitation (commercial, political and otherwise) that has given rise to a growing societal awakening and public concern regarding data rights, mining and brokerage of 'personal (big) data.'

Society's acceleration towards the mass collection and use of digital data in response to a multitude of social and economic problems, as well as capitalist imperatives, are features of surveillance and contemporary governmentality that rely upon not only the pervasiveness of technology, but its ability to 'disappear' within society's institutional and cultural fabric. On the consequences of technologies' dematerialisation, Christl and Spiekermann (2016, p. 118) note:

At the core of our current surveillance society is the technical idea that computing should be "ubiquitous", "pervasive" and "invisible"... Ever since this vision was formulated, computer scientists and engineers from around the world have been working towards realising it... Bathing themselves in the shallow reassurance that "technology is neutral" they have been laying powerful tools in the hands of many players... [and] it is not obvious that all players are able to live up to the responsibility required for them, because responsible use of data would include an ethical questioning and a partial reframing from practices we observe today.

As the former European Commissioner for Consumer Protection, Meglena Kuneva, put it in her opening address to a European Union roundtable discussion on online data collection, targeting and profiling over a decade ago, 'Personal data has become the new oil and currency of the digital world (2009, p.2).'

Kuneva made her analogy in the context of an urgent need for policies to adapt to rapid innovations in technology and data-driven business practices to ensure the rights of individuals continued to be protected in light of the challenges imposed to privacy by a new technological reality and 'Big Data' economy. For Hoofnagle et al. (2019), Kuneva's oil metaphor served to (re)position personal data as an important yet hazardous commodity and set the imperative for the development of far-reaching legislative interventions to regulate the handling of personal data from extraction to disposal.

The General Data Protection Regulation (GDPR) is one example that was passed by the European Parliament in 2016 and enforced by member states from 2018 following what Mareilli et al. (2020, p. 448) describe as a 'contentious approval process shaped by intense lobbying efforts on the part of (mostly US) Big Tech corporations' and diverging economic interests and cultural perceptions over privacy and data protection. Nevertheless, GDPR is said to be 'the most consequential regulatory development in information policy in a generation' (Hoofnagle et al., 2019, p. 66) and enshrines within its legal framework values of accountability, fairness, transparency, privacy, consent and nonmaleficence in its attempt to balance the fundamental right to data protection in a digital age whilst enabling growth and innovation within a functional digital marketplace (Mareilli et al., 2020). Yet despite regulatory attempts such as GDPR to establish the legal and ethical parameters for the trade of people's personal data, and prevent harm caused by invasive technological practices and privacy infringements, data protection policies tend to focus on the dyadic sharing of information between two parties (Kamleitner & Mitchell, 2019). What current frameworks fail to acknowledge is the relational politics of (data) privacy and the social norms that situate privacy as a complex cultural practice rather than a simple technocratic exercise.

To this end, Kamleitner and Mitchell (2019) assert that privacy is an interdependent, multifactor phenomenon. Efforts to protect people's rights to privacy, therefore, require an understanding of how people are socially intertwined through the possession and sharing of information which is not necessarily 'theirs' to share. According to Kamleitner and Mitchell (2019), an interdependent privacy infringement denotes access to personal data (or information good) by a party who the owner of that information did not intend to have access. The infringement takes place via another party who has legitimate access to the data who transfers it to the recipient without the 'owner's' consent. Where personal data are concerned, Kamleitner and Mitchell (2019) argue the risk of interdependent privacy infringements are exaggerated in digital settings for a combination of reasons. Central to their argument is the intangible nature of digital data which makes it difficult to comprehend as another person's property coupled with a desensitisation to embedded social rules that guide interactions outside of the digital environment and encourage respect for others' rights to what is theirs.

The intangibility of digital data and the privacy concerns it raises also has implications for the wider embrace of digital technologies as 'a public health solution' (Rich & Miah, 2017, p. 85), including the use of mobile and wearable tracking devices that allow people to self-monitor and regulate health behaviours. Bound up with a wider neoliberal-derived formula for more effective healthcare systems, this uptake of mobile devices as part of a larger app ecosystem is already reconfiguring everyday norms in preventive medicine. Defined by the WHO (2011) as mHealth, this includes 'medical and public health practice supported by mobile devices, such as mobile phones, patient monitoring devices, personal digital assistants, and other wireless devices', all of which form part of new modes of rendering knowable the (un)healthy body and capturing data that can support delivery of an efficient healthcare system.

Sociologists have raised critical concerns about the blurring, if not the collapse, of boundaries between these configurations of data technologies in medicine and health and the commercial interests of

an ever-expanding market for lifestyle apps, fitness tracking and smart consumption (Lupton, 2014; Rich & Miah, 2017; Williamson, 2015). While often benignly promoted as part of new regimes of exercise personalisation and healthy lifestyles – offering a vast array of apps to record, track and share details such as body mass index, calories burnt, heart rate, food consumption and movement patterns – Ruckenstein (2014, p. 71) argues that such ‘personal analytics’ is tied to new modes of control and governmentality which ‘abstract human bodies and minds into data flows that can be used and reflected upon’. Rendering the body as an object of quantified knowledge, these datafication processes inevitably converge with neoliberal ideals of ‘self-optimization’ (Ruckenstein, 2014, p. 69) and the reduction of sentient ‘humanness’ to a knowable unit that can be quantified and compared, shared and synced, with a wider ‘digital data economy’ (Lupton, 2013, p. 30) and its well-established networks of social media.

What’s more, all of these differentiated effects of a ‘datafied’ society are tethered to the larger spectre of what Zuboff (2019, p. ix) has decried as ‘an age of surveillance capitalism’ – that is, a ‘new economic order that claims human experience as free raw material for hidden commercial practices of extraction, prediction and sales’. For Zuboff (2019, p. ix), this ‘rogue mutation of capitalism’ is accompanied by a ‘parasitic economic logic in which the production of goods and services is subordinated to a new global architecture of behavioural modification’ via surveillance technologies that mine and monetise personal data. In practical terms, the social and economic implications of such surveillance derive from the collection and commodification of personal data from a vast array of digital devices, often known as the Internet of Things. This ever-expanding digital dependency has allowed for commercial encroachment into ostensibly private domains of life, which in turn enable the deployment of data tracking as a precursor to behavioural modification and consumer prediction.

The consequences of the rise of this digital data economy are only beginning to be confronted by sociologists but there is already growing concern about threats to ‘attentional sovereignty’ (Burkeman, 2015) and the right to data ownership, as well as the risks of social media, where ‘filter bubbles’ and the targeted circulation of political or ideological information have attracted global condemnation (Spohr, 2017). For Zuboff (2019), the technology firms of the Silicon Valley represent the ‘ground zero’ for such surveillance, trespassing on long-standing notions of place, territory and property in the process. As she exclaims, ‘Google rendered the Earth, its streets and its dwelling places, bypassing our consent and defying our protests. Facebook rendered the social network and its limitless details for the sake of the company’s behavioural futures markets’ (Zuboff, 2019, p. 241).

Such tactics of trespass became a matter of public reckoning after recent scandals surrounding British tech firm, Cambridge Analytica, whereby it was revealed that a survey deployed on Facebook had been used to harvest information on 87 million users and influence the outcome of the 2016 US presidential campaign that saw Donald Trump elected. Several months before, Vote Leave, the group campaigning for the UK to leave the European Union adopted a similar approach, including the use of a data harvesting technique involving an advert circulated on Facebook that invited users to predict the results of all 51 matches at the Euro 2016 football tournament with the chance to win £50 million (Bartlett, 2018). Dominic

Cummings, the campaign director, later estimated that the Vote Leave campaign subsequently circulated around one billion targeted adverts promoting what has popularly been coined as 'Brexit'. It is against this backdrop that data's societal discontents have mushroomed into concerns about a threat to democracy on a global scale.

THE DATAIFICATION OF SPORT

The sociological study of athletes and their career has for over two decades scrutinised the ways in which athletes as 'workers' are vulnerable to exploitation by the institutional structures, organisational cultures and commercial interests of elite sport. On the idea of athlete exploitation, Connor (2009, p. 1369) posits:

elite athletes have become mere widgets, interchangeable and individually irrelevant in modern corporatized and spectacularised sporting endeavours. Athletes have become a business input and as such, managers, coaches and administrators seek to exploit that input as much as possible. They are the quintessential exploited worker in modern capitalism.

Underpinning Connor's (2009, p. 1373) position is the premise that the 'powerful supply side push' of a globally competitive labour market and its surplus of athletic 'talent' renders the individual athlete as expendable and thus vulnerable to myriad forms of exploitation. The precarity inherent within the working lives of many professional athletes to which Conner (2009) and others (e.g. Roderick, 2006) refer not only exposes athletes to the risk of exploitation, but reduces their personal agency to resist it. Central to the dynamic of athlete exploitation therefore are the authoritarian workplace regimes to which athletes are often exposed, and the mechanisms of control used to manage performance, shape behaviour and demand organisational conformity.

Since the turn of the twenty-first century, the collection and processing of athlete data has become core to the business of the elite sport industry, and a central device in the authoritarian regulation of athletes and their bodies by coaches, managers, health practitioners, sport scientists and administrators. The widespread integration of data-informed and data-driven processes in sport has accelerated alongside the evolution of technologies designed to track, quantify and visualise human performance and functioning. Indeed, digital data have become a leading facet of contemporary working practices in sport and are used for a range of purposes including player recruitment, performance analysis, health monitoring, anti-doping and other forms of work-based management and evaluation. While the mass collection and use of data in elite sport is ostensibly framed to benefit the athlete, a recent report by the Australian Academy of Science (Powles et al., 2022) revealed that the amount of personal information generated about athletes' performance, personal whereabouts and state of physical and mental health vastly exceeds what is of value to them. The authors of the report assert that professional sport is in the grip of a 'collect it all ideology' (p. 32) without due consideration for the ethics of practice, the relational complexities and sensitivity of athlete data, and the fundamental rights of the data subject – reflecting wider social trends depicted above.

Concerns regarding the harvesting of athlete data also relate to the nature of the workplace athletes are being subjected to which infringes further on their privacy. According to Manley and Williams (2022), through the pervasive deployment of digital technology and data analytics, athletes are subjected to intensive modes of organisational surveillance which stretch beyond the boundaries of the workplace and permeate their everyday lives. Exploring the subjective experiences of a cohort of professional rugby players in the UK, Manley and Williams (2022, p. 706) observed, in an environment guided by performance metrics and surveillance devices, ‘the organisational gaze was prominent in the minds of players.’ The omniscient presence of data within the sporting workplace depicted by Manley and Williams (2022, p. 706) served only to intensify feelings of ‘distrust, anxiety, fear and insecurity’ among players that ran counter to the managerial promise of increasing organisational transparency, efficiency and objectivity. The notion of ‘objectivity’ to which Manley and Williams (2022) refer, relates to the projection of certainty through quantification and the strong association between data and scientific knowledge. This is part of the mythology of data as a higher form of intelligence that can offer insights that would otherwise remain unknown (Boyd & Crawford, 2012). Deferring to the data, and the ‘aura of truth’ that it provides (Boyd & Crawford, 2012, p. 665), is thus a means of exercising power whilst masking the piecemeal methods through which data are frequently captured.

It would appear, therefore, that today’s elite athletes are being progressively exploited both *for* and *by* their data via diffuse technologies used in the production of elite performance. In addition, the vast expanse of personal and performance data that is generated and readily available has opened-up new ways for the wider sports industry to exploit the bodily labour of athletes in the production of sport as a commercial entity and consumer product. Without purposeful governance, Powles et al. (2022 p. 13) warn that the growing *datafication* of sport is in danger of becoming a runaway train consisting of a ‘sprawling ecosystem’ of third parties and vested interest groups that view athlete data as a ‘monetisable asset divorced from the individuals involved’ (p. 7). Data, for example, are embedded within the language of sport media and its continuous search for novel and more intricate ways to tell the story of sport and engage new audiences. Furthermore, the proliferation of athlete data and the subsequent rise of a third-party data economy in sport has diversified the entwined relationships between athletes, audiences, sport governing bodies, broadcasters, tech. companies and the gambling industry.

While often framed in terms of enhancing the consumptive value of sport, and of connecting fans with clubs, leagues and athletes, the astronomic growth and expansion of the sports gambling industry has been a major commercial driver behind the commodification of athlete data. Fuelled by the democratisation of access to mobile app technologies and the liberalising of the UK regulatory regime after the Gambling Act 2005, this ‘gamblification’ of sport has seen a new wave of digital brands such as Bet365, Paddy Power and SkyBet strategically invest in the alignment of gambling with culturally-embedded sporting activities (McGee, 2020; Raymen & Smith, 2017). Gambling brands are a ubiquitous feature of elite sport today (Pitt et al., 2016), including advertising campaigns, sponsorship of high-profile professional clubs (Bunn et al., 2017), naming rights to stadia and supporter events, and product endorsements by athletes (Cassidy &

Ovenden, 2017). At the same time, the digital turn has accelerated the globalisation of sports gambling, with fans offered a dizzying array of wagering opportunities that are available 24-hours a day, 7-days a week (Lopez-Gonzalez & Griffiths, 2018; Raymen & Smith, 2017). Above all, however, the creation of innovative new forms of 'in-play' betting has driven demand for ever-more granular forms of real-time data on all aspects of sporting performance (Deans et al., 2017; Killick & Griffiths, 2018).

Athletes are deeply implicated in the new relationships and obligations that characterise the core business of the sports gambling industry. Several high-profile cases from across the sporting landscape exist illustrating the complexity of the intersections between athletes and gambling. Examples range from athletes who have developed a gambling addiction at the hands of the gambling industry's products and tactics (e.g. the rugby union player and former Welsh International Scott Baldwin) to those who seek to profit from the gambling industry's revenues via their celebrity endorsement (e.g. Kevin Pietersen as the global cricket representative for the sports betting company, Betway). In football specifically, examples abound of former and current professional players serving as commercial brand 'ambassadors', promoting gambling firms via targeted marketing 'stunts' such as that which saw 32Red play an influential role in Wayne Rooney's transfer to Derby County in August 2019 (Busby & Davies, 2019). They are also long-standing consumers of gambling, with many high-profile footballers, including Paul Merson, Michael Chopra, Andros Townsend, Tony Adams and John Hartson, suffering significant harms associated with gambling addiction (McRae, 2021). Others have fallen foul of regulatory prohibitions on athlete betting, including a watershed case involving footballer Joey Barton, who was suspended from all football-related activities for 13-months by the Football Association in July 2017 after pleading guilty to the charge of placing 1260 bets on football in breach of The FA's Betting Rules. On accepting the charge, Barton issued a statement that shed critical light on the new commercial 'dependencies' between sport and the gambling industry (Isaacs, 2017):

I am not alone in football in having a problem with gambling. I grew up in an environment where betting was and still is part of the culture... I think if the FA is truly serious about tackling the culture of gambling in football, it needs to look at its own dependence on the gambling companies, their role in football and in sports broadcasting, rather than just blaming the players who place a bet.

Barton's comments prompted scrutiny of a four-year commercial partnership worth £4 million-a-year between the FA and gambling company, Ladbrokes in 2016 - a deal which was subsequently terminated by FA Chairman Greg Clarke, who acknowledged that the governing body could not enforce strict anti-gambling rules for those involved in the game while accepting money to promote gambling (Kelner, 2017).

In December 2020, the FA issued another suspension of ten-weeks and a fine of £75,000 to Kieran Trippier, of Atletico Madrid and the England national team, for a breach of regulations that forbid anyone in the professional game to pass on information which is not publicly available to be used by others for betting (Hytner, 2020). The sanction followed a lengthy investigation sparked by irregular betting patterns relating to the England defender's move from Tottenham to Atlético Madrid in July 2019. While Trippier was cleared of having ever placed a bet or received financial benefit from others betting, he was found guilty on the grounds of having discussed the potential transfer in a WhatsApp exchange with friends (Pitt-

Brooke and Kay, 2021). Former Liverpool striker, Daniel Sturridge, was also banned for 6 weeks and fined £75,000 by the FA in July 2019 after being found guilty of providing his brother with inside information on a potential move from Liverpool to Sevilla in 2018 (Hunter, 2020). The information that led to both suspensions was provided to the FA by gambling firms as part of a data sharing agreement that covers integrity and anti-corruption.

It is against this backdrop that Project Red Card was launched in July 2020, provoking unprecedented questions about the positionality of the athlete vis-à-vis sports gambling firms which extract huge profits from the use of player naming rights and performance data without the explicit consent or compensation of the athletes. The target of their legal case was not just the gambling firms but the larger ecosystem of data intermediaries or brokers which profit from the collation, aggregation, and trade of athlete data (Ornstein, 2020). While image rights have been commonplace since the 1990's, Project Red Card alleges that most contracts do not make explicit reference to the ownership and tracking of performance data nor the implications of data sharing with commercial actors, gambling firms included (Franklin-Wallis, 2020). The case hinges on a claim of 'unlawful' use of data and the lack of consent or compensation for the data subject, which they allege to be the athlete: 'Football data is a multi-billion-pound business and up to this point, professional — both male and female — players at all levels of the game have not benefited from the processing of this data'. As well as drawing attention to fundamental concerns about the production, (mis)handling and trade of athlete data, Project Red Card points to a swell of resistance emanating, in part, from athletes' commercial awakening to the value of their data.

With a verdict yet to be reached, it remains to be seen whether the landmark case will usher in a new age of privacy in professional sport. What is beyond doubt is that it has laid bare a widespread lack of data literacy, including awareness of the legal and ethical parameters of data ownership and rights, as well as the exploitation and abuse of such rights. Academic research is lagging behind on this front. In what follows, we turn to consider critical sociological perspectives on the professional and personal consequences of the athlete as a relational data subject in the hypercapitalist world of twenty-first century sport.

CRITICAL QUESTIONS FOR THE FUTURE OF DATA GOVERNANCE AND SPORTS GAMBLING

Facilitated by the advancement of digital technologies, the socially embedded logics of surveillance capitalism has turned data into a valuable commodity or the 'new oil' of a digital age (Kuneva, 2009, p. 2). As a commercial asset and analytical device, the extraction and exchange of data has become central to the growth of a myriad of economic sectors and industries. Protecting the freedoms and rights of individual citizens within a global 'Big Data' economy has become a significant regulatory problem in response to a fast-expanding digital marketplace. Sport, as a prominent cultural representation of the surveillance capitalist venture, provides a rich case-study example of the digitisation of the human condition via the mass adoption of technology-driven information gathering and data sharing techniques. As we have argued

thus far, athletes are being increasingly exploited *by* and *for* their data within a vast ecosystem of actors involved in the production of 'elite' performance, and sport as a multi-mediated form of consumption.

Returning to Powles et al.'s (2022 p. 6) provocation quoted at the start of this chapter, there is now a pressing requirement for governance to catch-up with practice in order to build in 'protections that promote transparency, fairness, and accountability' against the range of vested interests in athletes as data subjects. This need is reflected none more so by the illustrative case of 'Project Red Card' and the accusation of the misappropriation of athlete 'performance data' (a hybrid category of data that may contain sensitive and personal information) by the gambling industry, the recent publication of FIFPRO's Charter of Player Data Rights, and by the precedent set by Major League Baseball's decision to prevent the trade of non-public athlete data with third parties through a Collective Bargaining Agreement. At the heart of the issues presented here are several legal and ethical questions regarding athletes' rights to ownership, privacy, autonomy, and the role of consent regarding the collection, use and transference of their data that are being threatened by the current status quo.

While existing national and transnational legal frameworks such as GDPR provide essential regulatory oversight for the governance of data practices in sport and the wider sports industry, their procedural nature reduces data protection to a process. Challenging the status quo through effective governance demands an approach that seeks to foster more than straightforward compliance to a series of overarching rules by acknowledging the relational complexities of data, and addressing the social norms that generate meaning, guide interactions and influence information sharing in digital spaces (Kamleitner & Mitchell, 2019). Once again, Powles et al. (2022, p. x) provide a powerful provocation to this effect:

Data is relational, with a host of social practices, ties, and interactions embedded within a single data set. This complicates the story of data as something that is always either narrowly 'personal' or broadly 'communal,' as various humans, organisations, and actors may become represented and intertwined within digital information.

In essence, governance in sport through regulatory interventions and education must seek to engage with the conceptual nuances of athlete data as a construct with pronounced socio-cultural features. Furthering understanding of data as a sociological phenomenon from its creation through to its wider societal implications is a necessary starting point, one which will enrich the development of value-led approaches aimed at safeguarding the rights of individuals while counteracting the exploitative potential of unrestricted technological surveillance of athletes.

Knowledge about the socio-cultural factors underpinning sport's data economy, however, remains limited. Future governance would therefore benefit from a critical research agenda that seeks further insight into the web of social relations implicated in the generation, processing and transference of athlete data. At a general level, a central component of this research would be to document the digital profiling of athletes in terms of the types of data collected about them, how, by whom and for what purposes these data are collected. Mapping in detail the variety of data points emanating from athletes in connection with the technologies, people and organisations involved is an essential illustrative first step in tracing the flow(s)

and commodification of data through the ecosystem. Such an exercise would shed new light on the ubiquity of data collection and sharing and the 'social practices, ties, and interactions embedded within' athlete data sets. This would help governance in sport to readdress the power imbalances created by institutionalised ambiguity and a loss of personal control over the passage and transformation of data from its source through to its various pedagogical, managerial, scientific, and industry functions. Indeed, a lack of control over the trajectory of their data, alongside insufficient control over the means of its production and storage, were raised as issues of high concern by professional football players surveyed by FIFPRO in accompaniment to their proposed charter.

Supplementing this line of inquiry is the need for critical exploration of the data literacies of athletes and a broad range of data-workers, and how the rights of athletes are constructed among a diverse network of stakeholders. This would necessitate a close examination of the attitudes held towards data production, ownership, privacy and consent that frame current practices, as well as the alignment and/or misalignment of data interests and concerns. Investigating the dominant outlooks, privileged knowledges, and collective sensibilities that buttress sport's data ecosystem will help draw further attention to the politics of data for the purpose of promoting transparency, developing scrutiny, asserting agency and reimagining the data worlds athletes inhabit. To this end, Gray et al. (2018, p. 2) advocate research that informs the development of data literacy initiatives that foster critical inquiry and cultivate capacities that empower people to recognise and reshape 'the wider socio-technical infrastructures through which data is created, transformed and circulated.'

Where the sports gambling industry is concerned, this is particularly pertinent. Recent groundbreaking investigations have exposed the scale of data tracking and digital profiling by gambling firms, who share thousands of highly sensitive data points on consumers with a network of third parties, often in ways that have the potential to exploit vulnerable individuals (Christl, 2022). Yet there is a pressing need to examine the socio-cultural and ethical implications of this techno-capitalist nexus as it pertains to the trade and exchange of athlete data with gambling firms, many of whom have yielded enormous profits from the expanding markets offered as a result. This will necessitate a research agenda that draws critical intent from established sociological perspectives on surveillance, data rights and ownership in this newly digital configuration.

A key pillar of such an approach will be the need to overturn a historical lack of transparency and a reluctance by the gambling industry to share data for the purposes of research, treatment and intervention. In the UK, for example, the gambling industry has been widely criticised for its tendency to lock data into proprietary systems, which limits the public utility they could generate, were such data made publicly available (Davies, 2022). In particular, the 2005 UK Gambling Act provides a cautionary tale of a regulatory intervention that failed to enshrine appropriate regulatory measures mandating the sharing of data that the gambling industry uses for its own ends. In practical terms, this translates into a lack of reliable means of measuring the potential harms of gambling or monitoring the extent to which prevalence of harm has changed over time. Equally problematic has been a reliance on research funded by gambling firms or close

industry allies with a vested interest in winning favourable outcomes or influencing the design and direction of academic study (Orford, 2019). The result has been a field riven by hierarchies of knowledge and a status quo dominated by psychiatric, epidemiological and psychological framings (Reith, 2013). At a minimum, as Pickles (2014, p. 215) cautions, this normative thread is tethered to the medicalization of gambling as an individual ‘problem’ despite evidence that addiction is propagated within what he terms a ‘human-material nexus’, including industry actors - from product designers to technology and marketing firms - who have an active role in propagating ‘problem gambling’. It is imperative that the nascent field of research on data politics and gambling disrupts the normative tropes inherent in this larger body of knowledge.

It follows, then, that independence from industry is a vital principle for the future governance of this nexus between data rights and commercial gambling and the forms of knowledge which feed into its constitution. Indeed, it is fundamental that critical sociological scholarship assumes a proactive role in addressing the manufacture and processing of athlete data as part of the wider commercial infrastructures through which gambling proliferates, not as a natural or inevitable phenomenon, but as a corporate industry that holds the potential for significant public health harms (Cassidy, 2020). In this vein, sociological theory and empiricism can shed light on pressing political questions surrounding data rights, ownership and justice, revealing where points of exploitation occur, and where sites of resistance are apparent. This will necessitate synergies with related fields such as the sociology of sport and leisure, which have long delineated how the commodification of sporting spaces has created inequalities that often infringe on bodily autonomy, worker protections, and human rights. This compels us to think in a critically rounded manner about the changing responsibilities relating not just to athlete data but to the ethics of the institutional actors who process it, including clubs, player unions and governing bodies, and the inequalities engendered by practices that are often prejudicial to the rights of athletes.

Equally, in acknowledging that a critical reading of data rights and governance has implications beyond elite sport and gambling, it is necessary to consider what Powles et al. (2022, p. 8) term the ‘trickle-down effect’, where the degree of surveillance and monitoring tolerated ‘foreshadows what will be permitted in community sports’. Crucially, this extends to the safeguarding of youth in sporting contexts where digital modes of engagement and self-tracking are already a normalised part of everyday life. A further trajectory of research must explore how these everyday technologies shape young athletes’ digital dispositions and how they come to perceive data, data ownership, rights and the potential risks inherent in institutional collation and sharing of such data. These novel developments in turn require theoretical and methodological reflection on the human-material relationships that render the athlete knowable largely as an object of quantification in biopolitical regimes run on data, analytics and algorithmic forms of (bio)power and truth (Foucault, 1988). Where this leads us, sociologically, remains to be seen, but all signs at present indicate that our current reckoning with the data revolution in sports gambling will engender a renewed concern with the politics of control, sovereignty and rights in a digital age.

REFERENCES

Australian Academy of Science. (2022). *Getting Ahead of the Game: Athlete Data in Professional Sport*. Retrieved from: <https://www.science.org.au/supporting-science/science-policy-and-analysis/reports-and-publications/getting-ahead-of-the-game-athlete-data-in-professional-sport>

Bartlett, J. (2018). *The People vs Tech: How the internet is killing democracy (and how we save it)*. London: Ebury Press.

Boyd, D., and Crawford, K. (2012). Critical questions for big data. *Information, Communication and Society*, 15(5), 662-679. DOI: 10.1080/1369118X.2012.678878

Bunn, C., Ireland, R., Minton, J., Holman, D., Philpott, M. and Chambers, S. (2018). Shirt sponsorship by gambling companies in the English and Scottish Premier Leagues: global reach and public health concerns. *Soccer & Society*, 20(6), 824-835. <https://doi.org/10.1080/14660970.2018.1425682>

Burkeman, O. (2015). Commercial Interests Exploit a Limited Resource on an Industrial Scale: Your Attention. *The Guardian*, April 1. Retrieved from: <https://www.theguardian.com/commentisfree/oliver-burkeman-column/2015/apr/01/commercial-interests-exploit-limited-resource-attention>

Busby, M. and Davies, R. (2019) Church criticises Wayne Rooney over Derby gambling tie-up. *The Guardian* Aug 9. Retrieved from <https://www.theguardian.com/football/2019/aug/09/church-criticises-wayne-rooney-over-derby-gambling-tie-up>

Cassidy, R. (2020). *Vicious Games: Gambling and Capitalism*. London: Pluto Press.

Cassidy, R., Ovenden, N. (2017). Frequency, duration and medium of advertisements for gambling and other risky products in commercial and public service broadcasts of English Premier League Football. <https://doi.org/10.31235/osf.io/f6bu8>

Connor, J. (2009). The athlete as widget: how exploitation explains elite sport, *Sport in Society*, 12(10), 1369-1377. DOI: 10.1080/17430430903204900

Chen, A. (2016). The Metrics System: How MLB's Statcast is creating baseball's new arms race. *Sports Illustrated*, August 26. Retrieved from: <https://www.si.com/mlb/2016/08/26/statcast-era-data-technology-statistics>

Christl, W. (2022). *Digital Profiling in the Online Gambling Industry*. A report commissioned and published by Clean Up Gambling. Retrieved from: <https://cdn.sanity.io/files/btrscf0/production/da2d02ccf382c5c58931433234ab6174ae7b5824.pdf>

Christl, W., and Spiekermann, S. (2016). *Networks of Control: A Report on Corporate Surveillance, Digital Tracking, Big Data & Privacy*. Vienna: Facultas

Davies, R. (2022). *Jackpot: How Gambling Conquered Britain*. London: Guardian Faber.

Deans, E., Thomas, S., Daube, M. and Deverensky, J. (2017). The role of peer influences on the normalisation of sports wagering: a qualitative study of Australian men. *Addiction Research and Theory*, 25(2), 103-113. <https://doi.org/10.1080/16066359.2016.1205042>

Drellich, E. (2022). MLB's collective bargaining agreement: Guide to the changes in the 2022-26 labor deal. *The Athletic*, March 16. Retrieved from: <https://theathletic.com/3187914/2022/03/16/mlbs-collective-bargaining-agreement-guide-to-the-changes-in-the-2022-26-labor-deal/>

FIFPRO (2022). *Player Data: Managing Technology and Innovation: A Player-Centric Rights Perspective*. Retrieved from: https://fifpro.org/media/ik5harp1/player-data_managing-technology-and-innovation.pdf

- Franklin-Wallis, O. (2020). There's a big fight brewing over the Premier League's player data. WIRED, August 7. Retrieved from: <https://www.wired.co.uk/article/project-red-card-football-data>
- Foucault, M. (1988). Technologies of the self. In L. Martin, H. Gutman, and P. Hutton (Eds.), *Technologies of the self: A seminar with Michel Foucault* (pp. 16–49). Amherst: The University of Massachusetts Press.
- Gray, J., Gerlitz, C., and Bounegru, L. (2018). Data infrastructure literacy. *Big Data and Society*, 1-13. DOI: 10.1177/2053951718786316
- Hoofnagle C. J., van der Sloot, B., and Borgesius, F. A. (2019). The European Union general data protection regulation: what it is and what it means. *Information & Communications Technology Law*, 28(1), 65-98. DOI: 10.1080/13600834.2019.1573501
- Hunter, A. (2020) Daniel Sturridge cannot play football until June as betting ban is extended. *The Guardian*, March 2. Retrieved from: <https://www.theguardian.com/football/2020/mar/02/daniel-sturridge-trabzonspor-contract-terminated-after-six-months>
- Hytner, D (2020) Kieran Trippier banned for 10 weeks for breaching FA's betting rules. *The Guardian*, December 23. Retrieved from: <https://www.theguardian.com/football/2020/dec/23/kieran-trippier-banned-for-10-weeks-for-breaching-fa-betting-rules-atletico-madrid>
- Isaacs, M. (2017). Joey Barton issues 1507 word response after Burnley star is banned from football for 18 months for betting breaches. *The Mirror*, April 26. Retrieved from: <https://www.mirror.co.uk/sport/football/news/joey-barton-statement-full-ban-10298738>
- Kamleitner, B., and Mitchell, V. (2019). Your data is my data: a framework for addressing interdependent privacy infringements. *Journal of Public Policy & Marketing*, 38(4), 433-450. DOI: 10.1177/0743915619858924
- Kelner, M. (2017). FA announces end to all sponsorship deals with betting companies. *The Guardian*, June 22. Retrieved from: <https://www.theguardian.com/football/2017/jun/22/fa-announces-end-to-sponsorship-deals-with-betting-companies>
- [Killick, E.A. and Griffiths, M.D. \(2018\) In-play sports betting: A scoping study. *International Journal of Mental Health and Addiction*. doi:10.1007/s11469-018-9896-6](https://doi.org/10.1007/s11469-018-9896-6)
- Kuneva, M. (2009). Roundtable on online data collection, targeting and profiling, keynote speech. Retrieved from: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_09_156
- Lopez-Gonzalez, H. and Griffiths, M. D. (2018). Understanding the Convergence of Markets in Online Sports Betting. *International Review for the Sociology of Sport*, 53(7), 807-23. <https://doi.org/10.1177/1012690216680602>
- Lupton, D. (2018). How do data come to matter? Living and becoming with personal data. *Big Data and Society*, 5, 1-11. DOI: 10.1177/2053951718786314
- Lupton, D. (2014). Beyond techno-utopia: Critical approaches to digital health technologies. *Societies*, 4, 706–711. <https://doi.org/10.3390/soc4040706>
- Lupton, D. (2013). The digitally engaged patient: Self-monitoring and self-care in the digital health Era. *Social Theory and Health*, 11(3), 256–270. <https://doi.org/10.1057/sth.2013.10>
- Manley, A. and Williams, S. (2022). ‘We’re not run on numbers, we’re people, we’re emotional people’: exploring the experiences and lived consequences of emerging technologies, organizational surveillance and control among elite professionals. *Organization*, 29(4), 692-713, DOI: 10.1177/1350508419890078

- Marelli, L., Lievevrouw, E., and Hoyweghen, I. V. (2020). Fit for purpose? The GDPR and the governance of European digital health. *Policy Studies*, 41(5), 447-467. DOI: 10.1080/01442872.2020.1724929
- McGee, D. (2020). On the Normalisation of Online Sports Gambling among Young Adult Males in the UK: A Public Health Perspective. *Public Health*, 184, 89-94. DOI: 10.1016/j.puhe.2020.04.018
- McKinley, J. (2022) Online Sports Gambling's N.Y Debut: \$2.4billion in Wagers in 5 Weeks. *The New York Times*, February 22. Retrieved from: <https://www.nytimes.com/2022/02/22/nyregion/sports-betting-ny.html>
- McRae, D. (2021). Paul Merson: 'Gambling is a horrible addiction. Your career passes you by'. *The Guardian*, September 18. Retrieved from: <https://www.theguardian.com/football/2021/sep/18/paul-merson-gambling-is-a-horrible-addiction-your-career-passes-you-by>
- Orford, J. (2019). *The Gambling Establishment: Challenging the Power of the Modern Gambling Industry and its Allies*. London: Routledge.
- Ornstein, D. (2020). Players to sue for hundreds of millions over use of their statistics. *The Athletic*, July 27. Retrieved from: <https://theathletic.com/1949883/2020/07/27/ornstein-hundreds-players-lawsuit-southampton-leeds-wolves-premier-league/>
- Pitt, H., Thomas, S., Bestman, A., Stoneham, M. and Daube, M. (2016). 'It's just everywhere': Children and parents discuss the marketing of sports betting in Australia. *Aust N Z J Public Health*. 2016; 40(5), 480–6. DOI: 10.1111/1753-6405.12564
- Pitt-Brooke, J., and Kay, O. (2021). Why the FA banned Trippier: friends 'lumping on' and WhatsApp group called 'Pint'. *The Athletic*, January 6. Retrieved from: <https://theathletic.com/2297547/2021/01/06/trippier-ban-betting-football-soccer/>
- Pickles, A. (2014). Introduction: Gambling as Analytic in Melanesia. *Oceania*, 84(3), 207–221. <https://doi.org/10.1002/ocea.5057>
- Raymen, T., Smith, O. (2017). Lifestyle gambling, indebtedness and anxiety: a deviant leisure perspective. *Journal of Consumer Culture*. 1-19, <https://doi.org/10.1177/1469540517736559>
- Reith, G. (2013). Techno economic systems and excessive consumption: a political economy of 'pathological' gambling. *British Journal of Sociology*, 64(4), 717-738. <https://doi.org/10.1111/1468-4446.12050>
- Rich, E. and Miah, A. (2017). Mobile, wearable and ingestible health technologies: towards a critical research agenda. *Health Sociology Review*, 26(1), 84-97. <https://doi.org/10.1080/14461242.2016.1211486>
- Roderick, M. (2006). *The Work of Professional Football: A labour of Love?* London: Routledge.
- Ruckenstein, M. (2014). Visualized and interacted life: Personal analytics and engagements with data doubles. *Societies*, 4(1), 68–84. <https://doi.org/10.3390/soc4010068>
- Spohr, D. (2017). Fake news and ideological polarization: Filter bubbles and selective exposure on social media. *Business Information Review*, 34(3), 150-160. <https://doi.org/10.1177/0266382117722446>
- Williamson, B. (2015). Algorithmic skin: Health-tracking technologies, personal analytics and the biopedagogies of digitized health and physical education. *Sport, Education and Society*, 20(1), 133–151. <https://doi.org/10.1080/13573322.2014.962494>

Zuboff S. (2019) *The Age of Surveillance Capitalism: The Fight for Human Future at the New Frontier of Power*. London: Profile Books.