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ISSN 1748-944X

Blowing the Whistle? A Quantitative and Qualitative Analysis of Formal and Discretionary Powers of Referees in Swedish Football

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ABSTRACT

This article is about football, and in that, not very exceptional. However, the focus is on the referee, a relatively invisible figure, on the pitch as well as in sports sciences. By focusing on the referees' social background and their interest in football, by taking a departure in formal and discretionary powers, and by discussing rules and norms, this article will shed light on the referee and his complicated position and career. The reasoning has a general interest, regardless of the fact that the empirical material depends on a study of Swedish referees.

KEYWORDS

Formal Rules - Playing Culture - Discretion - Consent

INTRODUCTION

'The referee was booking everyone. I thought he was filling in his lottery numbers'.

Ian Wright

'The trouble with referees is that they know the rules, but they don't know the game'.

Bill Shankly

According to McIntosh (1979), the first referees in English football were introduced in the 1880s as a judicious method to regulate and standardise individual games in order to help promote a general and public league. Naturally the overall idea was that all games ought to be measured and governed by the same rules. However, the first formal rules of football had been introduced as early as 1848 (Lindfelt, 1999). At first, the rules were upheld reciprocally by the players themselves McIntosh (1979). When referees were first introduced in the 1880s it was only as a form of consultation or mediation, when disagreement arose among the players. In 1890 the referees were equipped with the whistle, and thus started to develop the particular "authority" of the referee. 1

There is, however, a different history, which claims the existence of influential 'umpires' in 1847, and referees in 1871, when the Football Association started its own trophy competition. Witty (1960a) writes, "so long as football was played purely for recreation between friends who had no intention of breaking any rule wilfully [...] the onus of control rested on the players" (p. 180). However the development of external control started in 1847 with the use of two "umpires" in every important match (Witty 1960a)). They were chosen by each party and could, to some degree, be equated with the modern linesman or assistant referee. If the umpires failed to agree they could, after 1871, refer the issue to a third party - the referee. During 1880-90 the referee's position was strengthened, Witty states, as a result of "the intensification of competition" (1960a p. 183). 2

Regardless of historical precision or mythical legends, through the laws, and particularly through the authoritative system of referees, it has been possible to develop and defend 'the rule of law' and a certain degree of comparability and standardisation of football. Since the introduction of referees, however, the referees' position has been questioned by the players and the crowd, as well as by the media. The critique has not been directed towards the system of referees in general, apart from an initial disapproval in the 1880s, because participants now seem to regard the system as a proper method to practically govern the play on the pitch. Regardless of legitimacy, individual referees have always been easy targets and they have been accused, on innumerable occasions, of destroying the game and even influencing the outcome through partial as opposed to merely incorrect decisions. Undoubtedly, being a referee is not a straightforward role. The rules that govern football are not to be compared with playing chess, where a breach of the rules automatically, and by definition, means the end of the game. In football the referees have to consider both the ethos of the game and the playing culture, and relate these to the rules of the game. Refereeing is a complicated process, in which one has to deal with rule interpretation in light of the 3

culture and ethos of the game as well as pressure from authorities, players, supporters and the media.

This article will shed light on the problems of rule implementation among Swedish referees. The emphasis is on the balance between formal and discretionary decision-making. Despite the fact that the subject in the article is the attitude among Swedish referees, the presentation and the discussion is of wider importance. The rules are, in this respect, global, yet different traditions might emerge at a national level. For instance, we will find a difference in relation to violent play. Swedish referees judge the intention behind a 'rough' tackle, whereas British referees, according to Bo Karlsson, the President of the Swedish referees, consider the consequences of the action, when deciding on the issuing of a yellow or red card. Furthermore both common opinion and the Swedish referees themselves (according to Martin Ingvarsson a Swedish FIFA-referee) claim that the ideal type of Nordic referee is calm and less tolerant towards violent play

Nevertheless, before considering any broader implications, the article focuses upon Swedish referees. In order to describe and analyse the use of formalism and discretionary powers among referees the article will adopt both a theoretical perspective and an empirical foundation. The socio-legal approach, as it develops, is primarily based on the classic socio-legal perspective of "Discretionary Powers". The basic reasoning takes a departure in three qualitative questions (themes), which were asked in connection with a larger survey among Swedish referees. The intention is to capture the attitudes among referees towards rules, rule-breaking and violent play as well as formalism and discretionary decision-making. Before discussing rules, as well as formalism and discretionary powers, the survey of Swedish referees will be outlined.

BACKGROUND: THE SWEDISH REFEREE (A QUANTITATIVE SURVEY)

The aim of the survey was to describe the profile of the Swedish referee by, for instance, variables connected to age, education, occupation, leisure activity, social situation and level of refereeing. Furthermore, the intention was to capture the referees' competence by putting forward questions concerning their experiences of cheating and violence and various forms of psychological pressure. The study also focused on the reasons presented by different referees explaining why they wanted to stay in this particular role, as well as any reasons for abandoning their career as a football referee. One explicit aim was, as a result of the survey, to construct a strategy for the recruitment of potential referees. In other words, the survey aimed to discover what characteristics are beneficial among referees making a career of refereeing football, and what motivates them to carry on their commitment.

Before starting with a brief summary of the survey it is important to mention the organisation and the economy of Swedish refereeing. The total number of referees is approximately 5,500, with different levels of career from the Premier League [Allsvenskan] to the seventh division. They have to cover games involving over 42,000 different football teams in more than 4,000 leagues in Sweden (ranging from youth soccer to veterans). Over 10 per cent of the teams and leagues are located in Skåne, the southernmost province of Sweden. Each individual referee belongs to one of twenty-five local organisations, which sets up each referee's game-agenda, or schedule. This does not include the referees in the premier division, who have their own list of games administrated by the head/chairman of the referees. From an international perspective, Swedish referees have a reduced amount of economic support. No one, not even the Swedish FIFA-referees, will have the opportunity to make his or her primary earnings through refereeing, even the most famous have to work at least part-time. Most of the referees will earn approximately £200-300 in a month during the football season (April-October), before taxes (Table 1). In this respect, despite the small payment, the referee, particularly in divisions 5-7 (at a local and minor level), have to be committed to the 'life world of football', or as they describe it themselves, "belong to the football family".

TABLE 1: EARNINGS

Level:	Referee:	Assistant referee:
Allsvenskan/Premier League	£ 468	£ 238
Division 1	£ 151	£ 75
Division 2	£90	£54
Division 3	£66	£40
Division 4	£43	£32
Division 5	£37	£30
Division 6-7	£34	£27
Allsvenskan/Premier League	£ 79	£ 44
Division 1 (Women)	£ 52	£ 36
Division 2 (Women)	£ 42	£ 32
Division 3 (Women)	£ 37	£ 30

Source: The Swedish Football Association (2004/05).

The survey took place in the southern part of Sweden (in Skåne) which is one of the strongholds of Swedish football with a total 627 referees, and was carried out in April 2004 (The response to the survey was 58.2 per cent (no= 365). Several of the missing answers relate to referees with a foreign background (immigrants), particularly in urban regions (i.e., Malmö). This creates a problem in relation to the validity of the study especially in terms of issues concerning ethnicity. One out of five referees are based in the largest city in the region (Malmö), with a population consisting of a considerable amount of immigrants (25%), mostly from the former Yugoslavia. This has an impact on the frequency of referees with a foreign background, which in Malmö is four out of five referees. In the local media this situation has been put forward as a problem in the relationship between referees, players and audience. There is no information in the survey, however, that supports this opinion

In general when it comes to a different ethnic experience one out of four referees has a ethnic background other than Swedish. They are mostly drawn from Serbia, Macedonia, Bosnia-Herzegovina, and Croatia. The general ratio of people with an ethnic background other than Swedish is approximately five per cent (Statistics Sweden (SCB), December 11, 2004). In this way, refereeing stands out as a possible and legitimate strategy to be included or accepted in Swedish everyday life, and refereeing is probably the only place in society where immigrants automatically will have (formal) authority over Swedes, through the position of being a referee. Yet the great number of referees with other native languages has been regarded as a problem. This group of referees is said to have difficulties in communicating with the players, and in order to maintain authority they adopt a strict and formal application of rules, which on the contrary, will be deemed as ridiculous, both in Swedish society and on the pitch.

Furthermore the survey describes a rather large group (30%) which is under the age of 25 and which has recently been incorporated by the local association into a youth project, in order to secure the future recruitment of referees. They too generally take a formalistic approach (see below). In the age range of 41-45 we find a small drop in referees, probably due to the situation on the labour market and civil career. Otherwise, there is a matching flow of referees among all ages up to the age of 65. (Referees in the premier league [Allsvenskan] have to leave top-football at the age of 48.) Refereeing is, unsurprisingly, a gendered field - almost all are male. The referees are fairly well-educated, with almost 50% educated at colleges and 25% at university. We found very few unemployed individuals, even among referees with different ethnic backgrounds, which means that the group are to some extent positively integrated in society, at least formally, as noted above. The most frequent occupations are in the fields of education, health and social care, and administration; occupations which require both social competence and control, which, in the end, seems to match the ability to wield discretionary powers.

Sixty per cent of the referees have refereed for at least five years, and 33% have been active for at least ten years. For education the Football Administration offers training at five different levels, but almost half the group have only completed level one. This situation corresponds to the general level of school education; for instance, studies at university leads to an interest in level four and five as a higher referee schooling.

Regarding their family situation, 90% of the referees over 25 years old are married or live with a partner. However, at least four out of ten have no children. The family is regularly active in various sports (over 60% of the cases), *normally football*. The referees put forward family acceptance as one of the most

important factors behind the choice of career; for example: "my partner is positive, because she knows how important it is for my well-being, psychologically as well as physically"; or "no problems. My partner has her horses, which takes a great deal of time". Nevertheless, several referees consider the relation between refereeing and family life rather problematic. "From time to time my family think that my travels take a lot of time. The Sundays disappear"; or " occasionally, my wife has wished that I wasn't a referee". The family, or at least the partner, seems to be a key factor in the recruitment of referees, particularly in relation to present leisure activities.

Of course, almost all the referees have played football earlier in their career, normally at a lower level, division 4-5 (80%), but only 45% of the referees are nowadays engaged in any form of physical activities outside the refereeing. This comes as no surprise, however, as watching football on television, as well as live football are both very common. 14

An important question is why the referee began his career in the first place. Forty per cent declare that they would miss 'the football family', if they decided to leave the post, and that they wished to contribute to the football culture. Another 20% claim to have a great interest in football. All of these, particularly to indigenous Swedes, seem to represent the traditional idealism of Swedish sport society. Other minor reasons include the following: refereeing is enjoyable; injury stopped them playing; a desire for a leisure activity or physical activity; the (small) income. According to 30% of the referees, civil life as well as their position in the workplace has been influenced by their role as a referee. The following attributes have emerged through refereeing: 15

1. The quality of leadership as well as the ability to make decisions in everyday life has been developed.
2. Competence in managing conflicts and working under pressure has been improved.
3. Self-confidence has been enhanced.
4. Physical shape has been improved.
5. Respect from ordinary people has increased (i.e. social status).
6. Social competence has increased.
7. Integration into society has been easier (particularly referees from other ethnic backgrounds).
8. The attainment of employment has been made easier by being a referee.

Why, on the other hand, do approximately 15% of referees each year quit their career? The reasons given are, first, the lack of time in combination with the family situation. Second, injuries, age or an unsatisfactory physical condition are important factors affecting the will to continue. Third, insufficient career development and the lack of support from the administration are other possible explanations of this phenomena. Furthermore, several referees cite a growing sense of harassment as the key reason for bringing their refereeing career to an end. 16

The next stage of the survey was to demonstrate the qualities considered essential in refereeing by the referees themselves. The following table (Table 2) illustrates the different merits upheld by the referees in a priority of the three most important qualities. 17

TABLE 2: REFEREEING COMPETENCIES 18

Every referee was given an opportunity to rank three alternatives among five different competencies. Responses are actual numbers from a sample size of 354.

	No 1	No 2	No 3	Not prioritized
Knowledge of the rules	168	105	39	42
Physical Condition	8	49	102	195
Social Competence	23	39	54	243
Self-confidence	24	32	73	223
Experiences of the ethos of the game	117	119	65	48

In general terms the responses show no difference with respect to age or ethnic background. However, younger referees regard familiarity with the rules as more important. Physical condition has the same 19

priority among the group, regardless of age level, but is rather surprisingly not of a particularly great concern. Despite a low priority, physical condition has a higher value among referees with a higher schooling/education in refereeing. The importance of the ethos of the game seems to be less important at the middle level (level 3). Self-confidence has a higher priority among younger referees, particular among referees at lower levels. Those referees who are single prioritise the knowledge of rules (55%) to a higher degree than referees with partners and families (40%).

In a question regarding what kinds of problems the referees consider to be hardest to handle, the majority of referees hold play-acting (60%) as the most difficult. The second most difficult was shirt pulling (one third); and violent play the third. There is one minor difference: all the referees from former-Yugoslavia (n = 40), in comparison with the general group, regard violent play as non-problematic to handle or judge.

When it comes to various forms of pressure, one can observe a rather similar experience between various types of referees despite differences in age, ethnic background, education and level of refereeing. No doubt, the pressure from the players or teams is felt as most demanding (Table 3):

TABLE 3: DIFFERENT FORMS OF PRESSURES EXPERIENCED

Every referee was given an opportunity to rank three alternatives among five different forms of pressures found most demanding. The sample size was 354 in actual numbers.

	No 1	No 2	No 3	Not placed
Expectations from the Football Association	33	46	84	176
Expectations from the local organisations	24	74	110	131
Expectations from players/teams	200	76	44	20
Expectations from the crowd	46	118	46	132
Other expectations (i.e. self-pressure, managers, media)	38	9	25	271

The expectations and the pressure from the crowd are to be found in second place. But there is a difference (chi-square =0,030). Referees who grew up in the countryside regard pressure from the players as more demanding than referees who have been raised in the city; these in turn, consider the influence from the spectators as more problematic. Other forms of pressure are the expectations from the local referee organisations as well as the Football Association, which naturally, depends on the referee's individual experiences of instructors and various forms of evaluation methods. A third of the referees have a rather strong negative feeling with respect to the Football authority's feedback, evaluation and career systems. Evidently, the problem of several forms of pressure and expectations, from below or from above, can be understood in relation to the thesis of street-level bureaucracy, and, in this manner, the referee could be compared with other types of "bureaucrats" who have to make decisions, such as social workers, teachers, insurance officers and policemen (Lipsky, 1980).

A QUALITATIVE APPROACH: RULES OR ETHOS

As mentioned earlier, the survey was completed by three "open questions", in which the individual referee had to review different statements from what one might call the 'everyday life' of Swedish football.

A. THE FIRST THESIS IS AN UNWRITTEN, BUT COMMON NORM:

So, you (the players) think that you've been treated unfairly, do you? Well, *one has to take the rough with the smooth.*

(In Swedish: Den som sig i leken ger, bör leken tåla)

An analysis of the response to the first thesis, given by the individual referees, will result in two different categories or ideal types. The first response among several referees could be perceived as a "struggle" [Kamp]. In this case they believe football to be an intense competition – a contact sport – among powerful men. The second attitude claims football to be a rule-governed activity. To illustrate, the section below (Response No. 1) details several of the referees' remarks:

Response No. 1 A Struggle: Football is a contact sport

1. You have to know the conditions when you enter the pitch, i.e., what can happen. As a result, you

can't complain about tackles or scuffles (in hockey). It happens!

2. When playing physical sport, you have to put up with the opponent's body-contact.
3. Football is a physical game. You have to keep a stiff upper lip.
4. Right. When entering the pitch voluntarily, you can't grumble.
5. It may hurt, but it's something you have to tolerate.
6. Football is painful!
7. In sport there is always a risk of being injured.
8. If you cause physical injury, you have to put up with similar treatment.
9. You can't dispute misfortunes; everyone has equal opportunity to compete

The referees who departed from the perspective of football as 'a struggle' put a focus on the risk of being injured as something the players have to put up with, or tolerate. The players should not complain. Football is painful! 28

Response No. 2 Rules: Football is governed by rules

29

10. When playing football you must accept the rules, and the referee has to decide on the rules.
11. Even players have a responsibility that the games do not break down, and that the players are not injured.
12. Bad statement, that shouldn't steer football. Instead, Fair Play, the rules and respect should direct football.
13. Those who want to play should be allowed to play, without being kicked out of the game
14. All games have rules to be followed.
15. I would like law and order on the pitch.
16. A statement supported by those who triumph with dubious methods

On the other hand, several referees (see Response No. 2) focus on the security on the pitch, which is supported by the rules, claiming that all games have rules to be followed. 30

The implicit meaning of 'to take the rough with the smooth' refers to the matter of consent, which can be informed as well as passive. The question, however, is what the players have accepted reciprocally by entering the field, and how far this consent can go? If we relate the subject to the formal rules, it would certainly be easier to give a comprehensive answer. But football is 'more' than the rules, and thereby, the problem of consent will be related to the praxis and the culture of football. However, regarding the referees' comments, the answer will be different if the basic departure is football as a combat-directed sport or as a rule-governed sport. This subject will be related to a general reflection on the value of rules in football as well as formal and discretionary decision-making as outlined below. 31

B. THE NEXT PHASE IN THE SURVEY WAS TO DESCRIBE THE MEANING OF THE FOLLOWING, MORE OR LESS, PHILOSOPHICAL THESIS:

32

'The referee abides by the rules, but has no sense of the game'.

(In Swedish: Domaren följer spelreglerna, men har ingen känsla för spelet)

The single referees' answers are conceptualized in two general and wide-ranging types; either 'Playing Sense' [Spelförståelse] and 'Flexibility'; or "Law and Order". This can be illustrated by several selected quotations: 33

Response No. 3 Playing Sense [Spelförståelse] and Flexibility

34

17. Conventional attitude, without any sense of feeling. The referee must be flexible.
18. You should only regard the book of rules as an assistant. Not the contrary.
19. There are referees that make the refereeing strictly to the rules. However, this leads rarely to a beneficial result.
20. The game has to run smoothly. Meticulous whistle-blowing will destroy the game, and as a consequence, football in general.
21. A referee who is preoccupied with the rules might lose the right feeling for play on the field.
22. In order to get a rhythm you have to bend the rules, if the players are able to handle and accept the elasticity.

23. Plenty of the referees are theoreticians, and have no feeling for the game.
24. Without any feeling for the game, it's unnecessary to become an oracle on the rules.
25. It's important with a commendable playing conception, you have to direct the game at an appropriate level.

Response No. 4 Law and order:

35

26. Primarily, the referee should act against rule-violations. However, in the beginning of the game, the referee ought to be expectant. But the referee's task is to support the rules.
27. You must abide to the rules. Yet, the game might be more entertaining if the referee drops the importance of the rules.
28. Law and order are better than anarchy.
29. The players have the knowledge of the rules. If they violate the rules, on the contrary, they have no sense of the rules of the game.
30. The feelings of the game must not overshadow the knowledge of the rules.
31. The rules are made to support the idea of the game.
32. The players stand for the feeling, and the referee for right decisions.
33. Naturally, the rules are primary. But, at the same time, the referee must be flexible.
34. Rule-application is No. 1. But the referee must have a certain feeling for the game. It's a striking balance, but the rules are most important.

In the survey, this theme was used as a method to present a distinction in the attitudes among the referees in relation to formalistic or discretionary decision making. As can be observed, there are firm attitudes towards either formalism (Response No. 4) or discretion (Response No. 3). Still, several referees (no. 26, 33 and 34) are quite ambivalent in their comments, claiming the superiority of the rules, and at the same time being an advocate of the concept of feeling". There exists, in this respect, considerable variations among the referees in relation to rule application which is considered below.

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C. THE LAST STATEMENT IS A QUOTATION BY ONE OF THE MOST WELL-KNOWN SWEDISH FOOTBALL PLAYERS, WITH AN EXTENSIVE INTERNATIONAL CAREER TO MATCH HIS SUCCESS IN THE NATIONAL TEAM IN THE 1994 WORLD CUP. HE (MARTIN DAHLIN) STATES:

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'If the referee doesn't notice it, it may be OK to play it rough and bend the rules'. The referees' responses can be classified into three different categories. In the first place, the quotation has a flavour of cheating and a faulty attitude. Secondly, we find referees regarding the instrumental attitude as a customary condition in modern football, and unfortunately, nothing that can be handled; as a part of the game. Finally, several referees put forward their own competence and responsibility, and declare that it is the referee's mission to discover rule violations; otherwise their job would be unnecessary. Familiar comments are detailed in Responses 5, 6 and 7:

38

Response No. 5 Cheating and 'wrong attitude'

39

35. Playing rough is never OK!
36. 100 per cent dishonesty.
37. Unsporting. Bad judgement. Poor morals. No fair play at all!
38. In my view, cheating is wrong. It's never all right to take advantages in a wrong way, even if the referee fails to notice. Plenty of the players are cheating, but they shouldn't.
39. A typical statement from a player who disregards the referee.
40. Bad manners, unfair.
41. Incredible, it's cheating!
42. Wrong attitude. The players should assist by playing by the rules.
43. Idiot! Unsporting! Robbing elderly behind the back of the police.
44. A terrible attitude towards football and human beings
45. The moral in society is mirrored in football

Response No. 6 Modern football! A part of the game

40

46. It's sad to say, but the money has a huge impact on football and the players' attitude towards

cheating.

47. A CHAMPION, with a right attitude!
48. Yes, something no one notices might be permissible.
49. I do the same when I'm playing.
50. Dirty tricks, in order to improve the game, are useful. Still, the players are not allowed to injure each other, regardless of the referee's observation.
51. As a player you have a desire to win in all circumstances, which I respect.
52. My own experience as a player indicates that it is OK to break the rules, when the referee is unobservant.

Response No. 7 The Referee's Obligation

41

53. Referees would be unnecessary if all players kept to the rules!
54. It's the referee's duty to discover players that are bending the rules.
55. For human beings, it's natural to cheat. It is, therefore, important to be three referees in order to detect cheating.
56. The referee must observe everything that happens. There are no other ways!
57. The referees are on the pitch to discover rule violations, not to overlook them!
58. It's the referees' obligation to stop unfairness.
59. All players bend the rules in order to get advantage. It's important for the referees to work as a group in order to observe the players' methods.
60. Violence in society is increasing, which is mirrored in football. In football, there is a need for harder punishment

The spectrum of comments among the referees differs between those who support the historical and traditional values of fair play, and those with a more practical and "realistic" conception, upholding a more instrumental attitude in modern football. Interestingly, there are many referees who take a certain responsibility in the development of football and the legal culture, stressing their duty to "clean up" cheats and violent players.

42

The three 'positions' below present a diverse image of the referees' conception of their role in connection to the sport and application of the rules:

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1. The emphasis on rule implementation or football as a 'battle';
2. Formal or discretionary decision-making; and
3. Cheating as morally wrong, or something that is unavoidable or even belongs to modern football

This ambivalence is not surprising. The rules are primary ("defining" the game), as well as secondary, interpreted through praxis and culture (the ethos of the game). When it comes to cheats, referees are nowadays encapsulated by traditional values of fair play, as well as an extensive instrumental attitude in sports, with an emphasis on winning, celebrating a "culture of victory". Yet, placing the ethical responsibility on the referee – the 'controller' – is morally problematic, due to the fact that the players' internal self-control will be diluted where 'morality' is left to the referee's formal or discretionary decisions (Carlsson, 2000).

44

THEORETICAL REFLECTIONS: RULES, DISCRETION AND CONSENT

The empirical presentations contain a number of interesting theoretical implications, regarding the merit of rules as well as the referees' interpretation of rules in relation to the culture of the game.

45

Rules are held to be important. Discourse in the phenomenology of sport states that sport is a rule-governed activity, combined with the virtues of competition and contest, as well as equality and fairness (Lindfelt, 1999, pp. 37-49). The rules that govern football, not counting civil laws, however, are a consistent set of principles demarcating what is to be regarded as essential to football, such as laws dealing with offside, scoring goals, penalties and violent play. Through the rules, the games as well as the individual championships attain a positive predictability, ensuring fair conditions for all participants. In legal terms, the rule of law is possible to maintain by a standardisation of rules. In this respect, similar situations should be regulated by equal competence, manners and procedures. There are various forms of rules; they might be constitutional (goals and offside), functional (faking injury causing a yellow card) or value-oriented (e.g., formalised ideals of fair play such as dealing with racism). Furthermore, football has

46

rules that are dominated by safety, such as “high kicking” and violent kicks from behind.

Importantly, the rules define the game; but these must be balanced by the praxis and culture of football. 47
In the praxis of football it is possible to remain offside, carry out a violent tackle, or use Maradona’s famous “Hand of God”, and still be playing football. Similarly, these examples could even be compared with another situation where an untalented player kicks the ball off the pitch every time he gets the ball. Of course, the rules are not violated, but nevertheless, the intention of the game has failed. In these instances we might declare that this player has a wrong conception of football, or perhaps that he is not even playing “football”.

In this normative context, the rules of football are applicable, and a ‘legal culture’ is developed through 48
the referees’ decision-making, interconnected to the instrumental attitude of the players and the manipulation and violation of rules (Carlsson, 2000). Regardless of the importance of the referee in maintaining the ‘legal culture of football’, a first-class referee should, at best, be invisible on the pitch.

‘A good referee should not be noticed’, is a common opinion. Yet, in some cases the referees become 49
targets to the supporters. In addition, controversial decisions are routinely scrutinised on any number of sports programmes. An illustrative example is John Jairo Toro Rendon, the Columbian referee, refereeing the game between Denmark and South Africa on June 18th 1998 in Toulouse. His performance in this 1998 World Championship game can also be used to illustrate that “the referee abides by the rules, but has no sense of the game” (see above). The game ended 1-1, but will probably be remembered most because of the referee’s performance. In the history books we will read that the game was violent, even brutal. The Columbian stationmaster, as he was nicknamed by the Swedish media, handed out three red cards and seven yellow cards; linked to shirt pulling, delay of the game and tackles from behind. But in the eyes of the players, as well as among the spectators, it was a friendly game. The players smiled in resignation, and there was a consensus among the players that the referee had destroyed the game. In the days before, however, FIFA and Sepp Blatter had told Rendon and the other referees in the Championship to apply the rules strictly, particularly in relation to tackles from behind and delaying the game. Rendon handled the instruction literally, and in that sense, he carried out his job skilfully. But this devotion to the rules proved unfortunate for him. He was viewed as ridiculous by the media and was not appointed to any more games by FIFA in the 1998 World Cup.

Instead of adhering to a strict formalism, the referee has to focus on “the ethos of the game”, which 50
according to D’Agostino (1995), is a collection of unofficial and implicit conventions, analogous to the formal rules, which determine how the rules should be used in exceptional situations. These conventions are incorporated into the culture of football and exist as a form of “silent knowledge” (Rolf, 1995). Notwithstanding FIFA’s instructions, John Jairo Toro Rendon was dogmatic in his formalistic approach and thereby neglected to consider the ethos of the game, i.e., the silent knowledge of the culture of football.

Through a regular and extensive formalistic approach, there is also a risk that the power and the authority 51
of a particular sanction will be diluted. The referee has to build up a form of discretionary decision-making, in which he reflects on significant circumstances, in relation to the interpretation of the situation and the application of the rules. In other words, will the situation call for a specific decision, a sanction? The referee can, on this view, ignore a violent act in order to preserve the ethos of the game. On the contrary, the ethos of the game may be disrupted by inflexible formal decision-making.

Dennis Galligan (1986) has analysed the character of discretionary decision-making in other contexts and 52
his insights can be used in the framework of this article in order to understand the referee’s ambivalent position with regard to the legal culture of football. Besides, Witty (1960b, p. 185-96) writing about discretionary powers among referees claims that the words “if, in the opinion of the referee” have practical applications beyond the players’ and the spectators’ understanding. Discretionary decision-making, which Galligan (1986, p. 2) regards as a beneficial method, refers to a situation where “[the] control over a wide range of matters is delegated to officials with varying degrees of guidance as to the policy goals to be achieved or the standards by which they are to be achieved”.

This description also applies to the position of the referee, who has to take official policy, as well as the 53
culture of football and various other circumstances, into account. Furthermore, the decisions are directed by “ideas of fairness, both in substance and procedure, and non-discrimination” (p. 5). The stoppages and the judgements must be regarded as solid and consistent. The decisions must be regarded as fair, despite the consequences of mistakes being made. To some extent the referee will, in due course, compensate an affected team, if a decision is considered to be incorrect, which naturally brings up the criteria of formal rationality. Nevertheless, the informal strategy will, more often than not, bring about a beneficial outcome. Still, the legitimacy of the decision will diminish if the method of compensation turns into custom.

Discretionary power is, according to Galligan (p. 7), often characterised in terms of the authority to choose among alternative courses of action, “[to] choose amongst different courses of action *for good reasons*”. The sense of balance between the football teams is thereby a solid foundation for fair decisions. Galligan presents three fundamental criteria for discretionary decision-making: to locate “facts”; to decide on criteria; and to relate the criteria to “facts”. Galligan writes (p. 11), “at one end of the spectrum this task requires the interpretation of given standards in order to apply them, at the other end it is directed to creating standards where none are given ... He [i.e., the referee] might have to rank given standards according to importance, to decide whether or not to apply to given standards, or whether to depart from them”. In this perspective, it is hard to see what kinds of decisions, even according to formal rationality, are short of any form of discretionary influence. 54

For Galligan, “it is a mistake to assume either that the immediate object is to translate all discretion into tight rules, or that all discretionary decisions are so unique and individualized that they are impervious to regulation by general standards” (p. 30). There is a tension between these opposites. The possibility of handling individual situations openly and flexibly will decrease dramatically by extensive pressure towards fixed and standardised criteria. On the other hand, arbitrary decisions might occur if there are fragile standards of decision making, and external influences are to be expected. 55

Even discretionary decision-making is, according to Galligan (p. 35), specialised. By locating facts and deciding criteria; “...it derives from characteristics inherent in decision-making, in the need to select and characterise evidence, and from our limited understanding of the cognitive process involved”. There are rationales other than rule-conformity and legal accountability involved in discretionary decision-making. For instance, the call for consensus (i.e. the running of the game), compromises, and flexibility stand out as essential qualities. The qualities of discretionary powers might, of course, compete with the idea of a general, abstract and comprehensive system of rules. In addition, predictability is commonly held as a valuable virtue. Yet, topics will be limited by the formulation of rules and criteria in advance, where these rules and criteria could be important in the decision-making process. A fertile soil of ‘formalism’ and inflexibility will emerge, in addition to strict rules. Galligan, however, writes (p. 283) that “there is often little virtue in making decisions according to precise and inflexible rules”. The sole existence of formal rules does not necessarily imply that they are protected efficiently by the decision. 56

According to opponents of discretionary powers, discretion violates “the idea of fairness” (p. 153). Unpredictability, the critics claim, causes formal inequity, and despite the ambitions of substantial justice, discretionary decision-making has no respect for individual persons. But Galligan opposes the criticism, claiming that the decision-maker – even using discretionary powers – must be equipped with a knowledge of fair treatment; e.g. an implicit (silent) knowledge, which becomes manifest due to the conflict between substantial principles and fair treatment. In this matter, football referees are privileged by being socialised early into the culture of football and the virtues of fair play and sportsmanship (Lindfelt, 1999). The interpretation of the situation (the “facts”) and the decision-making are made in a special context, that of sport. Galligan (1986, p. 293) emphasises that the “interpretation does not consist in ascribing just any meaning that anyone may choose, since there are two important constraints on the process: interpretation occurs within a specific community of interests, and is conducted according to by-and-large-agreed standards” (pp. 127ff). 57

Many factors influence the merit of discretionary decision-making, and Galligan speaks particularly about the “nature of the issue”; what the decision is about. Several questions in football are handled well by formal rules, such as, for instance, the number of substitutions. On the contrary, discretionary powers are necessary in relation to injury-faking and tackles from behind. The political and social environment has, according to Galligan, an influence on the decision-making process. For instance, FIFA’s instructions as well as societal virtues operate, implicitly or explicitly, as a set of demands and values among referees, internationally as well as locally. Also, the collective morality in society acts as a vital force (Durkheim, 1964). In relation to sport, we find an emerging ‘culture of violence’ as well as a ‘culture of victory’, which most likely have an impact on the decision-making process. Galligan, finally, suggests economic considerations are a powerful force in making decisions. Sport, and particularly football, has been involved in an increasing commercialisation, with a transformation from leisure (idealism) to increasing professionalism (Elias and Dunning, 1986). Theoretically, at least, this milieu must have an effect on the praxis of discretionary powers among referees. 58

Despite an increasing seriousness in sport, sport is still considered ‘play’. This is expressed in the following norm (virtue): *to take the rough with the smooth* (see above). This norm (axiom) is an efficient ‘dispute settlement’, due to the fact that the norm actually prevents potential conflicts from changing into disputes. Socio-legal scholars and legal anthropologists, such as Robert Elickson (1995), have conceptualised this “instrument” as “reciprocal lumping” (Macaulay, 1963, pp. 55-67). The legal concept ‘informed consent’ would certainly be another adequate term. 59

Just as the neighbours of Shasta County (Elickson, 1995), or Macaulay’s (1963) companies, have a 60

common (reciprocal) interest in doing business in the future, football players, as well as referees, have a mutual interest in playing/refereeing the game despite incidents that formally violate the rules of the game. In this respect, at least, the players should not make an 'exhibition' of the situation; in the next moment he might himself run the risk of being the 'transgressor', by too high or too furious a tackle. (Of course, one will, in contradiction, find players faking injuries – and acting theatrically in an attempt to obtain a yellow card for his opponent.) But the game would fall apart if the players responded to every potential dispute situation. On the other hand, there is an inherent dilemma in this 'allowing attitude'. If both the players and referees tolerate too much violence, in relation to the idea of "reciprocal lumping", the praxis will probably turn to an escalating and customary culture of violence.

Notwithstanding the culture, what in fact could be tolerated? If we take the norm, *one has to take the rough with the smooth*, how does it apply to the legal concept of informed consent? To what extent have players accepted violence and the risk of being hurt, or even assaulted on the pitch? What is to be regarded as informed consent, qualitatively or quantitatively? No doubt, informed consent is a "legal fiction", and must be treated cautiously (Parpworth, 2000). Besides, as Parpworth claims, the idea of informed consent could only be supported or denied, no other alternative is possible. 61

However, according to *volenti non fit injuria*, no (actionable) wrong is done to those who consent to a known risk. A violent tackle, in this perspective, might not be regarded as (legally) wrong. The opponents have implicitly agreed by entering the pitch, and by the knowledge of risk of injuries and that 'shit happens'. However, has the opponent in any sense expressed an informed consent to being assaulted? Will it belong to the typical calculation of risks? Robert Simon has formulated a solution to the problem. By entering the pitch, and once you've started to play, you can't back out; the players have accepted to play by the force of given rules (Simon, 1991). If a player does not play by the rules, Simon holds, the opponent could not consent, either in an informed sense or passively, to injuries caused as a result of the rule-violation. As a consequence, if there is no consent, the rule-violation on the pitch could lead to civil or criminal action, even if the violation is handled by the common dispute settlement in football. It appears reasonable at first glance. Yet, football is not only defined by the rules the way chess is. In this matter, football is wider than the rules, and the 'legal culture' of football is established by the amalgam of rules, culture and praxis. 62

Gardiner, et. al present the question in the following manner: 63

The reality is that in contact sports there is a continued risk of injury. The rules of sports are designed to avoid serious injury. They are a crucial guide in determining criminal liability. In the absence of proof of intent or recklessness to injure, participants who cause injury within reasonable application of the rules of the sport can rely on the victim's consent to potential harm. An injury caused by a foul is also likely to be seen as consensual. It may be contrary to rules of the game but may well be inside the "code of conduct" or "working culture" of the sport. Consent is not limited solely to the formal rules in contact sports. (Gardiner, 1998, p. 51).

Notwithstanding the merits of this reasoning, we are trapped in a new dilemma. Despite the fact that the praxis and the culture of football accept violence as a part of the game, the actions are not automatically justified. More accurately, values in football – and even in society - tend to be corrupted by an increasing atmosphere of violence. Society has to respond, despite the idea of self-regulation in sport. 64

The mixture of violence, informed consent, formal rules, the working culture and societal values or reactions, place an implicit pressure on the referees. Together with expectations from official authorities and the crowd, as well as the players and the broader fan base, this mixture generates the referees' environment and their working conditions. Often, the referee has to make decisions rapidly and under uncertain circumstances. And, in this context, there are often several players trying to manipulate the rules or use them instrumentally. 65

There are several similarities between referees and other bureaucracies with discretionary powers; for instance, teachers, the police, social workers, insurance officers and employment officers. In the 1980s Michael Lipsky (1980), a political scientist, conceptualised this group as "street-level bureaucrats". These bureaucrats, including the referees, work closely with their clients (i.e. the unemployed, students, football players). Furthermore, they all have to follow policy, formulated at a higher level in the bureaucracy. 66

Analogous to the police, the referees have to take rapid decisions, often dependent on insufficient images and information. When taking decisions, they need to consider various consequences of the choice. Refraining from taking action must be related to the character of the circumstances. If the incident is regarded as trivial, the authority of the referee, as with the police, becomes crucial. As a result, the referee and the police have to – rapidly – estimate if the decision runs the risk of questioning the authority, as well as the confidence in the decision-making process, in general. The referee has to decide 67

rapidly, and at the same time strike a balance between different expectations and pressure (i.e. his own ambition, official policy, local organisations, the players' interests, the crowd's and media's consumption of football), as well as maintaining the authority of formal or discretionary powers. Indisputably, refereeing appears to be a challenging career.

CONCLUSION: "BLOWING THE WHISTLE"

Four different issues will be used to conclude, all of them related to the career of refereeing, of 'blowing the whistle'. 68

First, what are the descriptions and characteristics of the 5,500 individuals, with different types of careers, from premier league [Allsvenskan] to the seventh division, who are 'blowing the whistle'? No one in this group, including the Swedish FIFA-referees, have any opportunity to make all their earnings through refereeing. Consequently, they need a particular desire of 'belonging to the football family' to participate; more than a third of them declare that they would miss 'the football family' if they decided to leave the post, and that they want to contribute to football culture. All of them represent, and are fostered in, the traditional idealism of Swedish sport society, which is of course a gendered field. 69

There is, in the survey, a matching flow of referees among all ages up to the age of 65, and a quarter of the referees have an ethnic background other than Swedish. The referees are fairly well-educated in their civil life, but only 40% of them have passed level one, out of five levels, in the Football Association's schooling of referees. The most frequent occupations (50%) are linked to education, fostering, care and administration; activities which require social competence as well as control, and which work beneficially in the career of referee. 70

Despite being "married to football" (Blatt, 2004) most of the referees are married or live with a permanent partner. We can describe them as 'sporting families' and they are regularly active in various sports, at least in football, and the referees regard family acceptance as the key to the career, in line with their interest in football. Coming as no surprise, watching football on television is standard, and football in life is regular. In this manner, they belong to two "families": football and their marriage. 71

Second, what are the justifications, which referees bring into play when they are 'blowing the whistle'? There exists, according to the survey, considerable variations amongst (Swedish) referees in relation to rule application, as can be seen by their comments on rules, consent and cheating. The majority of referees hold, unsurprisingly, play-acting and violent play as most difficult to handle, followed by shirt pulling, and violent play, regardless of the level of refereeing. When the referees are prioritising between different competencies (i.e. the knowledge of the rules, the physical condition, social competence, self-confidence, and experiences of the ethos of the game) almost 50% hold that a knowledge of rules as the most important competence, whereas a third of the referees give precedence to the ethos of the game. 72

The comments on questions regarding rules, violence and cheating are different due to the fact that different referees focus primarily on either rule implementation, or football as a 'struggle'. Still, there is a discrepancy between referees who regard cheating as morally wrong, and referees who consider cheating as something that is unavoidable, or even 'belongs' to modern football. Various referees have different strategies in their refereeing, these can be conceptualised as either formal or discretionary decision-making. It is interesting to observe that communication skills and self-confidence correspond to the use of formal rules or discretionary powers. 73

For instance, referees with other ethnic backgrounds find it harder to communicate among the players and fall more easily into a formalistic approach (Habermas, 1986). Likewise, younger referees with less self-confidence. This experience is also supported by the interviews with referees at the premier league [Allsvenskan], who claim social competence and the ethos of the game as the superior qualities among referees. Yet, they also state that their career would not have developed beneficially, in light of the official's evaluation and career system, if in their early career at a lower level they had not been guided by and looked after formal rule-application. 74

In the theoretical reasoning we find support for discretionary powers, after Galligan, saying there is less virtue in making decisions according to precise and inflexible rules. The existence of formal rules does not necessarily imply that they are protected efficiently; on the contrary they can proceed into absurdity. However, discretionary decision-making should not turn into arbitrariness and a method of continual compensation. In that way, the formal rules are crucial as a course of action in supporting a legitimate development of the 'legal culture' of football. 75

Third, what kind of pressures will have an impact on the power of 'blowing the whistle'? Among the referees there are rather similar experience of pressures (i.e. expectations from the Football Association, from the organisations, from players/teams, from the crowd, as well as self-pressure), despite differences 76

in age, ethnicity, education and level of refereeing. Parallel to these experiences, the theoretical reasoning reviewed the mixture of violence, informed consent, formal rules, the working culture and societal values or reactions. This mixture is the working condition of the referee, together with different expectations. In addition, there are players using the rules instrumentally. In this context, the referee has to make rapid decisions.

Finally, 'blowing the whistle' could be addressed as a moral reflection, concerning the football players' instrumental manipulation of the rules. Placing the ethical responsibility on the referee, however, is morally doubtful. The substance of the players' self-control will fade away, when the moral is left to the control of the referee. To use Agnes Heller's (1980) ethical statement, a human being will not develop into a moral person in the jungle of duties and obligations, as well as various forms of control. The concern of not being discovered by the referee's 'blowing the whistle' cannot be the foundation of a moral quality or moral fosterage on the pitch. In such cases, the referees have too important a career and too large an ethical responsibility in preserving the rules of the game, as well as the ethos of the game. We must remember, as a contradiction to this tendency, compelling or not, Macintosh's (1979) historical testimony of early "referees"; i.e., the mediators (Lindfelt, 1999). But, in modern football, with calls for further controllers, this mythical lesson is obviously a romantic or utopian ideal.

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I am grateful to Torbjörn Andersson (Sport Historian), Tomas Peterson (Sport Sociologist) for comments, and to Martin Ingvarsson (FIFA-referee) for relating the experiences of refereeing at a top level.

Carlsson, Bo, "Blowing the Whistle? A Quantitative and Qualitative Analysis of Formal and Discretionary Powers of Referees in Swedish Football", [Entertainment and Sports Law Journal](#), ISSN 1748-944X, October 2006, <<http://go.warwick.ac.uk/eslj/issues/volume4/number2/carlsson/>>