

## Fans, Identity, and Punishment

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**Abstract:** I argue that sports clubs should be punished for bad behaviour by their fans in a way that affects the club's sporting success: for example, we are justified in imposing points deductions and competition disqualifications on the basis of racist chanting. This is despite a worry that punishing clubs in such a way is unfair because it targets the sports team rather than the fans who misbehaved. I argue that this belies a misunderstanding of the nature of sports clubs and of the nature of sporting success. Further, I argue that fans should want to be held responsible in such a way because it vindicates the significant role that they play in the life of their club.

**Keywords:** fans, identity, responsibility, punishment, racist chanting.

In this article, I argue that fans of sports clubs should be punished for bad behaviour in a way that affects the club's *sporting success*: we are justified in imposing points deductions and competition disqualifications on the basis of fan behaviour. Further, I argue that fans should *want* to be held responsible in such a way because it vindicates the significant role they play in their club.

I will defend what I call the "Constitution Principle": that fans are an important part of a club's ethical identity. I will focus mostly on European football (soccer) clubs, but I take it that the Constitution Principle applies, with some modifications, to baseball, rugby, American football, hockey, or any other professionalised team sport, and it will also apply outside Europe, though there may be various tweaks required based on the particular nature of fandom

in such sports and locations. I will address this further below. I will then apply the Constitution Principle to the issue of whether we can punish clubs in a way that affects their success, arguing that because fans affect a club's ethical identity, they affect the character of the club that succeeds and authorities have an interest in stopping the success of, say, racist clubs.<sup>1</sup> I focus on football and racist chanting because European football has recently been marred by several incidents of racist fan behaviour and there is a pressing need to justify certain forms of punishment for this behaviour.

In section 1, I set out a basic picture of punishment and elucidate a distinction between two types of punishment that can be directed at clubs: fan-directed and success-directed punishment. I raise two worries: the "Sports Problem", that success-directed punishment is unfair because it punishes sporting success on the basis of seemingly-extraneous fan behaviour; the "Desert Problem", that success-directed punishment is unfair because it punishes the club when it is the fans who deserve punishment. In section 2, I defend success-directed punishment by considering the role that fans play in a football club. I spell out the idea of ethical identity and argue that fans affect the ethical identity of the club and thus affect the nature of the club that succeeds. In section 3, I argue that fans should *welcome* the fact their club might be punished on the basis of their bad behaviour since such punishments vindicate the important role that fans play in a club's ethical identity.

My argument is that success-directed punishments, when currently applied, are just; further, I think that, once we see they are just, we should be willing to apply these punishments more harshly and more readily. To do so is to take seriously both the gravity of, say, racist chanting and the important role fans have in a football club. I do not, however, consider how we should most *effectively* apply

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<sup>1</sup> I will not consider any punishments that should be directed to individual fans as part of the criminal justice system.

these punishments to lessen the occurrence of racist behaviour by fans, and the potential costs of a liberal application of these punishments rests on empirical questions that I do not address.

### 1. Punishment: fan-directed and success-directed

Firstly, it is important to set out what I mean by “punishment”. I will use a broadly accepted notion that says punishment is the infliction of suffering in response to *that agent’s* commission of a wrong.<sup>2,3</sup> Further, punishment will be administered by an authority.<sup>4</sup> Specifically, the punishment we will concern ourselves with is the punishment of clubs or their fans by sporting authorities (not the punishment of fans by clubs). So, by “punishment”, I have in mind some suffering imposed upon a club or their fans for some instance of wrongdoing, and this punishment is imposed by a relevant sporting authority.<sup>5</sup>

Yet the *justification* of punishment will not be my concern: for the purposes of this paper, we can remain ecumenical over whether the aim of punishment is to deter future misbehaviour or to give

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<sup>2</sup> My emphasis on *that agent* is to highlight what I will later call the “Desert Problem”: that the person who is punished should be the person who committed the wrong; but it is also important in distinguishing punishment from related concepts like scapegoating. For a useful survey of the nature of punishment, see Brooks (2012).

<sup>3</sup> Further, the agent must be culpable, i.e. not justified or excused. This is not pertinent to our discussion given that the examples I explore, of racist chanting, will not (in any realistic scenario) be justified or excused.

<sup>4</sup> (Brooks 2012, 2-5). But Leo Zaibert also allows that punishment can be inflicted by agents other than the state, and by those who have no authority (Zaibert 2005, 231-36); this will not concern us.

<sup>5</sup> I hope that this is an uncontroversial application of “punishment”. But I want to note that, even if one disputes the exact contours of the concept of punishment, the features I appeal to (suffering imposed for wrongdoing by an authority) are likely to be present at least in the core of any concept of punishment even if there is debate at the margins.

the wrongdoer what they deserve.<sup>6</sup> What matters is that punishment is a response to an agent's wrongdoing.<sup>7</sup>

It is important to distinguish between the forms of suffering that might be inflicted as punishment. UEFA (Union of European Football Associations/*Union des Associations Européennes de Football*), the European governing body for football who set the rules for the major continental competitions, allows for a variety of punishments for racist chanting from fans: partial or full stadium closures, fines, forfeiting the match, points deductions, and disqualification from the competition ("UEFA Disciplinary Regulations, Edition 2017" 2017, Article 14).<sup>8</sup> The distinction I wish to highlight is between fan-directed punishments and success-directed punishments. Fan-directed punishment afflicts fan-participation in football matches, either by banning certain sections of the fans, lowering the number of fans who can attend a match, or banning fans entirely. Stadium closures seem to be fan-directed punishments. Success-directed punishment afflicts the sporting success of the club. Match forfeits, points deductions, and disqualifications are clearly success-directed.<sup>9</sup>

Clearly, there will be some degree of overlap between whether the punishment afflicts the fans or the success of the club. Fans desire the sporting success of their club, so a success-directed punishment will inevitably afflict the fans. Much fan-directed punishment might

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<sup>6</sup> Victor Tadros notes that it might be true that fairness dictates that punishment needs to be deserved yet we need not accept the retributivist idea that deserved suffering is morally good (Tadros 2012, 165-165). I agree, and my point is just that fairness dictates punishment must be deserved.

<sup>7</sup> To put this another way: the concept of punishment is such that it is suffering inflicted in response to an agent's wrongdoing; the justification of punishment is a separate question concerning why we should respond in such a way.

<sup>8</sup> Fines—paid by the club—are, more often than not, nominal punishments. I will not discuss them. If severe enough, they could be considered a form of success-directed punishment.

<sup>9</sup> Thanks to an anonymous reviewer for pointing out that in the NHL (National Hockey League), teams can be punished in-game (with a player having to sit out for a period of time) for fans throwing objects onto the ice (Rule 63.3, *National Hockey League Official Rules* 2018). This would be another example of success-directed punishment. Thanks also to Matt Hernandez for a helpful discussion about hockey.

also affect the club's success. Forcing a club to play home games behind closed doors might influence club success if the home crowd contributes to home-field advantage. But we can see that, even if there are side-effects, there will often be a clear *target* of the punishment. We see this with another sort of bad behaviour: when clubs are docked points due to financial irregularities, this is not aimed at afflicting fans, but it does so as a side-effect. Likewise, when fans are banned from the stadium, the response is supposed to afflict the fans and punish them for their collective bad-behaviour, the aim is not to affect the sporting competition.

Punishments like docking the club points, or disqualifying the club from the competition, directly affect sporting success. Even if the *aim* is to punish the fans—such as when the punishment is levied due to racist chanting—this is only achieved if it does affect the club's success (docking the club points for a dead-rubber would be ineffective). Is such punishment *fair*? I take it that fan-directed punishments for the wrongful behaviour of fans are fair: if fans engage in wrongful behaviour, then there is at least a *prima facie* case for punishing them.<sup>10</sup> But if we think the purpose of success-directed punishment is to respond to past bad behaviour by fans, we might worry that it is unfair because the people who *suffer* are not the people who engaged in the bad behaviour. The people who are *punished* are not the wrongdoers. We punish the *team* (the individuals on pitch, the playing squad) for the behaviour of the fans, despite the team not having done anything wrong. The club suffers but this is not in response to *the club's wrongdoing*, it does not deserve to be punished; the players do not deserve to miss out on success due to fan behaviour.

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<sup>10</sup> Of course, the specifics matter. It matters how wrongful the behaviour was, it matters whether there is an excuse or a justification, my point here is just that wrongful behaviour is the sort of behaviour that can deserve punishment, and if fans engage in wrongful behaviour, we might be justified in punishing them.

*The Desert Problem:* it is unfair to punish clubs for the actions of their fans because a basic principle of desert holds that punishment must be directed at the wrongdoer.

Considering the team brings out another element; surely the core of sport is that it is about sporting excellence and allowing fan behaviour to affect this brings in factors extraneous to sporting excellence.

*The Sports Problem:* we should not punish clubs for the actions of their fans because the core of sport is sporting excellence and fan behaviour is extraneous to this.

Success-directed punishments are often more severe than fan-directed punishments. Racist behaviour by fans is a serious wrong and a blight upon European football. Fan-directed punishment seems an insufficient response. Yet the Desert Problem and the Sports Problem are hurdles in the way of appropriately powerful success-directed punishments. In section 2, I will argue that success-directed punishment can legitimately be directed at clubs for the behaviour of their fans and the core of *professionalised* sport is not purely sporting excellence.

## 2. In favour of success-directed punishment

### *The Control Argument*

There is a form of punishment, which is already meted out, that could be extended to cover racist fan behaviour, and which might ground success-directed punishment whilst getting around the Desert Problem. Sports clubs have some degree of influence over their fans and it is fairly common for clubs in the UK to be punished for “failing to control their fans”. (The term is widespread, [see Watson 2018; Pitt-Brooke 2019], for the specific regulations see “The FA Handbook” [2019, pts. 10.E.20-21]). I will not defend in any detail the legitimacy of the obligation on clubs to control their fans because this claim will not be part of my main argument. But it does strike me that this plausibly offers a

legitimate basis for punishment. After all, clubs (including the players who are responsible for sporting success) do have some influence over fans: clubs can choose which fans to allow into their stadiums and can influence their fans' behaviour through, for instance, social campaigns. So, there are things that clubs can do to control their fans. Further, clubs stand to benefit from fans attending matches, and this may give rise to a duty to ensure fans behave in particular ways (see Honoré 1999, 81, 85–86). We can thus offer the Control Argument:

- i. Clubs have an obligation to control their fans such that fans behave to certain standards.
- ii. These standards include the prohibition of racist behaviour (including chants or throwing objects onto the pitch).
- iii. Clubs can be punished due to racist fan behaviour because clubs have an obligation to control their fans and to prevent them from engaging in such behaviour.

Even if sporting success *is* the core of sport—I will return to this below—there are clearly other elements involved in professional sports and the interaction between fans and the club might ground at least some responsibility on the club for the behaviour of their fans. By envisioning the club as more than just a purely sporting entity—by envisioning the club as a social entity—and recognising that the club has some relationship with, and control over, its fans (from whom, say, it profits), we might justify success-directed punishments.

An analogy with employer liability might help clarify the Control Argument and show how it gets around the Desert Problem. Sometimes, employers might be held liable for the actions of their employees. One might think that this is unfair: after all, the employer might not have *done* anything objectionable. But if we think that the employer must control her employees, then the

employer might be liable in virtue of her *failure* to control her employees (justified by the fact that she generally stands to benefit from the actions of her employee) (see Honoré 1999, 81, 85–86; Gardner 2017, 5). We avoid the Desert Problem because liability is based on the employer’s behaviour, namely the employer’s failure to control her employees. Likewise, when we appeal to the Control Argument we punish the club on the basis of the club’s own behaviour; we punish the club not for the racist chanting but for failing to control the fans engaged in racist chanting. It is the failure to control which is wrongful behaviour on the part of the club and this failure is what deserves punishment.

The Control Argument strikes me as a good justification for success-directed punishment. But it treats the fans as elements to be controlled by the club. It sees an executive as central to the club as opposed to fans who are misbehaving actors that are a force external to the club.<sup>11</sup> I do not mean to deny that we can sometimes treat fans, or at least some fans, in this way; nor do I want to deny that we can justify success-directed punishment in such a way.<sup>12</sup> Yet I hold that fans should not only be seen in this way, as forces external to the club that must be controlled by it. My argument will make central the idea that fans are *also* internal to the club in a way that the Control Argument fails to recognise, which will lead to a more powerful justification of success-directed punishment.

### ***The Constitution Principle***

There is a richer relationship between the club and the fans than the Control Argument allows.<sup>13</sup> I will argue that fans partly

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<sup>11</sup> Compare the discussion at (Jones 2003, 46–47)

<sup>12</sup> My later argument does not require us to reject the Control Argument. The fact that a subset is part of a greater whole does not entail that we cannot also see the subset as a distinct subset within that whole; much as we might judge parents on their failure to control their children, we might judge the family as a whole. Much as fans are part of the club (as I will argue), there are still executive elements of the club that we might judge (and, in this case, punish) because it fails to control the fans. Thanks to an anonymous reviewer for urging me to think about this further.

<sup>13</sup> There are also clearly relationships between fans, and the fans form a community; for a detailed discussion see Tarver (2017). I will not discuss this.



constitute a club: they are part of the ethical identity of the club and their actions alter the ethical identity of the club. This is what I will call the *Constitution Principle*. I use the Constitution Principle to argue that because fans alter the club's ethical identity, success-directed punishment (specifically for racist behaviour) is justified because fans alter the ethical identity of a club such that it is, for example, a *racist* club that succeeds and authorities have an interest in preventing racist clubs from succeeding.

Before moving on, I need to clarify something. There is a distinction in the philosophy of sports literature between purists who love the sport, and partisans who love the club (see Davis 2019; Dixon 2001; 2016; Mumford 2004; Russell 2012). For the purposes of this article, when I talk about fans, I have in mind a partisan who regularly attends her club's games; I have in mind the traditional football fan or the *ultra*. Such fans form the basis of my argument because such fans are (more) central to the *ethical identity* of a club.

Here is one way of starting to think about what I mean by the claim that fans are central to a club's identity that will provide a useful contrast with an important argument in the fandom literature. Clubs undergo a range of changes, from their location to the composition of the team; for a variety of such examples, see Stephen Mumford (2004, 186ff). Mumford argues that the fact that these people decide to support this entity is (if not wholly, at least partly) what makes the club the entity that it is, and it is what preserves that club's numerical identity (Mumford 2004, 190–93).<sup>14</sup> Erin Tarver, although differing in the details, offers a similar claim (Tarver 2017, 62–68). As she vividly puts the idea:

*“...it is fans’ actions and devotion that creates the  
significance of the historically persistent [club]*

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<sup>14</sup> Mumford's claim concerns the community of observers, but it is clear that fans will be centrally important to the identity of many clubs.

*over time: there is no such thing as “the Yankees,” in other words, without Yankees fans, without the opposition of Red Sox fans, without a people to celebrate the mythology of Babe Ruth, Mickey Mantle, and the iconic pinstripes.”*  
(Tarver 2017, 2)

Mumford and Tarver offer interesting arguments, turning around the fact that sports clubs are social entities, for the conclusion that fans (and their practices) are central to the *persistence* or *numerical identity* of a club—the fact that an entity continues to exist as the same entity. And I think they’re right: fans are not the only thing that underpin a sports club’s identity, but, alongside other factors, they *do* help to constitute a club’s identity.<sup>15</sup> Yet my argument will not turn around the idea that fans and their practices help to constitute the numerical identity of a club. Rather, my claim is that fans are central to the *nature* of the club’s identity, to the club’s *character*. My point is more that fans are central to the club being the sort of club it is. I will refer to this as the club’s *ethical* identity.<sup>16</sup> I will now clarify what I mean by an ethical identity and the way in which this is distinct from numerical identity; then, I will suggest that fans can shape a club’s ethical identity.

What do I mean by ethical identity as opposed to numerical identity?<sup>17</sup> Take an analogy with personal identity. There is an important question—a central question in metaphysics and the philosophy of mind—that tries to tell us whether this person is the same as that person, given certain changes (see Kripke 1981, 40–53, 110–14; Williams 1973b). But there is another way of thinking

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<sup>15</sup> The argument does not apply to fans of individual sportspeople, for we do not plausibly suppose that fans of individual sportspeople *constitute* that sportspeople (see Mumford 2004, 193).

<sup>16</sup> Thanks to several anonymous reviewers for urging me to clarify what sort of “identity” I had in mind.

<sup>17</sup> Our ethical identities can be understood as versions of our numerical identities, my point is that this is very different from the traditional metaphysical notion of numerical identity, and my argument turns around the fact that ethical identities are part of the character or nature of a club.

about personal identity, not as “metaphysical” but as “ethical” (Witt 2011, 22-24; Appiah 1990). This conception of identity looks outside of, say, somebody’s genetic origins or bodily continuity and includes others features that might be relevant to somebody’s identity, particularly factors that have an important impact on how we live our lives and interact with those around us. Even if an imagined person is the same person as me metaphysically, proponents of an ethical identity believe that we are inclined to say that person *might not be me* if, for example, they were raised as a different gender (Appiah 1990, 494-95), or in a very different culture (Witt 2011, 51-56; Williams 1973a, 40).

Ethical identities can be composed of more than just these fundamental features. Another common feature that affects our ethical identities is our careers. Meir Dan-Cohen argues that had he joined the Navy or become a violinist, then the figure who had lived that life would not have been him (he is a law professor) (Dan-Cohen 2008, 9-10). Captain Dan-Cohen and Professor Dan-Cohen are different people even though Captain Dan-Cohen—if Dan-Cohen became a Navy officer rather than a professor—would have had the same genetic origin as Professor Dan-Cohen.

Of course, some parts of an ethical identity are more or less important: your gender might be more important than your career in determining who you are and what character you have. One way of thinking about this might be in terms of a core, where some features are closer to the core and others are further away, with the degree to which a feature impacts one’s ethical identity, and the importance of such a feature in one’s ethical identity, depending upon how close it is to that core.<sup>18</sup>

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<sup>18</sup> For an elegant discussion of the “core” metaphor, see Dan-Cohen (1991). It may also be that an ethical identity is somehow *conflicted*. In our instance, it may be that there are prominent racist fans and prominent anti-racist fans. This is an interesting complication that I will not explore.

My focus is on the ethical identity of a sports club. Regardless of what it means for this club to be the same club *metaphysically*, regardless of what sort of claims we make about numerical identity, my point is that there is something significant about a club having a particular *character*, about a club having particular qualities. Further, it should be clear that fans can exercise a powerful influence over core parts of a club's ethical identity. The practices that the fans engage in shape the character of the club.<sup>19</sup> For instance, the fans might encourage attractive football with plenty of short passes and a disregard for winning; or they might engender a rivalry with another team; or they might lionise a particular player. They can shape a club's playing style as well as its relationship with other clubs; they can imbue particular players with significance and see others as unimportant wastes. Fan practices in a stadium, such as chanting, will be an important, and particularly visible, aspect of this.

Returning to the quote from Tarver, my argument turns around the idea that even if some entity called "the Yankees" existed—an entity numerically or metaphysically identical to the Yankees—if such club had different fans with different practices, it would not be the Yankees in some *ethical* sense. It would not be the same club with the quality and character that it does in fact have (as brash, or as natural champions—depending on your point of view).

*The Constitution Principle:* fans, through their practices, partly constitute the ethical identity of a club.

Before we move on to applying the Constitution Principle to success-directed punishments, we need to be clear about its scope. One might think that certain sporting clubs have undergone drastic changes in fanbase whilst retaining their ethical identities. One obvious reply to make here is that the ethical identity of a club is made up of several different elements that can interact in various

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<sup>19</sup> For further discussion of practices, see Tarver (2017).

ways.<sup>20</sup> Further, as I noted above, some elements will be closer or further from a core. The fans are one of several very important elements of the nature of a club. So, it *might* be that a club can lose its fans yet retain (enough of) a core part of its ethical identity if, say, the owners and team remain the same. But it might also be that the fans are so crucial to a club's ethical identity that such a loss would mean that the club totally loses its ethical identity. Further, clubs are complicated entities with varying histories and relationships with other entities—there will be plenty of room for debate over whether a club does retain its identity, and it might be impossible to come to a definitive answer.

It also seems true that location, and by extension *fanbase*, might be less important in, say, the United States than in, say, England or Germany or Italy. Italian *ultras* are so central to the club's ethical identity that it is unthinkable that a club could move location without the consent of those fans. We can barely imagine Inter Milan in Turin, supported by former Juventus fans (Juventus and Inter Milan are major rivals)—any such club, regardless of what we say about its numerical identity, would be radically different to Inter Milan as it is now in character such that, in a significant respect, it would surely not be the same club. But in the United States franchises move around more often. This is not to say that moving is always unproblematic, nor that location and fanbase are never part of the identity of a franchise in the United States. Rather, it is to say that one might make a case that fans are *more important* to the ethical identity of European football clubs than, say, NFL teams.

The Constitution Principle is a general principle that says that fans are a part of a club's ethical identity. The way in which fans construct a club's ethical identity, and the importance they play, might differ outside of Europe and also outside of football. My aim

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<sup>20</sup> For this point, see Mumford (2004, 187-88)

in the rest of this paper is to apply the Constitution Principle to justify success-directed punishments to European football clubs. Yet fans will play an important role in almost any professionalised team sport, and the Constitution Principle will—with the necessary changes to reflect the peculiarities of particular sports and locations—almost certainly apply elsewhere, to other issues and in other sports, and is a fertile ground for philosophical exploration.<sup>21</sup>

### *The Constitution Argument*

To move from the Constitution Principle to an argument in favour of success-directed punishments, I want to add one further step: fans affect the *identity of the club that succeeds*. Not only do they help to form the club's ethical identity, but this means that it is, say, a racist club that succeeds on pitch. Further, sporting authorities are justified in preventing racist clubs from succeeding. Let me spell this out by looking back to the Sports Problem.

We might think that fans are important to a club's ethical identity yet still hold that sports should be settled on pitch. This is the Sports Problem, which, specifically when it comes to success-directed punishment, holds that we should not punish clubs for the actions of their fans because the core of sport is sporting excellence and fan behaviour is extraneous to this. Now, there is certainly something to be said about this, but such an objection, if pushed too far, embodies a shallow view of team sport.

This calls for more of a discussion of the distinction, mentioned briefly when I set out the Sport and Desert Problems, between the *team* and the *club*. By the team, I mean the sporting components—the players (including substitutes and players who have not made

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<sup>21</sup> One could apply the principle to other elements of a club: owners, players, and various other stakeholders might be a part of a club's ethical identity. The importance of owners to, say, American teams might lead to a related argument: racist behaviour by owners might rightly redound to the cost of the club. This might be more plausible than in, say, certain English football clubs where owners are often relatively aloof.

Further, we should also allow that certain fan practices shape the club's ethical identity in a *positive* way. My focus is on punishment, but we should not view fans only through a negative lens.

the match-day squad), coaches, and, at the limits, figures like scouts or physiotherapists. The club is a larger, and more amorphous, entity which I do not hope to define: but I take it that it is clear that Manchester United gets its ethical identity from more than just the current team, rather it involves its history of two brilliant Scottish managers, players like Paul Scholes and Bobby Charlton, the Munich air disaster, the comeback in '99, Old Trafford, and—as I have stressed—the fans.

The team has a complaint against any success-directed punishment due to fan behaviour, namely, the team's sporting success is (to some extent) important and is thwarted by factors that are extraneous to purely sporting success. I grant that this is a reasonable complaint—and I want to be clear that it is compatible with what I say below that players still have some grounds for complaint, even if this complaint is outweighed—but I also want to be clear that this complaint can only go so far because the sporting success of the *team* is relatively unimportant when compared to the success of the club. The sporting success of, say, a bunch of amateur players in a Sunday League might depend solely upon team success; this is because they have no fans or no pretensions to be more than a few friends who have a kickabout every now and then.<sup>22</sup> But that is not the case with, say, FC Barcelona. When it comes to Barcelona, the relationship between the club and the team is far more complicated, and I want to suggest that the club tends to take priority when it comes to the significance of success.

That is to say that the on-pitch success of Barcelona's current team only has the significance it has for us when set in the context of the club. Otherwise, it is not much more significant than the success of the bunch of amateur players, save for the fact that the quality is a lot higher. By himself, Lionel Messi is a phenomenon; but we do not fully appreciate what he does, and it does not have the same

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<sup>22</sup> Let us also stipulate that they do not belong even to a particular amateur club, or if they do the club persists on a season-by-season basis.

significance, if we cannot locate it as part of the history of FC Barcelona, a history shaped by the dictator Franco, the fans, Catalanian national identity, and sporting figures like Cruyff and van Gaal, as much as Guardiola, Xavi, and Messi himself.<sup>23</sup> Although it is clear that the club's success depends in part upon the team's success, we also need to recognise that the team's success depends upon the club's success, because the team cannot succeed in the way that successful teams like Barcelona do succeed if it is merely a collection of individuals considered independently of the club. Thus, the Sports Problem is misguided: purely sporting success is not the core of sports. Sports, at least at the professional level, involve a variety of richer relationships and histories that cannot be captured by considering purely sporting excellence. Messi's excellence exists within the context of Barcelona.<sup>24</sup>

Given the role that fans play in the ethical identity of a club, they help to decide *what sort of club succeeds*. Once we grant this, success-directed punishments for fan behaviour start to look fair. When fans engage in the wrongful behaviour of racist chanting, they alter the ethical identity of the club that succeeds; they make it into a *racist* club that succeeds.<sup>25</sup> Sporting authorities have a right to discourage the success of such clubs and thus might be justified in punishing these clubs in success-directed ways.

Why are authorities justified in applying such punishments? Because sports are, just as much as individuals, bound by basic standards and these authorities are the proper enforcers of such standards. Authorities have a justified interest in preventing the success of, say, racist clubs. When clubs have a racist ethical identity, authorities can punish them to attempt to stop a racist club from succeeding; this can either serve as an encouragement to the

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<sup>23</sup> This can be understood in terms of a broader *narrative* (see MacIntyre 1977; 2007, chap. 15). For a vibrant study of Barcelona in particular, see Lowe (2013).

<sup>24</sup> Had Messi played elsewhere, his success would have to be understood in that other context.

<sup>25</sup> I will say more about this below and clarify what sort of behaviour might licence success-directed punishments.



fans to change their practices such that the club no longer has a racist ethical identity, or if fans continue the punishment can serve to simply prevent the success of that (incorrigibly racist) club.

This is what I will call *The Constitution Argument*:

- i. Fans are an important part of a club's ethical identity.
- ii. Fans affect the ethical identity of the club that succeeds.
- iii. Because fans affect the ethical identity of the club, certain fan behaviour justifies the punishment of the club on the grounds that clubs with certain ethical identities should not succeed.
- iv. Clubs can be punished in success-directed ways on the basis of fan behaviour.

Notice how this differs from the Control Argument. The Control Argument holds that clubs can be punished in success-directed ways because their fans engage in wrongdoing, further, clubs have a duty to control their fans so that they do not engage in wrongdoing. The club's failure to control fans is wrongful and this is what the punishment is directed at. The Constitution Argument makes fan behaviour *central*: the punishment is based on the fans' wrongful behaviour that affects the ethical identity of the club and alters the nature of the club's success. Fan behaviour makes it such that a *racist* club might succeed and sporting authorities can step in to discourage or thwart this success.

To talk of sporting success, where this refers not to the success of a bunch of players in one match or over a few seasons but the success of the club, we must pay heed to the fans. The fans shape the ethical identity of the club that succeeds. Sporting success cannot just be understood as team success but must be understood as club success. And we should understand club success in terms of the nature of the entity that succeeds: fans are central to the nature of the club, to the sort of club that succeeds. We can rightly punish sporting success on the basis of fan behaviour because

sporting success, when we are in the realm of professional teams like Barcelona, involves more than just the success of a team: it involves the success of a club, a club whose identity is partly constituted by the fans.

*What behaviour justifies punishment?*

What sort of fan behaviour should lead to success-directed punishment? Given that I have linked fan practices to ethical identities, it is important to note that not all fan behaviour—where the behaviour is *qua* fan, either by the fans as a whole or by individual fans—will count as a practice that alters a club’s ethical identity.<sup>26</sup> For the behaviour in question to affect the club’s ethical identity—or for it to affect the club’s ethical identity in a way that is close enough to the core of that identity—it must be *significant*. Significance does not require more than one instance of behaviour; were hundreds of fans to chant racist abuse and throw bananas, that might affect the club’s ethical identity. But one bad apple, or a small section of the fans behaving badly, might not be significant enough to justify punishment on the grounds that fans form a club’s ethical identity.<sup>27</sup> That is because some fan actions are too insignificant to affect a club’s ethical identity.

How are we to decide whether an action is significant enough to affect the club’s ethical identity? Fan practices are rich, often with decades-long histories and involving relationships with their own club and others that deeply contextualise such behaviour. So, I do not think that there could ever be a simple test that definitively decides whether some instance of behaviour changes the ethical identity of a club. But it should at least be clear that we can sometimes determine whether an action by fans affects the ethical

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<sup>26</sup> In such cases, we might be able to justify success-directed punishment via the Control Argument.

<sup>27</sup> A lone wolf, or a series of lone wolves, might behave in abominable ways and if other fans fail to condemn this then they might be implicated in the creation of a racist atmosphere that affects the club’s ethical identity and thus is deserving of success-directed punishment. Thanks to a reviewer for pressing the problem of lone wolves.

identity of a club. And we can get a better grip on what sort of fan behaviour might affect a club's ethical identity by considering a particular feature of ethical identities.

The concept of an ethical identity is deeply interesting and has more features than I can explore here, but the feature that matters most for our discussion is that ethical identities affect how we see ourselves and how others interact with us.<sup>28</sup> All the features I cited in the above discussion of ethical identity—career, gender, place of birth—condition this to some greater or lesser extent. Other features might do this, too: a footballer scoring a winning goal in a cup final might, in scoring, alter how fans see him. One tool to decide whether fan behaviour alters a club's ethical identity is what I will call “The Perception Test”: does this behaviour affect how others *see* the club? To avoid bias, does this behaviour affect how a relatively-well-informed neutral fan of the sport sees that club? A few fans behaving badly probably will not affect how this observer sees the club, stadium-wide chanting by large groups of fans probably will.

It seems likely that it is when fans engage in large scale bad behaviour, or consistent bad behaviour, that they affect the ethical identity of the club. They make the *club* an odious one. Authorities can punish the club on the basis of the fans' behaviour because authorities can legitimately attempt to stop the wrongful behaviour by thwarting the club's success such that either the odious club cannot succeed *or* the behaviour ceases and the club gains a morally decent ethical identity and is permitted to succeed.

### ***Bad actors***<sup>29</sup>

Before moving on, I want to address a worry that fans from club A will disguise themselves as fans of rival club B in order to see club B sanctioned in a way that affects their sporting success. This raises

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<sup>28</sup> For discussions along these lines see Appiah (2007, 68–69); Witt (2011, 23–24, 72–73); Nelson (2002, 30–33); Schechtman (2014, chaps. 5–6).

<sup>29</sup> Thanks to an anonymous reviewer and Chip Sheffield for raising this point.

two significant concerns: that clubs might be unjustly punished when their fans are in fact innocent, and success-directed punishment might actually encourage racist behaviour (by these in-disguise racist fans).

These concerns can be addressed. Although fans of club A *might* dress up as fans of rival club B and engage in problematic behaviour with the aim of having club B punished, we can put safeguards in place to guard against this. Currently, individual fans are sometimes banned by clubs for their behaviour based on witnesses and video technology (Law 2019). Given the severity of success-directed punishments, one hopes that governing bodies would engage in serious investigations before meting out such sanctions, including verifying (at the very least by checking social media and fan club registrations) the allegiance of the fans involved in the racist practices. So, it is far from clear that clubs might be unjustly punished or that racist behaviour might actually be encouraged. If authorities engage in thorough investigations, we have no need to worry that success-directed punishments will lead to the punishment of innocent clubs or the incentivization of bad actors engaging in racist behaviour.

### 3. Respecting fans

Not only is it the case that we can, but—*from the fans' perspective*—we should mete out success-directed punishments for fan behaviour. By doing so, we vindicate the importance of the fans' role in the club's ethical identity and how the fans are necessary for *that club's* success—where “that club” refers to the club as having a particular ethical identity. For this thought, I draw on an idea that to treat people in certain ways is to express that we think they have certain features. For instance, in the law, the idea is that to demand an *answer* of someone for some wrongdoing is to treat them as a *rational being* (see Gardner 2007). Relatedly, following P F Strawson, to be blamed or resented is to be treated as a full member of society, one with whom we can have fully human

interactions (Strawson 1982). There is, then, a very important positive side to certain things—punishment, trial, blame—that are often regarded as overwhelmingly negative: to be treated in this way is to be respected and to have certain features recognised as significant.

My point is not about rational agents or human beings, it is about being an important part of the club's ethical identity. By directing punishments for fan misbehaviour at the club's success, we vindicate the important role that fans play in constituting the club's ethical identity. Because it is deserved, we avoid the Desert Problem: the club's success is affected, but the punishment is directed *towards* the club on the *basis of* fan behaviour that alters the club's ethical identity. Further, as I argued above, we avoid The Sports Problem: fans help to constitute the club's ethical identity such that without them it would not *be* that club. By punishing the club for the practices of its fans, we do not just hold that the club should *control* these fans, rather, we recognise that the fans are a central part of what it means for that club—with that ethical identity—to succeed.

I have not explored various deeper ways in which punishment might have an effect, such as by shaming or humiliating the fans; I have not explored the nuances that arise in sports other than football; I have not provided a comprehensive account of when, and how exactly, a fan is part of “the fans” nor of when and how the fans alter a club's ethical identity (do fans affect the ethical identity of a club when they're going home on the Metro? What about when they are spouting on Twitter?); I have barely gestured at the ways in which the ethical identity of a club matters to us as part of the wider sporting community and might justify authorities imposing certain standards. That is to say, I do not hope to have provided anything like the last word on this matter, yet by exploring the role of fans *in* clubs and the ways that punishment might

vindicate that role, I hope to have provided an interesting starting point.

It is a vain hope that we will soon hear the last word on this issue. Still, I hope that we can sufficiently punish clubs for their fans' behaviour and stamp out, as best we can, noxious practices like racist chanting. Maybe then we can at least spend more time appreciating Raheem Sterling's footballing talents without him having to face quite so many occasions where his perseverance, his temperament, and his qualities as a person need also shine through.<sup>30</sup>

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