

Regulating On-Court Tennis Indiscipline

BEN LIVINGS

1 Introduction

Rules are a defining and indispensable feature of sports. As Vamplew writes: 'It is rules that differentiate one sport from another. It is also rules that distinguish the sophisticated games of sport from the more naïve ones of play.'¹ A sport's rules dictate by whom and how it is played; they seek to ensure that the on-field contest is free from corrupting influences such as doping or match-fixing; and they set standards of behaviour that players – and indeed others involved in the sport – must conform to, both on and off the field of play.

Among other purposes, and depending on the sport, the rules are in place to protect the participants' safety, ensure fair competition, and maximise the sport's enjoyment and entertainment value for those participating and spectating. The latter function is particularly important in tennis, a sport which places an emphasis on player decorum to maintain its character and aesthetic appeal to participants, spectators and sponsors. Lake describes tennis as 'a sport characterized and self-regulated by an unwritten code of sportsmanship and restrained gentlemanly behavior since its inception in the mid/late nineteenth century'.² As Lake points out, 'key aspects of the traditional code of conduct were modelled on British amateur ideals'.³ The historical development of tennis was grounded in its middle-class roots, and the behavioural and aesthetic expectations of the sport continue to reflect this: 'The cultural expressions of upper-class taste sought by the most aspirational upper-middle-class players had a lasting impression upon the sport. From its very beginnings, principally because of its noble heritage . . .

¹ Wray Vamplew, 'Playing with the Rules: Influences on the Development of Regulation in Sport' (2007) 24 *Int J Hist Sport* 843, at 843.

² Robert J. Lake, 'The "Bad Boys" of Tennis: Shifting Gender and Social Class Relations in the Era of Năstase, Connors, and McEnroe' (2015) 42 *J Sport Hist* 179, at 181.

³ *Ibid.*

and also due to its earliest upper-class enthusiasts, lawn tennis attracted those seeking to improve their social positions.⁴

This chapter looks at the rules governing participant behaviour that are contained in the International Tennis Federation (ITF) World Tennis Tour Code of Conduct (hereinafter, the 'Code').⁵ The Code is the principal basis for disciplinary action in tennis,⁶ with some variations where a matter falls under the jurisdiction of the Association of Tennis Players (ATP), the Women's Tennis Association (WTA) or the organisers of the four Grand Slam tournaments, with each having their own 'Rulebooks'.⁷ The Code augments and operates alongside the ITF's 'Rules of Tennis',⁸ which 'constitute and define what counts as playing' tennis.⁹ Foster refers to the rules of the game as '*lex ludica*', the composition, adjudication and enforcement of which are matters almost entirely within the control of a given sport's governing bodies. The Court of Arbitration for Sport (CAS), for example, does not generally accept appeals or otherwise interfere in disputes over the interpretation and enforcement of these rules.¹⁰ Sports governing bodies therefore form a kind of 'private government',¹¹ and the ITF enjoys great power in the devising, promulgation and enforcement of its rules, including the Code.¹²

⁴ Robert J. Lake, *A Social History of Tennis in Britain* (Routledge, 2014), 17.

⁵ The Code is available at: www.itftennis.com/media/8955/world-tennis-tour-code-of-conduct.pdf. This chapter does not investigate the procedural issues, which have been considered by the author elsewhere: Ben Livings and Karolina Włodarczak, 'Procedural Fairness in the International Tennis Federation's Disciplinary Regime' (2020) 18 Ent & Sports LJ.

⁶ The Code is 'the exclusive basis for disciplinary action', except for integrity matters falling under the jurisdiction of the TACP or TADP, available at: www.itftennis.com/media/8955/world-tennis-tour-code-of-conduct.pdfchrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.itftennis.com/media/11558/grand-slam-rule-book-2024-f3.pdf.

⁷ The Rulebooks are available at: www.itftennis.com/en/about-us/governance/rules-and-regulations/?type=tour-regulations; www.atptour.com/en/corporate/rulebook; and www.wtatennis.com/wta-rules.

⁸ Rules of Tennis (2025), available at: www.itftennis.com/media/7221/2025-rules-of-tennis-english.pdf.

⁹ Christoph Lumer, 'Rules and Moral Norms in Sports' (1995) 30 Int Rev Sociol Sport 263.

¹⁰ Ken Foster, 'Lex Sportiva and Lex Ludica: The Court of Arbitration for Sport's Jurisprudence' (2006) Ent & Sports LJ 1.

¹¹ Stewart Macaulay, 'Private Government' in David Campbell (ed.), *Stewart Macaulay: Selected Works. Law and Philosophy Library* (Springer, 1986).

¹² Cisneros states that 'these are rules which are imposed rather than consented to'. Ben Cisneros, 'Challenging the Call: Should Sports Governing Bodies Be Subject to Judicial Review?' (2020) 20 Int Sports LJ 18, at 23.

2 The Code

The ‘Rules of Tennis’ acknowledge the need to strike a balance between maintaining tradition and the development of the sport. This is set out explicitly in the ‘objectives’ cited in Appendix XIII, which state that the ITF is committed to:

- a. Preserving the traditional character and integrity of the game of tennis.
- b. Actively preserving the skills traditionally required to play the game.
- c. Encouraging improvements, which maintain the challenge of the game.
- d. Ensuring fair competition.¹³

This idea of ‘[p]reserving the traditional character and integrity’ while ‘encouraging improvements’ is therefore central to the regulation of tennis. The Code is a key means to achieving this; its purpose is set out in Article I(A) as follows: ‘The International Tennis Federation promulgates this Code of Conduct . . . in order to maintain fair and reasonable standards of conduct by players, Related Persons, Covered Persons and the organisers of Men’s and Women’s ITF World Tennis Tour tournaments, and to protect their respective rights, the rights of the public and the integrity of the Sport of Tennis.’¹⁴

Serious integrity breaches are beyond the scope of the Rules of Tennis or the Code (and of this chapter).¹⁵ Until 2021, the ITF (in conjunction with the WTA, ATP and Grand Slams) oversaw the Tennis Integrity Unit, which administered the integrity rules related to doping, match-fixing and other forms of corruption. From 2021, this is the responsibility of the International Tennis Integrity Agency (ITIA), which describes itself as ‘an independent body established by the international governing bodies of tennis to promote, encourage and safeguard the integrity of professional tennis worldwide’.¹⁶ To this end, the ITIA administers the Tennis Anti-Corruption Program (TACP) and the Tennis Anti-Doping Program (TADP). Breaches of the integrity rules can have serious consequences for the offender, including large fines and lifetime bans from participation in the sport. Because of this, there are appeals mechanisms in place, which involve independent tribunals and the potential for an

¹³ Rules of Tennis (2025), Appendix XIII.

¹⁴ ITF World Tennis Tour Code of Conduct, Art. I(A), available at: www.itftennis.com/media/8955/world-tennis-tour-code-of-conduct.pdf.

¹⁵ This is covered in more depth elsewhere in this book, specifically Chapter 10.

¹⁶ ITIA, available at: www.itia.tennis/.

appeal to the CAS. It should be noted that the behaviours captured by these codes may also comprise criminal offences.

Contravention of the Code can lead to the imposition of penalties. These range from in-game sanctions (warnings, points penalties, forfeiture of games or even matches) to (usually more severe) out-of-game punishments, such as fines, disqualification from tournaments, suspensions or even participation bans. Although this chapter is concerned primarily with on-court player misconduct, it is important to note that the applicability of the Code goes well beyond this, both in terms of the conduct it captures and the 'covered persons' who are subject to it. This breadth of application can be seen in the case of Ilie Năstase, who was punished in his capacity as Romanian Fed Cup captain for misconduct in the build-up to and during a home tie against the Great Britain team in April 2017 in Constanta, Romania.¹⁷ The misconduct comprised: a comment made in relation to Serena Williams's pregnancy that the ITF alleged was 'unethical, unprofessional, unacceptable, offensive, derogatory, and may be interpreted as racist'; repeated and unwelcome sexual advances towards GB team captain Anne Keothavong; alleged intimidation of the GB players;¹⁸ repeated abuse of the media; repeated accusations of umpire bias during the match; and abusive language directed at the umpire and the GB team.¹⁹

At a hearing before the ITF Internal Adjudication Panel (IAP) in July 2017, Năstase was found guilty of several breaches of the Fed Cup Welfare Policy, which reproduced in identical language the behavioural standards set out in the ITF Code of Conduct's Welfare Policy.²⁰ The IAP imposed a fine of \$10,000 and a two-part suspension. The first part of the suspension applied to Năstase's attendance at ITF events and was for one year and eight months. The second part of his suspension related more narrowly to his 'acting in an official capacity' at ITF-sanctioned events and was for the longer duration of three years and eight months. Năstase appealed the decision of the IAP to the Independent Tribunal, which upheld the original decision, but altered the penalty. The fine was doubled (from US\$10,000 to US\$20,000), but both periods of suspension were reduced by around eight months, to one year and three years, respectively.

¹⁷ *Ilie Năstase v. ITF*, Independent Tribunal Decision, SR/913/2017.

¹⁸ This is the only charge that was held not to be substantiated.

¹⁹ *ITF v. Năstase*, at paras 5 and 35–116.

²⁰ *Ibid.*

2.1 Code Violations

Năstase's case demonstrates the breadth of application of the Code, but this chapter is centrally concerned with the regulation of players' on-court behaviour. The type of conduct that might lead to sanctions is captured in the following list of common Code violations:

- Audible Obscenity
- Visible Obscenity
- Racket Abuse
- Ball Abuse
- Verbal Abuse
- Physical Abuse
- Coaching
- Time Violations
- Dress Code Violation
- Failure to Give Best Effort
- Unsportsmanlike Conduct

In-game violations are punished according to the 'point penalty schedule' set out in Article IV(R) of the Code.²¹ According to this, a player's first offence during a match will result in a 'warning'. Subsequent Code violations will result in a 'point penalty', then a 'game penalty'. Any further violations may result in default for the offending player, meaning that the player will be disqualified from the match and victory awarded to the opponent. The decision as to whether to impose a default rests with the 'ITF Supervisor'.²² A sufficiently serious Code violation can result in a player receiving an 'Immediate Default', even where this is the first Code violation of the match.²³ Importantly, the Code sets out that decisions made under the point penalty schedule or to declare a default are 'final and unappealable'.²⁴

2.1.1 Physical Violence

The Code provisions listed above are concerned primarily with maintaining the aesthetic and fairness of the competition. A study of junior tennis players that looked at the prevalence and causes of norm-breaking behaviours found that norm-breaking behaviours were a stress response to an

²¹ Many Code violations also attract a monetary fine.

²² Art. IV(S).

²³ Ibid.

²⁴ Art. IV(R).

individual psychological crisis.²⁵ By far the most common manifestations were 'behaviours directed toward property' (37 per cent of the incidents) and 'self-directed verbal behaviours' (33 per cent of the incidents). There is relatively little concern for interpersonal physical violence. The Code violation of 'physical abuse' is defined as 'the unauthorised touching of an official, opponent, spectator, or other person'. The relevant offence entails 'the unauthorized touching of any official, opponent, spectator, or other person within the precincts of the tournament site'.²⁶ In his study of the prevalence and types of violence that manifest in different sports, Guilbert notes that interpersonal physical violence is rare in tennis.²⁷ The format and nature of the sport preclude it, since the opponents are separated by a net and the sport does not involve contact between them. In an exceptional example of causing injury through physical violence, in 2012, at the Queen's Club Championships, David Nalbandian injured a line judge by frustratedly kicking an advertising board into the judge's shin and drawing blood. Code violations that involve physical violence are more likely to be captured under the offences of 'abuse of ball', 'abuse of racquet or equipment' or 'unsportsmanlike conduct'.

The Code sets out the offence of 'abuse of balls' as follows: 'Players shall not violently, dangerously or with anger hit, kick, or throw a tennis ball within the precincts of the tournament site except in the reasonable pursuit of a point during a match.' This is defined as 'intentionally hitting a ball out of the enclosure of the court, hitting a ball dangerously or recklessly within the court or hitting a ball with negligent disregard of the consequences'.²⁸ The most notorious and heavily punished offences involving such behaviour arise out of those relatively rare instances where a ball is hit in anger or frustration and ends up striking another person.

In 1995, Tim Henman became the first player to be disqualified from Wimbledon in the Open era after hitting a ball in anger which struck a ball girl. More recently, Denis Shapovalov hit chair umpire Arnaud Gabas in the eye with a ball he struck in anger after losing his serve to Great Britain's Kyle Edmund during a Davis Cup match in 2017. Although it was clear that Shapovalov did not intend to hit Gabas, referee

²⁵ Ronit Hanegby and Gershon Tenenbaum, 'Blame It on the Racket: Norm-Breaking Behaviours among Junior Tennis Players' (2001) 2 *Psychol Sport Exerc* 117.

²⁶ Art. IV(H).

²⁷ Sébastien Guilbert, 'Sport and Violence: A Typological Analysis' (2004) 39 *Int Rev Sociol Sport* 45.

²⁸ Art. IV(I).

Brian Earley declared an immediate default of Shapovalov for unsportsmanlike conduct.²⁹ More recently still, Novak Djokovic was disqualified from the 2020 US Open in similar circumstances after unintentionally hitting a line judge with a tennis ball. In each of these cases, the players were deemed to have engaged in ‘unsportsmanlike conduct’ and were defaulted from their respective matches.

‘Abuse of racquet or equipment’ is defined in the Code as ‘intentionally and violently destroying or damaging racquets or equipment or intentionally and violently hitting the net, court, umpire’s chair, or other fixture during a match out of anger or frustration’. Violations of this aspect of the Code are punished relatively frequently. Malis and Michalica describe the application of this rule as ‘clear’, and set out the purpose of it: ‘The purpose of this rule is to emphasize the historical legacy of this game and its ethos, which includes subtle non-aggressive manifestations, and therefore deliberately smashing things such as rackets is a social offense against good morals. The purpose of the rule is to sanction inappropriate behavior on the court.’³⁰ The approach is seemingly approved by sponsors. In 2017, racquet manufacturer Yonex reportedly inserted clauses into the contracts that it held with players using its equipment, meaning that the players would incur a financial penalty for abusing Yonex racquets. The move was to allow Yonex to maintain a ‘clean image’.³¹

The examples given above illustrate potentially serious breaches of the Code, and some even resulted in physical harm to the victim. Although there are rare occasions in tennis where frustration or aggression do result in violence, the offences contained in the Code are not primarily concerned with keeping the players (or indeed officials, spectators or anybody else in close proximity) physically ‘safe’. The violence exhibited in each of these incidents constituted an egregious breach of the Code, not just because of the minor danger posed to the respective victims, but also because it violated the norms of the sport’s aesthetics.

²⁹ ‘Updated ITF Statement Regarding Denis Shapovalov’ (6 February 2017), available at: www.daviscup.com/253005?channel=daviscupnews.

³⁰ Jiri Malis and Tomas Michalica, ‘Why Carlos Ramos Was in Compliance with His Duty and USTA and WTA Are Wrong in the Case of US Open 2018 Women’s Final’ (2023) 17 *Sport Ethics Philos* 9 (references omitted).

³¹ Michael Chammas, ‘Nick Kyrgios’ Racquet Manufacturer Yonex Starts Fining Its Players for Smashes’, SMH (2 January 2017), available at: www.smh.com.au/sport/tennis/nick-kyrgios-racquet-manufacturer-yonex-starts-fining-its-players-for-smashes-20170120-gtvx8.html.

This percolates through all levels of tennis, as Lake discovered in his auto-ethnographic study of a suburban London tennis club. What Lake refers to as '[t]he club's code of behavioural etiquette' encouraged members to adopt behaviours in keeping with the spirit of tennis, and to avoid overt displays of aggression. Lake ties these expectations to the traditions born of the historical development of the sport: 'These standards rooted in history were cherished to protect tennis from unsavoury influences like over-aggression, petulance and dishonesty . . . deferential treatment was expected from those lower in the social hierarchy, and signs of disrespect or ignorance to these behavioural standards were felt as collective assaults on the club's established value-system.'³² As Lake makes clear in the excerpt above, the transgressions can be physical, but they can also manifest in other ways, such as verbally or through gestures or other actions.

2.1.2 Audible Obscenity, Visible Obscenity and Verbal Abuse

The offences of 'audible obscenity', 'visible obscenity' and verbal abuse' seek to minimise the verbal and psychological forms of violence that Guilbert describes as common features of tennis.³³ When it comes to obscenity, the offences proscribe the use of 'profane' language and obscene gestures. As noted above, this is often self-directed, and a result of frustration,³⁴ with players seemingly unable to restrain themselves.³⁵ Since the offence of 'audible obscenity' covers 'the use of words commonly known and understood to be profane and uttered clearly and loudly enough to be heard by the Court Officials or spectators', those willing to be creative with their swearing may escape punishment. This has caused some controversy, insofar as it privileges those who do not speak English or use well-known expletives from other languages.³⁶

The offence of 'verbal abuse' makes it clear that it is not just particular words that will invite a Code violation, but the way in which they are directed at somebody. One of the most notorious examples of a player being punished for this type of behaviour occurred during a third-round

³² Robert J Lake, "'They Treat Me Like I'm Scum': Social Exclusion and Established-Outsider Relations in a British Tennis Club' (2013) 48 *Int Rev Soc Sport* 112, at 121.

³³ Sébastien Guilbert, 'Sport and Violence: A Typological Analysis' (2004) 39 *Int Rev Sociol Sport* 45.

³⁴ Hanegby and Tenenbaum, 'Blame It on the Racket', 117.

³⁵ Christopher Clarey, 'Where Four-Letter Words Lead to Four-Figure Fines', *New York Times* (3 June 2015), available at: www.nytimes.com/2015/07/01/sports/tennis/at-slam-events-players-prefer-other-four-letter-words.html.

³⁶ *Ibid.*

match at Wimbledon in 1995 between Jeff Tarango and Alexander Mronz. Tarango was given a Code violation for 'audible obscenity' by the chair umpire Rebeuh after he told the crowd to 'shut up'. Tarango challenged Rebeuh over whether this was sufficient to amount to 'obscenity' and asked for the supervisor to attend. The supervisor did attend, but did not overturn the Code violation warning. When Rebeuh sought to resume play, Tarango refused, shouting at the umpire: 'You are the most corrupt official in the game, and you can't do this.' This earned Tarango a further Code violation for 'verbal abuse', at which point Tarango 'threw a pair of tennis balls to the ground, grabbed his bag and became the first player in Wimbledon history to walk out in the middle of the game'.³⁷ Leaving the court without permission meant that Tarango was defaulted.³⁸ In what was the most surprising and shocking aspect of the episode, Tarango's wife Benedicte Tarango came onto the court and slapped Rebeuh twice across the face.

3 Indiscipline and the Rising Popularity and Commercial Success of Tennis

Two observations should be made about the misconduct of Jeff Tarango described above. First, it was out of character; he had not received a Code violation before the events described above, and he never did in his subsequent tennis career. Second, it came at or towards the end of the high point of bad behaviour in tennis. In the 1970s and 1980s, tennis had witnessed the outspoken and iconoclastic antics of players such as John McEnroe, Jimmy Connors and Ilie Năstase. Lake notes that these three players, whom he refers to as the 'bad boys' of tennis, were also apt to be crowd favourites, and thus an inevitable crowd draw.³⁹ The increasing popularity of tennis brought commercial opportunities, and what Lake refers to as 'the commodification of "bad boy" tennis' was at least partly responsible for the increasing popularity of the sport in the 1970s and 1980s.⁴⁰

³⁷ J. A. Adande, 'Tarango, Wife Aim Volleys at a Chair Umpire', *The Washington Post* (1 July 1995), available at: www.washingtonpost.com/archive/sports/1995/07/02/tarango-wife-aim-volleys-at-a-chair-umpire/84673f7f-0075-4861-8aef-e8da6bda0b5a/.

³⁸ See Art. IV(N) of the current iteration of the Code.

³⁹ Lake, *A Social History of Tennis in Britain*.

⁴⁰ *Ibid.*, 186.

3.1 *The Influence of Sponsors*

The increased popularity of tennis made it commercially attractive, and the amount of money in tennis has increased markedly in the Open era. The relative wealth enjoyed by modern tennis comes principally from sponsors and the sale of broadcast rights, and the sums involved are significant. For instance, the sponsorship deal entered into by the Australian Open with its principal sponsor, Kia, is worth AU\$107 million in the five years up to 2028 (Kia has been the main sponsor of the Open since 2002).⁴¹ In addition, in November 2022, the Open signed a \$500 million, five-year broadcasting deal with the Australian broadcaster Nine, covering broadcast rights from 2025 until 2029.⁴²

Sponsors engage with tennis (and other sports) because of a perceived alignment between their brand and the sport,⁴³ and in the belief that it will positively affect their business. Research shows that bad behaviour and ill-discipline on the part of athletes can harm the interests of sponsors;⁴⁴ the move by the manufacturer to penalise players who smash Yonex racquets reflects this concern. Yonex did not comment publicly on its decision, and it is rare for sponsors to issue public statements about concerns within a sport. However, there have been other instances where misconduct has clearly affected sponsorship arrangements in tennis. For example, major sponsors Nike and Tag Heuer cut ties with tennis player Maria Sharapova (at the time the world's highest paid female athlete) when she admitted testing positive to the banned drug meldonium in 2016.⁴⁵ Misconduct can also affect the sponsorship of sports organisations: after unruly behaviour by the US team in the Davis Cup final against Sweden in 1984, sponsor Louisiana-Pacific Corporation threatened to withdraw its support unless the US Tennis

⁴¹ Sam Buckingham-Jones, 'Kia Signs Record \$107m Deal with Tennis Australia', *Financial Review* (10 January 2023), available at: www.afr.com/companies/media-and-marketing/kia-signs-record-107-million-deal-with-tennis-australia-20230110-p5cbka.

⁴² Edmund Tadros and Gus McCubbing, 'Tennis Australia-Nine Seal Record \$425m Deal', *Financial Review* (11 November 2022), available at: www.afr.com/companies/media-and-marketing/nine-seals-australian-open-deal-for-425m-20221111-p5bxdo.

⁴³ Kia, 'Australian Open', available at: www.kia.com/au/discover-kia/sponsorship/australian-open.html.

⁴⁴ Qi Ge and Brad R. Humphreys, 'Athlete Off-Field Misconduct, Sponsor Reputation Risk, and Stock Returns' (2021) 21 *Eur Sport Manag Q* 153; Christopher Knittel and Victor Stango, 'Celebrity Endorsements, Firm Value, and Reputation Risk: Evidence from the Tiger Woods Scandal' (2014) 60 *Manag Sci* 21.

⁴⁵ Jessica Elgot, 'Nike and Tag Heuer Cut Ties with Maria Sharapova', *The Guardian* (8 March 2016), available at: www.theguardian.com/sport/2016/mar/08/nike-and-tag-heuer-cut-ties-with-maria-sharapova.

Association put in place a code of conduct.⁴⁶ A contemporary newspaper reported the principal concern of this development: 'Rule One is that they must "act with courtesy and civility towards competitors, officials and spectators"'.⁴⁷

There is a tension here. Governing bodies and sponsors purport to desire sport that is free from indiscipline in all its many forms, but sport must be engaging in order to appeal to its audience. As the experience of tennis in the 1970s and 1980s suggests, some forms of indiscipline may add to the allure of a sport and heighten its value as entertainment. Writing of the appeal of aggression and violence in sport, including tennis, Bryant, Zillmann and Raney state: 'The extant evidence clearly indicates that increased player aggressiveness enhances spectators', especially male spectators', enjoyment of watching sports contests . . . and . . . commentary that stress[es] hostility and animosity between opponents can cause spectators to perceive play as more violent than it is and also can result in greater enjoyment for spectators'.⁴⁸ During a particularly tempestuous second-round match between John McEnroe and Ilie Năstase at the US Open in 1979, chair umpire Frank Hammond defaulted Năstase and awarded the match to McEnroe after issuing numerous warnings to Năstase for delaying play. The resultant crowd disturbance was later described by Năstase as 'total chaos' and led to the police being called.⁴⁹ In order to quell the discontent, tournament director Bill Talbert and tournament referee Mike Blanchard removed Hammond as umpire, with Blanchard taking his place in the chair. Blanchard revoked the default and reinstated Năstase, and the match was allowed to continue.⁵⁰ The lesson that McEnroe learned was clear; as he wrote in his autobiography: 'the rules of tennis are eternally flexible and . . . promoters generally were loath to spoil a crackling good show by booting a crowd-pleasing marquee name'.⁵¹

⁴⁶ Lake, *A Social History of Tennis in Britain*, 190.

⁴⁷ Sally Jenkins, 'USTA Sets Rules for Davis Conduct: Outbursts in Series with Sweden Seen Principal Impetus for Action', *The Washington Post* (15 January 1985), available at: www.washingtonpost.com/archive/sports/1985/01/16/usta-sets-rules-for-davis-conduct/ee14e661-d5a3-4578-90b9-13c3d8520ed0/.

⁴⁸ Jennings Bryant, Dolf Zillmann and Arthur A. Raney, 'Violence and the Enjoyment of Media Sports' in Lawrence Wenner (ed.), *MediaSport* (Routledge, 1998), 265.

⁴⁹ Ilie Năstase, *Mr. Năstase: The Autobiography* (CollinsWillow, 2005), 235.

⁵⁰ Jane Gross, 'Hammond Concedes He Lost Control', *New York Times* (1 September 1979), available at: www.nytimes.com/1979/09/01/archives/hammond-concedes-he-lost-control-persuaded-to-return-hammond-cedes.html.

⁵¹ John McEnroe, *Serious* (Time Warner Paperbacks, 2002), 190.

4 Adjudication and Enforcement

Reinstating Năstase was an egregious example, but it illustrates the point that adjudication and enforcement of the Code can be as important as its substantive contents.⁵² Studies have suggested that ‘home advantage’ could contribute to inconsistent decision-making by tennis officials,⁵³ and this potential for bias extends to disciplinary matters.⁵⁴ As I have written elsewhere, popular opinion and media representations of players may influence the disciplinary action taken in relation to certain players:

[T]he governing body is likely to be sensitive to popular opinion, as viewed through the lens of media characterisations and representations, which can be a significant spur to decisive action. This may lead to calls for greater punishment, including on the basis of a participant’s past conduct and reputation. A recent comparison between the relative treatment of Australian professional players Nick Kyrgios and Daria Gavrilova suggested that ‘crowd favourite’ Gavrilova received considerably less opprobrium than Kyrgios for more serious disciplinary infractions.⁵⁵

The significance of enforcement practices independent from the substantive rules has importance beyond any implicit bias on the part of the officials. Some of the Rules of Tennis are routinely broken without any consequence for the offending players. For instance, a study of Grand Slam matches by Kolbinger, Großmann and Lames found that time rule violations occurred in relation to 58.5 per cent of serves (i.e. beyond the 20 seconds permitted between points), with only 0.1 per cent of these violations penalised by the umpire.⁵⁶

As long as it is applied consistently, this deviation from the law on the books is unlikely to prove controversial. But the appropriateness of ‘temporal variance’ in sport, whereby different rules are enforced in different ways at different points in a match, is more divisive. Berman discusses temporal variance in the application of the ‘foot fault’ rule in the 2009 US Open semi-final match between Serena Williams and Kim

⁵² Fred d’Agostino, ‘The Ethos of Games’ in William J. Morgan and Klaus V. Meier (eds), *Philosophic Inquiry in Sport* (Human Kinetics, 1995).

⁵³ Fabian Wunderlich, Carla Corten, Philip Furley et al., ‘Home Advantage in Tennis Exists Independent of Competition Level, Gender and COVID-19 Restrictions: Evidence from German Team Tennis Competitions’ (2022) 2 *Int J Sport Exerc Psychol* 1.

⁵⁴ Chris Goumas, ‘Home Advantage and Referee Bias in European Football’ (2014) 14 *Eur J Sport Sci* 243.

⁵⁵ Livings and Włodarczak, ‘Procedural Fairness’.

⁵⁶ Otto Kolbinger, Simon Großmann and Martin Lames, ‘A Closer Look at the Prevalence of Time Rule Violations and the Inter-Point Time in Men’s Grand Slam Tennis’ (2019) 5 *J Sport Anal* 75.

Clijsters. In this match, Williams was penalised for a foot fault by stepping over the baseline when serving. In arguing with the chair umpire about this, Williams was given a Code violation which ultimately resulted in her losing the match. For Berman, a minor infraction such as a foot fault should not be called at crucial points in a tennis match.⁵⁷ For Standen, however, this variance in the enforcement of the rules is never appropriate.⁵⁸

5 The Case of Grunting

The practice and treatment of ‘grunting’ in tennis has also proven a controversial topic in recent decades. Aside from often-expressed aesthetic objections to grunting, there are legitimate sporting reasons to be concerned about the practice. Although some studies point to grunting as a useful – even necessary – technique in tennis,⁵⁹ other research shows that it could affect the opponent’s anticipation of the ball trajectory, and that this could confer an unfair competitive advantage over the opponent.⁶⁰ This is potentially contrary to Rule 26 of the Rules of Tennis, which provides: ‘If a player is hindered in playing the point by a deliberate act of the opponent(s), the player shall win the point’, going on to say that an unintentional hindrance will result in a replay of the point. In addition to potentially being captured under the Rules of Tennis, grunting could also fall foul of Article IV(L) of the Code, as an example of ‘unsportsmanlike conduct’.

Grunting has been happening in tennis since at least the 1970s, with Jimmy Connors a noted practitioner, but it became something of a ‘moral panic’ when young female players like Monica Seles started grunting in the late 1980s. The noises made by Seles during her 1992 Wimbledon

⁵⁷ Mitchell N. Berman, ‘Let ’Em Play: A Study in the Jurisprudence of Sport’ (2011) 99 *Geo LJ* 1325.

⁵⁸ Jeffrey Standen, ‘Foot Faults in Crunch Time: Temporal Variance in Sports Law and Antitrust Regulation’ (2014) 41 *Pepp L Rev* 349.

⁵⁹ Dennis G. O’Connell, Martha R. Hinman, Kevin F. Hearne et al., ‘The Effects of “Grunting” on Serve and Forehand Velocity in Collegiate Tennis Players’ (2014) 28 *J Strength & Cond Res* 469; Dennis G. O’Connell, Jacob F. Brewer, Timothy H. Man et al., ‘The Effects of Forced Exhalation and Inhalation, Grunting, and Valsalva Maneuver on Forehand Force in Collegiate Tennis Players’ (2016) 30 *J Strength & Cond Res* 430.

⁶⁰ Florian Müller, Lars Jauernig and Rouwen Cañal-Bruland, ‘The Sound of Speed: How Grunting Affects Opponents’ Anticipation in Tennis’ (2019) 14 *PLoS One*, available at: <https://link.gale.com/apps/doc/A582459966/HRCA?u=unisa&sid=googleScholar&xid=4a01ae70>.

semi-final win over Martina Navratilova led to complaints from her opponent and negative media coverage for Seles,⁶¹ and prompted a newspaper report that read: 'Few would deny that the sound of Seles is one of the least aesthetic features of the sport. Though far removed from John McEnroe's obscenities, Seles's constant stream of exclamations, a cross between 'Je t'aime' and Tarzan, is offensive to the ears of spectators and opponents alike.'⁶² For many, this juxtaposition of sexualisation (the reference to the Serge Gainsbourg and Jane Birkin song 'Je t'aime') and masculinisation (the reference to Tarzan) illustrates the gendered and sexist nature of the debate about grunting in tennis. Stahl suggests that 'efforts to police the sound reinscribe weakness onto femininity', and that this 'weakens her performance for the pleasure of the spectators and the neutralization of a competitive advantage'.⁶³

Grunting continues to be a point of contention. During Wimbledon in 2009, the loud grunts of Portuguese player Michelle Larcher de Brito drew attention and complaints from both spectators and opponents. Although there was significant discussion about the possibility of implementing measures to control excessive grunting, Larcher de Brito was not formally penalised for her grunting.⁶⁴ Three years later, the WTA announced that it was working with the Grand Slam tournaments and the ITF to 'drive excessive grunting out of tennis'.⁶⁵ Despite considerable attention devoted to the subject, and the potential to use both the Rules of Tennis and the Code to combat it, no prominent player has been disciplined for grunting. There are no records of the hindrance rule being used as a response, nor are there any recorded instances of a player being given a Code violation for grunting.

⁶¹ John Roberts, 'Grunt and Graf in Way of Seles Dream: The Determination of Monica Seles Came over Loud and Clear as She Beat Martina Navratilova Yesterday', *The Independent* (2 July 1992), available at: www.independent.co.uk/sport/tennis-wimbledon-92-grunt-and-graf-in-way-of-seles-dream-the-determination-of-monica-seles-came-over-loud-and-clear-as-she-beat-martina-navratilova-yesterday-1530972.html.

⁶² Ibid.

⁶³ Anita Stahl, 'Somaesthetics of the Grunt Policing Femininity in the Soundscapes of Women's Professional Tennis' in Andrew Edgar (ed.), *Somaesthetics and Sport* (Brill, 2022), 142; cf. Tony Manfred, 'No, Wanting Women's Tennis Players to Stop Screaming All the Time Doesn't Make You Sexist', *Business Insider* (26 June 2012), available at: www.businessinsider.com/grunting-womens-tennis-isnt-sexist-2012-6.

⁶⁴ 'Larcher de Brito Cuts down on Volume at Wimbledon', *Tennis.com* (23 November 2009), available at: www.tennis.com/news/articles/larcher-de-brito-cuts-down-on-volume-at-wimbledon.

⁶⁵ See 'WTA Aims to Phase out Grunting', *Essential Tennis*, available at: www.essentialtennis.com/wta-aims-to-phase-out-grunting-tennis/.

6 Changes to the Rules

As Lumer notes, sports' rules and their enforcement are constantly evolving to meet the expectations of players and others: 'The rules of the various sports games are reformed constantly in practice . . . or formally by the respective sports association. Usually, the reason for such reforms is raising social or moral desirability of the games: to make them more exciting or to adapt them to the individual preferences.'⁶⁶ Given its adherence to tradition, it is perhaps unsurprising that rule changes in tennis are a relative rarity, but developments in relation to on-court coaching and the Wimbledon dress code are recent standout examples where amendments have been made.

6.1 Coaching

Tennis is unusual in strictly limiting player-coach interaction during a match. In the football codes, for example, the coach, or indeed the whole coaching staff, can often be seen shouting instructions to the players during play. In tennis, however, the coach has been a more or less silent observer. The reasons for the restrictions are ostensibly competition-based; Malis and Michalica explain: 'Tennis is an individual sport, and the fact that coaching during a match is forbidden increases the pressure on the player themselves, thereby supporting the individual philosophy of the sport.'⁶⁷ Permitting coaching during play arguably impinges on the individuality of the sport and introduces the possibility of unfairness; the availability of on-court coaching would deleteriously affect those lower-ranked players who cannot afford to have a coach present at their matches.

The extent of on-court coaching in tennis is unclear, but it was widely believed to be common practice at all levels of the sport.⁶⁸ In the wake of Serena Williams receiving a warning during her fourth-round match against Naomi Osaka at the US Open in 2018, Williams's coach Patrick Mouratoglou suggested that the practice was ubiquitous. He stated that Osaka's coach Sascha Bajin had been coaching Osaka during the same match (a claim denied by Bajin).⁶⁹ If this is true, and on-court coaching

⁶⁶ Lumer, 'Rules and Moral Norms', 275.

⁶⁷ Malis and Michalica, 'Why Carlos Ramos Was in Compliance', 8.

⁶⁸ Steve Tignor, 'Has Tennis Figured out Its On-Court Coaching Problem, or Shown That It'll Never Be Solved?' *Tennis.com* (5 September 2023), available at: www.tennis.com/news/articles/has-tennis-figured-out-on-court-coaching-problem-never-solved-us-open-gauff.

⁶⁹ 'Mouratoglou: I Coached Serena from Stands', *Tennis Now* (September 2018), available at: www.tennisnow.com/Blogs/NET-POSTS/September-2018/Mouratoglou-I-Coached-Serena-From-Stands.aspx.

was ubiquitous, it was relatively rarely punished at the highest level: for instance, in 2018, ‘a total of 22 code violations for coaching were awarded at all four Grand Slams’.⁷⁰ Because of its seeming prevalence and the relative infrequency with which it was detected or punished, the banned practice posed a problem in relation to detection and enforcement.

The rules around coaching have been relaxed in recent years, with a trial taking place from 2020 on the WTA Tour and from 2022 on the ATP Tour. Players and coaches have offered a range of opinions on the changes.⁷¹ Some years before the advent of the trials, Mouratoglou suggested that the officially proscribed practice is endemic and that lifting the ban would help to popularise the sport, stating: ‘Seeing and hearing the coaches and players talking to each other personalises the sport and brings out their characters.’⁷² For Malis and Michalica, the relaxation of the rules was a necessary change: ‘We believe that the change in coaching rules that the WTA has made in 2022 is a step in the right direction (ATP Tour 2022). It is a departure from the individual philosophy of the sport, but we do not see a better solution under the circumstances.’⁷³

6.2 Wimbledon

Another recent change to the Code (as it applies in its amended form to the Wimbledon tournament⁷⁴) relates to the famously strict clothing requirements that pertain to those participating at Wimbledon. Wimbledon has a reputation as the most conservative of the major tennis tournaments, possessing a ‘stuffiness’ that led to Andre Agassi refusing to play at the tournament in the late 1980s.⁷⁵ Central to its traditional

⁷⁰ Malis and Michalica, ‘Why Carlos Ramos Was in Compliance’, 7.

⁷¹ Ben Miller, ‘Tennis Coaching Rules: What Can Players and Coaches Do from Off-Court and Is In-Game Coaching Allowed?’ *The Sporting News* (26 August 2024), available at: www.sportingnews.com/au/tennis/news/tennis-coaching-rules-court-game/gylwoan0ijaxlvlgf5q4tf6.

⁷² Alan O’Brien, ‘Serena Williams Coach Patrick Mouratoglou Calls for On Court Coaching to Be Allowed’, *The Independent* (18 October 2018), available at: www.independent.co.uk/sport/tennis/serena-williams-coach-patrick-mouratoglou-interview-us-open-2018-on-court-coaching-a8590651.html.

⁷³ Malis and Michalica, ‘Why Carlos Ramos Was in Compliance’, 9.

⁷⁴ ‘About Wimbledon: Clothing and Equipment’, available at: www.wimbledon.com/en_GB/about_wimbledon/clothing_and_equipment.html.

⁷⁵ Richard C. Crepeau, ‘Andre Agassi’ (2006) *On Sport & Society* 716. This conservatism seemingly lives on in the suburban tennis clubs of England. See Lake, ‘They Treat Me Like I’m Scum’.

aesthetic has been its insistence on all-white playing attire,⁷⁶ and numerous players have fallen foul of the dress code requirements. For instance, in 2017, Venus Williams was reportedly asked to change her pink bra after it became visible under her white top during play.⁷⁷ In 2023, however, Wimbledon introduced a significant change to its dress code, allowing female players to wear dark-coloured undershorts beneath their all-white outfits. This change was undertaken to address concerns about competing while menstruating.⁷⁸

6.3 *Changes in Adjudication and Enforcement Practices*

The changes to the coaching rules and the Wimbledon dress code are relatively rare examples of substantive rule changes. More subtle, but no less important, are shifts in the interpretation and enforcement of the written rules. To pick two examples in the realm of tennis, there have been observable changes in relation to race and mental health. These are areas in which the approach of the tennis authorities has clearly been affected by changing social mores, and perhaps with an eye on the views and desires of the sponsors.

6.3.1 Race

Tennis has largely moved past the overt racism experienced by black players such as Althea Gibson and Arthur Ashe.⁷⁹ However, opinions are divided on the extent to which positive change has been achieved. Leppard describes sport as essentially a 'white space'; he states that '[t]he punitive treatment of black players in the world of sports demonstrates the continuation of racism albeit less overt'.⁸⁰ Leppard asserts that 'athletes of colour like Venus and Serena Williams have continued to face racism throughout their careers which highlights that the world of tennis remains a white space despite the work of trailblazers'.⁸¹

⁷⁶ See 'About Wimbledon: Clothing and Equipment'.

⁷⁷ Patrick Sawyer, 'Venus Williams Changes Bright Pink Bra Mid-Match after Breaching Wimbledon's "All White" Rule', *The Telegraph* (3 July 2017).

⁷⁸ See 'About Wimbledon: Clothing and Equipment'.

⁷⁹ Yven Destin and Ervin Dyer, 'The Legacies of Tennis Champions Althea Gibson, Arthur Ashe, and the Williams Sisters Show the Persistence of America's Race Obstacles' (2021) 13 *Race Soc Probl* 195.

⁸⁰ Tom R. Leppard, 'Athlete Activism and the Role of Personal and Professional Positionality: The Case of Naomi Osaka' (2022) 57 *Int Rev Sociol Sport* 1214, at 1215.

⁸¹ *Ibid.*, 1219.

Tredway offers a similarly trenchant account of the racism faced by players such as Serena Williams, and offers an account of how this colours how she is perceived:

Serena is very successful in a sport that is underpinned by the upper-class and white milieu in which it was formed. Her outbursts have been understood in the popular discourse as violent not because they were more vehement than others, because they were not, but . . . because Serena has been positioned differently in women's tennis, both historically and currently, than her White counterparts. These outbursts trigger a heightened perception of violence as compared to similar outbursts by White tennis players because Serena is not viewed as possibly the greatest tennis player to have ever played the sport, but as a Black woman and Black women are perceived to be violent.⁸²

For Tredway, this has had real implications for how the rules are interpreted and enforced when it comes to Williams's conduct:

The rules, however, have not been regularly interpreted for other players in the ways that they were interpreted for Serena, if ever. In this sense, Serena is forced to play competitive tennis by different rules (because the rules are interpreted differently for her) than others in women's tennis. Her outbursts are how she highlights this rift in the disciplinary domain of the matrix of domination, as anyone would who was treated unfairly. What, then, is different about Serena in the world of women's tennis? It seems too obvious to state that it is her race; however, that is the primary difference between Serena and the other players.⁸³

As the pre-eminent female player of her generation, Serena Williams has clearly had a significant impact on tennis, and it is arguable that this is comparable to the male players of the 1970s and 1980s in the way that she has changed perceptions about the women's game, and the place of women of colour in tennis. Malis and Michalica point to the contrasting treatment of Serena Williams in the 2009 and 2018 US Open as evidence that the tennis authorities are 'influenced by American society's greater sensitivity to gender issues' and point to this as having a direct and positive effect on the operation of the rules.⁸⁴

Tredway argues that the Williams sisters have 'normalised' a previously incongruent 'Black aesthetic and performance' that has paved the way for

⁸² Kristi Tredway, 'Serena Williams and (the Perception of) Violence: Intersectionality, the Performance of Blackness, and Women's Professional Tennis' (2020) 43 *Ethn Racial Stud* 1563, at 1564.

⁸³ *Ibid.*, 1577.

⁸⁴ Malis and Michalica, 'Why Carlos Ramos Was in Compliance', 3.

others to follow;⁸⁵ she points to players like Madison Keys, Coco Gauffe and Taylor Townsend as benefitting from, and continuing, this.

6.3.2 Mental Health

The experiences of Naomi Osaka also illustrate developments in the relationships between players, tournament organisers and spectators. Osaka sees herself as an activist advocating for change as a woman of colour on the tour,⁸⁶ but she has also been at the forefront of mental health awareness. At the 2021 French Open, Osaka declared that she would not be engaging with the media during the tournament, claiming that the interactions were deleterious to her mental health. Osaka then refused to attend the post-match press conference after her first-round victory over Patricia Maria Tig. The French Tennis Federation fined Osaka US\$15,000 and threatened her with expulsion. This was later compounded by threats of further fines and expulsion from other Grand Slam tournaments.⁸⁷ After Osaka withdrew from the event, she was met with messages of support from her national federation, major sponsors and high-profile figures within and outside of tennis.⁸⁸

The negative reaction to their punitive approach seemingly led to significant backtracking on the part of the tennis authorities, with statements issued on behalf of the four Grand Slam tournaments offering ‘support and assistance’ to Osaka.⁸⁹ Although her experience was not explicitly cited as inspiration, in 2023, Roland-Garros implemented an ‘anti-online harassment and hate speech tool’. This measure used artificial intelligence software to protect players from online abuse, and its implementation tacitly acknowledged the obligations of the tennis authorities amid a shifting understanding, appreciation and prioritisation of mental well-being.⁹⁰

⁸⁵ Tredway, ‘Serena Williams’, 1571.

⁸⁶ Leppard, ‘Athlete Activism’.

⁸⁷ ‘Statement from Grand Slam Tournaments Regarding Naomi Osaka’, Roland-Garros (30 May 2021), available at: www.rolandgarros.com/en-us/article/statement-from-grand-slam-tournaments-regarding-naomi-osaka.

⁸⁸ ‘Naomi Osaka: Grand Slams Want “Meaningful Improvements” & to “Advance Mental Health”’, BBC (1 June 2021), available at: www.bbc.com/sport/tennis/57323649.

⁸⁹ Ibid.

⁹⁰ Jean-Baptiste Baretta, ‘Roland-Garros 2023: Players to Get Social Media Protection’, Roland-Garros (22 May 2023), available at: www.rolandgarros.com/en-us/article/roland-garros-2023-players-social-media-protection-bodyguard.