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# Juridification of fandom: dealing with spectators' expressions of 'too much joy' in Swedish football

Bo Carlsson<sup>a</sup> and Jyri Backman<sup>b</sup>

<sup>a</sup>Department of Sport Sciences, Linnaeus University, Sweden; <sup>b</sup>Department of Sport Sciences, Malmö University, Malmö, Sweden

## ABSTRACT

The essay address different forms of 'extensive joyfulness' among football spectators, and the Swedish legal responses to these actions, due to the actions' classification as pitch invasion and trespassing, in legal terms. The essay presents the legal context, by focusing on external regulation of public order and surveillance as well as internal by-laws dealing with spectator security. By using two cases, from the district court, the essay reflects on the legal systems possibility and relevance in order to react on expressions of 'too much joy', as a legal sign of pitch invasion and the disturbance of public order. The analysi focuses on the problems of juridification when the law has to handle various mundane and 'trivial' social issues. The argument is that the football management has to amalgamate different forms of 'extensive joyfulness', in a discretionary manner, to the logics of entertainment before turning them to legal issues

## Introduction

This essay will address different forms of 'extensive joyfulness' among football spectators, and the Swedish legal responses to these actions, due to the actions' classification as pitch invasion and trespassing, in legal terms. Naturally, joyfulness and gladness has not been a big issue in the period of Covid-19, in which this essay was initiated and produced. Thus, the real and manifest problems are related to safeguarding the crowd in light of accepted numbers and the distances between spectators, in times of sequential shutdowns and as soon as society has opened up again. Undoubtedly, the shutdowns and emphasis on social distances in the wake of the virus accentuate certain aspects of the juridification of entertainment and passion in sport, our topic in this essay. Thus, regardless of the magnitude of the pandemic on sports and the regulation of sports, we will have joyfulness and celebrations as our main subject.

In popular culture, football is regarded as crucial entertainment that generates magnificent celebrations. For instance, in Sweden, we can observe a special mixture of tifos and hymns that has created a 'glocal' culture with ingredients from the British and Italian leagues, but with local content and expressions.<sup>1</sup> This is expressed, for instance, in MFF Support's operation and its famous celebrations and support of Malmö FF.<sup>2</sup>

Due to the civilization process in sports,<sup>3</sup> these celebrations must be regulated and formed according to external and internal safety regulations. These regulations and their seriousness have gradually increased and nowadays cover multiple actions among spectators and their level of celebration, due to the policy of safety. Needless to say, hooliganism and violence must be contained

due to the general risks in the public sphere. Thus, is it possible – and even reasonable – to direct and enclose happiness and its different expressions?

In a historical perspective, all pitch invasions that were undertaken to celebrate a winning team in Swedish football were expected as well as accepted, despite being illegal.<sup>4</sup> Today, these celebrations are strictly forbidden. As a comparison, the Swedish bandy final has, since 1918, ritually ended by a ‘pitch invasion’ as a celebration. The organizers have not liked the concept, but reluctantly accepted them.<sup>5</sup>

The modern problems with disorder and pitch invasions among football supporters in Sweden are said to have started with IFK Gothenburg’s away games against Jönköpings Södra in the autumn of 1969 and against Örebro SK (ÖSK) the following year.<sup>6</sup> In the game against ÖSK, the IFK Gothenburg’s fans invaded the pitch, destroyed the goalposts and fought the police at the end of a match; a match that relegated IFK Gothenburg – with a huge heritage in Swedish football – from the *Allsvenskan* (the Swedish premier league/first division) for the first time. In this respect, the misery and frustration sped up dramatically. Ten years later, ten supporters had to visit the hospital after a large fight between IF Elfsborg and IFK Gothenburg’s supporters. Consequently, the concept of hooliganism was introduced during the 1980s. Hooliganism is said to have begun in Sweden in the 1970s, but the term hooligans was established in the 1980s to conceptualize and frame the most terrible football disorder.<sup>7</sup>

Semi-organized subcultural supporter clubs are a relatively novel phenomenon in Sweden and were established in the 1980s, parallel to the progress of ‘hooliganism’, with a start in Stockholm, with Black Army (AIK) and Bajen Fans (Hammarby IF). This endeavour created an echo among fans in Sweden in general, and during the following years, supporter clubs were established in most clubs in *Allsvenskan*, the first division.

As a rule, football-related disorder and violence usually occurs between some members in rival groups with access to football organizations or their supporter clubs. Sometimes such small groups – ‘firms’ – have met at pre-agreed locations before the fight. In other cases, the violence is addressed against the police. At the beginning of the 1990s, the more active work against football-related disorder and violence started in Sweden, and a cooperation group was launched to work for a better stadium culture. During this time, the clubs in *Allsvenskan* started the system with supporter liaison officers (SLO), recruited from their supporters. The police also started to restructure their strategy, and special supporter police, with knowledge of football and the culture of the stadiums, were established.<sup>8</sup> The active work to make stadiums safer is supposed to be ongoing.

Without a doubt, passions and celebrations are a crucial part of football. However, at the edge, these ‘fêtes’ might run the risk of being transformed to disorder and violence. Thus, due to the civilization process, these celebrations have been regulated and formed according to external and internal safety regulations. These regulations and their seriousness have gradually increased and today cover multiple actions among the spectators and their level of celebrations due to the policy of safety. As mentioned, hooliganism and vicious violence must be contained due to the general risks in the public sphere. But is it possible – and even reasonable – to direct and enclose happiness and its different expressions among ‘ordinary fans’? In this essay, we will shed light on the laws dealing with disorder generated by individuals, not related to ‘hooliganism’ or violence, but still related to the legal concepts of disorder, trespassing and the prerequisites of the regulation of public safety.

## The legal structure to be considered in a Swedish context

When attending football games at an elite level, spectators expect to be part of an interesting and exciting event. The public, in addition, also expects the stadiums to be safe and comfortable. To realize these expectations, diverse legislations in everyday life apply,<sup>9</sup> for example, the Swedish [1962:700] Criminal Code, the Swedish [1993:1617] Public Order Act, the Swedish [2018:1200] Camera Surveillance Act and the Swedish [2005:321] Sport Entrance Ban Act. Hereto, football’s internal regulations apply (for example, the Swedish Football Association [Swedish FA]).

### ***The Swedish [1962:700] criminal code***

To start, the Swedish Criminal Code is the fundamental legislation for penalty actions, even in this context. Thus, disturbances among football fans will, thus, actualize several chapters and sections in this legislation due to the degree of relevant circumstances in the actions and affected props in the legislation. In this respect, subjects of assault and gross assault, unlawful threats, as well as disorder and riot, are issues that will be processed due to the implications of the Criminal Code. Thus, a football-related riot can occur (Chapter 16 section 1): ‘if a crowd of people disturbs public order by demonstration an intention to use group violence in opposition to a public authority or otherwise to compel or obstruct a certain measure and does not disperse when ordered to do so by the authority, the instigators and leaders shall be sentenced for riot’.

### ***The Swedish [1993:1617] Public Order Act***

In addition, the Swedish Public Order Act sets the legal frame for order and safety in conjunction with public assemblies and public events. The act states that public assemblies and public events cannot be held without permission from the Police Authority. It further states that a person (e.g. a football club) who arranges a public meeting or public event is responsible for ensuring good and reliable order at the approved assembly. Public places are, for example, roads, streets, squares and parks. Sport facilities are seldom regarded and classified as public places. However, the use of the police, free of cost (for non-profit associations),<sup>10</sup> in the organizing of a sports event (aside from motorsports), will define the event (e.g. a football game) as a public matter.<sup>11</sup>

Thus, the information from the organizer (e.g. football club) is of importance when the police are planning their preparedness if disorder occurs, the need for officers, vehicles, dogs, horses, helicopters and so on.<sup>12</sup> The police will also decide what conditions and preparations the organizer must establish for the event (e.g. hiring security staff according to the Swedish [1980:578] Security Personnel Act. Ultimately, the police have the authority to cancel or disperse a public event if disorder, danger for participants or disturbance of traffic occurs.

Practically and if necessary, the police can turn away or remove individuals who, by their conduct, disturbs or is a threat to public order (the Swedish [1984:387] Police Act). In this respect, alcohol is often at the root of football-related disorder and pitch invasions. To prevent this, the use of alcoholic drinks (liquor, wine, and strong beer) is forbidden. Still, alcoholic drinks can be served during a public event if served in an allowed serving and with permission from the authorities and controlled by the security staff. However, lighter beer (<3,5%), taken in plastic glass, is permitted at the stands. Thus, most alcohol used in connection with football games is consumed at the local bars before the game.

### ***The Swedish [2018:1200] Camera Surveillance Act***

The use of camera technology at matches has proven to be an effective method for maintaining legal certainty and identifying and prosecuting individuals who commit crimes. Accordingly, cameras are also considered an effective medium for the police to intervene against incipient and ongoing disturbances and pitch invasions.<sup>13</sup>

In praxis, Swedish football clubs must have permission for camera surveillance, which shall be granted to prevent or detect criminal activity or disturbances of public order and safety. A football club must also inform the visitors that the stadium is under camera surveillance and that the information is not disseminated to anyone other than the law enforcement authority. In addition, the cameras must be able to identify everyone in the stadium.<sup>14</sup> The cameras are used equally by the clubs and the police. However, as more facilities are transferred to the clubs, the clubs increasingly become operators of the cameras.<sup>15</sup>

### ***The Swedish [2005:321] Sport Entrance Act/[2005: 323] sports entrance ban ordinance***

According to the Swedish Public Order Act, as an organizer of a public event, a football club has strict responsibility for order and security in the stadium. As such, this responsibility provides the organizer the right to adjust conditions for the public's entrance to the event. Thus, the organizer has the right to prevent a spectator from attending a specified occasion or until further notice. These decisions must rest on an objective basis and must not violate law and order. However, the decisions were previously not settled with the assistance of the police, and consequently, it was not considered a crime to violate a sports organizer's restraining order.<sup>16</sup>

In 2005, after many years of sports-related disorder problems, Sweden finally achieved legislation directly applicable to the problems. In this respect, the clubs and sports federations (e.g. Swedish FA) can currently, with the help of the Sport Entrance Act and the Ban Ordinance, legally deny a person (older than 15 years) access to sports events and sports facilities. The refusal of access shall be valid for a certain period, not exceeding three years, and takes effect immediately, unless otherwise determined. Anyone who violates a restraining order is sentenced to a fine or imprisonment for a maximum of six months.

Even though 'the Swedish Hooligan Act' was introduced in 2005, disorder and sport-related violence, especially at football games, continued to be a disturbing issue.<sup>17</sup> To further strengthen the legislation, a new fifth chapter in the Public Order Act [1993:1617] came into force in 2009, with the ban against, e.g. pyrotechnical goods, unauthorized access to the playing field, and throwing objects on the playing field. Further, a ban of complete or partial face cover was also included in this chapter unless the cover is due to religious purposes, weather conditions or health reasons. A violation can result in a fine or a maximum of six months of imprisonment.

### ***Football's internal regulations against disorder***

FIFA regulates that, since the 1994 World Cup, all matches may in principle only be played in all-seater stadia' and that 'it will be the duty of the Confederations and National Associations to hold high-risk matches in their zones only in all-seater stadia'.<sup>18</sup> Still, Swedish football clubs are allowed to have standing sections at the national games, which is a request from Swedish football as it considers that a standing audience generates a mood-enhancing effect and atmosphere in an orderly fashion.

One crucial step in the internal regulation of football is the stadium certification, which is needed for a club to play elite football in Sweden. However, the stadium owners (i.e. municipalities or clubs) have the main responsibility for the stadiums. However, football clubs have always strict responsibility for the conduct of their leaders, players and supporters in connection to a match.

Concretely, the Swedish FA introduced the possibility of six points' reduction if its players, leaders or supporters use violence against an official (the Swedish FA Regulations of the Competition 2020) after football-related riots in 2004. If disorder occurs, a club can, in addition, be forced to play one or several matches without spectators in other stadiums or in closed stadium sections (the Swedish FA Regulations of the Competition 2020). These are examples of how football's *internal* organizations and regulations are designed to prevent disorder in and connected to Swedish football.

Certainly, there are firm legal means to handle and protect the game from unnecessary violence and disturbance. Still, it is interesting to observe how these legal regulations have been applied in practice and what might be the outcome of this severity and formalization of security and entertainment. In this respect, the next part of the essay will present two different and illustrative incidents of joyfulness related to trespassing/pitch invasions, which have become legal cases, with legal consequences for the reported supporters.

## Cases of celebrations/invasions taken to the Swedish civil court

As seen in historical and contemporary experience, football matches can grow to a party, a fête, among supporters, especially during the summertime when the games in Sweden are not associated with autumn's nerves of title finals, relegations and promotions. Thus, to celebrate the oncoming summer, the supporters of Kalmar FF added a 'beach ball theme' to the away match against Falkenberg FF on 29 May 2016. For this reason, a group of Kalmar supporters brought several beach balls to Falkenberg's stadium. This 'football-beach ball event' was seemingly planned to be memorable. On the way to the match, the supporter bus stopped at Skrea Beach, a famous two-kilometre-long coastline with high dunes and bathed. On the way to the stadium, about 30 beach balls were handed out among the supporters.

The supporters had decided to wait three minutes into the game, and, at a given signal, throw all the beach balls out in the field. Consequently, the match had to be temporarily stopped while the security personnel removed the beach balls, which created even more joy when some balls flew around. Later during the game, some extra beach balls were thrown out in the field, which further raised the amusement level among the supporter group. In the end, Kalmar FF defeated Falkenberg FF, 2–1, in a difficult away game, and the supporter group celebrated the victory in the lower stands.

Nevertheless, the game did not end in this joyful celebration. During the match, the security staff observed a 22-year-old Kalmar supporter, identified by the police as a 'risk supporter'. The staff claimed that this supporter had thrown one of the beach balls under the game, that he used a red and white hood (Kalmar FF has red and white colours) to cover his face and climbed over the billboards and, thus, unauthorizedly left the stands and entered the pitch. The supporter was reported to the police and prosecuted at the district court in Varberg for violation of the Swedish Public Order Act (1993:1617) Chapter 5, sections 4–5.<sup>19</sup> According to this legislation, it is forbidden to throw objects onto the field during a sporting event, unauthorizedly enter the pitch, and cover the face partly or totally, so identification was difficult.

During the trial, the accused supporter admitted throwing a beach ball to the pitch, in a mood of joy, as well as the use of a hood. This recognition was supported by the inquiry in general. In this respect, the district court found the act was proven and, thus, could be judged as the prosecutor claimed. Furthermore, the crime could not be considered minor according to the court. However, two other charges – i.e. a) the second time the beach balls were thrown into the field and b) the entering of the pitch – were annulled due to lack of proof. The district court sentenced the supporter to a 30-daily fine of 210 SEK (approximately € 600) for violation of the Swedish Public Order Act Chapter 5, sections 4–5. However, the sentence of punishment could have been higher if the supporter had not been released from the suspicions of repeatedly throwing the beach balls to the pitch and leaving the stands without authorization and entering the pitch. As an expression of solidarity and team spirit, the supporter club held minor fundraising among the members and thus funded the fine.

This incident can be related and compared with established customs in the National Hockey League (NHL), where it is standard for the audience to throw their hats onto the ice to celebrate hattricks, which during Detroit Red Wings' home games has progressed to be octopuses thrown to the ice, not only hats. These unauthorized celebrations have, thus, developed to become a part of 'the hockey show' (cf., below, the production/consumption of event).

On 29 July 2019, IF Elfsborg and Kalmar FF played at Borås Arena, Elfsborg's pitch. The game, in the Allsvenskan (premier league), was vastly important for both teams, as they were involved in the bottom region and ran the risk of relegation. In the 42<sup>nd</sup> minute, Kalmar FF took the lead through a penalty kick. But in the 87<sup>th</sup> minute, the equalization came, and after that, the pressure from the home team increased dramatically. In the overtime's fourth minute, the home team made the imperative game-winning goal, 2–1. It was the first win for IF Elfsborg after 11 weeks of failure. This powerful pickup caused the stadium to explode in pure joy and celebration. The players ran wild to the home supporters and formed a pile of celebration with players and supporters. In this moment



of joy, three supporters jumped from the stands over the billboards to embrace the players. After the celebration started to cool down, the players went back to the playing field, and the security guards asked the three supporters to return to the stands, which they did without noteworthy protests.

However, the Police Authority in Borås was not particularly impressed over the celebration and, hence, started an investigation into a violation of the Swedish (1993:1617) Public Order Act, Chapter 5. This police investigation resulted in prosecution in the District Court of Borås (case B 3615–19). In the ruling, the district court did not question that the violation took place as an expression of joy, where the supporters wanted to celebrate the win together with the team. Furthermore, the district court recognized that the violation was not committed to harm any person or IF Elfsborg. Despite this reasoning, the district court still assessed that the circumstances of the case were not such that they were exempted from liability. However, it is rather demanding to sympathize with this statement and this kind of spontaneous – unplanned – celebration and joy does not count as an ‘excusing circumstance’. Of course, it might be hard to demarcate several challenging actions as pure hooliganism, despite the apparent difference in intention and planning. Still, in this somewhat trivial case, the use of ‘discretionary powers’,<sup>20</sup> instead of rule formalism, would have benefited from a more thoughtful legal dealing and, perhaps, the avoidance of the court (cf., below; ‘the camelification of law’). Consequently, all three supporters were convicted for violation of the Public Order Act and penalized with 30 daily fines (the lowest number of daily fines). The verdict was appealed, but the case was not granted an appeal in the Court of Appeal, and the verdict stands.

The legal dealing in this case can, interestingly, be compared with a similar case. In this case, on 28 November 2019, Malmö FF played against Dynamo Kyiv in the Europa League at Malmö’s home stadium. This was to spotlight the farewell match of Markus Rosenberg, a star in Swedish football, at his home stadium. At 90 minutes, the score was 3–3. Theatrically, in the sixth minute of overtime, Rosenberg scored the game-winning goal. The stadium exploded in ecstasy, and several supporters jumped from the stands over the billboards to join in the celebration. No doubt, this case is similar to the spontaneous celebration in Borås, which became subject to judicial review and legal judgment. In comparison, the celebrations at Malmö stadium did not give rise to any report of violations of the law, despite being an international game with additional safety regulations. These differences in attitudes and action raise questions concerning the principle of equality and indicate implicitly that the celebration of a retiring star can work normatively as an ‘excusing circumstance’ but, as the sports journalist Simon Bank stated: ‘You are not allowed to have fun in Borås’, commonly recognized as one of Sweden’s most boring cities.<sup>21</sup>

## **Theoretical views on the problem/issue**

In the following section, we intend to present the legal conditions and the complementary – and expounding – legal cases in light of theoretical reviews. Initially, this review will have a special focus on the impact of juridification processes. Additionally, the issue of trespassing and ‘too much joyfulness’ will be related to different analysis of football as passion and fan culture as well as consumption and an entertainment industry.

### ***The trend of juridification in football: ‘a dialectic dilemma’***

Juridification should be regarded as a dialectic process by its various influence on the quality of social life (e.g. football, family life, the public sphere), as well as the operation and authority of the law.<sup>22</sup> This part of the essay sheds light on the mutual influence, consequences and risks.

In the community of football there has commonly been an ambiguous fear that football will become damaged or perverted if the legal system gains a stronger hold on its content, development, culture and atmosphere. No doubt, football clubs have regarded hooliganism as a serious social problem. Defenders of football have, in this respect, argued for its autonomy and self-regulation.<sup>23</sup>

There exists at least a psychological reason for this anxiety. Notwithstanding the increasing professionalization and escalating commercialization, football is related to leisure, joy and happiness, whereas the law is fundamentally related to seriousness and solid paragraphs. In that respect, the rigidity of the law should not destroy the pleasures and excitement of football.

The increasing 'juridification' is tangible and understandable due to the professionalization, commercialization and globalization of the sport. Consequently, the play elements seem to decline gradually, and seriousness increases simultaneously, both on the pitch and the stands. Regarding the increasing seriousness, security and formal predictability appear essential in a context where its phenomenology and ideology support unpredictability – with 'the sweet tension of uncertainty' – and passions as its emotional and functional basis.

In comparison, the diagnoses of the status of law in society, in general, have usually favoured self-regulation, in which normative structures originate from everyday social life. However, this general socio-legal thesis on deregulation and self-regulation tests the governance of football in different respects. First, the governance has not been shaped by legal instrumentalism and centralism, as the socio-legal thesis countered. Instead, by tradition, it has been formed by self-regulation, autonomy and the culture of sports in everyday life. However, in opposition to the general diagnosis in the field of sociology of law (cf. above) and due to the increasing seriousness in (commercial and professional) sport, the governance of football might benefit from firmer legalization, i.e. a juridification process, contrary to the tradition of self-regulation.<sup>24</sup>

No doubt, elite football has gradually grown to become serious as an entertainment industry. The need for solid governance rises as an effect of the higher level of commercialization and professionalization, with globalization processes being additional influences on the regulation of football. In this perspective, self-regulation and autonomy, which are traditional standards and conceptions, are challenged and threatened. The increasing demands on control and security become harder to obtain and cannot, consequently, be solely maintained through the idea of self-regulation, morality and moral education. In this respect, there is a need for controllers and some degree of 'domestic juridification', albeit a culture of autonomy and self-regulation. The issue of internal control – and self-regulation – will become even harder by introducing the problems of spectator security in relation to the realm of passion and the requests on entertainment.

An initial but sober thesis is that the sports spectators, particularly in team sports, have moved from being members to consumers due to the increasing commercialization and commodification of sports. In addition to the traditional and respected ideas of culture and socialization, sports are increasingly sold on the market through various market stratagems. Furthermore, the 'pure game' – the match – has been progressively adapted to an 'event' and filled with supplementary entertainment, as well as demands for comfort and security. Thus, what quality might a consumer of sport expect, and what merits are reasonable to anticipate in the product, in light of passion and protection? Fans, as active consumers of football, might become a part of the event's production and thus transcend the roles of consumer versus producer.

As mentioned, law in the liberal state has become increasingly omnipresent. 'The realm of what is outside legal regulation annually grows smaller.'<sup>25</sup> Actually, 'law now regulates many areas of social life that historically have appeared immune from law', and 'few areas of social life have escaped invasion by law and the substitution of social norms by legal norms'.<sup>26</sup> Jürgen Habermas, for instances, uses this juridification process to prove his famous thesis on the 'colonization of the lifeworld'.<sup>27</sup> Juridification is, thus, used to 'transcend the dichotomy of internal, voluntary self-regulation and external, compulsory legal regulation'.<sup>28</sup> Juridification 'concentrates on the way in which law, without necessarily invading a social field directly, can still reconstitute that field in its image'.<sup>29</sup> In this respect, the social field begins to become more 'legal', to imitate the form of law, to have its own 'internal law', and to introduce the 'rule of law' into its practice. In short, 'the social field is both passive and active; it is juridified, and it juridifies itself'.<sup>30</sup> However, the interplay of law and sport and its problems do not work in a one-way direction.<sup>31</sup> The influence might have the opposite effect. Thus, what will happen with the law when the legal system must deal with 'football



issues', and with such, in comparison, rather trivial questions? From a legal horizon, socio-legal scholars have, in different ways and settings, discussed the problems inherent when the law becomes an increasing part of social life and a natural element in relation to social order.

Considering the mixture of professionalism and commercialism on the one hand, and on the other hand the play element, passion and the uncertainty of outcome, the qualities in football as firm 'legal issues' are rather vague and blurred. Thus, due to this ambiguity, what does the law, as an 'imperious system', have to do with these rather petty 'pseudo-problems' in football (e.g. the case of the beach balls), despite football's character of being progressively transformed to a commodity?

Prospectively, the law's intrusion into and influence on football will test the logic of the latter – and, imaginably, also the rationality of the former.<sup>32</sup> The law is a body of information that needs to be communicated to ordinary people (on account of its morality, justice and legitimacy) and internally among legal professionals (in light of its stringency and legal accuracy). This communication relates to the interpretation of the law and the image of legal authority and power. In relation to the image of the law, socio-legal scholars have presented different versions of a regulatory crisis, questioning the legal system, particularly in the 1980s for several reasons: inefficiency, 'clientization' and juridification as well as 'camelification' and 'trivialization'.

We will shortly focus on the problems with trivialization and 'camelification' in light of the essay's issue and the empirical cases. In the wake of the growing interaction between law and popular culture (i.e. football, television, pc-games), Robert Sherwin has expressed serious concern about the rationality and authority of the law.<sup>33</sup> What will happen with the law, and the authority, as an effect of this interplay, when the law has to deal with comparatively trivial questions (such as passionate fan celebrations and 'the fête of beach balls')? Sherwin conceptualize this problem as a trivialization of law.<sup>34</sup> In a rather similar form of argumentation, Bonaventura de Sousa Santos noted the risk of a 'camelification' of the law,<sup>35</sup> which means the law will become overloaded and carry too much clutter if the courts must deal with more trivial issues accumulated from everyday life which until recently, had been founded in and dealt with in a 'communicative consensus in the lifeworld', to use Habermas' vision and critique.<sup>36</sup>

After all, is this interaction between law and football problematic in proving the trivialization and 'camelification' of law and the juridification of football? Doubtlessly, particularly if we depart from Luhmann's system-theoretical approach to law, there are obvious risks for both systems – for sport as well as law – and their different internal logics, by a tighter and more extended contact. Still, the risk should perhaps not be exaggerated, at least not in the long run, as the development of the legal system is not attracted to this 'camelification' – overburdening – of the law, even though the civil court has become a normal forum for dealing with conflicts related to football fans, joyfulness and passion. Still, through rather petty incidents turned to legal cases, the image of the law runs the risk of being 'trivialized', in light of Sherwin's reasoning,<sup>37</sup> and on the other hand, football runs the risk of losing passions, spontaneity and the carnivals, and the play elements, as basic values, cultures and logics in the progress of football.

### **Spectators/fans in the perspectives of commodification of the 'football event'**

Football has become a part of the entertainment industry, and a football game has been transformed into an event – with the 'eventification' of sport. Thus, in addition to the game, spectators are offered, and expect, a broader experience, with restaurants and other facilities and arrangements. Furthermore, a part of the theatre – the atmosphere at the stadiums – will also be produced by the fans, through various celebrations and reactions. In this respect, the supporters ought to be regarded as producers and consumers of the event in a commercialized and commodified sport. Notable, the standard of the Swedish spectators is rather famous and has, by international sport journalists and players, regularly been regarded as more impressive than the play.

The spectators' role increases when football is increasingly transformed from a game in its pure sense to become 'an event' – from being more or less passive consumers to being part of the

entertainment and creation of the atmosphere. Chants, songs and tifos have, of course, played a crucial historical role in the origin of various fan cultures. Still, today we find an increasing awareness in management that this atmosphere strengthens the interest and attraction of the event and its marketing to new target groups, despite e.g. 'the tifo' is under attack in many countries for its connection to Bengalis.

However, football is frequently considered a 'crime generator'.<sup>38</sup> Hence, there exists e.g. 'a plethora of academic literature focusing on hooliganism'.<sup>39</sup> However, the 'fixation on hooliganism' has, at the same time, missed a more holistic understanding of crowd management and the mundane regulations of football.<sup>40</sup> Thus, questions regarding governance must be widened to include general fan behaviour and 'what types of fan behaviour/expressions of identity are "acceptable" within football stadiums'.<sup>41</sup> Nevertheless, football regulations have had a repressive character, and various target groups are regularly labelled as a 'risk'.<sup>42</sup> Besides, according to Hopkins and Hamilton-Smith, there exists 'a narrative of "continuation", where it is suggested that a "hooligan" or "risk element" still lurks in the background'.<sup>43</sup> Besides, football fans are considered to 'represent potential troublemakers'.<sup>44</sup>

Subsequently, Stuart Waiton has observed two different forms of elitism in the policing, management and criminalization of football supporters.<sup>45</sup> According to his analysis, there has been a move from 'traditional conservative snobbery' to a new form of 'cosmopolitan snobbery', where the later regulation is more directed to shape the minds than control the bodies. Consequently, the regulation of speech and behaviour should be regarded as a new form of moralizing and 'over-policing football',<sup>46</sup> as a new etiquette in the 'bourgeois' regulation and 'civilisation' of football.<sup>47</sup> Waiton writes: 'The pantomime passion of crowds at football matches [...] has become a source of concern for the modern elite. [...] However, the criminalisation of football fans is a serious *restriction on the freedom of expression and behaviour*' (our emphasis).<sup>48</sup> Waiton thus states pragmatically: 'Why on earth would shouting stuff at football become a big deal or a political problem. [...] But [...] once *offensiveness* (our emphasis) has been criminalised, the trend is for more and more forms of speech (and behaviour, our remark) to be defined as offensive'.<sup>49</sup> Hopkins and Hamilton-Smith have a similar position, stating: 'One might conclude that the increased use of restrictive and repressive powers allows for greater monitoring/surveillance of what the government, media and police consider to be unacceptable behaviours/fandom. [...] Thus "risk supporters", as they are labelled, become a subject to a form of tribal stigma,<sup>50</sup> where deviation from what is considered to be the prevailing normative behaviour is criminalized'.<sup>51</sup> This confirms Durkheim's thesis on punishment as a functional tool to strengthen social integration/solidarity in society, among 'ordinary - law-abiding - citizens'. Besides, the labelling also has an appearance of moral panic.<sup>52</sup>

This problem must be related to the magnitude of the commercialization and the commodification of football, in addition to the risks of hooliganism and its shadows. In this respect, the first decade of the 21st century has witnessed a marked growth in European football, and football games have in many places boasted higher attendances.<sup>53</sup> A more forensic examination reveals financial ruin, insolvency and fan exploitation in many football clubs.<sup>54</sup> Kennedy and Kennedy argue that these processes have caused socio-economic consequences for football fandom, and that we have witnessed a process of gentrification of spectators, with, e.g. a middle-class fan base, as well as commodification of the events and consumption of football.<sup>55</sup> However, there are courses of opposition. 'As the commercial ethics penetrates further into the game, a sense that the social value of football is beginning to be ground down by financial imperatives has caused alarm',<sup>56</sup> and there is a request for better supporter involvement in the clubs and an understanding of football supporters' resistance and passions. Thus, football cannot only become a process of business that is driven by a desire to expand and protect economic value with the request for management and legal predictability. There must be an understanding of the complexity of football as a social identity,<sup>57</sup> the relation regarding resistance and social-class relationship,<sup>58</sup> and the 'hyper-consumption' and intensification of the 'entertainment-festive dimension'.<sup>59</sup>

With a reference to Habermas' social analysis, David Kennedy argues that there is additional evidence that the 'system world' is colonizing and corrupting the 'life world' and its roots in shared meanings and culture, and thus changing the dynamics of fans' orientation to football clubs.<sup>60</sup> For instance, 'the clamour for new stadiums is only partly driven by the requirement of football as a "spectacle" and is mostly driven by money motives'.<sup>61</sup> Thus, the request for safety regulation and predictability of the event becomes more crucial than passions and more unpredictable actions.

Naturally, football clubs have generally 'started to repackage and rebrand the "football match" product to attract wealthier spectators'.<sup>62</sup> Thus, this process of 'bourgeoisification' of football has progressed in chorus with the development of comfortable arenas and safety regulations. Still, there have been periodic acts of resistance from various fan groups through parades of imaginative banners, in a mixture of dissatisfaction, nostalgia and masculinity.<sup>63</sup> In this respect, there are plenty of examples where the relationship between football fans and clubs is 'characterized by a high degree of resilience, vitality and unpredictability. [Thus] the fan's opposition has a rebellious and subversive quality and has helped to force a large number of compromises'.<sup>64</sup> Merkel describes the outcome of this opposition through the concept of 'hybridity, [...] merging of cultural artefact with very different roots'.<sup>65</sup>

## Conclusion

To start with, our reasonings are not only related to problems for the governance and management of football. In a more serious perspective, the law risks being overburdened and even distrusted in these rather trivial issues.

In relation to football, the complexity in passion, risks and security naturally generates practical dilemmas regarding the safety personnel and entertainment staff as well as in the (theoretical) discourses between the legal domain and more radical economic operations. Thus, what kind of fun – 'celebrations' – can be included in the law, in an epoch of practical irony and absurdity?

The comfort among the middle-class spectator might, hypothetically, increase by including this kind of celebration in the interpretations of the safety regulations, but probably only marginally. On the other hand, there are multiple reasons for avoiding the court as a natural regulator of these issues. Firstly, emotions and 'fanatic celebrations' in various forms belong to the history and culture of football and secondly, are part of the excitement and production of the event and the entertainment. Thirdly, the legal system will not operate as the best discourse to handle these, in comparison, rather 'petite incidents', due to the risk of a juridification of social and private life as well as the overburden – the camelification – of the law and, hence, its authority and legitimacy.

This short conclusion relates to an initial reflection regarding the logic of law and its legal case alongside the quest for excitement/entertainment and passions in football, challenged by the practical risks of hooliganism and insecurity. The law relies on predictability, whereas football builds on tensions, uncertainty and, thus, unpredictability, as well as tension, which occur on the pitch as well as on the stands. In this respect, the regulation of play seems to follow a civilization pattern due to the increasing professionalization and commercialization of football. On the other hand, the regulation of the stands and the spectators seems to be harder and more complicated due to the history of pure hooliganism and the quest for entertainment and excitement.

Furthermore, the supporter's enlarging role, from being a consumer to becoming an implicit producer of the atmosphere and attraction of the event, might need a better and softer position and attitudes towards varying celebrations and spontaneous emotions beyond the general regulation of safety and security. Evidently, it is hard to predict these actions and frame them in a legal setting. Hence, the management system's request for predictability of the event – and its business – seems to colonize the values of unpredictability and passion in football.

To conclude, fan behaviour in a post-modern era stands as a complex political and moral subject. Hence, according to Dino Numerato, there should be an 'emphasis (on) the complexity, ambiguity, difference and similarity in various fan initiatives'.<sup>66</sup> Needless to say, this essay supports Hans

Hognestad and his analysis and conclusion in ‘Split loyalties’. He states: ‘Within the current cluster of subjective orientations and objective structures in football, flexible models that are open to influence from ideological resistance and cultural complexities are required to fully grasp the contestations of moralities and identities within supporter practices in football’.<sup>67</sup> Thus, the presented legal cases must generate learning processes in the governance of football in light of rational discourses, ‘beyond the law’, searching for a mutual communicatively obtained consensus, instead of a normatively regulated security standard, to avoid involving the legal system as a natural dispute settlement. In this perspective, the audience will legitimately work as a consumer as well as a producer of the football spectacle.

## Notes

1. Giulianotti and Robertson, *Globalization and Football*.
2. Herd, ‘Constructing Football through Magic’.
3. Elias and Dunning, *Quest for Excitement*.
4. Andersson, *Kung Fotboll*, 243.
5. Andersson, *Den döende bandyn*.
6. Andersson and Radmann, *Från Gentleman till huligan*.
7. *Ibid.*
8. *Ibid.*, 132–137.
9. Ewick and Silbey, *The Commonplace of Law*.
10. One aspect in regulation is the costs if a club is not recognized as a non-profit association according to the Swedish [1999:1229] Income Tax Act. If a football club fulfils the demands to be classified as a non-profit association, the club is liberated from the costs. Most of the Swedish clubs in Allsvenskan and Superettan are classified as a non-profit association. But there is also a possibility, since 1999, for clubs to become a sport limited company (Sport Ltd.), with the restriction that the non-profit sport club must own voting power in Sport Ltd, the so-called 51 percent rule. During the season 2019, six clubs in Allsvenskan (of the total 16) were registered as Sport Ltd. The cost for the security (the police) has been a serious issue in the 2010s. A review of the Public Order Act was initiated, after criticism, and the obligation to pay these expenses for Sport Ltd. was removed (Ministry of Culture, *Mindre våld för pengarna*).
11. Backman, ‘Dealing with Disorder in Swedish Football’.
12. *Ibid.*
13. Ministry of Culture, *M, ndre våld för pengarna*, 171.
14. Swedish Football Association, *Arenakravi Allsvenskan Beslutade av Svenska Fotbollförbundets (SvFF) Representantskap den 19 November 2019; Särskilda Tävlingsbestämmelser för föreningar i Allsvenskan och Superettan 2021; Arenakravi Superettan Beslutade av Svenska Fotbollförbundets (SvFF) Representantskap den 19 November 2019*.
15. Ministry of Culture, *Mindre våld för pengarna*, 172.
16. This governing rule came after a ruling in 1995, although with regard to trespassing, as interpreted by the Supreme Court, it provides a defence only on such premises and in certain arenas that are not accessible to the public (NJA 1995, 84). The Supreme Court thus rejected the interpretation made in the lower courts (Backman, ‘Dealing with Disorder in Swedish Football’).
17. Proposition 2008/09:78, 21, see also Report of the Committee on Justice 2008/09: JuU18.
18. Lord Justice Taylor 1990, 14.
19. Varberg District Court case: B 1974–16 (2 January 2017).
20. Galligan, *Discretionary Powers*.
21. Bank, ‘Hur lycklig får man lov att bli i Borås?’
22. Carlsson, ‘Re(con)fusion of Law and Sports in Light of Seriousness and Trivialization’.
23. The regulation of sport has been generally, and in the Scandinavian countries in particular, related to self-regulation with a high degree of autonomy (Norberg, ‘A Contract Reconsidered’; Fahlén and Stenling, ‘Sport Policy in Sweden’). There seems to be a mixture of reasons for this condition. Firstly, sport has been largely regarded as a playful and trivial hobby, not apt to be captured by regulation. Secondly, sport has been related to idealistic values and voluntary organizations whose engagement should not be distorted by strict legal rule. In that respect, it has been argued that sport has distanced itself from the domain of politics and the market. In addition, sport has been considered as supporting public health and social integration, which ultimately will give it a guaranteed authoritative position in relation to governance and control. Consequently, a more solid interest on the part of the legal system has been regarded as unnecessary – or even destructive – due to the status and merits of leisure activities, idealism and health. Still, this position should be understood in relation

- to governmental support, through direct funds and via gentler tax systems. Semi-autonomy might, accordingly, be a more proper conceptualization of the status of the governance of sport (Bergsgard and Norberg, 'Sports Policy and Politics – the Scandinavian Way'; Carlsson and Lindfelt, 'Legal and Moral Pluralism'). However, this position of semi-autonomy is currently confronted by the increasing commercialization as well as professionalization, globalization and migration in sport and society.
24. Foster, 'The Juridification of Sport'; Carlsson, 'Insolvency and the Domestic Juridification of Football in Sweden'.
  25. Foster, 'The Juridification of Sport', 155.
  26. Ibid.; Carlsson, 'Insolvency and the Domestic Juridification of Football in Sweden', 481.
  27. Habermas, *The Theory of Communicative Action*; Habermas, 'Law as a Medium and Law as an Institution'.
  28. Foster, 'The Juridification of Sport', 156; Carlsson, 'Insolvency and the Domestic Juridification of Football in Sweden', 481.
  29. Ibid.
  30. Ibid.
  31. Carlsson, 'Re(con)fusion of Law and Sports in Light of Seriousness and Trivialization'.
  32. In this respect, which is essential to our analysis in this essay, currently, law and sport seem to congregate and interact. Nevertheless, this novel 'encounter' starts from different positions. Sports starts from being trivial (a play) to be regarded and accredited as a progressively serious (and rationalized) subject. On the other hand, the law appears to be conceived as more 'trivialized', despite its development as a rational, authoritative and 'serious' concern in society. They seem to be 'jointed', but for different reasons.
  33. Sherwin, *When Law Goes Pop*.
  34. Carlsson, 'Re(con)fusion of Law and Sports in Light of Seriousness and Trivialization'.
  35. Santos, *Towards a New Common Sense*.
  36. Habermas, *The Theory of Communicative Action*; Habermas, 'Law as a Medium and Law as an Institution'.
  37. Sherwin, *When Law Goes Pop*.
  38. Kurland et al, 'The Football "Hotspot" Matrix'; cf., Dunnings et al, *The Roots of Football Hooliganism*; and Darby et al, *Soccer and Disaster*.
  39. Hopkins and Treadwell, 'Introduction', 4.
  40. Ibid.
  41. Ibid., 9.
  42. Hopkins and Hamilton-Smith, 'Football Banning Orders'.
  43. Ibid, p. 241.
  44. Numerato, *Football Fans, Activism and Social Change*, 74.
  45. Waiton, 'Football Fans in an Age of Intolerance'.
  46. Ibid., 201.
  47. Redhead, 'The Last of the Working-Class Subcultures to Die'; Merkel, 'Football Fans and Clubs in Germany'.
  48. Waiton, 'Football Fans in an Age of Intolerance', 219.
  49. Ibid.
  50. Goffmann, *Stigma*.
  51. Hopkins and Hamilton-Smith, 'Football Banning Orders', 242.
  52. Cohen, *Folk Devils and Moral Panics*.
  53. Kennedy and Kennedy, 'Football Supporters and the Commercialisation of Football'.
  54. Ibid.
  55. Ibid.
  56. Ibid., 4.
  57. Hognestad, 'Split Loyalties'.
  58. Merkel, 'Football Fans and Clubs in Germany'. Steve Redhead posits, in this respect, that football hooliganism might be the last working-class subculture to die (Redhead, 'The Last of the Working-Class Subcultures to Die').
  59. Llopis-Goig, 'From 'Socios' to 'Hyper-Consumers', 79.
  60. David Kennedy, 'Football Stadium and the Commodification of Football', 25, 27.
  61. Ibid., 29.
  62. Merkel, 'Football Fans and Clubs in Germany', 39.
  63. Ibid.
  64. Kennedy and Kennedy, 'Football Supporters and the Commercialisation of Football', 11.
  65. Merkel, 'Football Fans and Clubs in Germany', 47.
  66. Numerato, *Football Fans, Activism and Social Change*, 6.
  67. Hognestad, 'Split Loyalties', 63.

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