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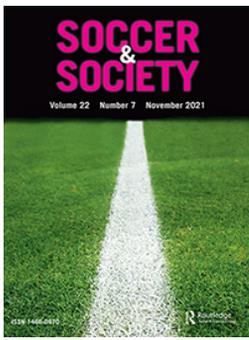
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# The price of success: Equal Pay and the US Women's National Soccer Team

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## ABSTRACT

This commentary offers an analysis of the implications of the US Women's National team Collective Action lawsuit against the US Soccer Federation. The players filed the lawsuit based on two grounds: first, that the US Soccer Federation violated the Equal Pay Act by paying them less than the men's national team and second, that the federation discriminated against them under Title VII of the Civil Rights Act 1964, specifically in regard to workplace conditions. In this article, we discuss three interrelated aspects: (1) the legal implications of either the success or failure of the dispute; (2) playing and workplace conditions; and (3) the gendered meanings of equal pay and its socio-cultural implications. These significant challenges require analysis to understand potential implications of the outcome for women's football, and beyond. Recommendations are made for governing bodies and football clubs, in addition to possible future research directions for academics. We reflect upon the gendered, social and sporting meaning of equal pay for continuing the momentum of women's football, highlighting the need for the most successful women's football team in the world to achieve parity if we are to continue advancing gender equality in a 'new age' of women's sport.

## KEYWORDS

equality; equal pay; gender; soccer; women's football

## Introduction

Over the last decade, significant changes have impacted the political, social and economic field(s) of women's football.<sup>1</sup> These changes have meant a surge in interest across the globe in the development of the sport, underlined at the 2019 World Cup which documented record breaking viewing and attendance figures – over one billion people tuned in to watch this tournament.<sup>2</sup> Progress across the sport has looked set to continue, and women's football has professionalized or semi-professionalized in many countries across the world. Formal professional leagues exist most notably in the USA, England, Germany, and Norway, but professionalization processes are apparent in countries such as Brazil, Argentina, Spain, and Japan, who plan to launch an inaugural professional league in 2021. However, the spread of coronavirus (COVID-19) to nearly every country in the world could slow, and perhaps halt, the progress of women's football across the globe, and exaggerate inequalities throughout the game.<sup>3</sup> In an attempt to mitigate the impact of COVID-19, the US-based professional National Women's Soccer League (NWSL) hosted a 25-game Olympic style tournament, launched on the 29 June 2020, to build on the leagues 2019 momentum.<sup>4</sup> This is in stark contrast to the FA Women's Super League season, which was terminated with little consideration or innovation to support women's professional football in England,<sup>5</sup> as was the case in a number of other countries including Spain, France and Italy.<sup>6</sup>

At the forefront of women's football is the USA, given its unrivalled success on the international stage. The United States Soccer Federation (USSF) selects, trains, funds and manages the various US national soccer teams, including the United States Women's National Team (USWNT).<sup>7</sup> The USWNT have consistently been ranked the best team in the world amassing a total of 4 World Cup medals and 4 Olympic Golds. However, this long history of international success did not automatically transfer into a financially secure domestic league and there have been three iterations of professional women's soccer leagues. The USSF sets out stipulations for the status of soccer leagues: for the women's league, it must have 8 teams competing across 3 time zones, to be sanctioned by the federation as Division 1 in the American soccer pyramid.

The 8-team Women's United Soccer Association (WUSA) league operated from 2001–2003, following the success of the 1999 Women's World Cup and a boom in soccer participation for girls across the country.<sup>8</sup> The league was sanctioned by the USSF in 2000. However, despite attracting the biggest stars of the sport, overspending and poor attendances coupled with failures to attract top sponsors and media deals contributed to its failings.

Women's Professional Soccer (WPS) followed, from 2009 to 2012. Launched during a recession, with a more cautious approach but still big ambitions. The league's commissioner felt the WPS's affordable approach at this time would benefit the sport, attracting new fans who, in healthier economic times, would consider the league a lower priority.<sup>9</sup> Despite a media deal with Fox Soccer and a league sponsor, as well as club salary caps, the WPS was plagued by some similar problems of its predecessor, not only financial but legal, and also in part due to the sports un-Americanism, and association with maleness.<sup>10</sup> With only 5 teams in operation during the final season, the USSF did not sanction the league, and it folded in 2012. Finally, the inception of the National Women's Soccer League (NWSL) in 2013, managed by the USSF, has been more successful, the competition now entering its seventh year.

The success of the USWNT has somewhat glossed over inequities that continue to present challenges for women's soccer.<sup>11</sup> Indeed, if professionalization is a measure of success then men are far more successful, while women face a very different set of career options.<sup>12</sup> This is perhaps most evident in disparities of pay and work conditions between men and women at work. In one of the highest profile challenges to inequitable pay and work conditions in women's professional sport, the USWNT Players Association – formed in part to deal with labour and contract issues<sup>13</sup> – filed a gender discrimination lawsuit against the USSF on the 8 March 2019. In this, 28 players allege that the USSF engages in institutionalized gender discrimination and that has caused, and perpetuated, gender-based disparities in nearly every aspect of their employment.<sup>14</sup> This commentary starts with the premise of the lawsuit. We then draw attention to the gendered, social, and sporting meanings of equal pay, playing and workplace conditions. Finally, drawing on a sociocultural and legal analysis, we highlight the importance of achieving equal pay for the most successful women's football team in the world.

## **The USWNT's legal battle for equality**

In 2016, the pursuit of equal pay and working conditions by the USWNT commenced through an Equal Employment Opportunity Commission (EEOC) complaint. This 'Equal Play, Equal Pay' campaign sought to bring these issues to the forefront of the media. However, the complaint was to a certain extent administrative – under US Federal law, employees must exhaust their remedies through the EEOC, before seeking resolution through the courts.<sup>15</sup> After failed mediation and exhaustion of EEOC remedies, on 5 February 2019 the USWNT were issued with a 'right to sue' letter, which signified that there were sufficient grounds to bring the issue to federal court.<sup>16</sup> The USWNT had 90 days to file a complaint and did so on 8 March 2019, aptly known as International Women's Day. Following further failed mediation in August 2019, the USWNT were certified as a class (allowing one or more claimants to file a lawsuit on behalf of a larger group) in November of the same year.<sup>17</sup> It is perhaps notable that prior to this litigation, former U.S. women's goalkeeper

Hope Solo filed a lawsuit in 2018 under parallel Equal Pay claims. However, Solo did not sign on as a plaintiff in the current case, citing that she believed her case was stronger due to the fact she did not sign up to the collective bargaining agreement which her former teammates had.<sup>18</sup> At present, Solo's case is currently 'administratively closed pending further order' following a request by the goalkeeper and U.S. Soccer to stay the proceedings until the outcome of the U.S. women's team's summary judgement. Although at present, the outcome of that is a negative one, Solo's equal pay motion can be said to have spearheaded the US women's national team's campaign and is illustrative of the continuing pursuance and desire for equality in football.<sup>19</sup>

In February 2020, both the USSF and the USWNT filed motions for a summary judgement. Under the Federal Rules of Civil Procedure, the party must show that there is 'no genuine dispute as to any material fact' and that the party is 'entitled to the judgment as a matter of law.'<sup>20</sup> The court may grant a full summary judgement or a partial one, where some factual issues are ruled upon whilst judgement on others are reserved for trial. The USWNT's motion presented the work of an economic expert which stated they could be owed \$66 million in damages.<sup>21</sup> The USSF's motion caused particular controversy, suggesting that the men's game required a higher level of skill, speed and strength than the women's game.<sup>22</sup> Following the backlash, USSF president Carlos Corderio resigned. On 1 May 2020, the summary judgement in relation to the alleged violations was held. The outcome and legal implications of this matter will be discussed below. This case represents the most significant and high-profile legal challenge of gender discrimination in women's sport to date.

The first claim asserted that the USSF had breached s206 the Equal Pay Act, which prohibits discrimination on the basis of gender. This stated:

"No employer . . . shall discriminate . . . between employees on the basis of sex by paying wages to employees . . . at a rate less than the rate which he pays wages to employees of the opposite sex . . . for equal work on jobs the performance of which requires equal skill, effort and responsibility and which are performed under similar working conditions."<sup>23</sup>

The second claim was that the USSF had breached the Civil Rights Act (1964), specifically Title VII which prohibits discrimination during the course of employment on the basis of sex.<sup>24</sup> Before assessing the outcome of these claims, it is useful to broadly outline the USWNT and the US Men's National Team (USMNT) Collective Bargaining Agreement's (CBA) – terms and conditions of a contract that have been collectively negotiated for the benefit of the whole party (whether that is a team, in this case, or a league), and not on an individual basis.<sup>25</sup>

The 'current' CBA for the USMNT was agreed on the 20 November 2011 and expired on the 31 December 2018 (the USMNT have continued to be compensated on the basis of this agreement).<sup>26</sup> The agreement is founded upon the 'pay-to-play' principle. Thus, players are only compensated when they attend training camps or make the roster, whilst the USSF is under no obligation to schedule matches or enter teams in tournaments.<sup>27</sup> Players receive bonuses based upon performance. The highest bonuses are available in the World Cup, where qualification sees the player pool receive \$2.5 million plus an additional \$68,750 bonus for each rostered player.<sup>28</sup> A semi-final appearance would earn the player pool over \$5 million, whilst making the final would see this increase to over \$9 million.

The WNT's CBA, valid from the 1 January 2017–31 December 2021, is not based upon this 'pay-to-play' model. Instead, 20 contracted athletes earn a base salary of \$100,000 and an additional salary of \$62,000 – \$67,000 for playing in the NWSL.<sup>29</sup> The highest of performance related bonuses also comes from the World Cup. The WNT receive a qualification bonus of \$37,500 and the same sum for appearing on the roster.<sup>30</sup> A gold medal earns the player pool \$2.2 million, with silver earning \$1 million, and \$500,000 for bronze. These figures are significantly lower than what the MNT receive, and this is further exemplified by the fact FIFA paid the winners of the men's World Cup \$38 million (2018) and the women's winners \$4 million (2019). The provisions for health insurance, maternity pay and a good faith clause to schedule a minimum number of games serve to reinforce the argument that women athletes require these guarantees.<sup>31</sup>

For a successful claim under the Equal Pay Act, the plaintiff must establish that they performed equal work, under similar working conditions and that the MNT were paid more. The WNT ascertained that they were paid less on the basis that the WNT CBA provides lower bonuses for friendlies, World Cup competitions and other tournaments. Their argument was strengthened by illustrating potential earnings should they have been compensated under the same CBA as the MNT, even when fringe benefits such as health insurance were included.<sup>32</sup> This figure totalled over \$66 million in backpay owed to the player pool.<sup>33</sup> The USSF argument focused on total compensation paid to players under their respective CBA's. By assessing total compensation paid during the contested period between 2015 and 2019, the WNT earned \$220,747 per game whilst the MNT earned \$212,639 per game.<sup>34</sup> This argument is strengthened by the fact that US employment law defines wages as: 'all forms of compensation . . . and whether called wages, salary, profit sharing, expense account, monthly minimum, uniform cleaning allowance, hotel accommodations, use of company car, gasoline allowance, or some other name.'<sup>35</sup> Wages also include fringe benefits such as 'medical, hospital, life insurance and retirement benefits.'<sup>36</sup>

At the class certification stage, the court had ruled:

"it could not conclude that no discrimination had occurred solely on the fact that the WNT players received more compensation because to do so would lead to an absurd result where an employer who pays a woman \$10 per hour and a man \$20 per hour would not violate the EPA . . . as long as the women negated the disparity by working twice as many hours."<sup>37</sup>

This point is pivotal – the WNT earned more because they worked more and won more. However, since the class ruling, the court held the plaintiffs had sufficient time to prove the above point. At the summary judgement, the evidence presented did not do so. During class period, WNT played 111 games and made \$24.5 million, \$220,747 per game. MNT played 87 games and made \$18.5 million, \$212,639 per game.<sup>38</sup> Thus, the downfall of the EPA claim was based upon the reality that during the class period, the WNT earned more than the MNT and a successful claim requires the plaintiff to prove they earned less than the men.

Title VII prohibits discrimination in employment on the basis of sex (or race, colour, religion and national origin).<sup>39</sup> The WNT claim was based upon unequal working conditions in relation to field surfaces and travel conditions.<sup>40</sup> Under Title VII, the burden of proof falls upon the plaintiff. If this burden is proven, then it transfers to the defendant to provide a legitimate, non-discriminatory reason for the difference in working conditions.<sup>41</sup> In the case of field surfaces, the WNT contended that they were made to compete on inferior surfaces (artificial turf) more often than their male counterparts who had temporary grass installed on a more regular basis.<sup>42</sup> During 2015–2019, there were two periods on which the WNT played more frequently on artificial turf. The first was after the 2015 World Cup during the Victory Tour, where 7 of 10 matches were played on artificial turf, whilst second period was for three friendlies between July and October 2017.<sup>43</sup> The USSF provided the defence that the rationale for this was 'to spread its Senior National Team games across various cities in various regions of the country, the relatively large number of games required to be played in a relatively short period of time during fall and winter, and the desire to prioritize venues with grass fields for 2016 in preparation for the Olympic Games all played a role in the number and concentration of games on artificial turf.'<sup>44</sup> As to why it did not instal temporary grass, as has often happened with the MNT, the USSF submitted evidence to illustrate 'that it did not anticipate generating enough revenue from those matches to make it financially prudent to install temporary grass over the turf at those venues, nor did USSF believe doing so would be necessary to attract opponents.'<sup>45</sup> These were held to be legitimate and non-discriminatory reasons.

In relation to Charter Flights, the WNT contended that the MNT were provided with charter flights more frequently and more money was spent on air fare and hotels, despite the WNT playing more. From 2015–2020, the USSF spent \$9 million on flights for the MNT and \$5 million for the WNT. On this basis, the court ruled the WNT had established a prima facie case of discrimination.<sup>46</sup> Thus, the burden of proof shifted to the USSF to provide a legitimate, non-

discriminatory reason. Various reasons were put forward, the most prominent being that charter flights were used more often to give the struggling MNT side a competitive advantage. This justification is perhaps the ultimate example of the price the success the WNT are paying for their performances. The struggling MNT's performances were used as an excuse for the discriminatory treatment, despite the WNT's unprecedented success. This argument was described as 'weak' and 'implausible' and due to the evidence provided by the plaintiff, was sufficient to raise a genuine dispute.<sup>47</sup> In order to avoid this issue going to trial, the WNT and US Soccer came to an agreement upon working conditions in April 2021, which guarantees women the same access to facilities, training and professional support as their male counterparts. Having agreed upon this, the WNT have cited that their focus will now turn to appealing the Court's equal pay decision.<sup>48</sup>

## Discussion

From an economic position, although we might consider that an organization such as the USSF might decide to allocate its resources in a variety of ways. One such way could be financially supporting a less successful component of the 'business' (in this case, the men's team), to try and support performance improvements. The key point of contention here is whether or not the law allows this approach. Similarly, a consideration of 'supply and demand', including an understanding of revenue generation by each team, would seem a useful economic position to unpick, in relation to the lawsuit. It has been reported that the WNT games have generated more revenue than the MNT: \$50.8 million compared with \$49.9 million between 2016 and 2018.<sup>49</sup> The then-president of the USSF, Carlos Cordeiro, challenged this notion in an open letter and fact sheet, highlighting that the WNT was only in profit for the years of 2016 and 2017, operating at a net loss of \$27.5 million in the ten years between 2009 and 2019.<sup>50,51</sup> However, it can be difficult to determine the exact income generation of each team, especially when considering that the USSF sells broadcast and sponsorship rights for both the WNT and MNT together. The focus of this analysis moves beyond the economic argument, and centres on the understanding that the start point for women in sport is always one on the back foot; histories of women's sport highlight their subordinate position, and it has long been noted that women have been systematically and ideologically excluded within many sport cultures across the globe.<sup>52</sup> Thus, even in the US, where soccer has been considered secondary amongst men, allowing women to carve out a space as the global powerhouse,<sup>53</sup> sport continues to operate as a 'male preserve'.<sup>54</sup> The women's team is penalized for outperforming the men's team; this is used to justify the men's team needing more resources and investment. Therefore, when women get paid to play sport, the precedent has always been to undervalue them. With that in mind, the following section will now consider the underpinnings and implications of the USWNT equal pay lawsuit, centring on pay and work conditions for these athletes with the latter focussing specifically on health care and childcare.

## Pay conditions in women's football

Football is a highly precarious occupation, fraught with insecurities, lacking long-term security and career advancement is never secure.<sup>55</sup> In the context of women's football, uncertainty is increased due to gender, lack of resource allocation and policy provision.<sup>56</sup> A written contract is the formalization of the relationship between athlete and organization.<sup>57</sup> The stakes are incredibly high for athletes not only in terms of financial incentives on offer but popularity, prestige and recognition.<sup>58</sup> In 2017, International Federation of Professional Footballers (FIFPRO) reported that in women's football globally, written and detailed contracts are rare, and most of the payments are generally paid less than \$600 per month (after tax).<sup>59</sup> Within this report concerns of players included: childcare, economic remuneration, contract length and post-career playing options. Data reported that women footballers rely heavily on their national team income, as 49.5% of

players are not remunerated by their clubs.<sup>60</sup> Half of all elite players are thus salaried by their clubs, but of these 60% receive less than \$600 per month. The 2020 FIFPRO women's football report, titled 'Raising Our Game', built on the 2017 research and highlighted women footballers call to action: fair treatment, decent work, equal opportunities and the right to viable career paths as professionals in the industry.<sup>61</sup> Whilst pay conditions were improving for women in the game, 3.6% of the 186 players who participated in the survey – women competing at the World Cup and playing at the top of the game – reported not receiving any money to play.<sup>62</sup>

Whilst the USWNT are not affected by the low/no pay identified in these reports, it is important to note that at the highest level of women's football, pay inequity is evident in real time: in 2018, the FIFA council increased the Women's World Cup 2019 prize money to \$50 million. FIFA's increased investment is significant for the women's game, although the increase can be considered negligible. In 2018 FIFA increased the prize money for the men's World Cup 2018 from \$42 million to \$400 million. At domestic level in the USA professional leagues there are stark pay disparities. In 2020, it was reported that the maximum salary for representing a club in the NWSL was \$50,000, while the minimum was \$20,000.<sup>63</sup> As the 2020 FIFPRO report indicates this salary is substantial compared with women footballers globally; however, the annual mean wage in the USA in 2020 was \$56,310.<sup>64</sup> Comparatively, the average base salary in the MLS in 2019 was \$345,867.<sup>65</sup> As described in the court filing, a hypothetical situation was mapped out where each team played 20 friendly matches and won all of them. The USWNT would take home 38% of the income received by the USMNT: compared to the USMNT's \$263,320, or \$13,166 per game, the USWNT would earn a maximum of \$99,000, or \$4950 per game.<sup>66</sup>

This backdrop is central to understanding the gendered pay inequalities in which professional soccer in the USA operates, prior to the signing of the CBA agreement. Despite Judge Klausner's decision that the USWNT could not prove wage discrimination, there are clearly strong socio-cultural conditions that underpin the USWNT CBA that devalue and undermine women: the women had initially rejected a similar CBA to the one offered to the men's team, as noted in the legal proceedings. When we consider the average club earnings for male and female professional soccer players in the USA, it is apparent that a pay structure which prioritizes consistent income, as per the USWNT CBA, is the financially secure option *because* of the sociocultural conditions that elite women soccer players operate in. The increased precariousness of employment as professional soccer players for women is realized in lower pay, shorter contracts, and a smaller pool of professional teams.<sup>67</sup>

The notion that the women were paid more per game during the class period (\$220,747 per game versus \$212,639) neglects that in the same period, the women's team won two World Cup's. Thus, they are seemingly paying the price of success. Crucially then, whilst the women may have agreed to sign a different CBA, it is clear the economic argument is one that neglects the inherent discrimination women often face in both workplaces and in sport. The systematic undervaluing of sports-women, as well as the dismissal of their claim without due consideration for the sociocultural – and patriarchal – conditions they exist in, is a persistent problem faced by women in sport.

## Work conditions in women's football

The lawsuit insists that the women were not only paid less for equal work, but that the conditions afforded to them were inferior compared to their male counterparts. This aligns with the 2017 FIFPRO report that documents pay conditions, plus inconsistent and insecure workplaces in which women footballers operate.<sup>68</sup> In 2020, FIFPRO further note that adverse labour conditions still plague women's football, and conclude that 'action is needed to establish, implement and enforce global industry standards for working conditions in women's football – in both labour contracts and international competitions – to protect the players and enable the just, decent and stable growth of the industry'.<sup>69</sup> As Williams has argued, women's football remains separate and unequal, and at the elite level this is manifest in terms of both resources and prestige.<sup>70</sup>

Ambiguity exists between the growing professionalization of women's football and the precarious work conditions in which players operate.<sup>71</sup> The unpredictability associated with a career in football can be said to increase based on gender, as women's football is often considered a low priority for clubs and organizations in a profession that has devalued women for so long.<sup>72</sup> Whatever indices are considered outside of pay – including employment numbers and contractual status – women are faring worse than men.<sup>73</sup> Here, we consider the fringe benefits in the USWNT case such as maternity leave, childcare and health care. Fringe benefits are central when considering the workplace conditions for the USWNT, and women footballers more generally.

USWNT player Sydney Leroux stated she spent more in 2019 on childcare than she earned playing for her club, Orlando Pride in NWSL.<sup>74</sup> Aside from economic remuneration it is increasingly clear players are expected to choose between motherhood and a professional soccer career as there is no guaranteed paid maternity leave.<sup>75</sup> This is often referred to as the 'motherhood penalty'.<sup>76</sup> Arguably, the problem is that sport as a career choice is based on a male model and practices are based on the prevailing notion that women's true calling is motherhood, whilst a man's men's role is to be providers, and women athletes have to juggle motherhood and sport.<sup>77</sup> Childcare and maternity care are not the only work conditions that require attention. In the US Healthcare inequality is on the rise.<sup>78</sup> The Affordable Care Act (2010) was introduced to address healthcare gaps for women and other minority groups. However, women still do not have access to affordable, equitable healthcare. Women are at a financial disadvantage due to greater healthcare needs such as reproductive care.<sup>79</sup> In the world of professional soccer, injury and threat of injury are routine.<sup>80</sup> Previous research suggests added threats to the careers of women athletes include increased likelihood to suffer an Anterior Cruciate Ligament (ACL) injury compared to men.<sup>81</sup> Concernedly, this means without appropriate and efficient healthcare for professional women soccer players, both injury and recovery poses a danger to their career.

Overall, it is critical to note that the USWNT gave up the right to equal pay by accepting the best collective bargaining agreement possible. This though was in response to the USSF not offering a CBA that provides equal pay conditions, demonstrating systematic gender discrimination.

## Concluding statements

As Hutcherson noted, the USSF v. USWNT case is symbolic and its implications affect not only professional athletes, but many who are employed and rely on labour unions, CBAs and the like in the USA.<sup>82</sup> We conclude here that the symbolic meaning of the case will resonate across all of women's sport and beyond.

Women's status as athletes within professional sport is tenuous and precarious, and as we have evidenced here, this is prevalent in the biggest and most successful women's sport in the world.<sup>83</sup> In addition, there is a narrative around women's elite sport that positions women as lucky, grateful and happy to be 'included'.<sup>84</sup> US professional women soccer players have been granted access and some freedom from sexist and discriminatory policies that previously governed the sport, much like Pavlidis has argued regarding the AFLW in Australia.<sup>85</sup> However, unlike the women Pavlidis was referring to, the USWNT challenged the expected orientation that professional sportswomen should show gratitude, 'for opportunities women have been "given" and for inequitable pay and conditions'.<sup>86</sup> In so doing, they became the highest profile example of sportswomen challenging the system. However, for Masters, despite the case made by the USWNT, which 'should make for a perfect Equal Pay Act claim . . . all signs point to a loss'.<sup>87</sup>

Regardless of the result, the implications of the USWNT simply bringing forward the case, and shifting the narrative around women's sport and pay, stretch far beyond the USWNT, soccer and perhaps beyond sport. As Masters notes, star player Megan Rapinoe questioned: how do we support not only athletes but women in general?<sup>88</sup> In Spain, La Primera División Femenina players went on strike at the end of 2019 regarding the pay and conditions. Following more than a year of negotiations, in February 2020 players signed a collective bargaining (CBA) agreement

guaranteeing a minimum of 16,000 Euros – per year – for full time players, and 12,000 Euros for part time (those who dedicate 75% or less of their working time in football), alongside holiday, maternity and injury pay.<sup>89</sup> In January 2020, there was a renegotiation of the CBA in professional women's basketball in the USA, with the WNBA commissioner Cathy Engelbert proclaiming it a 'big bet on women'.<sup>90</sup> The WNBA announced that the 8-year CBA demonstrated a 53% increase in total cash compensation (including base salary, additional performance bonuses and prize pools), with an average salary of \$130,000.<sup>91</sup> Again, the proposed CBA did not just account for financial improvement, with travel and childcare benefits (full maternity pay, and a \$5000 annual childcare stipend) and expanded off-season career development opportunities included.

The *USSF v USWNT* dispute 'serves as a cautionary tale for future CBAs and contract negotiations within the labor context'.<sup>92</sup> Writing in this context, Hutcherson notes that greater clarity on all terms of the agreement and the processes for grievances are necessary to prevent any confusion and escalation of the issue. Here, however, we contend that the dispute serves as a cautionary tale in a different way – to the patriarchal structures inherent in sport. Women will only continue to further assert that their worth within elite sports cultures is valued. A culture within sport that can demonstrate it values its athletes – men and women equally – is one that can have a significant positive impact on both sport and society. Pavlidis notes that women's entrée in professional contact sports as paid athletes is having affects beyond corporate profits, documenting huge increases in grassroots participation for girls and women.<sup>93</sup> This is something that was evidenced following the 2019 World Cup, with England's Football Association announcing an increase of 850,000 committed women and girls participating in football.<sup>94</sup> So whilst a careful balance must be managed – one that negotiates positive developments for women in sport alongside issues of gender equality – there remains a need to identify and strive for greater parity in the value attributed to, and conditions afforded to, elite female athletes as they pursue their athletic goals. Indeed, if we are to continue the momentum of women's football and moving forwards in reducing gender inequalities in a 'new age' of women's sport,<sup>95</sup> there is an urgent need for the most successful women's team in the world to achieve 'equal play, equal pay'.

## Notes

1. Culvin, 'Football as work'.
2. FIFA, 'FIFA Women's World Cup'.
3. Clarkson et al, 'COVID-19 reflections'.
4. Havsy, 'National Women's Soccer League'.
5. ESPN, 'Coronavirus: FAWSL'.
6. Tomas et al, 'Special report'; Whyatt, 'Players demand reform'.
7. Hutcherson, 'Striker no striking!'.
8. Williams, 'A beautiful game'.
9. Myrdahl, 'Producing gender-normative spaces'.
10. Allison, 'Kicking center'.
11. *Ibid.*
12. Williams, 'A beautiful game'; Allison, 'Kicking center'.
13. Hutcherson, 'Striker no striking!'.
14. ESPN, 'USWNT lawsuit versus U.S Soccer explained'.
15. McCann, 'How USWNT's CBA'.
16. McCann, 'How USWNT's CBA'.
17. Fletcher and Yang, 'Updated USWNT lawsuit timeline'.
18. McElwee, 'Former USA goalkeeper'.
19. McCann, 'Key Elements in USWNT vs. U.S. Soccer'.
20. Federal Rules of Civil Procedure.
21. United states District Court, 'Economic expert damages report'.
22. United States District Court, Defendants memorandum.
23. Equal Pay Act, s206.
24. Civil Rights Act, s701(e).
25. Feldman, 'Collective bargaining'.

26. Alex Morgan et al v USSF, 2.
27. Ibid.
28. Ibid, 3.
29. Ibid, 13.
30. Ibid,13.
31. Ibid, 14.
32. Ibid, 16.
33. United states District Court, 'Economic expert damages report', paragraph 15.
34. Ibid, 16.
35. Electronic Code of Civil Regulations, 'Meaning of wages'.
36. Ibid.
37. Alex Morgan et al v USSF, 17.
38. Ibid, 17.
39. Civil Rights Act, s701(e).
40. Alex Morgan et al v USSF, 22.
41. Ibid, 25-26.
42. Ibid, 25.
43. Ibid, 26.
44. Ibid, 26.
45. Ibid, 26.
46. Ibid, 29.
47. Ibid, 31.
48. Sky Sports, 'USA Women to appeal'.
49. Hess, 'US women's soccer games now generate more'.
50. Cordeiro, 'Open letter'.
51. Cordeiro, 'U.S. Women's National Team compensation'.
52. Theberge, 'A critique on critique'; Messner 'Sports and male domination'.
53. Allison, 'Kicking center'.
54. Theberge 'Toward a feminist alternative'.
55. Roderick, 'A very precarious profession'.
56. Culvin, 'Football as work'.
57. Kohe and Purdy, 'In protection of whose well-being'.
58. Wong, 'Going pro in sports'.
59. FIFPRO, 'Women's global employment'.
60. Ibid.
61. FIFPRO, 'Raising our game', 6.
62. Ibid.
63. Levine, 'NWSL announces new 2020 competition guidelines'.
64. U.S. Bureau of Labour Statistics, 'May 2020'.
65. Major League Soccer Players Association, 'Salary Guide'.
66. Glass, 'Jeffrey Kessler on the USWNT'.
67. Culvin 'Football as work'; Clarkson et al, 'COVID-19 Reflections'.
68. Culvin 'Football as work'; FIFPRO 'Global employment report'.
69. FIFPRO, 'Raising our game'.
70. Williams, 'A beautiful game'.
71. Culvin, 'Football as work'.
72. Ibid.
73. Conor, 'Gender and creative labour'.
74. LoRé, 'What the NWSL can learn'.
75. Ibid.
76. Magid, 'As professional sports come back'.
77. McGannon et al, 'Juggling motherhood'.
78. Dickman et al, 'Inequality and the health-care system'.
79. Ibid.
80. Roderick, 'Adding insult to injury'.
81. Ireland, 'The female ACL'.
82. Hutcherson, 'Striker no striking!'.
83. Pavlidis, 'Being grateful'.
84. Culvin 'Football as work'; Pavlidis, 'Being grateful'.
85. Pavlidis, 'Being grateful'.
86. Ibid, 6.

87. Masters, 'Red card on wage discrimination'.
88. Ibid.
89. McElwee, 'Spanish women's footballers'.
90. Megdal, 'W.N.B.A makes "big bet on women"'
91. WNBA, 'WNBA and WNBPA reach tentative agreement'.
92. Hutcherson, 'Strikers no striking!', 216.
93. Pavlidis, 'Being grateful'.
94. FA, 'England's World Cup success'.
95. Petty and Pope, 'A new age'.

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## Bibliography

- Allison, R. *Kicking Center: Gender and the Selling of Women's Professional Soccer*. New Brunswick: Rutgers University Press, 2018.
- Clarkson, B.G., A. Culvin, S. Pope, and K.D. Parry. 'Covid-19: Reflections on Threat and Uncertainty for the Future of Elite Women's Football in England'. *Managing Sport and Leisure* (2020): 1–12. doi:10.1080/23750472.2020.1766377.
- Conor, B., R. Gill, and S. Taylor. 'Gender and Creative Labour'. *The Sociological Review* 63, no. 1\_suppl (2015): 1–22. doi:10.1111/1467-954X.12237.
- Cook, F. *Expert Economic Damages Report of Finnie B. Cook, PhD*.
- Cordeiro, C. 'Open Letter to Our Membership from U.S. Soccer President Carlos Cordeiro'. USSF, 29 Jul 2019a. <https://twitter.com/CACSoccer/status/1155951850685755394/photo/1>
- Cordeiro, C. 'U.S. Womens National Team Compensation & U.S. Soccer Investments in Women's Soccer'. USSF, 29 July 2019b. <https://twitter.com/CACSoccer/status/1155951910760796166/photo/1>
- Culvin, A. *Football as work: The new realities of professional women footballers in England*. (Doctoral thesis). University of Central Lancashire. 2019. <http://clouk.uclan.ac.uk/29714/1/2971420Culvin20Alexandra20Final20e-Thesis2028Master20Copy29.pdf>
- Dickman, S.L., D.U. Himmelstein, and S. Woolhandler. 'Inequality and the Health-care System in the USA'. *The Lancet* 389, no. 10077 (2017): 1431–1441. doi:10.1016/S0140-6736(17)30398-7.
- Electronic Code of Civil Regulations. Regulations Relating to Labor, the Equal Pay Act, "Meaning of Wages", Chapter 29, s1620.10, 1 July 1988. <https://www.govinfo.gov/app/details/CFR-1998-title29-vol4/CFR-1998-title29-vol4-part1620/context>
- ESPN. Coronavirus: FA Women's Super League and Championship Cancelled. *ESPN*, 25 May 2020a, <https://www.espn.co.uk/football/fa-womens-super-league/story/4096125/coronavirus-fa-womens-super-league-and-championship-cancelled>
- ESPN. USWNT Lawsuit versus U.S Soccer Explained: Defining the Pay Gaps, What's at Stake for Both Sides, *ESPN*, 3 Jun 2020b, <https://www.espn.com/soccer/united-states-usaw/story/4071258/uswnt-lawsuit-versus-us-soccer-explained-defining-the-pay-gapswhats-at-stake-for-both-sides/>
- Federal Rules of Civil Procedure. Motion for Summary Judgment, Rule 56(a), 1 December 2018, [https://www.uscourts.gov/sites/default/files/cv\\_rules\\_eff\\_dec\\_1\\_2018\\_0.pdf](https://www.uscourts.gov/sites/default/files/cv_rules_eff_dec_1_2018_0.pdf)
- Feldman, G. 'Collective Bargaining in Professional Sports: The Duel between Players and Owners and Labour Law and Antitrust Law', in *The Oxford Handbook of American Sports Law*, ed. M. McCann, 209–224. Oxford: Oxford University Press, 2018.
- FIFA. FIFA Women's World Cup 2019TM Watched by More than 1 Billion. 18 Oct 2019, <https://www.fifa.com/womensworldcup/news/fifa-women-s-world-cup-2019tm-watched-by-more-than-1-billion#:~:text=FIFA%20Women's%20World%20Cup%202019%E2%84%A2%20watched%20by%20more%20than%201%20billion,-18%20Oct%202019&text=A%20combined%201.12%20billion%20viewers,record%20audience%20for%20the%20competition>
- FIFPRO. Global Employment Report: Working Coniditons in Professional Women's Football. 2017. <https://www.fifpro.org/en/industry/women-s-global-employment-report/>
- FIFPRO. Raising Our Game. 2020. [https://www.fifpro.org/media/vd1pbtbj/fifpro-womens-report\\_eng-lowres.pdf](https://www.fifpro.org/media/vd1pbtbj/fifpro-womens-report_eng-lowres.pdf)

- Fletcher, J., and S. Yang. 'The Complete and Updated USWNT Lawsuit Timeline'. *SB Nation*, 3 Feb 2017, <https://www.starsandstripesfc.com/2017/2/3/14498152/complete-updated-uswnt-ussf-cba-negotiation-timeline>
- Football Association. England's World Cup Success Inspires Growth in Women's Football Participation, 5 Nov 2019 <http://www.thefa.com/news/2019/nov/05/womens-participation-growth-world-cup-051119#:~:text=England's%20World%20Cup%20success%20inspires%20growth%20in%20women's%20football%20participation&text=England's%20success%20at%20the%202019,in%20England%20now%20play%20football> .
- Glass, A. 'Jeffrey Kessler on the USWNT and Their Fight for Equal Pay'. *Forbes*, 1 Oct 2019, <https://www.forbes.com/sites/alanaglass/2019/10/01/jeffrey-kessler-uswnt-and-their-fight-for-equal-pay/#22b5cd7cd78b>
- Havsy, J. 'National Women's Soccer League to Host Tournament in Utah'. *USA Today*, 27 May 2020, <https://eu.usatoday.com/story/sports/soccer/2020/05/27/national-womens-soccer-league-to-host-tournament-in-utah/15265386002/>
- Hess, A.J. 'US Women's Soccer Games Now Generate More Revenue than Men's – But the Players Still Earn Less'. *CNBC*, 19 Jun 2019, <https://www.cbc.com/2019/06/19/us-womens-soccer-games-now-generate-more-revenue-than-mens.html>
- Hutcherson, D. 'Striker No Striking! U.S. Soccer Federation Inc. V. U.S. Women's National Soccer Team Players Ass'n: A Clearance in the Courtroom'. *Sports Lawyers Journal* 26 (2019): 109–139.
- Ireland, M.L. 'The Female ACL: Why Is It More Prone to Injury?'. *Orthopedic Clinics* 33, no. 4 (2002): 637–651. doi:10.1016/S0972-978X(16)00023-4.
- Kohe, G.Z., and L.G. Purdy. 'In Protection of Whose "Wellbeing?" Considerations of "Clauses and A/effects" in Athlete Contracts'. *Journal of Sport and Social Issues* 40, no. 3 (2016): 218–236. doi:10.1177/0193723516633269.
- Levine, M. 'NWSL Announces New 2020 Compensation Guidelines'. *NWSLSoccer.com*, 1 Nov 2019, <https://www.nwslsoccer.com/news/article/nwsl-announces-new-2020-compensation-guidelines>
- LoRé, M. 'What the NWSL Can Learn from the WNBA's New Collective Bargaining Agreement'. *Forbes*, 25 Feb 2020 <https://www.forbes.com/sites/michaellore/2020/02/25/what-the-nwsl-can-learn-from-the-wnbas-new-collective-bargaining-agreement/#4c770b853d89/>
- Magid, J.M. 'As Professional Sports Come Back, Members of the US Women's Soccer Team are Still Paid Less than the Men's'. *The Conversation*, 29 June 2020, <https://theconversation.com/as-professional-sports-come-back-members-of-the-us-womens-soccer-team-are-still-paid-less-than-the-mens-139453>
- Major League Soccer Players Association. Salary Guide. 13 Sept 2019, <https://mlsplayers.org/resources/salary-guide>
- Masters, H.L.E. 'Red Card on Wage Discrimination: US Soccer Pay Disparity Highlights Inadequacy of the Equal Pay Act'. *Vanderbilt Journal of Entertainment & Technology Law* 22, no. 4 (2020): 895–922.
- McCann, M. 'How USWNT's CBA, EEOC Impact New Equal Pay Lawsuit'. *Sports Illustrated*, 8 Mar 2019, <https://www.si.com/soccer/2019/03/08/uswnt-lawsuit-us-soccer-equal-pay-cba-eoc-gender-discrimination>
- McCann, M. 'Key Elements in USWNT Vs. U.S. Soccer: 2021 CBA Talks, the Hope Solo Case and More'. *Sports Illustrated*, 11 May 2020, <https://www.si.com/soccer/2020/05/11/uswnt-lawsuit-trial-appeal-hope-solo-case-cba-us-soccer>
- McElwee, M. 'Spanish Women's Footballers Secure Historic League-wide Contracts following Strike'. *The Telegraph*, 19 Feb 2020, <https://www.telegraph.co.uk/womens-sport/2020/02/19/spanish-womens-footballers-secure-historic-league-wide-contracts/>
- McElwee, M. 'Former USA Goalkeeper Hits Out at Current Side and Says 'We Have to Stand up Together and Be Strong and Make Sacrifices''. *The Telegraph*, 13 Jan 2021, <https://www.telegraph.co.uk/football/2021/01/13/hope-solo-accuses-us-womens-national-team-not-enough-fight-equal/>
- McGannon, K.R., J. McMahon, and C.A. Gonsalves. 'Juggling Motherhood and Sport: A Qualitative Study of the Negotiation of Competitive Recreational Athlete Mother Identities'. *Psychology of Sport and Exercise* 36 (2018): 41–49. doi:10.1016/j.psychsport.2018.01.008.
- Megdal. 'W.N.B.A Makes "Big Bet on Women" with a New Contract'. *The New York Times*, 14 Jan 2020, <https://www.nytimes.com/2020/01/14/sports/basketball/wnba-contract-collective-bargaining-agreement.html>
- Messner, M.A. 'Sports and Male Domination: The Female Athlete as Contested Ideological Terrain'. *Sociology of Sport Journal* 5, no. 3 (1988): 197–211. doi:10.1123/ssj.5.3.197.
- Myrdahl, T.M. 'Producing Gender-normative Spaces in U.S Women's Professional Soccer', in *Stadium Worlds: Football, Space and the Built Environment*, ed. S. Frank and S. Steets, 195–212. London: Routledge, 2010.
- Pavlidis, A. 'Being Grateful: Materialising 'Success' in Women's Contact Sport'. *Emotion, Space and Society* 35 (2020): 1–6. doi:10.1016/j.emospa.2020.100673.
- Petty, K., and S. Pope. 'A New Age for Media Coverage of Women's Sport? An Analysis of English Media Coverage of the 2015 FIFA Women's World Cup'. *Sociology* 53, no. 3 (2019): 486–502. doi:10.1177/0038038518797505.
- Roderick, M. 'A Very Precarious Profession: Uncertainty in the Working Lives of Professional Footballers'. *Work, Employment and Society* 20, no. 2 (2006a): 245–265. doi:10.1177/0950017006064113.
- Roderick, M. 'Adding Insult to Injury: Workplace Injury in English Professional Football'. *Sociology of Health and Illness* 28, no. 1 (2006b): 76–97. doi:10.1111/j.1467-9566.2006.00483.x.

- Sky Sports. USA Women to Appeal Court Ruling on Equal Pay after Settlement on Working Conditions Approved. 13 Apr 2021. <https://www.skysports.com/football/news/28508/12273760/usa-women-to-appeal-court-ruling-on-equal-pay-after-settlement-on-working-conditions-approved>
- Theberge, N. 'A Critique of Critiques: Radical and Feminist Writings on Sport'. *Social Forces* 60, no. 2 (1981): 341–353. doi:10.2307/2578439.
- Theberge, N. 'Toward a Feminist Alternative to Sport as a Male Preserve'. *Quest* 37, no. 2 (1985): 193–202. doi:10.1080/00336297.1985.10483834.
- Tomas, F., K. Whyatt, and M. McElwee. 'Special Report: As Men's Sport Clamours to Restart, How Women's Sport Is Being Abandoned'. *The Telegraph*, 29 May 2020, <https://www.telegraph.co.uk/womens-sport/2020/05/29/special-report-will-see-game-womens-team-sport-will-damage/>
- United States Bureau of Labor Statistics. May 2020 National Occupational Employment and Wage Estimates United States. [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)
- United States District Court. For the Central District of California Western Division, Case Number 2:19-cv-01717, Economic Expert Damages Report of Finnie B. Cook, Ph.D, 4 February 2020a, <https://reason.com/wp-content/uploads/2020/05/WNT-Damage-Calculations.pdf>
- United States District Court. For the Central District of California Western Division, Case Number 2:19-cv-01717, Defendant's Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Partial Summary Judgment, 30 March 2020b, <https://assets.documentcloud.org/documents/6807270/USSF-Arguments.pdf>
- United States District Court. For the Central District of California Western Division, Case Number 2:19-cv-01717-RGK-AGR, Alex Morgan Et Al. V. United States Soccer Federation, Inc. 1 May 2020c, [http://www.justsecurity.org/wp-content/uploads/2020/05/Morgan.USSF.\\_opinion.pdf](http://www.justsecurity.org/wp-content/uploads/2020/05/Morgan.USSF._opinion.pdf)
- United States Equal Employment Opportunity Commission. *The Equal Pay Act of 1963*, <https://www.eeoc.gov/statutes/equal-pay-act-1963#:~:text=To%20prohibit%20discrimination%20on%20account,Equal%20Pay%20Act%20of%201963.%22>
- United States Equal Employment Opportunity Commission. *Title Vii of the civil Rights Act of 1964*, <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964>
- Whyatt, K. 'Players Demand Reform and 'Real Professionalism' on Cancellation of Women's Serie A', *The Telegraph*, 9 June 2020 <https://www.telegraph.co.uk/sport/2020/06/09/sports-return-lockdown-australian-state-fans-stadiums-covid/>
- Williams, J. *A Beautiful Game: International Perspectives on Women's Football*. Oxford: Berg, 2007.
- Women's National Basketball Association. WNBA and WNBPA Reach Tentative Agreement on Groundbreaking Eight-year Collective Bargaining Agreement, 14 Jan 2020 <https://www.wnba.com/news/wnba-and-wnbpa-reach-tentative-agreement-on-groundbreaking-eight-year-collective-bargaining-agreement/#:~:text=NEW%20YORK%2C%20Jan.,the%20league's%20Board%20of%20Governors>
- Wong, G.M., W. Zola, and C. Deubert. 'Going Pro in Sports: Providing Guidance to Student-athletes in a Complicated Legal & Regulatory Environment'. *Cardozo Arts & Ent. LJ* 28 (2010): 553–608.