

SOCIAL PSYCHOLOGY, CALAMITIES, AND SPORTS LAW

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I. INTRODUCTION

This article will ponder the role of situational pressures, fundamental attribution errors, and legal frameworks in how professional sports actors respond to the threat and occurrence of calamities. Both natural and manmade threats to American health are likely to rise over the next decade. Such threats may include catastrophic weather, natural disasters, terrorist attacks, and communicable disease pandemics. In response to these threats, professional sports leagues (“leagues”), professional athletes (“pro athletes” or “players”), fans, and media might engage in unprecedented behavior.

Consider, for instance, increasingly devastating weather patterns, and how they might animate leagues to relocate franchises to cities with more favorable forecasts. The same outcome might arise in the wake of a natural disaster or a terrorist attack. Similarly worrisome, a contagious-disease outbreak abroad might lead to scouting and signing restrictions on foreign players. Closer to home, a disease pandemic or a terrorist attack on a pro sporting event might trigger an in-

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definite cessation of operations.

Professional athletes appear likewise vulnerable to league-transformative responses. For instance, persistent weather effects in the Gulf States might devalue opportunities to play for teams in New Orleans, Tampa Bay, and Miami. Such an effect may already be evident: the National Football League (“NFL”) and National Football Players’ Association (“NFLPA”) are contemplating economic incentives that would facilitate the New Orleans Saints’ assuagement of players reluctant to live in a post-Katrina New Orleans. Incidental and deleterious effects, such as the development of property stigma and the exacerbation of racial or cultural tensions, only intensify situational reluctance. Similar, yet amplified, phenomena might arise should terrorist attacks diminish the appeal of playing in targeted cities. The same might be said in the wake of a disease pandemic: players may refuse to travel or protest to play with persons from certain geographies and cultures.

Fans and media are, of course, just as likely to alter their behavior in response to the threat and occurrence of calamities. Most obviously, they may resist attending games should they perceive a sufficient possibility of harm, a phenomenon evidenced during the outbreak of Severe Acute Respiratory Syndrome (“SARS”) in 2003. On the other hand, they appear strikingly willing to endure catastrophic weather and natural disasters in order to attend games. Furthermore, they are generally tolerable of intrusive and delaying antiterrorism impositions, such as “pat-downs” and meddling screenings.

Studying the behavior of professional sports actors invites inquiry into the potential effects of judgment errors. Social psychologists and a growing number of legal academics have identified the prevalence of cognitive biases and heuristics in human thinking. Cognitive biases and heuristics are “mental shortcuts” that enable individuals to manage a complex array of stimuli, yet they often distort decision-making in unappreciated ways. Cognitive biases and heuristics comprise part of a broader defect in human perception known as the fundamental attribution error, or a tendency to attribute a causal role to easily-observable yet minimally-influential occurrences, while simultaneously failing to appreciate highly-influential defects in thinking. As a result of the fundamental attribution error, situational happenings—especially those that are dramatically obvious, such as startling weather events, horrific terrorist attacks, and contagious dis-

eases—can meaningfully influence attitudes, memories, cognitions, emotions, and behaviors in unperceived ways.¹

These phenomena beg an obvious question for legal scholars: Can the law be used to mollify the cognitive distortions and situational influences affecting professional sports actors, and can it direct them towards socially-preferred behavior? For instance, can cities employ stadium agreements to prevent weather-weary team owners from hastily relocating their franchises? Can players be contractually-enticed to ignore or discount situational reservations? Can players of foreign nationality contest heightened, possibly xenophobic restrictions on their employment? Can fans contest invasive searches of their body upon entering stadiums? Can media refuse to attend games without jeopardizing their employment?

Broader implications of the same phenomena are even more engaging. Namely, in light of the diversity of American sports, might we consider the behavior of professional sports actors in crisis a bellwether for American behavior in crisis? That is, might a radical change in professional sports operations reflect a radical change in American attitudes and beliefs?

With these questions in mind, this Article will examine external threats to American sports, related situational influences, and past and potential behavioral responses. It will also explore legal safeguards to potentially deleterious behavioral responses, and conclude with general thoughts on professional sports as a proxy for American self-conception.

II. CATASTROPHIC WEATHER, NATURAL DISASTERS, AND PROFESSIONAL SPORTS

In 2005, Americans watched in awe of Mother Nature. Striking with extraordinary fury, Hurricane Katrina devastated New Orleans and the southern coasts of Mississippi and Alabama. The Category 5 hurricane killed 1,321 persons, and displaced over 2 million from their homes.² To date, Katrina has caused over \$150 billion in damages.³ The striking inability of government actors—at the local, state,

1. See generally Jon Hanson & David Yosifon, *The Situational Character: A Critical Realist Perspective on the Human Animal*, 93 GEO. L.J. 1 (2004) [hereinafter Hanson & Yosifon, *The Situational Character*].

2. See Spencer S. Hsu, *Brown Blames Superiors for Response to Katrina*, WASH. POST, Feb. 11, 2006, at A01.

3. *Id.*