

## **A STUDY OF SOURCES OF LAW OF SPORTS ORGANIZATION AUTONOMY - A CROSS COUNTRY COMPARISON BETWEEN TAIWAN AND TURKEY**

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### **Abstract**

The concept of sports governance has become more and more popular in recent years and has received considerable attention in practice and academia. From institutional theory to environmental dynamics, it is considered that the governance structure of the organization is to coordinate external pressures and interact with other organizations, regulatory environments, and systems, especially laws and regulations. The purpose of this study is to analyze the sources of law of sports organizations autonomy in Taiwan and Turkey. Turkey and Taiwan are very similar in the structure and environment of sports governance. And Turkey is better than Taiwan in terms of the competitive performs participation of international sports and the holding of mega sports events. Therefore, this research analyzed the content and changes of relevant laws and regulations of Taiwan and Turkey on the basis of document analysis and uses relevant government documents and announcements as a source of data analysis. This study found that Turkey has passed the Sports Association Autonomy Act in 2004 and many associations have completed self-government. However, there are still rooms for Turkish Sports organizations of autonomy. There are two issues of autonomy of Turkish Sports organizations, board elections and funding. Turkish Sports organizations are still highly relying on the funding of government and have the government-appointed person in the supervisory members of the association. In contrast, after the 2017 Taipei Universiade, Taiwan was under pressure from public opinion, and the government amended the National Sports Law. It stipulates that the association should have a transparent electoral system, open participation for the whole people, and amendments to the player selection system. It seems that the part of Taiwan's regulations is more perfect than the Turkish regulations and more in line with the spirit of good governance. However, such reforms are also making people worried about the government's excessive involvement in the association. Good governance is like a road without an end, and many developed countries are still moving towards this goal. Taiwan and Turkey have also undergone reforms and gradually move toward a good governance path. However, in order to achieve the goal of good governance, in addition to the improvement of the regulatory environment, what more important is the attitude of the leaders and the public to the sports organization. First of all, we must publicize the concept of good governance, and establish a sound organizational structure and organizational charter. Furthermore, through the constraints of external stakeholders, the entire sports organization network can be more stable. The fulfilment of good governance of sports can also be possible.

**Keywords:** sport governance, law, reform, sports organization, NPOs.

## **1 INTRODUCTION**

The concept of sports governance stems from the concept of administrative governance. However, sports governance is more special than general governance. In addition to vision, strategy, efficient organization, management, and supervision, there are anti-doping, sports betting and gambling and other policies that protect the diversity and equality of children and adults (Sport and Recreation Alliance, 2011). For sports organizations, sports governance is not only regulatory processes and procedures, but also ethical processes and procedures designed to ensure that sports organizations are managed and developed in an efficient and fair environment (Sport and Recreation Alliance, 2011). In short, sports governance is an organization's power and resource allocation, decision-making, power and responsibility in division of shareholders, and performance and risk management in the process of achieving organizational goals. The adoption includes a series of dynamic processes to ensure that the organization meets legal and environmental needs, sets strategic direction and policies, establishes high-level policy and performance management, identifies and monitors risk management, and monitors and evaluates organizational performance. (European Commission, 2013; Ferkins & Shilbury, 2010, 2015; Sport and Recreation Alliance, 2011; Sport New Zealand, 2014).

The goodness of sports governance affects the achievement of organizational goals and the pursuit of performance. If the organization can establish a complete and transparent institutional process and effectively communicate organizational goals, it will solve many problems for the organization. At the same time, in its interaction with shareholders, power and resource allocation can be more equal.

The Australian Sports Commission (2012) pointed out that sports governance is primarily concerned with three issues: how an organization develops its strategic goals and direction; how an organization's board of directors manages organizational performance to ensure that it achieves organizational strategic goals, including how it is set up, the efficiency of the system in line with legal and ethical standards; and the third one is ensuring that the board operates in the best interests of the organization's members. Sawyer, Bodey, and Judge (2008) argue that sports governance can be broadly discussed in terms of both macro and micro perspectives. The former refers to the interaction between sports organizations and the environment and the maintaining of sound agreements and good relationships with other organizations. While the later is the internal structure of the organization and maintains its daily management operations. Shilbury and Ferkins (2011) also divided sports governance into two levels, namely governance within the organization and governance across organizations. Ferkins, Shilbury, & McDonald (2005) pointed out that sports governance is influenced by environmental dynamics, and can discuss the public relations of sports organizations, media censorship, shareholder needs, regulatory environment and national structure from a macro perspective, and sources of fundraising, project attractiveness, organization members, volunteers, and employee relations within the organization from a micro perspective.

In the past, most of the research on sports governance explored the structure, motivations and the composition of the board, while other research focused on shared leadership and the function of the board. There is very few research explored- exploring the impact of the regulatory environment on the governance of sports organizations from a macro perspective. Although many scholars have mentioned the external shareholders of sports organizations and even the impact of the regulatory environment on the goodness of sports governance, few studies have addressed the external environment. Ferkins et al. (2005) believe that the above governance themes are under the umbrella of the external governance environment. Therefore, to explore and analyse the results of different governance models from different legal environments, we can further understand the governance structure of a country in a complete and systematic way.

The external dynamic environment of sports governance includes government, regulations, and other external shareholders. Non-profit sports organizations mostly rely on government support; the government also needs to implement its sports policy through non-profit sports organizations to achieve the goal of promoting the national sports and cultivating competitive players. Therefore, the government and non-profit sports organizations have formed a network governance relationship (Hsiung & Cheng, 2014). However, the International Olympic Charter stipulates that governments should not interfere with the National Olympic Committees of all countries. Sports organizations need to maintain their autonomy while also maintaining good partnerships with governments. According to the research of Canada and Switzerland, Hayhurst and Frisby (2010) pointed out that non-profit sports organizations believe that the government has the responsibility and obligation to specifically support the development of sports through financial support, and therefore is reluctant to be fully financially autonomous. It can be seen that the partnership between the non-profit sports organization and the government is both close and delicate. The regulatory environment will also affect the implementation of national sports policy and campaign governance. The autonomy of the sports organization cannot be separated from the government's norms, nor can it lose its autonomy. It is also

quite challenging to make the balance.

There are many similarities between the autonomous process of sports organization in Taiwan and Turkey. Taiwan's non-profit sports organization was established after the declaration of martial law ended in 1987. In the past, non-profit sports organizations often played two functions and roles during the authoritarian system. The first was to promote the national prestige and practice the national sports policy goals. Due to Taiwan's special international status, non-profit sports organizations also played a role in assisting Taiwan to break through diplomatic difficulties and use sports activities to expand the diplomatic space for international friendship (Huang, 2007). Non-profit sports organizations are often appointed as leaders by the relevant departments of the authoritarian government, but the development of these non-profit sports organizations is often hindered once the government resources or funding subsidies are lost or important leaders are replaced. In addition, non-profit sports organizations reflect the unique "authoritarian-servant" relationship in the authoritarian government period, and become the pawn of the government to control or draw local relationships. Local sports associations often become places for exchanges of power and interests, controlling the funds allocated by authoritarian governments. With the transformation of democratization, different political forces and leaders have different policy plans for non-profit sports organizations. Therefore, non-profit sports organizations also have disputes between old and new forces (Huang, 2007). The non-profit sports organizations in Taiwan often rely too much on the government's resource input or financial subsidies. For a long time, non-profit sports organizations have lacked the ability to develop independently (Chang, 2002; Huang, 2007).

However, under the process of democratization, non-profit sports organizations have more responsibilities, but relatively speaking, they have not received more resources and subsidies. However there are many problems still to be solved. Sports Administration of the Ministry of Education of Taiwan (2013) also pointed out that Taiwan's non-profit sports organizations still have shortcomings in the human resources, economic financing and activities. In addition, under the system led by the Secretary-General, the functions of the board of many sports organizations cannot function properly. The unclear role of the board also leads to poor governance performance, and resources and funds cannot be used in the most efficient way (Yeh, Hoye, & Taylor, 2011).

Taiwan's governance environment and structure are special. Like Germany, Japan and the Netherlands, it is a governance model of the two-track board. It consists of the board of directors in charge of administering and the board of supervisors responsible for supervision. The board of directors and the board of supervisors have equal status. However, the Civil Organizations Act does not set detailed rules for the duties of the boards (Yeh, Taylor, & Hoye, 2009). Yeh et al. (2011) also pointed out that Taiwan's regulatory requirements for sports organizations are not clear, affecting the performance of the board's input and the degree of strategic involvement. In addition, due to cultural differences, Chinese society pays more attention to the "relationship" between people. Therefore, although there are organizational regulations and norms in sports organizations, in practice, the role of "people governance" is still influential than "mechanism" (Hsiung & Cheng, 2014).

In Turkey, after the establishment in 1923, under the leadership of Atatürk, Turkey moved towards a modernized country with a comprehensive westernization and secularization. Under a series of reforms, sports and sports organizations started to develop. In 1936, sports governance and policy formulation was under control of the Turkish Alliance of Training Associations. Until 1938, the Turkish Sport Association was established, and the central government began to regulate the formulation of sports policies. In 1942, the General Directorate of Physical Education affiliated with the Ministry of Education of Turkey was established and ruled any sporting activities in Turkey. This included policy development, physical education, teacher development, and other areas involving sports until 1960. However, from 1960 to 1965, the Turkish Sports General Administration was placed under the Prime Minister, making the Turkish sports development more centralized. Beginning in the 1970s, the Turkish Ministry of Youth and Sports began to master Turkish sports. Under the "sport for all" program, Turkey began to recognize that sport is a very important part of national policy. The promotion campaign was integrated into daily life, and sports began to organize in 1973. It was not until 1982 that sports became a constitutional guarantee for the first time and promoted the concept of sports and physical and mental health to all ages in Turkey. In addition, it began to protect outstanding athletes. In 1986, Turkey began to encourage sports professionalism. In addition, sports organizations and clubs began full financial and administrative independence, enterprisalization and local administration. Since 2001, sports affairs have been managed by the Ministry of Youth Sports and the General Directorate of Sports (Fişek, 1998; Tinaz, Turco, & Slisbury, 2014). It can be seen that the development of sports in Turkey seems to be quite supported by the government. However, the autonomy of sports associations has been the most controversial issue in Turkey for many years, and government intervention in sports is also evident (Erturan, Brison, & Allen, 2012).

From the above, it can be seen that the development processes of sports organization in Taiwan and the Turkish are quite similar, and there are many similar problems in the governance of the two countries. However, the autonomy of the Turkish sports organizations is earlier than that of Taiwan, and Turkey's experience in the development of international sports and the holding of big sports events is better than that of Taiwan. Therefore, this study analysed the laws of the two countries, explored the impact of the external environment on the governance and autonomy of sports organizations, and understood the spirit of the autonomy of organization under the government's legal norms. The results of this study can be used as the basis and reference for follow-up research.

## **2 METHODS**

This study used document analysis and content analysis that is commonly used in social sciences. It is an indirect investigation method by systematically reviewing, organizing, and interpreting various documents, looking for causal relationships in their separate events or activities, and developing a route to understand the present and to predict the future. The documents of this study were the laws and regulations of Sports organizations and federations. Researchers analysed Law of Youth and Sports Services, General Assembly of Youth and Sports Organization of Sports Federations, General Directorate of Youth and Autonomous Sports Federations Framework Status, The State of Youth and Sports Authorized Sports Federations Changing Status, General Directorate of Sports The Federation Chair Selection Regulation from Turkey and National Sports Act from Taiwan. After the translating and analysing, researchers can understand the current situation and differences between Taiwan and Turkey under the influence of different governance environments. And find out the governance dilemma of the two sides, and clarify the possible strategies for the future, so as to facilitate the follow-up research to continue to explore.

## **3 RESULTS**

### **3.1 The National Sports Act in Taiwan**

The National Sports Act is the highest-level law in Taiwan's sports-related laws. It can be said that it is the mother law of sports in Taiwan. After the publication in 1929, it has undergone 11 revisions until 2017, becoming the latest version. Among the versions published in 2013, only Article 8 refers to the establishment of sports organizations, and its content was not very detailed. The content of the treaty was "All kinds of public welfare sports organizations established by the people according to law shall be subject to the guidance and assessment of the competent authorities." and " When sports organizations promote sports affairs, they shall handle them in accordance with the provisions of relevant international sports organizations and their articles of association; the competent authority of government may formulate relevant measures for the sound operation of sports organizations." In the version released in 2016, only the words "the assessment project of the preceding paragraph should include the planning of popular participation" added under Article 8. There was not much substantive progress. However, the amendments in 2017 were the largest in all years. They not only included sports equal rights, protection of player rights, sponsorship contract specifications, and sports dispute arbitration institutions, but also set the special chapters for specific sports groups to adjust relevant operational mechanisms. In addition, the school sports, national sports, competitive sports and the management of specific sports groups were revised, and new laws were amended to promote the development of all-round institutionalization (Executive Yuan, 2017).

The amendments of the National Sports Act in 2017 focused on four principles: "organizational openness", "financial transparency", "professional operation", and "business openness". First of all, in the section of "Organizational Openness", it is stipulated that the number of sports players should be added in to the members of board. The current or former national team athletes shall not be less than one-fifth of the total number of board members. At the same time, based on the principle of avoidance, first-degree affinity or third-degree relatives may not be a director or supervisor of the same specific sports group at the same time. In addition, the statute also prohibits politicians from acting as supervisors, directors, etc., and can improve the influence of sports organizations on parties or on authoritarian politics.

"Transparency" is the key to the good sports governance. This revision also strengthened the standardization of the financial auditing system in the "financial transparency" section, including the need for self-employed accountants to check, and the allowance for the central competent authority to send staff or commission accountants to check their financial statements, financial reports, internal controls and other matters with the impartial of sports organizations. Specific sports organizations should cooperate with the provision of relevant materials and must not evade, hinder or refuse. It is required that specific sports organizations must announce annual advances, final accounts, and government subsidies, and establish a financial disclose on their official website. Although this norm was also used in the Civil Organizations Act in the past, the implementation situation has always been unsatisfactory (Hsiung, 2015).

The third principle was the "Professional Operation". The new law stipulates that the Secretary-General or the Deputy Secretary-General of a particular sports organization should employ talents with physical education or management experience. At least one of them must have majored in sport. In accordance with the nature of the business, experts, scholars or members of the public are invited to set up special committees such as training, coaching, refereeing, discipline and athlete committees. However, other research found that the "sports profession" is not a component of the board of directors, and some research results suggested that the higher the heterogeneity of board members are, the more resources the organization can obtain. Scholars also explained from the perspective of social network theory that it is found that network members have high heterogeneity and weak tie, which can create more bridge resources for organizations. Conversely, networks with high homogeneity can share and transmit information with each other. (Burt, 1992; Granovetter, 1973; Hsiung, 2015; Nelson, 1989). Nevertheless, the establishment of an arbitration mechanism as mentioned in the amendment to the new act is indeed part of a good sports governance. It means that the organization needs to establish a special mechanism for sports dispute arbitration to deal with disputes between players, coaches or specific sports organizations, and protect the right of relevant personnel.

The last principle "business openness" emphasized that sports organizations need to implement a visit evaluation system, and conduct professional knowledge guidance and assistance in accordance with objective performance evaluation and for unqualified projects of specific sports organizations. This item is also related to the "responsibility" in good governance, that is, it is subject to the review of the public and is responsible to shareholders.

According to the above four principles, it can be found that the content of this revision is not only in line with the sports policy formulated by the Sports Administration of the Ministry of Education of Taiwan (2013), but also in line with the trend of good sports governance in various countries. The amendments to the National Sports Act emphasized the care of athletes and coaches and other shareholders, and enhanced the degree of participation in the operation of the board of directors, which is in line with the connotation and spirit of good governance. In addition, the amendments to the new act also stipulated the financial transparency and credibility of sports organizations. These two items have always been the most difficult part of the sports organization. In the past, there was regulation, but corruption, unclear accounts, and financial non-disclosure still existed. It can be seen that although this act was passed, how to implement it in the future is still the biggest challenge (Wang, 2017). However, in the amendments to the new act, it is more likely that the government's excessive interference in elections and the structure of the board of directors might cause the problem of an autonomy of sports organizations.

### **3.2 The laws and acts in Turkey**

Turkey has undergone several revisions of its laws, especially in 1993, when Turkey passed Act No. 3289, and the chairman of the Sports Federations was elected to have a democratic electoral system. Prior to this, the chairmen of the Turkish Sports Federations were appointed by the Director of the General Administration of Sport, with the consent of the Prime Minister. However, this change has made the sports organizations a symbolic and important democratic process, because the elected governor is granted the same rights as the government-appointed secretary-general (Erturan & Sahin, 2014). There are about 9,000 sports organizations in Turkey, including 56 autonomous federations, 4 non-self-governing organizations under the General Administration of Sports, and a fully autonomous Turkish Football Federation.

When it comes to the autonomy of the Turkish Federations, there are two main issues, the board elections and funding. Turkish regulations require members of the board of the federation to be elected, with the consent of the Director of General Administration, and finally confirmed by the Prime Minister. The bureaucracy of the Turkish government and the inefficient government management has hindered the development of the Turkish sports development. It can be seen that Turkey's early sports governance environment was not healthy. In 2004, Turkey adopted the Sport Act, which emphasized the decentralization of sports organizations, shaped the autonomy and democracy of the current Turkish sports organizations in resource allocation and decision-making process, and made sports federations more financially and administratively autonomous (Erturan & İmamoğlu, 2011; Erturan et al., 2012).

However, most of the funding for these federations relies on government subsidies (GSB, 2014). The General Administration can give the Olympics federations' total of 75 per cent of the actual recipients in the previous year and 50 per cent of the non-Olympic federations. However, the activities and business of the autonomous association are subject to the supervision of the relevant departments of the General Administration. Erturan and Sahin (2014) explored the political clientelism in Turkish sports federations and pointed out that the operation of the Turkish sports organizations has rooms of autonomy in the management, operational and financial levels. At the management level, the elections of sports

organizations sometimes are being intervened by the government. As for the financial levels, the study explored that the municipality owns 40% of the teams of the Turkish Volleyball League, and the teams have the title of municipality directly under the government. At the operational level, the study pointed out that many non-profit sports organizations were also subject to political interference in the selection of national team players and coaches.

In addition, Erturan and Sahin (2014) found that many cities in Turkey have held sports competitions of different levels, different scales and different kinds of sports. In the course of these competitions, the distribution of political rights and financial influence are everywhere. Some respondents pointed out: "Some people will think that "this is my event, it is my contribution." In this way, more votes can be obtained." In the financial part, the study also found that the Turkish sport federation received government subsidies; there are problems such as uneven resource allocation and the superiority of sports federations in some projects (Erturan & Sahin, 2014). For example, after the end of the Rio Olympics, the General Administration reviewed several federations that did not perform as expected and stated that they would dismiss the chairman and board members of the failed federation. This also showed the laciness of autonomy. This result is the same as that of Hsiung (2015) for Taiwan's non-profit sports organizations. However, the study pointed out that the political clientelism is not only happening in Turkey, but also in many European or Eastern European countries. In particular, the Turkish sport governance mode is the most similar to France, and is dominated by the government. Therefore, this is a global issue.

In addition, the Turkish law also stipulates that the federation is under the jurisdiction of the General Administration of Sport, and if necessary, the government can be consulted. Therefore, in Turkey, we can also see the debate of elections of sport federations in the parliamentary, which is not seen in Taiwan. However, Turkish regulations have repeatedly mentioned that athlete's participation in the operation of sports federations, or protection of the rights of athletes, etc. is very important in sports governance but rarely seen in Taiwan. Although Turkey's sports governance seems to be getting better and better under the protection of numerous laws and regulations, this study points out that there are still quite a few autonomous sports federations that have been administratively and financially intervened by the government and cannot operate independently. Most federations still accept government subsidies.

#### **4 CONCLUSIONS**

This study found that Turkey's history of sports governance is similar to that of Taiwan, and the problems and dilemmas encountered are also very similar. Non-profit sports organizations reflect the transition from authoritarian regimes to democracy, and at the same time provide the role of public finances for the government. Although the laws of the two countries have different norms for the autonomy of sports organizations, the ultimate goal is to help the sports organizations to autotomize with the assistance of the government and create greater contributions to the development of the national sports. Turkey's sports development has been booming in recent years. The competitive sports also have a good performance in the international sports arena. In addition, Turkey has actively bid for many big sport events and has become the first Islamic and Middle Eastern countries to bid for the Olympics. It can be seen that the Turkish sports organization has gradually found a balance of survival. However, despite repeated amendments to the law, which stipulates the democratization of the federations, the electoral mechanism, and fiscal transparency, the Turkish sports federations are more or less dominated by the government. In contrast, Taiwan was controlled by the authoritarian government in the past and then controlled by the family or a few people. Therefore, after the adoption of the law in 2017, Taiwan's sports organizations are expected to move toward the direction of good governance, but there is still a concern of that they can also go back to the government's path of excessive intervention.

All in all, in the networks of mutual governance, sports organizations and governments have caused problems of power inequalities because of mutual resources. In addition, the key to the autonomy of sports organizations lies in the funds. If the organizations complete financial autonomy is controlled less by government subsidies, the autonomy of the organization will be more thorough. However, because these sports organizations are non-profit, it is difficult for the organization to increase its revenue. In addition, the organization shoulders the responsibility of promoting the campaign for the government. It is also normal to receive government subsidies. However, it is the biggest challenge for Taiwan and Turkey's sports organizations to accept government subsidies without losing their autonomy.

#### **ACKNOWLEDGEMENT**

This work was funding by Ministry of Science and Technology in Taiwan (107-2410-H-004 -203 -)

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