

Fair Treatment Through Comparative Justice

Lance Armstrong and others continue to push for a version of “truth and reconciliation,” in which major contributors to corruption in professional cycling might receive amnesty in exchange for a full confession. While such admissions and information might broaden our understanding of the doping era, automatic amnesties will only benefit a few selfish individuals at the expense of many others. However, if a real truth and reconciliation commission (TRC) is held, they might get the fairness that they’re asking for, though perhaps not exactly as they envision.

We hope that the Union Cycliste International (UCI) is able to springboard from its planned independent commission on into a TRC – so that the discoveries of the independent commission cannot be co-opted by a few individuals, or be used to deliver an incomplete story of cycling’s sordid recent past.

Let’s assume that the logistical difficulties and reticence on the part of many stakeholders can be overcome, and the UCI does progress forward to a true TRC. It is first important to remember that a TRC never promises amnesty to its participants. Amnesty can be *earned* if – after the testimony of all parties has been provided – the commission’s members find that an individual participant’s attestations helped to understand the past and bring closure to historical wrong-doings.

TRC proceedings do this through what is best described as “comparative justice.” Comparative justice levels the legal playing field in a way that transcends our crime-and-punishment ideology; rather than using a conventional criminal code, the participants in TRC provide the basis for a resolution of the situation themselves, by self-admitting what each “player” contributed to the “game.” All people and testimonies are treated equally and respectfully in this process; every admission is important because it builds the big picture of *how* the game was played.

Only when the full story of the game is known, and only after the Commission has compared the testimonies and the actions of the participants to each other, can any one person be judged for their individual actions when the game was played. And in a TRC, the worst offenders usually single themselves out.

For all those who doped just to retain their place in a team, amnesty is probably a safe bet. Clear the air, clear the conscience and share the story so that a similar situation doesn’t have to be faced by future athletes. However, for those who enabled the mechanisms of doping and corruption – the doctors, the self-made gurus, the team managers and alleged cycling officials who helped build a self-sustaining system that recruited riders in, and spit many of them out – there are varying degrees of shared guilt that have to be judged more harshly. The same might hold for those who *thought* they had to dope just to be on the same playing field. Amnesty may be a tough sell for some, an easy call for others.

But for those few who encouraged doping, created programs that helped them and their

collaborators dope better, and who went out of their way to ruin the lives of those who stood in their way or threatened to lift the lid on the deception, there will likely be nowhere to hide. And probably not just for the worst conspirators of the modern era, but also those who earlier paved the way.

Assuming that such adverse findings are indeed made by the TRC, there are several outcomes or restitutions which may result. First, for serious but lesser offenders, there may be different types of deferred amnesty offered, where full amnesty can eventually be granted but only after certain conditions are met. Second, there may be instances where amnesty is denied, but where it can be later achieved via various reparations – including the payment of financial penalties or fines, suspension from the sport for a specified period of time, or various forms of public service. But there may also be situations where true amnesty is simply deemed impossible. For example, there is a European concept known as "lustration," which involves a permanent banishment from the position or field the person has corrupted, to prevent them from victimizing anyone else there in the future. However, in general, TRCs are very forgiving; generally speaking, no one goes to jail,* but some may only be given a very long road back, if anything.

A truth and reconciliation process is not about redemption; it is never held in the interests of just one person. It gives equal voice to the victims and the perpetrators, who together share responsibility in how the TRC plays out. The process aims to heal a damaged society and lay to rest the strife of the past, so that future participants in the society have a fair stake and honest opportunities in what it becomes.

There could be dangerous moments for professional cycling in a truth and reconciliation process. For example, what if a group of individuals colludes to testify with similar stories, filled with half-truths or deceptive statements so as to skew the outcomes in their favor? Could these players cheat the game again? If the UCI is to convene a successful TRC, it must be sure of its evidence and demonstrate strong impartiality to all the participants – even in the face of potentially damning new discoveries. It will take a very special tribunal to get it right, but if successful, the process could be a spectacular story that permanently changes sports.

* There is a synopsis of the case of murdered South African activist Chris Hani in 1994, noted in our full report – *A Roadmap to Repair Pro Cycling* at <http://theouterline.com/wp-content/uploads/2013/10/The-Outer-Line-A-Roadmap-to-Repair-Pro-Cycling.pdf>

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By Joe Harris & Steve Maxwell, November 16, 2013