

ROAD TO RIO

4: Human rights and labour violations in sport



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“Blending sport with culture and education, Olympism seeks to create a way of life based on the joy of effort, the educational value of good example, social responsibility and respect for universal fundamental ethical principles. The goal of Olympism is to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity. The practice of sport is a human right. Every individual must have the possibility of practising sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play.”

Fundamental Principles of Olympism

Sport’s capacity for promoting human rights is well understood. The UN has long since recognized the possibilities for sport as a force for good in promoting development, well-being, peace and human rights (see for example [2000 United Nations Millennium Declaration](#) (General Assembly Resolution 55/2)). The Olympic ideals embrace those possibilities.

However, as is clear for all to see, the creation of the infrastructure necessary to host large sporting events often depends upon the exploitation of vulnerable workers. Qatar, due to host the FIFA World Cup in 2022, and its treatment of migrant workers employed in the building of football stadia and other facilities is a contemporary and troubling example. Qatar (widely regarded as an unlikely place for a football tournament) is said to be the richest country in the world, with the highest GDP, but is highly dependent for its economic growth and development on migrant workers. Its treatment of migrant workers is characterized by the prevalence of forced labour, notwithstanding that the ILO Forced Labour Convention, 1930 (C.29) is, ironically, one of the very few (6) ILO Conventions that Qatar has ratified. Migrant workers are generally compelled to enter a labour market which is highly exploitative of them and which allows for the extortion of forced labour by their employers, including through contract substitution, the imposition of recruitment fees (for which many take out large high interest loans), passport confiscation, and sponsorship laws (kafala) which make it difficult for migrant workers to leave abusive employers. This is so despite repeated criticism of them from international bodies, including the ILO and the UN supervisory bodies

(Observation (CEACR) - adopted 2015, published 105th ILC session (2016); A/HRC/26/35/Add.1; CERD/C/QAT/CO/13-16).

There are also reportedly widespread human rights violations taking place in Rio in the lead up to this year's Olympics, including by evictions, police violence and poor labour conditions.

Host countries sometimes too have viciously hostile laws which may affect athletes who wish to compete at such events and fans who may wish to attend such events. The backdrop to the Sochi winter Olympics in 2014, in particular Russia's homophobic laws and the silencing of LGBT activists, was contrary to both the Fundamental Principles of Olympism and to international non-discrimination standards (eg, Article 26, [International Covenant on Civil and Political Rights](#) (1966), *Toonen v Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994) (Human Rights Committee); Communication No 941/2000: "Human Rights, Sexual Orientation and Gender Identity" AG/RES. 2435 (XXXVIII-O/08) (and "Human Rights, Sexual Orientation and Gender Identity" AG/RES. 2504 (XXXIX-O/09)). Following the Sochi debacle, in a letter to prospective bidders for the 2022 [Winter Olympics](#), the International Olympic Committee stated that a condition of eligibility for 'host city status' is an express commitment to the principle of non-discrimination. The specific anti-discrimination clause in the applicable host city contract reads: "Any form of discrimination with regard to a country or a person on grounds of race, religion, politics, gender or otherwise is incompatible with belonging to the Olympic movement". However, it remains to be seen how compliance with this express commitment by future host cities will be monitored, and how any failure to live up to the fundamental principle of non-discrimination will be sanctioned.

Closer to home, concerns have been expressed about the pressures put on children to perform at a high level in sports, risking damage to their physical and mental health and their educational opportunities, and the risks of sexual abuse posed by the closed conditions in which they often train. These raise straightforward child protection issues and the UN Convention of the Rights of the Child will require states to introduce appropriate protective measures (see, Articles 3, 19, 29, 31, 32 and 36). Much has been done in this area (see, for example, the Child Protection in Sport Unit (CPSU)) but no doubt there is no room for complacency.

Perhaps more challenging is the question whether by permitting sports which have as their object, or inevitable consequence, the causing of physical damage to another person, the state is in violation of the positive obligations inherent in, for example Articles 3 and 8 ECHR, and international labour standards. Some sports in which children participate are recognized as inherently abusive to them: camel racing (common in the Gulf states where child-jockeys are favoured), for example, has been castigated as an example of one of the worst forms of child labour (under ILO C.182). For adult sports, however, boxing, an Olympic sport, is the paradigmatic case.

The criminal law of England and Wales and the ECtHR has had to grapple with the question whether a person can lawfully consent to the infliction of deliberate harm. The "spanner" cases are the most well known and concerned the deliberate infliction of physical injury and pain in pursuit of (sado-masochistic) sexual pleasure. According to Lord Templeman in the majority in the House of Lords, "[i]n principle there is a difference between violence which is incidental and violence which is inflicted for the indulgence of cruelty. The violence of sado-

masochistic encounters involves the indulgence of cruelty by sadists and the degradation of victims. Such violence is injurious to the participants and unpredictably dangerous. I am not prepared to invent a defence of consent for sado-masochistic encounters which breed and glorify cruelty ...Society is entitled and bound to protect itself against a cult of violence. Pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilized” (R v Brown [1994] 1 AC 212). Apparently not boxing, however. This is because exceptions to this piece of legal policy are made in the case of “organised sporting contests” which are otherwise lawful (Brown; R v Barnes [2005] 1 Cr App R 30). To the extent that the prosecution of those involved in the criminalised sado-masochistic activities might interfere with the right to respect for private life under Article 8, according to the ECtHR that was justified in essence for the reasons given by the House of Lords (Laskey and O’rs v UK (1997) 24 EHRR 39).

It may seem strange to some that the pursuit of sexual pleasure in private is less worthy of respect as a matter of public policy than punching the lights out of another in pursuit of sporting glory (and usually financial reward).

It remains to be seen whether boxing will one day be seen to “glorify cruelty” and promote a “cult of violence” so that the law will outlaw it. To do so would, in the author’s view, properly protect against the damage done by repeated punches to the head to those who may be tempted into boxing as a response to limited opportunities elsewhere.

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