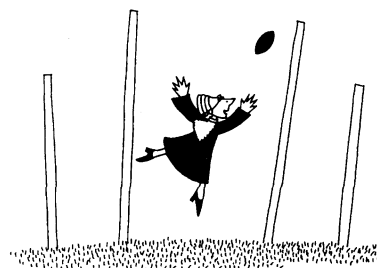


SPORT AND THE LAW

Sport and Human Rights: Closer than you think

SARAH JOSEPH



People who whinge about the importance placed by Australians on sport just don't get it. Sport is pure joy ... like watching John Aloisi score a penalty to put Australia through to the World Cup for the first time in 34 years. Sport is cruel, as it has been for St Kilda supporters in watching two losing grand finals, interspersed with an oh-you-can't get-any-closer draw, to continue a 44-year premiership drought. Sport is loyalty ... like explaining to my young nephew why he just *can't* switch sides when watching a Grand Final. Sport is history ... like the Boston Red Sox breaking the 86 year 'curse of the Bambino' by winning baseball's World Series in 2004 (and I wonder if Red Sox fans secretly miss their 'specialness', now that the curse is broken. The Chicago Cubs on the other hand ...). And once one looks beneath all of the emotions, sport is sometimes about human rights.

The Commonwealth Games were just held in Delhi. We heard a lot about the supposed substandard state of the facilities, the likelihood of terrorism (more on which, below), and eventually, Australia's high medal count. We heard a lot less about the human rights impacts on the people of Delhi from the holding of the Games. Child labour, appalling working conditions resulting in deaths, the city's poor unceremoniously evicted and hidden behind walls during the Games ... the Commonwealth Secretariat had little to say about these matters. And clearing people out of the way to make way for mega events is not new: the same occurred for the Olympics in Beijing in 2008. Indeed, there were reports of police harassment of young people and the homeless in the wake of the Sydney Olympics.

On the Beijing Olympics, I can't help but wonder whether the world missed a chance with China to prompt some meaningful human rights change in that country. Yes, I know all the arguments about not mixing sport and politics. And an Olympic boycott, having seen three between 1976 and 1984, is a downer. But perhaps some pressure could have been applied in the early days after China was awarded the Games. Certainly, it was too late by the time 2008 dawned, as seen by the nationalistic backlash within China against protests aimed at the Olympic flame as it made its way around the world. But, in principle, is it really wrong to suggest that some sort of human rights guarantees should be built into an award of the Games to a country? At least perhaps a guarantee that human rights are not violated *because* of the Games?

After all, sporting boycotts can play their role in the expression of disapproval of a State's human rights record, and perhaps even in convincing that State to change its ways. South Africa had to contend with numerous boycotts beyond sport, and it is difficult to isolate the precise causes behind the decision to abandon apartheid. But it must have hurt that sport-loving country to not be able to play cricket, or rugby, or indeed any game against other States. There were rebel cricket tours, but

they can't have been particularly satisfying given the number of has-beens on those teams. Mind you — sport boycotts have to pick their target. I doubt Burma would care too much about a boycott of its teams. But if the international community ever really wanted to push Australia on a human rights issue ... a sporting boycott could be remarkably effective!

It is worth briefly commenting in this post-September 11 world that sporting events are believed to be a particularly attractive target for terrorists. So far the effect of terrorism on sport has been more disruptive (such as greater security at events and the relocation of the Indian Premier League cricket to South Africa for a season) rather than devastating, with tragic exceptions such as the attack in Pakistan on the Sri Lankan cricket team, the attack on the Togo soccer team en route to the African Cup of Nations in Angola, and, long before September 11, the bomb at the Atlanta Olympics and the murders of 11 members of the Israeli team at the Munich Olympics. Indeed, perhaps we can be proud of how safe sporting events have in fact been despite the spectre of terror being raised before every major event. It was speculated that there was an 80 per cent chance of a terrorist attack in Delhi during the Commonwealth Games ... there were none.

Moving from the mega event to the individual, sportspeople have suffered for their conscience. Australian sprinter Peter Norman famously supported his fellow medallists, Americans Tommy Smith and John Carlos, in their iconic black power salute at the medal presentation for the 200m men's sprint at the Mexico City Olympics. Instead of being congratulated for his stance against racism, Norman was never selected for the Olympics again. Smith and Carlos were similarly punished by US athletics bodies. Two brave Zimbabwean cricketers, Andy Flower and Henry Olonga, protested against Robert Mugabe by wearing black armbands and publicly mourning 'the death of democracy'. They have been charged with the capital crime of treason and are effectively exiled from their country. Some on the Iranian soccer team donned green wristbands in a World Cup qualifier in 2009 in open support for the beleaguered Iranian opposition: the consequences for those footballers are still playing themselves out but, at the least, their careers are not looking so rosy. Thankfully the Australian Cricket Board took a more enlightened stance in not punishing Stuart MacGill when he pulled out of a tour of Zimbabwe in protest against that country's human rights record. And other Australians have impressed by taking a stand, such as Ian Roberts, still the only openly gay current or ex-player from either of Australia's major football leagues. Furthermore, the refusal by AFL players such as Nicky Winmar and Michael Long to tolerate racial abuse in the 1990s has led directly to the current situation at AFL grounds, where racial abuse is effectively policed by the crowd itself.

A contemporary and perhaps less obvious human rights issue, to my mind, is the drug testing code imposed by the World Anti Doping Authority ('WADA'). It is of course necessary to test participants in sporting contests for performance enhancing drugs, as those drugs interfere with the integrity of a competition. But why do WADA and affiliated sporting institutions test for illicit non-performance enhancing drugs? Why should athletes have to subject themselves to blood or urine testing for substances that do not impact on their performance, or which impact detrimentally on it? Is that not an invasion of their human right to privacy? WADA's stated reasons are threefold. First, illicit drugs are against 'the spirit of sport'. Well, yes. But they are also against the spirit of teaching, and teachers and university lecturers are not routinely tested. They are also against the spirit of leading, but politicians are not tested either. Secondly, they 'adversely affect health'. True, but that seems a tad paternalistic. Do they test for cheeseburgers too? And illicit drugs affect everybody's health, not just sportsmen and women. Finally, there is the 'role model' argument. Sportspeople are hardly the only role models: what about parents, TV, music and movie personalities, teachers, firemen and school prefects? Children may have a special fondness for sporting heroes, but

I doubt that justifies invading those heroes' privacy in order to continuously prove to those children that they are worthy. Of course there is no 'right' to take illicit drugs. But a right to privacy, to my mind, could easily entail a right to refuse, without penalty, to give randomly demanded samples with regard to substances that have little impact on one's sporting abilities. Yes, opponents will argue that only those with something to hide will refuse. However, taken to its logical ends, that is an argument against privacy as a concept.

Some may argue that sport is ephemeral, trivial, and too much of a preoccupation in Australia. But the naysayers are wrong. Most importantly, it is fun; but sport is also important, it does have its impacts on human rights ... and vice versa.

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