



The Human Cost of Going for Gold

by Sydney Prince, J.D. Candidate 2021 | Queen's University

This article is a light-weight version of the author's paper written in April 2021 for her "Introduction to International Sports Law" class at Queen's University.

The opinions expressed are those of the author. They do not necessarily correspond to the SDRCC position on any of the issues.

Every two years, for 16 days, global attention turns to one country hosting athletes of the world. In recent years, accompanying this celebration of decorated athletes at the Olympic games though, has come reports of labour abuses, repression of freedom of speech, resident evictions and much more. As a result, human rights issues and mega-sporting events like the Olympics have become synonymous. In recent years the International Olympic Committee ("IOC") has begun to take steps to address these issues, but the question is whether the steps they have taken will be effective in practice and what further steps should be taken to safeguard human rights in the relation to the Olympic Games.

History of Human Rights & the Olympics Games

The history of human rights abuses stemming from the Olympic games have been more prevalent in recent years due to increased media attention, but these issues have been long intertwined with the history of the games. These human rights abuses can be divided into two categories, (1) "political human rights issues", and (2) Human Rights in the Context of the Olympic games.

Political Human Rights Issues

The IOC has long been cautious in interfering with a host

country's actions that are not directly related to hosting the games. Most recently media attention has turned to the Beijing 2022 games. Global concern has been raised over Uighurs (a Muslim minority group) that have been detained in camps, which the Chinese government have insisted are "vocational educational and training centres". Many are imploring the IOC to take action in response to these reports, but the IOC's statements have been that they can only protect human rights in the context of the games, and no further. This poses the question of when these "political human rights issues" become invariably linked to the Olympics, especially by supporting that country hosting the games, and broadcasting a positive image of that country to the world.

Human Rights in the Context of the Olympic Games

The IOC has recently committed to addressing human rights issues that arise in relation to the Olympic games. This is a step forward for the IOC and Olympics, as various human rights violations, specifically regarding violations of labour rights, forced evictions and repressions of civil rights have been reported over the last six Olympic games alone. Some examples include:

- Recently a Global Union Federation report, found employees in constructing the venues for the 2020 games (now 2021) in Japan have experienced dangerous working conditions, long working hours, and an inadequate complaint system;
- In Brazil a report by the activism group, Comit  Popular called "Rio 2016 Olympics: The Exclusion Games", claimed that 4,120 families lost their homes to the

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construction of the venues for the Rio games, with complete communities being removed; and

- For the 2008 Olympic games, Beijing failed to deliver on its pledge to fully lift restrictions for foreign journalists, preventing journalists from entering some regions of China, and prohibiting them from reporting on certain topics.

And the above are only a few examples of many violations that have occurred in the context of the games.

Implementation of Human Rights Clauses in Host City Contracts

The Olympic Agenda 2020 made specific recommendations regarding protecting human rights in relation to the Olympics moving forward. In implementing this agenda two clauses were added to new Host City Contracts starting with the contract for 2024, both addressing protecting and addressing human rights in a manner consistent with international agreements, law and regulations applicable in the Host Country as well as with all international human rights standards and principles, applicable in the host country. An identical clause was also to the Candidature Questionnaire during the Host City bidding process, signed by the government of the Candidature Country providing a guarantee that all necessary measures will be taken so that all activities related to the organization of the games comply with the provision.

Effectiveness of Provisions

As they stand the new provisions are a step in the right direction forcing the parties involved to address Human Rights, but without further addressing gaps in the provisions and taking further steps in conjunction with the provisions, they are unlikely to have as large of an effect as intended.

Contractual Provisions

As various scholars have addressed the problem with these contractual provisions and guarantees is that the wording of the new clause limits the Human Rights obligations to those applicable in the host country, and not all Host Countries are bound by the same Human Rights obligations under National or International Laws. Further, the reporting mechanism currently proposed provides little oversight beyond what has al-

ready been the practice for previous games. Finally, while the new provisions seem to impose a positive obligation on the signing parties to protect human rights and remedy any violations, there is no remedy or enforcement mechanism for third parties under the contract or directions on creating one, just that the parties to the Host City Contract should remedy any violations. This leaves the parties to the contract a bit at loose ends, as to what their actual duties are.

Areas not Addressed

The addition of the human rights provisions also fail to implement a remedy mechanism for those who rights have been violated. The provisions focus on creating an obligation to help prevent human rights violations but are silent on providing remedies where individuals rights are violated. The new provisions are also silent on what the IOC has considered “political human rights issues”.

Scholar Recommendations

One of the most prevalent recommendations is that an independent human rights committee be set up with inherent authority over Olympic human rights issues. An independent body could help prevent any abuses by one of the HCC contracted or affiliated parties through “continued oversight of the games, providing effective procedures for fielding grievances, and ensuring victims have monetary and injunctive relief for their suffering.”

My Recommendation

I believe to truly address the issue of human rights in the context of the Olympics more extreme steps should be taken. The games should be viewed holistically in light of other issues regarding the inordinate cost of the games and their overall sustainability. To truly address human rights and the other issues surrounding the games, the Olympics in conjunction with other major global sporting events, should choose one winter and one summer venue location and build the required infrastructure needed for any mega-sporting event. This would eliminate human rights issues associated with evictions and labour violations as the infrastructure is only built once rather than for each mega-sporting event, and either through location selection or private governance it could be ensured that freedom of the press/speech would not be violated.

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SDRCC Roster Member Profile: Learning More About our Arbitrators and Mediators

They come from every region of Canada and have extensive experience in alternate dispute resolution and sports-related issues, but how much do we really know about them? The SDRCC has an impressive list of **58** mediators and arbitrators and we will slowly be introducing you to some of them through our regular installments of “SDRCC Roster Member Profiles”. In this edition we would like to present, **JJ McIntyre, Arbitrator from Vancouver, British Columbia.**



What led you to a career in ADR

I never set out to be an arbitrator or mediator. I was a lawyer who liked to go to court. After leaving a large firm and establishing a small criminal and civil litigation practice more than twenty years ago, I was approached by lawyers practising maritime law if I would arbitrate their disputes. I discovered that I liked being a neutral decider and mediator of disputes. That request eventually led to my becoming a Fellow of the Chartered Institute of Arbitrators and my appointment as an arbitrating member to a number of national and international dispute resolution organizations. On the sports side, I was athletic and played multiple sports but was never a star or an elite athlete. When my daughters expressed an interest in playing team sports, I became a qualified community coach, which led to becoming president of a community soccer club. An off-hand comment to a friend about a doping case led to my appointment to an advisory panel to the CCES which was being set up by the Canadian government to handle athlete doping issues, and then to assisting a number of national sporting federations and other sports bodies, athletes and coaches with disciplinary issues, decision making processes and team selection disputes. I was encouraged to apply to become an SDRCC arbitrator. I applied and was accepted.

Area of Expertise:

As an arbitrator -commercial disputes particularly those involving contracts for the transportation of goods, purchase and sale agreements, and construction issues. As a

litigator - criminal and environmental matters, civil litigation other than transportation industry matters (in order to maintain neutrality) and disciplinary hearings before regulatory professional bodies.

As an Arbitrator with the SDRCC, I...

...am honoured to continue to serve the sports community and with a community of like-minded decision makers all of whom strive to uphold fairness and integrity in Canadian sport. Regardless of our backgrounds, whether as a competitive elite athlete or from community involvement we understand the commitment of athletes to their sport and to the volunteers and professionals that not only support them in their endeavours but also to their sport generally.

Favourite Sport(s):

My favorite sports are soccer and ski cross. As a participant, one of my favorite activities is ocean kayaking and expeditions. In a kayak you feel like you are part of nature.

Dispute Prevention Tip for Athletes and Federations:

Transparent processes for team selections are necessary to avoid disputes. Sport Federations need to make sure that the persons making decisions as to team selections, including the criteria for such selections are qualified to do so. Athletes need to keep themselves informed as to the criteria and object at the time criteria are established if they think the adoption of the same is unfair. ■

In our next edition, look for the profile
of an SDRCC Med/Arb.

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While a contentious recommendation (and not a novel one), when weighed with the benefits to global human rights, reduced cost of putting on the games, and reduction of waste in relation to abandoned venues it better addresses the longevity and spirit of the Olympic Games. ■

*To read the full original version of this article,
with references:*

[http://www.crdsc-sdrcc.ca/eng/documents/
SydneyPrince_SportsPaper_Final.pdf](http://www.crdsc-sdrcc.ca/eng/documents/SydneyPrince_SportsPaper_Final.pdf)



The SDRCC team wishes all Canadian athletes all deserved successes at the Tokyo Olympic and Paralympic Games !!!

SDRCC Increasingly Trusted to Resolve Safe Sport Complaints

The SDRCC Dispute Resolution Secretariat has seen a significant increase in cases pertaining to harassment and abuse. A number of NSO safe sport officers have referred cases to the SDRCC, sometimes even before commissioning a formal investigation. During the 2020-2021 fiscal year, where appropriate and whenever all parties were in agreement, early resolution facilitation has been the method of choice for seven of these cases. Two other cases were filed as med/arb requests. In six of these nine cases (66%), the parties resolved their issues by way of a voluntary settlement agreement. Of course, not all these situations are resolvable cordially, and therefore two requests were withdrawn following unsuccessful attempts to reach an agreement. At the time of publication, one case was still in progress.

It is noteworthy that the settlement rate recorded so far is higher than the usual settlement rate for other types of cases. Some NSOs that turn to the SDRCC for these dispute resolution services may have very well saved precious resources by avoiding formal investigations, disciplinary hearings or internal appeals. To adapt to the demand, the SDRCC recruited more mediators with specialized experience in these types of cases, and sought to enhance its mediators' skills in addressing these delicate situations by offering a session on mediating harassment and abuse cases at its recent conference. ■

First SDRCC Virtual Mediator and Arbitrator Conference held successfully!

The pandemic has changed the life of many and the SDRCC did not escape from this reality. For the first time since its inception, the Centre held its Mediator and Arbitrator Conference virtually on May 6-8, 2021. The event also marked the orientation and onboarding of new roster members as well as the launch of the Women in Arbitration Mentorship Program.

In total, the event brought together 97 participants and guest speakers from across the country. The program included stimulating sessions and discussions on various topics, including the new Safeguarding and Doping division rules as well as independence. As usual, the highlight of the conference program was the "Hear it from the Clients" panel session, during which members of the sport community discussed their recent experiences with COVID-19 disrupting team selection and carding processes.

For this year's edition, the SDRCC opted to not offer a public component to its event, and reserved it exclusively for roster members, board of directors and staff. While the goal for the next conference in 2022 is to host it in person in Saskatoon, a public program will be available, whether in person or virtual.

Stay tuned for details on the Fall 2022 Conference. ■

Notable Dates :

- September 7, 14 and 21, 2021 - Webinars on athlete identification and selection (Advanced Coaching Diploma).

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