

Research on the Legitimacy of Sports Sanctions Against Russia from The Perspective of International Law

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Abstract

In today's era, in order to alleviate tensions between countries, promote exchanges between countries, stimulate national economic development, and build a community with a shared future for mankind, sports need to play a role. However, when international sports organizations organize sports undertakings, they will be affected by political factors and personal preferences, which will infringe on the basic human rights of athletes in various countries. In the context of the "Russia-Ukraine conflict", the International Olympic Committee and related sports organizations announced the cancellation of most sports events in Russia and imposed sports sanctions on it internationally. It is contrary to the relevant principles of the Olympic Charter and international human rights law, as well as to the United Nations programme for the development of sport. In view of this, this paper studies the legitimacy of sports sanctions, and proposes ways to achieve legalization, such as the concept of "depoliticization of sports" to guide sanctions, strengthen the global awareness of sports human rights protection, and improve the sports human rights relief mechanism, which is conducive to building a fair and just international sports competition order and promoting the development of human rights protection in the field of sports.

Keywords

Sports sanctions, athletes' rights and interests, legality of sanctions, and protection of human rights.

1. The Raising of the Issue

Recently, the Russian government unilaterally announced the launch of a large-scale "special military operation" against Ukraine. In response, many countries and international organizations in the international community quickly expressed their condemnation. For example, "Within a few days after the incident, the United States, the United Kingdom, Canada, the European Union, and Australia successively issued investment and travel bans against Russia, imposed sanctions on relevant individuals and entities in Russia, and restricted the export of military and high-tech products to Russia." In addition, the international sports community also responded to this. International sports organizations such as the International Olympic Committee imposed sanctions on Russia, such as banning participation and revoking qualifications, to express their opposition to the "special military operation". Similarly, there are long-standing historical contradictions between Russia and the international sports community. In particular, the "doping incident" at the 2014 Sochi Winter Olympics further intensified the trust crisis of international sports organizations towards Russia, leading to more severe sanctions.

Sports sanctions, as one of the means of political games in the modern sports field, had its predecessor - sports boycotts - in the last century. As the basic form of political confrontation in the sports field, sports sanctions later became an upgraded mode of political confrontation in the sports field in terms of intensity. The initiators are mainly international sports

organizations (such as the International Olympic Committee), and state entities cooperate. "The 'sports sanctions' mentioned here do not refer to the general and technical penalty measures within the sports field, nor do they refer to the penalty provisions listed in the Olympic Charter for individual athletes and teams, referees, and jury members, etc." As a new type of sanction measure, sports sanctions are closely related to international politics. Powerful countries exert pressure by restricting the sports development of other countries, forcing the other side to make political concessions, so as to obtain political interests and strengthen their own international discourse power.

Although sports sanctions are usually initiated by international sports organizations and seemingly target the sports community of the sanctioned country, this measure inevitably damages the legitimate rights and interests of athletes and is even more detrimental to the protection of their basic human rights. It can be seen that the decisions of international sports organizations are gradually revealing contradictions: the conflict between rules and practice, and the disconnection between concepts and human rights. More importantly, the sports sanctions imposed on Russia are not simply for maintaining fairness and justice in the sports field, but are closely related to political factors, which not only intensify the damage to the fair competition environment of sports, but also cast doubt on the political neutrality of international sports organizations. The concept of the Olympic Charter is to promote progress through sports, and the task of international sports organizations is also to promote peace and cooperation, protect basic human rights, and prevent sports from being politicized. However, the sports sanctions against Russia lack a clear legal procedure. The sanctions are implemented without a fair and reasonable procedure, making it difficult for the sanctioned athletes to seek effective remedies, and the damage suffered by some athletes may be permanent. It can be seen that the sanction behavior lacking procedural guarantees has problems in terms of its own legitimacy.

Therefore, starting from the reality of sports sanctions, it is particularly important to deeply explore the issue of their legitimacy. At the level of international law, the concept of "depoliticization" of international sports organizations should be clarified, and efforts should be made to make the Olympic Charter adapt to modern international law. At the same time, attention needs to be paid to the protection of athletes' human rights, and ways should be explored to better integrate international human rights law with the sports cause, so as to ensure that while sports rules guarantee fairness and justice, they can also comply with the framework of international human rights law. In addition, clarifying the specific procedures for sports sanctions and proposing a reasonable path to legalize sanctions are important steps to address the current deficiencies in the rules and will help fill the gaps in the existing system.

It should be noted that the above content only translates the text you provided and does not represent any position of this translation. The situation between Russia and Ukraine is complex, and there are multiple influencing factors and background information behind it. It is recommended to view relevant issues from multiple angles and aspects.

2. The Legitimacy Crisis of the International Olympic Committee's Sports Sanctions against Russia

In the current context of globalization, sports play an important role in promoting exchanges between countries and the construction of a community with a shared future for mankind. However, when international sports organizations manage sports undertakings, issues such as political factors and personal biases still exist. The sports sanctions imposed against the backdrop of the "Russia-Ukraine conflict" not only violate the principle of political neutrality of the Olympic Charter and the principle of international human rights protection, but also, to a certain extent, deprive athletes of the sanctioned party of their means of redress. Given that

these sanctions are illegal both in substance and in procedure, the international community has taken notice of the negative impacts caused by these sanctions and is also pondering whether political conflicts will have an impact on domestic sports undertakings. If such behavior is not defined and considered, over time, the harmony and stability of the international community will be damaged to a certain extent, and it may also give rise to a new international practice: "Using sports sanctions as a means to make up for losses in political games."

2.1. The Lack of Awareness of Protecting Sports Human Rights

"Over the same 50 years, we have witnessed the explosive professionalization, globalization, and even 'gigantism' of sports as a commercial, political, and legal undertaking." It has played an undeniable role in the changes of the world situation. However, with the development of sports, the importance of protecting sports human rights has become increasingly prominent. As a competitive activity that connects countries and promotes peace and friendship, sports takes the lead in protecting athletes' human rights and demonstrating the banner of human rights. To achieve the goal of ceasing wars and maintaining peace through sports, we also need to recognize the fundamental importance of human rights in society, rather than isolating one side from the framework of the world sports system.

Firstly, in terms of protecting athletes' human rights, when the IOC adopted sports sanctions against Russia, it failed to fully consider athletes' right to participate in competitions and their human rights and freedoms, resulting in the violation of sports human rights. According to international human rights law, everyone has the right to participate in sports competitions equally, regardless of their nationality, race, or gender. The IOC's sports sanctions targeted the entire Russian sports community, and athletes were deprived of the opportunity to participate in sports events just because of their Russian nationality. This not only destroys athletes' lifelong pursuit of their dreams but also deals a blow to the concept of equality for all in the world and violates the right of everyone to participate in sports competitions equally as stipulated in international human rights law. More importantly, such behavior deviates from the spirit of fairness, respect, and unity that sports competitions should uphold and has a negative impact on the entire sports community.

Secondly, in demonstrating the concept of human rights protection worldwide, international sports should play an active role in the field of human rights because of the unique position of sports in international consciousness. The negotiation, hosting, rewards, and punishments of sports events attract billions of viewers globally. Sports promotes development and peace, and we should also recognize the "unique power" of sports to "attract, mobilize, and inspire". Sports law scholars Matthew J. Mitten and Hayden Opie pointed out that "Sports is an important cultural phenomenon in countries around the world, with the unique ability to attract, entertain, inspire, and challenge people globally... The combination of extensive media coverage and strong public interest provides great power for conveying educational information to diverse global audiences." (Footnote 6N...145.151) However, this unjust sports sanction has undoubtedly had a negative impact on the cause of human rights. Political pressure has infiltrated human rights protection, making international sports organizations, which should have played an exemplary role, the main culprits of ignoring human rights.

Finally, even though there is the right to sports stipulated in the Charter of Sport adopted by UNESCO, the sports rights of Russian athletes have been ignored in this sports sanction. From the perspective of the sanctioned party, this sanction compulsorily deprives athletes of their right to participate in competitions fairly, restricts their freedom to participate in competitions, and violates athletes' sports rights. At the same time, sports sanctions may lead to obstacles to the physical and mental development of individuals, preventing them from expressing themselves through sports activities. Athletes subject to sports sanctions face the loss of the opportunity to participate in competitions and enjoy sports. This uncertainty and sense of loss

will cause certain emotional fluctuations and psychological pressure. Over time, continuous pressure, anxiety, and self-doubt may lead to the development of mental health problems such as depression and anxiety disorders.

Considering the international status of the United Nations, the importance of the Charter of Sport goes without saying. This sanction can be regarded as a provocation to the Charter of Sport and the status of the United Nations. Some countries or organizations impose sports sanctions to achieve political goals, which directly affects the international community's trust and recognition of the United Nations and also weakens its status and authority in global affairs.

2.2. The Lack of Remedial Measures

In the international community, for any form of punishment measure, including sanctions, there is a series of remedial measures to make up for the losses. Taking the "Ukraine Crisis" as an example, the United States and its Western allies have continuously imposed economic sanctions on it. However, due to Russia's rich resources, the sanctions in the form of raw material supply are not sufficient to paralyze Russia's domestic industry. Russia has taken tough remedial measures in the face of US economic sanctions, "and restored economic growth four years after being sanctioned." It can be seen that economic sanctions related to a country's economic development can be remedied through the country's policy adjustments. However, there is still no reasonable remedial measure for sports sanctions.

The lack of reasonable remedial measures will lead to the continuous existence of the destructiveness of the sanctions, and the rights of the athletes of the sanctioned party will never be realized. This is obviously unfair. Whether from the perspective of the integrity of world sports or the fairness of sports competitions, it is a wrong decision of sanctions. Even if the IOC allows some athletes to participate in some events as neutrals as a remedy, athletes themselves have their own stances. Their economic foundation, social relations, and ideological concepts are firmly rooted in the soil of their own national social environment. Asking them to abandon everything to participate in competitions, even if they win, they will still be resisted and criticized by their own people. From this perspective, isn't this a disguised violation of athletes' rights?

In addition, the IOC has not announced a clear appeal or appeal procedure for this sports sanction so far, which greatly increases the difficulty for the sanctioned party to obtain remedies. In today's international environment ruled by law, fair and legal decisions should provide opportunities for the parties to obtain remedies for their rights. However, the sports sanctions of the IOC lack a fair and strict procedure, making it impossible for the sanctioned party to appeal or file a complaint according to the relevant procedures. They do not know and cannot obtain the required evidence materials, and there is no independent arbitration institution to review and adjudicate relevant disputed cases. If the sanctioned party is not satisfied with the decision of the IOC, they need to seek other ways to resolve the dispute, such as filing a lawsuit with the International Court of Justice. However, this approach requires a lot of time and money, and the sanctioned party may face more uncertainties and risks.

3. The Realization Path of the Legitimacy of Sports Sanctions

The legitimization of sports sanctions is a complex and urgent issue. In the international community, sanction measures are widely used to respond to situations that violate international rules and ethical norms. It can be seen that ensuring the legitimacy of sports sanctions is of great significance to avoid the abuse of sanctions and unjust situations. In today's unpredictable political environment, as a new type of sanction method, if there is no regulation on the legal realization path of sports sanctions, it is highly likely that major powers will use it

as a means of political games, thus going against the original intention of the international sports cause to promote peace and stability.

3.1. Strengthening the Global Awareness of Protecting Athletes' Human Rights

Any sports activity is just a stage for athletes to showcase themselves and realize their ideals. It can be said that without the existence of athletes, there would be no sports cause. Whether it is a political game between countries or an economic conflict, it is all for the better life of the people and for the realization of human liberation, which is also the effect that sports sanctions originally aimed to achieve. Unfortunately, this point was ignored in the sports sanctions against Russia, not only violating the participation rights of Russian athletes but also possibly ruining their sports careers. "As early as 1919, Pierre de Coubertin pointed out that how can a sport be called perfect in today's era if only a limited number of people are included in it?" In this regard, the awareness of human rights protection must be strengthened globally, especially in ensuring that athletes enjoy equal participation rights in sports and the right to participate in Olympic affairs.

Firstly, it is necessary to ensure that athletes can participate equally in any international sports event. Since the early days of the restoration of the modern Olympic Movement, the concept of equal participation in sports for everyone has been emphasized, regardless of their power, status, or wealth. The principle of equality advocated by the Olympic Movement includes equal opportunities to participate in sports, fairness of competition rules, and fair distribution of sports resources. In addition, equality is also reflected in both substance and procedure. Substantive equality means that those who have difficulties or are in a disadvantaged position in participating in the Olympic Movement should be given additional support and special care. Procedural equality ensures that individuals participating in the Olympic Movement can safeguard their participation rights through an equal protection mechanism.

Secondly, it is necessary to ensure that athletes have the right to participate in Olympic affairs. With the continuous expansion of the IOC's International Athlete Forum, athletes have more opportunities to express their opinions and participate in discussions on decisions that may affect them. According to the provisions of the Declaration of Athletes' Rights and Responsibilities, athletes have a series of common rights and responsibilities in the Olympic Movement, reflecting the gradual achievements of athletes' efforts to participate equally in Olympic affairs. The prerequisite for equal participation in Olympic affairs is to ensure athletes' right to know. The IOC should explain the reasons to the sanctioned athletes before imposing sanctions, let them know their rights and obligations, and fully listen to their opinions and defenses, ensuring that athletes from the sanctioned country have the space to exercise their freedom of speech. In general, when announcing sports sanction actions, sufficient attention needs to be paid to the protection of athletes' sports human rights, so that sports sanctions can give full play to their existing functions while taking into account fairness and justice.

3.2. Improving the Sports Sanction Procedure and Remedy Mechanism

Although the IOC is a non-governmental international organization, its high degree of autonomy is a distinct feature, and it has the right to make independent decisions in the sports field. Because of this, it is extremely difficult for athletes to obtain effective remedies from the sanctioning party under sports sanctions. As an urgent matter, behaviors that are recognized as violations of sports ethics, rules, or international norms in sports events, such as doping use and match-fixing, should be clearly listed. For different violations, there should be corresponding provisions on the scope, degree, and time limit of penalties, etc. At least when dealing with disciplinary violations in the sports field and when sports sanctions are required, a unified sanction standard should be ensured to ensure the consistency and fairness of the identification and punishment of violations. At the same time, it is urgent to determine the reasons and purposes of sports sanction measures. The reasons should be major matters on an

international scale and matters that cannot be resolved based on the internal management regulations of international sports organizations, and the purposes should be positive, such as maintaining sports fairness or protecting athletes' rights and interests.

Under the regulation of a relatively stable sanction procedure, the relief rights of sanctioned athletes should be protected from two aspects: the internal appeal and appeal channels of international sports organizations and the international human rights protection channels.

The former means that international sports organizations should establish and improve internal appeal and appeal mechanisms to ensure that athletes have the right to file appeals against sanction decisions and conduct fair and independent reviews of the appeals, so as to ensure that athletes' rights and interests can be fully protected and respected.

The specific process mainly includes the following points:

First, a transparent appeal process: Provide a clear and explicit appeal process, and explain in detail to athletes how to file an appeal request, including the time, place, and method of submitting the appeal document, etc.

Second, an independent appeal institution and staff: Establish an independent appeal institution or committee responsible for receiving, reviewing, and handling athletes' appeal requests. These institutions should be composed of independent professionals. For example, "If an arbitrator is aware of a situation that may lead to the parties having reasonable doubts about his or her independence and impartiality, he or she should promptly disclose it to the parties in writing."

Third, a fair review procedure: Ensure that the review procedure of the appeal is fair and transparent, and fully respect the rights and opinions of both parties.

Fourth, a timely appeal decision: Ensure that the appeal institution makes a decision in a timely manner to avoid the damage to athletes' rights and interests caused by an overly long appeal process. To improve the efficiency and quality of the decision, it can be stipulated that the appeal institution should complete the review and make a decision within a certain period of time and notify the decision result in a timely manner.

Fifth, a reliable result announcement: Announce the appeal decision result to the public to ensure its openness, transparency, and reliability. Athletes and other stakeholders should be able to obtain detailed information about the appeal result, including the reasons for the appeal and the basis for the decision, so as to evaluate and supervise the decision.

The latter mainly proceeds from the perspective of human rights protection. Athletes can seek help and remedies from international and national human rights protection institutions. These human rights institutions can reveal the human rights issues existing in sports events to the international community by issuing independent reports and statements and call on relevant parties to take active measures to solve them. Such a public voice can often attract widespread attention and discussion, prompting international sports organizations and governments of various countries to take more effective actions to protect athletes' human rights and dignity. International human rights institutions can actively intervene in cases of violations of regulations in sports events and provide professional legal advice and support. Especially in cases involving serious human rights violations, human rights institutions should intervene in a timely manner to ensure that the victimized athletes receive fair treatment and reasonable remedies. For example, for athletes suspected of being discriminated against or having their human rights violated, human rights institutions can dispatch an expert team to conduct a comprehensive investigation of the case and put forward suggestions and recommendations to international sports organizations.

4. Conclusion

As an emerging form of sanctions, international sports sanctions have gradually expanded from the political and economic fields to the cultural fields, especially in the field of sports. Sport is supposed to be a field that transcends national borders and political strife, representing peace and friendship between different countries and regions. However, as international political tensions have risen, sports sanctions have been used as a means of exerting pressure on the state. This approach not only makes sports events a vassal of political games, but also makes athletes innocent victims of events. If international sports sanctions are not effectively constrained and regulated, international sports may face more discrimination and injustice in the future. Especially in today's globalized world, sports events have long become an important platform for cultural exchanges between countries, and should not be interfered with by political factors. To avoid this, international sports organizations should clarify how sports sanctions are implemented and what penalties are imposed, and ensure that sanctions are decided on the basis of the principles of sport fairness and justice, rather than external political pressure. In the context of building a community with a shared future for mankind, the concept of peace and development should lead all countries forward. International sports events, as a stage to showcase the sports level of various countries and promote cultural exchanges, should minimize sanctions and disputes caused by political factors. Only in a fair and stable sports environment can athletes give full play to their true strength and promote the healthy development of global sports. Therefore, the international community should work together to safeguard the purity of sport and make it a link between the peoples of the world, rather than a victim of political struggle.

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