

Sport and Politics



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Recent world events have highlighted the myth that sport and politics are separable. Nick DE MARCO QC argues that sport has always been political, and it should accept the fact.

One of the oldest (and perhaps silliest) shibboleths in sport has been that it is not political, and sports' bodies have routinely imposed rules banning political expression. But not for the first time, major political events have exposed the fallacy that sport is not (or should not be) political.

In his 1945 Tribune Essay "*The Sporting Spirit*", written just after the visit of the Soviet Union's *Dynamo Moscow* football team to the UK, *George ORWELL* famously commented that "*Serious sport has nothing to do with fair play (...) it is war minus the shooting.*" *ORWELL* linked the "*modern cult of sport*" to the rise of nationalism and the alienation of urban communities from creative labour.

"*War minus the shooting*" might not be the best description of sport (not least as it obviously doesn't apply to shooting sports; but nor perhaps to some non-combat sports); a variation of the great military writer *Carl VON CLAUSEWITZ*'s quote is more apt: sport (like *CLAUSEWITZ*'s war) "*is the continuation of policy with other means.*"²

Let's examine the evidence. The origin of what we now call "*sport*" is firmly rooted in politics and society.

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2 '*On War*', *Carl VON CLAUSEWITZ* (1832).

Many early sports, from ancient China and the Far East, Egypt and the Middle East, to Greece or Rome, were associated with social customs and rituals or used as part of military training. Early Japanese Sumo wrestling involved the emperor and his officials determining the outcome of matches, representatives of the court recruiting wrestlers from the peasantry, while the seating of the audience at competitions was organised according to their class.³ Long-distance running races (over a course of 60 miles) were organised by the pharaohs in 7th century BCE Egypt as a means to select soldiers.⁴ The Ancient Greek Olympic Games reflected in sport the political and military competition between the various city-states and kingdoms of Ancient Greece. Ancient sport frequently represented the political structure of society; whereas many have suggested that the custom of Greek athletes competing naked was an equaliser, reflecting popular concepts of early democracy in ancient Athens.⁵ One of the oldest quotations about organised sport is attributed to the Roman poet *Juvenal*: "*Bread and circuses*" referred to the Roman policy of securing the votes of poorer citizens by introducing grain subsidies on the one hand and entertainment through organised games on the other. Gladiatorial contests in ancient Rome, in particular, were used by rulers to distract the masses from their daily problems. The "*sport*" itself reflected the political and social structure of Rome: combatants were drawn from the slave class and compelled to fight;

3 '*Sport in Ancient Times*', Crowther, University of Oklahoma Press (2007).

4 *Ibid.*

5 *Ibid.*

and one of the most famous early social revolutions was led by the slave *SPARTACUS* whose band of escaped gladiators from Capua led a revolt that posed a major threat to the Roman elite.

Modern team sports can be largely traced back to the industrial revolution and, in particular, British (and to a lesser extent European) imperialism, exporting, along with Christianity and other cultural clothing, such games as football, rugby and cricket to the four corners of the world.

The *imprimatur* of politics on sport perhaps became most obvious in the twentieth century. The 1936 Berlin Olympics, the largest of its time and the first games to be televised (and to use the travelling Olympic torch for the opening ceremony), was specifically designed by the Nazis to promote fascist ideals of racial supremacy and antisemitism. German Jewish athletes were prevented from taking part.

After WW2, Eastern European countries treated the Olympics as a show to promote the superiority of their countries' economic systems (sometimes with the use of state-sponsored doping), while the West saw sport as another means to promote the ideals of individual (and of course commercial) freedom and liberty.

Arguments about boycotts of the Olympics raged throughout the Cold War. In 1980 the USA led a boycott of the Moscow Olympics to protest the Soviet Union's invasion of Afghanistan in 1979. A total of 65 nations joined the boycott, but 80 nations took part.⁶ Four years earlier, the Montreal 1976 Olympics was boycotted by 25 African nations over the International Olympic Committee (IOC)'s refusal to ban the New Zealand rugby team who had toured in apartheid South Africa (South Africa had earlier been banned from the Olympics).⁷ And four years later, the Soviet Union led a boycott of 14 countries of the 1984 Los Angeles Olympics, in protest at the "*anti-Soviet hysteria being whipped up in the United States*".⁸

Sport played a central role in the struggle against racial segregation in apartheid South Africa. After years of political campaigning, nearly every major sport in the world excluded South Africa until it dismantled apartheid, making it a "*pariah*" state.⁹

Post-cold-war states have been just as keen to use the hosting of major sporting events such as the Olympics or the FIFA World Cup to promote their role on the international stage. Think Beijing, Sochi, Qatar or even

London 2012. Each event either sets out to or at least cannot help but represent the politics and values of the hosting nation. Whether described as "*sports-washing*" by detractors of the states involved¹⁰ or "*soft power*"¹¹ by their defenders, it amounts to the same thing: sport being used to legitimise a state/society and its ideology.

Another most obvious political dimension to sport, especially international sport, is that many of its rules depend upon organised discrimination. Nearly all international sports are organised on the basis of athletes or teams competing on behalf of nation-states. There are strict eligibility rules that provide a person (or a minimum number of persons) must be citizens of the state to be eligible to compete. Discrimination on grounds of nationality is not only permitted, it is most often an essential requirement.

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Discrimination on grounds of sex (and disability - consider the Paralympic Games) is also fundamental to most sports and is another hot political topic considering *Caster SEMENYA*'s unsuccessful challenge to the IAAF's Differences of Sex Development Regulations¹² and the IOC's adoption of a new framework for transgender and intersex athletes in November 2021.¹³

Such discrimination, which in nearly any other walk of life would be unlawful and incapable of justification, is so essential to most organised sports that it is expressly permitted under discrimination legislation.¹⁴

Inevitably sport reflects the disputes that arise within nations where one part seeks its own identity.

¹⁰ See e.g. 'David Beckham and Lionel Messi - de luxe sportswashers happy to dirty their reputations by taking Qatar and Saudi cash', David WALSH, the Sunday Times, 15 May 2022.

¹¹ The British Council website contains an article from 2015 with the title, "*Playing the game: the soft power of sport*" that argues the global following for British sports "*presents important opportunities for the UK and chimes with a growing interest in 'sports diplomacy'*" and that sport is "*a powerful means of showcasing a nation's achievements and values and its ability to manage major projects.*" www.britishcouncil.org

¹² CAS 2018/O/5794 Mokgadi Caster Semenya v IAAF.

¹³ See, 'IOC Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations', stillmed.olympics.com

¹⁴ See e.g. Section 195 of the UK Equality Act 2010 providing that a person does not discriminate on grounds of sex by doing something in respect to a "*a gender-affected activity*" in sport; or does not breach the act where the person does something "*because of the nationality or place of birth of another or because of the length of time the other has been resident in a particular area or place*" with respect to eligibility rules in sport, or on grounds of age, where an "*age-banded activity*" is necessary in sport.

⁶ The Olympic Boycott, 1980, U.S Dept of State Archive. 2001-2009.state.gov

⁷ 1976: African countries boycott Olympics, BBC. news.bbc.co.uk

⁸ 1984 Summer Olympics boycott, Wikipedia. en.wikipedia.org

⁹ See e.g. 'Fighting Apartheid with Sports', Daily JSTOR. daily.jstor.org

Consider China/Taiwan¹⁵ or Israel/Palestine¹⁶, where international sporting organisations have been forced to make various political compromises.

And yet, perhaps precisely because the influence of politics on sport is so blindingly obvious, it has to be hidden and denied. Each of the major sporting organisations have promoted the myth that sport is not political, usually by including rules purporting to ban politics from sport.

Consider some recent examples. In 1997, *Liverpool* striker *Robbie FOWLER* was fined by UEFA for displaying a t-shirt that expressed support for local dockers sacked for striking. Argentina were fined by FIFA in 2014 because their football players stood behind a banner with the slogan “*Las Malvinas son Argentinas*” (“*The Falklands are Argentine*”) before a match against Slovenia. *Celtic* have been fined twice by UEFA for their fans displaying Palestinian flags at matches. *Manchester City* manager, *Pep GUARDIOLA*, was fined by the English FA in 2018 for wearing a yellow ribbon in solidarity with the Catalan independence struggle. Each had breached different football rules banning any form of political expression.

Yet these “*anti-political*” rules become inevitably strained depending on the nature of the politics expressed. In 2016, FIFA fined the football associations of England, Scotland, Wales and Northern Ireland for allowing their players to display the Remembrance Day ‘*poppy*’ symbol during an international fixture. The FIFA Disciplinary Committee held that that the poppy was a “*political*” symbol, and thus offended various FIFA rules prohibiting the display by players of political slogans or symbols. The decision was controversial and FIFA eventually backed down.¹⁷

In 2020, in the run-up to the Tokyo Games, the IOC issued an edict forbidding athlete activism, “*gestures of a political nature, like a hand gesture or kneeling*” would all be banned. The principle of “*political neutrality*” enshrined in the Olympic Charter would be strengthened by a Rule (like the FIFA and UEFA rules) that “*No kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas.*”¹⁸

15 Taiwan boycotted the 1976 and 1980 Olympics after not being allowed to compete under the name ‘*Republic of China*’ but has since competed under the name ‘*Chinese Taipei*’ (see e.g. ‘*Chinese Taipei at the 2022 Winter Olympics*’, Wikipedia, en.wikipedia.org).

16 Since the 1973 Yom Kippur War, nearly every Arab FA, followed then by other Muslim countries in the region refused to play Israel and in 1974 Israel was expelled from the regional federation it was geographically based in, the Asian football Confederation (AFC). By way of another political compromise, since 1994 Israel has been admitted to the European regional federation, UEFA. See: ‘*The Controversial Case of Israel & International Football*’, Pundit Arena, 2014 punditarena.com

17 The author acted for the Scottish FA in a legal challenge to FIFA’s ban which was ultimately settled when FIFA decided to relax its approach to the poppy.

18 The Olympics are political. ‘*The IOC ban denies reality*’, *Jules BOYKOFF*, Nbc news 16 January 2020. www.nbcnews.com

The “*Black Lives Matter*” international movement against racism and the campaigns against LGBT discrimination began to test this denial of politics approach to the limits. English football has long permitted “*Kick it Out*” anti-racist symbols at football matches and, more recently, “*Rainbow laces*” anti-homophobia campaigns, and the decision of so many English football players’ to “*take the knee*” during the 2020-21 football season made banning such expression near impossible, and politically unpalatable.

Yet the tension remained. UEFA rejected Munich’s request to illuminate its stadium with rainbow colours during the Euro 2020 match between Germany and Hungary. Not because it found the overt use of the rainbow colours to be political (without attempting any irony, it proclaimed “*For UEFA, the rainbow is not a political symbol, but a sign of our commitment to a more diverse and inclusive society*”, and that UEFA “*is proud to wear the colours of the rainbow*” as if such statement was not itself political) but because the request to use the colours “*itself was political, linked to the Hungarian footballs team’s presence in the stadium for this evening’s match with Germany*”¹⁹ - that is, the gesture was seen as targeting the homophobia of the Hungarian regime. Demonstrating a commitment to diversity is OK; but not if it is in the form of an objection to those who oppose diversity with discrimination.

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Such intellectual gymnastics had to be performed by the IOC President, *Thomas BACH*, in the run-up to the 2014 Sochi Games. Concerned about the controversy surrounding Russia’s anti-gay “*propaganda*” and the risk athletes might protest, *BACH* said: “*It is very clear the Games cannot be used as a stage for political demonstrations however good the cause may be (...) the IOC will take, if necessary, individual decisions based on individual cases*” but at the same time “*It is also clear on the other hand the athletes enjoy freedom of speech so if in a press conference they wanted to make a political statement they are absolutely free to do so.*”²⁰ Navigating where (or when) to draw the line in terms of political expression becomes increasingly difficult.

Russia’s war on Ukraine, more than anything else, has perhaps finally exploded the myth that sport is not

19 UEFA defends Munich rainbow ban, says LGBT flag is ‘*not political symbol*’, Euronews.com, 23 June 2021. www.euronews.com

20 ‘*Politics And Sport: How FIFA, UEFA And The IOC Regulate Political Statements By Athletes*’, LiS Friday, 20 May 2016, Charles Maurice. www.lawinsport.com

political. Not only has the displaying of the Ukraine flag at football matches been officially sanctioned by competitions, but sports throughout the world have taken the decision to exclude Russia or Russian nationals from competing.

Along with the war in Ukraine, the threatened breakaway *European Super League* further exposed the double talk about sport and politics. FIFA has very strict rules preventing any national government interference in football, and the *Premier League* had previously suggested the Kingdom of Saudi Arabia would have to agree to its rules if *Newcastle United* was bought by the Public Investment Fund of the country,²¹ but when European political leaders came out against the breakaway league, and British Prime Minister *Boris JOHNSON* threatened “a legislative bomb” to prevent the ‘top 6’ English clubs from joining it,²² such political interference was met with widespread approval by most in football; and none of the football regulators suggested there was anything wrong with the UK government having signed off on the sale of *Chelsea FC* after sanctions were imposed on *Roman ABRAMOVICH*.²³

Despite such clear writing on the wall, there are still those who try and pretend none of this is political. Opposing racism is not political, it’s just supporting diversity, they argue; government intervention to prevent breakaway leagues is not political, it’s just protecting football; siding with one side in an international military conflict is not political, it is just standing up to aggression, and so on. Each of these arguments could be adopted by those on the other side of the fence.

It is surely time to accept that sport is, and always has been, political. Those who seek to deny this reality are really saying that something is not political when it conforms to their world view but is political and must be banned when it does not do so.

How can sport ban politics in the future? How can one possibly square the official promotion of the flying of the Ukraine flag, or the Rainbow flag, with the fining of clubs whose supporters fly a Palestinian flag? How can one justify the exclusion of Russian athletes because of their state’s illegal invasion of a country while not applying the same approach when the US and Britain invade Iraq? It must surely become increasingly difficult to do so.

But does that mean sport must become a free for all? That anyone can say or do anything, with freedom of political expression having no limits? The answers to these questions should be the same ones that civilised societies apply within the broader political discourse: freedom of expression is a fundamental right, but one that must be balanced against the fundamental rights of others. Vocal support for racism, discrimination, or national aggression does not need to be given equal protection to opposing values that seek to promote diversity, freedom and equality. Sport can (and mostly does) have a rule that bans overt expressions of “discrimination” (apart from the discrimination inherent in sport itself), because we can agree that discrimination, for example, on grounds of race or sexual orientation, is a bad thing. But we should be honest about it and admit that to allow the expression of anti-racist ideas but prohibit racism is, in itself, to take a political stance. I may well believe (I do) that it is the right political stance to take, but I would be dishonest and arrogant to pretend it is not political and that only those who disagree with me are political. For the sake of rationality, consistency and honesty, sport ought to accept that it is, and always has been, political.

21 See *Newcastle United v The Football Association Premier League* [2021] EWHC 349 (Comm) at [4] for a summary of the PL’s original position with respect to the takeover.

22 ‘European political leaders vow to block Super League football plan’, *Financial Times*, 20 April 2021.

23 See: ‘Unilateral declaration of the UK government on the use of proceeds from the sale of Chelsea Football Club’, UK Government, 30 May 2022. www.gov.uk