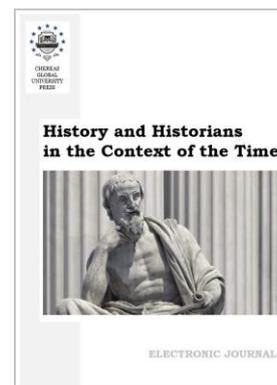


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Combating Inequality and Discrimination in the Contemporary History of International Sports

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Abstract

International law and national legal systems have developed various legal mechanisms to ensure equality and non-discrimination. However, international sport presents unique and effective means of influencing states and societies that practice discrimination on various grounds. International sport develops and evolves along with the system of international relations. The emergence of international and regional human rights protection systems has significantly impacted international sporting activities. In turn, international sports can also become a principal political and diplomatic influence instrument. Moreover, the mechanisms available to international nongovernmental sports organizations have repeatedly become a tool for combating human rights violations, especially discrimination, and not only in sports.

The article is focused on exploration the history of the formation of international community approaches to responding to discrimination through restrictions in sports cooperation. The issues of discrimination in sports, as a specific sphere of discriminatory manifestations are quite common, are also considered. The analyses of the processes and phases of using resources and tools in international sports to counter discrimination highlights several significant points. First, the international sports community has undergone a complex and lengthy transformation in the non-acceptance of discrimination. Beginning with unsuccessful attempts to boycott the 1936 Nazi Olympics, these processes led to an unequivocal response to apartheid in South Africa and ethnic cleansing in the former SFR Yugoslavia. Secondly, the types of discrimination and discriminatory grounds have constantly been expanding.

The most effective measures to counter discrimination are when states' efforts to conclude international treaties and the efforts of the UN and other international intergovernmental organizations are combined with measures of *lex sportiva*, i.e., sanctions and restrictions imposed by the IOC and other non-governmental transnational sports organizations. If decisions are half-hearted and do not seriously impact international sports competitions and their perception by the general public (such as the diplomatic boycott of the 2022 Beijing Olympics), their effectiveness in countering discrimination is minimal.

Keywords: international sports, human rights, inequality, discrimination, apartheid, international sports organizations, *lex sportiva*.

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1. Introduction

International sport develops and evolves along with the system of international relations. The emergence of international and regional human rights protection systems in the post-World War II period has significantly impacted international sporting activities. In turn, international sports can also become a principal political and diplomatic influence instrument. Moreover, the mechanisms available to international nongovernmental sports organizations have repeatedly become a tool for combating human rights violations, especially discrimination, and not only in sports.

Consideration of discrimination and international sport has at least two levels. The first relates specifically to discrimination against athletes (in sports clubs, at sports venues, competitions) based on gender, race, nationality, or other characteristics. The second level implies using sports sanctions, boycotts of international sporting event, and other similar tools to combat gross manifestations of discrimination in society as a whole, in the legislation, law enforcement practices, and policies of individual states. These levels are closely linked because discrimination in sports is a particular case of discrimination in society. At the same time, they must be distinguished, bearing in mind the potential that international sport has as an instrument of broad political influence and respect for human rights. This article focuses on the second aspect of the problem. It aims to explore the history of the formation of international community approaches to responding to discrimination through restrictions in sports cooperation. However, the issues of discrimination in sports, as a specific sphere in which manifestations of discrimination are unfortunately quite common, will also be addressed in a general context.

2. Materials and methods

The article is based on research on the contemporary history of international sports ([Georgiadis et al., 2009](#); [Gottlieb, 1972](#); [L'Hoeste et al., 2015](#)) the interaction of sport and politics, discrimination in sport and measures to counteract the practice of human rights violations ([González, 2022](#); [Deshpande, 2016](#); [Nafziger, 1983](#); [Sikes et al., 2019](#)).

The study of international treaties, resolutions, and recommendations of international intergovernmental organizations allowed us to identify critical milestones in creating international instruments to combat inequality and discrimination. An analysis of the decisions of international nongovernmental sports organizations made it possible to trace the evolution of the attitude of the sports community toward various manifestations of discrimination. In addition, the online resources of the United States Museum's Holocaust Encyclopedia ([The Nazi Olympics, 2021](#)) and media sources were used to achieve the research objectives.

3. Discussion

International law has developed quite an impressive array of instruments to combat discrimination on various grounds. The principle of non-discrimination was reflected in the Universal Declaration of Human Rights of December 10, 1948, according to which “all human beings are born free and equal in dignity and rights”. Article 7 of the Declaration contains an explicit reference to the inadmissibility of discrimination: “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination...” ([Universal Declaration, 1948](#)).

International Covenant on Civil and Political Rights obligates each State Party to respect and ensure to all persons within its territory and subject to its jurisdiction the rights recognized in the Covenant without distinction of any kind, such as race, color, sex, language, religion, political or other opinions, national or social origin, property, birth or another status (Article 2). Any discrimination under the law is banned by Article 26. It also guarantees to all persons equal protection against discrimination on any ground, such as race, color, sex, language, religion, political or other opinions, national or social origin, property, birth, or other status ([International Covenant, 1966](#)).

International Convention on the Elimination of All Forms of Racial Discrimination stipulates that the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life ([Convention..., 1965](#)). The Convention on the Elimination of All Forms of Discrimination against

Women ([Convention..., 1979](#)) contains a similar definition but is adapted to combat discrimination against women. For the purposes of this Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field ([Convention..., 1979](#)).

Finally, a generalized definition was formulated by the Human Rights Committee, under the position of which the term “discrimination” be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms ([General Comment, 1989](#)).

The right not to be discriminated is enshrined in many acts at the regional level. In particular, Article 14 of the European Convention on Human Rights (ECHR) guarantees the prohibition of discrimination, which guarantees equal treatment in exercising other rights established in the Convention. Protocol 12 (2000) to the ECHR expands the scope of the prohibition of discrimination by guaranteeing equal treatment in exercising any right including rights under national law ([European Convention, 1950](#)). The provisions of American Convention on Human Rights ([American Convention, 1969](#)), Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance ([Inter-American Convention, 2013](#)), African Charter on Human and Peoples’ Rights ([African Charter, 1982](#)) etc., also have a clear anti-discriminatory orientation.

According to modern concepts, it is considered to distinguish between direct and indirect discrimination ([Cossette-Lefebvre, 2020](#)). Direct discrimination covers cases where a person receives less favorable treatment because of age, gender, race, etc. Indirect discrimination includes situations where, to obtain equal opportunities, a person has to make additional efforts compared to others.

International law and national legal systems have developed various legal mechanisms to ensure equality and non-discrimination. However, international sport presents unique and effective means of influencing states and societies that practice discrimination on various grounds.

4. Results

Attempts by the international community to respond to massive violations of human rights, in particular discrimination on racial and national grounds, through the levers of international sports originate from the call for a boycott of the 1936 Berlin Olympics. The policy of Nazism in Germany in the 1930s of the 20th century could not avoid having an impact on sports activities. In April 1933, the “Aryans only” attitude was introduced into all German sports organizations. “Non-Aryans” (Jews and Roma), as well as men accused of being gay were excluded from sports organizations and societies. For example, the German Boxing Association expelled professional light heavyweight champion Erich Seelig in April 1933 because he was Jewish. Another Jewish athlete, Daniel Prenn, a top-ranked tennis player, was removed from Germany's Davis Cup Team. Gretel Bergmann, a world-class high jumper, was expelled from her German club in 1933 and excluded from the German Olympic team in 1936 ([The Nazi Olympics, 2021](#)). Moreover, the Nazis used sports to promote their ideology, trying to demonstrate the superiority of Aryans over all other people in physical strength and beauty. Famous Leni Riefenstahl’s film “Olympia” is a clear demonstration of such propaganda.

In the United States, Great Britain, France, Sweden, Czechoslovakia, and the Netherlands, a boycott movement against the 1936 Berlin Olympics began. It was even proposed to hold an alternative “People’s Olympics” (or “Popular Olympics”) scheduled to open July 19, 1936 in Barcelona. However, this event was canceled as the Civil War broke out in Spain. It is noteworthy that the idea of the People’s Olympics not only opposed racism and Nazi ideology but also provided significantly more opportunities for women to compete. J. Stout points out that Catalan Feminist Sports Club was among the organizers of the People’s Olympics. It was proclaimed that “the picture of the Peoples’ Olympiad would not be complete if woman did not take her due place in it” ([Stout, 2021](#)).

The boycott failed. After the Amateur Athletic Union of the United States decided to participate in the Olympic Games, teams from other countries also abandoned the idea of boycotting (Gottlieb, 1972).

However, despite the boycott's failure, it is worth noting several points that show that even its attempts had some effect. Anti-Jewish slogans and signs disappeared from the streets. Newspapers softened racist rhetoric. Helene Mayer, the only athlete of "non-Aryan origin" (her father was Jewish), represented Germany in women's individual fencing and won a silver medal. Black and Jewish athletes from the United States, Hungary, and other countries also participated in the Olympics. A number of them won Olympic medals (The Nazi Olympics, 2021). Therefore, under pressure from the world community, Hitler was trying to give the impression of softening the Nazi regime.

The first example of an effective response of the international sports community to the state policy of discrimination was the exclusion of the Republic of South Africa from the Olympic Games in Tokyo in 1964. The general trends in developing international standards for the protection of human rights after the Second World War could not but affect the situation in international sports. Therefore, the racist apartheid regime could not be ignored by the International Olympic Committee (IOC). Under the principles of apartheid, South African athletes were divided into teams by race. The National Olympic Committee of South Africa recognized only athletes with white skin, thereby excluding the majority of the country's population from the Olympic movement due to racial characteristics. Fans at sporting events in South Africa were segregated by skin color, and some sports grounds were barred from black spectators altogether. Researchers noted that white athletes had excellent conditions and enough time and resources for training, while blacks did not have such opportunities. Under almost no circumstances did athletes of different races compete together, and only white South Africans could challenge the world's best athletes in major international competitions (Sikes, 2021).

At the 1963 Baden-Baden (Germany) Conference, IOC members voted to cancel the South African team's ability to participate in the Games if the South African NOC continued to support the government's apartheid policy and did not abolish segregationist approaches and restrictions on athletes and fans. However, the NOC of South Africa did not change its position; a year later, the ban was put into effect. The Supreme Council for Sport in Africa (SCSA), created in 1966 by 32 African countries, opposed attempts to restore South Africa's participation in international sports competitions. The SCSA pursued an active and quite effective policy of boycotting sports competitions in which teams or athletes selected according to the principle of racial segregation participated. Through its consistent stance of not participating in sporting events that featured racially selected teams or athletes, as well as its solidarity with anti-apartheid activists around the world, the SCSA succeeded in getting South Africa out of the Olympic movement altogether in 1970. Athletes from South Africa were not allowed to participate in the Olympic Games until the liquidation of the apartheid regime in June 1991. Their participation was resumed starting with the 1992 Olympics in Barcelona (Sikes et al., 2019).

In 1977 the issue of apartheid in sports was placed on the agenda of the UN General Assembly. The International Declaration against Apartheid in Sports (International Declaration, 1977) was adopted. For the first time at the global level, albeit in a recommendatory form, this declaration defined the sports policy concerning states practicing racial discrimination and apartheid. Article 2 stipulates that "States shall take an appropriate action to bring about the total cessation of sporting contacts with any country practicing apartheid and shall refrain from official sponsorship, assistance or encouragement of such contacts" (International Declaration, 1977). The Declaration also encourages the exclusion or expulsion of any country practicing apartheid from international and regional sport bodies (Article 3); active supporting for the total boycott of all teams and sportsmen from the racist apartheid sport bodies (Article 4), etc.

The first case in the history of enshrining sports sanctions in an international treaty as a tool for combating human rights violations is associated with the apartheid regime. In December 1985, the United Nations Convention against Apartheid in Sport was adopted and entered into force on April 3, 1988 (Convention..., 1985).

In the Preamble of the Convention, a close liaison can be traced between respect for human dignity, freedom, equality, and non-discrimination, the possession of every person with all rights without distinction based on race, skin color, ethnic origin, sex, language, religious beliefs, etc., with the principles on which international sports must be built. The document relies on the

International Convention on the Elimination of All Forms of Racial Discrimination ([Convention..., 1965](#)), and several resolutions of the UN General Assembly. It condemns racial segregation and obliges member states (currently 62) to eradicate such practices in sports (Article 2). According to Article 3 “States Parties shall not permit sports contact with a country practicing apartheid and shall take appropriate action to ensure that their sports bodies, teams, and individual sportsmen do not have such contact”. Article 5 requires a refusal to provide financial or other assistance to enable their sports bodies, teams and individual sportsmen to participate in sports activities in a country practicing apartheid or with teams or individual sportsmen selected on the basis of apartheid ([Convention..., 1985](#)).

The Convention also enshrines several other measures to ensure that a country that practices apartheid is excluded from international and regional sports organizations and deprived of any opportunity to participate in international sports. Given that the Convention aimed at combating the practice of apartheid in South Africa (as reflected, in particular, in Article 10), its norms are not currently applied. At the same time, this international treaty can be considered a successful model to follow and build instruments for applying sanctions in other discrimination cases on various grounds in violation of international law.

As an indirect reaction to an extreme form of discrimination in the form of ethnic cleansing, deportations, and the crime of genocide is also the sports sanctions imposed on the Federal Republic of Yugoslavia in 1992. The main goal of these sanctions was to end the military conflict and achieve peace on the territory of the former Socialist Federal Republic of Yugoslavia (FR Yugoslavia).

On May 15, 1992, the Security Council adopted Resolution S/RES/752(1992), in which it put forward several specific demands to the participants in the military conflict in Bosnia and Herzegovina. In particular, the Resolution called for the cessation of hostilities, the non-intervention of the Yugoslav People's Army and Armed Forces of Croatia, disarmament, and dissolution of paramilitary formations, cessation of ethnic cleansing and deportations of the population, provision of comprehensive assistance in humanitarian aid to victims ([Resolution S/RES/752, 1992](#)). The FR Yugoslavia did not implement the Resolution and continued interfering in Bosnia and Herzegovina. Responding to these circumstances, the UN Security Council adopted Resolution S/RES/757(1992) dated May 30, which provided for many economic sanctions against this state, including sanctions in international sports ([Resolution S/RES/75, 1992](#)). Paragraph 8 of the Resolution assumed that all states should take the necessary steps to prevent participation in sports events on their territory by persons or teams representing the FR Yugoslavia (Serbia and Montenegro).

This provision of the Resolution had several consequences. Thus, the FR Yugoslavia national football team qualified for the finals of the 1992 European Championship but was disqualified due to sanctions. Instead, Denmark went to the finals, which took second place in the qualifying group and eventually won the tournament. The Resolution was adopted just before the start of the 1992 Olympic Games. The IOC reached a compromise with the UN. The National Olympic Committee of Yugoslavia was not invited to the games. However, athletes from the country were allowed to compete as independent Olympic participants. Similarly, as independent athletes at the 1992 Paralympic Games, Yugoslav Paralympians performed ([Georgiadis et al., 2009: 65-66](#)).

It should be noted that for a long time, the global sports community has had virtually no reaction to discrimination based on sex or gender. In 1921 male-run English Football Association prohibited its affiliated clubs from letting women use their fields. The association's ruling stated: “The game of football is quite unsuitable for females.” ([Kuper, 2022](#)). In 1941, the president of Brazil banned women from playing certain sports, including football. The rule stated that women will not be allowed to practice any kinds of sports that are incompatible with the female nature. It was in force until 1979 ([Werman&Margolis, 2013](#)). In 1946 women's boxing was banned in Mexico by presidential decree. Only in 1999, women's professional boxing became legal in Mexico City after Laura Serrano, amateur boxer and law student, brought a lawsuit against the boxing regulations that banned women from the practice ([L'Hoeste et al., 2015: 181](#)). Such bans existed in many other countries, including Canada, France, West Germany, Spain. For the most part, they were abolished only in the 1970s and 1980s. No sanctions or boycotts were imposed on states for such practices. The restrictions imposed on women were considered acceptable in sports and other areas of social life.

However, the transition to a post-industrial society, which entailed changes in family patterns and women's role in society, caused changes in the public consciousness and intensified women's struggle for their rights. As we noted above, one of the results of these processes was the adoption of the Convention on the Elimination of All Forms of Discrimination against Women. The international recognition of the equality of women and men has also resulted in a change in the policy of international sports organizations to states that promote discrimination based on sex or gender. In October 1999, the IOC suspended the activities of the National Olympic Committee of Afghanistan, and in 2000 it banned this country's national team's participation in the Olympic Games due to the violation of human rights in sports by the Taliban regime. Among other things, the Taliban altogether banned women from participating not only in the Olympics but also in any other sports competitions. Male athletes, on the other hand, were obliged to grow beards and, under no circumstances, perform in shorts (IOC, 2000).

The most recent example of the international community's response to a state policy of discrimination against national and religious minorities was the diplomatic boycott of the 2022 Olympics in Beijing. In 2021 having regard to its previous resolutions on the human rights situation in China, in particular those on forced labour and the situation of the Uyghurs in the Xinjiang Uyghur Autonomous Region, notably the situation of religious and ethnic minorities, on mass arbitrary detention of Uyghurs and Kazakhs in the Xinjiang Uyghur Autonomous Region etc., the European Parliament recommended that the leadership of the EU and the Member States decline invitations to the Beijing Winter Olympics in the event that the human rights situation in China and Hong Kong does not improve and no high-level EU-China Human Rights Summit/Dialogue with a tangible outcome takes place prior to the event (European Parliament, 2021). Several EU countries, the USA, Canada, the UK, Australia, and other states, have declared a diplomatic boycott of the 2022 Games and did not send their diplomatic delegations to Beijing. At the same time, the actual sports boycott was not applied, and the Olympic national teams took part in the competitions.

5. Conclusion

The overview of the processes and phases of using resources and tools in international sports to counter discrimination highlights several significant points. First, the international sports community has undergone a complex and lengthy transformation in the non-acceptance of discrimination. Beginning with unsuccessful attempts to boycott the 1936 Nazi Olympics, these processes led to an unequivocal response to apartheid in South Africa and ethnic cleansing in the former SFR Yugoslavia.

The most effective measures to counter discrimination are when states' efforts to conclude international treaties and the efforts of the UN and other international intergovernmental organizations are combined with measures of *lex sportiva*, i.e., sanctions and restrictions imposed by the IOC and other non-governmental transnational sports organizations. If decisions are half-hearted and do not seriously impact international sports competitions and their perception by the general public (such as the diplomatic boycott of the 2022 Beijing Olympics), their effectiveness in countering discrimination is minimal.

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