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Beijing Winter Olympics 2022: Sports, Law,
and Policies

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The 2022 Beijing Winter Olympics were hosted amid the Covid-19 pandemic and surrounded by [concerns](#) and [controversies](#).

This *Understanding China Brief* results from a [roundtable](#) discussion organized by the China Studies Centre and the Centre for Asia and Pacific Law of Sydney University on 3 February 2022 to examine four aspects of the Beijing Olympics: boycotts, COVID-19 control, law reform, and the economics of the Olympics.

The [discussion](#) was moderated by Professor [Jie \(Jeanne\) Huang](#) from the University of Sydney and the speakers included Professor [Tim Harcourt](#) from University Technology Sydney, Professor [Deborah Healey](#) from the University of New South Wales, Professor [Keiji Kawai](#) from Doshisha University, and Professor [Yang Pei](#) from Beijing Normal University. We are grateful for the wonderful support from Xinghan Li, an LLB student at the Sydney Law School.

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Boycott

The IOC [has a non-political approach](#) to Olympic games and it has said recently that the event is all about bringing young people together and unity. However, boycotts of Olympic games are not new, nor are they unusual. They have previously occurred at a number of Olympics and have generally involved athletes. Among the many sports boycotts in history, the general boycott of South Africa because of the country's apartheid regime is seen as a successful example. But it involved more than sports

events and was accompanied by trade and other sanctions. The current boycott is diplomatic and, in practical terms, it means that diplomats and politicians from countries such as the US, Australia, Canada, Japan, and the Netherlands have refused to attend the 2022 Winter Olympics as a gesture of support for the Uyghur people and [other human right issues](#) which they say exist in China. A diplomatic boycott is essentially a sign of disapproval of certain behavior by another government. There is an argument that the diplomatic boycott of the Beijing Games has cost the opportunity for diplomats to engage with their counterparts on controversial issues.

Another important issue is the obligations of athletes around the issue of political comments. Requirements about athletes making political comments were incredibly strict in the past and [were only relaxed last year](#). Rule 50 of the Olympic Charter states that athletes can neither engage in their personal advertising around the Olympics nor engage in demonstrations or use of political, religious, or racial propaganda. However, political demonstrations have been long-standing. One of the best [examples](#) is the demonstration by Smith and Carlos, two US athletes, in the Mexico City Olympics in 1968, after the 200 meters final, where they gave the so-called 'black power' salute on the medal podium.

Following many calls for the IOC to strengthen its stance on human rights, social justice, and social inclusion, the IOC changed its previous position. The IOC clarified ahead of the Tokyo Summer Olympics that athletes may now speak about contentious political issues in news conferences or social media, or protest on the field before a competition. They are still not allowed to express themselves politically on the medal podium. There was thus more flexibility at the Tokyo Summer Olympics and following this, the US athlete [Raven Saunders](#) shouted out to the Black and LGBT community during the Olympics. Surprisingly, the US Olympic Committee supported her conduct as a call for racial and social justice.

As to the position in Beijing, it is likely that China will not be very concerned about political expressions as long as athletes do not touch on issues sensitive to China, and would leave the IOC to handle them. However, China recently [warned](#) athletes about violating Chinese laws at the Olympics. This has highlighted concern around the world about China's restrictions on political expression and how it could impact athletes. Thus, it remains to be seen what will happen if a foreign athlete challenges the Chinese restrictions by making comments on China's domestic policies or supporting a particular ethnic group. Such an athlete may at the very least lose his/her accreditation and be sent home immediately if they breach the IOC rules. Whether the Chinese government would apply the full force of the law will depend on what is said. It remains to be seen whether China is ready to apply its restrictive laws to a foreign athlete or official at such a high-profile international event.

Finally, it is important to consider whether sports diplomacy can provide benefits that conventional diplomacy or international trade and whether the Winter Olympics can help ease the thaw in frosty bilateral ties. At the time of the 2008 Beijing Summer Olympics, the Sino-Australian bilateral relationship was at its peak in terms of economics and investment. Sports diplomacy was one way of widening and deepening diplomatic relationships. Olympic games can help form relationships at a new dimension with business benefits that are separate from formal trade relationships and formal government-to-government relationships. However, Winter Olympics are economically smaller than Summer Olympics. Australia does not have a massive team to be sent to the 2022 Winter Olympics. Thus, sports diplomacy will be a little bit smaller in scale in respect of the 2022 Winter Olympics. It was commented that even if people often say that the Olympics should be kept outside politics, there will always be some sort of diplomacy because of the simple fact that we have people crossing international borders.

Covid-19 control

It was argued that China will handle Covid-control matters during the Olympics very well because it can mobilize large numbers of people quickly and efficiently. The 40,000 athletes, trainers, and support staff coming to China will be placed in a closed-loop system with restrictions even tighter than those in Tokyo. Not all athletes are in the same loop and there will be little interaction between different loops. The loops are closed to the public and have separate trains. All participants have to either be vaccinated or come 21 days earlier to quarantine. There will be no foreign spectators. Chinese spectators cannot buy tickets and will be handpicked. Athletes who test positive but are asymptomatic can come out of quarantine once they have two negative tests. Athletes who are positive and must isolate will be sent to a special hospital if they get sick. Withdraw of accreditation, temporary or permanent exclusion from the game, and financial sanctions may be imposed for breaches of these rules. The Covid-19 pandemic will impact on Olympic sponsors in terms of the returns that they are able to get. It will also affect the athletes because there will be few or no spectators. Further, for organisers, there will be far more planning and implementation that needs to be done. It was concluded that while China may have to ultimately move away from its Zero Covid policy, it will have to do this gradually, considering its population density and medical resources. The Beijing Olympics may provide an opportunity to start the process.

Japan may offer important insights regarding how the (un)democratic governance of the Tokyo Summer Olympics 2020 impacted on the public opposition to the Olympics due to Covid-19. Major newspapers in Japan conducted studies that show that around 80 per cent of the population was against holding the games. However, the Tokyo Olympic Organising Committee did not even discuss the cancellation of the game. The Organising Committee has a total of 45 board members, all of whom are appointed as opposed to elected. It was unclear why and by what process those people were

appointed. When the former president of the Organising Committee [resigned](#) for his sexist comments, he was also criticised for his closed-room appointments. In contrast, the Sydney Organising Committee for the Olympic Games Act 1993 stipulates the procedures for the election of board members, as well as their powers and responsibilities. No such law was ever enacted in Japan for the Tokyo Olympics. The reason why the majority's voices were ignored is that, firstly, the unelected board members were not necessarily representative of the interests of the people. Secondly, as per the host city contract, the IOC had the authority to decide on the cancellation of the game. It is ironic that if the Organising Committee was a democratic organisation, the Tokyo Olympics would probably be canceled altogether.

Interaction between the law of the host state and international law

China proposed a comprehensive [amendment](#) to the Chinese Sports Law in 2021 before the Beijing Winter Olympics. It should be noted that the definition of "sports" in the proposed amendment includes both sports and physical education. Thus, the proposed amendment has a broad scope covering social sports, competitive sports, and physical education. It recognises citizens' right to participate in sports activities equally. It also changes the chapter title of "social sports" into "national fitness" and provides that the State implements the strategy of national fitness. In response to the decline in young people's physical qualities, the proposed amendment confirms that the State gives priority to developing youth sports and promoting the integration of sports and education. The proposed amendment adds a new chapter about anti-doping. Article 13 provides that international treaties that China has concluded or acceded to have to be implemented. This manifests China's determination to combat doping practices. The proposed amendment also establishes a new sports arbitration system. Controversially, commercial and labour cases involving sports elements would be tried by pre-existing commercial and labour arbitration tribunals and fall outside the jurisdiction of the sports arbitration. Article 76 of the proposed amendment provides that sports arbitration institutions will only focus on doping and disciplinary cases. Opponents of Article 76 argue that most countries with sports arbitration systems do not deliberately exclude commercial disputes with sports elements from their jurisdiction but instead give the concerned parties the right to choose between sports and commercial arbitration institutions. Labour disputes in professional football and basketball are the most common sports disputes in China. Inability to hear those cases will severely undermine the significance of the sports arbitration systems.

Gender issues have been a spot line in sports law legislation. Former president of Japanese Olympic Committee [Yoshiro Mori](#) made the sexist comment that women talk too much and that meetings with many female board directors would "take a lot of time". He was later criticised for not understanding the Olympic movement, a core purpose of which is to promote gender equality. He was forced to resign due to this incident. After some twists and turns, Seiko Hashimoto became the president of the Japanese Olympic Committee. Her titles as a former Olympian and a female political

were considered necessary and appropriate to repair the image of the Organising Committee as a male-dominated and closed society. After the appointment of 12 new female board members, the percentage of female board members in the Organising Committee became 40 per cent. It was suggested that this was merely for the sake of building an inclusive image. The Organising Committee should have promoted gender equality in more meaningful ways. Nevertheless, the Tokyo Olympics was a good opportunity for society to reflect on the issues of gender equality in Olympic games.

Economy

The most apparent economic benefits of hosting the Olympics include the broadcast rights, the tickets sale, tourism, trade, jobs created by Olympics-related infrastructure construction, and also an opportunity for nations to improve their brand for international tourism, trade, and consumerism. For instance, the 1998 Seoul Olympics was held at a time when South Korea was moving from dictatorship to democracy. The Seoul Olympics was a great way to highlight the work that South Koreans had done in terms of economic development. Similarly, Beijing Summer Olympics in 2008 was thought to be a showcase of the technology, innovation, and the relief of millions of people out of poverty in China. However, there have been difficulties on the cost side. The University of Oxford studied the economics of all Olympics and concluded that costs of all Olympics except for Los Angeles 1984 had blown up. One reason is that people tend to underestimate the infrastructure investment required. Now the IOC no longer wants to have the fancy bidding process. They want to select host cities that already have the necessary infrastructure in place. They also want Olympic villages that can be reused for, for example, university accommodation. They want to have cities that use green technology and environmentally friendly infrastructure. The Olympic movement has reformed itself. This is partly because in some ways, hosting the Olympics can be quite unpopular. Winter Olympics are of a smaller scale. The budget for 2022 Beijing Winter Olympics is around USD4 billion, while that for the 2008 Summer Olympics is almost USD45 billion. One reason for this is that the Winter Olympics in Beijing will not have diplomats or international tourists coming over. It is thus more about giving Chinese domestic tourists and Chinese winter sports fans what they want. It is expected that the game will make impoverished mountainous regions in Northern China more enticing for winter sports. It was suggested that as China is moving from a nation of shippers to a nation of shoppers, there will be more emphasis on its domestic consumption and investment. Perhaps the Winter Olympics is symbolic of China's new approach to its economic development.

The governance of the Tokyo Summer Olympics 2020 regarding cost amplification and decision-making may serve as a good case for further improvement. The cost of the game was originally estimated to be around USD6 billion. At the bidding stage, it was increased drastically to USD11 billion. At the end of last year, the Organising Committee announced that the total cost was around USD12 billion. The final figure of the expenses is supposed to be released to the public in June 2022. There are several

reasons for this. The initial conservative estimation of the costs was intended to meet the IOC and the Japanese society's expectations. Furthermore, it was not clear who would be responsible for additional costs incurred. Due to insufficient external supervision, it was difficult to control the increase in costs. Other problems include failure to adequately consider maintenance costs, the moral hazard of not having to worry about excessive spending, and the lack of interest of Tokyo people in the burden of the costs. The lack of democracy and transparency of the Tokyo Olympics has caused many issues, one of which is cost amplification. However, there is a dilemma that if democratic decision-making was introduced to the field of sports in Japan, holding the Olympic games in that country would be more difficult in the future.

China's plan to protect intellectual property in the 2022 Winter Olympics should be considered when discussing the economic benefits of the Olympics Games. China's existing IP rights legislations, including the Copyright Law, the Trademark Law, the Patent Law, Administration Regulations on Special Symbols, and the Anti-unfair Competition Law can protect the Olympic symbols. To strengthen the protection of Olympic symbols, safeguard the interests of the right holders, and promote the development of the Olympic movement, China issued and implemented [the Regulation on the Protection of Olympic Symbols](#). China now has a complete legal framework for the protection of Olympic symbols. Protected symbols include the Olympic motto, emblem, anthem, exclusive expression of Olympic Movements such as Olympics, Olympia, and Olympic Games, the symbol of the Chinese Olympic Committee, and the name and symbols of Olympic Games hosted inside China. Right holders shall enjoy the exclusive right and use for commercial purposes must be approved by the right holder with a signed license contract. Ambush marketing is also regulated. Article 6 of the Regulation provides that the utilisation of elements related to the Olympic movement that may mislead people into believing that there are sponsorship or other relationships between the users and the right holders of the Olympic symbols may constitute unfair competition and will be handled under the Anti-unfair Competition Law. But it should be noted that there are very few judgments or administrative orders relating to ambush marketing in China.

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