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Analysis of the UN Convention on the Rights of Persons with Disabilities and US disability discrimination laws

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Background

United Nations Secretary General, Mr. Ban Ki-moon addressed the IOC membership at the XIIIth Olympic Congress and further solidified the relationship between the two organizations and their shared commitment to sport for development and peace. While discussing the shared principles of non-discrimination, sustainability, universality and solidarity and growing cooperation between the UN and the IOC, he stated “Olympic principles are United Nations principles.” He said “My Special Adviser on Sport for Development and Peace, Mr. Wilfried Lemke, has a simple philosophy: ‘Sport is a universal language that unites people and builds bridges’” (United Nations, 2009). The Secretary General further acknowledged the power of sport to address discrimination and marginalization, saying, “We must use the potential of sports to help people who are marginalized, including people with disabilities. . . . I hope that all sports will strive to provide equal access to everyone, in keeping with the landmark United Nations Convention on the Rights of Persons with Disabilities (CRPD)” (United Nations, 2009). The CRPD encompasses numerous areas, including sport and physical activity, which is contained in Article 30.5 (Hums, Moorman, & Wolff, 2010). The CRPD provides disability advocates an important tool to use to work for continued integration and equal opportunities for people with disabilities, including providing equal access and equal treatment in sport programs and activities.

Objectives

This presentation examines: (a) the development of the CRPD, specifically Article 30.5 on sport and physical activity; (b) the current compliance model applied to sport organizations in disability discrimination litigation; (c) the potential impact of the CRPD on this current enforcement model; (d) how the intersection of the CRPD and existing U.S. law may impact sport managers and disability rights advocates; and (e) how this analysis can be translated in international settings.

Implications for Practice

The Secretary General’s reference to the CRPD is quite timely. As of April 2010, 144 countries became signatories to the Convention, and 85 countries had ratified it (United Nations, 2010). Canada ratified the Convention in the days directly before the Vancouver Winter Paralympic Games (Foreign Affairs and International Trade Canada, 2010). Although the UN ratified the CRPD in 2006, it was not until July 24, 2009, that President Barack Obama made the United States the 142nd official signatory. Disability rights advocates welcomed the United States adoption of the Convention, which provided a strong statement of commitment to non-discrimination against people with disabilities. The Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 established protection from discrimination for people with

disabilities in many contexts including access to sport and leisure facilities, programs, and services. Sport organizations in the United States continue to struggle to fully understand their legal and moral responsibilities toward people with disabilities in providing programs and services (Fay & Wolff, 2009; Friedman & Norman, 2009). There is also continuing speculation as to how and whether the CRPD would fit within the current landscape of non-discrimination laws in the United States, including the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12111 et seq., 12131 et seq. and 12181 et seq., 2009) and the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.). Both statutes contain a substantial volume of jurisprudence, including how these laws impact access to sport programming and athletic opportunities. Both statutes are also deeply rooted in social policy as is the CRPD (Lord & Stein, 2009). Sport managers need to be aware of these statutes, their relation to the CRPD, and how that relationship will need to be practiced in areas such as programs, activities, facility development, participation eligibility standards, customer service, and event management. This challenge to implement the CRPD is not unique to the United States, and this paper will examine the legal and policy processes currently in practice to implement the CRPD's non-discrimination and integration provisions.

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