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The Political History of the
Olympics and the Human
Rights Thicket

Jules Boykoff

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Symposium

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THE POLITICAL HISTORY OF THE OLYMPICS AND THE HUMAN RIGHTS
THICKET

*Jules Boykoff**

* Keynote Speaker at the University of Connecticut Law School, the Connecticut Journal of International Law Symposium: *Behind the Games: The Effect of the Olympics on Host Cities* on April 12, 2019.

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INTRODUCTION

We are living in an enormously important moment when it comes to the relationship between the Olympics Games and human rights. It's a particularly opportune time to peer behind the shiny scrim of the Olympics and seriously scrutinize the effects that staging the Games has on host cities.

The frame of human rights helps us see the Olympics—and its current problems—with greater clarity. At the same time, the Olympics provide a powerful lens to think through the limitations of human-rights discourse as well as the all-too-common chasm between discourse and deed.

The *Olympic Charter* thrums with optimism. It is chockful of lofty views about the global moral order and sport's vital role in promoting human rights. For example, the fourth "fundamental principle" states, "The practice of sport is a human right. Every individual must have the possibility of practicing sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play."¹

The United Nations, with whom the IOC has worked closely since the 1990s, has helped the Olympic Movement promote human rights. In 2009 the IOC secured Permanent Observer status at the UN, a rarity for NGOs. Since 2011, the UN Human Rights Council has routinely put forward resolutions "Promoting human rights through sport and the Olympic ideal."²

On the other hand, that very same *Olympic Charter* openly curtails political dissent. Although it forbids discrimination based on politics and claims no patience for "any political or commercial abuse of sport and athletes," it also includes Rule 50, which explicitly quashes political speech. Rule 50 reads, "No kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas."³ Barring free political speech in "other areas" is remarkably broad.

There was once a time, not that long ago, where an Olympic booster or a mayor who wanted to host the Games in their city could walk to the podium and proclaim that the Olympics would bring a cavalcade of gifts without receiving any real pushback. Today that simply doesn't happen. That's because there's been an explosion of work carried out by human-rights workers, academics, journalists, and grassroots activists that has changed the way the general public thinks about the Olympics.

A clutch of human rights groups—primarily Human Rights Watch and Amnesty International, but also groups like Terre des Hommes and the World Players Association—have stepped up to watchdog the IOC and its rhetoric. These groups are the antithesis of passivity, and they have often worked closely with the IOC—some say a little *too* closely—as they try to get things done.

The Games today are discussed with so much more complexity and nuance than they were even ten years ago. Critics have raised numerous issues for prospective host cities, issues I'll discuss in a moment, from economic costs to

¹ INT'L OLYMPIC COMM., OLYMPIC CHARTER, at 11 (2019), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf> [hereinafter OLYMPIC CHARTER].

² G.A. Res. 27/8, at 1 (Oct. 3, 2014).

³ OLYMPIC CHARTER, *supra* note 1, at 90.

security and policing to eviction and displacement to human-rights issues. All this has contributed to a clear trend whereby fewer and fewer cities are eager to host the Olympic Games.

There are discernible patterns in the political history of the Olympics that, when taken together, have funneled the Games toward a forced reckoning with human-rights problems. Focusing on a handful of key trends in the 21st-century Olympics, I will argue today that the way the Games are structured actually *create* a stage for human-rights problems.

My comments are comprised of three parts. First, I'll discuss some of the history of the Olympics so we can better understand how the Games today are both an echo and a product of the Olympic past. Second, I'll map out the wider trends when it comes to hosting the Olympics in the 21st century and how they pave a path for human-rights trouble. Last, I'll discuss outbursts of political activism and human-rights advocacy that have emerged to illuminate the pitfalls of the Games.

In his detective-fiction thriller titled *An Olympic Death*, Manuel Vásquez Montalbán described what it was like to be in Barcelona as the city prepared to host the 1992 Summer Olympics. The acclaimed Spanish novelist and leftist columnist for *El País* wrote, "In this city, you were either working for the Olympics, or you were dreading them – there was no middle ground."⁴ The idea that you're either for the Olympics or against them is common when the Games roll into town.

Although Montalbán asserts there is "no middle ground" when it comes to the Olympics, I believe there's actually more wiggle room than such an either-or dichotomy suggests. It seems to me that one can both support the athletes *and* critique the Olympic machine.

My own experience supports this position. Given the trends I'm about to point out, I think it's worth noting that I'm not a cantankerous academic with a kneejerk penchant for belittling sport. In fact, in May 1990, at the age of 19, I got my own personal taste of the Olympic movement when I represented the U.S. Olympic Soccer Team—also known as the U-23 National Team—in an international tournament in France. We played against the Olympic teams from Brazil, Yugoslavia, Czechoslovakia, and the Soviet Union. In every instance the assembled French fans rooted for the teams we were playing, or at least that's what it most assuredly felt like from the pitch level.

At the time I just thought "who wouldn't cheer for Brazil?" Their line-up featured future stars like Cafu and Marcelinho, after all. But in a corner of my mind I entertained the idea that fans weren't just rooting *for* Brazil, but also *against* us. And over the coming week or so, we received a similarly icy response when we played Yugoslavia, Czechoslovakia, and the Soviet Union. I found our reception a bit baffling, but also intriguing. There was something going on that I could sense, but not fully understand.

In fact, there was a lot I didn't fully appreciate at the time. I was totally oblivious to the longer history of the Olympics. I was unaware that in the 1980s and 1990s, while I was running up and down the pitch, the International Olympic Committee moving swiftly to commercialize the Olympics in the hopes of creating financial stability and even profit. This included corporate sponsorships with the

⁴ MANUEL VÁZQUEZ MONTALBÁN, AN OLYMPIC DEATH 34 (Ed Emery trans., Serpent's Tail 1992) (2008).

likes of McDonald's, Coca-Cola, and Panasonic as well as deals with TV behemoths like NBC who recently paid \$7.75 billion for Games from 2021 through 2032. For now, this appears to be a sound investment: for Rio 2016, NBC made records profits, some \$250 million.⁵

I. POLITICAL HISTORY OF THE OLYMPICS

Yet the Olympics have not always been the sparkly corporate colossus they are today. The Games from the 1890s are almost unrecognizable today. The modern incarnation of the Olympics was the brainchild of a French aristocrat, Baron Pierre de Coubertin. Coubertin worked hard to chisel the Games from Greek history and revive them in fresh form. The Baron was an eccentric Anglophile who believed that blending rigorous discipline with manly self-display would reinvigorate the French nation after the humiliation of the Franco-Prussian War. In an oft-quoted passage, he proclaimed, "I shall burnish a flabby and cramped youth, its body and its character, by sport."⁶

Coubertin was a real renaissance man and a tireless writer on an array of topics. He was a poet. In fact, his poem "Ode to Sport" won the prize for literature at the 1912 Olympics in Stockholm. (Back then, the Games featured competitions for literature and art). Writing under a pseudonym—Georges Hohrod and M. Eschbach—Coubertin's award-winning poem affords us a clear look at his views on the power of sport. "O sport, you are beauty!" he wrote. "You are Justice," he went on. For him, sport was also audacity, honor, joy, fecundity, progress, and peace. For the Baron, sport was pretty much everything.

Of course, the Baron did not mention human rights in his poem, as that was not yet part of the discourse in 1912. But human rights are rooted in many of the principles he did celebrate, principles of justice, progress, and peace as well as notions of equality, freedom, and dignity that ghosted behind his poetry. It wasn't until the 1970s that US President Jimmy Carter embraced human-rights rhetoric. And even then, as scholar Barbara J. Keys points out, "human rights became a way of directing attention elsewhere—a program for improving the rest of the world rather than rectifying deficiencies at home." Human rights discourse emerged as "the new mantra" because the idea "resonated with extraordinary power among a public eager to reclaim American virtue" after the tumultuous 1960s.⁷ Human-rights scholars have pointed out that "the United States is far from the 'gold standard' for international human rights practice."⁸

Coubertin was a man of many talents, but penning feminist theory was not among them. He once claimed, a "woman's glory rightfully came through the number and quality of children she produced, and that where sports were concerned, her greatest accomplishment was to encourage her sons to excel rather than to seek

⁵ Ahiza Garcia, *NBC's \$12 Billion Investment in the Olympics is Looking Riskier*, CNN (Feb. 24, 2018), <https://money.cnn.com/2018/02/24/media/nbc-olympics-ratings-12-billion-rights/index.html>.

⁶ The historical material in this section comes from JULES BOYKOFF, *POWER GAMES: A POLITICAL HISTORY OF THE OLYMPICS* (2016).

⁷ BARBARA J. KEYS, *RECLAIMING AMERICAN VIRTUE: THE HUMAN RIGHTS REVOLUTION OF THE 1970S*, at 7–10 (2014).

⁸ WILLIAM T. ARMALINE, DAVITA SILFEN GLASBERG & BANDANA PURKAYASTHA, *Human Rights in the United States: The "Gold Standard" and the Human Rights Enterprise*, in *HUMAN RIGHTS IN OUR OWN BACKYARD: INJUSTICE AND RESISTANCE IN THE UNITED STATES* 251, 251–53 (2011).

records for herself.” He argued for “the solemn and periodic exaltation of male athleticism...with the applause of women as a reward.” He said women’s sports should be excluded from the Olympics, unless they were crowning victorious men. In short, his views on women and sport were far from enlightened. Although some might say it’s unfair to use today’s standards to assess someone’s actions from the early 1900s, there were plenty of people standing up for equal rights for women at the time the Baron ruled the Olympic roost.

In the early days of the Olympics, women barely participated at all. Once they were folded into the Games—and not nearly at the same level as men—they were subjected to humiliating so-called sex tests. To verify their gender, women athletes were forced to engage in what were called “nude parades” in front of a panel of male judges who checked their genitals and decided whether the athletes were in fact women. Although this look-test standard was eventually abandoned, it set a baseline for questionable practices—like chromosome tests—that infringed on the human rights of female athletes.⁹

Coubertin often gave voice to racism tinged with colonialism, as when, in 1923, he argued African countries should be allowed to join the Olympic family to offset their “individual laziness and...a thousand jealousies of the white man.” He also said that “The colonies are like children: it is relatively easy to make them, but it is difficult to provide them with a good education.” This straight-up paternalism mixed with gestures of inclusion sum up Coubertin’s approach to building the Olympics through a reticulation of tensions and contradictions.

The Baron created the International Olympic Committee by assembling a hodgepodge of aristocrats: princes, counts, and fellow barons. From the beginning, the Olympics were an elite affair. Class privilege is baked into the Games. In the early days of the modern Olympics, the very definition of amateurism was pure-grade class privilege. People who performed manual labor for pay—whether tied to sports or not—were considered professionals and were thus sidelined from participation. In other words, if you were paid for your work as, say, a bricklayer, you were not an amateur and thus were ineligible for the Olympics. The IOC eventually changed this rule in the early 1900s. Years later, it broadened the inner circle of its membership to include wealthy business leaders and former Olympians. In 1981—yes, 1981—it finally began to allow women into its ranks. Today it retains its aristocratic flavor (e.g. a Princess from Lichtenstein, a Saudi Prince, and a Prince from Monaco, and so on).

But conservatism predominated in Olympic circles. For Olympic honchos, politics and sports were not supposed to mix. As IOC President Avery Brundage—a business tycoon from Chicago—once wrote, “We *actively combat* the introduction of politics into the Olympic movement and are adamant against the use of the Olympic Games as a tool or as a weapon by any organization.”

But, of course, the idea that the Olympics and politics don’t mix is fanciful fantasy, a mere fairy tale that IOC members tell each other around the evening fire. Nearly everything about the Olympics is political. The marching, the flags, the

⁹ JAIME SCHULTZ, WOMEN’S SPORTS: WHAT EVERYONE NEEDS TO KNOW (2018); Ruth Padawer, *The Humiliating Practice of Sex-Testing Female Athletes*, N.Y. TIMES (June 28, 2016), <https://www.nytimes.com/2016/07/03/magazine/the-humiliating-practice-of-sex-testing-female-athletes.html?searchResultPosition=1>.

national anthems. The selection of corporate sponsors. The production of athletic apparel, which is often done under dubious working conditions. The decisions about which city will host the Games. And discussing human rights automatically bring the Games onto the terrain of politics as well.

This was brought into high relief when in 1936 Berlin hosted the Summer Olympics. Adolf Hitler had come to power three years earlier. People around the world rallied against Berlin being allowed to host the Games. There was serious talk in the United States of a boycott, led mostly, but not exclusively, by Jewish groups who were rightly concerned over the mistreatment of their fellow Jews in Germany.

I should mention that at first Hitler showed very little interest in the Olympics. Even in 1932, Hitler was referring to the modern Olympics as “a plot against the Aryan race by Freemasons and Jews.”¹⁰ That changed when his propaganda minister Josef Goebbels convinced him that the Games could be a massive boon for Nazi propaganda. For the 1936 Berlin Games Goebbels invented the torch relay tradition, whereby the Olympic torch travels through numerous communities, drumming up popular support. The torch relay has lasted all the way to today.

In any case, even before the Games started, there was trouble and it revolved around the human rights of Jewish folks. Hitler’s belief in the racial supremacy of the ‘Aryan race’ obviously clashed with the inclusiveness championed in the IOC’s official charter. The year before the Games, Germany had passed the Nuremberg Laws, formalizing anti-Jewish policies and practices. The IOC opted to carve a middle path. When IOC President Henri Baillet-Latour saw anti-Semitic signage peppering the German landscape he complained to Hitler and threatened to cancel the Games. The Führer begrudgingly relented, ordering the signs’ removal.¹¹ In Avery Brundage’s personal notes, he wrote, “Baillet-Latour said to Hitler ‘You keep your law, I keep my Games.’”¹² The Games went on, and we all know what eventuated: one of the gravest human-rights calamities of all time.

Years later, political activists flipped the script, using the Games to their advantage to fight for human rights. For example, in 1962 savvy anti-apartheid activists in South Africa founded the South Africa Non-Racial Olympic Committee (or, SANROC). Due to intense political repression, SANROC went underground in 1965, emerging in 1966 outside South Africa.

SANROC enjoyed allies in the United States. Barrier-breaking baseball star Jackie Robinson led a group of famous athletes—including Tommie Smith, Dave Bing, Bob Gibson and K.C. Jones—that pushed for South Africa to be banned from the Games. Numerous prominent athletes supported the cause, including Arthur Ashe, Wilt Chamberlain, Jim Bouton, Len Wilkins, and Oscar Robertson. The persistence of these athlete-activists and other dissident citizens paid off. In the 1960s South Africa’s invitation to the Olympics was withdrawn. Ultimately, they were expelled from the Olympic Movement, only to be reinstated in time to participate in the 1992 Barcelona Games.

¹⁰ David Clay Large, *The Nazi Olympics: Berlin 1936*, in THE PALGRAVE HANDBOOK OF OLYMPIC STUDIES 16, 60–71 (Helen Jefferson Lenskyj & Stephen Wagg eds., 2012).

¹¹ RICHARD D. MANDELL, THE NAZI OLYMPICS 93–94 (Univ. of Ill. Press 1987) (1971).

¹² Avery Brundage, “Olympic,” in file “Notes on Art, Politics, Sports, 1968-1970,” Avery Brundage Collection, Box 246, Reel 143, on file with INT’L. CTR. FOR OLYMPIC STUD. (Ontario, Canada).

Another example of athletes using the Olympics to push for political change is the Olympic Project for Human Rights (OPHR), which started in the US in 1967. The group threatened to orchestrate a boycott of the 1968 Games because of racial injustice and human-rights violations in the United States. Many big-name athletes supported the idea. The boycott didn't happen, but the work of OPHR eventually led to the iconic moment at the 1968 Olympics in Mexico City where John Carlos, Tommie Smith, and Peter Norman carried out their unforgettable medal-stand protest, with Carlos and Smith thrusting their black-glove-clad fists into the sky while Norman—a white Australian—donned an Olympic Project for Human Rights button in solidarity. Months of activist campaigning—often led by athletes themselves—built up to this act of dissent.

Yet, not everyone appreciated the moment. Brundage was furious. The International Olympic Committee expelled Carlos and Smith from the Olympic Village. The media went on the attack, too. Brent Musburger, today a well-known television sports commentator, penned a scathing rebuke of the athlete-activists. Writing for the *Chicago American*, he railed, “One gets a little tired of having the United States run down by athletes who are enjoying themselves at the expense of their country...airing one's dirty clothing before the entire world during a fun-and-games tournament was no more than a juvenile gesture by a couple of athletes who should have known better.” Infamously he also called them “a pair of black-skinned stormtroopers.” Years later Smith and Carlos were honored in the White House, which tells us something about historical memory and the fight for human rights and justice.

1976 was a pivotal year for the Olympics. For starters, the Winter Games were originally slated for Denver, Colorado until an upsurge of dissent derailed the master plan. After the IOC awarded the Olympics to Denver, activists rallied against hosting the Games for fear of the ecological degradation it could trigger, as well as for the cost to the taxpayers of Colorado. After a fierce political battle, activists won a public referendum that, in late 1972, took away funding for the Games. The IOC was forced to move the Games to Innsbruck, Austria. Denver became the first city to reject the Games after having been granted them.

1976 was also important because of the Montreal Summer Games. In early 1970, Montreal Mayor Jean Drapeau said the Games could be staged for a mere \$125 million. He assured critics that “The Montreal Olympics can no more have a deficit, than a man can have a baby.” Yet, by the time the closing ceremonies rolled around, the Montreal Games cost a whopping \$1.5 billion. The Montreal Olympics were not fully paid off until 30 years later in 2006. And to top it off, two years after Montreal had repaid its debt, a man had a baby. In 2008, Thomas Beatie, a transgender man from Bend, Oregon, gave birth to a healthy baby girl. Basically, Drapeau was wrong across the board.

II. OLYMPIC TRENDS IN THE TWENTY-FIRST CENTURY

Today the Games are happening in a very different era where *awareness* of the grizzled underbelly of the Olympics is at an all-time high. The result? In the 21st century fewer and fewer cities are keen to host.

Nowadays activist movements crop up in pretty much every aspiring host city, leaning on academic research to make their case. Referenda have become civic brickbats for activists—Germany has had bids torpedoed in Berlin and Hamburg,

and Innsbruck had its bid for the 2026 Winter Games derailed by an unsuccessful referendum. 2026 bids from Sapporo and Sion, Switzerland were scuppered before that.

Here in the US, Boston residents got organized and just said no to hosting the Olympics. Anti-Games figures Chris Dempsey and Andrew Zimbalist summarized the endeavor: “By rejecting Boston 2024’s bid, the people of Boston reclaimed their right to chart their own city’s future, without the costly demands and requirements of the International Olympic Committee’s seventeen-day extravaganza.” Bostonians chose “self-determination rather than oligarchic dictate.”¹³ Feeling the political heat, the United States Olympic Committee, passed the tarnished torch to Los Angeles. In response, NOlympics LA, a rambunctious group of activists in Los Angeles that is affiliated with the Democratic Socialists of America, is trying to scythe a similar path to that of anti-Olympics activists in Boston. Other cities rejected the idea of hosting the 2024 Olympics: Krakow, Rome, Budapest, Toronto, various cantons in Switzerland—the list of cities rebuffing the Games goes on.

It is fair to say that the Olympic movement has descended into a bit of a slow-motion crisis. Activism, academia, human-rights workers, and basic math help explain why. These people have pointed to indisputable trends when it comes to the modern-day Olympics, trends that both animate criticism and create space for human-rights problems.

The first trend is escalating costs. The Olympics have become notorious for “Etch A Sketch Economics,” whereby during the bid process, Olympic supporters understate costs only to have them skyrocket by the time the Games are staged.¹⁴ University of Oxford researchers analyzed Olympics between 1960 and 2016 for which reliable data exists and found that every single Games ran over its initially stated budget, with an average cost overrun of 156%, a markedly higher mark-up rate than other mega-projects.¹⁵

I mentioned the Montreal Olympics of 1976, but the problem of overspending is no mere relic of the 1970s. For instance, the budget for the Vancouver 2010 Winter Olympics jumped from \$1 billion to \$10 billion. The London 2012 Summer Games price tag started at \$3.8 billion but ballooned to \$18 billion. A Sky Sports investigation calculated the actual price tag, including necessary infrastructure projects, to be \$38 billion. The 2014 Sochi Winter Olympics went from \$12 billion to \$51 billion, making the price of those Games higher than all previous Winter Olympics combined. The Rio 2016 Olympics went from \$12 billion to \$20 billion.¹⁶ The 2018 Pyeongchang Games jumped doubled from around \$6 billion to \$13 billion.¹⁷ There are opportunity costs here as well—often, money spent on Olympics

¹³ CHRIS DEMPSEY & ANDREW ZIMBALIST, NO BOSTON OLYMPICS: HOW AND WHY SMART CITIES ARE PASSING ON THE TORCH 172 (2017).

¹⁴ Jules Boykoff, *A Bid for a Better Olympics*, N.Y. TIMES (Aug. 14, 2014), <https://www.nytimes.com/2014/08/14/opinion/a-chance-to-reform-the-olympic-movement.html?searchResultPosition=1>.

¹⁵ Bent Flyvbjerg et al., *The Oxford Olympics Study 2016: Cost and Cost Overrun at the Games*, 14 UNIV. OF OXFORD SAID BUS. SCH., Research Paper 20 (2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2804554.

¹⁶ JULES BOYKOFF, POWER GAMES: A POLITICAL HISTORY OF THE OLYMPICS (2016).

¹⁷ Samantha Raphelson, *South Korea Prepares to Spend \$13 Billion on Winter Olympics. Is It Worth It?*, NPR (Feb. 2, 2018), <https://www.npr.org/2018/02/02/582790412/south-korea-prepares-to-spend-13-billion-on-winter-olympics-is-it-worth-it>.

are not spent on local issues like the protection of human rights.

But costs only tell part of the story. Often, host cities are also left with white elephant stadiums that are expensive to maintain. For example, Pyeongchang built a new stadium at cost of \$109 million that was originally slated for public use. Yet it was used four times and then torn down.¹⁸ The Olympics are creating a new architectural genre: disposable stadiums, as if they were coffee cups. Meanwhile, the Pyeongchang ski run sits rock-strewn and unused. In Rio, the canoe slalom venue is boarded off from the public. With the flooding that has struck Rio, there's a good chance that at times there are more waterfowl using the facility than the city's athletes. In Athens, the softball field and beach volleyball stadium from the 2004 Athens Summer Olympics sit abandoned, overgrown with weeds and littered with trash. The aquatic center and canoe-slalom course are abandoned.¹⁹ In Turin, host of the 2006 Winter Olympics, the most socially productive use of a venue may be the Athletes Village, which refugees and migrants squatted in and eventually converted into apartments.²⁰

A third clear trend is the militarization of public space. This very much relates to spending on the Games and directly ties to human-rights issues. Local security and police forces use the Games like their own private cash machine, leveraging the state of exception that the Olympics inevitably bring to secure all the weapons, gear, and special laws they'd struggle to get during normal political times. Terrorism is real, of course. But even when terrorists don't show up, activists do, and police have all sorts of weapons at their disposal to ensure the sport spectacle proceeds apace. Moreover, security officials often conflate terrorism and activism. The Rio bid book contained a section on "Activist/Terrorist Risks."

If you attended the London 2012 Olympics, you could be forgiven for thinking you had mistakenly entered a military hardware convention. There were missiles on rooftops and the military was ubiquitous on the streets after it was literally called in to provide security after the private firm G4S failed to come through with trained staff, as promised. Even the London 2012 mascots looked like two-legged surveillance cameras. In Russia, whip-wielding Cossacks took to the streets to preserve order, attacking the art-activist collective Pussy Riot when they performed in public space. In Rio, 85,000 security personnel were put to work, double the number in London. Pyeongchang installed extra CCTV cameras and facial recognition systems while ramping up their supply of tactical drones. The Games featured 60,000 security officials per day, including 50,000 from the military, making this Olympic security force one of the most militarized ever. And police don't box up these special weapons and return them to the manufacturer after the Games. Rather, they are ingrained into everyday policing, becoming the new normal of militarized securitization.

¹⁸ Kim Tong-Hyung & Stephen Wade, *Pyeongchang Olympics: Costly Venues May Eventually be Razed*, ASSOCIATED PRESS (Sept. 20, 2018), <https://www.apnews.com/3bdb5c3b4bf247bc8a36dcaba90ac398>.

¹⁹ Steven Bloor, *Abandoned Athens Olympic 2004 Venues, 10 Years On—In Pictures*, GUARDIAN (Aug. 13, 2014), <https://www.theguardian.com/sport/gallery/2014/aug/13/abandoned-athens-olympic-2004-venues-10-years-on-in-pictures>.

²⁰ Claire Provost & Simone Lai, *Occupy Turin: Refugees Find a Home in Italy's Abandoned Olympic Village*, GUARDIAN (Mar. 2, 2016), <https://www.theguardian.com/cities/2016/mar/02/turin-refugees-italy-abandoned-olympic-village>; *Turin's Olympic Village Houses Migrants*, REUTERS (Jan. 25, 2018), <https://www.reuters.com/news/picture/turins-olympic-village-houses-migrants-idUSRTX4JIA3>.

A fourth global trend with the Olympics is the displacement of everyday working people. More specifically, the Games bring the iron fist of forced eviction and the velvet glove of gentrification. The general trend is that the Global South sees more eviction while the Global North experiences gentrification. Beijing evicted a whopping 1.5 million people to make way for the 2008 Games. Rio displaced 77,000 people. But sometimes amid the numbers it's easy to lose sight of the fact that real people are affected. For example, in Rio there's Heloisa Helena Costa Berto, an Afro-Brazilian practitioner of the Candomblé religion who was evicted from Vila Autódromo, a small, working-class favela along the Jacarepaguá lagoon that was slated for demolition to make space for a parking lot next to media center for the Rio 2016 Games. Her whole life was overturned, including her ability to practice her religion, since the lagoon was home to her *orixá*, or deity.

A fifth trend is false promises: Believing in most Olympic legacy projects is a bit like buying a unicorn with a bucket of Bitcoin. Just because you wish it to be real does not make it so. Environmental promises seem especially susceptible to being broken. In 1990s IOC made sustainability a new arrow in its rhetorical quiver. Yet, follow through is massively lacking. In other words, the Olympics facilitate greenwashing: talking the green talk without walking the green walk. For example, at the London 2012 Olympics, organizers created a new category of corporate sponsor: "sustainability partners." They included BP—yes, BP—as well as BMW, BT, Cisco, EDF Energy, and GE. An independent watchdog group called the Commission for a Sustainable London 2012 revealed that the sponsorship program was simply a pay-to-play charade. In truth, there were zero environmental standards that needed to be met in order to become a "sustainability partner." The Rio Games bidders promised to clean-up of the notoriously polluted Guanabara Bay by filtrating 80% of the water entering the body of water. But nothing of the sort happened. Each day around 169 million gallons of untreated sewage continue to flow into Guanabara Bay.²¹ For Pyeongchang 2018, South Korean bidders promised that they'd deliver a "Green Dreams" Olympics featuring "the most advanced, environmentally friendly strategies." Then they turned around and chopped down 58,000 trees in a sacred 500-year-old forest on Mount Gariwang to make way for an Olympic ski run.²²

Human rights in China represent another false Olympic promise. In July 2015, the International Olympic Committee (IOC) selected Beijing to host the 2022 Winter Games over the only other candidate that remained standing: Almaty, Kazakhstan. In reality, the IOC had few options. Voters in Stockholm, Munich, Krakow, and Switzerland had categorically rejected hosting the 2022 Games. Norwegian politicians followed suit, throttling Oslo's bid and leaving only Beijing and Almaty, Kazakhstan, in the running. Both China and Kazakhstan are human-rights *bête noirs*. No matter which city won, the Olympic movement was destined to receive criticism. In coronating Beijing, the IOC not only made the Chinese city the first to host both the Summer and Winter Games, but it also demonstrated its

²¹ Jules Boykoff, *What Makes Brazilians Sick*, N.Y. TIMES (July 18, 2016), <https://www.nytimes.com/2016/07/18/o-pinion/what-makes-brazilians-sick.html?auth=login-email&login=email>.

²² Rebecca Kim, *They Went and Did It! 500-Year-Old Primeval Forest at Mount Gariwang Unlawfully Destroyed for 2018 Pyeongchang Winter Olympics*, GAMES MONITOR (Nov. 22, 2014), www.gamesmonitor.org.uk/node/2228.

tendency to select cities with questionable human-rights records that clashed with the principles of Olympism.

With Beijing, the contradiction bit doubly deep, as back in 2001, Chinese Summer Games bidders vowed that securing the 2008 Olympics would speed up the process toward a more democratic future for the country. Beijing bid committee luminary Wang Wei claimed, “We are confident that, with the Games coming to China, not only are they going to promote the economy, but also enhance all the social sectors, including education, medical care and human rights.”²³ Jacques Rogge, then President of the IOC, spoke from a similar script, stating, “It is clear that the staging of the Olympic Games will do a lot for the improvement of human rights and social relations in China.”²⁴ Turns out, predictions of Olympics-induced human-rights progress in China were greatly exaggerated. Sophie Richardson of Human Rights Watch even argued, “The reality is that the Chinese government’s hosting of the Games has been a *catalyst* for abuses.”²⁵

Today in China, even after being awarded the 2022 Games, the government has intensified repression against the country’s Muslim Uighurs especially in the northwestern Xinjiang province. We are seeing mass detention camps, supposedly for reeducation, which the *Washington Post* editorial board has called “concentration camps.”²⁶ Uighurs have experienced torture, invasive biometric technologies, surveillance cameras at mosques, and arbitrary checkpoints. They are forced to install software on their mobile phones that enable total surveillance, and police on the streets check to make sure the software is indeed loaded on their phones.²⁷ According to Human Rights Watch, “Human rights defenders continue to endure arbitrary detention, imprisonment, and enforced disappearance. The government maintains tight control over the internet, mass media, and academia.”²⁸ In short, China has not seen human-rights improvements since being handed the 2008 Olympics back in 2001. If the IOC’s new human-rights speak hold any credence, China has no business hosting the 2022 Winter Games. As far as I’m concerned, those Games should be canceled, as they clash mightily with the spirit of the *Olympic Charter* as well as the text, which has a “fundamental principle of Olympism,” that vows “to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.”²⁹

²³ Amy Shipley, *To Beijing or Not to Beijing?*, WASH. POST (July 13, 2001), <https://www.washingtonpost.com/archive/sports/2001/07/13/to-beijing-or-not-to-beijing/3f7d1e18-e7f5-4622-9acc-f7c08995414f/>.

²⁴ Amnesty Int’l, *People’s Republic of China: The Olympics Countdown—Crackdown on Activists Threatens Olympics Legacy*, AI INDEX ASA 17/050/2008 (Apr. 1, 2008).

²⁵ Hum. Rts. Watch, *China: Hosting Olympics a Catalyst for Human Rights Abuses* (Aug. 22, 2008) (emphasis added).

²⁶ Editorial Board, *China Is Creating Concentration Camps in Xinjiang. Here’s How We Hold It Accountable*, WASH. POST (Nov. 24, 2018), https://www.washingtonpost.com/opinions/china-is-creating-concentration-camps-in-xinjiang-heres-how-we-hold-it-accountable/2018/11/23/93dd8c34-e9d6-11e8-bbdb-72fdbf9d4fed_story.html?noredirect=on.

²⁷ Chris Buckley, Paul Mozur & Austin Ramzy, *How China Turned a City into a Prison*, N.Y. TIMES (Apr. 15, 2019), <https://www.nytimes.com/interactive/2019/04/04/world/asia/xinjiang-china-surveillance-prison.html>.

²⁸ *China: Events of 2018*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet> (last visited Jan. 12, 2020).

²⁹ OLYMPIC CHARTER, *supra* note 1.

The case of China and the Olympics points up an increasingly important concept: Sportwashing. Sportwashing is when states use sports mega-events to launder their reputations and distract from their horrific human-rights records. Think, for example, of the 2014 Olympics in Sochi, Russia.

Another example of sportwashing unfolded when, in June 2019, Minsk, Belarus hosted the European Games, a sort of mini-Olympics for Europe's athletes. In selecting the Belarusian capital, the EOC extended its ghastly practice of relying on major human-rights violators to stage its flagship event. In 2015, Baku hosted the inaugural European Games even though Azerbaijan was openly squelching dissent and censoring journalism.³⁰ After the Baku debacle, choosing Minsk threw into serious doubt the proclaimed commitment of European Olympic luminaries to human rights.

There is no question that Belarus is a human rights disaster. Belarus president Alexander Lukashenko was dubbed "Europe's last dictator" by U.S. President George W. Bush.³¹ Elected back in 1994, he has a notorious track record of repressing activists through violence, arbitrary detention and disappearance.³² Amnesty International noted that under Lukashenko, "the Belarusian government has cracked down on opposition leaders and movements, and abused civil rights to freedom of assembly and association."³³ Belarus is also the only country in Europe still clinging to the death penalty.³⁴ A UN special rapporteur described the treatment of death row inmates as torture.³⁵ In 2012, Britain rejected granting Lukashenko a visa to attend the 2012 Summer Olympics in London.³⁶ And yet, Belarus was handed the European Summer Olympics while the IOC sat idly by. I have argued previously that the Games should have been canceled.³⁷

"Authoritarian regimes love megasports projects," said Ilya Shumanov, deputy director at Transparency International, an anticorruption group.³⁸ Indeed, events like

³⁰ Jules Boykoff, *Europe's Leaders Should Boycott Autocratic Azerbaijan's Mini-Olympics*, GUARDIAN (June 3, 2015), <https://www.theguardian.com/commentisfree/2015/jun/03/azerbaijan-european-games-human-rights>.

³¹ Opinion, *The Tyrant of Belarus*, N.Y. TIMES (Aug. 1, 2005), <https://www.nytimes.com/2005/08/01/opinion/the-tyrant-of-belarus.html>.

³² Viachaslau Bortnik, *16 Years of Silence: Enforced Disappearances in Belarus Must Be Investigated*, AMNESTY INT'L USA, <https://www.amnestyusa.org/16-years-of-silence-enforced-disappearances-in-belarus-must-be-investigated/> (last visited Jan. 12, 2020).

³³ *Belarus Human Rights*, AMNESTY INT'L USA, <https://www.amnestyusa.org/countries/Belarus/> (last visited Jan. 12, 2020).

³⁴ Basia Cummings, *Belarus Resumes Executions After EU Sanctions Dropped*, GUARDIAN (Oct. 12, 2016), <https://www.theguardian.com/world/2016/oct/12/belarus-resumes-executions-after-eu-sanctions-dropped>.

³⁵ Hugo Bachega, *Belarus: The Secret Executions in Europe's 'Last Dictatorship'*, BBC NEWS (May 15, 2018), <https://www.bbc.com/news/world-europe-43799280>.

³⁶ Duncan Mackay, *Minsk to Host 2019 European Games After Belarus President Confirms They Will Organise It*, INSIDE THE GAMES (Oct. 21, 2016), <https://www.insidethegames.biz/articles/1042849/minsk-to-host-2019-european-games-after-belarus-president-confirms-they-will-organise-it>.

³⁷ Jules Boykoff, Opinion, *Russia's 2018 World Cup Run Is over, but Putin—and Dictators Everywhere—Are Still Big Winners at Mega-Sports Events*, NBC NEWS: THINK (July 10, 2018), <https://www.nbcnews.com/think/opinion/russia-s-2018-world-cup-run-over-putin-dictators-everywhere-ncna890056>.

³⁸ Andrew E. Kramer, *Russian City's Dazzling New Soccer Stadium Outshines Its Team*, N.Y. TIMES (May 27, 2018), <https://www.nytimes.com/2018/05/27/world/europe/russia-world-cup-stadiums.html>.

the Olympics can tee up an opportunity for authoritarians to sportwash, appearing important and even beloved on the world stage and engaging in conspicuous grin-and-grip photo-ops designed to boost their credibility.

But one could argue that Democratic regimes also sportwash, using mega-events like the Olympics to scrub away human-rights problems. Exhibit A is Los Angeles, which was chosen to host the 2028 Olympics. Homelessness in LA is a full-throttle humanitarian crisis in plain sight. The *Los Angeles Times* editorial board called the city's homeless problem, as crystallized in Skid Row, "a national disgrace" and "colossal urban crisis" resembling a "Dickensian dystopia."³⁹ UN Rapporteur on extreme poverty Philip Alston said, compared Skid Row to "a refugee camp." However, he noted, "According to a 2017 report by several homelessness advocacy groups, the availability of toilets here is worse than in a UN-run Syrian refugee camp."⁴⁰ Skid Row is certainly policed like a refugee camp; in 2018 one in three use-of-force incidents by the LAPD was carried out against houseless people.⁴¹ That same year, a point-in-time snapshot of homelessness found more than 53,000 houseless people in LA County, although the non-profit group Economic Roundtable used a different methodology and arrived at nearly double that number: 102,278.⁴² Mayor Garcetti often vows to end homelessness in LA by 2028, calling it "the greatest humanitarian crisis of our times."⁴³ Garcetti has not only promised to use the Olympics to scour away LA's homelessness crisis, but he also vowed, "We could do the Olympics every four years and make money off of it, and we expect to net north of a billion dollars," he said at a time when LA 2028 hadn't even released an official budget.⁴⁴

III. ANTI-OLYMPICS ACTIVISM AND HUMAN-RIGHTS STRUGGLE

With increasing frequency, activists have indeed been facing the unsavory dynamics of the Olympic Games. In Los Angeles there's NOlympics LA, a campaign house under the Democratic Socialists of America umbrella that has carried out all sorts of actions, both creative and militant, to challenge hosting the Olympics in LA.⁴⁵ Activist fightback takes different form depending on the political and cultural context. In Vancouver, there is a strong First Nations presence;

³⁹ The Times Editorial Board, Opinion, *Los Angeles' Homelessness Crisis is a National Disgrace*, L.A. TIMES (Feb. 25, 2018), <https://www.latimes.com/opinion/editorials/la-ed-homeless-crisis-overview-20180225-htmistory.html>.

⁴⁰ UN Rapporteur Compares LA's Skid Row to A Refugee Camp, PBS (Nov. 2, 2018), <https://www.pbs.org/wnet/chasing-the-dream/stories/un-rapporteur-compares-las-skid-row-to-a-refugee-camp/>.

⁴¹ Matt Tinoco, *One in Three Times the LAPD Used Force in 2018 It Involved a Homeless Person*, LAIST (Mar. 12, 2019), https://laist.com/2019/03/12/lapd_homeless_report_force_citation.php.

⁴² Benjamin Oreskes, *For 2019 Homeless Count, Thousands of Volunteers are Set to Deploy Across L.A.*, L.A. TIMES (Jan. 22, 2019), <https://www.latimes.com/local/lanow/la-me-ln-los-angeles-homeless-count-20190122-story.html>; but see, Doug Smith, *Is L.A.'s Homeless Population Closer to 100,000? Nonprofit Offers an Alternative View of the Data*, L.A. TIMES (Sept. 18, 2018), <https://www.latimes.com/local/lanow/la-me-ln-homeless-data-20180918-story.html>.

⁴³ Radio Interview by Ed Hula with Eric Garcetti, L.A. MANOR, (Jan. 31, 2019).

⁴⁴ Matthew A. Winkler, *Los Angeles Is Having a Loud Economic Boom*, BLOOMBERG (Apr. 5, 2019), <https://www.bloomberg.com/opinion/articles/2019-04-05/los-angeles-economic-boom-outpaces-u-s-cities>.

⁴⁵ See generally NOLYMPICS L.A., www.nolympicsla.com.

Indigenous activists took on leadership roles in anti-Games activism and “No Olympics on Stolen Native Land” was a primary slogan. The Native Warrior Society even managed to make off with City Hall’s Olympic flag, an action that honored Harriet Nahanee, an elder who was put in jail for her anti-Games environmental activism where she contracted pneumonia and eventually died.

In London there was a strong green pushback from environmentalists as well as vital organization work by Julian Cheyne and the Counter Olympics Network. In Rio the *Comitê Popular da Copa do Mundo e das Olimpíadas* (The Popular Committee of the World Cup and the Olympics) led the charge, with lots of support from faculty, staff, and students at local universities as well as from favela residents across the city and non-profits like Catalytic Communities and its Rio On Watch Olympic-monitoring program. With the Sochi Olympics, activists were forced to protest abroad more than in Russia (with exceptions like the aforementioned Pussy Riot actions), given the repressive atmosphere there. The Sochi Games occurred on the 150-year anniversary of the forced removal of the Circassians—or Adygean nationalists—from the Black Sea littoral by Tsar Alexander II, an event that scholar Matthew Light describes as a “violent ethnic cleansing of the indigenous inhabitants.”⁴⁶ New Jersey-based Circassian Dana Wojokh, who protested during the Sochi Olympics, asked me, “Would you have an Olympics in Darfur? Would you have an Olympics in Auschwitz? No, so why Sochi?”⁴⁷

Olympic athletes have also spoken out, questioning the unsavory aspects of the Games. In doing so, they are proclaiming the death knell of the myth that the Olympics and politics don’t mix. Russian snowboarder Alexei Sobalev posed with the balaclava-clad figure on his snowboard that resembled a Pussy Riot member when he finished his run in Sochi. Laurence Halsted, a two-time British Olympian in fencing, has thrown a spotlight on the environmental downsides of the Olympics, encouraging athletes to stand up for what they believe in. Ahead of the 2016 Rio Olympics, where he competed, he wrote in the *Guardian*, “It would be irresponsible not to take notice of the outcry in Rio around hosting the Olympics while the health and social wellbeing of everyday *cariocas* suffer. If I were Brazilian I would be on the streets too.” He also noted that, as an Olympian, he had “to grapple with the fact that the Olympics come with negative side effects for the host nation. Silence in the face of such injustice could be wrongly interpreted as implicit approval.”⁴⁸ And yet, amid this spate of athlete-activism, we see the human rights of athletes being violated. We might call it a modern-day “Nude Parade” behind thin scrim of science. Think of the South African Olympic track champion Caster Semenya who has been hyper-policed by the international governing body for athletics. In response, Semenya has publicly stated, “I have been subjected to unwarranted and invasive scrutiny of the most intimate and private details of my being.”⁴⁹

⁴⁶ Matthew Light, *Migration, ‘Globalised’ Islam and the Russian State: A Case Study of Muslim Communities in Belgorod and Adygeya Regions*, 64 EUR.-ASIA STUD. 195, 211 (2012).

⁴⁷ JULES BOYKOFF, *POWER GAMES: A POLITICAL HISTORY OF THE OLYMPICS* 208 (2016).

⁴⁸ Laurence Halsted, *Olympic Athletes Must Exercise Their Right to Speak Beyond Their Sport*, *GUARDIAN* (May 19, 2016), <https://www.theguardian.com/sport/blog/2016/may/19/olympic-athletes-speak-out-politics-social-issues-laurence-halsted-fencer-rio-games>.

⁴⁹ *Caster Semenya’s Comeback Statement in Full*, *GUARDIAN* (Mar. 30, 2010), <https://www.theguardian.com/sport/2010/mar/30/caster-semenya-comeback-statement>.

So, what has the IOC done in terms of human rights? In December 2014 the IOC unanimously passed “Olympic Agenda 2020,” a slate of recommendations designed to address the concerns of critics and the slew of potential host cities that said “thanks but no thanks” to the Games. In a speech that IOC President Thomas Bach gave at the time, he harkened to the importance of integrity and human rights: “The new wording of the 6th Fundamental Principle of Olympism,” he asserted, “is derived from the United Nations Universal Declaration of Human Rights.”⁵⁰ Bach was referencing recommendation 14 of the document, which stated, “The IOC to include non-discrimination on sexual orientation in the 6th Fundamental Principle of Olympism.” The revamped Principle 6 reads: “The enjoyment of the rights and freedoms set forth in this *Olympic Charter* shall be secured without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁵¹

This echoes what is now standard UN human rights language, enshrined in Article 2 of the Universal Declaration of Human Rights: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁵² The revision of the IOC Charter was a direct response to the furor over Russia’s anti-LGBT law passed just ahead of the 2014 Sochi Winter Games. Although the IOC response seemed like a step in the right direction, the principle already covered sexuality, at least implicitly, as it read: “Any form of discrimination...on grounds of race, religion, politics, gender *or otherwise* is incompatible with belonging to the Olympic Movement.”⁵³ In short, the IOC already had an ethics platform it could have used to openly criticize to Russia’s anti-gay law. It held the Olympics as a trump card and could have even threatened to relocate the Games. However, it opted to remain silent.

The IOC frequently deploys catchall terms like equality, freedom, and non-discrimination in its official rhetoric. However, the organization has a long way to go when it comes to meaningfully installing human-rights principles into its everyday practices. It trumpets admirable principles but its follow-through is often questionable at best. Human-rights scholars Barbara Keys and Roland Burke point out that “The UN, governments, and nongovernmental organizations have been flocking to human rights as a moral lingua franca since at least the end of the Cold War.” Human-rights language is conveniently elastic, which for Keys and Burke means that sports mega-events like the Olympics provide “a unique opportunity for theatrical virtue-signaling on a global scale.” They add, “In a world of terrorist attacks, forever wars, and devastating civil conflicts, the UN and IOC have sought to buttress each other’s faltering legitimacy with liturgical invocations of peace.”⁵⁴ Scholar Richard Gruneau calls the IOC’s human-rights approach “unreflective

⁵⁰ INT’L OLYMPIC COMM., OLYMPIC AGENDA 2020: 20+20 RECOMMENDATIONS 4 (2014), https://stillmed.olympic.org/Documents/Olympic_Agenda_2020/Olympic_Agenda_2020-20-20_Recommendations-ENG.pdf.

⁵¹ OLYMPIC CHARTER *supra* note 1, at 12.

⁵² G.A. Res. 217A (III), at 72 (Dec. 10, 1948).

⁵³ OLYMPIC CHARTER, *supra* note 1, at 11 (emphasis added).

⁵⁴ Barbara J. Keys & Roland Burke, *Conclusion: The Future of Idealism in Sport*, in THE IDEALS OF GLOBAL SPORT: FROM PEACE TO HUMAN RIGHTS 218, 221–22 (2019).

evangelism.”⁵⁵ In short scholars have argued that all too often, in Olympic circles, rights rhetoric is hollow.

Meanwhile, groups like the Sport and Rights Alliance—a coalition of human-rights groups including Amnesty International, Human Rights Watch, Terre des Hommes, and Transparency International Germany—are working hard behind the scenes to embed more human-rights systems of accountability into IOC documents. In January 2017 the group convinced the IOC to revise its Host City Contract to include human rights principles, beginning with the 2024 Summer Games. From that point onward, the host city, National Olympic Committee, and local organizing committee will be obligated to “protect and respect human rights and ensure any violation of human rights is remedied in a manner consistent with international agreements, laws and regulations applicable in the Host Country and in a manner consistent with all internationally-recognized human rights standards and principles, including the United Nations Guiding Principles on Business and Human Rights, applicable in the Host Country.”⁵⁶

However, this new standard does not apply to China. And IOC Vice President Juan Antonio Samaranch Jr. has made it clear that he will not press China on human-rights issues. In an interview with AP he said that the IOC would only work to protect human rights “in the context of the Olympic Games.” He added, “We cannot go further than that...Not here, not anywhere else. If we would start doing that we would be in serious trouble because there is always someone that doesn’t like something that the other did. It’s a very fine line and a very complex issue.” It was powerfully symbolic, and also more than a bit ironic, that Samaranch and his fellow IOC inspection commission officials were allowed into China while the UN High Commissioner for Human Rights was pleading unsuccessfully for access to Xinjiang to investigate treatment of the Uighurs.⁵⁷

Yet, there is some human-rights momentum, at least when it comes to setting up blue-ribbon commissions, committees, and alliances. In June 2018, many of the same groups that comprised the Sports and Rights Alliance were involved in the creation of the Centre for Sport and Human Rights. The Centre is based in Geneva and chaired by Mary Robinson, the former UN High Commissioner for Human Rights from Ireland.⁵⁸ Later that year, in December 2018, the IOC inaugurated its own Human Rights Advisory Committee of six to nine members to be chaired by Prince Zeid Ra’ad Al Hussein of Jordan, who was the United Nations High Commissioner for Human Rights from 2014 to 2018. But IOC President Thomas Bach asserted that the Committee would not consider human-rights issues in China, since this was a “political issue.” Following the line established by his colleague Juan Antonio Samaranch, he claimed the Olympic overseers could “not pretend that the IOC or the Olympic Games can solve human rights issues beyond our spheres of

⁵⁵ Richard Gruneau, *Sport, Development and the Challenge of Slums*, in PLAYING FOR CHANGE: THE CONTINUING STRUGGLE FOR SPORT AND RECREATION 33, 43 (Russell Field ed., 2015).

⁵⁶ *Olympics: Host City Contract Requires Human Rights*, HUM. RTS. WATCH (Feb. 28, 2017), <https://www.hrw.org/news/2017/02/28/olympics-host-city-contract-requires-human-rights>.

⁵⁷ Christopher Bodeen, *Samaranch approves Beijing’s Environmental Outlook for 2022*, AP NEWS (Sept. 18, 2018), <https://apnews.com/7fa305050e794cc9bdb51e11330122ac>.

⁵⁸ *Overview*, CTR. FOR SPORT AND HUM. RTS., <https://www.sporhumanrights.org/en/about/overview> (last visited Jan. 12, 2020).

work.”⁵⁹ Then, the Committee announced in March 2019 that it would not commence work until it was able to formulate “a strategic framework” and guidelines for how human rights relate to the work of the IOC. This, the Committee announced, would happen in 2020 at the soonest.⁶⁰

Such stalling demonstrates that human rights are clearly not a priority for Olympic powerbrokers. Plus, numerous covenants and documents already exist, many of them with the imprimatur of the United Nations, but, as we have seen, that does not automatically compel compliance or enforcement. Moreover, as law scholar Ryan Gauthier has demonstrated, there is “little in international law that supports holding the IOC responsible for protecting human rights in the general sense.” The idea that the IOC needs to step up its accountability standards based on recommendations from NGOs and other groups “is persuasive, but certainly not binding.”⁶¹ Human-rights scholar Barbara Keys puts a fine point on it: when it comes to sports mega-events like the Olympics, “moral claims are made in the spirit of incantation, like a liturgy based on faith, not facts.”⁶² All that said, because of the trends elucidated above, the IOC is in a weakened position historically, which makes it less able to sweep away human-rights concerns.

The great James Baldwin, once noted, “Not everything that is faced can be changed. But nothing can be changed until it is faced.”⁶³ More and more, people are facing the Janus-faced complexity of the Olympics, and if the Games continue to lose legitimacy, as fewer cities show interest in bidding, then perhaps the IOC will also face the real task at hand: to respect and protect human rights at all times and to make sure any human rights violations feel the swift force of justice.

⁵⁹ Liam Morgan, *IOC Establish Human Rights Advisory Committee and Appoint Former UN High Commissioner as Chair*, INSIDE THE GAMES (Dec. 1, 2018), <https://www.insidethegames.biz/articles/1072865/ioc-establish-human-rights-advisory-committee-and-appoint-former-un-high-commissioner-as-chair>.

⁶⁰ Liam Morgan, *IOC Push Back Start of Human Rights Advisory Committee Work to Devise Strategy on Topic*, INSIDE THE GAMES (Mar. 28, 2019), <https://www.insidethegames.biz/articles/1077336/ioc-push-back-start-of-human-rights-advisory-committee-work-to-devise-strategy-on-topic>.

⁶¹ Ryan Gauthier, *The International Olympic Committee’s Accountability for Harmful Consequences of the Olympic Games: A Multi-Method International Legal Analysis 212* (Dec. 11, 2015) (unpublished Ph.D. dissertation, ERASMUS UNIV. ROTTERDAM), <https://www.kennisbank.sportenbewegen.nl/?file=5699&m=1450434622&action=file.download>.

⁶² Barbara J. Keys, *The Ideas of International Sport*, in *THE IDEALS OF GLOBAL SPORT FROM PEACE TO HUMAN RIGHTS 1* (2019).

⁶³ JAMES BALDWIN, *As Much Truth as One Can Bear*, in *THE CROSS REDEMPTION: UNCOLLECTED WRITING 42* (Randall Kenan ed., New York Vintage Books, 2011).



WILL HUMAN RIGHTS EVER BE OLYMPIC VALUES?: EVALUATING
THE RESPONSES TO HUMAN RIGHTS VIOLATIONS AT THE OLYMPIC
GAMES

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INTRODUCTION: A SAFE PAIR OF HANDS?

On July 24, 2020, the Opening Ceremonies for the Tokyo Olympic Games will commence. Tokyo won the right to host the Games by positioning itself as a “safe pair of hands” in contrast to the riskier bids of Madrid and Istanbul.¹ In preparing for the Games, Tokyo has experienced its share of troubles. Allegations of plagiarism concerning its logo,² having to change its main stadium design,³ cost overruns,⁴ and allegations of corruption surrounding its bid,⁵ could lead one to question whether Tokyo is the “safe pair of hands” it claimed to be. Yet, these issues are par for any Olympic Games.

Another issue that is sadly par for more recent editions of the Olympic Games is the mistreatment of workers. Despite Tokyo 2020’s implementation of a “human rights consultation desk”,⁶ workers on the Olympic venues in Tokyo are laboring with few days off and in unsafe conditions.⁷ Tokyo 2020, like many other Olympic Games, is facing the challenges of monitoring and enforcing human rights, including labor rights.

These problems, particularly the human rights concerns, lead to the question: where is the International Olympic Committee (IOC)? The IOC holds the rights to the Olympic Games and selects the hosts of the quadrennial Summer and Winter Games. We assert that the IOC must be accountable for violations of human rights caused by hosting the Games. The IOC has made reforms in recent years to address human rights violations, but have these reforms been enough?

This article examines the IOC’s reforms to address human rights, and what the IOC must do going forward. Part one draws the connection between human rights and the legitimacy of the Olympic Games. Part two briefly discusses the history of IOC crisis management, including the recent human rights crisis facing the Olympic Games, with emphasis on the publication of Agenda 2020. Part three examines the efficacy of the IOC’s responses post-Agenda 2020. Part four outlines the responses from the global community to human rights violations at mega-sporting events like the Olympic Games. Part five examines the IOC’s engagement with the current multistakeholder approach to human rights, and urges the IOC to engage more closely with these stakeholders. Part six offers concluding thoughts.

¹ Jeré Longman & Martin Fackler, *For 2020 Olympics, I.O.C. Picks Tokyo, Considered Safe Choice*, N.Y. TIMES (Sept. 7, 2013), <https://www.nytimes.com/2013/09/08/sports/olympics/tokyo-wins-bid-for-2020-olympics.html>.

² Rob Alderson, *Tokyo Olympic Games Logo Embroiled in Plagiarism Row*, GUARDIAN (July 30, 2015), <https://www.theguardian.com/artanddesign/2015/jul/30/tokyo-olympics-logo-plagiarism-row>.

³ Jonathan Soble, *Japan Scraps Olympic Stadium Plan Over \$2 Billion Price Tag*, N.Y. TIMES (July 17, 2015), <https://www.nytimes.com/2015/07/18/world/asia/japan-scraps-stadium-plan-for-2020-tokyo-olympics-over-2-billion-price-tag.html>.

⁴ Toru Watanabe, *National Expenditure for Tokyo Olympics Set to Run 7 Times Over Earlier Budget Estimate: Report*, MAINICHI (Oct. 5, 2018), <https://mainichi.jp/english/articles/20181005/p2a/00m/0na/003000c>.

⁵ Ben Dooley, *Japan’s Olympic Chief to Step Down Amid Corruption Investigation*, N.Y. TIMES (Mar. 19, 2019), <https://www.nytimes.com/2019/03/19/business/japan-olympics-bribery-corruption.html>.

⁶ THE TOKYO ORG. COMM. OF THE OLYMPIC AND PARALYMPIC GAMES, SUSTAINABILITY PROGRESS REP. 83 (2019), https://tokyo2020.org/en/games/sustainability/report/data/tokyo2020-games-sus-report_EN.pdf.

⁷ BLDG. & WOOD WORKERS’ INT’L, THE DARK SIDE OF THE TOKYO 2020 SUMMER OLYMPICS 7 (2019), <https://www.bwint.org/web/content/cms.media/1542/datas/dark%20side%20report%20lo-res.pdf>.

I. HUMAN RIGHTS AND THE LEGITIMACY OF THE INTERNATIONAL OLYMPIC COMMITTEE

For the past decade, the Olympic Games have seemingly become a symbol of all that is wrong with sports: billions of dollars in costs and inevitable budget overruns;⁸ corruption at the national and municipal levels;⁹ benefits from the Games not flowing to those who need it, but to those already in power.¹⁰ The Olympic rings are a tarnished brand.

One particular problem facing the Olympic Games has been a spotty record on human rights. Leaving aside issues on human rights within sport, itself an issue that requires remediation, the organization of the Olympic Games has been an environment in which human rights abuses occur. The 2008 Beijing Summer Games brought global attention to the connection between the Olympic Games and human rights, although most of the focus by the organizers was on the ultimately false promise of how the Olympics might improve human rights within China.¹¹ However, the problem is bigger than one country, and is more closely linked to the core of the Olympic Games than to a single host. Subsequent editions of the Games following Beijing, particularly the 2014 Games in Sochi and the 2016 Games in Rio, have had their own human rights problems. In this article, we will quickly highlight three of the largest human rights issues connected with the Olympic Games: displacement of people, harm to the environment, and the use of forced labor to construct Olympic venues. While other human rights issues, such as the suppression of journalists, are salient,¹² we leave them aside here for space considerations.

First, the Olympic Games risk displacing vulnerable populations. While the Olympic Games are a tool for re-imagining a city, this re-imagining often caters to hypothetical future tourists and businesses, rather than those who currently live in the city.¹³ Locals are then displaced to make way for Games venues or other infrastructure. This displacement occurred to varying degrees in London,¹⁴ PyeongChang,¹⁵ and Tokyo.¹⁶ However,

⁸ Bent Flyvbjerg et al., *The Oxford Olympics Study 2016: Cost and Cost Overrun at the Games 2* (SAID Bus. Sch., Working Paper No. 2016-20, 2016); see also Robert A. Baade & Victor A. Matheson, *Going for the Gold: The Economics of the Olympics*, 30 J. ECON. PERSP. 201, 201, 212 (2016).

⁹ Victor A. Matheson et al., *Corruption in the Bidding, Construction and Organization of Mega-Events: An Analysis of the Olympics and World Cup*, in THE PALGRAVE HANDBOOK ON THE ECONOMICS OF MANIPULATION IN SPORT (Markus Breuer & David Forrest eds., 2018).

¹⁰ Christopher Gaffney, *Between Discourse and Reality: The Un-Sustainability of Mega-Event Planning*, 5 SUSTAINABILITY 3926, 3929 (2013); Graeme Hayes & John Horne, *Sustainable Development, Shock and Awe? London 2012 and Civil Society*, 45 SOC. 749, 759 (2011); Harry H. Hiller, *Toward an Urban Sociology of Mega-Events*, 5 RES. URB. SOC. 181, 198 (1999).

¹¹ See, e.g., Sharon K. Hom, *The Promise of a "People's Olympics"*, in CHINA'S GREAT LEAP: THE BEIJING GAMES AND OLYMPIAN HUMAN RIGHTS CHALLENGES 59 (Minky Worden ed., 2008).

¹² Joel Simon, *The Olympics and Press Freedom: Journalists Can Face Restrictions While Covering the Games*, COLUM. JOURNALISM REV. (Feb. 26, 2015), https://archives.cjr.org/behind_the_news/the_olympics_and_press_freedom_1.php.

¹³ MATTHEW J. BURBANK, GREGORY D. ANDRANOVICH & CHARLES H. HEYING, OLYMPIC DREAMS: THE IMPACT OF MEGA-EVENTS ON LOCAL POLITICS 161 (2001); see also Michael B. Duignan, *London's Local Olympic Legacy: Small Business Displacement, 'Clone Town' Effect and the Production of 'Urban Blandscapes'*, 12 J. PLACE MGMT. DEV. 142 (2019).

¹⁴ Paul Watt, *It's Not for Us: Regeneration, the 2012 Olympics and the Gentrification of East London*, 17 CITY 99 (2013).

¹⁵ See Liv Yoon & Brian Wilson, *Journalism, Environmental Issues, and Sport Mega-Events: A Study of South Korean Media Coverage of the Mount Gariwang Development for the 2018 PyeongChang Winter Olympic and Paralympic Games 15* (forthcoming 2019) (unpublished manuscript) (on file with the Communication & Sport Journal).

¹⁶ Naofumi Suzuki et al., *The Right to Adequate Housing: Evictions of the Homeless and the Elderly Caused by the 2020 Summer Olympics in Tokyo*, 37 LEISURE STUD. 89, 90 (2018).

Beijing,¹⁷ Sochi,¹⁸ and Rio saw the displacement of large numbers of vulnerable people, often through coercion. In particular, the Rio Games saw the displacement of thousands from the favelas, often through the use of force, to make way for the Games.¹⁹

Second, the rapid development that comes with hosting the Olympic Games often results in hosts overriding environmental protections. For example, in preparing for the 2018 Winter Games, Mount Gariwang had its “Protected Area” status revoked by the government to develop ski runs.²⁰ Similarly, in Rio de Janeiro, a wetlands area lost its protection, and was turned into a golf course.²¹

Finally, Olympic venue construction creates conditions that could incentivize labor rights violations. Unlike other large-scale infrastructure projects, Olympic venues have a hard deadline. The need of a significant labor force, and to finish venues on time, have led some hosts to disregard labor rights. During the preparations for the Sochi Games, human rights organizations found that workers would toil through twelve-hour days, with one day off every two weeks or so.²² Wages were often unpaid.²³ However, what makes these conditions more than “bad”, and turns them into “forced labor”, is the manner in which these workers were recruited and exploited. Many of the workers came from neighboring countries such as Serbia or Uzbekistan. Upon arrival, they would have their work permits and passports confiscated by their employers. If the workers complained about working conditions, the employers would threaten to denounce the workers to Russia’s Federal Migration Service, who would then arrest and deport the workers.²⁴

These human rights problems have combined with the other concerns about hosting the Olympic Games to create a crisis of legitimacy for the IOC and the Games.²⁵ If potential viewers, states, athletes, and sponsors view hosting the Games as a problematic affair, then demand to host the Games will collapse. If demand to host the Games collapses, one of the overriding purposes of the IOC, “the regular celebration of the Olympic Games”, is at risk.²⁶

The collapse in demand is not just a hypothetical. Prior to 2013, cities fought for the right to host the Olympic Games, with over a half-dozen bidders for most editions of the Games. Since 2013, at the height of scrutiny around the preparations for the Sochi Games, bidding has collapsed. The three editions of the Games bid on since 2013 have only seen two bidders per Games. The 2028 Games effectively did not have a bidder. The IOC simultaneously awarded the 2024 Games to Paris, and the 2028 Games to LA, to have a less contentious vote for the 2024 Games.²⁷

Number of Games Bids by Year

Games	Year	Bids	Games	Year	Bids
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¹⁷ Hyun Bang Shin & Bingqin Li, *Whose Games? The Costs of Being “Olympic Citizens” in Beijing*, 25 ENV’T & URBANIZATION 559, 560-61 (2013).

¹⁸ See, e.g., *Russia: Forced Eviction Tramples Olympic Ideals*, HUM. RTS. WATCH (Sept. 19, 2012), <https://www.hrw.org/news/2012/09/19/russia-forced-eviction-tramples-olympic-ideals>.

¹⁹ James Freeman & Marcos Burgos, *Accumulation by Forced Removal: The Thinning of Rio de Janeiro’s Favelas in Preparation for the Games*, 49 J. LATIN AM. STUD. 549, 550 (2016).

²⁰ Yoon & Wilson, *supra* note 15, at 3.

²¹ Charles Vercillo, *Rio’s 2016 Olympic Golf Course: City’s Last Remaining Ecosystems Left “in the Rough”*, 47 U. MIAMI INTER-AM. L. REV. 221, 227 (2016).

²² JANE BUCHANAN, HUMAN RIGHTS WATCH, *RACE TO THE BOTTOM: EXPLOITATION OF MIGRANT WORKERS AHEAD OF RUSSIA’S 2014 WINTER OLYMPIC GAMES IN SOCHI* 39 (Rachel Denber ed., 2013).

²³ *Id.* at 23–28.

²⁴ *Id.* at 28.

²⁵ RYAN GAUTHIER, *THE INTERNATIONAL OLYMPIC COMMITTEE, LAW, AND ACCOUNTABILITY* 84–87, 191 (2017).

²⁶ INT’L OLYMPIC COMM., *OLYMPIC CHARTER RULE 2.3* (2019), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf> [hereinafter OLYMPIC CHARTER].

²⁷ See Adam Nagourney & Jeré Longman, *Los Angeles Makes Deal to Host the 2028 Summer Olympics*, N.Y. TIMES (July 31, 2017), <https://www.nytimes.com/2017/07/31/sports/olympics/los-angeles-2028-summer-olympics.html>.

	Selected			Selected	
2010 (Vancouver)	2003	8	2022 (Beijing)	2015	2
2012 (London)	2005	9	2024 (Paris)	2017	2
2014 (Sochi)	2007	7	2026 (Milan/Cortana)	2019	2
2016 (Rio)	2009	7	2028 (LA)	2017	0
2018 (PyeongChang)	2011	3			
2020 (Tokyo)	2013	5			

Cities hoping to host the Games also face a citizenry that simply does not trust the IOC.²⁸ Referendums have increased in frequency, and these referendums increasingly reject hosting the Games. For the 1998–2018 editions of the Games, seven referendums were held, with six supporting the Games. For the 2022–2026 editions, ten referendums were held, with only one supporting the Games. The one referendum that supported the Games, Oslo, only boasted 53.5% support. However, the referendum did not give the Games a boost, as Oslo ended up dropping its bid for the Games shortly thereafter. Three other cities had referendums scheduled, but these cities withdrew their bids before the referendum took place.²⁹

Cities are bidding to host the Games less, and citizens are less willing to support any bid. This is a crisis that the IOC must deal with. Of course, the IOC is no stranger to crisis management.

II. FROM CRISIS TO CRISIS TO CRISIS

The IOC's current legitimacy crisis is not its first crisis. It is not even the first crisis the IOC has faced in regards to hosting the Olympic Games. The IOC has faced two major crises in the post-War era, a crisis of hosting the Games in the 1970s, and the Salt Lake City Scandal of 1999.

In the late 1970s, just as today, cities were disinterested in hosting the Olympic Games. The Olympic Games of Rome (1960) and Tokyo (1964) were successful, rehabilitating the images of two Second World War antagonists.³⁰ However, the following editions of the Games were less successful. Mexico City (1968) saw the suppression of student protesters. The 1972 Munich Games are remembered for the terrorist attacks of Black September. The 1976 Winter Games were relocated from Denver to Innsbruck following a referendum where citizens voted not to spend another dime on the Games.³¹

²⁸ See Nadja Giesen & Kirstin Hallmann, *The Impact of the Perceived Image and Trust in the International Olympic Committee on Perceptions of the Olympic Games in Germany*, 10 INT'L J. SPORT POL'Y & POL. 509, 519 (2018).

²⁹ Robert Livingstone, *BidWeek: A Short History of Olympic Bid Referendums*, GAMESBIDS.COM (Nov. 9, 2018), <https://gamesbids.com/eng/winter-olympic-bids/2026-olympic-bid-news/bidweek-a-short-history-of-olympic-bid-referendums/>.

³⁰ Andrew K. Rose & Mark M. Spiegel, *Do Mega Sporting Events Promote International Trade?*, 31 SAIS REV. INT'L AFF. 77, 78 (2011); Trevor Taylor, *Sport and World Politics: Functionalism and the State System*, 43 INT'L J. 531, 532 (1988); David R. Black & Janis van der Westhuizen, *The Allure of Global Games for 'Semi-Peripheral' Politics and Spaces: A Research Agenda*, 25 THIRD WORLD Q. 1195, 1206 (2004).

³¹ Colo. Gen. Assemb., *Ballot No. 8: An Act to Amend Articles X and XI of the State Constitution to Prohibit the State from Levying Taxes and Appropriating or Loaning Funds for the Purpose of Aiding or*

Finally, the 1976 Montreal Games created a billion dollars in debt that took thirty years to repay.

Unsurprisingly, cities were wary of hosting the Olympic Games in the late 1970s. At the time, the IOC was soliciting bids to host the 1984 Summer Games. Initially, Los Angeles and Tehran were interested. Following the Iranian Revolution, Tehran dropped out, leaving only Los Angeles as a possible 1984 Games host. In a situation of competing bidders, cities compete to win the IOC's favor. This time, Los Angeles had the leverage, which it used to negotiate how it would host the Games.³² Los Angeles re-used sporting venues built for the 1932 Games, and commercialized the Games to a never-before-seen extent. These changes generated an operating surplus of \$250 million. The Los Angeles Games were followed by a successful Games in Calgary and then Seoul in 1988. Interest in hosting the Games was renewed, as cities became convinced that they could generate money by hosting the Games, or use the Games as a catalyst for urban renewal.³³ This crisis was resolved not through positive action by the IOC, but through the actions of a particular host city.

Twenty years later, the IOC faced another significant crisis, this one going to the core of the organization. As the competition to host the Games went from moribund in the 1980s to fierce in the 1990s, cities were willing to do anything to win. This included bribing IOC members. When these practices were revealed to the public in late 1998, the revelations became known as the Salt Lake City Scandal.³⁴ The IOC responded with a raft of reforms, such as banning site visits by individual IOC members to potential host cities, and creating the Ethics Commission.³⁵ In this case, the IOC worked to resolve the crisis.

The recent problems plaguing the Olympic Games have compelled the IOC to engage in crisis management once again. The IOC's response this time was to publish Agenda 2020 in late 2014.³⁶ Agenda 2020 is a series of forty recommendations for reform, addressing virtually all areas of the IOC's operations. Agenda 2020 was drafted in consultation with external stakeholders, including other sporting organizations and civil society.³⁷ At the time, John MacAloon found these consultations to be a notable departure from past IOC practice, creating a contrast with the leadership style of IOC President Thomas Bach to the insular, top-down approaches used by past IOC presidents Juan Antonio Samaranch and Jacques Rogge.³⁸

Agenda 2020 included two reforms that have the potential to improve human rights outcomes related to hosting the Olympic Games. Recommendation 1.5 called on the IOC to "include in the host city contract clauses with regard to Fundamental Principle 6 of the Olympic Charter [prohibiting discrimination] as well as to environmental and labour-related matters."³⁹ Recommendation 2.6 suggested that the IOC Evaluation Commission, which examines and reports on bids to host the Olympic Games, could "benefit from third-

Furthering the 1976 Winter Olympic Games, 1972 Gen. Assemb. (Colo. 1972),

www.leg.state.co.us/lcs/ballothistory.nsf/

[eca945d0db42993087257012006d09c2/185275e7a6d5715787256ffd006a4944?](https://www.leg.state.co.us/lcs/ballothistory.nsf/eca945d0db42993087257012006d09c2/185275e7a6d5715787256ffd006a4944?) (last visited June 28, 2019).

³² CHRISTOPHER R. HILL, *OLYMPIC POLITICS* 158–60 (2d ed. 1996).

³³ Noam Shoval, *A New Phase in the Competition for the Olympic Gold: The London and New York Bids for the 2012 Games*, 24 J. URB. AFF. 583, 590 (2002).

³⁴ See, e.g., Thomas A. Hamilton, *The Long Hard Fall from Mount Olympus: The 2002 Salt Lake City Olympic Games Bribery Scandal*, 21 MARQ. SPORTS L. REV. 219 (2010).

³⁵ *Id.* at 224–26.

³⁶ INT'L OLYMPIC COMM., *OLYMPIC AGENDA 2020: 20+20 RECOMMENDATIONS* (2014), https://stillmed.olympic.org/Documents/Olympic_Agenda_2020/Olympic_Agenda_2020-20_Recommendations-ENG.pdf [hereinafter AGENDA 2020].

³⁷ INT'L OLYMPIC COMM., *OLYMPIC AGENDA 2020: CONTEXT AND BACKGROUND*, 1 (2014), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Olympic-Agenda-2020/Olympic-Agenda-2020-Context-and-Background.pdf>.

³⁸ John J. MacAloon, *Agenda 2020 and the Olympic Movement*, 19 SPORT SOC'Y 767, 769 (2016).

³⁹ AGENDA 2020, *supra* note 36, at 9.

party, independent advice in such areas as social, economic and political conditions, with a special focus on sustainability and legacy.”⁴⁰

Agenda 2020 was not as well received by Olympic scholars as the IOC might have hoped. John MacAloon felt that Agenda 2020 “read too often like corporate boilerplate,” and that the recommendations were “unlikely to dent the public image problems” of the Olympic Games.⁴¹ Thomáš Grell found that Agenda 2020 failed to protect specific rights.⁴² Almost five years on, were these concerns justified?

III. THE IOC’S INTERNAL RESPONSES TO THE HUMAN RIGHTS CONCERNS

This part will outline the changes that the IOC has made in the wake of Agenda 2020, namely changes made to the host city selection process, the Host City Contract, and three initiatives adopted in 2018.

A. Host Selection Process

The IOC has gradually included human rights into its requirements for bids to host the Olympic Games. For the 2022 Games, the IOC simply required bidders to guarantee that construction would comply with local and national laws, and international agreements “with regard to planning, construction, protection of the environment, health and safety and labour laws.”⁴³ Some other questions asked bidders to outline sustainability initiatives. However, “human rights” *per se* was not mentioned. The bidding process for the 2022 Games took place before Agenda 2020. Yet, the requirements for the 2024 Games, which were set after the publication of Agenda 2020, were largely similar.⁴⁴

For the 2026 Games, the IOC required bidders to respect human rights, and to remedy violations “in a manner consistent with international agreements, laws and regulations applicable in the Host Country and in a manner consistent with all internationally recognized human rights standards and principles,” including the *UN Guiding Principles on Business and Human Rights* (UNGPs), discussed below.⁴⁵ The 2026 Questionnaire also has similar language to prior questionnaires that requires bidders to respect national laws and international agreements in regards to environmental protection, health and safety, and labor laws, and adding “cultural heritage” to the mix.⁴⁶

The six cities that sought to host the 2022, 2024, and 2026 Games generally provided perfunctory responses to the questions asked by the IOC. The one exception was the Paris bid to host the 2024 Games. The Paris bid pledged to undertake a “sustainable procurement process to consider environmental, social and ethical matters (particularly compliant with international standards on child labour and human rights).”⁴⁷ Paris also stated that it would adhere to ISO 20400 standards on sustainable procurement, and ISO 26000 standards on

⁴⁰ *Id.* at 10.

⁴¹ MacAloon, *supra* note 38, at 774.

⁴² Thomáš Grell, *The International Olympic Committee and Human Rights Reforms: Game Changer or Mere Window Dressing?*, 17 INT’L SPORTS L.J. 160, 165 (2018).

⁴³ INT’L OLYMPIC COMM., 2022 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: XXIV WINTER OLYMPIC GAMES 81 (2014), https://stillmed.olympic.org/Documents/Host_city_elections/2022-Candidature-Acceptance-Procedure-FINAL-with-cover.pdf.

⁴⁴ INT’L OLYMPIC COMM., CANDIDATURE QUESTIONNAIRE: OLYMPIC WINTER GAMES 2024 65 (Sept. 16, 2015), https://library.olympic.org/Default/doc/SYRACUSE/72089/candidature-questionnaire-olympic-games-2024-international-olympic-committee?_lg=en-GB.

⁴⁵ INT’L OLYMPIC COMM., CANDIDATURE QUESTIONNAIRE: OLYMPIC WINTER GAMES 2026 86, 88 (2017), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Games/Winter-Games/Games-2026-Winter-Olympic-Games/Candidature-Questionnaire-2026.pdf>.

⁴⁶ *Id.* at 86.

⁴⁷ INT’L OLYMPIC COMM., CANDIDATURE FILE: PARIS CANDIDATE CITY OLYMPIC GAMES 2024 PHASE 3 87 (2017), https://library.olympic.org/Default/doc/SYRACUSE/171681/candidature-file-paris-candidate-city-olympic-games-2024?_lg=en-GB.

social responsibility.⁴⁸ Paris noted that these certifications “concretely differentiates programmes that truly stand up for environmental protection, human rights and the fight against corruption, from programmes that are simply greenwashing.”⁴⁹ The IOC’s Evaluation Commissions generally also provided a perfunctory note in regards to human rights for the 2022 and 2024 Games. However, for the 2026 Games, the Evaluation Commission discussed the human rights situations in the bidding countries, with a brief discussion of the risks of forced labor in the eventual host, Milano/Cortina.⁵⁰

In evaluating the bids, the IOC used third parties to obtain more information. For the 2022 Games, the IOC turned to Human Rights Watch, the Committee to Protect Journalists, and the International Trade Union Confederation.⁵¹ While “human rights” was addressed by third parties in the 2024 bids, there are no specific organizations listed.⁵² For the 2026 Games, the IOC evaluated the bids based on “high-level human rights indicators.” These included the ratifications of human rights treaties and ILO Core Conventions; as well as indicators of freedom, rule of law, risk of human rights violations, and corruption perception.⁵³

B. Host City Contract

The Host City Contract has undergone significant changes since Agenda 2020. Pre-Agenda 2020, the Host City Contract was a secret document, rarely accessible by the public that was being asked to financially support the Games. Post-Agenda 2020, the Host City Contract is publicly accessible through the IOC’s own website, fulfilling an Agenda 2020 recommendation.⁵⁴ The current Host City Contract consists of four documents: Host City Contract Principles, Host City Contract Operational Requirements, the Games Delivery Plan, and the Candidature Commitments (i.e., the original bid).⁵⁵ The Host City Contract Principles are the controlling agreement between the IOC, the Host City, the National Olympic Committee, and the Organising Committee of the Olympic Games (OCOG). These parties are jointly and severally responsible for carrying out the Games.⁵⁶

The Host City Contract Principles for the 2026 Games require two particular obligations in regards to human rights and the organization of the Games. The primary obligation is to:

Protect and respect human rights and ensure any violation of human rights is remedied in a manner consistent with international agreements, laws and regulations applicable in the Host Country and in a manner consistent with all internationally-recognised

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ INT’L OLYMPIC COMM., REPORT IOC EVALUATION COMMISSION OLYMPIC WINTER GAMES 2026 127–28 (2019), https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Games/Winter-Games/Games-2026-Winter-Olympic-Games/Report-of-the-IOC-Evaluation-Commission-2026-LO-RES.pdf#_ga=2.123308494.452373268.1568987465-1936322885.1568987465 [hereinafter 2026 EVALUATION COMMISSION REPORT].

⁵¹ INT’L OLYMPIC COMM., REPORT OF THE 2022 EVALUATION COMMISSION 106 (2015), https://stillmed.olympic.org/Documents/Host_city_elections/ioc_evaluation_commission_report_sp_eng.pdf

⁵² INT’L OLYMPIC COMM., REPORT OF THE 2024 IOC EVALUATION COMMISSION 7 (2017), https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXXIII-Olympiad-2024/Report-IOC-Evaluation-Commission-2024-low-resolution.pdf#_ga=2.47894370.452373268.1568987465-1936322885.1568987465.

⁵³ 2026 EVALUATION COMMISSION REPORT, *supra* note 50, at 127–28.

⁵⁴ AGENDA 2020, *supra* note 36, at 9.

⁵⁵ INT’L OLYMPIC COMM., *HOST CITY CONTRACT – PRINCIPLES: XXV OLYMPIC WINTER GAMES IN 2026*, § 1.1, at 10 (2018), https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXV-OWG-2026/Host-City-Contract-2026-Principles.pdf#_ga=2.134966325.550725821.1566588033-795490645.1566588033 [hereinafter *HOST CITY CONTRACT – PRINCIPLES*].

⁵⁶ *Id.* at 11.

human rights standards and principles, including the United Nations Guiding Principles on Business and Human Rights, applicable in the Host Country.⁵⁷ The second obligation is for the parties to prohibit any form of discrimination on a variety of grounds.⁵⁸

To oversee these obligations, the IOC has pledged to establish a “reporting mechanism” via the Coordination Commission.⁵⁹ The Coordination Commission is an IOC committee that works with the hosts of the Olympic Games. The Coordination Commission is most notable for visiting the cities once or twice a year in the years preceding the Games to examine how preparations are progressing. In the event of non-compliance with the human rights obligations, the IOC has reserved the right to retain funds placed in the General Retention Funds (about \$4 million for the 2026 Games), or to withhold other payments due to the hosts as liquidated damages.⁶⁰ The IOC may also withdraw the Games in the event of a breach of any material obligation.⁶¹

The Host City Contract’s Operational Requirements oblige the OCOG and Host City to create a human rights strategy that includes detailed measures and processes, a focus on prevention and mitigation, and transparent and timely reporting.⁶²

C. Further Initiatives

In 2018, the IOC announced three new initiatives. In February, the IOC published its “New Norm” document.⁶³ The “New Norm” is a series of 118 measures to change how host cities are selected. None of the recommendations address human rights issues, aside from a quick mention for candidates to discuss environmental legacy in their bids.⁶⁴ In September, the IOC released a Supplier Code, which holds IOC suppliers to internationally recognized human rights and labor rights standards, as well as other globally accepted social, environmental, and governance requirements.⁶⁵ Finally, in December, the IOC announced that it would establish an Advisory Committee on Human Rights. The Committee would be composed of 6–9 members, and be chaired by Prince Zeid Ra’ad Al Hussein, who is a former Jordanian diplomat and former UN High Commissioner for Human Rights.⁶⁶ However, the formation of the Committee, originally set to be March 2019, has been pushed back, likely to 2020.⁶⁷

IV. THE GLOBAL COMMUNITY’S RESPONSES TO THE HUMAN RIGHTS CONCERNS

The IOC has not been the only actor responding to the human rights crisis. The past years have seen: 1) a shift from a unilateral, IOC-centric approach towards a

⁵⁷ *Id.* at 17.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* at 36.

⁶¹ *Id.* at 38.

⁶² INT’L OLYMPIC COMM., HOST CITY CONTRACT OPERATIONAL REQUIREMENTS 128 (2018), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Games/Host-City-Contract/HCC-Operational-Requirements.pdf>.

⁶³ EXEC. STEERING COMM. FOR OLYMPIC GAMES DELIVERY, OLYMPIC AGENDA 2020 OLYMPIC GAMES: THE NEW NORM (2018), https://library.olympic.org/Default/doc/SYRACUSE/173427/olympic-agenda-2020-olympic-games-the-new-norm-report-by-the-executive-steering-committee-for-olympi?_lg=fr-FR.

⁶⁴ *Id.* at 17.

⁶⁵ INT’L OLYMPIC COMM., IOC SUPPLIER CODE 3 (2018), <https://www.olympic.org/media/Document%20Library/OlympicOrg/IOC/What-We-Do/celebrate-olympic-games/Sustainability/Spheres/IOC-Supplier-Code-Final.pdf>.

⁶⁶ *IOC Sets Up Advisory Committee on Human Rights Chaired by HRH Prince Zeid Ra’ad al Hussein*, OLYMPIC.ORG (Dec. 1, 2018), <https://www.olympic.org/news/ioc-sets-up-advisory-committee-on-human-rights-chaired-by-hrh-prince-zeid-ra-ad-al-hussein>.

⁶⁷ Liam Morgan, *IOC Push Back Start of Human Rights Advisory Committee Work to Devise Strategy on Topic*, INSIDE THE GAMES (Mar. 28, 2019), <https://www.insidethegames.biz/articles/1077336/ioc-push-back-start-of-human-rights-advisory-committee-work-to-devise-strategy-on-topic>.

multistakeholder approach, and, 2) with that, a growing body of human rights standards that exist beyond the IOC's self-regulating authority. This section will outline the rise of organizations addressing mega-sporting events and human rights, followed by an examination of the standards that these organizations are working to embed within global sport.

A. The Rise of External Stakeholders

Parallel to the IOC's internal responses to this latest crisis, a global, multistakeholder effort has risen. As human rights violations have occurred at other mega-sporting events, such as the 2022 FIFA World Cup to be held in Qatar,⁶⁸ the problem is larger than one sport governing body. Stakeholders that have risen to collectively address human rights at mega-sporting events include sport governing bodies, NGOs, trade unions, governments, international organizations, and corporate sponsors and broadcasters.

Past efforts to counter negative human rights impacts in global sport followed a pattern of piecemeal attempts to address harms associated with each mega-sporting event separately through civil society coalitions formed around the particulars of the event. Similar to how Jules Boykoff framed anti-Olympics activism, human rights activism around the Olympic Games "is less a 'movement of movements' than it is a *moment* of movements."⁶⁹ This approach left human rights coalitions racing against the clock of any given opening ceremony and left little chance for impact on future events, leading to a repeat of this cycle.

This fractured approach started to coalesce into something more coherent in 2014. That year, NGOs and trade unions that had participated in event-specific human rights efforts formed a global coalition—the Sport & Rights Alliance (SRA). The goal of the SRA is to approach the human rights challenge in sport as a systemic problem rather than a problem specific to a given host country or city. The following year, the SRA was a partner in establishing the Mega-Sporting Events Platform for Human Rights (MSE Platform), which operated from 2015 to 2018. The IOC was also a full member of the MSE Platform,⁷⁰ and IOC President Bach delivered remarks at the MSE Platform's annual convening, the Sporting Chance Forum, held in Geneva in 2017.⁷¹

The culmination of these efforts has been the establishment of the independent Centre for Sport and Human Rights (CSHR), which replaced the MSE Platform. Based in Geneva, the CSHR is chaired by former President of Ireland and former UN High Commissioner for Human Rights, Mary Robinson, and led by American Olympic gold medalist and 1991 FIFA Women's World Cup champion Mary Harvey, who was appointed CEO in December 2018. The founding members of the CSHR Advisory Council counted numerous sports governing bodies, including the Fédération Internationale de Football Association (FIFA), the Union of European Football Associations, the Commonwealth Games Federation, the International Paralympic Committee, and the International Basketball Federation.⁷² Notably absent was the IOC.

Governments are also included in this multistakeholder approach. Of particular interest are the actions of Switzerland, home to the IOC and to most sports governing bodies.

⁶⁸ See, e.g., *FIFA 2022*, HUM. RTS. WATCH (Oct. 5, 2011 12:00AM), <https://www.hrw.org/news/2011/10/05/open-abuse>.

⁶⁹ JULES BOYKOFF, *ACTIVISM AND THE OLYMPICS: DISSENT AT THE GAMES IN VANCOUVER AND LONDON 165* (Rutgers Univ. Press, 2014).

⁷⁰ *About the MSE Platform*, INST. FOR HUM. RTS. AND BUS.: MEGA SPORTING EVENTS, <https://www.ihrb.org/megasportingevents/mse-about> (last visited July 24, 2019).

⁷¹ Thomas Bach, President, Int'l Olympic Comm., Remarks at the 2017 Sporting Chance Forum (Nov. 30, 2017) (transcript available at <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/News/2017/11/30/2017-11-30-Thomas-Bach-Sporting-Chance-Forum.pdf>).

⁷² *Who We Are*, CTR. FOR SPORT AND HUM. RTS., <https://www.sporhumanrights.org/en/about/who-we-are> (last visited July 24, 2019).

International human rights law binds states, and requires the actions of states to give it effect. One way states fulfill this duty is by requiring individuals and businesses operating in their territory to respect human rights throughout their operations and supply chains. Notably, the Swiss Federal Department of Foreign Affairs has been an active driver of the MSE Platform and is a founding member of the CSHR Advisory Council, including sitting on its interim Governance Committee and providing financial support for its start-up operating budget.⁷³

A final group of stakeholders that have the potential to exercise influence over the IOC's responses to human rights issues is the sponsors and broadcasters that are the primary source of the IOC's income. These corporate actors have a dual imperative for engaging the IOC proactively to identify, prevent, mitigate and remedy human rights harms associated with the Games. First, their brands are intimately associated with any positive or negative image of the Games. Second, as business enterprises, they have their own responsibilities to respect human rights under the UNGPs, discussed below.

B. Establishing Guidelines for Sports Governance and Mega-Sporting Events

Efforts to establish human rights guidelines for mega-sporting events are rooted in the framework of the *United Nations Guiding Principles on Business and Human Rights* (UNGPs).⁷⁴ The UNGPs were unanimously endorsed in June 2011 by the UN Human Rights Council. Prince Zeid Ra'ad al Hussein, during his tenure as UN High Commissioner for Human Rights, called the UNGPs "the global authoritative standard, providing a blueprint for the steps all states and businesses should take to uphold human rights."⁷⁵ The UNGPs are also applicable to mega-sporting events. John Ruggie, the architect of the UNGPs, affirmed that the "significant levels of commercial activity" conducted by sports governing bodies meant that they were expected to implement the UNGPs wherever they operate.⁷⁶

Building off the UNGPs, the CSHR has published its *Sporting Chance Principles for Sport and Human Rights*. These principles reiterate that the UNGPs apply to sports governing bodies and set minimum standards for their conduct. In short, these standards require that sports governing bodies and their partners "act responsibly, through their governance, through proper safeguarding, and through protecting/respecting the rights of all stakeholders, including athletes, fans, communities, workers, children, volunteers, journalists, human rights defenders, and potentially marginalized groups."⁷⁷ These principles also serve as the Constitution of the CSHR, setting forth the cultural, institutional, and substantive change needed in sport to be compatible with human rights, and thus form the conditions for the IOC's future participation within the Centre.

Additionally, the MSE Platform published two guides in 2018 that outline how sport governing bodies and host actors should follow the UNGP blueprint to holistically and proactively implement their human rights obligations. The first guide, *Championing Human Rights in the Governance of Sports Bodies*—which draws on inputs from the IOC, FIFA, UEFA, and the CGF—sets out four fundamental steps for sports bodies to integrate

⁷³ Overview, CTR. FOR SPORT AND HUM. RTS., <https://www.sporhumanrights.org/en/about/overview> (last visited July 25, 2019).

⁷⁴ Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04 (June 16, 2011).

⁷⁵ Zeid Ra'ad Al Hussein, *Ethical Pursuit of Prosperity*, THE L. SOC'Y. GAZETTE (Mar. 23, 2015), <https://www.lawgazette.co.uk/commentary-and-opinion/ethical-pursuit-of-prosperity/5047796.article>.

⁷⁶ John G. Ruggie, *For the Game. For the World*, FIFA & HUM. RTS. 10 (2016), https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/crj/files/Ruggie_humanrightsFIFA_reportApril2016.pdf.

⁷⁷ 2018 *Sporting Chance Principles on Sport and Human Rights*, CTR. FOR SPORT AND HUM. RTS., https://www.sporhumanrights.org/uploads/files/Sporting_Chance_Principles_2018.pdf (last visited July 24, 2019).

their corporate responsibility to respect human rights:⁷⁸

1. Make a public commitment to respect human rights and embed throughout the organization;
2. Identify any actual and potential risks to human rights and prioritize action;
3. Take action to address risks and provide access to remedy where necessary; and,
4. Report and communicate how the organization is addressing risks to human rights.

The second guide, *The Mega-Sporting Event Lifecycle: Embedding Human Rights from Vision to Legacy*, outlines best practices for all relevant stakeholders to proactively apply their human rights obligations under the UNGP framework. This guide also applies these practices to eight dimensions of a mega-event's lifecycle: 1) Vision, concept and legacy; 2) Bidding, planning and design; 3) Income generation; 4) Sustainable sourcing; 5) Construction; 6) Delivery and operations; 7) Competition; and 8) Legacy.⁷⁹

C. Establishing an Ongoing Multistakeholder Approach

Like the establishment of the guidelines mentioned above, the rise of a multistakeholder approach also has its roots in the UNGPs. The requirement for business enterprises to engage relevant stakeholders is set out in six of the Operational Principles of the UNGPs.⁸⁰ The two guides published by the MSE Platform reiterate these requirements within the context of sports governing bodies and mega-sporting events.

The *Championing Human Rights in the Governance of Sports Bodies* guide outlines minimum standards for stakeholder engagement. In particular, the guide states that “[i]n identifying risks to human rights, Sports Bodies should draw on internal and external human rights expertise and involve meaningful consultation with affected individuals or where this is not possible with reasonable alternatives such as independent experts, including human rights defenders and others from civil society.”⁸¹

The guide further calls for sports bodies to “ensure formal structures exist for regular engagement with relevant internal and external stakeholders about human rights risks across the organisation involving human rights groups” and “establish mechanisms to enable stakeholders to raise human rights concerns with the organisation”.⁸² Additionally, the guide points to multistakeholder initiatives as a means for sports bodies to exert their influence to prevent and mitigate human rights harms, through collaboration with businesses, government, international organizations, and civil society groups. “Sports Bodies should engage a wide range of stakeholders to address human rights issues and to understand and track the effectiveness of their actions.”⁸³

The *Mega-Sporting Event Lifecycle* guide likewise emphasizes stakeholder engagement:

As part of the planning and design of a mega-sporting event, host actors should ensure stakeholders are formally engaged in line with the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, and the ILO Declaration on Fundamental Principles and Rights at Work, and a host's commitments to the respective sports governing

⁷⁸ MEGA-SPORTING EVENTS PLATFORM FOR HUMAN RIGHTS., CHAMPIONING HUMAN RIGHTS IN THE GOVERNANCE OF SPORTS BODIES 7 (2018), https://www.ihrb.org/uploads/reports/Championing_Human_Rights_in_the_Governance_of_Sports_Bodies%2C_MSE_Platform.pdf [hereinafter CHAMPIONING HUMAN RIGHTS].

⁷⁹ MEGA-SPORTING EVENTS PLATFORM FOR HUMAN RIGHTS, THE MEGA-SPORTING EVENT LIFECYCLE: EMBEDDING HUMAN RIGHTS FROM VISION TO LEGACY 6–7 (2018), https://www.sporhumanrights.org/uploads/resources/The_MSE_Lifecycle_-_Embedding_Human_Rights_from_Vision_to_Legacy.pdf [hereinafter MEGA-SPORTING EVENT LIFECYCLE].

⁸⁰ U.N. Office of the High Commissioner for Human Rights, *supra* note 74, at 19; *Id.* at 22–23; *Id.* at 31–34.

⁸¹ CHAMPIONING HUMAN RIGHTS, *supra* note 78, at 17.

⁸² *Id.* at 18.

⁸³ *Id.* at 20.

body. This means that relevant stakeholder groups should be consulted in the planning of an event, the event delivery, as well as in the design and implementation of any grievance mechanism to ensure it is legitimate and accessible to all, especially vulnerable groups, as well as any plans for legacy projects. This consultation process should be transparent and open to all. Efforts should be made to open channels of communication with local communities to keep them informed and involved in a meaningful way about plans for the event, and notify them well in advance of any potential impacts.⁸⁴

V. EVALUATING THE IOC'S RESPONSES TO HUMAN RIGHTS VIOLATIONS

The IOC has undertaken internal reforms to address human rights violations, and has dipped its toes in the waters of engagement with other stakeholders. The rise of other actors and the proliferation of standards and guidelines marks a proactive approach to addressing human rights risks at mega-sporting events, moving away from reacting to human rights crises event-by-event. How has the IOC fared in this changing system?

A. Evaluating the IOC's Internal Reforms

The IOC has made progress in regards to human rights and the Olympic Games since Agenda 2020, especially when it comes to demanding that host actors and suppliers comply with human rights requirements. Importantly, the IOC fulfilled its own Agenda 2020 recommendations.⁸⁵ The IOC requires bidding cities to guarantee the protection of human rights in the Games' preparation processes, and has added a clause on human rights to the Host City Contract. The IOC Evaluation Commission's use of human rights indicators, and a discussion of the human rights situations in the potential host countries are positive steps forward.

Yet, there is room for the IOC to do more to fulfill its responsibility to respect human rights. The Host City Contract's enforcement mechanism for human rights violations, about \$4 million in damages, might be too small to deter a host from violating human rights, given that Games budgets are in the tens of billions of dollars. Meanwhile, the host selection process' consideration of human rights is limited, either requiring a guarantee, or a short sentence or two on human rights. This does not provide the IOC with much information on a human rights protection strategy. Even more concerning is the announcement in late June 2019 that the IOC is drastically altering its host selection process for the 2030 Games and beyond. In particular, the host selection process may become less transparent as the IOC works informally with interested host cities, and possibly presents only one city for possible selection by the IOC Session.⁸⁶

B. Evaluating the IOC's Engagement with External Stakeholders

Over the past several years, the IOC has participated in meaningful stakeholder engagement on a handful of occasions, including its initial participation in the MSE Platform and previous negotiation with the SRA to develop the human rights criteria in the Host City Contract and Operational Requirements. However, the recent trend shows the IOC withdrawing from the broader multistakeholder movement and following a more insular and unilateral path on human rights, defying the standards and processes set out by the UNGPs. In particular, the IOC's absence from the CSHR is notable.

In terms of standards, the IOC's selective implementation of the UNGP framework to

⁸⁴ MEGA-SPORTING EVENT LIFECYCLE, *supra* note 79, at 14.

⁸⁵ INT'L OLYMPIC COMM., OLYMPIC AGENDA 2020: MIDWAY REPORT 1, 7–11 (2017).

⁸⁶ Robert Livingstone, *BidWeek: Bach's Alarming Plan to Rid Olympic Bid of Losers Will Instead Cloak the Process in Darkness*, GAMESBIDS.COM (June 12, 2019), <https://gamesbids.com/eng/robs-bidblog/bidweek-bachs-alarming-plan-to-rid-olympic-bid-of-losers-will-instead-cloak-the-process-in-darkness/>.

date is reflective of its preference to conduct its activities with self-referential authority and unilateral control over regulation and enforcement. The fact that internationally recognized human rights are defined by an authoritative source outside the IOC poses a challenge to the monopolistic power it has grown accustomed to wielding. This is why the IOC has attempted to ring-fence the areas of activity in which it is willing to acknowledge some level of responsibility for human rights.⁸⁷ In particular, the IOC appears willing only to address those activities or business relationships that do not imperil its closely guarded position as the “supreme authority” over the Olympic Movement.⁸⁸

The IOC has not yet internalized the broader shift from fragmented and reactive responses to human rights abuses in sports to adopting a holistic understanding of its human rights responsibilities and the proactive steps required to fulfill them. It continues to favor commitments that outsource its responsibilities to third parties associated with hosting the Olympic Games. This outsourcing can create environments where human rights violations more readily occur.⁸⁹

Internally, however, the IOC has thus far resisted making a constitutional commitment within the *Olympic Charter* regarding its own human rights responsibilities, similar to that incorporated by FIFA in 2016 under Article 3 of its *FIFA Statutes*: “FIFA is committed to respecting all internationally recognized human rights and shall strive to promote the protection of these rights.”⁹⁰ Within the *Olympic Charter*, the Fundamental Principles of Olympism assert that “the practice of sport is a human right”⁹¹ and invoke the concepts of human dignity and non-discrimination, which are only partial references to established international norms of human rights standards, and are only referential to sports itself, as opposed to the externalities of hosting the Games.

This is a missed opportunity by the IOC to continue to legitimate the self-governance it accords itself under its *Charter*.⁹² By demonstrating that the substance, process, and effect of this system all meet international standards for human rights and meaningful stakeholder engagement with individuals and groups affected by its activities and business relationships, the IOC can continue to justify the claim that it has the social license to operate.⁹³

Until the IOC leadership acknowledges the organization’s best interests and own values in the act of embedding respect for human rights throughout its operations and supply chains—including in its decision-making procedures, substantive guarantees for contracting parties, and institutional culture—it will find itself unable to fully commit to meaningful stakeholder engagement. By missing the opportunity to be part of the founding members of the CSHR’s Advisory Council and creating an internal human rights advisory committee, the IOC risks circumventing the tangible benefits of meaningful consultation with affected groups and experts and the collective value derived from multistakeholder engagement.

What the IOC needs, then, to fully align with the sport and human rights movement is cultural and institutional change that opens the IOC’s insular mode of operating to the transparent, collaborative, and inclusive approaches that are the integral components of

⁸⁷ See Brendan Schwab, *Protect, Respect and Remedy: Global Sport and Human Rights*, 3 INTL. SPORTS L. REV. 19 (2019) (discussing the four categories of sport governing bodies according to their demonstrated and practical commitment to meeting their corporate responsibility to respect human rights).

⁸⁸ OLYMPIC CHARTER, *supra* note 26, at 11.

⁸⁹ See Arnout Geeraert & Ryan Gauthier, *Out-of-control Olympics: Why the IOC is Unable to Ensure an Environmentally Sustainable Olympic Games*, 20 J. ENVTL. POL’Y & PLAN. 16 (2018) (discussing the principal-agent problems associated with the current model of organizing the Olympic Games).

⁹⁰ FÉDÉRATION INT’L DE FOOTBALL ASSOC’N, FIFA STATUTES art. 3 (2018).

⁹¹ OLYMPIC CHARTER, *supra* note 26, at 11.

⁹² *Id.* at 52 (Rule 14.1.1.1); *id.* at 41 (§ 18).

⁹³ For a further discussion on the legitimacy of the IOC and human rights violations see GAUTHIER, *supra* note 25, at 94; see also STEPHEN WEATHERILL, PRINCIPLES AND PRACTICE IN EU SPORTS LAW 91–92 (2017) (discussing on the notion of “conditional autonomy” of sport under EU law).

implementing the corporate responsibility to respect human rights. The routes to this result are either through business and human rights arbitration, through mandatory measures imposed by Switzerland and other governments, or through the IOC's meaningful engagement with all relevant stakeholders that are affected by its operations or supply chains.

CONCLUSION

More frequently, cities and citizens are asking, "do we need the Olympic Games?" The IOC and host cities do neither themselves nor the Games any favours when human rights are violated. The past half-decade has seen both the IOC and the broader international community move to address human rights violations in sports, based on authoritative global standards. The Olympic Games have served, and still can serve, as a beacon for much of what is good about humanity. The Games have the potential to leave a positive legacy for human rights both in sports and through sports. To achieve this aim, it is important that initiatives that address the impact of the Games on human rights do not become an exercise in 'sportswashing'.

This article asked whether the IOC's reforms in the area of human rights are sufficient to address the violations that have occurred, and are likely to occur, at future editions of the Olympic Games. The IOC is slowly developing an overall human rights approach, in particular with the announcement of the advisory committee. However, the IOC must continue to engage in a fulsome discussion of human rights in the host selection and Games' preparation processes. One way for the IOC to do so, is to continue to meaningfully engage with external groups and stakeholders. Without engagement with other stakeholders, the IOC will be left behind by these other stakeholders, and by other sports governing bodies. If the Olympic Games are to be seen as one of the world's great celebrations, and one with the support of liberal democratic states, the IOC needs to work with others to align Olympic values with internationally recognized human rights standards.



IS THERE AN ECONOMIC CASE FOR THE OLYMPIC GAMES?

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Abstract:

The Olympic Games are a major undertaking that promise both large costs and potentially large benefits to host cities. This paper lays out the potential economic benefits of hosting the Olympics and details how, in the vast majority of cases, these gains are unlikely to cover the costs of hosting the event. The ideas are then applied to the experience of Boston in its ultimately unsuccessful bid for the 2024 Summer Olympics.

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Keywords: sports, Olympics, Boston 2024, mega-event, tourism

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INTRODUCTION

There is something special about the Olympics. Even the fiercest critics of the quadrennial Summer and Winter Games grant that the Games bring tens of thousands of fans to the host cities, focus worldwide attention on these cities, and leave a legacy of tourist and sports infrastructure that potentially could be enjoyed for years to come. But an honest appraisal of the economic impact of the Olympic Games also recognizes that they bring significant costs and disruption to the cities that host these events.

This article lays out the arguments in favor of hosting the Olympics along with the circumstances that would need to arise for a best-case scenario for a host city. This is followed by an examination of costs of hosting the Olympics in comparison to the potential benefits. This section also details the ways in which the benefits of the Olympics may be exaggerated while the costs may be underestimated. Following these two sections, this article examines the case of how the Boston's plan to bid for the 2024 Olympics was scuttled by a coalition of politicians, academics, and grassroots activists who came to the realization that in nearly any reasonable scenario, the costs to the city would exceed the benefits by a wide margin. The paper concludes with suggestions to cities considering to throw their hat into the ring to attract the Rings.

I. THE GOOD

While Olympic supporters often tout the short- and long-run economic benefits of hosting the Games, the peer-reviewed literature typically finds little or no evidence that the hosting the Olympics provides benefits that exceed the costs of the hosting the event.¹ In addition, the privately funded consulting reports that frequently accompany proposals to bid for the Olympics not only suffer from significant methodological and theoretical flaws that make their conclusions suspect, but also invariably seem to overestimate revenues and underestimate costs leading to optimistic cost-benefit analyses that are rarely borne out in reality. That being said, however, there are certain conditions when it might make economic sense to host the Olympics.

As shown in Table 1, the modern Olympics have become a prohibitively expensive event. When the costs begin to exceed \$10 billion, as essentially all recent Games have done, it is nearly impossible to justify that level of public investment.

¹ Robert A. Baade & Victor Matheson, *Going for the Gold: The Economics of the Olympics*, 30 J. ECON. PERSP. 201 (2016); ANDREW ZIMBALIST, CIRCUS MAXIMUS: THE ECONOMIC GAMBLE BEHIND HOSTING THE OLYMPICS AND THE WORLD CUP (2016).

Table 1: Costs of Various Olympic Games (2019 inflation adjusted dollars)²

Event	Year	Location	Cost
Summer Olympics	1984	Los Angeles	\$1.02 billion Local Taxpayer costs: \$185 million Surplus: \$542 million
Summer Olympics	1988	Seoul	\$7.0 billion
Summer Olympics	1992	Barcelona	\$17.7 billion
Summer Olympics	1996	Atlanta	\$3.9 billion Local Taxpayer costs: \$1.0 billion
Summer Olympics	2000	Sydney	\$7.5 billion
Summer Olympics	2004	Athens	\$14.9 billion
Summer Olympics	2008	Beijing	\$53.6 billion
Summer Olympics	2012	London	\$16.3 billion
Summer Olympics	2016	Rio	\$15.4 billion
Summer Olympics	2020	Tokyo	\$27.3 billion (est.)
Summer Olympics	2028	Los Angeles	Local Costs: \$6.9 billion (est.)
Winter Olympics	1996	Nagano	Unknown (\$16.5 billion or more)
Winter Olympics	2002	Salt Lake City	\$2.7 billion Local Taxpayer costs: \$600 million
Winter Olympics	2006	Torino	\$4.7 billion
Winter Olympics	2010	Vancouver	\$8.2 billion
Winter Olympics	2014	Sochi	\$55.3 billion
Winter Olympics	2018	Pyeongchang	\$13.3 billion

² Data in Table 1 is derived from various media sources; Robert A. Baade & Victor Matheson, *Going for the Gold: The Economics of the Olympics*, 30 J. ECON. PERSP. 201 (2016); and HOLGER PREUSS, *THE ECONOMICS OF STAGING THE OLYMPIC GAMES: A COMPARISON OF THE GAMES 1972-2008* (2004).

But costs of this magnitude are a relatively recent phenomenon in the history of the Olympics, and there is no reason that this level of expenditures must take place as a matter of course. As also seen in Table 1, there are Games in the not too distant past that have not broken the bank and managed to contain costs. The 2028 Los Angeles Olympics looks to carry that commitment to economic sustainability forward into the future with costs less than half that of other recent Olympics.

Of course, even the planned \$6.9 billion in costs for the 2028 Games (AP, 2019a) is still a hefty bill, but no one doubts the ability of the Olympics to generate significant revenues for the host city. Table 2 shows the direct revenues generated by the 2012 Summer Games in London. Between those revenue streams controlled by the International Olympic Committee (IOC) and the London organizers, over \$5 billion in revenue was generated.³ Just these revenues would be sufficient to cover a large portion of the entire planned costs of the 2028 LA Games. In addition, any incremental revenue created through potentially increased hotel, restaurant, and retail sales could be used to supplement these revenue sources in order to cover the entire costs of putting on the event.

Table 2: Revenue Sources (2012 Summer Games, current \$ millions)⁴

Source	IOC	London Organizers
Broadcasting rights	\$2,723	\$0
International sponsors	\$300 (est.)	\$0
Domestic sponsors	\$0	\$1,150
Tickets	\$0	\$988
Licensing	\$0	\$119
Total	\$3,023	\$2,257

So far, we have only addressed the short-run benefits of the Olympics and their ability to generate revenue for the city during the event itself. However, there is no doubt that the Olympics serve to focus the attention of the world on the host city creating the opportunity to market the city to the world as a future tourist or business destination. Two success stories come to mind. Barcelona, host of the 1992 Summer Games, used its moment in the spotlight to showcase the city's non-Olympic attractions. Although one must be careful not to confuse causation and correlation, there can be no question that the city experienced a tourism boom in the wake of their Olympic moment moving from the 13th most popular tourist destination in Europe in 1990 to the 5th most popular destination in 2010. In 1990 Barcelona hosted less than half the number of bed nights in its hotels as neighboring Madrid but had eclipsed its sister city in this figure by 2010. Similarly, Salt Lake City used the 2002 Winter Games to advertise its state as a premier winter sports destination. Between 2000 and 2015 the state witnessed a 20.4% increase in skier

³ Of the approximately \$3.0 billion that IOC collected for television and sponsorship revenue from the London Games, the IOC transferred \$1.37 billion of that to the London Organizing Committee. See, for one, IOC, Olympic Marketing Fact File, 2019, p. 9.

⁴ Data comes from INTERNATIONAL OLYMPIC COMMITTEE, *Olympic Marketing Fact File – 2014 Edition* (2014), http://www.olympic.org/Documents/IOC_Marketing/OLYMPIC_MARKETING_FACT_FILE_2014.pdf.

visits far outpacing the 8.0% growth in its more established competitor state of Colorado.⁵

Not every host can expect the success enjoyed by Barcelona and Salt Lake City. Both can be considered “hidden gems,” relatively unknown locations with lots to offer future tourists that could benefit from the massive advertising offered by hosting the Games. Thus, cities like London, which is already the most popular tourist destination in Europe, may not see the same sort of tourism boost enjoyed by Barcelona. Likewise, cities like Atlanta or Calgary may not be attractive enough as future tourist destinations to benefit from the media blitz surrounding the Olympics.

The Olympics also offer cities and urban planners the opportunity to reshape their cities for the future. Local governments may lack the political will to make difficult but necessary infrastructure decisions that will pay future dividends. Hosting the Olympics can focus efforts on long-term transportation, infrastructure, and tourism needs. Here again Barcelona is a success story. While the city spent \$17.7 billion (in \$2019) on the 1992 Games, \$13.5 billion of this was for general infrastructure improvements that have continued to provide benefits to this day while only \$1.6 billion in spending was on sporting facilities that often go unused after the athletes return home.⁶ Even the 2004 Athens Olympics, considered an expensive failure by many, left the city with significant improvements in its mass transit system.

Finally, it is important to realize that the Olympics can bring non-monetary benefits to host cities. They are a celebration of international competition and cooperation and provide a festive atmosphere for visitors and locals alike. Careful studies of most mega-events like the Olympics show that local residents typically enjoy the spectacle and place a positive value on their city being part of the event. Economists have made numerous attempts to quantify these benefits. Estimates for the 2012 London Olympics arrive at non-monetary values for the event ranging from the hundreds of millions of dollars into the billions. If these studies are to be believed, these figures should be added to the direct economic benefits of the Olympics when determining whether a city should bid for the Games. Indeed, most of life's great celebrations, weddings, birthdays, holiday parades, fireworks, graduations, etc., wouldn't satisfy a strict cost-benefit analysis, but this doesn't mean we should stop celebrating life. Of course, society can't spend unlimited amounts on parties without considering the price tag, and the costs of the London Olympics exceeded the short-term benefits of the event by a wide margin even if one places a large dollar value on the “feel-good effect” of the Games. But that doesn't mean that the consideration of the people's happiness should be omitted completely.

In conclusion, it should not be automatically assumed that the Olympics will break the bank, and if hosting costs, and particularly construction costs, can be kept low, there is a chance to run an Olympics with positive net payoff. The Olympics generates huge (and growing) revenues that could be sufficient to cover reasonable expenses, again if cities can successfully rein in costs. The Olympics can also be used to advertise a city as a tourist or business destination leading to long-run economic gains. Similarly, the Olympics can be used to spur general infrastructure improvements again leading to potential long-run benefits. Finally, even if the

⁵ Robert A. Baade & Victor Matheson, *Going for the Gold: The Economics of the Olympics*, 30 J. ECON. PERSP. 201 (2016)

⁶ HOLGER PREUSS, *THE ECONOMICS OF STAGING THE OLYMPIC GAMES: A COMPARISON OF THE GAMES 1972-2008* (2004).

Olympics don't make the hosts rich, they may make them happy, and happiness is something worth paying for. Unfortunately, for most Olympic hosts, it is fairly clear that the Games cannot be justified on economic grounds.

II. THE BAD

To begin to grasp, the economic dilemma of hosting the Olympic Games, it is useful to consider the business model of the IOC. The IOC is a monopoly. It calls for the cities of the world to bid against each other every four years, competing to earn the privilege of hosting the Games. When the model functions properly, cities attempt to convince the IOC of their appeal by offering more impressive facilities, infrastructure and services. If cities behave in an economically rational way, their bids would offer a plan up to the point where the expected cost would equal the expected benefit of hosting. The problem occurs when each city's bid process is hijacked by real estate development interests that stand to gain privately by winning billions of dollars of publicly-funded construction contracts.

These days hosting the Summer Games requires between 35 and 40 sports venues. Most prospective host cities have to construct 10 to 20 of these facilities. The reason, however, that the city did not have these arenas and stadiums prior to hosting the Olympics is that there was not sufficient demand for their use to justify building them. In the overwhelming majority of cases, there remains insufficient demand after the Games are over. The consequence is that not only does each facility cost tens or hundreds of millions of dollars to build, but each occupies acres of valuable urban real estate and requires millions of dollars of annual operating and maintenance expense.

In response to the growing concern over the associated financial and environmental waste, and the increasing dearth of applicant cities, the IOC announced its reforms of Agenda 2020 in 2014 and the New Norm in 2018. The IOC now encourages cities to build temporary facilities to avoid the problematic image of white elephants. While temporary venues might improve the optics, they denote both a waste of resources in construction (Chicago's bid for the 2016 summer Games included a proposed \$366 million temporary Olympic stadium) and the absence of a sport legacy.

While it is true that Olympics hosting inevitably leaves behind some elements of a positive infrastructure and sports legacy, there is generally less there than meets the eye. Consider, for example, Rio's construction of a \$3 billion metro between its downtown beach area and Barra da Tijuca to facilitate transportation between Olympic clusters. This metro undoubtedly offers some utility to the hundreds of daily commuters between these areas, but in any rational ordering of transportation priorities, it would have been far down the list of public investments. Given the exiguous financial resources of Rio and Brazil, the metro would never have been built.⁷ In those uncommon instances where hosting the Games inspired infrastructure investment that made economic sense, one wonders why the investment could not have been made without hosting the Games.

Of course, there are not many cities that have an effective planning and political apparatus in place to make the most needed investments. The absence of such institutions helps to explain how real estate interests can commandeer the political process to promote an Olympic bid. To be sure, these interests usually stand to gain whether or not their city is ultimately chosen to host the Games. The

⁷ ANDREW ZIMBALIST, RIO 2016: OLYMPIC MYTHS: HARD REALITIES (2017)

reason is that the bidding process could require the city to make zoning changes to accommodate the eventual plans and usually as well to establish quasi-public bodies to facilitate and mobilize the necessary resources.

The standard claim that hosting promotes tourism, international trade and investment must be challenged. In the short run, hosting the Games sometimes brings a modest increase in visitors, but sometimes it brings a reduction. In London 2012, tourism fell by over 5 percent. In Beijing 2008, tourism dropped by some 30 percent. Given that the summer Games involve 10,500 athletes, plus several thousand trainers and coaches, IOC executives, along with family members of the participants, it is curious that some cities would experience a decrease in visitors during the seventeen days of the Games. The reason is that many potential visitors anticipate congestion, higher prices and possible political disruption, and decide to go elsewhere. Hence, Olympic tourists displace normal tourists. To be sure, visitors to the Olympics spend their time attending the athletic competitions, not going to the normal tourist attractions of the city. Hence, when they return home, they report on the competitions, not the city. Tourism agencies allege that word of mouth is the best promoter of tourism, but this effect is largely lost to Olympic tourism. Additionally, many local residents also seeking to avoid the crowds and disruption decide to travel outside the city. Thus, the expectation of a short-term economic boost rarely materializes.

The international exposure from hosting is also alleged to promote foreign trade and investment. However, it is a rare occurrence that a company will either trade with or invest in a city simply because the city has hosted a mega sports event. Foreign companies are looking for high quality, fair priced and reliable goods to purchase; strong markets with a favorable fiscal climate; skilled labor; proximity to inputs; and low wages in which to invest. They are not seeking out past Olympic hosts. It is not surprising that empirical evidence to back the trade and investment claims is lacking. Further, it is important to caution that not all cities have their image burnished from hosting; some have had it tarnished as news about political repression, extreme climate, problematic infrastructure and terrorism has surfaced.

What about the economic boost from the construction activity for the seven years leading up to the Games? If the construction industry was not fully employed prior to the Olympics-related construction, then there will be new employment. Indeed, there is generally so much construction of facilities and transportation infrastructure in the buildup to the Games, that it is necessary to import labor from outside the metropolitan area, and often from outside the country. The problem here is that a significant part of this construction is paid for by the issuance of debt. The debt has to be paid in subsequent years, which eats into the public sector's resources for spending on other construction or services. Thus, forces of economic stimulus in the early years result in a tendency for economic contraction after the Games.

As pointed out above, correlation is not causality. While it is true that skiing in the Salt Lake City area has grown quickly since the city hosted the 2002 Olympics, it is not clear to what extent this can be attributed to the Olympics. The number of visitor skier days in Utah during the Olympic year of 2001-02 was 2.98 million, which was 9.9 percent below 3.28 million in 2000-01 and 5.3% below 3.14 million in 2002-03. If the Olympics were the cause of the increase, it is natural to expect the impact to have been present in either the Olympic year or the following year. And the fact that the rate of growth in skier days during the decennial 2005-15 was

higher in Utah than in Colorado is not unusual, given the much lower base year in Utah.

Beware the Olympic Village. For the summer Games, the village must house some 16,000 athletes, trainers and coaches. In addition to bedrooms, the village must contain cafeterias, restaurants, training and workout facilities, polyclinics and entertainment venues. The cost of building such a village can run into the billions of dollars. It is not uncommon for the Olympic Organizing Committee to contract with a private developer to build the village. In both Vancouver and London, the private developer pulled out of the project leaving the local government with the balance of the financial obligation. In other cases, in order to incentivize the private capital, the local government offers cheap land, extensive development rights, long-term tax relief and complementary infrastructure. Despite promises of low-income housing, it is difficult to motivate the private developers to build for conversion to affordable housing. The result is gentrification of the land around the Olympic Village or, even worse, as in Rio, thousands of luxury apartments that cannot be sold and sit vacant.

The claim of a feel-good effect from hosting can be ironic. While for many cities there is a fleeting boost of spirits, there is also an underside. Hosting the summer Games requires at least 1,660 acres for the surface area of the venues and ceremonial space. In order to make that acreage available in a modern urban environment, a lot of land has to be cleared; this means community evictions. In London, 4,000 people were kicked out of their homes; in Atlanta, 30,000 were kicked out; in Rio, 77,200 residents were evicted; in Seoul, 700,000 lost their homes; and, in Beijing, 1.25 million people were relocated.

Environmental degradation also seems inevitable for host cities. The Black Sea in Sochi used to be an inviting place to swim in the summer months. It is now avoided by residents. The golf course in Rio was built on a protected marsh and is scarcely used. The ski slopes being constructed for the 2022 Winter Olympics north of Beijing are in a water starved area and will require water piped in from southern China to make artificial snow. In Pyeongchang, South Korea, 58,000 trees were chopped down in the national park at Mt. Gariwang to make way for the downhill skiing competition. The list goes on.

In the end, for hosting to make sense, the conditions must be exceptional. Los Angeles has all the necessary venues but for one minor exception, and it has a modern transportation, communications and hospitality infrastructure. It also has abundant modern dormitories with all the pertinent services on the centrally located UCLA campus. Serendipitously, the students are not in the dormitories in the summer so a part of the campus can be transformed into the Olympic Village with little expense or inconvenience.

In Barcelona, the city was engaging in its first democratic planning exercise since the death of long-time dictator Francisco Franco in the mid-1970s. In 1976, the city produced the General Metropolitan Plan (PGM) that established a new spatial framework for the city. A significant part of this framework entailed opening the city to the sea. This involved relocating rail lines that separated the Poblenou neighborhood from the beach and the placing of a roadway below grade at the bottom of the famous Rambla street. It also meant that an area of mostly abandoned warehouses and factories in Poblenou would be raised and become the eventual site of the Olympic Village, which was subsequently converted to residential housing after the Games. Other parts of the plan related to improving the

road network around the city, extending the metro system, redesigning the airport, renovating public spaces and museums, and modernizing the sewage system.

The key point is that an early plan for urban redevelopment was formulated by 1976 and then elaborated in the following years. It was not until 1986 that the IOC selected Barcelona to host the 1992 Games.

In 1983, city planners put out a preliminary report on the feasibility of hosting the Olympics, and concluded that the refurbishment of the 1936 stadium in Montjuic (which became the Olympic Stadium) and the construction of the Sports Palace and Swimming facility, would be undertaken whether or not the city was selected to host the Games. Of the 37 sports facilities ultimately used during the 1992 Olympics, 27 were already built and another five were under construction at the time Spain was selected to host the Games in 1986.⁸ Thus, a central feature of the Barcelona experience is that *the plan preceded the Games* and, hence, the Games were put at the service of the pre-existing plan, rather than the typical pattern of the plan being put at the service of the Games. The fact that the city was also relatively undiscovered as a tourist destination, but boasted a host of alluring features from exquisite architecture, to a favorable climate and a seaside location, also made it a unique candidate to benefit from Olympic exposure. Of course, certain contextual factors, such as Spain's entry into the European Economic Community in 1986 and the deregulation of European airlines in 1997 were also important fillips.

Hence, a negative outcome from hosting is not inevitable; it is just simply highly probable. It is not likely that Boston would have beaten the negative odds in its bid to host the 2024 Summer Games.

III. THE CASE OF BOSTON

Boston's experience with bidding for the 2024 Summer Olympics holds many lessons for cities that are considering advancing an Olympic host bid of their own. While the failure of Boston's bid attracted international attention, it was, in many ways, a standard process representative of the life and death of recent bids in cities such as Hamburg and Calgary. Boston's bid had many hallmarks of a typical host bid, including strong support from prominent government officials; boosterism from the construction and real-estate industries; and, a high-profile, \$15 million campaign to win both public support at home and the support of the United States Olympic Committee (USOC) and the International Olympic Committee (IOC). Boston's bid also attracted grassroots, populist opposition that was successful in exposing the bid's drawbacks and risks, while ultimately contributing to the bid's demise. Anyone wanting to understand the implications of their own city bidding on the Olympics would be wise to study Boston.

The story of the Boston bid begins in February 2013, when the USOC sent a letter to mayors of 35 cities around the country, soliciting bids for the 2024 Summer Games. This was the beginning of a competitive auction process to select a United States bid. This process would mirror the competitive auction conducted by the IOC that would result in a city being awarded the 2024 Summer Olympics at an IOC meeting in 2017.

Boston's long-serving Mayor, Tom Menino, dismissed the idea of an Olympic bid, calling it "far-fetched" in a radio interview on March 5, 2013. In a *Boston*

⁸ ANDREW ZIMBALIST, CIRCUS MAXIMUS: THE ECONOMIC GAMBLE BEHIND HOSTING THE OLYMPICS AND THE WORLD CUP 75–94 (2016).

Herald article the next day, the idea was also panned by John Fish, a prominent businessman with a close relationship to Menino. But just three weeks later, Mayor Menino announced that he would not be running for reelection.⁹ Fish, the owner of the largest construction company in Massachusetts, quickly changed his mind—he decided that a bid was now worth exploring. Suddenly, a Boston Olympic bid was given new life.

By October 2013, just weeks before Boston’s mayoral election to replace Menino, Fish had invited members of the USOC to meet privately with him and other civic leaders in Boston. In addition to his responsibilities as Chairman and CEO of Suffolk Construction, Fish sat on a number of civic and institutional boards, including that of Boston College, the Boston Federal Reserve, and the Greater Boston Chamber of Commerce. He had been named Boston’s “Most Powerful Person” in 2012 by *Boston Magazine*, ahead of the Mayor, the Governor, and both of Massachusetts’ U.S. Senators. As a power broker with countless wealth and strong political connections, Fish was well positioned to lead the bidding effort. He recruited to the bidding team other prominent businessmen, politicians, and civic leaders, including Bob Kraft, owner of the New England Patriots, Steve Pagliuca, a Managing Director at Bain Capital and the co-owner of the Boston Celtics, and Mitt Romney, a former Presidential candidate, former Governor of Massachusetts, and the President and CEO of the Salt Lake City 2002 Winter Olympics, who said on NBC’s Meet the Press in February, 2014, “Boston would love it if the Games came home.”

The election of State Representative and union leader Marty Walsh as the Mayor of the City of Boston in November, 2013, was an auspicious step for the nascent bid. While Walsh had expressed skepticism of the bid on the campaign trail, he was a rabid sports fan and had built a career representing workers in the construction industry. The opportunity to create a mayoral legacy built on sports, and to provide many of his core supporters with a robust regional construction market for the ensuing decade, began to prove irresistible. Mayor Walsh would be a crucial and loyal supporter of the bid in the months ahead.

The boosters assembled a bid that they claimed would not only allow Boston to host the 2024 Summer Games, but would also launch a monumental effort in city-planning that would remake and transform entire sections of Greater Boston. Fish told *Boston Magazine*, “I start with the question: What is the city of Boston going to look like in 30 to 40 years? It involves thinking big—not just thinking about where we’ve been and where we’re going, but thinking a little abnormally. We may never realize the Olympics in 2024, but the opportunity to bring the community together to talk about the future is a powerful thing.”

The mock images produced by the bidding committee were captivating and inspiring. They showed new stadiums and sports venues gleaming beneath fireworks set off to celebrate the opening ceremonies, with the beautiful Boston skyline, Charles River, and Boston Harbor in the background. The boosters also said the bid would utilize Boston’s existing sports venues, including iconic stadiums, such as Harvard Stadium and Fenway Park. And, of course, the Games would provide the opportunity to “put Boston on the world stage.” It was easy to see the populist draw of a Boston Olympic bid.

⁹ CHRIS DEMPSEY & ANDREW ZIMBALIST, NO BOSTON OLYMPICS: HOW AND WHY SMART CITIES ARE PASSING ON THE TORCH (2017).

The compelling pitch behind the Olympic bid also appealed to Boston's strong sports' heritage and pride in the success of its professional sports team. While mostly a ceremonial group, Boston 2024's "Board of Directors" would eventually include Boston Celtics legend Larry Bird, Red Sox slugger David Ortiz, and Boston Marathon winner and U.S. Olympian, Meb Keflegzhi, among other sports' stars.

In contrast with the extravagant and attractive images of a Boston Olympic Games were the promises to the public that the Games would require "no taxpayer funding," and that unlike prior Olympic Games, these Games would be "privately funded." The boosters promised the Games would bring enormous economic benefits with few costs or risks. And the Games would leave a "legacy" that ranged from new athletic facilities, to new public parks, to a new generation of Bostonians that might be inspired to pursue Olympic dreams of their own.

Perhaps the boosters' most effective argument was that the Games—indeed, even the bid itself—could be a "catalyst" for making improvements and investments that the region should be making, but was not. Chief on that list was upgrades to the region's aging public transportation system. The boosters were offering more than a fun three-week event. They were promising international prestige and attention, short-term and long-term economic development, new neighborhoods and much-needed new housing, no financial risk for taxpayers, and permanent upgrades to the region's transportation infrastructure.

In July 2013, Fish persuaded the Massachusetts State Senate, by a vote of 38-1, to commission a "Feasibility Study" to assess the potential of Boston as a host city. Fish was appointed as Co-chair. Others appointed to the Commission included a mix of individuals representing government, the tourism industry, and real estate interests. But the Commission included no academic experts and no independent analysts. In February 2014, the Commission's report concluded:

The Commission finds that it would be feasible for Massachusetts to host the 2024 Summer Olympic Games based upon its initial assessment that suggests that the Commonwealth fares comparatively well against many of the IOC criteria. But the Commission does recognize that pursuing a bid would be an enormous task, and that infrastructure and venue requirements would need to be addressed. The Commission does not, however, see the prior two points as prohibitive, rather, the Commission views these challenges as an opportunity to leverage an Olympics to catalyze and accelerate the economic development and infrastructure improvements necessary to ensure that Massachusetts can compete globally now and into the future.¹⁰

This official government report echoed the boosters' hopeful language about a potential Games.

The fall of 2013 also saw the origins of Boston's Olympic opposition, including No Boston Olympics. The group was founded in a living room by three friends with backgrounds in business, politics, and government, who feared that a bid would be a costly distraction from more pressing civic and public priorities for the Commonwealth of Massachusetts. No Boston Olympics was later joined by other opposition groups, including a grassroots group named No Boston 2024, which had its roots in the progressive Boston neighborhood of Jamaica Plain. While many of

¹⁰ CHRIS DEMPSEY & ANDREW ZIMBALIST, NO BOSTON OLYMPICS: HOW AND WHY SMART CITIES ARE PASSING ON THE TORCH 26 (2017).

Boston 2024's leading opponents identified as left-leaning, opposition to the Boston 2024 bid came from both ends of the political spectrum, including a number of conservative voices. Arguments against the bid included its fiscal irresponsibility, fears of displacement of marginalized communities and gentrification caused by development, and concerns about the impacts of the three-week event itself, including traffic. Opponents also pointed out the "opportunity costs" of hosting the Games—even in the bidding phase, the Games were serving as a distraction for elected leaders from other issues, such as health care and education.

Over the course of 2014, the USOC began to pare down the number of cities to receive the Committee's endorsement as the "official" United States bid. Eventually, Boston was named as one of four finalists, along with Los Angeles, San Francisco, and Washington, DC. This high-stakes process attracted significant attention from the media, but the USOC, run by Chairman Larry Probst and CEO Scott Blackmun, ensured that the bids submitted by each city in December of 2014 were kept secret. Board Members and staff at the USOC could read the documents, but the public and media could not. Bid opponents in Boston asked, "If this bid is so good for the people of Massachusetts, why can't Massachusetts residents read it?" Mayor Walsh, John Fish, and other representatives from Boston joined the USOC for a final, closed-door pitch in December. While the Mayor's team tweeted photos of the meeting, held in the San Francisco Bay area, what was said in the meeting and presented to the USOC was not shared with the public.

No doubt some of the characteristics of the Boston 2024 bid that appealed to Bostonians also appealed to the USOC. Boston's beautiful rivers, parks, skyline, and harbor would provide a great backdrop for television, and the Olympics are first and foremost a television event. And as an East Coast city, Boston was perfectly placed to maximize television viewership, as afternoon events would take place in Europe's prime time, and prime time events would be broadcast at a convenient time for viewers across North America. Just as compelling would be the ability to sell a Boston 2024 as "the University Games," that would allow the USOC and IOC to associate themselves with elite academic institutions, such as Harvard and MIT.

On January 8, 2015, at yet another closed-door meeting in a conference room at Denver International Airport, the USOC Board of Directors met and voted narrowly to approve Boston as the "official" United States bid city. Having vanquished its rivals at the national level, the Boston bid would now compete against international bids. It was an undeniably exciting moment for the city and region, but one that also raised many questions about what lay ahead.

Coincidentally, the USOC's announcement had come on the same day as the inauguration of Massachusetts's new Governor, Charlie Baker. Baker was a Republican in a Democratic state and had run on a platform of fiscal responsibility. At the press conference that followed the USOC's announcement, Walsh and Fish were jubilant, while Baker was more reserved and cautious, describing the USOC's decision as "the beginning of a process." Baker's reluctance to fully embrace the bid provided hope to opponents that the bid could still be defeated.

In the weeks following the USOC's announcement, details of what the boosters had included in the bid began to be released to the public. Boston 2024's bid estimated costs of at least \$10 billion. The bid estimated operating costs of \$4.6 billion to be covered by Games' revenues, such as ticket sales and sponsorships, permanent venue costs of \$4 billion, that the boosters said would be covered by private funding, and \$775 million in public infrastructure investments, that would

be paid for by taxpayers. Federal taxpayers would cover security costs of at least \$1 billion and possibly as high as \$2 billion.

Rather than build an “Olympic Park” that would be home to most of the needed facilities, the bid would make use of existing and new venues sprinkled throughout Greater Boston’s urban area. In the words of the boosters: “The city *is* the Olympic Park.” But Boston’s bid would also remake at least two of Boston’s neighborhoods. At Columbia Point in Dorchester, a \$1+ billion Olympic Village would create 2,950 housing units, additional housing for 2,700 students at nearby UMass-Boston and elsewhere, restaurants, art space, parking, and improved neighborhood amenities, including a street grid and parkland. The plan would rely on a master developer, to be chosen by the City of Boston, to assemble \$2.9 billion in financing. Boston 2024 was proposing a vibrant, dynamic new neighborhood on a valuable piece of land that was clearly underutilized. By almost any standard, it was a vast improvement over the site’s current condition and uses, which included a derelict convention hall, parking lots, and decades-old office buildings.

Boston 2024’s proposed transformation of Widett Circle was even more impressive than what it promised for Columbia Point. In place of low-slung food warehouses and above the active rail and train maintenance yards, a developer would erect a massive steel superstructure that would host the temporary Olympic stadium and other athletic facilities. Just the cost of the deck that would cover the rail yards might total more than \$1 billion, before any buildings were actually constructed. Once the Games left town, the stadium would be demolished, and the steel superstructure would be the foundation of a new neighborhood with nearly eight million square feet of offices, residences, hotels, and shops. This was city-making at a grand scale, yet it hardly reflected a thoughtful planning effort. For example, the proposal had no space or financial allocation for schools, libraries, public health clinics, fire stations, or police stations.

These proposed construction activities came with enormous costs and risks that would be borne by taxpayers, despite Boston 2024’s promises to the contrary. In particular, the development at Widett Circle would require massive amounts of capital to construct the deck above active railyards used by the MBTA, the state’s public transportation agency. In exchange for this development, the boosters proposed that the developers would be the recipients of the largest property tax breaks in the history of the City of Boston. But it was more than just the immensity of the required tax breaks—it was also the fundamental risk of the construction itself. If private developers never materialized to begin the project, as was the case with the Olympic Village for London 2012, or if they abandoned the deal halfway through, as was the case in Vancouver 2010, the city and its taxpayers would be on the hook to step in and complete the construction. The bid plan also failed to identify locations for some key venues, including a velodrome that would cost more than \$100 million to construct.

A particular sticking point for opponents was the International Olympic Committee’s requirement that the host government sign a “taxpayer guarantee” that promised that the government would provide the venues and services as promised and be responsible for any cost overruns. Opponents of the bid called this “the blank check,” and it became one of the most effective talking points and a reminder that public contributions to the Games would be significant, despite the boosters claiming that “no taxpayer dollars” would be spent on the bid.

Boston 2024’s boosters did acknowledge that some prior Olympic Games had gone over budget and required taxpayer bailout, but the boosters claimed to have

developed a new model for insurance against such risks. In exchange for estimated premium payments of \$128 million, the boosters said they would purchase layered insurance policies that would cover cost overruns and isolate the public from risks. While these proposed policies did mitigate certain risks, they did not come close to what was being asserted. “Insurers do not cover risks that are certain to materialize, and almost every Olympics in the recent past has had major cost overruns,” offered Boston College law professor, Patricia McCoy, to the *Boston Globe*. “Any suggestion that private insurance will pick that up is smoke and mirrors.” Insurers will not cover changes in scope, and they will not insure a policyholder against the holder’s own mismanagement. Boston 2024 admitted it had begun conversations with potential insurers, but it could not produce any evidence that insurers were offering the products it said were available. The boosters’ claims of having comprehensive insurance were simply false.

At first, public polling showed that voters were supportive of the Boston bid. A public poll by one of Boston’s public radio stations, WBUR, released on January 20, 2015, found that 51 percent of Greater Boston residents supported the bid, with only 33 percent opposed. But within a month, public support began to drop as opposition rose. WBUR’s February 19 poll found support at just 44 percent, and opposition at 46 percent. Support fell even further in WBUR’s March poll, which found just 36 percent supporting Boston 2024 compared with 52 percent in opposition.

A number of factors contributed to the steep decline in support. The polling data were clear that residents who were well-informed about the bid tended to oppose it more strongly than residents who had invested less time in understanding the bid’s implications. In other words, the more residents learned about the bid, the less they liked it. Some voters opposed the bid’s secretive nature – the fact that the bid had received the official blessing of the City of Boston but was not available for citizens to read in full detail.

Many voters also doubted the region’s ability to host such a large event given the state of the region’s infrastructure. The bid’s potential to “fix” Boston’s public transportation had been one of the boosters’ greatest selling points. But the winter of 2015 saw record levels of snowfall in the Greater Boston area, and forced the region’s transit system, used by more than 1.2 million riders per day, to shut down completely for days at a time. In this context, the bid appeared to be a distraction from what had become a regional transportation crisis. And voters were clearly skeptical of the boosters’ claims that the Games could be put on without public dollars. This became increasingly clear as the media reported on requirements for the transfers of public land to build venues, and the record-level tax breaks that the boosters were seeking.

Boston 2024’s boosters had at first opposed putting the Olympic bid to a public referendum, citing supportive public polling. By March, public sentiment had flipped, and even some political supporters of the bid were questioning the bid’s lack of meaningful public input. Searching for a change in fortunes amidst cratering public approval, John Fish announced he would support a statewide referendum on the November 2016 ballot. The boosters’ call for a statewide ballot was a recognition that the bid would require statewide support. While the City of Boston was the official host government, the state government had a budget fifteen times the size of the City’s budget, and controlled much of the land, permitting processes, and transportation infrastructure that Boston 2024 would need to be viable. To win support from across Massachusetts, the boosters began to spread out the locations of

potential venues, which had initially been clustered in Greater Boston. Handball went to Worcester. Sailing went to New Bedford on the state's South Coast. White water rafting moved to Western Massachusetts. These locations broadened Boston 2024's appeal to Massachusetts voters outside of Greater Boston, but also reminded them that the Olympics would ultimately be a state obligation that would require state funding.

It also became increasingly clear to the boosters that they needed support from Governor Charlie Baker. Baker seemed wary of the megaproject, but also understood the potential political upside of hosting a successful Olympic Games. Baker handled the bid delicately, often offering praise for bid supporters like Mayor Walsh, but also urging them to develop a more thorough and comprehensive plan that could be vetted by voters. In March 2015, Baker announced that he would support an independent assessment of the bid, funded by taxpayers, to provide him, the President of the State Senate, and the Speaker of the House of Representatives with a report on the bid's implications for the Commonwealth.

By May, Fish had stepped down from bid Chairman, turning the reins over to Bain Capital's Steve Pagliuca. Pagliuca set out creating a "Bid 2.0" intended to address the outstanding questions and demonstrate that the finances of the project could work. This bid was released on June 29, 2015, with Pagliuca saying the Olympic bid had the potential to be "the biggest economic development opportunity of our lifetimes." But WBUR's July poll found that the release of Bid 2.0 did not budge poll numbers. Over 50 percent of those polled still opposed the bid, while only 40 percent supported it.

Boston 2024's inability to increase public support was troubling to the United States Olympic Committee ("USOC"), which had chosen Boston after promises from Walsh, Fish, and others that opposition to the bid was limited to a few activists who did not represent broader public sentiment. The USOC was relying on a successful Boston bid because hosting a domestic Games can be a financial windfall for the organization, which would benefit from increased value in its sponsorship rights. The USOC was required to submit the name of the official bid city in mid-September 2015. Once submitted, the USOC would be locked-in to a Boston bid. If voters then opposed the bid in November 2016 referendum, the United States would be left with no candidate. The uncertainty of Boston 2024 made the USOC nervous, and it had an attractive alternative. In January, Los Angeles's bid had lost out to Boston's by just one vote, and boosters in Los Angeles had quietly communicated to USOC officials that they would be willing to step in should the Boston bid falter before September.

By July 27, 2015 Boston's bid was over. The USOC Board of Directors gathered by conference call and pulled its support for Boston 2024. As expected, by September, the USOC submitted Los Angeles as the "official" US bid on September 15th. In July of 2017, the IOC chose to award the 2024 Games to Paris, but also to give the 2028 Games to Los Angeles, in an unprecedented "double award" that represented an extraordinary departure from the IOC's typical bidding process.

It could be said, however, that this extraordinary decision was the result of the IOC's desperation to hang on to its remaining bidders. The award of the 2022 Winter Games on July 31, 2015, just days after Boston removed itself from contention for the 2024 Summer Games, was marked by the withdrawal of official bids from Oslo, Kraków, and Stockholm, due to public opposition to the potential costs of the Games. Lviv, Ukraine also ended its bid due to political and military turmoil in the country. In addition, potential bids from Munich and St. Moritz,

Switzerland, were scuttled by negative outcomes in public referenda prior to the official bidding process. This left only Beijing and Almaty, Khazakstan, neither of which had a reputation for respecting public opinion in its political decision-making, as potential hosts for the 2022 Winter Games.

Boston's grassroots opposition to the Boston 2024 Olympics, along with the collapse of bidding interest for the 2022 Winter Games, helped inspire opposition efforts in other cities. Hamburg withdrew its bid for 2024 Summer Games due to negative results in a voter referendum, and bids from Rome and Budapest were cancelled in order to avoid public votes that would likely also have failed to support the bids. The campaign to host the 2026 Winter Olympics suffered from a similar lack of interest. Voters in Calgary, Canada, Innsbruck, Austria, and Sion, Switzerland all voiced disapproval at the ballot box ending bids in those cities, and other potential bidders including Sapporo, Japan, Graz, Austria, and Erzurum, Turkey decided against pursuing a formal bid for various reasons, including public and political opposition. Only two cities (Milan and Stockholm) submitted final bids for the 2026 Games, and even then, Stockholm was unwilling to sign the host city agreement with the IOC that would have placed ultimate financial responsibility for the Games on the city and its taxpayers rather than on the IOC or the local organizing committee. Milan was ultimately awarded the 2026 Winter Olympics on June 24, 2019.

The IOC has responded to cities like Boston by proposing a series of reforms, including "Agenda 2020", released in 2014, and "The New Norms", released in 2018. As demonstrated by the limited number of bidders willing to follow through the bidding process over the past three IOC votes, these reforms have not, as of this writing, significantly increased interest in hosting the Games. In response, the International Olympic Committee has indicated an openness to further changes in the bidding process that might require cities in democratic countries to conduct referenda, and that could eliminate the "bidding" process entirely in favor of a selection process conducted by a special committee of the IOC.

Boston's Olympic "legacy" is a reminder to potential bid cities that the risks and costs of an Olympic Games typically far outweigh the benefits, and that when voters have an opportunity to learn about a bid and to weigh-in, they often find that they are being offered a raw deal.

CONCLUSION

It is clear that the Olympics have become prohibitively expensive for most cities. There are important steps that could be taken to reduce the costs of hosting the Games. One potential solution is to designate one or more cities as permanent locations for future Games. Greece, the ancient birthplace of the Games, is sometimes mentioned as a possibility. Alternatively, a set of three or four cities across the globe used in rotation would at least ensure that expensive new sporting facilities could be used for more than just a three-week period.

Minimally, all Olympic bids should be required to hold a public vote before committing public funds to a host the Games. Ideally, this referendum should be done both before a bid is undertaken and after a final accounting of the projected costs is known.

The Olympic Games remain one of the great international celebrations that brings the world together and results in the host city becoming the lucky(?) recipient of attention from across the globe. This moment in the spotlight comes at a significant cost, however, and most cities would be wise to avoid the price tag

associated with becoming an Olympic host. The citizens of Boston may be sorry to have missed hosting the world's greatest party, but it is unlikely that the city will miss what promised to be a huge financial hangover.

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