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## Olympic-sized Opportunity: Examining the IOC's Past Neglect of Human Rights in Host Cities and the Chance to Encourage Reform on a Global Scale

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OLYMPIC-SIZED OPPORTUNITY: EXAMINING THE IOC'S PAST  
NEGLECT OF HUMAN RIGHTS IN HOST CITIES AND THE  
CHANCE TO ENCOURAGE REFORM ON A  
GLOBAL SCALE

Chad Nold\*

## I. Introduction

The XXII Winter Olympiad officially began with the opening ceremony on February 7, 2014, in Sochi, Russia.<sup>1</sup> The International Olympic Committee ("IOC")<sup>2</sup> awarded Sochi the Games over PyeongChang, South Korea, and Salzburg, Austria, at the 119th IOC Session on July 4, 2007.<sup>3</sup> The Sochi Olympics, which cost an estimated \$50 billion to prepare for, featured 2,850 athletes from 89 different countries.<sup>4</sup> 1,300 medals were manufactured for the Games, to be awarded across 98 different events.<sup>5</sup> However, these numbers pale in comparison to the 2,000 families that were evicted from their homes in order to stage the Games.<sup>6</sup> In Beijing in 2008, there were reports of Beijing cracking down on political dissidents leading up to the Games – including several people who were jailed for their dissent.<sup>7</sup>

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<sup>1</sup> SOCHI 2014 OLYMPICS GAMES, OLYMPIC MOVEMENT, <http://www.olympic.org/sochi-2014-winter-olympics> (last visited Jan. 13, 2014) [hereinafter OLYMPIC MOVEMENT]. However, the first event, ladies' moguls qualifying, actually started on February 6, 2014, but the opening ceremonies are generally recognized as the start of the Games.

<sup>2</sup> The IOC is in charge of overseeing the Olympic Movement pursuant to the Olympic Charter. *See generally, Olympic Charter*, INT'L OLYMPIC COMM. (Feb. 11, 2010), [http://www.olympic.org/Assets/Sport\\_for\\_all/olympic\\_charter.pdf](http://www.olympic.org/Assets/Sport_for_all/olympic_charter.pdf); *see infra* Part II.B [hereinafter INT'L OLYMPIC COMM.].

<sup>3</sup> OLYMPIC MOVEMENT, *supra* note 1. PyeongChang was eventually awarded the honor to host the 2018 Winter Olympics. *See generally 2018 Host City Election*, OLYMPIC MOVEMENT, <http://www.olympic.org/content/the-ioc/bidding-for-the-games/past-bid-processes/election-of-the-2018-host-city/> (last visited Jan. 13, 2014).

<sup>4</sup> Richard Allen Greene, *Sochi 2014: Winter Olympics by the numbers*, CNN (Jan. 10, 2014, 11:30 AM), [http://edition.cnn.com/2014/01/08/world/europe/russia-sochi-numbers/?hpt=isp\\_t2](http://edition.cnn.com/2014/01/08/world/europe/russia-sochi-numbers/?hpt=isp_t2).

<sup>5</sup> *Id.*; *Sochi 2014 Unveils Olympic Medals*, OLYMPIC MOVEMENT (May 30, 2013), <http://www.olympic.org/news/sochi-2014-unveils-olympic-medals/199839>.

<sup>6</sup> *Russia's Olympian Abuses*, HUMAN RIGHTS WATCH, <http://www.hrw.org/russias-olympian-abuses> (last visited Jan. 13, 2014) [hereinafter HUMAN RIGHTS WATCH]; *see generally* Jessica Blumert, Note, *Home Games: Legal Issues Concerning the Displacement of Property Owners at the Site of Olympic Venues*, 21 CARDOZO J. INT'L & COMP. L. 153 (2012).

<sup>7</sup> Leading up to the Games, it was reported that China's government stepped up efforts to silence those who spoke out against unreported human rights abuses in the country. Jim Yardley, *Dissident's Arrest Hints at Olympic Crackdown*, N.Y. TIMES (Jan. 30, 2008), [http://www.nytimes.com/2008/01/30/world/asia/30dissident.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2008/01/30/world/asia/30dissident.html?pagewanted=all&_r=0).



### IOC's Past Neglect of Human Rights in Host Cities

Human rights abuses are not new to the Olympic landscape, and at the center of these controversies is the IOC, which is in charge of every aspect of the Olympic Games, including choosing the host cities.<sup>8</sup> Although the IOC historically tries to avoid political controversies,<sup>9</sup> it has been at the center of reform and improvement in the past. Most notably, the IOC played a role in helping end apartheid in South Africa.<sup>10</sup> In 1994, the IOC officially recognized the importance of two more political issues – sustainable development and the environment.<sup>11</sup> Furthermore, the IOC is in a unique position to be at the center of furthering respect and compliance with another political issue in the future: human rights laws.

This Comment proposes that the IOC should use its power to amend the Olympic Charter and require that a nation's human rights record play a role in the Olympic host city selection. The IOC should require that all countries seeking to host the Olympic Games submit a report to the IOC Working Group during the first phase of the host city selection process. The report should detail each country's human rights legislation and initiatives that show support for international human rights laws.

Part II of this Comment will address the idea of human rights from a broad scope. It will examine the Olympic movement and the purpose, structure, and goals of the IOC. Finally, the history of human rights abuses for Olympic host cities will be discussed in detail. Part III of this Comment will discuss the IOC's position on human rights and the historical use of the Olympics as a means to combat human rights abuses. In addition, Part III will also examine the Olympic site selection process. Part IV of this Comment will highlight competing arguments on what the IOC's role should be with regard to Olympic host cities and the selection process in general, and will analyze the problems associated with the current site selection process. Part V of this Comment suggests that the IOC should utilize its influence in selecting the host city for each Olympics to require bidding cities to discuss its stance and practices regarding the protection of basic human rights. Further, the feasibility of this proposal will be examined, and the benefits of the proposal on a global scale to demonstrate why the IOC should consider human rights.

<sup>8</sup> INT'L OLYMPIC COMM., *supra* note 2, at 68.

<sup>9</sup> *See infra* Part III.

<sup>10</sup> *See infra* Part III.B.

<sup>11</sup> *Factsheet: The Environment and Sustainable Development*, INT'L OLYMPIC COMM. (Jan. 2014), [http://www.olympic.org/documents/reference\\_documents\\_factsheets/environment\\_and\\_sustainable\\_development.pdf](http://www.olympic.org/documents/reference_documents_factsheets/environment_and_sustainable_development.pdf). The IOC's commitment to a sustainable future was officially included in the Olympic Charter in 1996, requiring that the IOC "encourage and support a responsible concern for environmental issues, to promote sustainable development in sport and to require that the Olympic Games are held accordingly." *See also* INT'L OLYMPIC COMM., *supra* note 2, at 15.

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### II. Human Rights and the Olympic Structure

#### A. International Human Rights in General

The United Nations Universal Declaration of Human Rights (“UDHR”), which recognizes “the inherent dignity and . . . the equal and inalienable rights of all members of the human family,”<sup>12</sup> is generally considered the foundation of international human rights law.<sup>13</sup> The UDHR serves as a baseline to measure a state’s respect for and compliance with international human rights standards.<sup>14</sup> The IOC, which the United Nations recognizes as an international organization having legal status within the United Nations framework,<sup>15</sup> could also utilize the UDHR as its own standard in evaluating the human rights situation of member states.

#### B. Overview of the Olympic Structure

The dominant institutional framework within the process of international sports law is the Olympic movement.<sup>16</sup> “The Olympic Movement is the concerted, organised, universal and permanent action, carried out under the supreme authority of the IOC, of all individuals and entities who are inspired by the values of Olympism.”<sup>17</sup> The goal of Olympism<sup>18</sup> is to “place sport at the service of the harmonious development of humankind”<sup>19</sup> and to promote a peaceful society focused on preserving human dignity.<sup>20</sup>

<sup>12</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III), at Preamble (Dec. 10, 1948) [hereinafter G.A. Res. 217 (III) A].

<sup>13</sup> *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*, UNITED NATIONS (June 1946), <http://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>. The UDHR was adopted in 1948 as a common standard to teach, promote, and secure respect for the universal rights and freedoms of all people. It was the first time that the international community made a declaration of human rights and fundamental freedoms. The UDHR has been at the foundation of more than 80 international human rights treaties and declarations. *See also* The Foundation of International Human Rights Law, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS LAW, [http://www.un.org/en/documents/udhr/hr\\_law.shtml](http://www.un.org/en/documents/udhr/hr_law.shtml) (last visited Jan. 13, 2014).

<sup>14</sup> While by no means an exhaustive list, other sources for international human rights in addition to the Universal Declaration of Human Rights that make up the “International Bill of Human Rights” include: International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights and its two Optional Protocols. UNITED NATIONS, *supra* note 13.

<sup>15</sup> Paul Mastrocola, Note, *The Lord of the Rings: The Role of Olympic Site Selection as a Weapon Against Human Rights Abuses: China’s Bid for the 2000 Olympics*, 15 B.C. THIRD WORLD L.J. 141, 147 n.48 (1995).

<sup>16</sup> JAMES A.R. NAFZIGER, INTERNATIONAL SPORTS LAW 2 (Transnational Publishers, Inc., 2d ed. 2004).

<sup>17</sup> INT’L OLYMPIC COMM., *supra* note 2, at 15. Further, the Olympic Movement “encompasses organisations, athletes and other persons that agree to be guided by the Olympic Charter.”

<sup>18</sup> Olympism is defined as a philosophy of life blending sport with culture and education that “seeks to create a way of life based on the joy of effort, the educational value of good example, social responsibility and respect for universal fundamental ethical principles.” INT’L OLYMPIC COMM., *supra* note 2, at 11.

<sup>19</sup> INT’L OLYMPIC COMM., *supra* note 2, at 11.

<sup>20</sup> *Id.*



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The Olympic Charter<sup>21</sup> sets forth objectives and governs the organization, action and operation of the Olympic Movement.<sup>22</sup> The main goal of the Olympic Movement “is to contribute to building a peaceful and better world by educating youth through sport practised in accordance with Olympism and its values.”<sup>23</sup> The IOC is in charge of implementing the Olympic Charter, and in turn overseeing the Olympic Movement.<sup>24</sup>

The IOC is the “central organ” of the Olympic system.<sup>25</sup> It is bound by the statutes set forth in the Olympic Charter.<sup>26</sup> It is a non-profit, non-governmental organization (“NGO”), consisting of 110 individuals.<sup>27</sup> The IOC has sixteen functions, including coordinating, organizing, and developing sport and sporting competitions; taking measures to strengthen the Olympic Movement; and overseeing the regular celebration of the Olympic Games.<sup>28</sup> In addition, the IOC is in charge of selecting a host city for each Olympic Games.<sup>29</sup> Further, the IOC must ensure that neither it, nor any of its member organizations, “act[s] against any form of discrimination affecting the Olympic Movement.”<sup>30</sup> Ultimately, the IOC’s most fundamental role is “to ensure the respect and interpretation of the Olympic Charter.”<sup>31</sup>

In addition to the IOC, there are two main constituents of the Olympic Movement: International Sports Federations (“IFs”) and National Olympic Committees (“NOCs”).<sup>32</sup> Further, Organizing Committees of the Olympic Games (“OCOGs”), national associations, clubs and persons belonging to the IFs and NOCs – specifically, athletes – and judges, referees, coaches or other sports officials fall under the umbrella of the Olympic Movement.<sup>33</sup> Belonging to the Olympic Movement requires compliance with the provisions of the Olympic Charter and acceptance and recognition of all IOC decisions.<sup>34</sup> Therefore, every entity that falls under the Olympic Charter must follow the rules and regulations

<sup>21</sup> The Olympic Charter is the “codification of the Fundamental Principles of Olympism, Rules and By-Laws adopted by the International Olympic Committee.” INT’L OLYMPIC COMM., *supra* note 2, at 9.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 15.

<sup>24</sup> *Id.*

<sup>25</sup> Mastrocola, *supra* note 15, at 143.

<sup>26</sup> INT’L OLYMPIC COMM., *supra* note 2, at 9.

<sup>27</sup> *Id.* at 29. The IOC is an international NGO based in Lausanne, Switzerland, the Olympic Capital. *Id.* There are currently 107 members, 31 honorary members and one honour member. *IOC Members*, OLYMPIC MOVEMENT, <http://www.olympic.org/ioc-members-list> (last visited Jan. 13, 2014). The maximum number of members may not exceed 115. *Id.* at 30. Members are elected during the IOC Session, discussed *infra* at note 84, pursuant to Rule 16 of the Olympic Charter. *Id.* See also Mastrocola, *supra* note 15, at 144.

<sup>28</sup> INT’L OLYMPIC COMM., *supra* note 2, at 14; see also NAFZIGER, *supra* note 16, at 19.

<sup>29</sup> INT’L OLYMPIC COMM., *supra* note 2, at 68; see *infra* Part III.C.

<sup>30</sup> INT’L OLYMPIC COMM., *supra* note 2, at 16.

<sup>31</sup> NAFZIGER, *supra* note 16, at 19.

<sup>32</sup> INT’L OLYMPIC COMM., *supra* note 2, at 15.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 16.

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promulgated by the IOC. For individual states, the NOCs bear the responsibility of ensuring that their respective states act in accordance with the Olympic Charter.<sup>35</sup> Furthermore, all IOC decisions must be made to advance the Olympic ideal of creating a better and more peaceful world.<sup>36</sup>

#### C. Human Rights and the Olympic Host Cities

Despite the fact that states normally follow the rules and practices of the Olympic legal framework<sup>37</sup> – as dictated by the IOC – the IOC has not made the respect for human rights a central tenet of the Olympic Charter.<sup>38</sup> However, there are various sections of the Olympic Charter that suggest that the protection and furtherance of basic human rights is in conformity with the Olympic ideals.<sup>39</sup> Nevertheless, there is an unfortunate history of human rights abuses occurring at Olympic host cities before, during, and after the conclusion of the Games.

Human rights violations in the context of the Olympics take on several different forms.<sup>40</sup> While each Olympic Games faces its own unique challenges, one of the most prevalent human rights abuses that have occurred during the lead up to recent Olympic Games is the forced evictions of local citizens to build infrastructure for use in the Games.<sup>41</sup> The right to adequate housing<sup>42</sup> was first established as an international human right in the UDHR.<sup>43</sup> The IOC has not addressed this right in the Olympic Charter, but the right is nevertheless implicated in the con-

<sup>35</sup> NAFZIGER, *supra* note 16, at 23. The Olympic Charter states that: “The mission of the NOCs is to develop, promote and protect the Olympic Movement in their respective countries, in accordance with the Olympic Charter.” INT’L OLYMPIC COMM., *supra* note 2, at 61.

<sup>36</sup> Mastrocola, *supra* note 15, at 145.

<sup>37</sup> Mastrocola, *supra* note 15, at 147 n.43.

<sup>38</sup> See generally INT’L OLYMPIC COMM., *supra* note 2.

<sup>39</sup> INT’L OLYMPIC COMM., *supra* note 2, at 12 (“Any form of discrimination with regard to a country or a person on grounds of race, religion, politics, gender or otherwise is incompatible with belonging to the Olympic Movement”). The Olympic Charter also makes the practice of sport a human right. *Id.* at 11. Moreover, furthering human rights in general is arguably consistent with the goals set forth in the Olympic Movement.

<sup>40</sup> Since the concept of human rights is so expansive, for purposes of this section only, the primary focus will be on issues related to the right to adequate housing and forced evictions, which nearly always arise during the lead up to the Olympics. However, there are several other ways human rights violations occur leading up to and during the Olympics that are not discussed in this Comment. For more insight into the right to adequate housing, see generally Blumert, *supra* note 6.

<sup>41</sup> Blumert, *supra* note 6, at 176. In Seoul in 1988, 15% of the population was forcibly evicted; in Atlanta in 1996, approximately 15,000 low-income residents were forced to leave the city, 1,200 affordable housing units were destroyed, and homelessness was made illegal; and in Beijing in 2008, over 1.25 million people were displaced.

<sup>42</sup> The right to “adequate housing” includes: legal security and tenure; adequate services, materials, and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. United Nations, Comm. On Econ., Soc. and Cultural Rights, General Comment No. 4: The Right to Adequate Housing, U.N. Doc. E/1992/23 (Dec. 13, 1991).

<sup>43</sup> G.A. Res. 217 (III) A, *supra* note 12, at art. 25 (The UDHR states that all people have “The right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”).



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text of the Olympics because host cities need to construct facilities and villages for the purpose of staging the Games, which involves site clearance and the likely displacement of people.<sup>44</sup> Even though host cities often build the Olympic villages for the purpose of creating social housing after the Games are over, issues can arise if the new facilities don't live up to the standards of adequacy that international human rights law requires.<sup>45</sup> This happened following the Vancouver Olympics in 2010, where the Vancouver Olympic organizers originally promised 1,000 social housing units, but only delivered 126 units after the Games.<sup>46</sup>

The right to adequate housing is not the only human right violated in recent Olympics.<sup>47</sup> Forced evictions in Sochi have not been Russia's only issue.<sup>48</sup> Once it was awarded the Games, Russia became involved in numerous international human rights controversies, including the passage of an anti-LGBT propaganda law,<sup>49</sup> restricted press freedom, and migrant worker abuses.<sup>50</sup> Similarly, leading up to the 2008 Summer Olympics in Beijing, there were widespread reports about China's poor human rights record, including abuse of migrant workers who built the Olympic infrastructure, restrictions on media freedom, and increased efforts to silence citizens who spoke out about the conditions leading up to the Games.<sup>51</sup>

<sup>44</sup> Blumert, *supra* note 6, at 167.

<sup>45</sup> Blumert, *supra* note 6, at 163.

<sup>46</sup> *Id.* at 164. The promise was originally for the entire 1,100-unit Olympic Village to be committed to social housing. Then the promise was cut back to 252 units, but political problems and high construction costs forced the city council to eventually halve that number to the 126 units that were ultimately provided. *Vancouver cuts Olympic Village social housing*, CBC NEWS (Apr. 23, 2010, 8:19 AM), <http://www.cbc.ca/news/canada/british-columbia/vancouver-cuts-olympic-village-social-housing-1.882070>.

<sup>47</sup> Minky Worden, *The Olympics' Leadership Mess*, N.Y. TIMES (Aug. 12, 2013), [http://www.nytimes.com/2013/08/13/opinion/the-olympics-leadership-mess.html?\\_r=1&](http://www.nytimes.com/2013/08/13/opinion/the-olympics-leadership-mess.html?_r=1&) (criticizing the 12-year term of then IOC president Jacques Rogge, calling attention to "the glaring contradiction" between the IOC's role as outlined in the Olympic Charter and two Olympics during his tenure – Beijing in 2008 and Sochi in 2014 – with extensive human rights violations).

<sup>48</sup> HUMAN RIGHTS WATCH, *supra* note 6.

<sup>49</sup> The law passed in August 2013 essentially banned the public discussion of gay rights and relationships anywhere that children might hear it. Laura Smith-Spark, *Why Russia's Sochi Olympics are now a battleground for gay rights*, CNN (Aug. 10, 2013, 9:59 PM), <http://edition.cnn.com/2013/08/10/world/europe/russia-gay-rights-controversy/index.html>. Specifically, the law makes it illegal to tell minors that "traditional" and "non-traditional" sexual relationships are socially equal. Kathy Lally, *Russian law isolates gay teenagers*, WASHINGTON POST (Sept. 6, 2013, 6:00 AM), [http://www.washingtonpost.com/world/russias-gay-law-isolates-lgbt-teenagers/2013/09/01/9eec54fc-0c19-11e3-89fe-abb4a5067014\\_story.html](http://www.washingtonpost.com/world/russias-gay-law-isolates-lgbt-teenagers/2013/09/01/9eec54fc-0c19-11e3-89fe-abb4a5067014_story.html). All Out, a New York-based organization that advocates for equality around the world, collected more than 300,000 signatures on a statement that urged the IOC to criticize the law. Kathy Lally, *IOC: No grounds to challenge Russian anti-gay law as Sochi Olympic Games approach*, WASHINGTON POST (Sept. 26, 2013), [http://www.washingtonpost.com/world/europe/ioc-backs-off-on-russian-anti-gay-law/2013/09/26/38b39266-269c-11e3-9372-92606241ae9c\\_story.html](http://www.washingtonpost.com/world/europe/ioc-backs-off-on-russian-anti-gay-law/2013/09/26/38b39266-269c-11e3-9372-92606241ae9c_story.html). The IOC has stated that it is satisfied that the law does not conflict with the Olympic Charter. *Id.*

<sup>50</sup> See generally HUMAN RIGHTS WATCH, *supra* note 6.

<sup>51</sup> See *China: Olympics Harm Key Human Rights*, HUMAN RIGHTS WATCH (Aug. 7, 2008), <http://www.hrw.org/news/2008/08/04/china-olympics-harm-key-human-rights>. See also *Olympics Host China Comes Under Fire for Human Rights Concerns*, PBS (Aug. 5, 2008), [http://www.pbs.org/newshour/extra/features/world/july-dec08/china\\_8-05.html](http://www.pbs.org/newshour/extra/features/world/july-dec08/china_8-05.html). Nevertheless, IOC supported its decision, arguing that Beijing hosting the Olympics has put the spotlight on the country's human rights record, which in turn

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Ultimately, the IOC is responsible for choosing the host city for each Olympic Games.<sup>52</sup> As such, the most powerful entity in the international sports law arena<sup>53</sup> will forever be associated with human rights abuses that occur on the most global of stages.<sup>54</sup> But why would the IOC, whose primary role is to “contribute to building a peaceful and better world”<sup>55</sup> through sport, continue to be a party to the abuses of basic, fundamental human rights? In order to make sense of this apparent paradox, it is necessary to first understand the relationship between sports, politics, and the IOC's role in Olympic site selection.

### III. IOC's Position on Human Rights and Its Impact on Olympic Site Selection

#### A. The IOC Avoids Politics. . . to an Extent

The modern Olympic Games were originally envisioned to be part of an international sports arena that is mutually exclusive of political currents.<sup>56</sup> One of the main goals of the Olympics, and sport in general, is to provide an arena where political differences and disputes are secondary to the ideals of sport.<sup>57</sup> Despite these grand ideals, politics has always been intertwined with the Olympic Games.<sup>58</sup>

The IOC, however, has historically avoided making political decisions.<sup>59</sup> The Olympic Charter prohibits any form of discrimination against a country or individual on political grounds.<sup>60</sup> Reading the Olympic Charter literally, the IOC has

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led to improved conditions. *IOC backs China human rights push*, BBC SPORT (Feb. 26, 2008, 8:30 PM), <http://news.bbc.co.uk/sport2/hi/olympics/7265593.stm>.

<sup>52</sup> INT'L OLYMPIC COMM., *supra* note 2, at 68.

<sup>53</sup> The Olympic Movement, set forth in the Olympic Charter, is considered the “dominant institutional framework” in international sports law. NAFZIGER, *supra* note 16, at 3-4. The IOC, which is the “supreme authority” of the Olympic Charter, therefore oversees the “dominant institutional framework” in international sports law. *Id.* Further, the IOC's unusual influence on the legal process as an NGO is akin to the International Committee of the Red Cross, which implements “the humanitarian rules of the laws of war.” *Id.* at n.12.

<sup>54</sup> The opening ceremony at the 2012 London Olympics was watched by an estimated 900 million people around the world, while the opening ceremony for the 2008 Beijing Olympics was watched by 1.2 billion people. Avril Ormsby, *London 2012 opening ceremony draws 900 million viewers*, REUTERS (Aug. 7, 2012, 4:43 PM), <http://uk.reuters.com/article/2012/08/07/uk-oly-ratings-day-idUKBRE8760V820120807>.

<sup>55</sup> INT'L OLYMPIC COMM., *supra* note 2, at 15.

<sup>56</sup> NAFZIGER, *supra* note 16, at 195. Baron Pierre de Coubertin, the father of the modern Games, believed that international competition among elite amateur athletes could help promote global harmony. *Id.* at 190.

<sup>57</sup> Juneau Gary & Neal S. Rubin, *The Olympic Truce: Sport promoting peace, development and international cooperation*, AMERICAN PSYCHOLOGICAL ASSOCIATION, <http://www.apa.org/international/pi/2012/10/un-matters.aspx> (last visited Jan. 13, 2014) (Sports offer “a brief respite through which to level the metaphorical playing field.”).

<sup>58</sup> NAFZIGER, *supra* note 16, at 196.

<sup>59</sup> *Id.* at 195. Indeed, the IOC has actually been remarkably successful at refraining from political decision-making.

<sup>60</sup> INT'L OLYMPIC COMM., *supra* note 2, at 12. The Olympic Charter also prohibits discrimination against a country or person on the grounds of “race, religion . . . gender or otherwise.”

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no room to take into account political considerations.<sup>61</sup> However, the issue of human rights creates a conflict between furthering the ideals of the Olympic Movement – which includes promoting and protecting human rights – and making politically-motivated decisions.<sup>62</sup> Thus, while the IOC will generally avoid inserting itself into most political controversies, the limited use of sport to enhance human rights is justified if accomplished within United Nations framework.<sup>63</sup>

#### B. Olympic Ban Helps End Apartheid in South Africa

The most notable example of the IOC taking action to protect human rights was as part of the international effort to end apartheid in South Africa. South Africa's National ruling party originally banned interracial sport in competition with foreign athletes in 1956, thus implicating the Olympics.<sup>64</sup> The IOC ultimately rescinded its invitation to South Africa for the 1964 Tokyo Olympics after the South Africa National Olympic Committee ("South Africa NOC") did not commit to allowing black athletes to participate in the Games.<sup>65</sup>

Leading up to the 1968 Mexico City Olympics, the IOC sent an investigation commission to determine if South Africa enacted appropriate reforms to comply with the Olympic Charter.<sup>66</sup> At the time, South Africa had adopted a non-discriminatory policy for training, selecting and lodging Olympic athletes.<sup>67</sup> However, South Africa still insisted on segregated trials<sup>68</sup> The IOC originally concluded that this reform was enough to put the South Africa NOC in compliance with the Olympic Charter.<sup>69</sup> However, after 32 nations threatened to boycott the Olympics if South Africa participated, the IOC excluded South Africa from the 1968 Games.<sup>70</sup>

At the conclusion of the 1968 Games, the United Nations requested all states and organizations, including those under the Olympic umbrella, to cease domes-

<sup>61</sup> Mastrocola, *supra* note 15, at 157; *see also* NAFZIGER, *supra* note 16, at 223.

<sup>62</sup> Mastrocola, *supra* note 15, at 157 n.132. Human rights are a serious issue within the Olympic Movement.

<sup>63</sup> Mastrocola, *supra* note 15, at 159. The IOC's greater recognition and subsequent consideration of human rights laws seems to stem from the combination of a growing body of international human rights laws and increased United Nations efforts to protect against human rights abuses during the 1970s.

<sup>64</sup> Julie H. Liu, Note and Comment, *Lighting the Torch of Human Rights: the Olympic Games as a Vehicle for Human Rights Reform*, 5 NW U. J. INT'L HUM. RTS. 213, 218 (2007). Importantly, this policy was arguably in contravention of the 1978 International Charter of Physical Education and Sport, which states that the right to sport is a human right; South Africa's prohibition against black South African's was a denial of that human right. *Id.* at 219.

<sup>65</sup> *Id.* at 220. In response to IOC's decision to ban them from the Games, South Africa reaffirmed its policies against "competition between the races."

<sup>66</sup> Liu, *supra* note 64, at 220. In its instructions to the investigation commission, IOC President Avery Brundage stated that the IOC "must not become involved in political issues nor permit the Olympic Games to be used as a tool or as a weapon for an extraneous task."

<sup>67</sup> NAFZIGER, *supra* note 16, at 224.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*; *see also* Liu, *supra* note 64, at 220.



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tic sports competitions with South Africa and any organizations and institutions within South Africa that practiced apartheid.<sup>71</sup> Following the United Nations resolution, the IOC voted to exclude both South African competitors from the 1972 Olympics and the South Africa NOC from the Olympic Movement.<sup>72</sup> It wasn't until the 1992 Barcelona Games that South Africa was allowed to participate again.<sup>73</sup> Ultimately, it is impossible to quantify how big a role the IOC boycott of South Africa has actually played in ending apartheid.<sup>74</sup>

It is important to note that the IOC only acted to oppose apartheid under the threat of a mass boycott.<sup>75</sup> Prior to that, it had on multiple occasions demonstrated a willingness to continue to include South Africa in the Olympics pursuant to the idea that no country was to be excluded from the Olympics for political reasons.<sup>76</sup> This overwhelming reluctance to make politically-influenced decisions largely explains the IOC's track-record of selecting host cities with poor human rights records.<sup>77</sup>

#### C. The IOC has Complete Authority in the Host City Selection Process

The Olympic Charter, which serves as the primary rationale for the IOC's stance on political issues, also grants the IOC the power to select the host city for each Olympic Games.<sup>78</sup> The selection process consists of two phases: the Applicant City Phase and the Candidate City Phase.<sup>79</sup> The first part of the bidding process to host the Games is essentially a screening phase, where each applicant city submits an application to the IOC.<sup>80</sup> The IOC Executive Board appoints a

<sup>71</sup> NAFZIGER, *supra* note 16, at 225.

<sup>72</sup> *Id.*

<sup>73</sup> Liu, *supra* note 64, at 220.

<sup>74</sup> *Id.* At the very least, excluding South Africa from the most important global stage in sports "sent a powerful message and was an effective resource to induce human rights reform." *Id.* Conversely, Nafziger hypothesized in the alternative, wondering if social change could have been effected more rapidly had governments and sports organizations accepted the "half-loaf of considerable sports integration" South Africa accomplished instead of taking the all-or-nothing approach to ending apartheid that they chose. NAFZIGER, *supra* note 16, at 229.

<sup>75</sup> NAFZIGER, *supra* note 16, at 224-25. The IOC President argued that excluding South African athletes from the Games would harm South Africa's black athletes more than anyone else. The IOC President was quoted as saying, "if participation in sport is to be stopped every time the laws of humanity are violated, there will never be any international contests."

<sup>76</sup> Liu, *supra* note 64, at 218. In addition to originally inviting South Africa to the 1968 Olympics, the IOC was also initially reluctant to take action in 1958 when Norway first proposed excluding South Africa from the Olympics.

<sup>77</sup> Jennifer Gustafson, Comment, *Bronze, Silver, or Gold: Does the International Olympic Committee Deserve a Medal for Combating Human Trafficking in Connection with the Olympic Games?*, 41 CAL. W. INT'L L.J. 433, 459 (2011).

<sup>78</sup> INT'L OLYMPIC COMM., *supra* note 2, at 68.

<sup>79</sup> *All about the bid process*, OLYMPIC MOVEMENT, <http://www.olympic.org/content/the-ioc/bidding-for-the-games/all-about-the-bid-process/> (last visited Jan. 13, 2014) [hereinafter OLYMPIC MOVEMENT].

<sup>80</sup> The competent public authorities for the applicant city must submit its bid to the IOC with the approval of the city's NOC. INT'L OLYMPIC COMM., *supra* note 2, at 68. Once the bid is submitted, the city and its respective NOC immediately become jointly responsible to the IOC for its actions and conduct. *Id.* at 69. This has the effect of binding all potential host cities to the Olympic ideals throughout the selection process, but not before the bid is placed. For the eventual host city, if there is a conflict



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Working Group to evaluate the applications and make recommendations to the IOC Executive Board on which cities should be considered as candidates to host.<sup>81</sup> Phase II of the bidding process is the Candidate City Phase, where each candidate city fills out a detailed IOC candidate questionnaire and submits it to the IOC for the city's candidature file to be reviewed.<sup>82</sup> Once all bids are submitted, the IOC President appoints an Evaluation Commission to review the candidatures for all candidate cities.<sup>83</sup> The Evaluation Commission then submits a report to the IOC Executive Board, which draws up a final list of candidates to be voted on by all IOC members at the IOC Session for election.<sup>84</sup>

During the Candidate City Phase, the most important part of the candidature file is the IOC's Candidate Procedure and Questionnaire ("Candidate Questionnaire") that each applicant city must fill out.<sup>85</sup> The Candidate Questionnaire is structured into three parts: Candidate Procedure, IOC Questionnaire, and Instructions.<sup>86</sup> The Candidate Questionnaire is one of the principal tools used by the IOC to evaluate each candidate city.<sup>87</sup> An examination of the 2012 Candidate Questionnaire shows that the questionnaire touched on several aspects of each candidate's city bid, including, but not limited to: the principal motivation for hosting the Games; the expected benefits and post-Olympic use of key Olympic infrastructures; the guarantees to the IOC; political support and legal structure in

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between the provisions in the Candidate Procedure and the host city contract, the host city contract shall prevail. *2012 Candidate Procedure and Questionnaire: Games of the XXX Olympiad in 2012*, INT'L OLYMPIC COMM. 26 [http://www.olympic.org/Documents/Reports/EN/en\\_report\\_810.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_810.pdf) (last visited Jan. 13, 2014) [hereinafter *2012 Candidate Procedure and Questionnaire*].

<sup>81</sup> OLYMPIC MOVEMENT, *supra* note 79. The Working Group submits its conclusions to the IOC Executive Committee, which ultimately selects which cities will be included in the Candidate City Phase of the bidding process. *See also* INT'L OLYMPIC COMM., *supra* note 2, at 69 (stating that the "IOC Executive Board shall decide which cities will be accepted as candidate cities). Further, not every city that wishes to host the Olympics makes it to the Candidate City Phase of the bid process. *2012 Candidate Procedure and Questionnaire*, *supra* note 80.

<sup>82</sup> Mastrocola, *supra* note 15, at 145 (In general, the candidate questionnaire addresses topics such as respect for IOC rules, general and cultural information about the applicant city, organizational matters, and electronic media issues.).

<sup>83</sup> INT'L OLYMPIC COMM., *supra* note 2, at 68-69. The Evaluation Commission is composed of IOC members, representatives of the IFs, the NOCs, the Athletes' Commission and the International Paralympic Committee. Nationals of candidate cities' countries are not eligible. Moreover, the Evaluation Commission may be assisted by experts.

<sup>84</sup> INT'L OLYMPIC COMM., *supra* note 2, at 69. The IOC Session is the general meeting of the members of the IOC. *Id.* at 41. The Olympic Charter grants the Session the authority to elect the host city for each Olympic Games.

<sup>85</sup> Mastrocola, *supra* note 16, at 145. The Candidate Questionnaire also contains explanations about each step of the candidature before the host city is elected. *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 19.

<sup>86</sup> *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 19. Part 1 outlines what is required of each candidate city during the second phase of the bid process, and it contains procedures, rules and deadlines. *Id.* The Candidate Procedure once again reaffirms the candidate cities' and their NOC's acceptance of the rules. *Id.* at 29. Part 2 is the IOC questionnaire. *Id.* at 19. Part 3 contains instructions on the candidate city's presentation and submission of the Candidate Questionnaire. *Id.*

<sup>87</sup> *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 33. The IOC stresses in the Candidate Questionnaire that the information must "accurately reflect the current situation of the city." Further, the candidate city's answers to the Candidate Questionnaire are legally binding on the Candidate City and its NOC.



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general; and existing laws.<sup>88</sup> However, any consideration of human rights is notably absent.<sup>89</sup>

Once each candidate city submits the Candidate Questionnaire, the Evaluation Commission must study all aspects of each city's application.<sup>90</sup> When the Evaluation Commission completes its review of each candidate city, the Evaluation Commission prepares a report for the IOC.<sup>91</sup> The IOC Executive Board then screens the candidate cities for a second time to determine which candidate cities are up for election at the IOC Session.<sup>92</sup> At the IOC Session, each candidate city makes a presentation, hoping to convince the IOC members to select their city as the host city.<sup>93</sup> After the presentations, the IOC Evaluation Commission makes a report to the IOC Session.<sup>94</sup> The IOC members then vote in a secret ballot to determine which city will be named the host.<sup>95</sup> Finally, once a city is elected, the host city and its NOC immediately sign the host city contract with the IOC, becoming legally bound to comply with and uphold the Olympic Charter.<sup>96</sup>

Although the host city contract requires the host city to comply with the Olympic Charter from the moment it submits its bid, the host city is under no official obligation to comply with international human rights laws.<sup>97</sup> Therefore, once the host city is awarded the Games, even though it is bound by the host city contract, there are no official requirements that the host city and country abide by

<sup>88</sup> *IOC 2012 Bid Questionnaire*, GAMESBIDS, <http://web.archive.org/web/20061020040126/http://www.gamesbids.com/cgi-bin/news/viewnews.cgi?category=3&id=1074191005> (last visited Jan. 13, 2014).

<sup>89</sup> *Id.*

<sup>90</sup> INT'L OLYMPIC COMM., *supra* note 2, at 69.

<sup>91</sup> INT'L OLYMPIC COMM., *supra* note 2, at 69. The report must be submitted to all IOC members at least one month before the start of the Session that will elect the host city. *Id.* The purpose of the report is to help the IOC members elect a host city that is capable of staging the Olympics. *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 36. Therefore, the report includes information regarding the challenges each city could face in the seven years leading up to and including the Games. *Id.*

<sup>92</sup> INT'L OLYMPIC COMM., *supra* note 2, at 70 ("[T]he IOC Executive Board shall draw up the final list of candidate cities retained by the IOC Executive Board in order to be submitted to the vote by the Session for election."). But ultimately, the election of the host city is the "prerogative of the Session." *Id.* at 68. *See also 2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 37.

<sup>93</sup> *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 38. The presentations are followed by questions from IOC members. In addition, all Candidate City statements made during the presentation are binding on the cities and their NOC.

<sup>94</sup> *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 39.

<sup>95</sup> INT'L OLYMPIC COMM., *supra* note 2, at 70. The vote occurs only after the Session has considered the Evaluation Commission report. *Id.* The voting occurs in rounds, with as many rounds taking place as necessary for one city to gain an absolute majority of votes. *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 39. After each round, the city with the least number of votes is eliminated. *Id.*

<sup>96</sup> INT'L OLYMPIC COMM., *supra* note 2, at 68. The host city contract is a legally binding instrument that reaffirms that the host city, the NOC and the country's public authorities will comply with and uphold the Olympic Charter. *Id.* Further, the host city contract allows the IOC to create a set of standards that the host country must adhere to leading up to and during the Olympics. Blumert, *supra* note 6, at 173-74. The host city contract is effective from the date of execution. *2012 Candidate Procedure and Questionnaire*, *supra* note 80, at 26. Therefore, the host city contract allows the IOC to tailor the requirements for hosting based on the specific requirements of the host city.

<sup>97</sup> The Olympic Charter does not mention human rights, discussed *supra*. The bidding process also does not mention human rights.



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international human rights laws and norms.<sup>98</sup> This lack of official human rights policies both within the Olympic Charter and as part of the selection process further explains the history of human rights abuses associated with the Olympics.

#### IV. Analyzing the Host City Selection Process within the Context of Human Rights

The IOC has the power and ability to positively impact human rights conditions on a global scale through the host city selection process.<sup>99</sup> Notwithstanding the Olympic Charter's prohibition on political action, as the most powerful international sports organization in the world and the arbiter of the Olympic Games, the IOC has the ability to effect change if it so chooses.<sup>100</sup> Most importantly, the Olympics provide an opportunity to create reform in a way that is widely visible.<sup>101</sup> The IOC's role in ending apartheid is instructive: the Olympic Games' conversion from the biggest international sports competition to "a politically involved instrument of human rights may prove to be one of [the Olympics'] most significant contributions to world order."<sup>102</sup>

With the IOC's connection to human rights abuses at host cities, and the IOC's power over the selection process, the IOC should consider a different approach to human rights in choosing host cities. First and foremost, the IOC's primary duty is to promote the goals of the Olympic Movement as set forth in the Olympic Charter.<sup>103</sup> The selection of the host city is the primary IOC decision that projects the Olympic ideals.<sup>104</sup>

In addition, hosting the Olympic Games offers the host nation a chance to showcase itself to the entire world.<sup>105</sup> Awarding the hosting responsibility of the Olympic Games to a country with a poor human rights record essentially validates that country's egregious behavior.<sup>106</sup> This concern was largely behind the United States' actions to block Beijing's bid for hosting the 2000 Summer

<sup>98</sup> *Russia: IOC Should Address Deteriorating Rights Climate*, HUMAN RIGHTS WATCH (Oct. 11, 2012), <http://www.hrw.org/news/2012/10/11/russia-ioc-should-address-deteriorating-rights-climate> (Instead of dealing with human rights issues directly, the IOC chooses not to interfere with the host country's internal affairs, allowing local governments to handle human rights issues on their own.).

<sup>99</sup> INT'L OLYMPIC COMM., *supra* note 2, at 17. The Olympic Charter requires that the IOC effect positive change when it can; Rule 2.14 of the Olympic Charter states that one of the IOC's goals is to "promote a positive legacy from the Olympic Games to the host cities and host countries." Along those lines, the IOC's history of selecting host cities with human rights concerns is arguably counter to the Olympic ideals set forth in the Olympic Charter.

<sup>100</sup> NAFZIGER, *supra* note 16, at 25. Although the IOC is technically an NGO with limited competence outside the Olympic arena, states acquiesce in its decisions and conduct diplomacy with it.

<sup>101</sup> Liu, *supra* note 64, at 220.

<sup>102</sup> NAFZIGER, *supra* note 16, at 230.

<sup>103</sup> See *supra* Part II.A.; see also Mastrocola, *supra* note 15, at 145.

<sup>104</sup> Mastrocola, *supra* note 15, at 146.

<sup>105</sup> Liu, *supra* note 64, at 224. Not only is it a chance for the host nation to showcase itself in front of the world, but a successful hosting is an obvious platform to gaining international prestige as well.

<sup>106</sup> Liu, *supra* note 64, at 223. One of the benefits that goes with hosting the Games is a chance to validate national achievement. Awarding the Games to a country with a poor human rights record essentially justifies that poor record.



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Games.<sup>107</sup> The host city for the 2000 Summer Games was voted on in 1993, just four years after the 1989 Tiananmen Square massacre.<sup>108</sup> Nevertheless, China was expected to win the bid at the IOC Session but was dealt a “major political setback” when the IOC selected Sydney, Australia, instead.<sup>109</sup> While the honor to host the Games ultimately was bestowed upon Sydney,<sup>110</sup> Beijing’s bid arguably should not have been up for consideration in the first place.

Alternatively, there is a competing view that the Olympic Games can and should be used as a “vehicle for human rights reform.”<sup>111</sup> The argument is that the Olympics provide the opportunity for a nation to undergo a complete transformation more rapidly and improve its human rights record in the process.<sup>112</sup> The most notable example in recent history was the 1988 Summer Olympics in Seoul, South Korea.<sup>113</sup> The 1988 Games proved to be a major catalyst in South Korea’s transition to a democratic government and helped showcase that Seoul could overcome its history of human rights abuses.<sup>114</sup> Beijing’s bid for the 2008 Games followed a similar model to Seoul, marketing its opportunity to host the games as an “opening to the outside world.”<sup>115</sup>

The problem with both approaches – either do not award the bid to a human rights violator or use the bid to promote change in human rights policies in the host country – is that they do not take into account the human rights practices of every other country that is part of the Olympic Movement.<sup>116</sup> The Olympic Games are a global event held twice every four years, which means only one country every two years is given the chance to showcase the Games. Because the Olympic Charter is notably silent on human rights, members of the Olympic

<sup>107</sup> See generally Mastrocola, *supra* note 15 (discussing China’s human rights record from the standpoint of determining whether the United States was legally justified for opposing China’s bid to host the 2000 Summer Games).

<sup>108</sup> Seth Doane, *Tiananmen Square: “Great Firewall” All but Hides the 24th Anniversary of China Massacre*, CBS NEWS (June 4, 2013, 10:51 AM), <http://www.cbsnews.com/news/tiananmen-square-great-firewall-all-but-hides-the-24th-anniversary-of-china-massacre/>. The Tiananmen Square Massacre was the brutal massacre of pro-democracy student protesters that were set up in Tiananmen Square in the middle of Beijing. Details of the massacre, which occurred on June 4, 1989, are still “shrouded in mystery,” as the Chinese government censors virtually all information about it online.

<sup>109</sup> Alan Riding, *2000 Olympics Go to Sydney in Surprise Setback for China*, N.Y. TIMES (Sept. 24, 1993), <http://www.nytimes.com/1993/09/24/sports/olympics-2000-olympics-go-to-sydney-in-surprise-setback-for-china.html?pagewanted=all&src=pm>.

<sup>110</sup> *Id.*

<sup>111</sup> Liu, *supra* note 64, at 235 (suggesting that, in the context of the 2008 Games in Beijing, the combination of China’s own self-interest, the international spotlight the Games provide, and the authority and influence of the IOC could serve as a vehicle to improve the human rights conditions in China).

<sup>112</sup> See generally Liu, *supra* note 64.

<sup>113</sup> *Id.* at 221. The Seoul Olympics contributed to an “awakening to democracy” for the Korean people.

<sup>114</sup> Liu, *supra* note 64, at 222.

<sup>115</sup> *Id.* at 228.

<sup>116</sup> *National Olympic Committees*, OLYMPIC MOVEMENT, <http://www.olympic.org/national-olympic-committees> (last visited Jan. 13, 2014). There are 204 NOCs that the IOC has recognized as part of the Olympic Movement.



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Movement are under no obligation to conform their policies to match international human rights laws.<sup>117</sup>

The requirements to comply with the Olympic Charter are arguably heightened for those countries involved in the site selection process through their legally binding commitment to uphold the Charter.<sup>118</sup> However, only those countries that are actually awarded a bid are held to its promises throughout the staging of the Olympic Games.<sup>119</sup> Even then, the host city is not necessarily obligated to comply with international human rights laws because the Olympic Charter and bidding process are mute on the issue. While the selection process and host city contract give the IOC more control over the host city to ensure compliance with the Charter in staging the Games,<sup>120</sup> once the bid is awarded, there is little the IOC can do to ensure compliance with the Olympic Charter if the host city goes rogue in violation of the host city contract.<sup>121</sup> Thus, when Sochi passed its anti-gay propaganda law, the IOC had no choice but to reiterate the company line that it is not a political body and does not interfere with decisions that do not impact the Olympic Charter.<sup>122</sup> The IOC could better avoid the issues that arose in Sochi if it brought attention to a country's human rights record in the bidding process.<sup>123</sup>

<sup>117</sup> See *supra* Part II.C.

<sup>118</sup> See *supra* Parts III.C., IV.

<sup>119</sup> *Id.*

<sup>120</sup> The IOC does have more control over the host city – the IOC does take certain assurances beyond the IOC Executive Committee screening the candidates. Part of the questionnaire in Phase II requires the candidate city to obtain third party guarantees that protect the IOC, and in turn, put added pressure on the host city to appease the third party guarantors in its staging of the Games. *2012 Candidate Procedure and Questionnaire*, *supra* note 80. However, the IOC does not have complete control – as the media restrictions imposed in Beijing violated the promises China made to the IOC when bidding on the 2008 Olympics. See David Batty, *Media Face Web Censorship at Beijing Olympics*, THE GUARDIAN (July 30, 2008, 6:24 PM), <http://www.theguardian.com/world/2008/jul/30/china.olympicgames2008>.

<sup>121</sup> Richard W. Pound, *The Future of the Olympic Movement: Promised Land or Train Wreck* 16, <http://library.la84.org/SportsLibrary/ISOR/isor2008d.pdf> (last visited Jan. 13, 2014). Once the Games are awarded, it is almost impossible to cancel or postpone them if the host city commits violations that go against the Olympic spirit. *Id.* This scenario arose in Beijing in 2008 when China backed out of the promise to provide “complete media freedom” to international media covering the Games, which it made to the IOC when bidding to host the Olympics. Batty, *supra* note 120. However, the day after the broken promise was first announced though, China's government did an unexpected about face and lifted the censorship on many internet sites, including human rights sites Amnesty International and Human Rights Watch. Tania Branigan, *China Relaxes Internet Censorship for Olympics*, THE GUARDIAN (Aug. 1, 2008, 5:24 PM), <http://www.theguardian.com/world/2008/aug/01/china.olympics>. Nevertheless, the move still did not create the complete media freedom that was promised. *Id.*

<sup>122</sup> Lally, *supra* note 49. IOC Chairman Jean-Claude Killy said that the IOC was satisfied leading up to the Sochi Games as long as the Olympic Charter was also satisfied, “The IOC doesn't really have the right to discuss the laws in the country where the Olympic Games are organized. As long as the Olympic Charter is respected, we are satisfied, and that is the case.” Similarly, the United States Olympic Committee wrote a letter to athletes indicating that while it believed laws restricting the right to speak in support of the LGBT community are inconsistent with the fundamental principles of the Olympic Movement, it reiterated that it was a sports organization only.

<sup>123</sup> See Mastrocola, *supra* note 15, at 146 n.37. While there are indications that IOC members consider a nation's human rights record in voting on the host city, the IOC Evaluation Commission makes no reference to human rights and does not expressly take into consideration the issue.



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### V. Human Rights Should be Considered at Start of Bidding Process

#### A. Outlining a New Approach

One way to choose bid cities with stronger human rights records without violating the existing Olympic Charter would be to require each city interested in hosting the Games to submit a report<sup>124</sup> detailing the country's existing legislation in support of international human rights laws as part of the initial application to bid on hosting the Games.<sup>125</sup> The report would also include the country's current and previous efforts to further the basic human rights of all citizens, foreign and domestic. The standard of "international human rights laws" would be the UDHR.<sup>126</sup> The report would then be reviewed by the IOC-appointed Working Group and included in the final report sent to the IOC Executive Committee, which is used to determine whether or not a city should be allowed to continue to Phase II of the bid process pursuant to the existing criteria set forth in the Olympic Charter.<sup>127</sup>

#### B. This Approach is Consistent with the Olympic Charter

This proposal – aside from the fact that human rights are considered a political issue<sup>128</sup> – is feasible within the existing framework of the Olympic Charter. First, requiring each city wishing to host the Games to detail its own human rights record at the start of the bidding process would not lead to the oft-argued result that no countries would then be eligible to host the Games.<sup>129</sup> Under the proposed framework, every country that has legislation in support of human rights would likely pass the IOC Executive Committee review, at least on the grounds of human rights considerations.<sup>130</sup> In addition, the report submitted by each country outlining its past and present efforts taken to improve its policies on

<sup>124</sup> This report would specifically require that each bid city outline any legislation the state has in place that supports human rights. In addition, each report would include a section on current and past reforms or initiatives undertaken to improve human rights conditions. The sufficiency of reforms or legislation outlined in each report would be evaluated on a country-by-country basis so as to take into account special considerations where the current human rights record in a country would not automatically prevent a city from hosting the Games.

<sup>125</sup> The report would officially be part of Phase I of the bidding, the Applicant City Phase, discussed *supra* Part III.C.

<sup>126</sup> See *supra* Part II.A.

<sup>127</sup> INT'L OLYMPIC COMM., *supra* note 2, at 69. The Working Group already details its conclusions in a report that is sent to the IOC Executive Committee, which has the power to determine which cities are allowed to bid to host the Games. See also *supra* Part III.C. Therefore, implementing this change from an administrative standpoint would not be difficult.

<sup>128</sup> Discussed *supra* Part III.A.

<sup>129</sup> Mastrocola, *supra* note 15, at 146 n.37. Anita DeFrantz, the American IOC member of the IOC that chose the 2000 Olympic site stated: "[I]f we begin to exclude cities solely because of complaints about human rights violations, then there would be few countries where the Games could be held – including the United States."

<sup>130</sup> The purpose of including a human rights element is to encourage more reform from more countries, not to prevent countries who have taken positive steps towards reform from hosting the Olympics.



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human rights would be binding on the bid city and its respective NOC.<sup>131</sup> Finally, requiring each city desiring to submit a bid to include a report on its human rights record is not without precedent.<sup>132</sup> The IOC utilized similar investigatory measures when it evaluated whether South Africa should be allowed to attend the 1968 Olympics during the apartheid era.<sup>133</sup> Specifically, the IOC commissioned an investigation of the changes that the South Africa NOC instituted between 1964 and 1968 to end segregation in sport.<sup>134</sup> Therefore, requiring a report on human rights to be submitted at the start of the bidding process would not impose a substantial administrative burden on any potential bid city.

Instituting such a change is also not in violation of the Olympic Charter. The IOC's reluctance to make political decisions, discussed herein, is rooted in the Olympic Charter's requirement that there shall be no discrimination against any person or country on the basis of politics.<sup>135</sup> First, the political use of international sports is a legitimate tool to further human rights.<sup>136</sup> Beyond that, imposing the same requirement on every country who wishes to submit a bid is not automatically discriminatory.<sup>137</sup> More importantly, hosting the Olympics is a privilege, not a right.<sup>138</sup> The additional bidding requirement would in no way impact a country's eligibility to participate in the Olympic Games;<sup>139</sup> it would only have an adverse impact on a country that is unable or unwilling to show that it has initiated some steps towards instituting human rights reform in order to satisfy the proposed human rights report.<sup>140</sup>

#### C. An Incentive for Greater Reform

Not only is it within the IOC's existing rights to include a human rights element in the bidding process, but the potential impact of such a change could be immense. Under the current election process only one city hosts an Olympic

<sup>131</sup> See generally INT'L OLYMPIC COMM., *supra* note 2, at 68. This is consistent with the Olympic Charter, which provides that all statements and actions made during the bid process are legally binding.

<sup>132</sup> The entire bidding process, which imposes a significant – and justifiable – burden on bid cities, including a detailed Candidate Questionnaire, site visits, a presentation, and finally a question-and-answer period, is itself an exploratory mission.

<sup>133</sup> See *supra* Part III.B.

<sup>134</sup> See *supra* Part III.B.

<sup>135</sup> INT'L OLYMPIC COMM., *supra* note 2, at 12 (“Any form of discrimination with regard to a country or a person on grounds of race, religion, politics, gender or otherwise is incompatible with belonging to the Olympic Movement.”); see also *supra* Part III.

<sup>136</sup> Mastrocola, *supra* note 15, at 158. This is true so long as the IOC, or any other NGO, complies with United Nations mandates and international human rights law.

<sup>137</sup> Discrimination is defined as “the practice of unfairly treating a person or group of people differently from other people or groups of people.” *Discrimination Definition*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/discrimination> (last visited Jan. 13, 2014). Imposing a human rights requirement in the bid process would likely favor one class of entities over another class of entities, but the level of support for human rights that would need to be shown would be assessed on a country-by-country basis, thus minimizing any perceived biases.

<sup>138</sup> INT'L OLYMPIC COMM., *supra* note 2, at 67. The Olympic Charter characterizes the opportunity to host the Games as an “honour and responsibility.”

<sup>139</sup> *Id.* at 77. Rule 40 of the Olympic Charter governs eligibility to participate in the Olympic Games.

<sup>140</sup> See *supra* note 124, discussing what the report entails.



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Games every two years.<sup>141</sup> Therefore, while the Olympics can expedite human rights reform in the host country, such reform is limited exclusively to host countries.<sup>142</sup> The remaining NOCs that wish to host the Games have no such incentive<sup>143</sup> to undergo similar reforms as the host country. In addition, there are no existing requirements for the host country to continue its hopefully improved compliance with international human rights laws after the Olympics are over.

If human rights were made a part of the initial bid process, countries with existing human rights issues that might not meet the requirements necessary to bid to host the Olympics will be incentivized to enact greater reforms at a more rapid pace than they otherwise would.<sup>144</sup> These incentives are rooted in the tremendous benefits hosting the Olympics provides to the host city and country, including economic development and modernization.<sup>145</sup> In addition, although it is impossible to truly quantify, one of the most notable benefits that comes with hosting the Olympics is the global spotlight placed on the host country, which allows the host country to present a new public image to the international community and highlight the strongest aspects of the nation's people, culture, industry, and tourism.<sup>146</sup> Ultimately, the benefits associated with hosting the Olympic Games is why twenty-four cities have sought to host the Olympics in the four most recent host city elections.<sup>147</sup> Moreover, this proposal could conceivably have improved the human rights conditions in the twenty countries that did not earn a bid between 2005 and 2011,<sup>148</sup> instead of just in the four countries that did.

The role of sport across the world also suggests that a country would not be dissuaded from bidding on the Games.<sup>149</sup> In addition to their importance in many countries in terms of the national prestige associated with it, sports are

<sup>141</sup> See *supra* Parts III.C., IV.

<sup>142</sup> See generally Liu, *supra* note 64. The most recent example of expedited reform occurred in Beijing, discussed *supra*, which was awarded the 2008 Summer Games in 2001. Although Beijing's human rights abuses were well-documented leading up to the Olympics, there is a school of thought that the reform that did occur in China during that time likely would not have happened if Beijing wasn't named the host city.

<sup>143</sup> Incentive here refers only to the incentive created by the chance to host the Olympics. Each country may have other incentives to institute human rights changes that extend beyond sport.

<sup>144</sup> Blumert, *supra* note 6, at 157. Indeed, cities interested in bidding on the Games are encouraged to adopt regulations mandated in the Olympic Charter to improve their chances of securing the winning bid.

<sup>145</sup> Blumert, *supra* note 6, at 154-55.

<sup>146</sup> *Id.* at 156; see also Liu, *supra* note 64, at 224.

<sup>147</sup> *Bidding for the Games*, OLYMPIC MOVEMENT, <http://www.olympic.org/content/the-ioc/bidding-for-the-games/past-bid-processes/> (last visited Jan. 13, 2014). Based on applications submitted: nine cities bid to host the 2012 Summer Games; seven cities bid to host the 2014 Winter Games; seven cities bid to host the 2016 Summer games; and three cities bid to host the 2018 Winter Games. Note that Rio de Janeiro bid on both the 2012 and 2016 Summer Olympics, while PyeongChang bid on both the 2014 and 2018 Winter Olympics.

<sup>148</sup> *Id.* The host city for the 2012 Summer Games was awarded in 2005, while the host city for the 2018 Winter Olympics was awarded in 2011.

<sup>149</sup> The Olympic Games are the premier international sporting event that is known for creating national heroes. Liu, *supra* note 64, at 223. For example, sport played a role in helping to end apartheid in South Africa. Blumert, *supra* note 6, at 156 n.20.



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already considered a strong developmental tool for promoting human rights compliance.<sup>150</sup> Ultimately, the IOC can use the popularity of sport as a tool to enact human rights change.<sup>151</sup>

#### D. Summary

By imposing an obligation on potential host cities to discuss their human rights record as a threshold requirement to bidding on the Games, the IOC could spur broader human rights reform across the world. Countries that currently do not meet the requirements would have the incentive to improve their human rights conditions in order to earn the honor of hosting the Games. Because more countries would be impacted by this additional requirement than just one country every two years, and the Olympic ideals would not be compromised, the IOC should implement a change that could significantly increase support for international human rights laws around the world.

#### VI. Conclusion

There is a troubling connection between the most prestigious international sporting event in the world and the repeated human rights abuses that occur within the borders of the cities and states that host it. The IOC, the organization charged with overseeing all aspects of the Olympics including choosing the host city, continues to stand pat while atrocities occur under its watchful eye. Despite its commitment to keep sport and politics separate, the IOC is in the position, and arguably has the obligation, to enact change to combat human rights abuses in the nations it chooses to host the biannual Olympic Games. Specifically, the IOC should require each city to explain its human rights record as the first step in bidding to host the Olympics. This change would not increase the administrative burden on the IOC in choosing the host city, nor would it violate the IOC's prohibition against discrimination on the basis of politics. Moreover, the IOC could achieve rapid and widespread international human rights reform consistent with the goals of the Olympic movement to use sport in a way that promotes "a peaceful society concerned with the preservation of human dignity."<sup>152</sup>

<sup>150</sup> A U.N. Task Force Report argued that sports should play a strong role in promoting the UN Millennium Development Goals, which include human rights compliance. U.N. Inter-Agency Task Force on Sport for Development and Peace, *Sport as a Tool for Development and Peace: Towards Achieving the United Nations Millennium Development Goals*, [http://www.un.org/sport2005/resources/task\\_force.pdf](http://www.un.org/sport2005/resources/task_force.pdf) (last visited Jan. 13, 2014). In addition, sport is also a "compelling symbol for peace." *Id.* at 15. For example, the Olympic Truce, *supra* note 57, provides for the safe passage of athletes and spectators to and from the Olympic Games. *Id.* Specifically, for seven days before and seven days after the Games, participating countries agree to cease all conflicts with other participating countries in the spirit of peaceful cooperation. *Id.*

<sup>151</sup> Liu, *supra* note 64, at 217.

<sup>152</sup> INT'L OLYMPIC COMM., *supra* note 2, at 11.

