

9-1-1994

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### Recommended Citation

Spotts, JoAnne D. (1994) "Global Politics and the Olympic Games: Separating the Two Oldest Games in History," *Penn State International Law Review*: Vol. 13: No. 1, Article 4.

Available at: <http://elibrary.law.psu.edu/psilr/vol13/iss1/4>

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# Global Politics and the Olympic Games: Separating the Two Oldest Games in History

JoAnne D. Spotts\*

## I. Introduction

*[T]o promote the development of those physical and moral qualities which are the basis of sport,*

*[T]o educate young people through sport in a spirit of better understanding between each other and of friendship, thereby helping to build a better and more peaceful world,*

*[T]o spread the Olympic principles throughout the world, thereby creating international goodwill,*

*. . . [B]ring together the athletes of the world in . . . the Olympic Games.<sup>1</sup>*

For athletes, the Olympic Games represent the pinnacle of sporting achievement. For spectators worldwide, the Olympics are a source of entertainment, tradition, and pride.<sup>2</sup>

However, for the nations of the world, the Olympic Games also serve as a vehicle to solicit political gain and recognition.<sup>3</sup> The boycott of the 1980 Moscow and 1984 Los Angeles Games by both the United States and the Soviet Union, respectively, are just two of many examples of nations attempting to establish a "well-forged link between politics and sports."<sup>4</sup>

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1. OLYMPIC CHARTER, art. 1.

2. In the most recent 1994 Winter Olympics in Lillehammer, Norway, there were approximately 100,000 spectators, 7,000 personnel, and 2,000 athletes. Mary Förgione, *Lillehammer to Normandy: The Travel Calendar Beckons*, L.A. DAILY NEWS, Feb. 6, 1994, at TR8. In addition, millions of American television viewers rank the Olympics right behind the National Football League and college football in spectator interest. Fran Blinbury, *Obscure Athletes Find Moments of Glory in Games*, HOUS. CHRON., Feb. 6, 1994, at 21.

3. RICHARD ESPY, *THE POLITICS OF THE OLYMPIC GAMES* at viii ("While Olympic officials have espoused the creed of universal participation for the betterment of mankind, the nations of the world have interpreted participation in the Games as an opportunity to express national identification.").

4. JAMES A.R. NAFZIGER, *INTERNATIONAL SPORTS LAW* 1, 50 (1988). Other examples of occasions where nations used the Olympics to promote their foreign policy include: (1) East

For the most part, these uses and abuses are contrary to Olympic ideals. Indeed, the Olympic Charter stipulates that the Olympic Games "are contests between individuals and teams, and not between countries."<sup>5</sup> Moreover, the Olympic Charter also mandates that the Games are to have "[n]o discrimination . . . against any country, or person on grounds of race, religion, or politics."<sup>6</sup> Nevertheless, while strictly proscribed, the infiltration of politics within the Olympic Games represents the reality of a worldwide forum.<sup>7</sup>

This article examines the political influences affecting past Olympic Games and proposes that to protect the Olympics from future political abuse, the Games should be conducted in one permanent site. In this manner, the distasteful, divisive forces which have plagued past Olympic Games can be abolished. In particular, having one permanent site for the Olympics would: (1) eliminate the economic gain and prestige gained by nations who host the Games; (2) end boycotts by countries responding to policies of the host countries; and (3) preclude the imposition of the host country's policies on the Olympic Games.

To explain such a proposition, Part II of this article will discuss the history of the Olympics from ancient to modern times. Part III will explain the current Olympic System, and Part IV will demonstrate how politics prevail upon this framework. Finally, Part V will establish a permanent Olympic site as a means for separating politics from the Olympic Games.

## II. History of the Olympics

When Heracles established the first Olympic Games of Greece in 776 B.C., he could not have envisaged their eventual longevity and complexity. Indeed, through the centuries, the Olympic Games have

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Germany's refusal to participate in the 1952 Helsinki Games due to the IOC's refusal to formally recognize East Germany as a distinct country; (2) A several nation boycott of the 1956 Melbourne Games in protest of the Soviet invasion of Hungary and the British-French seizure of the Suez Canal; and (3) A several-nation boycott of the 1976 Montreal games protesting New Zealand's participation in the Games, as New Zealand had previously allowed one of its rugby teams to play a team from South Africa, a nation highly criticized for its apartheid regime. For a comprehensive survey of incidents where politics infiltrated the Olympics, see RICHARD ESPY, *THE POLITICS OF THE OLYMPIC GAMES* (1979); CHRISTOPHER R. HILL, *OLYMPIC POLITICS* 120-218 (1992); JAMES A.R. NAFZIGER, *INTERNATIONAL SPORTS LAW* 1, 50 (1988).

5. OLYMPIC CHARTER, art. 9.

6. *Id.* art. 3.

7. "[A]ll other contests—military, political and economic—seem to overshadow Olympia. Within the international sports arena, some of the glitter is of rather tarnished gold, some of the shadow ominous. The Olympic Games blend cultural ideals and political-economic realities." James A.R. Nafziger, *Nonaggressive Sanctions in the International Sports Arena*, 15 CASE W. RES. J. INT'L L. 329, 329 (1983) [hereinafter *Nonaggressive Sanctions*].

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grown to emerge as the greatest international sports event in the modern world.<sup>8</sup> Originally, the Games of ancient Greece were religious celebrations and traditions. These occasions were free of political interference and conflict.<sup>9</sup> In contrast, the modern Olympic Games mix secular ideals of fraternity and universality with political and economic realities.<sup>10</sup>

### A. Ancient Games

The first Olympic Games of record were held in 776 B.C.<sup>11</sup> These Games were held in Elis, Greece and consisted of a single event, a 220-meter foot race.<sup>12</sup> Of all the Greek city-states, Elis was chosen as the situs of the Games, primarily because of its stable government and military weakness. Moreover, unlike the other city-states, Elis had the ability to remain neutral while all the other states were enmeshed in constant political squabbling.<sup>13</sup> The Olympic games remained in Elis as they grew to include additional events such as chariot racing, boxing, wrestling and other track and field events.<sup>14</sup>

The Games were held in honor of the Olympian god, Zeus. In addition, the Games were aimed to promote goodwill among the city-states of Greece. For three months every four years, the city-states that contributed athletes would cease all hostilities and disputes in an effort to show homage to the Olympian, Zeus.<sup>15</sup>

Eventually, the two keystones underlying the ancient Olympic integrity, namely the neutrality of Elis and the religious traditions of Olympia, weakened as the city-states became more secular and Elis began to intercede in the political and military conflicts of the Greek city-states

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8. NAFZIGER, *supra* note 4, at 5-6.

9. *Id.* at 11.

10. James A.R. Nafziger, *Nonaggressive Sanctions in the International Sports Arena*, 15 CASE W. RES. J. INT'L L. 329 (1983). "[The modern Olympics] have taken place in the volatile political environment of two world wars, a depression, a cold war, and a period of political transition." NAFZIGER, *supra* note 4, at 11.

11. NAFZIGER, *supra* note 4, at 12. History reveals that there were earlier sports contests, however. Indeed, historians can trace organized sports competitions all the way back to the ancient Egyptians. Even as far back as 1829 B.C. the Lugnasad Games were organized games consisting of track-and-field events. *Id.* at 11.

12. *Id.* at 12.

13. *Id.* at 13.

14. *Id.* Until 472 B.C., all of the Olympic sporting events occurred on one day. NAFZIGER, *supra* note 4, at 12.

15. To effect such a truce, the city-states entered into a compact, called the *ekecheiria*, of Sacred Truce. NAFZIGER, *supra* note 4, at 12. This Truce mandated that no city-state was to bear arms and that any legal dispute among the city-states were suspended until after the Games. *Id.* Violations of the Truce were punishable by heavy fines, payable to the treasury of Zeus. *Id.* at 12.

surrounding her.<sup>16</sup> Ultimately, the last Olympic Games occurred in 393 A.D., after Roman Emperor Theodosius outlawed the worship of pagan gods, including Zeus.<sup>17</sup> Thereafter, the original site of the Olympic temples became buried in debris caused by numerous invaders, earthquakes, and floods. The Olympic temples were eventually recovered from the debris, but not until centuries later, in 1766.<sup>18</sup>

### B. Modern Games

The resurrection of the Olympic Games can be attributed to the efforts of one man, Baron Pierre de Coubertin.<sup>19</sup> In 1889, Baron Coubertin formulated the idea of using organized sports as a means to promote unity among nations.<sup>20</sup> Over the next few years, he began travelling throughout Europe and the United States to garner support for his idea.<sup>21</sup> Finally, in 1894, he was able to organize the Congress of Paris, which created the International Olympic Committee (IOC).<sup>22</sup> The IOC is the body entrusted with the control and development of the modern Olympic Games.<sup>23</sup> As such, it is "the final authority on all questions concerning the Olympic Games and the Olympic Movement."<sup>24</sup> Indeed, the Olympic Games are the *exclusive* property of the IOC and "all rights over [the Games] organization and

16. *Id.* at 17. In particular, Elis' decision to abandon its political neutrality began with its decision to enter into the Peloponnesian War. *Id.* at 16-17.

17. HILL, *supra* note 4, at 6; NAFZIGER, *supra* note 4, at 17.

18. NAFZIGER, *supra* note 4, at 17. An example of an Olympic temple was the *Bouleuterian*. *Id.* at 13. The *Bouleuterian* consisted of two Doric buildings, between which was a rectangular court. *Id.* The *Bouleuterian* housed a joint counsel of representatives who served as a court of appeals for disputes arising from the Games. *Id.* at 13. It was there, at the *Bouleuterian*, where athletes took an oath to compete honorably before a statue of Zeus. *Id.*

19. ESPY, *supra* note 3, at vii; Hill, *supra* note 4, at 5; NAFZIGER, *supra* note 4, at 19.

20. NAFZIGER, *supra* note 4, at 19. Between 393 A.D. and 1800 A.D., there was little international sports competition. NAFZIGER, *supra* note 4, at 18-19. In the 1800s, various countries, including Greece, Sweden, and Great Britain, made attempts at resurrecting the "Olympic Games." *Id.* However, such attempts were not international, but national competitions. *Id.* That is, the Greek, Swedish, and British "Olympic Games" were limited to Greek, Swedish, and British athletes, respectively. *Id.* Consequently, none can be considered precursors to De Coubertin's modern Olympic Games. *Id.*

21. NAFZIGER, *supra* note 4, at 19.

22. HILL, *supra* note 4, at 17; NAFZIGER, *supra* note 4, at 19. Today, the International Olympic Committee still serves as the governing body of the Olympic Games. In fact, the International Olympic Committee is one of the world's oldest international nongovernmental organizations. NAFZIGER, *supra* note 4, at 19. As stated by article 11 of the Olympic Charter: "The IOC was created by the Congress of Paris of 23rd June 1894; it was entrusted with the control and development of the modern Olympic Games." OLYMPIC CHARTER, art. 11.

23. *Id.*

24. OLYMPIC CHARTER, art. 23.

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exploitation and over their transmission and reproduction” are the exclusive rights of the IOC.<sup>25</sup>

When contemplating the reestablishment of the Olympics, De Courbetin envisaged that the Games should be ambulatory.<sup>26</sup> In De Courbetin’s view, no one country should have to bear the great financial burden of hosting the event regularly<sup>27</sup> and the burdens of international travel should be spread out among the participating nations.<sup>28</sup>

Many opposed the idea of having the Games hosted by a different country every year.<sup>29</sup> Greece, particularly, advocated that the Games remain in Athens, their birthplace.<sup>30</sup> Accordingly, De Courbetin agreed to schedule the first Games in Athens in 1896.<sup>31</sup> While there, the United States athletes signed a petition in favor of keeping the Games in Athens.<sup>32</sup> Yet, due to Greece’s embittered conflict with Turkey and the attendant political and economic unrest, Athens lost the opportunity to host the 1900 Olympic Games.<sup>33</sup> Soon, De Courbetin’s concept of a transitory Olympics became the norm, and in fact, article 4 of the Charter entrusts the IOC with the site selection for the Games.<sup>34</sup>

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25. OLYMPIC CHARTER, art. 10 (emphasis added). Article 10 of the Olympic Charter provides: “The Olympic Games are the exclusive property of the IOC which owns all rights over their organization and exploitation and over their transmission and reproduction by any means whatsoever. The IOC may grant concessions or licenses in respect of these rights.” *Id.*

26. NAFZIGER, *supra* note 4, at 19.

27. Frederic C. Rich, *The Legal Regime for a Permanent Olympic Site*, 15 N.Y.U. J. INT’L L. & POL. 1, 5 (1982).

28. Nafziger, *supra* note 4, at 19.

29. Rich *supra* note 27, at 5.

30. *Id.*

31. Three hundred athletes from 13 nations participated in the first Olympics in 1896. *Id.* The Games themselves included 10 different sports with 200 different events. NAFZIGER, *supra* note 4, at 19.

Thereafter, the development of the Games was rapid. With the 1900 Paris Games came the first opportunity for women to participate in international sports competition. *Id.* Finally, in 1924, the first Winter Olympics took place in Chamonik, France. *Id.* at 20-21.

As noted by one commenting on the development of the Olympics: “Gone are the days when a man could set his cigar beside the track, run a couple laps and even set a record, then pick up his cigar again as if nothing happened.” ESPY, *supra* note 3, at 5.

32. Rich, *supra* note 27, at 5.

33. *Id.* Some Olympic scholars contend, however, that De Courbetin would never have agreed to a permanent site due to his own narcissistic bend. *Id.* By maintaining a rotating system, De Courbetin felt that he could exert more personal influence while he consolidated the power of the IOC. *Id.* See also John Lucas, *The Future of the International Movement*, in OLYMPIC SCIENTIFIC CONGRESS SPORT HISTORY 296 (1985) (“Accompanying [De Courbetin’s] cosmopolitan sense of idealism, right from the beginning in 1896, was the spectre of greed, fear, petty and power politics, marrow nationalism, and small-mindedness.”).

34. As stipulated by Article 4 of the Charter: “The honour of holding the Olympic Games is entrusted to a city. The choice of any city shall lie *solely* with the IOC.” OLYMPIC CHARTER, art. 4 (emphasis added).

Despite the early controversy surrounding the concept of an ambulatory Olympics, the Olympic Movement, under the taut reins of De Courbetin and the IOC, evolved to become the most prominent sporting event of this century.<sup>35</sup> More important, the Olympics has emerged "as a prominent arena of international cultural relations."<sup>36</sup>

### III. The Olympic System

#### A. Organizational System

The Olympic Organization is comprised of the following five separate independent bodies: (1) the International Olympic Committee (IOC); (2) the International Federations (IF); (3) the National Olympic Committees (NOC); (4) the Olympic Congress; and (5) the organizing committee of each particular quadrennial festival.<sup>37</sup> Together these five entities comprise the Olympic organizational structure.

1. *IOC*.—Established by the Congress of Paris in 1894, the IOC serves as the central organ of the Olympic structure. The IOC is charged with the preservation of two important goals, namely sportsmanship and goodwill.<sup>38</sup> With these goals in mind, the IOC creates rules and procedural guidelines for Olympic decision-making,<sup>39</sup> site selection for particular festivals,<sup>40</sup> determination of qualifications for athletic participation,<sup>41</sup> and procedure for electing its own officers and representatives.<sup>42</sup>

The IOC is comprised of individual members chosen as individuals and not as representatives of their respective countries.<sup>43</sup> In fact,

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35. NAFZIGER, *supra* note 4, at 5-6.

36. *Id.* at 20.

37. *Id.* at 25-26.

38. The Olympic Charter designates that the aims of the IOC are as follows:  
 —to encourage the organization and development of sport and sports competitions;  
 —to inspire and lead sport within the Olympic ideal, thereby promoting and strengthening friendship between the sportsmen of all countries;  
 —to ensure the regular celebration of the Olympic Games;  
 —to make the Olympic Games ever more worthy of their glorious history and of the high ideals which inspired their revival by Baron Pierre De Courbetin and his associates.

OLYMPIC CHARTER, art. 11.

39. OLYMPIC CHARTER, art. 4.

40. *Id.*

41. *Id.* art. 26.

42. OLYMPIC CHARTER, arts. 12-18. *See also* Barbara Ann O'Neill, Note, *International Sports*, 6 DICK. J. INT'L L. 405, 407 (1988).

43. Article 12 of the Olympic Charter stipulates:

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members must remain independent and unrestricted by any governmental ties in order that their decisions remain uninfluenced by governmental powers.<sup>44</sup>

Three bodies comprise the 93-member IOC; including an Executive Board, a Plenary Session, and a Secretariat.<sup>45</sup> The Executive Board is responsible for interpreting the rules of the Olympic Charter and may apply penalties to organizations and individuals within its jurisdiction who are in violation of the Charter.<sup>46</sup> Other Board obligations include (1) preparing agenda for IOC Plenary Session; (2) appointing and IOC Director; (3) managing IOC finances;<sup>47</sup> and (4) assuming ultimate responsibility for the IOC's administration and organization.<sup>48</sup> Among the eleven Board members there is a President, three Vice Presidents, and seven at-large members.<sup>49</sup> A Plenary Session meets once a year to select the Executive Board. In addition, the Plenary Session enacts necessary amendments to the Olympic Charter.<sup>50</sup> The final body, the Secretariat, is responsible for providing the administrative support.<sup>51</sup>

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[T]he IOC is a permanent organization. It selects such persons as it considers qualified to be members, provided that they speak French or English and are citizens of and reside in a country which possesses an NOC recognized by the IOC.

Members of the IOC are representatives of the IOC in their countries *and not their delegates to the IOC. They may not accept from governments or from any organizations or individuals instructions which shall in any way bind them or interfere with their independence of their vote.*

OLYMPIC CHARTER, art. 12 (emphasis added).

44. OLYMPIC CHARTER, art. 12. See also Jeffrey M. Marks, Comment, *Political Abuse of Olympic Sport*, 14 N.Y.U. INT'L L. & POL. 155, 163 (1981).

45. OLYMPIC CHARTER, art. 14(D).

46. *Id.* arts. 14(D), 16.

47. For the most part, the IOC's revenue is generated from both gate receipts at the Olympic Games and from media payments. NAFZIGER, *supra* note 4, at 27. The IOC may also request additional funding from other sources when necessary. *Id.* See also OLYMPIC CHARTER, art. 21 ("The IOC may accept gifts and may seek to obtain funds from any other source which shall enable it to fulfil the task it has taken upon itself.").

48. OLYMPIC CHARTER, art. 15.

49. *Id.* art. 14(D).

50. *Id.* arts. 17, 18, 22.

51. The Secretariat is located in Lausanne, Switzerland. NAFZIGER, *supra* note 4, at 27. Several commissions help in completing the administrative tasks of the IOC. A list of some of these commissions include: Commission for the Programme; Commission of Revision of the Charter; Olympic Solidarity Commission; Commission for the International Olympic Academy; Eligibility Commission; Athletes Commission; Cultural Commission; Finance Commission; Commission for New Sources of Financing; Juridical Commission; Medical Commission; Commission for the Olympic Movement; Joint Mass Media Commission; Press Commission; Radio Commission, and Television Commission. *Id.*



The Secretariat is headed by a Secretary General, and Administrator *délegue* and nine Directors of departments and services.<sup>52</sup>

2. *IF.*—While the IOC is charged with regulating the administrative matters relating to international sports, all technical and organizational matters pertaining to each individual sport are regulated by the respective IF for that sport.<sup>53</sup> An IF is primarily responsible for regulating equipment standards, selecting judges, and choosing the number of athletes competing in their respective sport.<sup>54</sup>

In order for an IF to be recognized by the IOC, it must petition for recognition.<sup>55</sup> A successful IF application includes a pledge to comply with the Olympic Charter, a showing of compliance with IOC criteria, and an approval by the IOC Executive Board.<sup>56</sup> Once an IF attains recognition, however, the IOC still has the authority to withdraw that recognition if the IF continually fails to comply with any of the required criteria.<sup>57</sup>

3. *NOCs.*—NOCs are the national representatives of the IOC. Accordingly, as IOC representatives, NOCs “must be autonomous and must resist all pressures of any kind whatsoever.”<sup>58</sup> More specifically, NOCs must remain independent of the political pressures of the nations in which they are located.<sup>59</sup>

NOCs are empowered to direct their countries’ representation at the Olympic Games. Such authority encompasses: (1) the selection of the athletes who will participate on the nation’s representative team; (2) the

52. *Id.*

53. OLYMPIC CHARTER, arts. 23, 49. Examples of International Federations (IFs) include: International Amateur Basketball Federation; International Amateur Swimming Federation; International Archery Federation; International Association Football Federation; International Bobsleigh and Tobogganing Federation; International Gymnastics Federation; International Hockey Federation; International Skiing Federation; International Tennis Federation, and International Volleyball Federation. *Id.*

54. For instance, the International Association Football Federation was authorized to change the location of penalty kicks in soccer games, in an effort to reduce the number of soccer players in the penalty area. NAFZIGER, *supra* note 4, at 28. Likewise, after receiving many complaints of scoring inflation in the gymnastics competition in the 1980 and 1984 Games, the International Gymnastics Federation redesigned its scoring system. *Id.*

Note that while IFs are delegated authority to regulate technical matters, the IOC still retains supreme authority on all questions concerning the Olympic Games. OLYMPIC CHARTER, art. 23.

55. OLYMPIC CHARTER, art. 57.

56. *Id.*

57. “In practice, the IOC, following recommendations of its Commission for the Programme, regularly recognizes new IFs.” NAFZIGER, *supra* note 4, at 29.

58. OLYMPIC CHARTER, art. 24.

59. *See id.*

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presentation of the national character of the Olympics; and (3) the rendering of the final decision as to whether a team will in fact be sent to participate in the Olympic Games.<sup>60</sup> To select the athletes who will participate in the Olympic Games, the NOC will typically sponsor a national championship competition, where all eligible competitors compete.<sup>61</sup> Those selected to participate as Olympic competitors must be a citizen of that nation.<sup>62</sup> In addition, athletes chosen to participate are required to wear the official colors of their countries when competing.<sup>63</sup> In this manner, the NOCs preserve the national character of the Olympics.<sup>64</sup>

NOCs also play a role in the selection of the Olympic site. NOCs may submit bids to have one of its nation's cities host the Olympic Games.<sup>65</sup> Once a site has been selected, "the organization of the Olympic Games shall be entrusted by the IOC to the NOC of the country in which the chosen city is situated."<sup>66</sup>

4. *Organizing Committees.*—When an NOC is charged with the organization of the Olympic Games, it typically forms an Organizing Committee consisting of local sports federation units and government and business agents.<sup>67</sup> This Committee then becomes responsible for the local preparation of the Olympics site and the actual management of the Games.<sup>68</sup> In performing its obligations, however, the Committee must abide by all IOC rules, regulations, and directions.<sup>69</sup>

5. *Olympic Congress.*—The Olympic Congress consists of members of the IOC, delegates of the IFs and NOCs, and other individual or organizational representatives invited by the IOC.<sup>70</sup> The Congress convenes every eight years to pass resolutions, although these resolutions are not binding decisions.<sup>71</sup>

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60. O'Neil, *supra* note 42, at 408-09.

61. *Id.* at 408.

62. *Id.* at 409.

63. *Id.*

64. *See id.*

65. O'Neil, *supra* note 42, at 409.

66. OLYMPIC CHARTER, art. 33.

67. *Id.*

68. O'Neil, *supra* note 42, at 410.

69. OLYMPIC CHARTER, art. 35.

70. *Id.* art. 17(C). At the first Olympic Congress in 1896, the modern Olympics and the IOC were created. *See supra* note 22 and accompanying text.

71. NAFZIGER, *supra* note 4, at 26.

## B. The Legal System

1. *The Legal Authority of the Olympic Charter and the IOC.*—Both the U.N. Charter<sup>72</sup> and article 38 of the International Court of Justice<sup>73</sup> define customary international law as international custom and general practice. The Olympic Charter is an excellent example of international customary law, as it has become the principal means for regulating international sports competition.<sup>74</sup> Indeed, the Charter “best evidence[s] current international practice and therefore, has effect as customary law.”<sup>75</sup>

Furthermore, the IOC, as enforcer of the Olympic Charter, “purports to have a legal personality under both national and public international law.”<sup>76</sup> Indeed, pursuant to article 11 of the Charter, the IOC has “juridical status” and “perpetual succession.”<sup>77</sup> Under national law, Switzerland, the nation in which the IOC is incorporated, affords the IOC special international status for tax and labor law purposes.<sup>78</sup> Under international law, many countries have deferred their authority to abide by the IOC’s enforcement of the Olympic Charter.

For instance, the U.S. Congress enacted the Amateur Sports Act of 1978.<sup>79</sup> Specifically, this Act confers to the U.S. Olympics Committee, the IOC’s U.S. representative, the “exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the U.S. Olympic Games.”<sup>80</sup>

Additionally, the U.S. judiciary has acknowledged the authority of both the Olympic Charter and the IOC. In *Martin v. International Olympic Comm.*,<sup>81</sup> the Ninth Circuit Court of Appeals refused to alter

72. U.N. CHARTER, *reprinted in* 1976 U.N.Y.B. 1043, U.N. Sales No. E.78.1.1.

73. STAT. I.C.J. art. 38, *reprinted in* 1976 U.N.Y.B. 1052, 1055, U.N. Sales No. E.78.1.1. Paragraph one of art. 38 provides in part: “The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: international custom, as evidence of a general practice accepted as law [and] the general principles of law recognized by civilized nations . . .” *Id.* art. 38.

74. NAFZIGER, *supra* note 4, at 32.

75. *Id.* at 34.

76. *Id.* at 33.

77. OLYMPIC CHARTER, art. 11. Though “juridical status” has not been defined in the Olympic Charter, in *Avigliano v. Sumitomo Shoji Am., Inc.*, 473 F. Supp. 506 (S.D.N.Y. 1979), the term has been defined to mean “a distinct legal entity, separate from the persons who own it.” *Id.* at 509. See also James G. Goettel, Note, *Is the International Olympic Committee Amenable to Suit in a United States Court?* 7 FORDHAM INT’L L.J. 61, 67 (1984).

78. NAFZIGER, *supra* note 4, at 33.

79. 36 U.S.C. §§ 371-396 (1988).

80. 36 U.S.C. § 374(3) (1988).

81. 740 F.2d 670 (9th Cir. 1984).

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the Los Angeles Summer Olympic Games after two women runners contended that the IOC's failure to include the 5,000 and 10,000-meter track events for women constituted gender discrimination in violation of the California Civil Rights Act.<sup>82</sup> In its decision, the court recognized that the Olympic Charter is an international agreement among nations, and thus, did not allow one state's statute to prevail in the matter. As stated by the court:

[W]e find persuasive the argument that a court should be wary of applying a state statute to alter the content of the Olympic Games. The Olympic Games are organized and conducted under the terms of an international agreement—the Olympic Charter. We are extremely hesitant to undertake the application of one state's statute to alter an event that is staged with competitors from the entire world under the terms of that agreement.<sup>83</sup>

Like the United States, other nations have also assented to the IOC's governance in international sports. In 1975, the United States, Soviet Union, Canada, and all European countries except Albania signed the Helsinki Accords.<sup>84</sup> The Accords enunciate that "[i]n order to expand existing links and co-operation [sic] in the field of sport, the participating State will encourage contacts and exchange of this kind, including sports meetings and competitions of all sorts, *on the basis of the established international rules, regulations and practice.*"<sup>85</sup> In 1978, the Second Conference of European Ministers also passed a resolution expressly recognizing the authority of the Olympic Charter.<sup>86</sup> Similar confirmations emanated from the Council of Europe, the High Court of Justice of the European Communities, and the Belgian and French courts, as well.<sup>87</sup>

2. *The establishment of the Court of Arbitration for Sports.*—In 1983, the IOC recognized the need for a forum to settle private disputes that arose out of the practice or development of sports, but whose settlement was not provided for within the Charter.<sup>88</sup> Such disputes

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82. *Id.*

83. *Id.* at 677.

84. Conference on Security and Cooperation in Europe, Final Act, Aug. 1, 1975, 14 I.L.M. 1292 (1975).

85. *Id.* at 1315 (emphasis added).

86. Resolution adopted by the Second Conference of European Ministers Responsible for Sport, Apr. 7, 1978, reprinted in OLYMPIC REV., June 1978, at 391.

87. NAFZIGER, *supra* note 4, at 34.

88. *Id.* at 35. See also Stephen Netze, *The Court of Arbitration for Sport: An Alternative for Dispute Resolution in U.S. Sports*, ENT. & SPORTS L., Spring 1992, at 1.

include: (1) issues relating to the commercialization and sponsorship of sports; (2) questions of employment of staff by sports organizations; (3) disciplinary sanctions imposed by regulatory bodies; and (4) disputes between sporting organizations.<sup>89</sup>

Consequently, the IOC created the Court of Arbitration for Sports (CAS).<sup>90</sup> The CAS acts as and holds all the power of any other international court of arbitration.<sup>91</sup> Thus, the CAS jurisdiction is optional.<sup>92</sup> That is, parties must expressly consent to have their disputes brought before the CAS.<sup>93</sup> However, once parties do consent to CAS jurisdiction, any decision rendered is binding.<sup>94</sup>

The CAS has its headquarters in Lausanne, Switzerland. Accordingly, the CAS applies Swiss law unless a particular arbitration agreement designates otherwise.<sup>95</sup>

Parties such as the IOC, IFs, NOCs, Organizing Committees, and sports or national federations can submit a case to the CAS.<sup>96</sup> Once the submission is made, a "Requests Panel" reviews the request.<sup>97</sup> If the request is one appropriate for CAS jurisdiction, a three-member panel will hear the case.<sup>98</sup> In addition to such requests, the CAS will often give advisory opinions as requested by the Executive Board of the IOC.<sup>99</sup>

#### IV. Politics and the Olympics

From its inception in 1896, the Olympics were meant to be an apolitical event. Despite the Charter's express prohibition on political activity at the Games, nations have continually exerted political influences over the events. Indeed, the Olympics have rarely seen a period where the Games were not embroiled in political turmoil. Some of these incidents, among others, include: (1) the attempt by De Courbetin to bar Germany from the first Olympics in 1896; (2) the refusal of the Americans to dip their flag in honor of King Edward VII at the 1908 London Olympic Games; (3) the use of the Olympic Games as a

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89. Adam Samuel & Richard Gearhart, *Sporting Arbitration and International Olympic Committee's Court of Arbitration for Sport*, 6 J. INT'L ARB. 39, 41 (1989).

90. STAT. INT'L CT. ARB. SPORT, reprinted in NAFZIGER, *supra* note 4, at app. II.

91. NAFZIGER, *supra* note 4, at 36.

92. *Id.*

93. STAT. INT'L CT. ARB. SPORT, *supra* note 90, arts. 19, 20.

94. *Id.* art. 25.

95. *Id.* art. 23.

96. *Id.* art. 5.

97. *Id.* art. 20.

98. STAT. INT'L CT. ARB. SPORT, *supra* note 90, art. 11.

99. *Id.* art. 69.

propaganda tool for the Nazis at the 1936 Berlin Games; (4) the Palestinian terrorist assault at the 1972 Munich Games; and (5) the boycotts of the 1980 Moscow and 1984 Los Angeles Games by the United States and the Soviet Union respectively.<sup>100</sup>

For the most part, political actions at the Olympics can be designated into five categories, including: (1) to attain prestige; (2) to effect nonrecognition of nations; (3) to institute propaganda; (4) to protest, and (5) to combat human rights violations. Examples of abuses falling within each of these categories are outlined below.

#### A. To Attain Prestige

Nations' aspirations for prestige at the Olympics is grounded in nationalism.<sup>101</sup> Indeed, "[n]ational pride experienced by competitors and spectators due to an athlete's success is a natural and healthy aspect of the Olympic Games."<sup>102</sup> To a certain extent, the IOC promotes nationalism. Olympic athletes are to wear the official colors of their nations when competing, and victorious athletes have their national anthem played at their victory ceremony.<sup>103</sup>

Consequently, "[p]restige is inherent in any major international or national sporting event, because great importance is attributed to the competition by the athletes, the governments, and the spectators."<sup>104</sup> However, when nations advance nationalism too far, there results a political abuse of the Games. A classic example of this occurred when South Korea was chosen to host the 1988 Olympics.<sup>105</sup> Upon learning of the decision, North Korea became concerned with the prestige South Korea would garner.<sup>106</sup> As a result, in an effort to have the Games moved to North Korea, North Korea urged Cuba to speak to the IOC on its behalf.<sup>107</sup> The IOC attempted to discuss the alternative of having the two countries' cooperate in hosting the Games.<sup>108</sup> However, ultimately, the two sides could not agree, and the Games were held in South Korea as originally scheduled.<sup>109</sup>

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100. OLYMPISM 98 (Jeffrey Segrave & Donald Chu, eds., 1981).

101. See NAFZIGER, *supra* note 4, at 79; O'Neil, *supra* note 42, at 412-13.

102. O'Neil, *supra* note 42, at 413.

103. *Id.*

104. ESPY, *supra* note 3, at 7.

105. NAFZIGER, *supra* note 4, at 79-80.

106. *Id.* at 79.

107. *Id.*

108. *Id.* at 80.

109. *Id.*

### B. To Effect the Nonrecognition of Nations

Often, when one country attempts to gain political advantage over another, it will deny diplomatic recognition to the other.<sup>110</sup> When a nation participates in an international sporting event, however, it implicitly extends national recognition to all competitor nations.<sup>111</sup> Obviously, such a tenet has invoked political difficulties at the Olympic Games. One of the most significant of these occurred prior to the 1976 Montreal Games, when the People's Republic of China threatened to boycott the Games if the Republic of China was allowed to participate.<sup>112</sup> The Canadian government responded by refusing to allow admission to the Republic of China team, unless they participated under the designation of "Taiwan."<sup>113</sup> Although this decision was opposed by the IOC, Canada refused to renounce its decision, asserting that it was abiding by its own governmental policy.<sup>114</sup> Ultimately, the Republic of China refused to participate under the "Taiwan" designation and therefore, withdrew from the Games.<sup>115</sup>

### C. To Institute Propaganda

In principle, article 53 of the Charter forbids nations from using the Olympics as a vehicle for propaganda.<sup>116</sup> In practice, however, nations have done otherwise. Indeed, the most extreme method of instituting propaganda, — terrorism — was performed by the Arab group "Black September" at the 1972 Munich Games.<sup>117</sup> There, five Arab terrorists captured nine Israeli athletes and held them hostage after killing two others.<sup>118</sup> The terrorists demanded the release of 200 Palestinian prisoners jailed in Israel.<sup>119</sup> Shortly thereafter, all fourteen people were killed in a rescue attempt by West German police.<sup>120</sup>

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110. O'Neil, *supra* note 42, at 417.

111. *Id.*

112. HILL, *supra* note 4, at 45-47; NAFZIGER, *supra* note 4, at 93-96; O'Neil, *supra* note 42, at 419.

113. HILL, *supra* note 4, at 45; NAFZIGER, *supra* note 4, at 93; O'Neil, *supra* note 42, at 419.

114. O'Neil, *supra* note 42, at 419.

115. *Id.*

116. OLYMPIC CHARTER, art. 53.

117. David Binder, *Nine Israelis on Olympic Team Killed with Four Arab Captors as Police Fight Band that Disrupted Munich Games: A Twenty-three Hour Drama: Two Others are Slain in their Quarters in Guerrilla Raid*, N.Y. TIMES, Sept. 6, 1972, at A1.

118. *Id.*

119. *Id.*

120. *Id.*

*D. To Protest*

In the past, protests at the Olympic Games have been one of two types, either individual or official protests.<sup>121</sup> An example of an individual protest occurred in the 1964 Mexico City Olympics by two African-American athletes.<sup>122</sup> During an awards ceremony, when the athletes were being presented the gold and silver medals, they refused to face the American flag in protest.<sup>123</sup> Instead, they raised their fists in the Black Power Salute.<sup>124</sup> In response to the athlete's protest, the IOC barred them from participating in all future Games on the grounds that they violated article 26, which advocates that "a competitor must observe the traditional Olympic spirit and ethic . . . ."<sup>125</sup>

Of more frequent occurrence are the official protests, usually made in the form of boycotts. One of the most well-known was the U.S. boycott of the 1980 Moscow Olympics in response to the Soviet occupation of Afghanistan.<sup>126</sup> In December 1979, the U.S.S.R. invaded Afghanistan, deposed and killed the President and installed a new government.<sup>127</sup> U.S. President Jimmy Carter viewed this invasion as a direct threat to the security of the Persian Gulf and to world peace.<sup>128</sup> In January 1980, President Carter responded with a grain embargo, a cutoff of technology sales, curtailment of fishing privileges in U.S. waters, and a boycott of the 1980 Moscow Summer Games.<sup>129</sup> This boycott proved ineffective, since the Soviets remained in Afghanistan, undeterred from future expansionism.<sup>130</sup>

The legality of such a boycott under international sports law is highly questionable. Article 4 of the Olympic Charter provides that all nations "that play any part whatsoever in the Olympic Movement shall accept the supreme authority of the IOC and shall be bound by its Rules . . . ."<sup>131</sup> The United States had traditionally participated in the

121. NAFZIGER, *supra* note 4, at 97-98.

122. *Id.* at 97.

123. *Id.*

124. *Id.*

125. *Id.* at 97-98. See also OLYMPIC CHARTER, art. 26.

126. Steven R. Weisman, *U.S. Olympic Group Votes to Boycott the Moscow Games: Appeal by Mondale: Margin Overwhelming — White House Indicated More Financial Aid*, N.Y. TIMES, Apr. 13, 1980, at A1. See also HILL, *supra* note 4, at 124-25; NAFZIGER, *supra* note 4, at 119-24.

127. David Binder, *Carter Says Soviet Isn't Telling Facts About Afghan Coup: Cites Threat to Ties: Assails Brezhnev's Answer Hints at a Stronger Protest by the West*, N.Y. TIMES, Jan. 1, 1980, at A1.

128. See *Afghanistan's Impact: A New U.S.-Soviet Freeze*, N.Y. TIMES, Jan. 1, 1980, at A1.

129. Marks, *supra* note 44, at 155.

130. NAFZIGER, *supra* note 4, at 122-23.

131. OLYMPIC CHARTER, art. 4.



Olympic Games and was therefore, a firm supporter of the Olympic Movement. However, by effecting its boycott, it inhibited the creation of international goodwill through sport, which is the very aim of the Olympic Movement, as delineated by article 1 of the Charter.<sup>132</sup> Additionally, under article 3, the Olympic Games are not to be affected by political discrimination, yet political discrimination was the very impetus for the U.S. boycott.<sup>133</sup> Finally, by using the Olympic Games to initiate an attack against the *nation* of the Soviet Union, the United States failed to acknowledge the command of article 9, which states that the Games are competitions between individuals and teams, and *not* between countries.<sup>134</sup>

Furthermore, the boycott was questionable under U.S. domestic law. The Amateur Sports Act of 1978 grants the USOC exclusive jurisdiction in all matters pertaining to the U.S. participation in the Olympics.<sup>135</sup> However, the President, the White House Counsel, and the Attorney General all pressured the USOC to comply with the boycott.<sup>136</sup>

In 1984, the Soviet Union mimicked the earlier U.S. action and boycotted the 1984 Los Angeles Summer Olympics.<sup>137</sup> The official reasons for this boycott included a concern about "the [U.S.] lack of preparations for the athletes' security" and "the threat of terrorism against them."<sup>138</sup> However, unofficially, other reasons were cited. Such reasons included suggestions that (1) the Soviets feared defections of Soviet athletes to the West; (2) the Soviets desired to maintain a policy of nonparticipation with the United States, following the Soviet walkout from nuclear arms-control talks in Geneva; or (3) the Soviets merely wanted to embarrass President Reagan in an election year.<sup>139</sup> Irrespective of the reason, the Soviet boycott, like the U.S. boycott, was unsuccessful.<sup>140</sup>

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132. *Id.* art. 1.

133. *Id.* art. 3.

134. *Id.* art. 9 (emphasis added).

135. 36 U.S.C. § 374(3) (1988).

136. NAFZIGER, *supra* note 4, at 126.

137. John F. Burns, *Moscow will keep its Team from Los Angeles Olympics: Tass Cite Peril, U.S. Denies It: Protests Are Issue: Russians Charge Gross Flouting of the Ideals of the Competition*, N.Y. TIMES, May 9, 1984, at A1.

138. NAFZIGER, *supra* note 4, at 129.

139. *Id.* at 129-30. See also Burns, *supra* note 137, at A16.

140. *Id.* at 130.

*E. To Combat Human Rights Violations*

In 1975, the U.N. General Assembly enacted *Resolution 3411(E)*, which "commended all Governments, sports bodies, and other organizations which have taken action for the boycott of racially selected South African sports bodies or teams."<sup>141</sup> The next year, the General Assembly adopted *Resolution 6(F)*, which called for an International Convention Against Apartheid in Sports and established an ad hoc organizational committee.<sup>142</sup> Finally, in 1977, the United Nations adopted the *International Declaration Against Apartheid in Sports*.<sup>143</sup>

The IOC has cooperated with such U.N. efforts by disqualifying from the Games those nations that have practiced apartheid, namely South Africa and Rhodesia.<sup>144</sup> While article 3 of the Olympic Charter prohibits discrimination on any grounds, including politics, concomitantly, article 1 of the Charter articulates that the Olympic ideals include "helping to build a better and more peaceful world" and "creating international goodwill."<sup>145</sup> As such, the political action taken to combat human rights is distinguishable from the political actions discussed immediately above. That is, although the IOC's disqualification of both South Africa and Rhodesia does effect political discrimination, thereby violating article 3 of the Charter, such action enforces the ideals contemplated by article 1.

V. Permanent Site as Possible Solution

Originally, the ancient Olympics were regularly held in Elis. However, when De Courbetin revitalized the modern Olympics in 1896, he insisted on the festival being "ambulatory."<sup>146</sup> He reasoned that the participating nations should equally be burdened by the substantial hardship of international travel and the great expense of hosting the Games.<sup>147</sup> De Courbetin's view was not shared by all. From the beginning, the Greek government had offered to permanently host the Games in Athens.<sup>148</sup> This offer was repeated in 1976 after the Montreal Games. After the U.S. boycott of the 1980 Moscow Games, the

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141. G.A. Res. 3411(E), 30 U.N. GAOR, 23d Sess., Supp. 34, at 37, U.N. Doc. A/7348 (1968).

142. G.A. Res. 6(F), 31 U.N. GAOR, 31st Sess., Supp. 39, at 12, U.N. Doc. A/31/39 (1976).

143. G.A. Res. 105(M), U.N. GAOR, 33d Sess., Annex, at 32, *reprinted in* U.N. MONTHLY CHRON., Jan. 1978, at 122.

144. For a summary of the events leading up to the IOC's decision to bar both South Africa and Rhodesia from Olympic events, see NAFZIGER, *supra* note 4, at 80-90.

145. OLYMPIC CHARTER, arts. 1, 3.

146. Rich, *supra* note 27, at 4.

147. *Id.*

148. *Id.*

Greek Prime Minister went so far as to offer 1250 acres of government-owned land to facilitate a permanent site in Athens.<sup>149</sup>

#### A. *Why a Permanent Site?*

After ninety-seven years of ambulatory sites, the Olympics has been unable to rid itself of political influence. Through the establishment of a permanent site, however, many of the political abuses that have affected past Olympic Games could be vitiated. No longer would a state be concerned with attaining the prestige of hosting the Games, as the IOC would be the permanent host.<sup>150</sup> With the IOC as permanent host, boycotts could also be eliminated, as attendance or nonattendance would no longer impact a particular host nation.<sup>151</sup> Finally, by having a permanent site, athletes will no longer be subjected to the conflicting foreign policies of host states, as was the case in the 1976 Montreal Games.<sup>152</sup>

Another benefit conferred by a permanent Olympic site solves a current dilemma pertaining to site selection. In the past, hosting the Olympic Games has proven quite costly.<sup>153</sup> Indeed, many of the physical structures required by the Olympic Games involve exorbitant cost, and more often than not host countries erect such structures only to have them torn down after the Games and then rebuilt by other host countries four years later.<sup>154</sup> Given the high costs involved with hosting the Games, the practical choice of Olympic sites has been limited to the wealthier nations of the world.<sup>155</sup> This result has provoked tension among nations. With one permanent Olympic location, such tension can be removed.

#### B. *How Could a Permanent Site Be Established?*

Proponents of a permanent site for the Olympics have described it as a site that would be "a sort of Olympic Vatican," or "neutral international territory."<sup>156</sup> Like the U.N. headquarters in New York, the permanent site of the Games could be established through a contractual agreement between the host country and the IOC.<sup>157</sup> For example, the

149. *Id.* at 5-7.

150. *See supra* notes 101-109 and accompanying text.

151. *See supra* notes 126-140 and accompanying text. *See also* Rich, *supra* note 27, at 10.

152. *See supra* notes 110-15 and accompanying text. *See also* Rich, *supra* note 27, at 10.

153. Rich, *supra* note 27, at 6.

154. *Id.*

155. *Id.* at 6.

156. Rich, *supra* note 27, at 9.

157. Agreement Regarding the Headquarters of the United Nations, June 26, 1947, United States-

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United Nations is part of the territorial United States, but it holds title to its property and has complete control within its own enclave.<sup>158</sup>

Moreover, certain other privileges of the Olympic Movement autonomy should also be granted to the IOC at its permanent location. First, the Olympic facilities should be free of all interference from the local police, military, or security forces, except as requested by the IOC.<sup>159</sup> Second, the IOC should be granted certain immunities from taxes, licensing fees, national assessments, and limited immunity from legal process.<sup>160</sup> Third, the host country should allow the IOC absolute control over all access to the site for athletes, officials, and spectators, and the press, making the IOC the only entity with the power to deny access to any individual or representative of nations.<sup>161</sup> Finally, the IOC should have absolute rights over television broadcasts and all media communication between the Olympic site and the rest of the world.<sup>162</sup>

### VI. Conclusion

Today, there are only two places where individuals gather from all parts of the world: The United Nations and The Olympic Games.<sup>163</sup> Though the United Nations is based on world politics and the Olympics are purportedly not, the Olympic Games can stand to gain from the example of the U.N.'s permanent location. Although a permanent site for

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United Nations, 61 Stat. 3416, T.I.A.S. No. 1676 [hereinafter U.N. Agreement].

158. Section 7 of the Agreement Regarding the Headquarters of the United Nations states that "the headquarters district shall be under the control and authority of the United Nations." U.N. Agreement, *supra* note 157, § 7.

159. Rich, *supra* note 27, at 12.

160. *Id.* at 13.

161. *Id.*

162. See OLYMPIC CHARTER, art. 51 ("The Executive Board of the IOC is the final authority on all questions concerning the Olympic mass media, including withdrawal of credentials."). As the historic site of the ancient Olympics, Greece has always been the frontrunner in the race for permanent Olympic facilities. However, certain factors must be considered before handing Greece this obligation. First, the oppressive heat of the Greek summers could affect the performances of the athletes. Thus, if the Games were hosted by Greece, either indoor facilities would have to be built or the Games would have to be moved back to the autumn. J.M. Leiper, *Political Problems in the Olympic Games in OLYMPICISM* 114 (1981). Second, Greece is not politically neutral, as shown by its historical conflict with Turkey shows. DAVID B. KANIN, *A POLITICAL HISTORY OF THE OLYMPIC GAMES* 151 (1981). However, these considerations can only be speculative, since the future neutrality of a country can hardly be predicted. Also, Greece's record on human rights is mixed. Leiper, *supra*, at 114.

Though not a perfect site in terms of its neutrality, Greece seems to be the most practical choice due to its Olympic tradition and the continued interest it has shown in the proposition. Alternatively, there are those who propose that a neutral country such as Switzerland or Norway would be more appropriate. Leiper, *supra* at 114.

163. DAVID WALLECHINSKY, *THE COMPLETE BOOK OF THE OLYMPICS* at xx (1984).

the Olympics has been advocated for almost one hundred years, the Olympics have nevertheless remained ambulatory. Close to a century of games reeking of greed, fear, politics, and nationalism demonstrate the fundamental flaws of the current ambulatory system. It is now time for the Olympic Congress to adopt a plan for a permanent site.