

## CRUEL OPTIMISM: ZIKA, LEX SPORTIVA, AND BODIES OF (ALLEGED) CONTAGION

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### *Abstract*

*Previous literature has noted the connection between sport and corporate environmentalism, especially that which has positioned the sport mega-event as a facilitator of “sustainable” development. David Chernushenko (1994) was the first environmentalist to propose a model of ecologically sustainable development for sport and recreation management, which was criticized for the notable appeal to neoliberal-capitalist advancement.<sup>1</sup> Due to eco-driven protests in Denver (1974), Toronto (1989), and Rome (1997), the International Olympic Committee (IOC) amended the Olympic Charter to reflect growing environmental concern. Yet the IOC model has—much like the work of Chernushenko—continued to favor finance. Recent literature has documented the extent to which the Olympic pillar of “sustainability,” intended to “integrate sustainable development into their policies and activities,” has allowed for deceptive corporate marketing to merely greenwash the Games.<sup>2</sup> It is from this context that the *Aedes aegypti* or Yellow Fever mosquito rapidly emerged—now host to Dengue, Chikungunya, Zika, Mayaro, and other viruses. We borrow from Lauren Berlant the notion of “cruel optimism” to describe structural/institutional ideologies (e.g., allegiance to the monogamous, heteronormative family) that facilitate capitalist expansion, even in the midst of (environmental) crisis.<sup>3</sup> While the literal destruction of the cityscape (whether*

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1 Helen Lenskyj, *Inside The Olympic Industry: Power, Politics, And Activism* 157 (2000) (quoting David Chernushenko, *Greening Our Games* (1994)).

2 Int’l Olympic Comm. Sport & Env’t Comm’n, *Olympic Movement’s Agenda 21: Sport for Sustainable Development* 48 (1992), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Olympism-in-Action/Environment/Olympic-Movement-s-Agenda-21.pdf> [<https://perma.cc/NT4W-JMUX>]; see also Jules Boykoff & Gilmar Mascarenhas, *The Olympics, Sustainability, and Greenwashing: The Rio 2016 Summer Games*, 27 *Capitalism Nature Socialism* 1 (2016).

3 In extension to the work of Naomi Klein’s *Shock Doctrine*, those that have studied the sport mega-event have compared the processes of event preparation as similar to disaster capitalism or celebration capitalism. Naomi Klein, *The Shock Doctrine: The Rise of Disaster Capitalism* (2007); Jules Boykoff, *Celebration Capitalism and the Olympic Games* (2013).

*sport-prompted or not) has cemented an economic logic into the physical landscape and modern mind, we contend that scientific-technological communities need to (more carefully) protect and privilege the pre-existent “nature-made” strategies of sustainability. So, to make an authentic commitment to the environment, the IOC—as emblematic of an international conglomerate repeatedly encouraged to rewrite and recreate sovereign law—would need to legally enforce the protection of local ecologies as it has legally enforced the protection of corporate sponsorship and the Olympic brand.*

### **INTRODUCTION: AEDES MOSQUITO V. THE INTERNATIONAL OLYMPIC COMMITTEE**

To examine the interconnectedness between law, land, and transnational bodies is far from a straightforward affair but, indeed, a needed one. In this article, we work to illustrate the manner in which the sport mega-event (via the Fédération Internationale de Football Association [FIFA] and the International Olympic Committee [IOC]) is called to facilitate (trans)national development priorities that repurpose and reconfigure host cities. We borrow from Lauren Berlant the notion of “cruel optimism” to recalibrate an approach to development that is realistic—not romantic—about the destruction known to follow development strategies.<sup>4</sup> It is from this cruel context that the Aedes (Stegomyia) mosquitoes—innocuous since 1947—have resurfaced to ignite newfound anxieties related to Dengue, Chikungunya, Zika, Mayaro, and other dangerous viruses. Amid the health uncertainties associated with these new viruses, research is certain: The proliferation of insect-borne illnesses is associated with anthropocentric crises.<sup>5</sup> A case in point was the 2016 Zika virus (ZIKV) outbreak in the Global South, which positioned Olympic host (Rio de Janeiro, Brazil) as felon—perpetrator of contagion—in such a way that it served to detract attention from the harmful resource extraction occasioned via

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4 In her work on cruel optimism, Lauren Berlant argued that despite social, economic, and environmental impossibilities, people remain attached to fantasies of the “good” life. This attachment prevents people from full flourishing. Cruel optimism is thus “a relation of attachment to compromised conditions of possibility whose realisation is discovered either to be impossible, sheer fantasy, or too possible, and toxic.” Lauren Berlant, *Cruel Optimism* 24 (2011).

5 In May 2018, the Centers for Disease Control and Prevention (CDC) released a report which found that insect-borne illnesses have tripled between 2004 and 2016—with 27,000 cases reported in 2004 and 96,000 cases reported in 2016. Ronald Rosenberg et al., Ctrs. for Disease Control & Prevention, *Vital Signs: Trends in Reported Vectorborne Disease Cases—United States and Territories, 2004–2016*, Morbidity & Mortality Weekly Rep., May 1, 2018, [https://www.cdc.gov/mmwr/volumes/67/wr/mm6717e1.htm?s\\_cid=mm6717e1](https://www.cdc.gov/mmwr/volumes/67/wr/mm6717e1.htm?s_cid=mm6717e1) [<https://perma.cc/LNN9-Y96T>].

transnational parties.<sup>6</sup> While much of the reaction to the Zika virus centered on the future health of heteronormative (white) families and the unborn (affluent) child of the Global North, we were interested in documenting the lived realities of women in the Global South—women who were unable to travel elsewhere and/or invest in mosquito-repellant technologies. To do so, we attend to the litany of legacies; not the sport legacies promised in the Bid Book,<sup>7</sup> but the hidden legacies of destruction that resource local land, law, and bodies in service of corporate interest.

The incursion of sport into the discussion of urban reform is littered throughout government-endorsed documentation across former and future host cities.<sup>8</sup> Local authorities uncritically position these events as a much-needed injection of capital across (future) celebrated host communities. Crucial to the work done to evaluate mega-event urbanism is the manner in which it cannot be contained within or used solely to advance fantasies of those within the creative, cosmopolitan class.<sup>9</sup> Despite attention directed at the (supposed) positive impact of the mega-event on the formal market, there is scarce literature on the impact of mega-event urbanism on communities not yet inculcated within colonial-capitalist fantasies. In previous research, we examined the impact of colonial-capitalist expansion on racialized, sexualized minorities—particularly those reliant on their bodies in the absence of land to realize economic opportunities.<sup>10</sup> In an extension to this research, we continue to examine several socio-legal phenomena that impinge upon local land and bodies within 2014/2016 sport mega-event host

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6 Importantly, precarious infrastructure, dispersed garbage, and stagnant water are known to attract and breed Aedes mosquitoes involved in arbovirus transmission. Carlos Brisola Marcondes & Maria De Fátima Freire De Melo Ximenes, *Zika Virus in Brazil and the Danger of Infestation by Aedes (Stegomyia) Mosquitoes*, 49 *Revista Sociedade Brasileira Medicina Tropical* 4 (2015).

7 The Bid Book is submitted as an application to host the sport mega-event. It details the construction of event facilities, budget, public support, and outlines any environmental concern. It must have the approval of the National Olympic Committee prior to submission.

8 See, e.g., Eduarda de La Rocque & Petras Shelton-Zumpano, Pereira Passos Inst., The Sustainable Development Strategy of the Municipal Government of Rio de Janeiro, Address before the Woodrow Wilson International Center for Scholars' Citizen Security in Brazil: Progress and Challenges Seminar (Mar. 28, 2014), in Woodrow Wilson Int'l Ctr for Scholars, Wilson Ctr Latin American Program, Aug. 2014, at 1, 2, [https://www.wilsoncenter.org/sites/default/files/Paper\\_%20La%20Rocque\\_%20and%20Shelton-Zumpano\\_2014\\_0.pdf](https://www.wilsoncenter.org/sites/default/files/Paper_%20La%20Rocque_%20and%20Shelton-Zumpano_2014_0.pdf) [<https://perma.cc/984F-6N4B>].

9 Amanda De Lisio, *Event Urbanism and the Politics of Enthusiasm*, 5 *Scapegoat: Architecture Landscape Pol. Econ.* 170 (2013).

10 Amanda De Lisio, *Economies of Flesh: Event-Led Urbanism and The Impact on Sex Work in Rio De Janeiro, Brazil* (2016) (unpublished Ph.D. dissertation, University of Toronto) (on file with author).

communities across Rio de Janeiro. In particular, we interrogate the manner in which the medicalized rhetoric related to the ZIKV detracted from the reconfiguration of sovereign law in service of development strategies that catered to an international audience (or para Inglês ver in Portuguese) despite everyday realities of eco-degradation.

To do so, we collected and analyzed qualitative data to better understand: (i) the consequence of the Zika outbreak—an environmental consequence of destructive-development processes—on the everyday realities (i.e., access to labor, health, and urban life) of those involved in sexual commerce/sex work; and (ii) the manner in which sovereign land and law are reconfigured in service of transnational extra-legal entities, such as the IOC and pharmaceutical companies. These curiosities stem from the work of indigenous feminist theories that posit the defense of land and the revaluation of queer socialities as integral to strategies of decolonization.<sup>11</sup> In this article, we use the case of FIFA/IOC, as a transnational, male-dominated institution, to demonstrate the most recent rendition of state legal exceptionalism and perpetuation of colonial-capitalist expansion.

As part of a broader research project on sex work (used interchangeably with sexual commerce) in the context of the 2014/2016 sport mega-event, we were interested in the technologies of healthification,<sup>12</sup> which were created in the Global North in reaction to the ZIKV outbreak in the Global South. As an extension to ethnographic work already situated in Rio de Janeiro, the first author started to assemble and collect qualitative data related to the ZIKV outbreak after the first reported diagnosis in May 2015—believed to be affiliated with the influx of event tourism (i.e., either the 2013 Confederation Cup and/or the 2014 FIFA World Cup).<sup>13</sup> In December 2015, the Brazilian Ministry of Health estimated between 440,000–1,300,000 people had contracted ZIKV in the soon-to-be

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11 See, e.g., the work of Leanne Betasamosake Simpson, Audra Simpson, and Kim Tallbear—to name a select, yet important, few.

12 Fusco describes healthification as “the continuous deployment of a broad range of specialized strategies and technologies, expertise, and techniques (e.g., policy and educational initiatives, architectural arrangements, urban planning, measures of public order, health and safety regulations, self and other observations) that work together to govern and produce ‘healthified’ spaces and subjectivities. Healthified space is the realization of institutional and individuals’ commitments to healthification.” Caroline Fusco, *Healthification and the Promises of Urban Space*, 42 *Int’l Rev. for Soc. Sport* 43, 59 (2007).

13 Nuno Rodrigues Faria et al., *Zika Virus in the Americas: Early Epidemiological and Genetic Findings*, 6283 *Sci.* 345, 352 (2016).

Olympic host nation.<sup>14</sup> In order to best examine the manner in which event urbanism, environmental collapse, and insect-borne viruses (re)write everyday realities for local women involved in informal (sexual) commerce, the subsequent ethnographic methodologies were employed:

1. Critical document analysis of relevant documentation (e.g., Olympic-related media, disease-control information/agencies);
2. Participant observation of previously identified sex-related businesses, agencies, and clientele, with particular emphasis on any effort made to address ZIKV; and
3. Semi-structured interview data collected with those identified as and/or referred to by working women in the field.

Interview and observational data were intermittently collected between April 2014 and December 2017 within four key zones of sexual commerce: (i) Copacabana, the infamous beachfront which housed FIFA Fan Fest; (ii) Vila Mimosa, or the red light district of Rio de Janeiro, located less than one kilometer from Maracanã, and therefore in designated FIFA territory; (iii) the Caixa in Niterói, a port district overlooking Centro, or downtown Rio de Janeiro, which housed the official Olympic Fan Zone; and (iv) Barra da Tijuca, home to the newly-built Olympic Park. As a result of the extended time in the field, more than 100 women involved in sexual commerce were interviewed in a location of their choice (place of business, home, restaurant, or park/public area). While it was common for women to discuss fear of illnesses, the Zika virus was not an obvious theme of conversation until women started to note uncertainties related to insect-borne viruses (i.e., August 2016). At that point, the first author started to ask for more detail related to anxieties, precautionary strategies/remedies, and client response. The first author also obtained information related to 2016 Olympic construction online as well as information shared by an employee of the municipal office. This municipal employee was interviewed twice. The employee then introduced the authors to another employee of the same office, who was also interviewed. Importantly, both employees worked for the Mayor from the time of Olympic bid submission (September 2007) to candidate selection (October 2009) and the completion of the Olympic/Paralympic event (September 2016). In addition to documentation related to Olympic construction, we also collected and coded ZIKV-relevant travel material made available via scientific communities, media,

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14 *Ministério da Saúde Protocolo de Vigilância Sobre Microcefalia e Vírus Zika*, Blog da Saúde (Dec. 8, 2015), <http://www.blog.saude.gov.br/agenda-ms/50437-ministerio-da-saude-publica-protocolo-de-vigilancia-sobremicrocefalia-e-virus-zika> [<https://perma.cc/GQ4B-QP43>].

etc.<sup>15</sup> All data obtained in Portuguese were transcribed and translated with the aid of research assistants.<sup>16</sup> In order to conduct ethnographic fieldwork, ethical approval was obtained from the University of Toronto in Canada as well as Bournemouth University in England. The first author also worked as a research affiliate for the Prostitution Policy Watch (Observatório da Prostituição) at the Federal University of Rio de Janeiro and was thus subject to the associated ethical protocol. This research received financial assistance from Mitacs Canada, Social Sciences and Humanities Research Council of Canada, and the Economic and Social Research Council of the United Kingdom.

### I. Lex Sportiva and the Transnationalization of Law

Often regarded as a commercially viable and socially pacifying institution, sport has rationalized development within postindustrial world-class cities, promising the injection of global-tourism capital, increased access to health and wellness facilities, and added opportunities for more environmentally-sustainable transit.<sup>17</sup> As a microcosm to examine existent development priorities, the pursuit of the sport mega-event has emphasized the entrepreneurial tendencies of (allegedly) world-class cities in their bid for and/or hosting of an internationally-recognized event or professional sport franchise.<sup>18</sup> More often than not, this construction has demanded a minimum level of urban erasure. The site of a new stadium must first become—as Yates McKee described in his article on the post-Hurricane Katrina restoration of New Orleans—an “ecological tabula rasa,” a return to

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15 The collection of relevant documentation was facilitated via the creation of a content detection and notification service that notified the first author of content related to insect-borne viruses between May 2015 and May 2018.

16 This article (and the associated fieldwork) was made possible because of an existent collaboration with the Prostitution Policy Watch (Observatório da Prostituição). As such, we are especially indebted to Thaddeus G. Blanchette, Thayane Brêtas, Ana Paula da Silva, Gregory Mitchell, Laura Murray, Julie Ruvolo, Yaa Saarpong, and Gonçalo Zúquete, all of whom uniquely contributed to the work, as well as Matias Maxx, Vanessa Rodrigues, and João Sodre, who, although not directly affiliated with the Prostitution Policy Watch, continue to be a source of extreme solace in the field. Outside of Brazil, the authors would like to acknowledge Professor Michael Silk, who secured financial assistance for this research via the Economic and Social Research Council of the United Kingdom (ES/N018656/1).

17 Michael T. Friedman et al., *Sport and the Façade of Redevelopment in the Postindustrial City*, 21 Soc. Sport J. 119 (2004).

18 Stefan Kipfer & Roger Keil, *Toronto Inc? Planning the Competitive City in the New Toronto*, 34 Antipode 227 (2002).

the once more natural state.<sup>19</sup> As Richard H. Baker, former representative for the Sixth District of Louisiana, said on national television one month after Hurricane Katrina hit the Gulf Coast, “[w]e finally cleared up public housing in New Orleans. We couldn’t do it, but God did.”<sup>20</sup> Disaster capitalism<sup>21</sup>—or in the case of a sport mega-event, “celebration capitalism”<sup>22</sup>—is known to offer a false sense of naturalization wherein land and the bodies within are believed to be cleansed through a “state of exception” or temporary suspension of legal order.<sup>23</sup> Mega-event research that has referenced the work of Agamben has illustrated the manner in which FIFA and the IOC have bound host cities to processes that threaten national sovereignty, redefine citizenship,<sup>24</sup> reshape urban realities,<sup>25</sup> and restructure strategies of local law enforcement.<sup>26</sup>

The construction of an Olympic Park or FIFA stadium has also been described as a mode of “soft power” in which political parties in power use sport and the associated enthusiasm to reinforce national identities, mobilize popular support, and globalize their influence.<sup>27</sup> In the context of Rio de Janeiro, Gaffney has documented the heightened

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19 Yates Mckee, *Haunted Housing: Eco-Vanguardism, Eviction, and the Biopolitics of Sustainability in New Orleans*, 30 Grey Room 84, 90 (2008).

20 Charles Babington, *Some GOP Legislators Hit Jarring Notes in Addressing Katrina*, Wash. Post, Sept. 10, 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/09/AR2005090901930.html> [<https://perma.cc/7939-BNAX>].

21 Klein, *The Shock Doctrine: The Rise of Disaster Capitalism*, *supra* note 3, at 6.

22 Boykoff, *Celebration Capitalism and the Olympic Games*, *supra* note 3.

23 Giorgio Agamben, *State of Exception*, (Kevin Attell, trans., 2005).

24 Aihwa Ong, *Neoliberalism As Exception: Mutations in Citizenship and Sovereignty* (2006); L. Yu, H. Xue & J.I. Newman, *Sporting Shanghai: Haipai Cosmopolitanism, Glocal Cityness, and Urban Policy as Mega-Event*, 35 Soc. Sport J., 301–13 (2018).

25 John Horne, *Understanding the Denial of Abuses of Human Rights Connected to Sports Mega-events*, 37 Leisure Stud. 11 (2017).

26 Michelle D. Bonner et al., *Police Abuse in Contemporary Democracies* 221–47 (2018); D. Pauschinger, *Global Security Going Local: Sport Mega Event and Everyday Security Dynamics at the 2014 World Cup and the 2016 Olympics in Rio de Janeiro* (Doctoral dissertation, University of Kent, Hamburg University, Fakultät Wirtschafts-und Sozialwissenschaften (WiSo) (2017)).

27 In an article published in *Political Science Quarterly*, Joseph S. Nye, Jr., defined soft power as “ability to obtain preferred outcomes by attraction rather than coercion or payment.” Joseph Nye, *Soft Power: The Origins and Political Progress of a Concept*, 3 Palgrave Comm. 17008, 17008 (2017). To read more on the connection between “soft power” and the sport mega-event, see Jonathan Grix et al., *Interrogating States’*

fragmentation and privatization welcomed with the 2014 FIFA World Cup and 2016 Olympic Games.<sup>28</sup> In November 2015, the Comitê Popular Rio Copa e Olimpíadas [Popular Committee for the World Cup and Olympics in Rio de Janeiro] launched its fourth dossier, which detailed event-led processes of exceptionalism (i.e., a lack of information, participation, and transparency in relation to FIFA and Olympic construction) and dubbed Rio de Janeiro the “cidade de exceção” [city of exception].<sup>29</sup> The dossier critiqued nondemocratic processes of urban renewal which fulfilled the fantasies of private (non-elected) authorities in lieu of local communities. At first celebrated as a moment of international recognition, the event served as a continuance of colonial-capitalist strategies that came to define elite-tourist territories. City Hall of Rio de Janeiro estimated more than 22,059 families were evicted due to sport-prompted development between 2009 and 2015.<sup>30</sup> The time-sensitive nature of the event also denied those involved in stadium construction the right to negotiate salaries, compensation, etc., and rebuffed the legally-mandated environmental analyses needed in the construction of new transit.<sup>31</sup> It is common for mega-event literature to describe this as exceptionalism, but it is crucial to situate these realities within broader histories of colonial dispossession and capitalist invention. The erasure of tightly-patrolled and pacified (or rather, militarized) impoverished communities occurred via the newest rendition of colonial-capitalist expansion—processes enacted via IOC/FIFA mega-parties.<sup>32</sup> The concentration

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*Soft Power Strategies: A Case Study of Sports Mega-Events in Brazil and the UK*, 29 *Global Soc’y* 463 (2015).

28 Christopher Gaffney, *Mega-events and Socio-spatial Dynamics in Rio de Janeiro, 1919-2016*, 9 *J. Latin Am. Geography* 7 (2010).

29 World Cup & Olympics Popular Committee of Rio de Janeiro, *Mega-Events and Human Rights Violations in Rio de Janeiro Dossier*, 1, 8 (2015), [https://issuu.com/mantelli/docs/dossiecomiterio2015\\_eng\\_issuu](https://issuu.com/mantelli/docs/dossiecomiterio2015_eng_issuu) [<https://perma.cc/S87E-WNFM>].

30 Prefeitura do Rio de Janeiro, *Reassentamentos: So Ém Último Caso e Priorizando Populações Vulneráveis*, Medium, July 24, 2015, <https://medium.com/explicando-a-pol%C3%ADtica-de-habita%C3%A7%C3%A3o-da-prefeitura/reassentamentos-s%C3%B3-em-%C3%BAltimo-caso-e-priorizando-popula%C3%A7%C3%B5es-vulner%C3%A1veis-2cf4a6dc847b> [<https://perma.cc/35WA-3JRP>]; Christopher Gaffney, *Gentrifications in Pre-Olympic Rio de Janeiro*, 37 *Urb. Geography* 1132 (2016).

31 Megan Corrarino, *Law Exclusion Zones: Mega-Events as Sites of Procedural and Substantive Human Rights Violations*, 17 *Yale Hum. Rts. & Dev. L.J.* 180 (2014).

32 James Freeman, *Neoliberal Accumulation Strategies and the Visible Hand of Police Pacification in Rio de Janeiro*, 38 *Revista Estudios Universitarios* 95 (2012).



of power awarded to FIFA and the IOC created an entire “zone of arbitrariness” in which sovereign law was forfeited in favor of billion-dollar parties. It was managed through the Host City Contract.<sup>33</sup> But the relative impunities extended to powerful political and corporate entities is far from exceptional. We now examine the role of sport in the emergence of a transnational autonomous legal order as well as the relative impunities afforded to quasi-private transnational (sport) bodies.<sup>34</sup> Whereas the erasure of those most disenfranchised has continued apace, it is necessary, albeit messy, to reflect upon the context in which new strategies of expulsion emerge.

FIFA and the IOC are international non-governmental not-for-profit entities, in the form of an association with the status of a legal person as recognized by the Swiss Federal Council.<sup>35</sup> With an interest in the 2016 Olympic Zika outbreak, we focus on the organizational structure and (supposed) jurisdiction of the IOC. The objective of the IOC is to fulfill the respective mission, role, and responsibilities as outlined in the Olympic Charter. The Olympic Charter codifies “the Fundamental Principles of Olympism, Rules and By-Laws adopted by the International Olympic Committee (IOC).”<sup>36</sup> Since the codification of the Olympic Charter in 1908, the Charter has maintained the status of a quasi-constitution. It is intended to dictate the action of all those bound to the Olympic Movement and, as such, is a contract or international agreement between relevant parties

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33 The Host City Contract (HCC) is an agreement entered into between the IOC, the Host City, the Host National Olympic Committee (NOC), and the Organizing Committee for the Olympic Games (OCOG), including respective financial and contractual responsibilities. Internat’l Olympic Comm., Host City Contract: Operational Requirements (2016), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXXIII-Olympiad-2024/Host-City-Contract-2024-Operational-Requirements.pdf> [<https://perma.cc/3DKS-NUDV>]; see also Lea Rekow, *Pacification & Mega-events in Rio de Janeiro: Urbanization, Public Security & Accumulation by Dispossession*, 12 J. Hum. Security 4 (2016); Gerardo Silva, ‘Call Me the World Cup and Invest in Me:’ *A Commentary on Brazil’s Recent Street Protests Against the World Cup and the Olympic Games*, 5 Int’l. J. Urb. Sustainable Dev. 174 (2013).

34 Whilst we focus on processes inherent to event construction, we are also mindful of the manner in which transnational bodies espoused unique difficulties for sovereign law in the allocation of corporate liabilities. See *Das v. George Weston Ltd.* (2017), ONSC 4129 (Can. Ont. Sup. Ct. J.) (regarding the \$2 billion class action suit against Loblaws and Joe Fresh by those involved in the infamous Rana Plaza collapse in Bangladesh).

35 See Olympic Charter in Force as from August 2015 ch. 2.15, [https://stillmed.olympic.org/Documents/olympic\\_charter\\_en.pdf](https://stillmed.olympic.org/Documents/olympic_charter_en.pdf) [<https://perma.cc/DU4U-E7YH>] (referencing the legal status of the IOC); Fédération Internationale de Football Ass’n, *FIFA Statutes: Regulations Governing the Application of the Statutes, Standing Order of the Congress, April 2016 Edition*, art. 1 (Apr. 2016), [http://resources.fifa.com/mm/document/affederation/generic/02/78/29/07/fifastatutswen\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/generic/02/78/29/07/fifastatutswen_neutral.pdf) [<https://perma.cc/6QKF-XR9P>].

36 Olympic Charter in Force as from August 2015, *supra* note 35, at 11.

involved—from athlete and sport federation to elected authorities.<sup>37</sup> In order to maintain the Charter, “the IOC may establish, acquire or otherwise control other legal entities” as necessitated.<sup>38</sup> The Charter has also specified the (i) executive power (e.g., the power to determine the selection of host cities); (ii) legislative power (e.g., the power to alter duties and/or obligatory action); and (iii) judicial power (e.g., the discretion to determine dispute resolution/arbitral processes) of the IOC. The extent to which the Olympic Charter is voluntarily accepted and recognized by local authorities—evidenced in the refusal of judicial intervention in *Liang Ren-Guey v. Lake Placid*,<sup>39</sup> *Martin v. International Olympic Committee*,<sup>40</sup> and *Sagen v. VANOC*<sup>41</sup> to name a select, yet foundational, few—is demonstrative of the historical reluctance of national bodies to thwart the IOC.<sup>42</sup> The IOC is legal in nature, but also extra-legal in the moral influence afforded to sport—especially Olympic sport—via social, economic, and political parties in power.

In 1983, the President of the IOC, Juan Antonio Samaranch, established an arbitration tribunal: the Court of Arbitration for Sport (CAS). As an international court of arbitration loosely financed through the IOC, the statute creating the CAS was approved by the IOC Executive Board and all those affiliated with the CAS, including the CAS

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37 Participation in the Olympic Movement is near universal, with 206 countries involved. Nat’l Olympic Comms., <https://www.olympic.org/national-olympic-committees> [<https://perma.cc/A2VU-CAYR>].

38 Olympic Charter in Force as from August 2015, *supra* note 35, at ch. 2.15.

39 Notably, the U.S. Department of Justice stated: “The United States has a substantial foreign policy interest in maintaining its ability to host international sporting events such as the Olympic Games in a manner consistent with decisions reached by the international bodies managing those events.” Statement of Interest of the United States at app. 3, *Ren-Guey v. Lake Placid 1980 Olympic Games, Inc.*, 72 A.D.2d 439 (App. Div. 1980), *aff’d*, *Ren-Guey v. Lake Placid 1980 Olympics Games, Inc.*, 49 N.Y.2d 771 (App. Ct. 1980).

40 California law, as well as the U.S. Constitution, endorsed the IOC decision to not include a 5000m or 10000m event/race for women: “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.” *Martin v. Int’l Olympic Comm.*, 740 F.2d 670, 677 (9th Cir. 1984).

41 *Sagen v. Vancouver Org. Comm.* (2009) B.C.C.A. 522 (sanctioning gender-based discrimination that occurred at a publicly funded event).

42 See Helen Lenskyj, *Sport Exceptionalism and the Court of Arbitration for Sport*, 4 J. Criminological Res. Pol. & Prac. 5 (2018).

President, are associated with and/or appointed by the IOC.<sup>43</sup> Although it is intended to oversee the IOC, it is also intimately constitutive of the IOC's broader structure.<sup>44</sup> It is this structure that has made it difficult to responsabilize or hold the IOC accountable due to the number of parties affiliated—from municipal, regional, and federal authorities to transnational parties and an entire external court.<sup>45</sup> As a transnational organization, the IOC is somewhat exemplary of other corporate entities that maintain the status of a legal person, with perpetual succession, yet without clear responsabilization.<sup>46</sup> To such an extent, it is maybe more accurate to approach the IOC (similar to FIFA) as a self-contained, self-regulatory private sphere of invested parties that has to date managed to avert confrontation with sovereign bodies and operate with relative immunity from national legal order.

To further contextualize the legal exceptionalism awarded to the IOC, it should be noted that the evolution of *lex sportiva* has occurred simultaneously with the transnationalization of law, or dispute resolution between private parties in the absence of national bodies.<sup>47</sup> This is due to the fact that globalization has reconfigured the world, inclusive of sport and law. Yet, the actual existence of transnational law is contested. On

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43 Court of Arbitration for Sport, Code of Sports-related Arbitration, in force as from 1 January 2019 Article S6.3 (2019), <http://www.tas-cas.org/en/icas/code-statutes-of-icas-and-cas.html> [<https://perma.cc/DQ3C-XPSZ>]; Helen Lenskyj, Gender, Athletes' Rights, and the Court of Arbitration for Sport 33 (2018).

44 The Olympic Charter states with reference to dispute resolution:

- (1) The decisions of the IOC are final. Any dispute relating to their application or interpretation may be resolved solely by the IOC Executive Board and, in certain cases, by arbitration before the Court of Arbitration for Sport (CAS).
- (2) Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport, in accordance with the Code of Sports-Related Arbitration.

Olympic Charter in Force as from August 2015, *supra* note 35, at art. 61.

45 See Ryan Gauthier, The International Olympic Committee, Law, and Accountability 46–73 (2016).

46 Furthermore, the IOC has the right to exclude (self-elected) parties from the Olympic Movement; even in the midst of arbitration, the IOC has the right to provisionally withdraw membership from any concerned person or organization. Olympic Charter in Force as from August 2015, *supra* note 35, at art. 59, ¶ 1–4.

47 According to Allan Erbsen, *lex sportiva* is a contested term used to encompass “several discrete methodologies of lawmaking, distilling a medley of variables into an oversimplified motto.” Allen Erbsen, *The Substance and Illusion of Lex Sportiva*, in *Lex Sportiva: What Is Sports Law?* 92 (R.C. Siekmann & J. Soek eds., 2012). It has emerged due to the jurisprudence of the Court of Arbitration for Sport (CAS) to establish an international sports law: “Global sports law is a private system of governance, with its own global forum—the Court of Arbitration for Sport—and a unique jurisprudence.” *Id.* at 126.

the one hand, there are those that maintain positive theories of law—i.e., transnational law cannot succeed without linkage to national sovereign legal order.<sup>48</sup> On the other hand, there are those who maintain state-centric theories with respect to the status of an “international legal personality,” which deem nonstate entities (e.g., a transnational enterprise, non-profit non-governmental organization, etc.) as “invisible” and thus not recognized as a legal person nor able to participate in the codification of (trans)national law.<sup>49</sup> That said, neither perspective is able to account for the continual reliance on an external arbitration tribunal such as that observed in a commercial context via *lex mercatoria*—the transnational law of economic exchange—and the International Chamber of Commerce or *lex sportiva* and the Court of Arbitration for Sport.<sup>50</sup> In either case, there is clear transnationalization and decentralization of national legal order—even if the agreement between parties involved is completely voluntary and dependent upon a common acceptance of the Olympic Charter. To date, a decision made by the Court of Arbitration for Sport is recognized and enforced by national parties.<sup>51</sup> In the context of sport, this is arguably due to: (i) the contractual relationship between parties; (ii) needed technical expertise; and (iii) the autonomous and transnational nature of sport bodies.<sup>52</sup> That an international organization is so often immunized in host countries should raise fundamental concerns:<sup>53</sup> What mechanism is there to ensure that the IOC or FIFA can be

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48 A. Claire Cutler, *Private Power And Global Authority: Transnational Merchant Law in the Global Political Economy* (2003).

49 The IOC does not have international legal personality. It has legal personality within Swiss law—conferred by the Swiss Federal Constitution and Swiss Civil Code—and is thereby governed by the domestic law of the Swiss state. *See* Lenskyj, *Gender, Athletes’ Rights, and the Court of Arbitration for Sport*, *supra* note 43, at 24.

50 *See* Gunther Teubner, *Constitutional Fragments: Societal Constitutionalism And Globalization* (2012) (examining economic globalization and the emergence of *lex mercatoria* as an example of a global law without a state).

51 It is regularly acknowledged in the literature that “courts have been reluctant to use general national laws (*i.e.*, statutes not specifically applicable to sports) protecting individual civil liberties to externally regulate Olympic sport competition within their respective countries’ boundaries or to interfere with valid decision and rulemaking authority, even if the challenged conduct of the IOC subjects it to the court’s jurisdiction.” Matthew J. Mitten, *The Court of Arbitration for Sport and its Global Jurisprudence: International Legal Pluralism in a World Without National Boundaries*, 30 *Ohio St. J. on Disp. Resol.* 1, 7 (2014).

52 James A.R. Nafziger & Stephen F. Ross, *Handbook on International Sports* (2011).

53 For more information related to the difficulties of host countries in filing suit against an international organization, sport-related or not, *see* August Reinisch, *Challenging Acts of International Organizations Before National Courts* (2010).

held accountable for harmful socio-environmental legacies? The international acclaim that the IOC and FIFA have received creates conditions in which these mega-parties are awarded the freedom to overwrite domestic and international law. Nevertheless, international dissent could likewise pressure FIFA/IOC families to enact a better future—the future most described in the bid.

## II. Cruel Optimism, Ecological Devastation, and (Eco-Assisted) Removal

In the introduction to his book, “Tropic of Chaos,” Christian Parenti wrote: “If at first glance you expected a lesson about the future, in fact you are holding a book of history. From understanding the past, we can better analyze both the present and the dangerous future ahead.”<sup>54</sup> Histories of colonial-capitalist expansion cannot proceed without state-sanctioned extraction of (non)human nature. Maracanã Stadium, the celebrated site of 2014/2016 FIFA and Olympic mega-parties in Rio de Janeiro, Brazil, once housed a historic site for indigenous cultural recognition and celebration. Built in 1862 as home to Ludwig August de Saxe-Coburgo-Gotha, the Duque of Saxe, husband of Princess Leopoldina, second daughter of Dom Pedro II, an emperor of Brazil, it was donated to the Brazilian Ministry of Agriculture with the condition that it would serve as a hub for future urban indigenous communities. In 1910, the colonial mansion housed the Brazilian Indigenous Peoples Protection Service (SPI).<sup>55</sup> Without needed investment, it remained relatively derelict and abandoned until indigenous peoples and activist allies (re)appropriated the space in 2006 with the intention to convert it into an Indigenous University.<sup>56</sup> Located next to the national heart of Brazil—Maracanã Stadium—the mansion served as a communal site for indigenous culture known as Aldeia Maracanã (Maracanã Village). Despite peaceful congregation, the people, colonial mansion, and adjacent garden faced constant threat of eviction—first, for a metro station and then, prior to the 2014 FIFA World Cup, an ambitious renewal scheme, which would erect a mall and attendant parking lot.<sup>57</sup> Land once reserved for indigenous cultural activities was now

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54 Christian Parenti, *Tropic of Chaos: Climate Change and the New Geography of Violence* 11 (2011).

55 *Dancing With the Devil in the City of God: Rio De Janeiro and the Olympic Dream* (Touchstone Pictures 2015).

56 On October 20, 2006, the area became a permanent settlement of more than seventy people from seventeen different tribal communities. It remained a cultural set of indigenous celebration as well as habitation until March 22, 2013. See Jennifer Chisholm, *Forced Evictions and Black-Indigenous Land Rights in the Marvelous City*, 4 *Brasiliana* 513 (2016).

57 See Gabriel Marvasi, *Aldeia Maracanã*, Vimeo (2012), <https://vimeo.com/44355660> [<https://perma.cc/9XRC-QZMS>]; see also David B.J. Dhert, *We Must Be Dreaming*, 21 *J. Anthropological Films* 1494 (2018).

at the discretion of the Lei Geral da Copa (General Federal Law 12.633/2012) which, as discussed above, afforded the international sport federation enormous power in local construction.<sup>58</sup> While the mansion has yet to be bulldozed, people were evicted without judicial order in March 2013, and the garden was paved.<sup>59</sup> While access to the mansion is now denied and police personnel are a routine fixture at the historic site, indigenous communities remain committed to the maintenance and preservation of the garden and diverse Brazilian ethnicities. With mattock in hand, dispossessed/displaced indigenous peoples work to (re)habitat the area, reforest concrete, and resuscitate the land in order to let the Earth and indigenous life breathe again.

The current (re)appropriation of Aldeia Maracanã has occurred amid an unsettled dispute between municipal and federal authorities. In Rio de Janeiro, not unlike much of the world, urban indigenous communities struggle to obtain land title or ownership from the municipal government. Municipal policies dictate that indigenous peoples have no entitlement to state-owned land. However, the Brazilian Federal government does recognize their right through “native” or “aboriginal title,” i.e., the right to live on but not own land. The incongruence between municipal and federal law has formed the basis of a lawsuit through which indigenous peoples and activist allies intend to reaffirm the conditional right to cultural activities and urban farming.<sup>60</sup> The eviction at Aldeia Maracanã should be contextualized within histories of rural-urban migration of indigenous peoples—migration which has paralleled processes of urbanization and associated favela proliferation.<sup>61</sup> Intimately illustrated in the work of Parenti, chaotic and

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58 Importantly, although the term “indigenous” is used, it is intended to denote the multiplicities of ethnicities that assembled on the land—including Guarani, Pataxó, Kaingangue, and Guajajara—in search of a new home within the urban network.

59 See Fernanda Canofre, *Why A 62 Year Old Brazilian Indigenous Leader Spent 26 Hours in a Tree*, Global Voices (Jan. 10, 2014), <https://globalvoices.org/2014/01/10/why-a-64-year-old-brazilian-indigenous-leader-spent-26-hours-in-a-tree/> [<https://perma.cc/AB89-Q5L8>]; Fernanda Sánchez, *Remoção forçada da Aldeia Maracanã: Não é assim que se faz uma Copa do Mundo*, Blog Raquel Rolnik (Mar. 23, 2013), <https://raquelrolnik.wordpress.com/2013/03/22/remocao-forcada-da-aldeia-maracana-nao-e-assim-que-se-faz-uma-copa-do-mundo/> [<https://perma.cc/Z4X6-JWD>], translated in Jason Yu, *Forced Eviction of Aldeia Maracanã: How Not to Make a World Cup*, RioOnWatch (Mar. 23, 2013), <http://www.rioonwatch.org/?p=7962> [<https://perma.cc/2MEM-ULEG>]; Simon Romero & Taylor Barnes, *Police Storm Squatters at Rio Stadium Site*, N.Y. Times, Mar. 22, 2013, [https://www.nytimes.com/2013/03/23/world/americas/brazilian-police-storm-indigenous-squatters-at-maracana.html?\\_r=0](https://www.nytimes.com/2013/03/23/world/americas/brazilian-police-storm-indigenous-squatters-at-maracana.html?_r=0) [<https://perma.cc/6QAW-NHRA>].

60 See Eduardo Alberto Cusce Nobre, *Sports Mega-Events and Urban Legacies: the 2014 FIFA World Cup, Brazil* (2017).

61 Environmental crises should never evade the mention of assimilation (*mestiçagem* in Portuguese) strategies—e.g., displacement, disease, religious conversion, sexual violence—that also compelled

extreme weather—prolonged drought punctuated by violent flooding—has come to characterize life in Brazil, specifically in the Northeast. Histories of colonization—agricultural modernization, oil extraction, and deforestation—have combined to wreak environmental havoc, displace rural families from farmland, and fuel (in)formal construction and land occupation across Brazilian megacities.<sup>62</sup> The Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report in 2007 asserted that an increase in El Niño-type climate crises in Latin America has caused prolonged and severe drought in semi-arid Northeastern Brazil and associated rural-urban migration and disease.<sup>63</sup> Amidst perpetual environmental crises—which are not dissimilar to processes spurred in event construction—contestation and colonial continuities intensify. Unlike Latin American countries such as Mexico and Bolivia, Brazil never experienced a revolution to redistribute ownership of the feudal landed oligarchy and impose land reform.<sup>64</sup> The military dictatorship that ruled from 1964–1985 brought a government-backed program of rapid modernization in agriculture, but failed to include proper land redistribution.<sup>65</sup> In 1940, approximately fifteen percent of the Brazilian population lived in cities.<sup>66</sup> In 1970, fifty percent of the Brazilian population lived in cities and eighty

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indigenous communities to relocate. Assimilation strategies occurred throughout Brazil and mimicked those across European-white settler colonies throughout North America/Turtle Island. See Jan Hoffman French, *The Power of Definition: Brazil's Contribution to Universal Concepts of Indigeneity*, 18 Ind. J. Glob. Legal Studs. 241 (2011).

62 In the context of Brazil, São Paulo and Rio de Janeiro are the two cities that meet this criterion—although the involvement of foreign investment in local enterprise and urban infrastructure has contested the global status of these cities. See Alan Gilbert, *World Cities and the Urban Future: The View from Latin America*, in *Globalization and the World of Large Cities* 174 (Lo Fu-chen & Yue-man Yeung eds., 1998).

63 Graciela Margin et al., *Latin America, in Climate Change 2007: Impacts, Adaptation and Vulnerability, Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* 585 (M.L. Parry et al. eds., 2007).

64 Estado Novo, an initiative of the President Vargas regime (1930–1945), did not emancipate rural communities from the feudal world, but rather adjusted the political economy of agriculture and thus strengthened agrarian capitalism. Robert M. Levine, *Father of the Poor: Vargas and His Era* (1998); Parenti, *supra* note 54, at 161 (discussing agricultural-capitalism and imposed land reform).

65 See Peter P. Houtzager, *State and Unions in the Transformation of the Brazilian Countryside, 1964–1979*, 33 Latin Am. Res. Rev. 103 (1998).

66 F.E. Wagner & J.O. Ward, *Urbanization and Migration in Brazil*, 39 Am. J. Econ. & Soc. 249, 249 (1980).

percent in 2011.<sup>67</sup> To date, three percent of the population owns approximately two-thirds of all farmland.<sup>68</sup> The (re)appropriation at Aldeia Maracanã by indigenous communities in 2006—the site that rendered colonial resistance in literal stone—is connected to and, indeed, representative of centuries of forced displacement and removal that are intensified amid climate/event crises. These histories create the conditions in which state-sanctioned extractive industries rationalize the eviction of racialized communities—in an attempt to realize “Order and Progress” (as embroidered on the national flag).

With the continued interest to bid/host mega-parties, sport has been now been resourced as the latest tool of colonial-capitalist expansion. In the context of Brazil, with the bid to host two consecutive mega-parties, sport has been redressed as the latest tool of resource extraction. Previous literature has noted the connection between sport and corporate environmentalism, especially that which has positioned the sport mega-event as a facilitator of “sustainable” development. David Chernushenko (1994) was the first environmentalist to propose a model for ecologically sustainable development for sport and recreation management, which was criticized for its notable appeal to financial interest. Despite criticism, the IOC—due to eco-driven protests in Denver (1974), Toronto (1989), and Rome (1997)—amended the Olympic Charter in 1991 to reflect the Chernushenko model.<sup>69</sup> The language of sustainable development has continued to reverberate throughout the Olympic Charter. The IOC also created the Olympic Games Impact Study (OGI) to evaluate the economic, social, and environmental legacies of Olympic construction.<sup>70</sup> Nevertheless, despite the claimed commitment on behalf of the IOC/FIFA, 2014/2016 construction embraced a form of “creative destruction”<sup>71</sup> wherein structural/institutional ideologies facilitated a form of development that was destructive

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67 Luana Gama Gato & Noel B. Salazar, *Constructing a City, Building a Life: Brazilian Construction Workers' Continuous Mobility as a Permanent Life Strategy*, 13 *Mobilities* 1 (2018); Parenti, *supra* note 54, at 161.

68 Parenti, *supra* note 54, at 161.

69 Helen Lenskyj, *Green Games or Empty Promises? Environmental Issues and Sydney 2000*, Int'l Ctr. for Olympic Studies 173, 174 (1998).

70 See *What is the Olympic Games Global Impact Study?*, in *Olympic Rev. 2006: Official Publication of the Olympic Movement* (2006), [https://stillmed.olympic.org/Documents/Reports/EN/en\\_report\\_1077.pdf](https://stillmed.olympic.org/Documents/Reports/EN/en_report_1077.pdf) [<https://perma.cc/8NMF-8362>].

71 David Harvey, *Neoliberalism as Creative Destruction*, 610 *Annals Am. Acad. Pol. & Soc. Sci.* 21 (2017).



in nature. The construction of a 40,000-seat stadium in the middle of the Amazon<sup>72</sup> to the development of a golf course on environmentally-protected land<sup>73</sup> and the denial of mandatory environmental analyses occurred despite evidence of eco-devastation.<sup>74</sup> Whether sport-prompted or not, these processes inscribe a particular landscape and citizen into the “modern” mind—and ultimately, possibilities for the future.<sup>75</sup> To this incessant pursuit of creative possibilities for development, and the associated destruction, are built-in strategies of sustainability, so eloquently argued in the work of Rachel Carson, that local authorities and the scientific world would be better suited to observe than intervene in the absence of further knowledge.<sup>76</sup>

In such a context, we witness the rapid rise of the *Aedes aegypti* and *Aedes albopictus* mosquitoes, which now host and transmit Dengue, Chikungunya, Zika, Mayaro, and other viruses. Prior to the 2016 Olympic Games, the World Health Organization declared a public health emergency for Zika, a mosquito-borne virus that can result in severe birth defects for unborn babies in utero.<sup>77</sup> Central and South American countries were identified as the proverbial ground zero. Panic ensued, and the global media demanded the event be cancelled.<sup>78</sup> The heightened attention directed to the virus—transmitted through the bite of an infected mosquito, pregnancy, sex, and/or blood transfusion—generated acute fear of transmission through “deviant” contact with racialized and sexualized “underdeveloped” women.<sup>79</sup> However, the focus on low-income

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72 Juan Miguel Kanai, *Capital of the Amazon Rainforest: Constructing a Global City-region for Entrepreneurial Manaus*, 51 *Urb. Studs.* 2387 (2013).

73 Christopher Gaffney, *Between Discourse and Reality: The Un-Sustainability of Mega-Event Planning*, 5 *Sustainability* 3926 (2013).

74 Corrarino, *supra* note 31.

75 See, e.g., Wendy Brown, *Undoing the Demos: Neoliberalism’s Stealth Revolution* (2015).

76 RACHEL CARSON, *SILENT SPRING* (1962).

77 Prior to Olympic travel (August 2016), the causality between ZIKV and microcephaly was repeatedly discussed in travel/event material and scientific literature. See Neil M. Ferguson, *Countering the Zika Epidemic in Latin America*, 353 *Sci.* 353 (2016).

78 See A.L. Caplan & L.H. Igel, *Zika Outbreak Means it is Now Time to Cancel Rio Olympics*, *Forbes* (Feb. 3, 2016), <https://www.forbes.com/sites/leeigel/2016/02/03/zika-outbreak-means-it-is-now-time-to-cancel-rio-olympics/#4e3d757e22db> [<https://perma.cc/74BK-TPWN>].

79 Even after the event, it is advisable that people “avoid sexual intercourse if traveling in such an area or if one partner is infected with ZIKV.” Raj K. Singh et al., *Prevention and Control Strategies to Counter Zika*

women, as carriers of ZIKV and the associated congenital disease known as microcephaly, distracted attention from the violence enacted on local land: processes of extraction from an already limited natural reserve by multi-national companies for profit, without any consideration for—and in flagrant abuse of—host communities. In the case of Brazil, there have been untold environmental damages that resulted in water and air pollution, deforestation, accumulated sewage, garbage and flood water, as well as soil contamination.<sup>80</sup> These all contribute to the proliferation of the *Aedes* mosquito.<sup>81</sup> Scientific and technological advancement and the associated extraction of resource material were called on to save the harmful outcome of eco-destructive development. Often referred to as “ecological modernization,” this is a response to ecological collapse that is known to prioritize economic fantasies in lieu of environmental realities. Ecological modernization has been the chosen response to the ZIKV in the Global South. Oxitec, based in Britain, genetically engineered a mosquito to sterilize the *Aedes* population.<sup>82</sup> Prior to the 2016 Summer Olympic event, the Intrexon Corporation stock spiked (\$9.09 to \$31.79) due to the announcement that Oxitec had created a “proven, practical, and ready-to-deploy” tool to combat the virus.<sup>83</sup> These newly-developed

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*Virus, A Special Focus on Intervention Approaches Against Vector Mosquitoes—Current Updates*, 9 *Frontiers in Microbiology* 87, 101 (2018). Prior to the event, medical authorities and interested media in the Global North advised the avoidance of sexual contact with those in marked ZIKV-saturated territories whilst authorities in Latin America recommended women use a condom and postpone pregnancies. Press Release, World Health Organization, *Zika Virus and the Olympic and Paralympic Games Rio 2016* (May 12, 2016) <http://www.who.int/news-room/detail/12-05-2016-zika-virus-and-the-olympic-and-paralympic-games-rio-2016> [<https://perma.cc/33KS-CKBT>]; Uri Friedman, *A Country Without Babies*, *The Atlantic*, Feb. 1, 2016, <https://www.theatlantic.com/international/archive/2016/02/zika-pregnancy-latin-america/433980/> [<https://perma.cc/6XFY-VACV>]. Due to the limited access to contraception, criminalization of abortion, and dominant Evangelical religious sensibilities, it seemed ironic that authorities would seek to further isolate female reproductive and sexual behavior rather than focus on the link between precarious infrastructure and virus transmission. See Mónica Roa, *Zika Virus Outbreak: Reproductive Health and Rights in Latin America*, 387 *Lancet* 843 (2016).

80 Rodrigo Machado Vilani & Carlos José Saldanha Machado, *The Impact of Sports Mega-events on Health and Environmental Rights in the City of Rio de Janeiro, Brazil*, 31 *Cadernos Saude Publica* 39 (2015).

81 It is estimated that precarious water storage, combined with uncontained or collected trash, has caused a proliferation of the *Aedes* (*Stegomyia*) mosquito in Brazil. Marcondes & Ximenes, *supra* note 6.

82 Oxitec Limited (established in 2002) is a biotechnology company that provides solutions for controlling insects that spread diseases and damage crops. It is now also a member of the transnational corporation Intrexon. See Oxitec, <http://www.oxitec.com/> [<https://perma.cc/42WK-H96Z>].

83 Brian Feroldi, *Why Intrexon Stock Rose 10.4% in June*, *Motley Fool*, July 10, 2017, <https://www.fool.com/investing/2017/07/10/why-intrexon-stock-rose-104-in-june.aspx?source=iedfolrf0000001> [<https://perma.cc/2UWL-BUF6>].

technologies were tested across Brazil without adequate knowledge of (future) impact.<sup>84</sup> We work against this framework in an attempt to subvert realities of manmade environmental devastation/destruction through the treatment of “ecological modernization” as cruel optimism for the environmentalist; it is the promise or attachment that will inhibit/threaten the condition needed to flourish.<sup>85</sup>

### III. Case Study: 2016 Olympic Host Communities of Rio de Janeiro, Brazil

Soon after the scientific-medical communities in the Global North denounced the 2016 Olympic event, crisis ensued. High-profile cisgender men and women withdrew from the competition, with reference to the uncertainties related to the Zika virus. Companies (such as Nobitech) created expensive Zika-proof fitness apparel to protect from potential infection.<sup>86</sup> As Amir Attaran, scientist and lawyer from the University of Ottawa, wrote in the *Harvard Public Health Review*: “Brazil’s Zika problem is inconveniently not ending. The outbreak that began in the country’s northeast has reached Rio de Janeiro, where it is flourishing.”<sup>87</sup> The Aedes-borne disease threatened “the damaged or dead adults, and the babies for whom—and mark these coldly clinical words carefully—fetal brain disruption sequence is as terrible as it sounds, and extinguishes the hope of a normal life even before it has begun[.]”<sup>88</sup> He further criticized the IOC and World Health Organization for their failure to address the “foreseeable global catastrophe.”<sup>89</sup> In May 2016, the World Health Organization announced that “based on current assessment, cancelling or changing the location of the 2016 Olympics

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84 See Kelly Servick, *Brazil Will Release Billions of Lab-grown Mosquitoes to Combat Infectious Disease: Will it Work?*, *Sci. Mag.*, Oct. 13, 2016, <http://www.sciencemag.org/news/2016/10/brazil-will-release-billions-lab-grown-mosquitoes-combat-infectious-disease-will-it> [<https://perma.cc/9JRS-EU5W>].

85 Berlant, *supra* note 4.

86 See Matt Vasilogambros, *Zika-Proof Olympic Uniforms?*, *The Atlantic*, Apr. 27, 2016, <https://www.theatlantic.com/international/archive/2016/04/zika-proof-olympic-uniforms/480225/> [<https://perma.cc/53VG-KBND>].

87 Amir Attaran, *Off the Podium: Why Public Health Concerns for Global Spread of Zika Virus Means that Rio de Janeiro’s 2016 Olympic Games Must Not Proceed*, 10 *Harv. Pub. Health Rev.* 1, 1 (2016), <http://harvardpublichealthreview.org/off-the-podium-why-rios-2016-olympic-games-must-not-proceed/> [<https://perma.cc/7HLL8-TSLT>].

88 *Id.* at 5 (emphasis in original).

89 *Id.*

would not significantly alter the international spread of the Zika virus.”<sup>90</sup> The IOC echoed the WHO reaction to insist that there was no need to cancel, reschedule, or move the event, which reaffirmed the official statement released in January 2016.<sup>91</sup> This reaction further agitated Professor Attaran, who decried to the Associated Press, “[i]f the IOC and World Health Organization do not have the generosity of heart to delay the Games to prevent children from being born and disabled their whole lives, then they’re among the cruelest institutions in the world.”<sup>92</sup> Attaran remained staunchly committed to his stance that Brazil must be avoided—to medical authorities in the Global North, it appeared as though Brazil was the newest incubator of bioterrorism that threatened unborn children. Yet their panic failed to acknowledge the eco-damaged and displaced families already hampered by event construction.

Soon after this, medicalized panic ensued. The hyperathletic bodies often celebrated on the Olympic mainstage voiced similar concern and frustration related to the Zika virus. They deferred from travel and/or secured expensive Zika-proof apparel. Littered throughout the public discourse was the need to protect normative heterosexual families of the Global North.<sup>93</sup> Czech athlete Tomas Berdych said he refused to attend “[b]ecause the Zika virus spread in the country of the Olympics. As I have started a family recently . . . limit[ing] health risks towards my nearest is the utmost priority. I apologize to all of

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90 Press Release, World Health Org., WHO Public Health Advice Regarding the Olympics and Zika Virus (May 28, 2016), <http://www.who.int/mediacentre/news/releases/2016/zika-health-advice-olympics/en/> [<https://perma.cc/YF9X-44UC>].

91 *Olympics 2016: IOC Insists Games Will Go Ahead Despite Zika*, BBC News, May 11, 2016, <http://www.bbc.com/news/world-latin-america-36272502> [<https://perma.cc/8ZDW-CYJQ>]; Letter from Dr. Uğur Erdener & Dr. Richard Budgett, Int’l Olympic Comm. Med. & Sci. Dep’t, to U.N. Secretary General (Jan. 29, 2016), <https://worldarchery.org/news/136875/ioc-statement-zika-virus> [<https://perma.cc/R7LZ-QZPL>].

92 Maria Cheng, *Canadian Professor: Olympics Should be Postponed Due to Zika*, Associated Press, May 11, 2016, <https://apnews.com/5de5d8a5733a4c7696d808909e21b6dd/canadian-professor-olympics-should-be-postponed-due-zika> [<https://perma.cc/7K2R-UBJW>].

93 Those that publicly refused to participate in the event due to the threat Zika posed to the unborn child included: Jason Day (golfer), Dustin Johnson, Jordan Spieth, Rory McIlroy, Shane Lowry, Angelo Que, Vijay Singh, Charl Schwartzel, Branden Grace, Marc Leishman, Adam Scott, Louis Oosthuizen, Graema McDowell, Lee-Anne Pace, Tejay van Garderen (cyclist), Milos Raonic (tennis), Simona Halep, Tomas Berdych, Karolina Pliskova, and Robert Charles (Bob) and Michael Carl (Mike) Bryan. Greg Rutherford (GB long jumper) and John Speraw (US volleyball coach) both froze their sperm prior to travelling to Brazil. Hope Solo (US soccer player) and Jessica Ennis-Hill (heptathlon champion) expressed concern over the virus.

you who are disappointed by my decision. I wish the Czech team big success and I hope that I will soon be honored to defend the Czech national colors again.”<sup>94</sup> USA cyclist Tejay van Garderen also went on record to state, “[a]lthough the risks associated with the Zika virus can be minimal and precautions can be taken, my wife, Jessica, is pregnant, and I don’t want to risk bringing anything back that could potentially have an effect.”<sup>95</sup> Female soccer player Hope Solo defended those that refused to travel to Brazil in an interview with *Sports Illustrated* in which she stated, “[i]f I had to make the choice today, I wouldn’t go . . . I would never take the risk of having an unhealthy child.”<sup>96</sup> The partner of British track and field star, Gregory James Rutherford wrote, “[w]e’re not ones to worry unnecessarily, but after more than 100 medical experts stressed the Games should be moved to prevent the disease from spreading, this was a huge factor in us choosing to stay put. We’ve also made the decision to have Greg’s sperm frozen. We’d love to have more children and with research in its infancy, I wouldn’t want to put myself in a situation which could have been prevented.”<sup>97</sup> The proliferation of public fear appeared to implicitly privilege normative (hetero)sexual affinities and families, and continually reproduced dominant ideologies related to homogeneous-heteronormative futurities—fantasies of the “good” (Western and middle-class) mother-at-home and the liberated (athletic) father/savior of his future child and nation.

Meanwhile, in the haste to create FIFA/Olympic fantasies, a significant wave of neoliberal accumulation strategies erupted throughout host communities. In our work, we paid particular attention to the impact of such strategies on women involved in precarious (sexual) labour. In the context of Brazil, it is important to note that prostitution is a registrable profession, yet the activities that surround the sale of sex—such as operating a

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94 Luke Brown, *Tomas Berdych the Latest Star to Pull Out of the Rio Olympics because of Zika Virus Fears*, *The Telegraph*, July 16, 2016, <http://www.telegraph.co.uk/tennis/2016/07/16/tomas-berdych-the-latest-star-to-pull-out-of-the-rio-olympics-be/> [<https://perma.cc/HGP2-EGG4>].

95 Larry Fine, *US Cyclist Van Garderen Opts Out Of Rio Over Zika*, *Reuters*, June 2, 2016, <http://www.reuters.com/article/us-olympics-cycling-vangarderen/u-s-cyclist-van-garderen-opts-out-of-rio-over-zika-idUSKCN0YO2U6> [<https://perma.cc/VN3H-C5GM>].

96 Grant Wahl, *Solo: As of Now, I Wouldn’t Go to the Olympics over Zika*, *Sports Illustrated*, Feb. 9, 2016, <https://www.si.com/planet-futbol/2016/02/09/hope-solo-olympics-zika-virus-brazil> [<https://perma.cc/7XG3-P9B8>].

97 Nadia Khomami, *Greg Rutherford Freezes Sperm over Olympics Zika Fear*, *Guardian*, June 7, 2016, <https://www.theguardian.com/sport/2016/jun/07/greg-rutherford-freezes-sperm-over-olympics-zika-fears> [<https://perma.cc/97MY-SWML>].

brothel or employing a prostitute in any way—remain illegal.<sup>98</sup> Prostitution is thus better defined as a quasi-legal profession—vaguely defined, contextually enforced, and readily influenced by shifting public discourse, cash flow, and the willingness of parties to negotiate with local law enforcement.<sup>99</sup> The ambiguous nature of prostitution legislation and associated enforcement has allowed FIFA/IOC exceptionalism to take hold.<sup>100</sup> The most egregious example of state intrusion was observed in the violent eviction of more than 300 women from their residence/place of employment.<sup>101</sup> As often the target of urban renewal strategies, we were anxious that the known revanchist logic of the sport mega-event would conflate with medical anxieties to further displace and dispossess local women involved in sexual commerce.<sup>102</sup> Still active in the field, the first author examined the precariously sexualized “global” image of Rio de Janeiro, Brazil, and the construction of the nation-state in/through sexual commerce. Through the collection and analysis of ethnographic data and relevant literature, the context-specific discursive construction of certain bodies as a classed, racialized, and sexualized Other became more apparent. Specifically, the representation of the sexually liberated woman positioned as both a celebrated national treasure yet, also, subjected to the vagaries of state discipline and regulation become more apparent. The status of the sex worker in the urban landscape was one of regulated (in)visibility—occasionally made hypervisible in the promotion of

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98 For further information related to the uneven enforcement of prostitution legislation in Brazil, see Submission from Davida Prostitution, Civil Rights and Health, to the U.N. Universal Periodic Review of Brazil, 3rd Cycle, 27th Session of the Working Group on the Universal Periodic Rev. Hum. Rts. Council (May 2017), <http://www.nswp.org/sites/nswp.org/files/UPR%20Submission%2C%20Davida%20-%202016.pdf> [<https://perma.cc/7VV2-GX7F>].

99 Susan Dewey & Patty Kelly, *Policing Pleasure: Sex Work, Policy and the State in Global Perspective* 130–45 (2011).

100 The sport mega-event has been known to demand political, economic, and social exceptionalism through the blatant disavowal or reconfiguration of local legislation. This was evident in 2014 and 2016 Brazilian host cities for the FIFA World Cup and the Olympic Games, respectively, but it has also occurred across other former host countries as well (such as South Africa, Australia, Italy, Greece, Canada, England, etc.). Those who have written on the exceptional nature of the sport mega-event often cite the work of Italian philosopher Giorgio Agamben. See, e.g., Jon Coaffee, *The Uneven Geographies of the Olympic Carceral: From Exceptionalism to Normalisation*, 181 *Geographical J.* 199 (2015); Fernanda Sánchez & Anne-Marie Broudehoux, *Mega-events and Urban Regeneration in Rio de Janeiro: Planning in a State of Emergency*, 5 *Int'l J. Urb. Sustainable Dev.* 132 (2013); Scarlett Cornelissen, *The Geopolitics of Global Aspiration: Sport Mega-events and Emerging Powers*, 27 *Int'l J. History Sport* 3008 (2010).

101 Laura Murray, *Victim Management and the Politics of Protection: Between Fazer Direito and Direitinho*, 18 *Revista Ártemis* 28 (2015).

102 G. Silvestre & N.G. de Oliveira, *The Revanchist Logic of Mega-events: Community Displacement in Rio de Janeiro's West End*, 27 *Visual Studies* 204 (2012).

an erotic Brazil propagated in transnational travel and leisure, yet simultaneously sequestered to the shadow. Due to the subsequent (bio)terror incited by the *Aedes* mosquito, we were interested in observing the extent to which Zika served as a new mechanism to further isolate and contain bodies repeatedly marked as contagion.

### A. Sovereignties Collide: Lived Realities of Ecological Devastation

The public health panic around Zika had (un)intended legacies for those involved in sexual commerce. The creative destruction of local communities triggered social, economic, and environmental disparities whilst the Zika outbreak worked to further rationalize the action of those who benefitted from the closure of historic sex businesses. The heightened concern reasserted the sex worker as diseased. Despite crises of contagion and associated travel advisories which targeted affluent-tourist classes of the Global North, women involved in sexual commerce—those positioned most at risk for infection and as the contagious Other—received little medical information. One sex worker named Mariana (age thirty-two, who identified as white [branca] and worked in a massage parlor [privé] downtown) commented:

I was scared. I have children, right. I have access to the Internet so I read whatever I could in Portuguese online, talked to people in my community but there was really little information for us. I understood it was more for pregnant women. I am a bit like Saint Thomas. I only believe what I see, and I never knew anyone born with microcephaly so I thought people just wanted to create panic. I have three children, and I still protect them. I even asked my daughter to be responsible: Administer repellent, be vigilant. At work, the boss left repellent in the kitchen. Whenever she saw a mosquito, she would freak out, so I used repellent a lot at work.<sup>103</sup>

The lack of reliable health information provoked criticism and distrust in state authorities, especially for those made to endure sanitation and infrastructure deficiencies that contribute to the proliferation of the *Aedes* mosquito. Furthermore, the risk of the disease added another dimension to (un)exceptional state violence and everyday duress. It was another moment in which the sex worker was made to feel helplessness in survival as she struggled to access the needed material to become informed and protected against infection. Most of the informational material produced en masse was available in a foreign language (English). Raíssa (age twenty-two, who identified as mixed race

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103 Interview with Mariana, sex worker in Rio de Janeiro, Brazil (Amanda de Lizio trans.) (emphasis added).

[morena/mulata] and worked in a *privé* downtown near the newly-renovated Olympic Boulevard) further echoed the remark of Mariana: “Of course, I was scared. I had little information and I sleep with a ton of men. I needed the money, so I had to work. I use a condom anyway—it is standard practice—so none of that changed.”<sup>104</sup>

While those from the Global North were advised to either postpone travel or reduce risk through mosquito repellent and/or protective apparel, S.C. Johnson & Son, a multinational manufacturer based in Wisconsin, partnered with the host committee to make Off!® insect repellent available to Olympic families, staff, and those within the Athlete Village.<sup>105</sup> Meanwhile, Raïssa could not afford to let the threat of infection intervene with her work schedule, especially amid the influx of tourism/business that the event was thought to occasion. Those that became ill and sought needed medical advice were still not informed about possible diagnoses, as is evident in the experience of Camila (age twenty, who identified as black [preta] and worked in a *privé* downtown):

I had a virus but no one knew what it was because I didn't have blotches all over my body but I was aching everywhere. My body was in pain. I had the symptoms of Zika but the doctors couldn't figure it out. I went a week without being able to do anything around the house. But I still went to work. I use a condom. I have no interest in a child, and neither did any client. So yeah, I had to work.<sup>106</sup>

A number of the women interviewed also believed they were infected with the Zika virus, even if not definitively diagnosed. It was likewise common for women to share stories of a colleague, neighbor, friend, and/or close relative that was also symptomatic with an illness perceived to be Zika, i.e., similar to, but different from, Chikungunya and Dengue viruses. At the same time, several state-funded health facilities were forced to close and/or withhold staff salaries amid the health epidemic due to political corruption and associated debt.<sup>107</sup> As Artes (age thirty-three, who identified as white [branca] and worked in a *privé* downtown) commented:

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104 Interview with Raïssa, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.) (emphasis added).

105 David Wharton, *Amid Virus Outbreak, 2016 Summer Olympics Name an Official Insect Repellent*, L.A. Times, July 6, 2016, <http://www.latimes.com/sports/olympics/la-sp-sn-olympic-insect-repellent-20160706-snap-story.html> [<https://perma.cc/JY7L-MPYK>].

106 Interview with Camila, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.).

107 Terry McCoy, *Why Brazil's Post-Olympics Hangover Will Hit So Hard*, Conversation, July 31, 2016, <https://theconversation.com/why-brazils-post-olympics-hangover-will-hit-so-hard-61488> [<https://perma.cc/>].



Yellow Fever, Zika, it's ridiculous. It's 2017 and we're dealing with diseases that are so banal. My God, it's ridiculous. I got Chikungunya last year. I had to keep working but I was walking like an old lady. I hurt everywhere! I couldn't stretch my hands; my feet were bloated like I was pregnant. Everything hurt, it was terrible. The problem is lack of hygiene, there's no other word for it: Stagnant water, junk strewn everywhere, lack of hygiene. It's not your fault. It's the fault of the guy who throws garbage in the street.<sup>108</sup>

Everyday realities reinforced the need to address lack of sanitation and infrastructural deficiencies that were overlooked in event construction yet placed the emphasis on the individual to be the sole caretaker of health. Artes' remarks illustrate that there is a refusal to fault colonial-capitalist development itineraries which fail to consider the impact on local ecologies and create an environment in which *Aedes* mosquitoes flourish. Likewise, for Bella (age twenty-six, who identified as black/brown [morena-escura] and worked in nightclub downtown), the outbreak conveniently forced communities otherwise marked as unhygienic, unsanitary and/or diseased to attend to healthification strategies para Inglês ver [for the English to see]. She commented:

People don't take Dengue seriously. Then Zika came along, and everyone started to worry. Cleaning their house, the tires in the street [potential spot for water to collect], and cleared trash around their yard and neighborhood. Everyone felt like "Shit, now I have to take care of this!" And we did, because we heard people died!<sup>109</sup>

Despite the citizen-led effort to sanitize communities (and the bodies within) marked as contagious, Olympic families were shuffled through the more celebrated communities of the internationally-recognized metropolis—from the affluent Barra da Tijuca to the infamous Copacabana and the newly-built Porto Maravilha. It became evident that mega-

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GJ2Y-X5QE]; Stephanie Nolen, *A Farewell to Brazil, Country of Broken Dreams*, *Globe & Mail*, Oct. 5, 2018, <https://www.theglobeandmail.com/opinion/article-a-farewell-to-brazil-country-of-broken-dreams/> [<https://perma.cc/QD78-Q2UX>]; María Martínez, *Post-Olympic Rio De Janeiro Faces Mounting Unrest as Austerity Bites*, *El País*, Nov. 26, 2018, [https://elpais.com/elpais/2016/11/16/inenglish/1479295864\\_349565.html](https://elpais.com/elpais/2016/11/16/inenglish/1479295864_349565.html) [<https://perma.cc/H7MF-QWBQ>].

108 Interview with Artes, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.).

109 Interview with Bella, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.).

parties could continue despite mega-disparities and the ecological destruction IOC/FIFA-sanctioned development occasioned. At the same time, entrepreneurial businesses resourced the ethos of individual responsibility to profit from mosquito repellent now needed in the Brazilian winter. Leticia (age twenty-five, who identified as light brown [morena-clara] and worked in a *privé* downtown) commented on the noticeable increase in price:

One bottle of repellent went for R\$19.90 and went to R\$49.90. Some people charged R\$80 per bottle. They said—and I am not sure if this is true but that the distributor tripled in price because of the high demand. No one was about to miss the opportunity, right? When it got expensive, I stopped buying it. I couldn't afford to keep buying super expensive repellent, so I ran the risk.<sup>110</sup>

Another woman, Fernanda (age thirty-seven, who identified as white [branca] and worked in *privé* downtown) also refused to purchase expensive repellent and created her own ZIKV-home remedies: “The whole time I made homemade repellent from cinnamon, alcohol gel, cloves and I used that on my son. Even sent him to school with it for his class. Johnson [brand name] didn't make a cent off me! [Laughter].”<sup>111</sup>

As the seasoned recipient of harmful ecological legacies, Fernanda is accustomed to individual action—not dependent upon a state that has only ever discretionarily afforded her access to basic necessities. In the aftermath of the 2016 Olympic event, concern seemed to dwindle, despite the fact that it was soon the Brazilian summer/mosquito season. The diminished media attention reified the view that affluent-tourist classes and transnational corporate entities were invested in the virus to the extent that it jeopardized global-parties, heteronormative fantasies, and uncharted capitalist terrain (i.e. through the development of supposedly undeveloped land and new technologies needed to overcome environmental chaos and disorder). While even in the midst of outbreak, women remained more concerned with the uncertainties that already plague survival in everyday urban life. As one woman poignantly noted: “Apparently, it was an outbreak. People were certainly scared. But look, I mostly think it was invented. The Olympics left, and it took Zika with it! [Laughter].”<sup>112</sup>

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110 Interview with Leticia, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.).

111 Interview with Fernanda, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.).

112 Interview with anonymous woman, sex worker in Rio de Janeiro, Brazil (Amanda de Lisio trans.).

The legal impunity of a transnational corporation—something that is not unique to the sport mega-event but littered throughout histories of the transatlantic slave trade and the rise of extractive industries—has reified the inadequacies of person-centric law in the failure to responsabilize corporate entities for environmental and social damage.<sup>113</sup> The effort to prioritize the Western/Global North subject (i.e., “the [fictional] person of the law”) has conditioned an approach to all nonhuman entities (water, air, earth, animals, etc.) as objects of human resource, extraction, and domination.<sup>114</sup> It is this failure to recognize the agentic capacities of all (non)human entities and the (inter)human connection that will continue to obscure the ethical responsibilities of a corporate actor and perpetuate anthropocentric crises, such as that known in the outbreak of newfound viruses. Through the realities of those most connected to and afflicted by environmental injustice, we attempt to trouble traditional ontologies that dominate Western law and thought to illustrate the manner in which human and nonhuman entities have (and will continue to) strike back, even if their agentic capacities are repeatedly denied.<sup>115</sup> Indigenous/postcolonial approaches to law and life that de-center the human prioritize place-based ethical duties to restore the once harmonious interconnectedness of human and nonhuman life.<sup>116</sup> In this work, we aimed to make known the network/assemblage between law, land, and entrepreneurial-opportunistic people.

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113 As Valverde argues, “[c]riminal law, in the common law tradition and in civil codes as well, has always relied on a certain ontology of agency that privileges the Western individual subject (seen through a Christian lens for many centuries, and more recently through a psychological lens that still bears many traces of Christian theories of the soul). The strong link between criminality and the soul/self makes it difficult to responsabilize entities and networks that have powerful effects but that cannot easily be identified with or reduced to the willed acts of particular individuals.” Mariana Valverde, *From Persons and Their Acts to Webs of Relationships: Some Theoretical Resources for Environmental Justice*, 68 *Crimes L. & Soc. Change* 547, 550–51 (2017).

114 As written in the work of Heidegger, the aggressive pursuit of technological advancement has manifested mostly in the degradation and related destruction of our ecosphere in that modern technology is an ontological approach to the world that does not prioritize a compassionate reveal but rather an effort in domination—e.g., the forest is not revealed as home, comprised of interdependent ecologies, but a resource material to be mined, forested in the production of pulp, paper, etc. Brian Pronger, *Body Fascism: Salvation in the Technology of Physical Fitness* (2002).

115 Carson, *supra* note 76.

116 Susan Hill, *The Clay We Are Made Of: Haudenosaunee Land Tenure on the Grand River* (2017); Sandy Grande, *Red Pedagogy: Native American Social and Political Thought* (2015); Robin Wall Kimmerer, *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the Teachings of Plants* (2013); Kathleen Wilson, *Therapeutic Landscapes and First Nations Peoples: An Exploration of Culture, Health and Place*, 9 *Health & Place* 83 (2003).

## CONCLUSION: LAW, LAND, AND THE NEED TO RECALIBRATE ECOLOGICAL JUSTICE

As we recognize that Western law is ontologically human-centric and that it has subsequently failed to responsabilize corporate entities (which exist in perpetual succession) for the involvement in social and environmental devastation, we fail to acknowledge the interconnectedness of land and legal discourse in the constitution of (socio-political) subjectivities. As Jan Hoffman French has described, in the context of Brazil, the emergence of indigenous self-identification is linked to the struggle for land—that is, the need to shift from categories without legal title/right (i.e., in the case of mestizo or caboclo) to one with legal title/right (i.e., Indian).<sup>117</sup> To the extent that certain identities are created in political struggle via the appropriation of legal/land title, we acknowledge similarities between the displacement of racialized minorities and those involved in sexual commerce—particularly in the shift from self-identification as victim (without title) to registrable worker (with title to safe labor, health care, worker compensation, etc.). Whereas the displacement of indigenous communities at Aldeia Maracanã in March 2013 incited collective action, so too did the displacement of sexual minorities. It mobilized (trans)local communities. Those involved in the indigenous dispute and (sex) worker resistance forged political subjectivities in the struggle for land and the subsequent right to the city. The resistance movement called for the global recognition of colonial violence and saw it as not exceptional to the sport mega-event, but integral to development strategies that prioritize economic fantasies in lieu of socio-environmental consequence. This is precisely the work needed to contend with cruel optimism or the current attachment to policies and processes of modernization that fail to adequately, even authentically, attend to the environmental collapse endured now and in the immediate future.

In such a context, the agentic capacities of the environment also created a response—in the form of a mosquito—to the perpetual degradation of local ecologies. Yet the failure of the IOC (and relatedly, FIFA), and those who perpetuate event construction in the absence of a more sustainable development approach, to recognize the possible link between the emergence of the *Aedes aegypti* and *Aedes albopictus* mosquitoes and the continual degradation of local ecologies through mega-reform for sport is further evidence of Western/Global North person-based approaches to legal and political

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117 Caboclo is the term used to denote an ethno-racially mixed population/individual believed to have some indigenous heritage without a named tribe recognized in law. See Jan Hoffman French, *Mestizaje and Law Making in Indigenous Identity Formation in Northeastern Brazil: After the Conflict Came the History*, 106 *Am. Anthropologist* 663 (2004).

thought. As we note above, within such a context, no one can be held accountable for the (re)emergence of harmful mosquito-borne viruses or for the subsequent economic and/or environmental crises within host cities. Despite the touted commitment to build “sustainable” facilities, the IOC (and FIFA) have not been made accountable for the anthropocentric crises such parties occasion. Even with evidence of ecological devastation linked to mega-construction, will it ever be possible to realize justice for the environment?<sup>118</sup> This is an important question that will, and should, haunt future development strategies, especially those linked with the sport mega-event and/or other related extractive industries of mega-reform. The second related issue is whether an emergence of a transnational autonomous legal order might occasion the needed avenue to rearticulate, indeed transform, the current (Western) legal and political framework that has yet to abandon the myth of the sovereign individual—rational, modern, individualistic—believed to dominate/control nature to one that would prioritize the profound ecological foundation upon which all human and nonhuman life is sustained.

In this article, we work to extend the discussion of the IOC (and FIFA) as a model of transnational autonomous legal order to one that can better account for the problematic relationship between event construction, local ecologies, and everyday people. Specifically, we shift focus from a discussion of the dominant (person-centric) legal and political thought to one that can better account for the broader ecologies that collide and interrelate via the incessant movement of mega-parties to the Global South in the absence of an informed protocol to confer labor/environmental regulation. To such an extent, we detail the reaction from the Global North that further demonized bodies and communities in the Global South as contagion without consideration for colonial complicities in development strategies. The North American athlete could decide to not participate in the event, one week prior to competition, and be freed from (fear of) future infection. This is reflective of person-based approaches to law in which the (affluent) athlete/subject/agent is able to avert blame—and shamelessly disregard her/his contribution to crises elsewhere. If jurisprudence were to adapt a more assemblage-based approach, and better recognize the role of all (non)human entities, there could be a more thorough appreciation for the extent to which sport-prompted development has bred new and innocuous

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118 Similar to the sport mega-event, it is difficult to responsabilize those involved in extraction industries to such an extent that Meyer has referred to the selective enforcement of trade law as demonstrated in the environmental context, such as with the uneven regulation of renewable energy in comparison to that of energy produced from fossil fuels. The mere existence of international (environmental) treaties does not ensure enforcement, much like the existence of the IOC Sustainability Strategy does not confer the safe construction of sustainable facilities. In any case, government policies are incentivized to attract future business and thereby mitigate any potentially regulatory apparatus. Timothy Meyer, *Free Trade, Fair Trade, and Selective Enforcement*, 118 Colum. L. Rev. 491 (2018).

viruses—the type of appreciation needed to better address the erasure of so-called deviant bodies. In this article, we work to illustrate the clash of sovereignties through the reaction of local host communities, particularly from the perspective of local women involved in sexual commerce. We do this to insert realities of those—similar to land, air, water, etc.—whose agentic capacities are often dismissed and/or silenced from legal and political thought. While the constant dispossession and displacement of racialized and sexualized minorities in everyday urban life does little to avert destructive development, women still cultivate an avenue to realize economic opportunities. Likewise, even though the environment is repeatedly silenced in development strategies, which refuse to recognize the self-determination of land, water, air, etc., nature will continue to strike back.