Title

Rhetoric or Practice: The Case of Human Rights and the International Olympic Committee

Introduction

The International Olympic Committee (IOC), a non-governmental organization, was founded in 1894 by the French Educator Barron Pierre de Coubertin, and it is the world’s leading organization of the modern Olympic and Sport Movement. Furthermore, The IOC is the final authority of the Olympic Movement and many of the legislative functions are assumed by the IOC Executive Board, which is responsible for enacting all regulations required for the full application of the Olympic Charter (IOC, 2014, section 1, par. 1). The Olympic Movement comprises of “organizations, athletes and other persons who agree to be guided by the Olympic Charter” (IOC, 2004, chapter 1 (1)).

Since 1996, the annual Olympic Charters of the IOC have declared that, “the practice of sport is a human right” and “Olympism” seeks to create a way of life based on the joy of effort, the educational value of good example, social responsibility and respect for universal fundamental ethical principles” (IOC, 1996, Principles 1 & 4).

Moreover, in 2011, the UN Human Rights Council adopted the Resolution entitled ‘promoting awareness, understanding and the application of the Universal Declaration of Human Rights (UDHR) through sport and the Olympic ideal’ (HRC, 2011). This connection signifies the importance of sport both as a human right and a means to promote human rights.
However, while the practice of sport as a human right appears to exist “in Law” within the IOC’s founding document, it is much less present or visible “in fact”. In addition, there is an absence of precision in the meaning and practice of sport as a human right which makes the implementation and compliance of sport events and programs by governments/federations towards the realization of sport and the Olympic Ideal itself as a human right, nearly impossible.

In response to controversy, there have been critiques that are mainly focusing on the organization of the Olympic Movement and a seemingly overlapping modern movement of sport for development and peace and its organization through the IOC. Based on this focus there are three main critiques:

The first critique identifies the role of the modern movement of sport for development and peace, in general, and its organization through the IOC, in particular to be highly controversial with regard to their contribution to peace and development at the international level (Coalter, 2010; Giulianotti, 2011; Levermore, 2008). More specifically, the use and practice of sport, has been recognized and considered as a tool for development and peace by positively contributing towards global issues, such as health, education, economic development, gender equality, environmental sustainability, international relations and peace (Giulianotti & Armstrong, 2010; UN Inter-Agency Task Force on Sport for development and peace, 2003; Schlenkorf & Sugden, 2011; UNOSDP, 2015). However, it has been argued that such wide assertion of potential contribution of sport to all those dimensions of development in this particular state of practice, involves a number of risks. These risks include, ignorance of wider socio-political contexts within which sport for development operates, seeking to address wide-scale problems via limited focus interventions, and there is a heavy dependence on a range of aid agencies with frequent political and non-sporting interests (Coalter, 2010). It has been suggested, therefore, that sport for development and peace should be integrated in all dimensions of development with a focus on both social resources and individual empowerment as well as with an adoption of self-critical lenses (Kidd, 2008; 2011). Furthermore, adequate evaluation is considered to be the cornerstone for addressing the implied benefits of sports as well as the gaps in the knowledge related to development through sport (Levermore, 2008).

While the first critique is concerned with the overall relatively recent organization of sport for development and peace by multiple inter-governmental and
non-governmental organizations, by implicating the role of IOC, the second set of critiques identifies the connection between the IOC’s organization and its violation of human rights specifically. In particular, Hoberman (2011) argues that “the IOC cannot defend human rights, precisely because Olympians (e.g. IOC members) abhor the conflicts that inevitably arise when ethical principles and the political conflicts they produce are taken seriously by individuals and governments” (p.22). Further, he provides an analysis of facts that are indicative of the corruption, plutocracy and nepotism that exists among the inner cycle of the IOC, while at the same time points out that the global federations have served more as offshore enterprise zones rather than as humanitarian organizations or peacemakers as they present themselves as being (Hoberman, 1986; 2008; 2011). In fact, the selection of the IOC executives and the interchange of those same members for constituting the IOC ethics commission or Ad hoc committees is a result of non-external control or mechanisms of accountability that consequently provide space for corruptive engagement (Mason, Thibault, & Misener, 2006). Considering these fundamental problems within the relationship between principal-agents as exemplified among the IOC and IOC executives/members, it is apparent that corruptive and opportunistic practices are facilitated during the bidding process for hosting the Olympic Games as well (Mason, Thibault, & Misener, 2006).

Furthermore, the contractual and actual practices before, during and after the Olympic Games are often connected with capitalistic forms of conduct and expansion that are followed by deeply entrenched neoliberal policies (Giulianotti et al. 2014). Indeed, these practices appear to undermine or even negate the IOC’s “claim to advance the agenda of human rights” (Hoberman, 2011, p.22).

Despite the negative association of the modern Olympic Games with human rights violation and negations, there is also a third and more constructive critique that identifies the use of sport through international athletic events such as the Olympic Games as having the potential to combat human rights problems worldwide (Mastrocola, 1995). This capacity of achieving human rights through the Olympics Games’ organization is epitomized mainly by its contribution towards eradicating civil and political rights violations during apartheid in South Africa (Donnelly, 2008; Mastrocola, 1995). In this case, under legal coercion the IOC suspended the participation of South African athletes from the Olympic Games until South Africa renounced its apartheid policy (Mastrocola, 1995). Based on this case, it has been
further argued that the use of sport for protection against human rights abuses can contribute to the establishment of customary law within IOC’s international legal framework regarding settling disputes (Mastrocola, 1995).

However, the more recent human rights debates that were initiated with China’s bid for the 2008 Olympic Games have demonstrated the conflict that emerges between the IOC’s obligation to promote and protect human rights which is an aspiration of the Olympic Movement, and to apply the rule against exclusion for political purposes which would exclude political concerns from getting into the IOC’s decision making (Mastrocola, 1995; Kidd, 2010). The former has been seen as a rich opportunity to encourage intercultural dialogue and evaluation of human rights conditions, while the latter is seen as having as its focal point the podium of sport at an international level (Kidd, 2010).

These debates have also raised additional concerns such as the right to participate in sports, and sport and the human rights of specific classes of persons (Donnelly, 2008). The right to participate in sport and the achievement of human rights through sports are seen as coming together through human rights sports-based campaigns by particular groups of people such as people with disabilities, women, aboriginals and other racial minorities, working class, and low income groups (Donnelly, 2008).

Furthermore, the current literature regarding the connection between sport and human rights has solely identified the right to participate in sport either in the international conventions or as a possibility for action in the endorsement of ‘sport for all’ by the IOC and the Olympic charter (Donnelly, 2008; Kidd & Donnelly, 2000).

However, I would argue that this approach 1) tends to focus mainly on the predominantly abstract notions of a human rights discourse and 2) fails to identify the practice of sport as a human right (as it is enshrined the Olympic Charter and IOC’s Code of Ethics) with the international human rights law and thus with the obligations and responsibilities this entails.

Therefore this paper will (a) critically identify a precise framework for the practice of sports as a human right within the IOC’s legal/ethical document(s) and its inextricable connection with the international human rights law (b) identify and expose the non-compliance of this connection by analyzing current procedures of practical implementation of sports programs/events (c) reveal causal relationships between the IOC’s obligation to protect and promote human rights by analyzing both its positive and negative duties and (d) will provide potential avenues
for advocacy, organic transparency, and equity within and through the IOC structure.

1. **The legal status of the IOC and the legal provision of sport as a human right**

Through the International Olympic Committee, the Olympic Movement is considered to be “*the concerted, organized, universal and permanent action, carried out under the supreme authority of the IOC*” (IOCa, 2015, Principle 3). In 2000, the IOC’s legal status was recognized by the Swiss Federal Council as an “international non-governmental not-for-profit organization, of unlimited duration, in the form of an association with the status of a legal person” (OC, 2015, sec. 15, par. 1). This particular legal status has been criticized in the past due to the fact that the IOC’s international legal personality under case law and customary law, presents a potential for power abuse in terms of the international sports law or international public law (Ettinger, 1992). This means that the IOC has paid more attention to assuring “fair play” within sports technicalities rather than outside them. For this reason, the IOC is considered as lacking procedures to impose the same standards of fairness upon itself (Ettinger, 1992). More recently, however, it has been argued that IOC constitutional framework is still incomplete and thus it has the potential to be recognized as autonomous by national legal systems under certain criteria. These criteria include the harmonization of its rules and a continuing increased independence of the Court of Arbitration for Sport from the IOC (Foster, 2012).

While the above considerations still remain unclear and many times controversial, it is worth noting that the international sports law continuously and dynamically engages a unique network of intergovernmental (i.e. UNESCO, UNICEF etc.), governmental, and nongovernmental authorities by having the Olympic movement at its epicenter (Nafziger, 1992). More particularly, the international sports law focus is primarily around the following issues: the development of effective doping prevention and control, 2) the increased role of international marketing, broadcast media, and corporatization, 3) the full fusion of the distinct legal regimes concerning respectively, amateurs and professionals, 4) the broadening confusing of the line between true legal issues and field-of-play issues; 5) conflicts between national law and national courts on one side, and the decisions of international sports federations, on the other, 6) the emergent role of government in sports and 7) political issues related to the Olympic Truce (Nafziger, 2012,
Nevertheless, this focus has almost completely ignored the question of whether the practice of sport in itself is a human right and to what extent it is recognized by the IOC supreme authority of international sports through its Olympic Charter. It is important therefore, that we draw attention to the legal provisions of the practice of sport as a human right and that of the Olympic Ideal as they are directly and indirectly indicated in the Olympic Charter. These provisions appear to move beyond the framework of international sports law and are fundamentally connected with International human rights law. In particular, the supreme organ through which the IOC exercises its powers, is ‘the Session”, and is held once a year (Olympic Charter, 2016 sec. 18, par. 1). Some of the powers of the Session include adoption and amendment of the Olympic Charter, election of IOC members, President, Vice-Presidents, and Executive Board, election of the host city, and resolution and decision upon “all other matters assigned to it by law or by the Olympic Charter” (OC, 2016, Sec. 18. Par. 2).

Based on this process, the IOC is adopting the Olympic Charter with small amendments annually. Since 1996 the OC’s has incorporated the 4th Fundamental Principle of Olympism, which recognizes that the “Practice of sport is a human right. Every individual must have the possibility of practicing sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fairplay” (IOC, 2015a, Principle 4). Meaning that this principle as a fundamental part of the OC should be incorporated in the organization, action, and operation both of the Olympic Movement and of the Olympic Games (IOC, 2015a, Intro).

In addition to that, the OC is comprised of the Code of Ethics related to the fundamental Principles of Olympism, as well as the Rules and bylaws which have been adopted by the IOC. In that capacity the OC fulfills three main purposes:

a) “The OC, as a basic instrument of a constitutional nature, sets forth and recalls the Fundamental Principles and essential values of Olympism.

b) The Olympic Charter also serves as statutes for the IOC,

c) In addition, the OC defines the main reciprocal rights and obligations of the three main constituents of the Olympic Movement (i.e. IOC, International Federations (IF), National Olympic Committees (NOCs), Organizing
Committees for the Olympic Games (OCOGs) and other recognized organizations (IOC, 2015a, intro, p.11).

Thus, all the Olympic movement constituents are required to comply with and are legally bound by the Olympic Charter in general and its fundamental principles in particular. The 4th principle and the recognition of the practice of sport as a human right is inextricably connected with 1st and 6th principles. More specifically, Principle 1 states that Olympism is “blending sport with culture and education and seeks to create a way of life based on the joy of effort, the educational value of good example, social responsibility and respect for universal fundamental ethical principles” (OC, 2015, Principle 1). For this reason, the practice and notion of Olympism inspires these goals and values to be enjoyed by everyone and not only by elite athletes/members. Although the respect for universal fundamental ethical principles seems to be abstract, the IOC Code of Ethics, which is “based upon the values and principles enshrined in the Olympic Charter”, elaborates further their content and constitutes an integral part of the OC (IOC, 2015b, Intro, p.4).

In particular, respect for fundamental ethical principles includes among others

IOC, 2015b, art. 1):

“respect for the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play, (par. 1.1)

Respect for international conventions on protecting human rights insofar as they apply to the Olympic Games’ activities and which ensure in particular:
- respect for human dignity
- rejection of discrimination of any kind on whatever grounds, be it race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status;
- rejection of all forms of harassment, be it physical, professional or sexual, and any physical or mental injuries;” (par. 1.4)

Significantly, paragraph 1.4 of the article 1 signifies not only the explicit obligation of the Olympic Movement constituents to protect human rights but also their connection with the International Bill of Human Rights. Similarly the Fundamental Principle 6 of the Olympic Charter “is derived from the United Nations Universal Declaration of Human Rights” (IOC, 2015b, p.4). The respective fundamental principle secures the enjoyment of rights (including that of the practice of sport) and freedoms declared in the Olympic Charter “without discrimination of
any kind, such as race, colour, sex, sexual orientation, language, religion, political, or other opinion, national or social origin, property birth or other status” (IOC, 2015a, Principle 6).

Therefore, it appears that the fundamental principles and essential values of Olympism enshrined in the Olympic Charter are profoundly and inextricably allied with the International Bill of Human rights, namely: the United Nations Charter (i.e Preamble, Articles 1, 55 and 56), the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and the International Covenant of Economic, Social and Cultural Rights.

2. The practice of Sport as a human right and its recognition by the International Bill of Human Rights and International Conventions.

The previous section has drawn attention to the recognition of sport as a human right by the Olympic charter as well as the explicit connection of the Olympic charter with that of the International Bill of Human Rights and therefore with that of the international human rights law. While the human rights provisions by both OC and IOC code of ethics signify their explicit connection with international human rights law, this section will draw attention to the practice of sport as a human right in particular as it is enshrined in different international legal instruments. In fact, sport as a human right has been long recognized in numerous international human rights instruments.

Human rights, physical education, sport, and development are implicitly and indeed inextricably connected with the UN Charter by declaring that the United Nations member States shall promote: (1) “higher standard of living and conditions of economic and social progress and development (2) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and (3) universal respect for, and of, human rights and fundamental freedoms for all” (UN Charter, art. 55 (a)(b)(c), 1945). For the possible achievement and progress of these stipulations the UN stresses and requires that the governments “take joint and separate action in co-operation with the Organization” (UN Charter, art. 56).

Following the UN Charter, the right to sport is enshrined both explicitly and implicitly among other rights in the Universal Declaration, which was adopted by the
United Nations General Assembly in 1948. More specifically, the right to sport can be clearly connected with the “right to rest and leisure” (UDHR, art. 24, 1947) and the right to education (i.e. in the form of physical education) (UDHR, art. 26(1), 1947). Its connection with the right to education seems to be not only for the practice of sport itself but also it “shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms” (UDHR, art. 26(2), 1947), meaning that any form of education should be a right as well as a duty for promoting human rights through its activities. The right to sport is also implicitly linked to the right to “a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services” (UDHR, art. 25 (1)).

The right to sport has been further elaborated in international human rights treaties, including the International Covenant of Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC, and the most recent, the Convention on the Rights of Persons with Disabilities (CRPD) in 2006. The right to sport and play is also implicitly linked with article 12 of the ICESCR. It states that the States Parties “recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (ICESCR, 1966, art.12 (1)). In addition, article 13 of the right to education is analogous to that in article 26 of the UDHR.

Moreover, in Article 15 of the ICESCR, the right to sport can be linked with the “the right of everyone: (a) to take part in cultural life and (b) to enjoy the benefits of scientific progress and its applications” (ICESCR, 1966, article 15, (1) (a)(b)) and for achieving the full realization of this right the States “shall include those necessary for the conservation, the development and the diffusion of science and culture” (ICESCR, 1966, art.15 (2)). Thus, it can also be anticipated that everyone should benefit from the advancement of sports science, including training and teaching methods, as well as sports equipment for persons with disabilities (i.e. wheelchairs, artificial limbs etc).

In contrast with the ICESCR, the CEDAW, which was adopted by the United Nations General Assembly in 1979, although it draws its main attention to the elimination of discrimination against women, it explicitly includes the right to sport and physical education without discrimination on the basis of gender in the areas of
education as well as other areas of economic and social life. In particular, article 10 of the CEDAW, requires the UN members to ensure to women equal rights with men in the field of education, and specifically to safeguard, “on a basis of equality of men and women: a) the same opportunities to participate actively in sports and physical education, and b) access to specific educational information to help to ensure the health and well-being of families.” (CEDAW, 1979, art. 10(g)(h)). Similarly, article 13, requires State members to eliminate the discrimination against women “in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same right, in particular: the right to participate in recreational activities, sports and all aspects of cultural life.” (CEDAW, art. 13(c), 1979).

The right to sport is more explicitly specified in the Convention on the Rights of the Child. The CRC renders its provision not only for children but also for adolescents by denoting the meaning of the word “child’ in the document as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (CRC, art 1, 1989). Taking into consideration the age spectrum through the use of the word “child” within the CRC, article 29 implies the inclusion of the primary and secondary levels of education at least, and requires that education of the child should be directed to the a) “the development of the child’s personality, talents and mental and physical abilities to their fullest potential” and b) “to the development of respect for human rights and fundamental freedoms, and of the principles enshrined in the Charter of the United Nations” (CRC, art. 29(a)(b), 1989).

Furthermore, article 23 of the CRC necessitates the States parties to recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts” as well as obliging them to “respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities of cultural, artistic, recreational and leisure activity” (CRC, art. 31(1)(2), 1989).

More recently the CRPD which was adopted by the General Assembly in 2006, in its article 30 (5), explicitly obliges the States parties that they shall take necessary measures “to encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels” (CRPD, art. 30 (5)(a), 2006). It further requires from the governments “to ensure that
children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system” (CRPD, art. 30 (5)(d), 2006).

The provision of the right to sport in all the aforementioned international human rights treaties renders the right to sport as a binding international law, hence signifying that the States parties have a legal obligation to provide sport as a right to everyone in their jurisdictions. In a similar way the IOC under its mission has a role to “encourage and support the development for sport for all” as well as “to encourage and support initiatives blending sport with culture and education” by exhibiting respect for international conventions on protecting human rights (OC, 2015, sec. 2, paras. 13 &15). This State provision and IOC support seem to be even more apparent and critical in both developed and developing countries whether they provide sports as means of social cohesion and wellbeing within the inner cities or as a means of healing and conflict resolution in high volatile areas.

3. The Olympic Movement’s Human Rights Responsibilities Under The United Nations (UN) And The UNESCO

This section will identify the relationship of the IOC and its human rights responsibilities with that of the UN and UNESCO. Among intergovernmental organizations, UNESCO initiated a process of international cooperation for regulating international sports and physical education by convening the first World Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS) in 1976 in Paris, France (UNESCO, 2016). This process resulted in two significant international cooperation mechanisms in 1978: 1), that of the International Charter of Physical Education and Sport (ICPES) and 2) the Intergovernmental Committee for Physical Education and Sport (CIGEPS) (UNESCO, 2016, a). The former mechanism is the first rights-based document to declare that “the practice of physical education and sport is a fundamental right for all” (ICPES, 1978, art. 1). It also gives greater emphasis on sports as physical education and a psychosocial activity rather than merely as a competition (Nafziger, 1992).

The latter, is responsible for conducting and supervising the planning and application strategy and program activities in realizing the fundamental right for all
of practicing physical education, physical activity and sport, by disseminating its action in four main areas of activity: a) decrease of the disparities, inequalities and imbalances between the nations and the world’s regions; b) protecting the ethical values of sport; c) development of physical education and sport in the context of formal and informal education systems and within the process of continuing education; and d) improvement of the functions of sport to promote development and peace, the rights of people with disabilities, the preservation of culture and traditional sports and games, gender equality, social inclusion and the struggle against racism (CIGEPS, 2012, art. 2, par. 2.3)

UNESCO through the ICPES rights-based document recalls the UN Charter that the peoples asserted “their faith in fundamental human rights” and “affirmed their determination to promote social progress and better Standards of life (ICPES, 1978, preamble). UNESCO is also convinced that for every human being in order to effectively exercise her/his human rights there is an imperative need of essential conditions in which “everyone should be free to develop and preserve his or her physical, intellectual and moral powers, and that access to physical education and sport should consequently be assured and guaranteed for all human beings” (ICPES, preamble, 1978). Moreover, article 3.1 states that physical education and sports programs “must give priority to the requirements of disadvantaged groups in society”. In addition, the purpose of the ICPES is to place the development of sport and physical education at “the service of human progress, promoting their development” and urges governments and competent non-governmental organizations “to disseminate it and to put it into practice”. However, at the same time, the foundation of the modern Olympic games by Pierre de Coubertin appears to be deliberately authoritarian/elitist as it had been decided that “the Olympic Movement should be run by trustees and not by a democratic body, subject to all the problems that nowadays face the United Nations and UNESCO” (Killanin as cited in Nafziger, 1992)

In fact, since the ICPES’ inception and until almost the end of the 20th century the efforts for using sport and physical education as part of the development and peace process of the United Nations were taken mainly by UNESCO. Considering also the fact that the IOC answers to no other authority than to itself as well as by being free to make and impose decisions without any other body, the UN had no control over the IOC (Nafziger, 1992).

Nevertheless, taking into consideration, the continuous evolution of the United
Nations system in general and that of international human rights in particular, the IOC is currently engaging more actively with the UN system and UNESCO. In particular the IOC official engagement with the ICPES activities, began in 1997 when UNESCO’s General Conference adopted CIGEPS’ new statutes and established the creation of the ‘Permanent Consultative Council’, (PCC) (UNESCO, 1997, Res. 29, Art. 1 & 3). Thus, since 1997 the IOC among other international non-governmental organizations, (NGOs), sport-related institutions, UN agencies, and civil society organizations constitute the PCC, which consults with the United Nations through UNESCO. More specifically, the PCC’s role is to assist the CIGEPS by providing high quality advice, knowledge and technical assistance in the field of physical education and sport as well as to “submit reports on its activities” (UNESCO, 2011, art. 9 & 11). In addition to that, in consultation with PCC, the Committee (i.e. CIGEPS) may establish working groups in the form of ad hoc groups (UNESCO, 2011, sec. VI, article 16). The ad hoc groups are responsible for examining particular problems and implementing activities and programs planned to address “specific needs falling within the competence of the committee in the light of particular or topical themes and/or geographical contexts” (UNESCO, 2011, Res 15, Annex, Sec. VI, art. 16, par. 16.1).

Under this role and responsibilities of the PCC, the IOC acts consultatively and reciprocally in order to support and ensure the application of effective sport policies around the world and thus it is working towards realizing its own fundamental principles and the Olympic ideals. The responsibilities of the PCC members have been further explicated within the Declaration of Berlin, which was unanimously adopted by the 121 represented member states during the 5th World Conference of Sport Ministers in 2013 (UNESCO, 2016b). The key themes of the Declaration of Berlin was a) the access to sport as a fundamental right for all, b) the promotion of investment in sport and Physical education programs, and c) sport integrity (UNESCO, 2016b). The document provides a guideline for consolidating the social, education and cultural capacities of sport and physical education policy, which cultivates peace and understanding between peoples. Moreover, it emphasizes the safeguarding of human rights in the world of sport by providing access to sport for all, advancing physical education, and creating new mechanism of accountability for major/mega sport events among others.

On October 19 of 2009, the IOC was granted UN Observer status by the
United Nations and therefore it has been entitled to participate in the work of UN General Assembly meetings in order to promote cooperation with the UN (UNGA, 2009). While, the IOC observer status facilitates the promotion of sport at a higher level, it also creates indirect compliance of the IOC with the UN Charter as well as its right to joint decisions appeal to the other UN bodies/agencies (i.e. UNESCO, Human Rights Council, etc.).

A year after the granting of Observer status to IOC, the Human Rights Council (HRC) “has been addressing several topics at the intersection of sport and human rights. The adoptions of human rights council’s resolutions have focused on 1) combating racial discrimination, xenophobia and related intolerance (HRC, 2010) 2) demanding free movement and circulation of athletes in occupied territories such as Palestine (HRC, 2011) and 3) “promoting awareness understanding and the application of the UDHR through sport and the Olympic Ideal” (HRC, 2011a). Interestingly, in 2010 the Special rapporteur on adequate housing, released one of the first reports of a human rights monitoring mechanism on the impact of “mega-events” and particularly that of the Olympic Games in the realization of the right to housing (HRC, 2009).

More importantly, in 2014 the President of IOC and the General Secretary of the UN signed a historic agreement, which is considered to be the first-ever Memorandum of Understanding between the UN and IOC (IOC/Evans, 2014). Significantly, even though the IOC has worked in the past with UN inter-agencies on a wide-range of initiatives concerning the use of sport for development and peace, this agreement marks the direct work of the IOC with the highest level of the UN, that of the UN Secretariat.

Under the specific agreement/resolution, the General Assembly recalls the declaration of Berlin, the Olympic Charter and its inherent principle of non-discrimination, the Articles related to sport as they are enshrined in the CRC and CRPD while at the same time it supports “the independent and autonomy of sport as well as the mission of the IOC in leading the Olympic movement (UNGA, 2014, par.8).
4. Cases Studies on Conflicts between IOC Practice and Human Rights

This part draws attention to the practices of the IOC by comparing human rights and related reports’ findings with the Olympic Charter/IOC Code of ethics and ICPES. The IOC practices and its components will be mainly derived from 5 reports that provide evidence of IOC practices related to the Beijing 2008 Summer Olympic Games (Saunders & PoKempner, 2008), Sochi 2014 Winter Olympics Games, Saudi Arabia’s Women in Sport for the London 2012 Summer Olympic Games (Wilcke, Benfkira, & Al-Saggaf, 2012), and Rio 2016 Olympic Games (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015). The comparison and contrast will be conceptualized with the notion of positive and negative duties as these are reflected under the Olympic Charter/IOC Code of Ethics and ICPES. However, this separation should not be seen as a distinct form of duties from one another, but rather as inextricably linked. In particular, this analysis will compare two main causal relationships (1) the obligation of the IOC to respect the access to practice the right to sport, meaning the relation of IOC’s actions in practice as they are related to the Olympic Games and beyond, towards not preventing a person from practicing the right to sport equally, and (2) the fulfillment or deprivation of the necessary conditions of equally practicing the human right to sport as well as the causal relations of human mediators (e.g. IOC and its constituents) to such deprivation. Notably, this comprehension of human rights deprivation does not only comprise interactional violations (violations that are committed directly by human agents such as IOC and other parties involved) but also institutional violations or violations that are triggered by human agents (e.g. IOC and related parties) through the direct or indirect imposition of institutional measures (Pogge, 2002; 2011).
I. Interactional violations of Human Rights committed by the IOC and its constituents – The Cases of the Kingdom of Saudi Arabia and Brazil

The first connecting relationship is demonstrated most clearly in the denial of women and girls to practice the right to sport in the Kingdom of Saudi Arabia. According to the Human Rights Watch report (Wilcke, Benfkira, & Al-Saggaf, 2012) although since 2011 there were promises from the Government of Saudi Arabia to expand limited existing opportunities for women/girls to practice sport, the discrimination against women has further deepened both in the public and private spheres of Saudi society. More specifically, the discrimination against women/girls concerning the practice of sport is presented by the absence of physical education classes for girls in state schools even though the state school system for girls in Saudi Arabia has been operating since 1960 (Wilcke, Benfkira, & Al-Saggaf, 2012). In addition, the Saudi government has proceeded to closures of women’s gyms in 2009 and 2010 on the grounds that they have no license. Instead the government has permitted “health clubs”, which however, do not provide as wide a variety of sport activities as are available to boys and men. Thus this process, seems to also promote the privatization of sports by limiting access to public sporting avenues for women.

In this particular case, the role of the Saudi NOC has been passive or even contradictory to the principles and mission of the Olympic Movement. The responsibility of the Saudi NOC along with its 29 recognized sport federations, is to organize local/national competition and to select athletes and teams from the government regulated clubs and elsewhere, for representing Saudi Arabia at the international level (Wilcke, Benfkira, & Al-Saggaf, 2012).

However, the Saudi NOC not only has avoided “to act against any form of discrimination affecting the Olympic Movement” (IOC, 2004, chapter 1/sec. 2(6)) in this case discrimination based on gender, but as an Olympic entity in and of itself is preventing women from having equal representation within the Saudi NOC. This is due to the fact that it does not include a women’s section and neither do the other 29 sport federations (Wilcke, Benfkira, & Al-Saggaf, 2012). Furthermore, Saudi Arabia

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1 This clause exists in the Olympic Charter since at least 1996 until the latest version of it.
has never sponsored a woman athlete in an international sport event even when the IOC has created a policy for providing opportunities for competing at the Olympic Games through reserving limited spaces for male and female athletes without qualifying standards. Despite the presence of such a policy/system only one Saudi women athlete, Dalma Mushin, has participated and won the bronze medal at the 2010 Singapore Youth Olympic Games. More recently, Sarah Attar and Wodjan Shaherkani were the first two females to ever participate in the Olympic Games during the London 2012 Olympic Games. Nonetheless, all the aforementioned female athletes were nominated/selected without the process of national competition/trials, which in fact, can suggest further perpetuation as well as deepening of inequality based on corruption, nepotism and social class discrimination. These practices of the Saudi NOC, appear in fact to be in direct violation of the IOC Charter, by avoiding to act against gender discrimination and its consequent positive duty to “encourage and support the promotion of women in sport at all levels and in all structures with a view to implementing the principle of equality of men and women” (IOC, 2004, Rule 2(7))². Further, the Saudi NOC and its 29 recognized sport federations have failed in terms of their negative duties “to refrain from any discrimination” (IOC, 2012 Principle 6 (6.1))³. Furthermore, since the IOC is a permanent member of CIGEPS the current practice of the Saudi NOC is also in direct violation of the ICPES’s article related to ‘the practice of physical education and sport is a fundamental right for all’ and article 2 related to ‘the purpose of physical education and sport to meet individual and social needs’ such as that of Saudi women’s high risk of obesity and diabetes due to inactivity (Wilcke, Benfkira, & Al-Saggaf, 2012).

In a similar but in a more interactional and direct way in the case of Rio 2016, the IOC and the Rio OCOG are directly preventing an individual from the “possibility of practicing sport” (IOC, 2004, principle 4). More specifically, in 2013 and after Rio had been selected as a host city for the 2016 Olympic Summer Games, the Celio de Barros Athletics Stadium of Rio was (which is known as the Maracana of Athletics was closed in order to be utilized as a construction site for renovating the Maracana Stadium. As a result of this construction and without previous explanation

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² This clause exists in the Olympic Charter since 2004. Before 2004 exists with similar content but different wording
³ The paragraph 6.1 of the principle 6 concerning sports organization refraining from any discrimination has been added to the IOC code of Ethics since 2012
or notification the training facilities were blocked and until today they remain closed due to constructive preparation for the Olympic Games. Therefore, because of their central location, transport accessibility and their connection with a vibrant space of socio-educational projects before its closure, it has not only prevented the local athletes from practicing their sport but most importantly has prevented the entire diverse population of Rio from accessing a space for educational, sports, and recreational activities (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015). Importantly in the same year, and while the Stadium of Maracana was under the control of state government, the Sporting Complex of Maracana was leased to a private company for 35 years. The cost of this privatization, according to the report, has been left to the public through the public taxation.

Similarly, the Julio Delamare Water Park which was a training center and competition venue and had been also already renovated for the 2007 Pan-American Games, was planned to be demolished (a decision made behind closed doors) at the request of FIFA (Fédération Internationale de Football Association) for the purposes of the World Cup in 2014.- FIFA is also under the authority of IOC.

Before this decision the Water Park’s swimming pools were used for water aerobic classes available to the public. However, Rio’s people managed to preserve the space by collectively mobilizing and resisting against this decision and finally the scheduled destruction was removed from the leasing contract (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015).

Importantly, the report emphasizes the fact that the decision making related to the present and future utilization of the aforementioned sport venues and other areas is happening mainly between the Games organizers and private corporations that negotiate behind closed doors without free public scrutiny. In addition, the justification of commercial exploitation of areas is based on the need “for operational activities during the Games” (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015, p.76)

These events have numerous implications and reveal violations of the Olympic Charter and Code of Ethics by the Games organizers and other responsible parties. First the IOC and the Olympic organizing committee have failed to put in place “adequate standards and processes for accountability….available to all organizations and consistently applied and monitored” (IOC code of ethics, 2012, principle 4 (4.2)) , as well as to gradually disclose financial information “in
appropriate forms to members, stakeholders and the public” (IOC code of ethics, principle 4, (4.3)). In turn these failures have led to unmet objectives of Olympic solidarity by failing to create “where needed, simple, functional and economical sports facilities in cooperation with national or international bodies” (IOC, 2004, Bye-law to Rule 54) as well as to distribute the resources (venues and areas) equitably (IOC, 2012, Principle 5, (5.2)).

Most importantly, the Olympic parties in the case of Rio 2016, it seem to have deliberately avoided using “due care and diligence in fulfilling their mission” (IOC 2009, sec. B, par. 55). As a result of this apparent avoidance or lack of due care and diligence, the IOC’s role to “protect its independence and to preserve the autonomy of sport” (IOC, 2011, Chapter 2, par. 5) has been seriously harmed and exposed. Moreover, the Games organizers have not only failed to “promote a positive legacy from the Olympic Games” to the host city and host country so far but instead have created a “negative legacy” (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015).

Most significantly, the current process totally contradicts and neglects the paragraph 3 as it relates to the rule 33 ‘Election of the host city’6 of the Olympic charter which stipulates that “the national government of the country of any applicant city must submit to the IOC a legally binding instrument by which the said government undertakes and guarantees that the country and its public authorities will comply with and respect the Olympic Charter”.

These contradictions and violations against its own principles and mission are becoming more apparent in light of the recent report (which is probably the first of its kind) on the analysis of the Boston 2024 Proposed Summer Olympic Plans (Sanderson, Humphreys, Floyd, & Abasciano, 2015). Based on this report, the main incentives for the cities to compete in order to win the right to host the Olympic Games is “based on spending for high quality venues and infrastructure and financial guarantees” (Sanderson, Humphreys, Floyd, & Abasciano, 2015).

4 In older versions of Olympic charter than that of 2004, the content and wording of the paragraph remains but the rule number changes.
5 This specific paragraph has been further and more explicitly elaborated in the code of ethics issued on 2015 and stipulates that “At all time, they must act with the highest degree of integrity, and particularly when taking decisions, they must act with impartiality, objectivity, independence and professionalism”.
6 The paragraph exist in all versions of Olympic Charter since 2004.
The financial guarantees that are demanded by the IOC include construction of venues, accommodation for the IOC and its affiliated organization (or the so-called “Olympic family”), local transportation infrastructure and media coverage (Sanderson, Humphreys, Floyd, & Abasciano, 2015). Within these financial guarantees there are two main types: (1) the Economic Shortfall guarantees which pertain to possible economic shortfalls, unexpected expenses and cost overruns and are usually signed by the national/regional/local governmental authorities and (2) Endeavour-Specific Guarantees which apply to activities or tasks, such as financing venue renovation/reconstruction or improvement of infrastructure, and which force a commitment from a competent body/authority for ensuring performance irrespective of cost (Sanderson, Humphreys, Floyd, & Abasciano, 2015). Thus, the latter can be compared with and immediate short term “structural adjustment” while the former as long term indirect structural adjustments. In addition, the IOC imposes other requirements demands such as devotion of advertising space to the sponsors of the Olympic Games, required tax exemptions on Olympic related-earnings that cause national tax revenue to be lost, special/favorable treatment for the “Olympic Family” and dedicated transport (Olympic) lanes on the cities’ roadways ((Sanderson, Humphreys, Floyd, & Abasciano, 2015)

It is therefore, this relationship of financial guarantees and conditions that can be considered as the link with institutional violations through the either direct or indirect imposition of institutional arrangements.

II. Institutional violations and deprivation of human rights that have been caused by direct/indirect imposition of institutional arrangement through the IOC and its constituents – The cases of Brazil, Russia and China

The lack and even total absence of social and human rights guarantees by the IOC to host cities has caused further deepening of inequalities and injustices to the host cities’ societies. In the case of Brazil the absence of human rights and social guarantees has triggered a domino that deepens further the existing inequalities and 'criminalization' of the most disenfranchised (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015). More specifically, the Brazilian federal and State government have categorized the removal of communities with five main types of justification (1) road works associated with the bus transportation corridors (2)
expansion works for the international airport of Rio (known formerly as Galeao) (3) renovation or construction of sporting venues (4) works associated with urban renovation in the Harbour Area and (5) promotion of real estate expansion, urban renovation and tourism, which involves removal of low-income families (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015). Under these justifications, since 2009 and until 2015, a total number of 22,059 families (counting for 77,206 people) have been removed and dozens more communities/families remain under threat of removal mainly due to development project associated with the Project of Rio Olympics. Furthermore, the data are being hidden in connection to environmental concerns which are regularly non-evident and unconfirmed. The majority of removal and eviction of families occurs in areas where the real estate is very highly valued.

What is worse is that the removal of communities is accompanied by heavy and militarized security measures, the so-called “pacifications”. Pacifications are high militarized operations that invade and occupy favelas especially the ones that are close to sporting venues. Thus, under the justification of public safety in connection with the Mega events development and expansion (e.g. both the World Cup and Olympics) the shantytowns and suburbs of Rio have been repressed, targeted and further criminalized with a particular focus on people of colour (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015). These measures translated into the death of 1,330 people during the Pan-American Games in 2007 and the same phenomenon was repeated during the World Cup in 2014 as well as until 2015, while it is predicted to remain until the end of the Olympic Games in August 2016.

Moreover the police violence caused by these operations in occupying favelas has led to gross violation of children’s rights which is further worsened through the processes of evictions/removal which contributed to further violation of child rights through sexual exploitation and child labour. Before, during and after the world sport event of the World Cup (e.g. the period between 2013-2014) the number of reported violations against children when compared to 2013, was increased by 17% in the host cities of the World Cup in Brazil and the majority of them were girls (Blerk et al., 2015).

Another dimension of the indirect institutional violation of human rights by the practices of the IOC is related to the working conditions during the process of
Olympic development. The pressure placed by the IOC On the Rio 2016 Games, coupled with the lack of necessary impact and security assessments have led to extreme hazardous conditions and conditions of exploitation, that according to the report resemble that of slavery. In addition, in the context of Brazilian urban centres there is the indication of repressive practices against informal street traders/merchants which were caused by the exclusivity of marketing/advertising space of companies connected with the Olympic Games (World Cup and Olympics Popular Committee of Rio de Janeiro, 2015). Indeed, the conditions of advertising space dedicated to Olympic Games is one of the additional requirements of the IOC and thus they are being placed under tax exemptions that causes loss in national tax revenue (Sanderson, Humphreys, Floyd, & Abasciano, 2015). Furthermore, the economic burden which is placed on the public through long-term taxes is further increased due to cost overruns of the Olympic constructed/renovated venues. In fact, research shows that between the period 1960 and 2012, the hosting of Olympics Games results in average cost overruns of 179% (Sanderson, Humphreys, Floyd, & Abasciano, 2015).

Similar working conditions of exploitation but contextually different have been revealed during the preparation of the Sochi 2014 Winter Olympics. The rapid transformation of Sochi into a vacation destination for Russian elites (under Olympic Development) has been made possible through the high influx of migrant construction workers within Russia and from abroad. However, according to Ganesan, Reidy, Worden, and Porteous, (2013) the migrant workers were subjected to a wide variety of abuses and exploitation such as, failure of the employers to provide contracts, failure to pay wages in a timely manner and in some cases failure to pay the workers at all; requirement of excessive working hours with little break and with the threat of their expulsion from the country by withholding migrant workers’ identity documents, overcrowded housing conditions provided by the employer with inadequate meals, and worker’s expulsion from Russia (Ganesan, Reidy, Worden, & Porteous, 2013). The aforementioned abuses and exploitation of migrant workers indicates an incompetence or unwillingness of the Russian authorities and private entities which were part of the local organizing committee’s agreement to “guarantee basic rights for migrant workers on Olympic construction sites and other sites” in Russia (Ganesan, Reidy, Worden, & Porteous, 2013, p.2). Similar, well documented conditions also prevailed in preparations for the Athens Olympics in 2004.
Comparable to the inability and/or unwillingness of the Russian authorities to safeguard basic rights for migrant workers, the Chinese authorities had deliberately avoided safeguarding the freedom of the media even when these safeguards were promised by the Chinese government during the hosting process (Saunders, & PoKempner, D. 2008).

The failure of the IOC to have in place procedures and standards that would hold the Chinese government accountable in the case of not protecting the freedom of the media led to the harassment, detention, and intimidation of journalists as well as to the closing of Tibetan territories as forbidden areas for national and international correspondents (Saunders, & PoKempner, D. 2008). Nevertheless, the failure of IOC to safeguard the freedom of the media and that of expression, and the consequent non-exposure by media of embedded social-political issues in Tibet, seem to have contributed to the further polarization of the conflict between civilians and the Chinese authorities. This polarization, that in some ways was caused indirectly by the institutional collaboration of the IOC with the Chinese authorities, had possibly contributed to the biggest government crackdown, in March 2008, since the June 1989 Tiananmen Massacre. Thus, the outcome of this crackdown was not only the violation of human rights and arrests, but more tragically, it has cost dozens of human lives whose exact number remain unclear until today.

Finally, the analysis of interactional and institutional relations between IOC the host cities/countries under IOC’s Charter and Code of ethics has revealed that the actual practices of the IOC are often in contradiction and sometimes in opposition with ideals of Olympism. This opposition is translated into violation of manifold and indivisible human rights that are manifested differently in different socio-political contexts. Moreover, it has been revealed that the violation of human rights by the practices of the Olympic movement and its constituents, is taking place through both direct violation of the right to practice sport, particularly by not refraining from discrimination as well as with direct violation of this right by not taking positive remedies for addressing this violation.

In terms of the violation of various human rights through sport, the actual practices of IOC have manifested both interactional (violations that are committed directly by human agents such as IOC and other parties involved) and institutional violations (violations that are triggered by human agents through the direct or indirect imposition of institutional measures).
More importantly, specific current practices of IOC and the aforementioned violations are in direct violation of the Olympic Charter and the IOC code of Ethics. Moreover, in the recent and more explicit elaboration of the fundamental principles (which is “the foundations of Olympism”) in the revised version of the Code of Ethics since 2015, the IOC emphasizes the “respect for International conventions on protecting human rights” insofar as they pertain to the Olympic Games’ activities and which guarantee in particular: “respect for human dignity”; rejection of discrimination of any kind on whatever grounds.; and rejection of all forms of harassment, be it physical, professional or sexual, and any physical or mental injuries” (IOC, 2015b, Art. 1, par. 1.4).

Therefore, with the current Olympic Games’activities in Rio, the IOC is not only in direct violation with its own code of ethics but also it is in direct violation of international human rights conventions. Especially, considering that all the countries representative of the cases have ratified numerous international conventions (e.g. the Convention on the Elimination of Racial Discrimination (CERD), the ICESR, the CEDAW, the CRC and the CRPD) the IOC’s activities have imposed conditions that have further violated numerous treaties resulting in deepening inequality and injustice. At the same time the IOC has missed the opportunity to become a true catalyst for “safeguarding the dignity of the individual” (IOC, 2009, preamble, par. B (1)) art) which is a fundamental requirement of Olympism, by requiring the hosting country and its public/private authorities to submit “a legally binding instrument by which the said government undertakes and guarantees...to comply with and respect of Olympic Charter” (IOC, 2004, sec. 34, par. 3) as well as with the international human rights treaties that the host country has ratified.

5. Conclusion

Since the inception of the modern Olympic Games there has been tremendous progress in conceptualizing the regulations and fundamental ethical principles of the Olympic Charter as well as its continuous involvement of co-responsibility with the UN System regarding human rights. But despite this progress, there are gaps and controversies between the IOC’s own legal framework as it is enshrined both in the Charter/Code of ethics and UN human rights joint declarations/resolutions, and in the enactment of and complying with these legal frameworks.
By setting forth the identification of the practical framework of the IOC through the Olympic Charter, the Code of Ethics, international conventions of human rights and UN related resolutions/declarations, the current analysis has provided a new paradigm of revealing not only the disconnection between the IOC legal framework and practices but most importantly the direct and indirect violation of its own regulations which is also inextricably connected with international human rights law.

The violation by the IOC of its own legal framework and in connection with the international human rights law has been manifested in two main ways: (1) through interactional ways in which the IOC violates directly the right of every person to practice sport without discrimination of any kind, by not refraining from discrimination (e.g. the case of the Saudi NOC and women in sport) as well as by creating conditions of deprivation (e.g. demolitions of local athletic clubs and recreational spaces AS in the case of Rio) and (2) through institutional violations in which the IOC further deepens conditions of social, economic and human deprivation by avoiding to create standards and measures of accountability based on the ideals of the Olympics and those of human rights (e.g. lack of human rights and social guarantees in the cases of Brazil, Russia, and China).

Based on this framework of analysis and the revealed causal relationships, this paper can potentially constitute an initial step for creating a practical tool that can be used by civil society in order to create organic accountability and transparency in the IOC.
6. References


Intergovernmental Committee for Physical Education and Sport (CIGEPS) (2012)
‘Revised Statutes of the Intergovernmental Committee for Physical Education and Sport’. CIGEPS/2012/Statutes. Available at:


http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf

International Olympic Committee (1996). *Olympic Charter. In force as from 18th July 1996.* IOC. Lausanne, Switzerland. Available at:

International Olympic Committee (2004). *Olympic Charter. In force as from 1 September 2004.* IOC. Lausanne, Switzerland. Available at:


International Olympic Committee (2015a). *Olympic Charter. In force as from 2 August 2015.* IOC. Lausanne, Switzerland. Available at:

International Olympic Committee (2015b). *Ethics.* IOC. Lausanne, Switzerland. Available at:


