



THE HUMAN COST OF GOING FOR GOLD

Human Rights Violations & The Olympic Games

LAW 279 - INTRO TO INTERNATIONAL SPORTS LAW

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Introduction

Every two years, for 16 days, global attention turns to one country hosting athletes of the world. In recent years, accompanying this celebration of decorated athletes at the Olympic games though, has come reports of labour abuses, repression of freedom of speech, resident evictions and much more. Further, the explosion of technology (like social media) in the last twenty years has allowed movements for social change, or rights based movements to circulate information to a global audience in seconds spurring further movements or calls for justice.¹ As a result, human rights issues and mega-sporting events like the Olympics have become synonymous.²

The issue of human rights and the Olympics was explored as early as in 2013 when the United Nations Human Rights Council in their 24th session adopted a resolution on “promoting human rights through sport and the Olympic ideal”.³ In December of 2014, the International Olympic Committee (“IOC”) adopted, “Olympic Agenda 2020” which is a set of 40 detailed recommendations to safeguard Olympic values and strengthen the role of sport in society.⁴ In 2017, the IOC decided to move forward with the implementation of the Olympic Agenda 2020, and added new human rights contractual provisions to the Host City Contracts (“HCCs”) and its associated documents, starting with Paris 2024.⁵ The question with these new contractual provisions and plans for moving forward is whether they will be effective, and whether they can and will be properly enforced?

In addressing this issue I outline the history of human rights and the Olympic games, before assessing the new human rights provisions and their effectiveness. Like many scholars whose have

¹ See for example, the “#metoo” movement that went viral and encouraged many sexual violence victims to come forward and share their stories and bring cases against their offenders, it also led to major reform and reorganization of many large corporations; me too., “History & Inception” (2006), online: < <https://metoomvmt.org/get-to-know-us/history-inception/>>.

² See for example, Leander Schaerlaeckens, “Once Again, the Olympics are being used to Obscure Human Rights Violations. Will the IOC finally take a Stand?” *Yahoo! Sports* (2021) online: < [³ United nations Human Rights Council, “Sport and the Olympic Ideal” \(08 October 2013\) Online: < <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HumanRightsThroughSport.aspx>>.](https://ca.sports.yahoo.com/news/once-again-the-olympics-are-being-used-to-obscure-human-rights-violations-will-the-ioc-finally-take-a-stand-194506078.html?guce_referrer=ahr0chm6ly93d3cuz29vz2xllmnvbs8&guce_referrer_sig=aqaaahwxwp6stszo-eh53cb_yxcjadrypr4enjegujitynzl0qlvajmq9o3lxyg2azvoxr-zwhs69kyyr1hpen-je9xj9u5j7vzs0445dtdamzgidfs9qvgxkl0ggqfnt7hghxxrn7cnakcpsyuxozv20ia8fkx7so3h4p3vku4mvdvq>.</p></div><div data-bbox=)

⁴ International Olympic Committee, “Olympic Agenda 2020” (2014) Online: <<https://www.olympic.org/olympic-agenda-2020>>.

⁵ International Olympic Committee, News Release, “IOC Moves Forward with its Human Rights Approach” (2 December 2020), Online: < <https://www.olympic.org/news/ioc-moves-forward-with-its-human-rights-approach>>.

addressed this issue, I argue while the implementation of the new contractual provisions are a step in the right direction they will not have much impact as they stand. I will then explore some recommendations of other scholars that would make these provisions more effective. Finally, I provide my personal recommendation that addressing human rights in isolation without considering broader issues associated with the Olympics (that bring about these human rights issues) impact the effectiveness of these initiatives as a whole, and a more extreme solution should be considered.

History of Human Rights & the Olympic Games

The history of human rights abuses stemming from the Olympic games have been more prevalent recently due to increased media attention, but that is not to say these issues have not been long intertwined with the history of the games. Earlier cases of reported human rights issues often were linked to politics, something the IOC has long been reluctant to interfere with and continues to be reluctant to interfere with.⁶

“Political” Human Rights Issues

One of the earliest cases of human rights issues reported relating to the Olympics was the 1936 games in Berlin. The games occurred a couple years after Hitler had taken control of Germany passing the Nuremberg Laws, and for three years had already been placing Jewish citizens in concentration camps (committing mass genocide).⁷ Participating countries pushed to have the games moved or cancelled. The IOC was reluctant to step in, only going so far as to require the anti-Jewish propaganda to be removed.⁸ Hitler as a result, was able to use the 1936 Olympics as a platform to improve Germany’s image internationally and lower early opposition against him.⁹

⁶ Annie Willett, “Holding the Best Olympics Ever: The Need for a Permanent and Independent Human Rights Committee to Oversee Olympic Procurements” (2019) 49:1 Public Contract Law Journal Chicago 123 at 130.

⁷ History.com, “Dachau Concentration Camp” (2020) Online: < <https://www.history.com/topics/world-war-ii/dachau>>.

⁸ Jules Boykoff, “The Political history of the Olympics and the Human Rights Thicket” (2019) 35:1 Conn J Int’l L 1 at 5.

⁹ Emma Ockerman, “What Happened When Hitler Hosted the Olympics 80 Years Ago” *Time Magazine* (2016) Online: < <https://time.com/4432857/hitler-hosted-olympics-1936/>>.

Similar to the global outcry for the 1936 Berlin games to be cancelled or moved has occurred in recent media attention for the Beijing 2022 games imploring the IOC to take action.¹⁰ Global concern has been raised over claims that, Uighurs (a Muslim minority group) have been detained in camps, which the Chinese government have insisted are “vocational educational and training centres”.¹¹ The IOC’s response to these calls have been that “they would only work to protect human rights ‘in the context of the Olympic Games’ [...] and that they could not go further than that”.¹²

Both the events that occurred in Berlin and those currently occurring in China are outside the context of the games making them in the eyes’ of the IOC, “political”. However, with the IOC and Olympics trying to move forward and encourage compliance with human rights standards there comes the question of when these “political human rights issues” become invariably linked to the Olympics, by supporting that country hosting the games, and broadcasting a positive image of that country to the world.

Human Rights “in the Context of the Olympic Games”

The protection of human rights referred to by the IOC as those related to the context of the Olympic Games are issues linked to the building of the infrastructure for the games, issues occurring during the games themselves, and issues related to implementing the required sustainability plans for after the games finish. Specifically, the majority of these issues arise in the seven years leading up to the Olympics with three key issues being; (1) violation of labour rights; (2) forced evictions; and (3) repressions of civil rights, particularly freedom of expression.¹³ In the last six Olympic games numerous human right violations occurred across these three common categories of violations. Below I provide a couple examples of violations from these games specifically.

¹⁰ Jim Morris, “Veteran Canadian Olympic Officials Dismiss ‘Silly’ Calls to Move 2022 Games from China” (09 February 2021) *CBC Sports*, Online: < <https://www.cbc.ca/sports/olympics/beijing-olympics-boycott-pound-furlong-1.5919434>>.

¹¹ Dan Roan & Alex Capstick, “Beijing 2022: Human Rights Groups Call for Winter Olympic Boycott” (04 February 2021) *BBC News* Online: < <https://www.bbc.com/news/world-asia-55938034>>.

¹² Boykoff, *supra* note 8 at 15.

¹³ Tomáš Grell, “The International Olympic Committee and Human Rights Reforms: Game Changer or Mere Window Dressing?” (2018) 17 *The International Sports Law Journal* 160 at 161.

Labour Rights Violations

Abuses of labour rights are a common theme for many Olympic games and there is no shortage of testimonies or reports on this issue. In the lead up to the 2014 Sochi games in Russia, Human Rights Watch reported numerous labour rights violations, especially of migrant workers. Some of the claims made included; failing to pay full wages, failing to pay them at all, withholding identity documents, requiring excessive working hours and much more.¹⁴ Similar reports arose out of Brazil in the lead up to the 2016 Olympic games in Rio, with their labour minister even making a statement that their labour laws were broken and health and safety standards were not met during construction.¹⁵

Even countries considered first world countries are not free from issues with labour abuses in relation to the Olympics. Labour violations among temporary staff at London hotels used by the Olympic delegation during the 2012 games were reported. The organizers of the London games were also criticized for being slow to or not checking the supply chains of their licensees for labour violations.¹⁶ However, the London Organizing Committee of the Olympic Games (“OCOG”) did set a precedent for trying to protect labour rights by implementing a sustainable sourcing code that was reinforced by a complaints mechanism.¹⁷ One of the few games to do so.

Of current concern is reports regarding issues in Japan for the 2020 (now 2021 due to COVID-19) games, and the lead up to the 2022 Beijing Winter Olympics. The Global Union Federation report, found employees in constructing the venues for the 2020 games in Japan have experienced dangerous working conditions, long working hours, and an inadequate complaint system.¹⁸ Further, three construction workers died in connection with their work.¹⁹ The IOC declined to personally address these issues, handing them instead off to the International Labour Organization. Concerns regarding the 2022 Olympic

¹⁴ Human Rights Watch, “Race to the Bottom: Exploitation of Migrant Workers Ahead of Russia’s 2014 Olympic Games in Sochi” (06 Feb 2013) Online: <<https://www.hrw.org/report/2013/02/06/race-bottom/exploitation-migrant-workers-ahead-russias-2014-winter-olympic-games>>.

¹⁵ Associated Press, “Labour laws broken in Olympic venue construction”, (2014) Online: <<https://www.sportsnet.ca/more/brazil-labor-ministry-finds-labour-laws-broken-in-2016-olympic-venue-construction/>>.

¹⁶ Institute for Human Rights and Business, “Striving for Excellence: Mega-Sporting Events and Human Rights” (2013) at 3 Online (pdf): <<http://www.icsspe.org/system/files/IHRB%20Mega%20Sporting%20Events%20and%20Human%20Rights.pdf>>.

¹⁷ *Ibid.*

¹⁸ Jack Tarrant, “International labour organization criticizes 2020 Olympic working conditions” (17 May 2019) *Thomson Reuters*, Online: <<https://www.reuters.com/article/us-olympics-2020-labour-idUSKCN1SN0WZ>>.

¹⁹ *Ibid.*

stem from Beijing hosting the Summer Olympics in 2008, where various reports arose regarding workers not being provided accident and medical insurance, non-payment of wages or only monthly payment, and alleged child labour.²⁰ While the Host City Contract for the 2022 Beijing games does include a provision requiring labour laws to be respected, at least five labour auditing organizations in 2020 have stated “they won’t help companies audit their supply chains in China as the police state atmosphere and government controls make it too difficult to determine whether factories and farms are relying on forced labour.”²¹ This raises concern regarding the labour being used to construct the venues and providing any additional contracted materials for the upcoming games, and if any labour violations are even able to be discovered.

Forced Evictions

Forced evictions are especially problematic in relation to the Olympic games. Often it is more vulnerable populations (low income) that are most affected by the evictions that occur and a vast number of people are effected. While there are many cases of forced evictions in relation to a city hosting the Olympic games, the 2008 games in Beijing China and the 2016 games Rio de Janeiro Brazil provide good examples of the tremendous effects of these evictions. In Beijing China hundreds of thousands of residents were evicted from their homes, which were then destroyed in the course of the city’s redevelopment for the 2008 Olympics.²² Similarly in Brazil a report by the activism group Comit  Popular called “Rio 2016 Olympics: The Exclusion Games” claimed that 4,120 families lost their homes to the construction of the venues for the Rio games, with complete communities being removed.²³ Often the payment these citizens receive for their residence is not representative of the property’s value and many citizens saw a decline in their living conditions.²⁴

²⁰ See for example, Stephen Wade, “Alleged child labour abuses by Olympic suppliers in China”, (11 June 2007) *New York Times*, Online: <<https://www.nytimes.com/2007/06/11/world/11iht-china.1.6085681.html>>; Human Rights Watch, “China: Beijing’s Migrant Construction Workers Abused: Building of the ‘New Beijing’ Cheated of Wages, Denied Essential Services” (12 March 2008) Online: <<https://www.hrw.org/news/2008/03/12/china-beijings-migrant-construction-workers-abused>>.

²¹ Business & Human Rights Resource Centre, “China: Five audit firms to stop labour-audits in Xinjiang amidst concerns on restricted access” (2020) Online: <<https://www.business-humanrights.org/en/latest-news/china-five-audit-firms-to-stop-labour-audits-in-xinjiang-amidst-concerns-on-restricted-access/>>.

²² Human Rights Watch, “China: Olympics Harm Key Human Rights: Chinese Government, IOC Wasted Historic Opportunity for Reform” (06 August 2008) Online: <<https://www.hrw.org/news/2008/08/06/china-olympics-harm-key-human-rights>>.

²³ World Cup and Olympics Popular Committee of Rio de Janeiro, “Rio 2016 Olympics: The Exclusion Games” (2015) Online (pdf): <http://www.childrenwin.org/wp-content/uploads/2015/12/DossieComiteRio2015_ENG_web_ok_low.pdf>.

²⁴ Lindsay Beck, “Beijing to evict 1.5 million for Olympics” (05 June 2007) *Thomson Reuters*, Online: <<https://www.reuters.com/article/us-olympics-beijing-housing-idUSPEK12263220070605>>.

Repression of Civil Rights

The most common civil right in question surrounding the Olympic games is freedom of expression. Some of the most recent issues with freedom of expression occurred in the last twelve years. In 2008, Beijing failed to deliver on its pledge to fully lift restrictions for foreign journalists, preventing journalists from entering some regions of China, and prohibiting them from reporting on certain topics.²⁵ In 2014, during the preparations for the Sochi Olympics, workers or organizations who tried to speak out against the poor working conditions or sought remedies were declared enemies of the state.²⁶ And finally in 2016, the Business & Human Rights Resource Centre reported concerns regarding restrictions on peaceful protests and freedom of expression in Rio de Janeiro inside and outside the Olympic areas, with the military police allegedly using unnecessary and excessive force against the protestors.²⁷ Some scholars like Tomáš Grell have argued problems surrounding this right have arisen due to article 50(2) of the Olympic Charter,²⁸ which states, “no kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas.”²⁹ I agree that this provision is likely exacerbating the issue of repression of freedom of speech, especially concerning protests of the games due to violations of workers or citizen rights. Even if the provision is not the basis for these actions, it is unfortunately something the countries could try to point to in order to defend their actions.

Implementation of Human Rights Clauses in Host City Contracts

The Olympic Host City Contract (“HCC”) is made between three parties, the IOC, the representatives of the Host City, and the National Olympic Committee for the Host Country (“Host NOC”), it also requires the formation of the legal entity, the “Organising Committee of the Olympic

²⁵ Human Rights Watch, “China: Media Freedom Under Assault Ahead of 2008 Olympics: Harassment of Journalist, Censorship Still Prevalent Despite Official Pledges” (31 May 2008) Online: <<https://www.hrw.org/news/2007/05/31/china-media-freedom-under-assault-ahead-2008-olympics>>.

²⁶ Willett, *supra* note 6 at 124-125.

²⁷ Business & Human Rights Resource Centre, “Brazil: Concerns around restrictions on freedom of expression during the Olympics, sponsors comment” (2016) Online: <<https://www.business-humanrights.org/en/latest-news/brazil-concerns-around-restrictions-on-freedom-of-expression-during-the-olympics-sponsors-comment/>>.

²⁸ Grell, *supra* note 13 at 162.

²⁹ International Olympic Committee, “Olympic Charter” (2020) Online (pdf): <https://stillmedab.olympic.org/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf#_ga=2.30104888.646968778.1617480582-1360368772.1616969031>.

Games” (the “OCOG”) who is also bound by the contract. The HCC outlines the obligations of the parties in the delivery of the Olympic games and also provides for secondary documents and commitments also binding the parties. The Olympic Agenda 2020 made specific recommendations with respect to the HCC and Olympic Charter which were implemented in part in the Beijing 2022 HCC³⁰ and in full beginning with the Paris 2024 HCC. The key provision inserted in new HCCs regarding human rights is Section III (Core Requirements), Article 13.2(b) which states as follows:

“[...] The Host City, the Host NOC and the OCOG shall, in their activities related to the organisation of the Games: b. protect and respect human rights and ensure any violation of human rights is remedied in a manner consistent with international agreements, law and regulations applicable in the Host Country and in a manner consistent with all internationally-recognised human rights standards and principles, including the United Nations Guiding Principles on Business and Human Rights, applicable in the Host Country.”³¹

This core provision is reiterated as well in Section III, article 15.2(b) which addresses more specifically compliance with laws and regulations of the Host Country as well as international agreements in regard to planning, construction, protection of the environment, health and safety, labour and working conditions and cultural heritage.³² An identical clause was added to the Candidature Questionnaire, requiring that the government of the Candidature Country provide a guarantee that necessary measures will be taken so that, in all activities related to the organization of the Games comply with the provision.³³ Finally, a slightly modified clause was added to the IOC Supplier Code stating, “suppliers shall respect international proclaimed human rights and ensure that they are not complicit in human rights abuses” prior to

³⁰ See for example, Section 21, Sustainability and Olympic Legacy, of the Beijing 2022 Host City Contract requires the City, the National Organizing Committee and the OCOG to take all necessary measure to ensure that the development projects and other projects necessary for the organization of the Games comply with local, regional and national legislation and international agreements and protocols, applicable in the Host Country with regard to planning, construction, protection of the environment, health and safety, labour and anti-corruption laws. Further Preamble L prohibits discrimination. International Olympic Committee, “XXIV Olympic Winter Games in Games in 2022, Host City Contract” (2015) Online (pdf): < https://stillmed.olympic.org/Documents/Host_city_elections/Host-City-Contract-XXIV-Olympic-Winter-Games-in-2022--Beijing-Execution-no-signature.pdf>

³¹ International Olympic Committee, “Games of the XXXIII Olympiad in 2024, Host City Contract Principles” (2017) Online (pdf): < <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXXIII-Olympiad-2024/Host-City-Contract-2024-Principles.pdf>>.

³² *Ibid*, at article 15.2(b).

³³ International Olympic Committee, “Candidature Questionnaire, Olympic Winter Games 2026” (2018) Online: < https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Games/Winter-Games/Games-2026-Winter-Olympic-Games/Candidature-Questionnaire-2026.pdf#_ga=2.100764166.646968778.1617480582-1360368772.1616969031>.

reiterating the same commitment to remedy any violations according to applicable law.³⁴ The IOC has also committed to establishing a Human Rights Advisory Committee to accompany these human rights contractual provisions, but few details on how this committee will assist in tackling human rights issues have been released and the formation of this committee was delayed for a second time in March of 2020.³⁵ As a result, the effectiveness of the provisions can only be assessed based on the content of the current contracts and current operational structure of the IOC.

Effectiveness of Provisions

As they stand the new provisions are a step in the right direction forcing the parties involved to address Human Rights, but are unlikely to be effective in remedying violations for the reasons detailed below.

Applicable Human Rights Laws

As various scholars have addressed the problem with these contractual provisions and guarantees is that the wording of the new clause limits the Human Rights obligations to those applicable in the host country, and not all Host Countries are bound by the same Human Rights obligations under National or International Laws.³⁶ This could limit available protections and remedies even available for individuals involved in the organisation of the games. Even where countries have signed on to international treaties or ratified a covenant they are difficult to enforce and to determine if a country has not satisfied their obligations with respect to the rights included.³⁷ Further, the Host Countries, regardless of entering into the HCC, are already bound by the aforementioned laws and some human rights violations in previous Olympics were made notwithstanding their national and international Human Rights obligations. For example, when Beijing hosted the 2008 Olympics the country had signed and ratified the International

³⁴ International Olympic Committee, "IOC Supplier Code – September 2018" at page 2, Online (pdf): <<https://stillmedab.olympic.org/media/Document%20Library/OlympicOrg/IOC/What-We-Do/celebrate-olympic-games/Sustainability/Spheres/IOC-Supplier-Code-Final.pdf>>.

³⁵ Liam Morgan, "IOC delay establishing Human Rights Committee to further develop strategy" (04 March 2020) *Inside the Games*, Online: <<https://www.insidethegames.biz/articles/1091429/ioc-delay-human-rights-committee>>.

³⁶ Daniela Heerdt, "Tapping the Potential of Human Rights Provisions in Mega-Sporting Events' Bidding and Hosting Agreements" (2018) 17 *The International Sports Law Journal* 170 at 176.

³⁷ Kalantry, Sital; Getgen, Jocelyn E.; and Koh, Steven A., "Enhancing Enforcement of Economic, Social, and Cultural Rights Using Indicators: A Focus on the Right to Education in the ICESCR" (2010). Cornell Law Faculty Publications Paper 1076 at 256-257. Online: <<http://scholarship.law.cornell.edu/facpub/1076>>.

Covenant on Economic, Social and Cultural Rights, which includes the right to work with “just and favourable working conditions”. Various reports leading up to this Olympic games reported labour abuse where workers were denied proper wages and required to work under dangerous conditions.³⁸ More recently in Japan, the host for the 2020 (now 2021) games, there are few limits on overtime and pay and still reporters have found that more than a fifth of companies have exceeded a government threshold of 80 hours of monthly overtime, with one worker committing suicide after reportedly working 200 hours of overtime a month before his death.³⁹

If the IOC in the HCC did clarify which International Human Rights obligations are to apply though, this could also be problematic as the contract would be imposing law not ratified by that Country on the Host City which amounts to exercising almost governmental authority within the country.⁴⁰ While some of the commercial provisions in the contract do require some unilateral acts of submission by the host countries to “Olympic Law” which sometime run against national laws, they are often in regard to commercial activities which come with the trade-off of a portion of revenues.⁴¹ Countries may become increasingly reluctant to bid as additional provisions in the HCC and Olympic Charter continue to superimpose increased laws on the jurisdiction.⁴²

Reporting Mechanisms

The Host City Contract lays out that the IOC will establish a reporting mechanism to address the Human Rights Obligations of the Host City and ensure compliance.⁴³ This reporting mechanism is to be organized with the Coordination Commission, a committee that works with the hosts of the games. However, as other scholars have noted the Commission typically only visits the host cities once or twice a

³⁸ See United Nations Human Rights Office of the Higher Commissioner, Status of Ratification Interactive Dashboard” Online: <<https://indicators.ohchr.org>>; See also, Human Rights Watch, *supra* note 20.

³⁹ Tarrant, *supra* note 18.

⁴⁰ Heerdt, *supra* note 36 at 173; Jessica Borowick, "The Olympic Host City Contract: Achieving Relational and Referential Efficiencies to Deliver the Best Games Ever" (2012) 12:1 Va Sports & Ent LJ 126 at 145.

⁴¹ Borowick, *ibid*.

⁴² Alexandre Miguel Mestre, “The Legal and Institutional Framework of the Olympic Games”, *Olympic World Libraries*, Online: <<https://library.olympic.org/Default/doc/SYRACUSE/209448/the-legal-and-institutional-framework-of-the-olympic-games-alexandre-miguel-mestre>>.

⁴³ International Olympic Committee, “Games of the XXXIII Olympiad in 2024, Host City Contract Principles” (2017) at article 13.3, Online (pdf): <<https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXXIII-Olympiad-2024/Host-City-Contract-2024-Principles.pdf>>.

year to check on progress.⁴⁴ As it stands this reporting mechanism provides no oversight beyond what the parties to the Host City Contract volunteer or what is discovered during a Coordination Commission visit, which could be very ineffective if the host city is aware of when they are coming.

Positive Obligation to Act?

The new provisions could be seen to impose a positive obligation on the signing parties to protect human rights and remedy any violations. However, there is no remedy or enforcement mechanism for third parties under the contract, just that the Host City, the NOC and OCOG should remedy any violations.⁴⁵ This leaves the Host City, the NOC and OCOG a bit at loose ends. It is unclear from this provision whether they should implement an oversight strategy with a body to handle complaints and ensure remedies, or if they would fulfill these duties by having information available on where parties whose rights have been violated can seek a legal remedy. In the case of the later the provisions really provide little new support to help provide remedies for the parties injured by non-compliance with human rights laws during the Olympic games. Any legal remedy available, was already available to them under applicable law.

In regard to IOC enforcement, the HCC provides that the IOC can retain any payment due or grant to be made under the HCC, or terminate the HCC removing the game from that city if “there is a violation of or failure to perform any material obligation pursuant to the HCC, under any applicable law, or any material Candidature Commitment of any Host Country Authority.”⁴⁶ These courses of action are problematic for three reasons. First, retaining payment from the Host City is attributing the conduct of a third party to the parties under the HCC & Supplier Code where they may have exercised all possible care and due diligence in awarding the contract to the third party.⁴⁷ It would be holding them responsible for not performing their preventative duty well enough, which could be hard to determine as there are no set

⁴⁴ Ryan Gauthier & Gigi Alford, "Will Human Rights Ever Be Olympic Values?: Evaluating the Responses to Human Rights Violations at the Olympic Games" (2019) 35:1 Conn J Int'l L 19 at 28.

⁴⁵ Heerdt, *supra* note 36 at 178.

⁴⁶ International Olympic Committee, "Games of the XXXIII Olympiad in 2024, Host City Contract Principles" (2017) at articles 36 & 38 Online (pdf): < <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXXIII-Olympiad-2024/Host-City-Contract-2024-Principles.pdf>>.

⁴⁷ Heerdt, *supra* note 36 at 173.

standards. Second, unless the funds withheld by the IOC are used to provide remedies, or a threat of withholding funds is substantial enough to force the parties to the HCC to provide a remedy, the injured party again reaps no benefit. Finally, the IOC withdrawing the games from the host city for human rights issues is even more problematic. It takes seven years to prepare for the games⁴⁸ and substantial amount of the allocated funds for the games would have been used during this preparation,⁴⁹ relying on the withdrawal means the commercial funds for the games would not be gained and puts those who had their rights violated in a worse position as it would be even harder for them obtain a monetary remedy.⁵⁰ Authors have cited this sanction as “the ‘nuclear option’, it could be immensely effective in theory but impossible to use in practice.”⁵¹

Missing Considerations

Issue of Politics and the IOC

None of the HCC provisions or the Olympic Charter have been changed regarding what the IOC considers “political matters” as outlined in regard to Berlin or Beijing. In order for the Olympics to truly address human rights they need to better address how issues such as those are handled. While they do not relate directly to the games they should not allow countries to “sportwash”. “Sportwashing is when states use sports mega-events to launder their reputations and distract from their horrific human-rights records.”⁵² Allowing the Olympics to proceed in nations committing major human rights violations outside the context of the games would be allowing the countries to do just that, as “empirical evidence suggests media coverage of a mega-sporting events, like the Olympics, has the potential to shape viewers' perceptions of a host nation.”⁵³

⁴⁸ Borowick, *supra* note 40 at 147.

⁴⁹ Moris, *supra* note 10.

⁵⁰ Heerd, *supra* note 36 at 180.

⁵¹ Grell, *supra* note 13 at 167.

⁵² Boykoff, *supra* note 8 at 11.

⁵³ Tista Turley, *When the Escape Ends Responsibility of the IOC and FIFA at the Intersection of Sport Law and Human Rights* (2016) 6 Notre Dame J Int'l Comp L 145 at 151.

Resolution Mechanism

As identified above, still missing from the HCC is details on how the protection of these rights should be ensured and further how remedies can be made easily accessible for those whose rights have been violated. Demonstrated throughout the history of human rights violations related to the Olympic games is that migrant workers, and marginalized individuals are often those most effected. These individuals often cannot afford national courts, let alone have the knowledge or resources to leverage an international court. Meaning, a remedy mechanism in relation to the games need be developed. Further, it must be well documented and accessible for workers to prevent intimidation or scare tactics that have been documented in prior games.⁵⁴

Moving Forward

[Recommendations made by other Scholars](#)

The issues of Human Rights and the Olympics has been vastly explored by legal scholars, each agree that steps have been made in the right direction, but that much more is still required in order for any actions already taken to be effective. One of the most prevalent recommendations is that an independent human rights committee be set up with inherent authority over Olympic human rights issues. Even once the IOC implements their advisory committee, a key concern of allowing the IOC to continue to have complete oversight over human rights issues (as it currently stands) is that the IOC is a money-driven private actor, who has a stake in moving the games forward.⁵⁵ An independent body could help prevent any abuses by one of the HCC contracted or affiliated parties through “continued oversight of the games, providing effective procedures for fielding grievances, and ensuring victims have monetary and injunctive relief for their suffering.”⁵⁶ This is similar to the sustainable sourcing code and complaints mechanism implemented by London’s OCOG during the 2012 Olympics that help to ensure sustainable supply

⁵⁴ Human Rights Watch, *supra* note 14.

⁵⁵ Dantam Le, "Leveraging the ILO for Human Rights and Workers' Rights in International Sporting Events" (2020) 42:2 Hastings Comm & Ent LJ 171 at 180.

⁵⁶ See for examples, Annie Willett, *supra* note 6 at 131; Grell, *supra* note 13 at 166-167

chains.⁵⁷ Establishing the second step needed to make the HCC and accompanying contractual provisions effective.

Other recommendations have included addressing human rights more extensively in the host city selection process⁵⁸, leveraging the International Labour Organization as a means of enforcement,⁵⁹ or using the Court of Arbitration for Sport to resolve disputes and provide remedies.⁶⁰ Each proposal has its benefits increasing the effectiveness of the steps the IOC has already taken to help remedy human rights issues associated with the Olympics, nevertheless, I believe the issue of human rights and the Olympics cannot be tackled in isolation and further problems associated with the Olympics must also be considered in proposing a solution.

My Recommendation

My recommendation is not novel and has also been recommended for various reasons outside of human rights.⁶¹ I believe human rights in the context of the Olympics should be viewed holistically in light of other issues regarding the inordinate cost of the games (which contribute to countries violating human rights) and the sustainability of the games' venues once the 16 day events are over. The Olympics in conjunction with other major global sporting events, should choose one winter and one summer venue location and build the required infrastructure needed for any mega-sporting event. I propose the venues be initially funded by all participating countries and a necessary portion of the revenues from any games hosted there go towards its maintenance. This would eliminate human rights issues associated with evictions and labour violations as the infrastructure is only built once rather than for each mega-sporting event, and either through location selection or private governance it could be ensured that freedom of the press/speech would not be violated.

⁵⁷ Institute for Human Rights and Business, *supra* note 16 at 3.

⁵⁸ Grell, *supra* note 13 at 168.

⁵⁹ Le, *supra* note 55 at 173-174 & 176.

⁶⁰ Heerdt, *supra* note 36 at 181-184

⁶¹ See for examples, John Rennie Short, "We should host the Olympics in the same place every time" (28 July 2015) *The Washington Post*, Online: <<https://www.washingtonpost.com/posteverything/wp/2015/07/28/we-should-host-the-olympics-in-the-same-place-every-time/>>; Josh Flear, Julian Uzielli & Sujata Berry, "Should the Olympic Games have a permanent venue?" (17 August 2016) *CBC Radio – The Current*, Online: <<https://www.cbc.ca/radio/thecurrent/the-current-for-august-17-2016-1.3724261/should-the-olympic-games-have-a-permanent-venue-1.3724289>>.

In addition, to eliminating many of the human rights issues associated with the Olympics, moving the games to single venues is also more sustainable, which is another area the IOC has struggled to have success with.⁶² The city of Montreal took until 2006 to pay off their Olympic games which occurred in 1976.⁶³ Since then, the Olympics have only become more expensive with host cities consistently spending well beyond their projected budget. For example, one of the most extreme cases was Sochi, Russia who budgeted \$12 billion for the 2014 games, which came to an actual cost of \$51 billion.⁶⁴ These immense price tags are leaving many cities years later still trying to pay off their creditors.⁶⁵ While it has been argued these initiatives help development of better infrastructure on a quicker timeline in the host cities,⁶⁶ those benefits should also be weighed against the fact that many of the venues are too expensive to maintain and often end up torn down or abandoned,⁶⁷ making them a wasted opportunity cost.

While I believe this recommendation is in the best interests of the games it is also contentious. In the 1980s the same recommendation was proposed by Athens to return the games to their birthplace but the IOC overwhelmingly voted against it.⁶⁸ Further, as illustrated by the proposal by Athens, where the locations should be (and the countries that would receive the run-off monetary benefit from tourism related to any games) would be difficult to determine. Proposals have varied from returning to Athens, having a summer and winter venue on five continents, or even buying land from a nation making it a privately owned location dedicated to international sport.⁶⁹ Despite the drawbacks of anchoring the games to specific locations, I believe weighed with the benefits to human rights, reduced costs of putting on the games, and increasingly the sustainability of the games by not creating further abandoned venues (or tearing them down) it is well worth the IOC reconsidering an amended proposal for a central location.

⁶² Richard Cashman, "Olympic Legacy in an Olympic City: Monuments, Museums and Memory" *Fourth International Symposium for Olympic Research*, Online (pdf): <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.531.4819&rep=rep1&type=pdf>>.

⁶³ Boykoff, *supra* note 8 at 6.

⁶⁴ *Ibid* at 7.

⁶⁵ See for example, Liam Morgan, "Rio 2016 debts rise for than three time to \$113 million" (09 February 2019) *Inside the Games*, Online: <<https://www.insidethegames.biz/articles/1075334/rio-2016-debts-rise-more-than-three-times-to-113-million>>.

⁶⁶ Cashman, *supra* note 62 at 112.

⁶⁷ Boykoff, *supra* note 8 at 8.

⁶⁸ Flear, JuUzielli & Berry, *supra* note 61.

⁶⁹ See, Short, *supra* note 61; Flear, Uzielli & Berry, *ibid*.

Conclusion

The IOC had made admirable steps to improving human rights issues associated with the Olympics, but there is still a long way to go. In order for the new human rights provisions to truly be effective, development of standards, oversight and a remedy mechanism is needed. Further, as other scholars have suggested I believe using an independent committee for human rights, together with the new contract provisions would likely greatly impact human rights with regard to the Olympics. However, viewed in conjunction with the issue of the rising cost of the Olympics and lack of venue sustainability, creating a central venue for the games would provide a more holistic solution that would benefit the Olympics' longevity.