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International Sports: Have States Succeeded Athletes as the Players?

Barbara O'Neill's Comment on international sports law is timely in this year of the Olympic Games. We can only hope that the nationalism roiling around a sharply divided Korean peninsula will not defeat one of the world's most visible experiments in cross-cultural association and cooperation. In too many instances states have indeed succeeded athletes on the global playing fields and, as between states and athletes, the field is anything but level. Perhaps, if we are going to refer to states as "international actors," that is what we should expect. In any event, Ms. O'Neill correctly confirms that sports, politics and nationalism are inseparable.

Nationalism, especially, needs regulation. Fortunately, recent decades have witnessed the growth of a new body of international sports law to meet this challenge. As this Comment indicates, several Rules of the Olympic Charter and related practices have become customary law. The charisma and high visibility of the Olympic Games help explain the unusual influence of the International Olympic Committee (IOC) in the legal process. Like the International Committee of the Red Cross, for example, the IOC exemplifies the role of some nongovernmental organizations in the functional process of international integration and progressive development of international law. Although international sports law has crystallized around an Olympic nucleus, other institutions have also made contributions. These institutions include national governments, whose foreign sports policies influence the formulation of law and often aggregate into custom; a good example is the (U.S.) Amateur Sports Act of 1978. Other contributors to the new body of law include such political groupings as the (British) Commonwealth and international organizations, such as the United Nations bodies that have been instrumental in combating apartheid in the sports arena. Understandably, this new body of law is still somewhat soft and undeveloped. Several sports-related problems—in particular, commercial transactions for the sale and purchase of sports equipment, contracts between professional players and their teams, network broadcasting contracts and personal injuries on the playing field—remain largely the province of more traditional bodies of law. Even so, states usually conform their behavior to accepted practices in the global sports arena. International sports law thus

helps protect athletes and athletic competition against harmful political intrusion. International law has proven to be good protection for athletes.

Foreword by James A.R. Nafziger*

* Professor of Law, Willamette University College of Law and author of INTERNATIONAL SPORTS LAW, scheduled for publication in June, 1988 (Transnational Publishers). This Preface was written in early April 1988.

The aims of the Olympic Movement [1] are to promote the development of those fine and moral qualities which are the basis of amateur sport and [2] to bring together the athletes of the world in a great quadrennial festival of sports thereby creating international respect and goodwill and [3] thus helping to construct a better and more peaceful world.¹

I. Introduction

"Nine Israelis on Olympic team slain with four Arabs as German Police Fight Raiders,"² was the headline of the *New York Times* on September 6, 1972. The tragedy occurred at the Olympic village in Munich, West Germany, the site of the 1972 Summer Olympic Games. Headlines concerning Olympic athletes usually center on a much happier note. This tragedy, however, is evidence of a very real problem that has entered the international sports arena — the problem of terrorism, and the killing and injuring of innocent people. Terrorism and other modern-day political issues have intruded into the sports world, making it extremely difficult for athletic events to be held for purposes of sportsmanship and good will.³

Athletes, as representatives of their countries in international sporting events, inevitably feel strong ties to them. Feelings of nationalism,⁴ experienced by the individual athletes, are also aroused at home. With nationalistic sentiments at a high, many nations are prompted to exert diplomatic and political pressure via international sporting events. In many instances governments use international sports programs for diplomatic or political gain⁵ as well as for the positive experiences gained by the athletes.⁶ However, governments also use international sports to achieve political gains that are totally unrelated to sports or to the individual participants. Such abuses of sport often result in harm to the athletes, whose concerns are often ignored by the countries involved. Terrorism is such an abuse of sport. Innocent lives are taken so that a government or a group can convey a message to an adversary.

This Comment will examine uses and abuses of sport in the international arena. Emphasis will be placed on the employment of Olympic sport in particular, but international sport as a whole. Sec-

1. Nafziger, *The Regulation of Transnational Sports Competition: Down From Mount Olympus*, 5 VAND. J. TRANS. L. 180, 185 (1971) [hereinafter Nafziger, *Transnational Sports*].

2. N.Y. Times, Sept. 6, 1972, at A1.

3. Nafziger, *Transnational Sports*, *supra* note 1, at 178. Sportsmanship and good will are Olympic ideals. *Id.*

4. *Nationalism* is defined as "Concern for or attachment to a particular nation's interests of culture." WEBSTER'S II NEW RIVERSIDE DICTIONARY, 468 (5th ed. 1984).

5. See *infra* notes 93-99 and accompanying text.

6. Sports exchanges, for example, are culturally stimulating experiences and are especially beneficial to the athletes.

tion II will examine the International Olympic System as the legal framework within which international sports law operates. Section III will analyze the uses of sport as a foreign relations tool, since the more sport becomes a bargaining chip for nations, the less important the athletes become. Section IV will discuss rules and regulations of the Olympic System that have been used to combat this political manipulation of sporting events. Finally, a plea is made for nations participating in international sports events not to lose sight of the main players, the athletes.

II. The International Olympic System

The Olympic Games⁷ involve far more than athletes engaging in physical sports competition. Athletes, nations (states), and individuals within the Olympic institutional apparatus are all a part of the events constituting the International Olympic Games.⁸ Although the founders of the modern Olympic Movement⁹ tried to keep politics and sports separate, the practice of politics in international sporting events is inevitable because these events provide a world-wide forum for issues and interests that might not otherwise be addressed. However, the framework of the Olympic System together with the rules and law upon which the system is based operate to keep the politics out of the actual Olympic sports arenas.¹⁰

A. *The International Olympic Committee*

The International Olympic System is comprised of the International Olympic Committee (IOC),¹¹ the National Olympic Committees (NOC),¹² the International Sports Federations,¹³ the Regional Games Federations,¹⁴ and the Games Organizing Committees.¹⁵

7. Kanin, *The Olympic System: Transnational Sport Organization and the Politics of Cultural Exchange*, in *SPORT AND INTERNATIONAL RELATIONS* 515, 522 (B. Lowe, D. Kanin and A. Strenk eds. 1978).

8. Nafziger, *Transnational Sports*, *supra* note 1, at 189.

9. Pierre de Coubertin, in 1894, founded the Modern Olympic Movement, which consists of the organizations that run the Olympic Games. Kanin, *supra* note 7, at 523.

10. Nafziger, *Transnational Sports*, *supra* note 1, at 203. "[T]he Olympic regime nevertheless has proven effective in resisting a preponderance of diplomatic machinations within the Olympic arena and in assuring a continuing measure of universality to the Games." *Id.* The IOC has, on occasion, taken positive action "to discourage politics from entering the sports arena." *Id.* at 203, n.75. For example, in 1962 the IOC suspended Indonesia for prohibiting Israeli and Taiwanese athletes from participating in the Asian Games for politically-based reasons. *Id.*

11. The purpose of the International Olympic Committee, founded in 1894, is to run the Olympic Games and preserve the Olympic ideal of international goodwill and sportsmanship. Kanin, *supra* note 7, at 523.

12. The National Olympic Committees are the representatives of the International Olympic Committee in each country. *Id.* at 524.

13. The International Sports Federations are the authorities on the technical aspects of each sport. *Id.* at 526.

14. The Regional Games Federations are responsible for running the Regional Games,

These organizations regulate and coordinate the Olympic Games, the regional games,¹⁶ and the world, regional and national championships of each sport.¹⁷ Power within the Olympic System is distributed between member organizations; central decision-making powers are shared by the IOC, the international sports federations and the Regional Games Federations.¹⁸ However, the central organ of the Olympic System is the IOC, which acts as "the final authority on all questions concerning the Olympic Games and the Olympic Movement."¹⁹

Under international law, the IOC is a corporate entity "having juridical status and perpetual succession."²⁰ The responsibilities of the IOC include creating rules and regulations to guide the Olympic decision-making process, to determine qualifications of Olympic participants, to select the site for the Olympic Games and to elect its own officers and committee chairpersons.²¹ The underlying goals of the International Olympic Committee are to promote international good will and sportsmanship.²²

The IOC is a non-governmental organization that is comprised of individuals, not nation-states or their representatives.²³ The IOC members are not official representatives of their states, but are instead "ambassadors of the Olympic ideal to their homelands."²⁴ Therefore, a crucial requirement of membership is to remain free from any strict governmental or organizational ties that could influence decision-making ability concerning IOC matters.²⁵

as the IOC is responsible for running the Olympic Games. *Id.* at 526-27.

15. *Id.*; see *infra* text accompanying notes 51-55.

16. Kanin, *supra* note 7, at 523. The regional games are held every four years in non-Olympic years. *Id.*

17. *Id.* Either the federation of each sport or the sanctioned national units hold the world, regional, and national championships at varying intervals in non-Olympic years. *Id.*

18. *Id.* at 528. "Power is distributed in such a way as to maintain an equilibrium between organs which were created independently, and which are jealous in their regard for their own place in the system." *Id.* at 527.

19. Rule 23, OLYMPIC RULES AND REGULATIONS 11 (1971) noted in Nafziger, *Transnational Sports*, *supra* note 1, at 187. Rule 4 of the Olympic Charter provides that "[e]very person or organization that plays any part whatsoever in the Olympic movement shall accept the supreme authority of the IOC and shall be bound by its Rules and submit to its jurisdiction." Rule 4, Olympic Charter (1983) noted in Nafziger, *Nonaggressive Sanctions in the International Sports Arena*, 15 CASE W. RES. J. INT'L L. 329, 333 (1983) [hereinafter Nafziger, *Nonaggressive Sanctions*].

20. Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 332.

21. Nafziger, *Transnational Sports*, *supra* note 1, at 187. The IOC consists of the Executive Board and the General Assembly, out of which the members of the Executive Board are elected. The members of the Executive Board include a president, three vice-presidents, and five members. R. ESPY, *THE POLITICS OF THE OLYMPIC GAMES* app. at 175 (1979).

22. Kanin, *supra* note 7, at 523; see text accompanying notes 1-4.

23. Nafziger, *Transnational Sports*, *supra* note 1, at 187.

24. Kanin, *supra* note 7, at 524.

25. Nafziger, *Transnational Sports*, *supra* note 1, at 189. Recruitment of the IOC members is conducted by the IOC based on the following factors: "facility in French or English, citizenship and residency in a country with a national Olympic committee, and independence from binding instructions from any individual, organization, or sovereign government."

B. *The National Olympic Committees*

As national representatives of the IOC,²⁶ the National Olympic Committees (NOCs),²⁷ must also remain functionally separate from the states in which they are located.²⁸ The NOCs supervise the organization of Olympic sports in each country,²⁹ and are responsible for choosing the athletic teams that will represent their respective countries in the Olympic and regional games.³⁰ This selection occurs during try-outs of all eligible competitors, which normally take place at the national championships.³¹ In addition, NOCs make the final decision on whether or not the national teams will participate in the Games.³²

In order to be permitted to send athletes to the Olympic Games, a country's NOC must first be recognized by the IOC. The IOC requires NOCs to represent a country that is a "viable political unit with a stable government,"³³ as determined by the IOC. Recognition by the IOC, therefore, implies or results in the recognition of that state's jurisdiction within its territory, and its stability as a govern-

Rule 11, OLYMPIC RULES AND REGULATIONS (1971), *noted in* Nafziger, *Transnational Sports*, *supra* note 1, at 189.

26. Nafziger, *Transnational Sports*, *supra* note 1, at 189. The NOCs have jurisdiction over all domestic matters of the IOC. *Id.*

27. Kanin, *supra* note 7, at 524. Local Olympic officials, representatives of national sports organizations, and persons representing interested government agencies and businesses, together form the National Olympic Committee of each state. *Id.* at 524.

28. *Id.* at 525. Rule 25 of the Olympic Rules and Regulations applies to NOCs: "National Olympic Committees must be completely independent and autonomous and must resist all political, religious or commercial pressure. National Olympic Committees that do not conform to the Rules and Regulations of the International Olympic Committee forfeit their recognition and consequently their right to send participants to the Olympic Games." INTERNATIONAL OLYMPIC COMMITTEE, OLYMPIC RULES AND REGULATIONS (1972), *noted in* Nafziger, *Legal Aspects of a United States Foreign Sports Policy*, 8 VAND. J. TRANS. L. 837, 839, n.9 (1975) [hereinafter Nafziger, *U.S. Sports Policy*].

Rule 8 states that "the Games are contests between individuals and not between countries or areas." *Id.* The NOC must be "structurally" independent of the state, but an NOC may be under *de facto* control of a political unit. Most NOCs today are under government subsidy or influence. Kanin, *supra* note 7, at 525. For example, the United States Olympic Committee (USOC) is functionally independent from the United States Congress, however, it is governed by a Congressional Charter, which may be revoked or altered by Congress. *Id.*

29. Note, *Political Abuse of Olympic Sport*, 14 N.J. INT'L L. & P. 155, 162 (1981). "The objective of the national Olympic committees shall be to ensure the development and safe-guarding of the Olympic movement and sport. NOCs shall be the sole authorities responsible for the representation of their respective countries at the Olympic Games as well as at other events held under the patronage of the IOC, and to see that arrangements are made for the organization of the Games of the Olympiad and the Winter Games and the other events mentioned above when they are held in their own country." Olympic Charter (1980) at Rule 24(B), *noted in id.* at 162 n.56.

30. Kanin, *supra* note 7, at 525. NOCs have discretionary powers with regard to methods of Olympic team selection in their respective countries. For example, NOCs of some countries select their Olympic teams from state citizens only. *Id.* at 526.

31. Nafziger, *Transnational Sports*, *supra* note 1, at 189.

32. Olympic Charter, at Bylaw 8 to Rule 24, *noted in* Nafziger, *Foreign Policy in the Sports Arena*, in GOVERNMENT AND SPORT 248, 254 (A. Johnson and J. Frey eds. 1985) [hereinafter Nafziger, *Foreign Policy*].

33. Kanin, *supra* note 7, at 525.

ment. However, such recognition does not imply political acceptance of that country.³⁴

The NOCs are also responsible for the preservation of the national character of the Olympics.³⁵ For example, athletes are required to wear the official colors of their respective states when participating in competition at the Games, and the national anthem of the winning athlete or team is played following a victory. The NOCs often will restrict national team membership to citizens of that country.³⁶

Additionally, the NOCs are instrumental in the success of the Olympic Games, by choosing the host cities and states. Olympic member states that maintain IOC-recognized NOCs may submit bids to the IOC to host the Games;³⁷ indeed bids must be submitted through the NOC of the bidding state.³⁸ The representatives of state or cities bidding to host the Olympic Games must affirmatively answer fifty-two questions before they will be given consideration as host for the Games.³⁹ These questions cover matters concerning "[r]espect for IOC rules, general and cultural information, organizational matters, finances, and radio and television items."⁴⁰ After most cities have been eliminated based upon their answers to the questionnaire, the remaining cities are asked more difficult and specific questions in an attempt to narrow host contenders for the Games.⁴¹

Factors that the IOC weighs in the Olympic-site selection process include: security matters, cultural and tourist offerings, and recent political involvements of the city or state.⁴² The IOC's final

34. *Id.* OLYMPIC RULES BY-LAWS AND INSTRUCTIONS 17, Rule 25 (1976) [hereinafter *Rule*] noted in Nafziger and Strenk, *The Political Uses and Abuses of Sports*, 10 CONN. L.R. 259, 281 (1978).

35. Kanin, *supra* note 7, at 526.

36. *Id.*

37. Attaining host nation status is a position of international prestige and is useful for diplomatic and political purposes. Nafziger and Strenk, *supra* note 34, at 273. For example, by hosting the 1964 Summer Olympics, Japan was able to rid itself of negative impressions left over from World War II, and focus world attention on its modern and peaceful society committed to international organizations and human rights. *Id.*

38. Kanin, *supra* note 7, at 525.

39. J. LUCAS, *THE MODERN OLYMPIC GAMES* 144 (1980).

40. *Id.*

41. *Id.* Two examples of the more specific questions asked of finalist cities are the following:

Can you guarantee that no political meeting or demonstration will take place in the stadium, or any other sports ground, or in the Olympic Village during the Games?

Can you confirm that the full receipts for television, less the proportion due to you as Organizing Committee, will be handed over when received, in conformity with the I.O.C. formula between the I.O.C., International Federation and the N.O.C.'s?

Id.

42. R. ESPY, *supra* note 21, at 131-33.

choice depends on what is "best for the Olympic movement."⁴³ For example, Moscow, Los Angeles, and Montreal, among others, had submitted bids to host the 1976 Summer Games. Of the three, Montreal was ultimately chosen.⁴⁴ Montreal's size was a major factor in this decision, because it had a better chance of remaining self-financed than a larger city. Furthermore, Montreal was selected to encourage other smaller cities to host the Games, particularly those in developing countries.⁴⁵ The IOC also anticipated that a smaller city might be easier to secure due to the smaller area and the fewer number of residents. Security was the major reason for the IOC's deciding not to choose Los Angeles, with its large area and heterogeneous population.⁴⁶

Another factor in Montreal's favor in the site-selection process was politics. While the United States was still being frowned upon for its involvement in Vietnam, Canada was a politically neutral country.⁴⁷ Yet another consideration in Montreal's favor was that Canada was making its second Olympic host-country bid, having lost out to Munich for the 1972 Summer games.⁴⁸ This factor became important when Montreal was compared to Moscow, as the Soviet Union was regarded as a newcomer to the Olympic Movement.⁴⁹

Once a city or state has been awarded the honor of hosting the Olympic Games,⁵⁰ that state's NOC forms a Games Organizing Committee, with the help of the local sports federation units and the government and business agencies.⁵¹ The organizing committee is responsible for preparation of the Olympic site, and for the actual management of the Games.⁵² Because financing is one of the criteria

43. *Id.* at 132.

44. *Id.* at 131. Moscow officials claimed that Moscow offered a vast cultural program and that their city's prestige would be increased in the eyes of the world. *Id.* Los Angeles offered the American commercial market, particularly the television revenues in the hopes of being chosen as the host city. Holding the Games in Los Angeles might have been profitable to the organizers, including the possibility of being able to reimburse the IOC and the national committees for initial expenditures. *Id.*

45. *Id.* at 133. The high costs of the Games were keeping smaller cities like Amsterdam out of the Olympic Market. *Id.* Hosting the Games depletes a country's financial resources. Montreal nearly went bankrupt after hosting the 1976 Summer Olympics at a cost of \$1.27 billion. Note, *supra* note 29, at 163 n.65.

46. R. ESPY, *supra* note 21, at 132. The IOC's major security concern was protecting all the contingents and preventing incidents. These concerns would be more difficult to satisfy in Los Angeles than in the smaller city of Montreal. Ironically, one of the reasons for the IOC's having chosen Munich for the 1972 Games was its homogenous character and its smaller size. *Id.*

47. *Id.*

48. *Id.* at 132-33. Preferences had always been given to cities that had been runners-up in previous site selections. *Id.* at 133.

49. *Id.*

50. Kanin, *supra* note 7, at 526. A host city is chosen approximately six years before the Games take place. *Id.*

51. *Id.* at 525.

52. *Id.*

The organizing committee: shall be the executive body for the organization

for selection of the host city or state, financing the Games is one of the larger responsibilities of the organizing committee.⁵³ Additionally, the organizing committee must adhere to IOC rules, regulations and directions,⁵⁴ and the federation rules concerning equipment and conduct of each sport.⁵⁵

C. *International Sports Federations*

The primary decision-making body in the Olympic System is comprised of the twenty-six International Sports Federations.⁵⁶ Individual federations govern the sports and athletic events of the Olympic System.⁵⁷ For example, the International Amateur Athletic Federation is the organization responsible for rule-making, supervision, control and development with respect to track and field competitions.⁵⁸ The federations' responsibilities include: determining standards for equipment and athletic programs, choosing referees, and controlling participation in each sport.⁵⁹ Participation in Olympic competitions is restricted to amateurs, although some federations allow professionals to participate in non-Olympic sporting events.⁶⁰ The federations are represented at the national level through their national affiliates.⁶¹ Similarly, the federations are actively involved in the Regional Games, which are celebrated every four years, with each region holding its Games in a non-Olympic year.⁶²

of the Olympic Games, . . . and shall be responsible for all the physical problems of the organisation. It shall function by virtue of the powers which shall have been delegated to it within prescribed limits, and it may not usurp the powers and responsibilities of the IOC.

Olympic Charter, rule 47 (1980) *noted in Note, supra* note 29, at 162 n.57.

53. Kanin, *supra* note 7, at 526. *See supra* note 45 and accompanying text.

54. Note, *supra* note 29, at 162.

55. Kanin, *supra* note 7, at 525.

56. *Id.* at 527, 528; J. LUCAS, *supra* note 39 at 141. "The Olympic Charter lists the international sports federations currently recognized by the IOC." Olympic Charter, rule 35 (1980), *noted in Note, supra* note 29, at 162 n.55.

57. Kanin, *supra* note 7, at 526. Federation approval of the Olympic Program in its sport is required at least fifteen days before those events begin in the Games. *Id.* Federations governing sports not part of the Olympic program can participate in Olympic events, provided that the sport is conducted like an Olympic Sport and its participants meet some definition of "amateur." *Id.* at 527.

58. Nafziger, *Transnational Sports, supra* note 1, at 188.

59. Kanin, *supra* note 7, at 526.

60. *Id.* at 526-27. The IOC and the federations disagree over the precise definition of the term "amateur." Both agree that only amateurs may participate in the Olympic Games, but some federations allow professionals to participate in non-Olympic events. *Id.* For example, the International Association Football (soccer) Federation (FIFA) allows professionals to compete in some of their activities, such as on the national teams in the World Cup Series. Only amateurs, however, may take part in Olympic Soccer matches. *Id.* at 519. Rule 26 of the Olympic Charter states that "salaried full-time-employed professional athletes are not eligible for Games competition." J. LUCAS, *supra* note 39, at 142.

61. Note, *supra* note 29, at 162.

62. Kanin, *supra* note 7, at 523. Examples of regional games include the Pan-American Games, the Commonwealth Games, the African Games, and the Asian Games. J. LUCAS, *supra* note 39, at 142.

When the Olympic movement began, the individual was the central figure in the field of athletics. The IOC's rules and the National Organizing Committees have tried to keep the Olympic movement centered around the individual.⁶³ This is a heavy burden, especially as politics becomes an even larger part of international sporting events. However, because athletes actually play the sports and compete on the teams, they are therefore a necessary component in the plans of the foreign affairs departments of many countries.

III. Political Use of International Sports

It is understood within the international community by the states and individual members of the IOC that sports and politics are inextricably intertwined.⁶⁴ This relationship between sports and politics originated with the concept of nationalism,⁶⁵ which is promoted by the IOC, the media,⁶⁶ and more importantly, by individual states. Nationalism operates through the athletes and their relationships with their respective countries, to further the interests of their countries by participating in international and regional athletic events.⁶⁷ The states, however, go one step further and manipulate world sporting events to advance their political interests.⁶⁸ Interference with international athletic events constitutes an abuse of sport, and is contrary to the ideals of the Olympic Movement and international law and custom.⁶⁹

A. Nationalism

Nationalism has been present in Olympic sport since the incep-

63. See *infra* note 160 and accompanying text.

64. See generally Kanin, *supra* note 7; Nafziger, *Foreign Policy*, *supra* note 32; Nafziger, *U.S. Sports Policy*, *supra* note 28; Nafziger, *Transnational Sports*, *supra* note 1; Nafziger and Strenk, *supra* note 34, and Note, *supra* note 29.

65. Toohey and Warning, *Nationalism: Inevitable and Incurable?*, in *OLYMPISM* 118, 119 (J. Segrave and D. Chu eds. 1981). For a definition of nationalism see *supra* note 4.

66. Leiper, *Political Problems in the Olympic Games*, in *OLYMPISM* 104, 104 (J. Segrave and D. Chu eds. 1981). Since World War II the media has had a great impact on the politicization of sports and of the Olympic Games by reporting events faster and to a greater spectrum of people. *Id.*

67. *Id.* at 106-07. A country's use of international achievements of its citizens to enhance prestige both at home and abroad is not limited to sport, as a look at the fields of business, culture, and science will prove. However, nationalism in such a context is not political. *Id.*

68. *Id.* at 105. The general difference between nationalism and politics is found in the following:

Nationalism might well be explained as the enhancing of the total reputation of a country *through sport success* because the citizens' pride is heightened and the world's respect is promoted. Politics, in contrast, is the increase of a nation's international power and influence in both sport and nonsport activities *by the manipulation of the sporting event.*

Id. (emphasis in original).

69. See *infra* Section *Legitimate Uses of Sport for Political Ends* and accompanying text.

tion of the Modern Olympic Games in 1896,⁷⁰ and in other athletic events between individuals of different countries long before 1896.⁷¹ "Any time a contest takes place between athletes of different countries, nationalism *must* be a factor in the competition."⁷² Nationalism in and of itself is not a problem, especially when it enhances the patriotic feelings of a country towards its representative athletes and acts as "a positive virtue and a cohesive political force."⁷³ National pride experienced by competitors and spectators due to an athlete's success is a natural and healthy aspect of the Olympic Games.⁷⁴ Problems arise, however, when nationalistic feelings, aroused by sport, are used to exert political pressure, resulting in countries substituting the successes of athletes in competition for successes in the political arena.⁷⁵

Although it had every intention of keeping nationalism and politicization out of the Olympic arena,⁷⁶ the IOC itself breeds nationalism in both its structure and organization.⁷⁷ The Olympic rules contain an "inherent paradox"⁷⁸ between nationalism and internationalism. While stating that the Games are contests between individuals and not between countries, the rules also assert that athletes represent their respective states, and that individuals are admitted to the Games only through their state's National Olympic Committee.⁷⁹ The athletes, therefore, have no choice but to identify with the country and organization that they are representing.

Furthermore, an athlete is not permitted to represent one coun-

70. Toohey and Warning, *supra* note 65, at 118. Nationalism was even displayed by the delegates at the Sorbonne Meeting in 1894, convened for the purpose of recreating the Olympic Games. *Id.*

71. Leiper, *supra* note 66, at 106. "Solon, the archon of Athens in the early 6th century BC, legislated a reward of 500 drachmas for every Athenian who won at the ancient Olympics in an effort to increase Athens' image." H.A. HARRIS, GREEK ATHLETES AND ATHLETICS, *noted in id.*

72. Leiper, *supra* note 66, at 106 (emphasis in original).

73. Toohey and Warning, *supra* note 65, at 118-19.

74. *Id.* at 119.

75. *Id.* The Soviet Union substituted its success in receiving host-nation status of the 1980 Summer Games as a political success in world recognition. The Soviet Union viewed its grant by the IOC of host-nation status as an endorsement of the Soviet foreign policy. 80 DEP'T ST. BULL. Special D (1980).

76. Toohey and Warning, *supra* note 65, at 119, 120.

77. *Id.* at 119.

When an organization structures itself in terms of other organizational entities (e.g., international sport in terms of nation-states), the facets of other organizations (the nation-state) become a part of the first organization (international sport). Since politics is a facet of nation-states, politics becomes a part of international sport. The only way to divorce politics from international sport is to alter the organizational structure of sport.

R. ESPY, *supra* note 21, at 164.

78. See discussion in Nafziger, *Transnational Sports*, *supra* note 1.

79. Toohey and Warning, *supra* note 65, at 120. The athletes, citizens of the state which they are representing, must be affiliated with the NOC and the sports organizations of that state. R. ESPY, *supra* note 21, at 169.

try in the Games when he or she had previously represented another country.⁸⁰ For example, after World War II, many athletes fled to the United States or elsewhere because of the presence of Soviet forces in Eastern Europe. These athletes wanted to participate in the 1952 and 1956 Games "as athletes, as individuals, behind the Olympic flag, or in whatever way was possible."⁸¹ The IOC prohibited their participation in the Games. IOC officials refused to modify the Olympic rules so strongly rooted in the nation-state system of organization, not even for the purpose of allowing some of the world's top athletes to compete for athletic honors.⁸²

Similarly, the IOC would not permit athletes whose National Olympic Committee had pulled out of the Montreal Games for political reasons to compete. "Even when in sympathy with such athletes, the IOC cannot challenge NOC control over team selection, and therefore cannot alter the political character of its own organization."⁸³

The traditional ceremonial hoopla that takes place even before the actual contests begin, injects nationalistic feelings into the atmosphere of the Games.⁸⁴ The playing of the victor's national anthem during the medal ceremonies is another instance when winning athletes and spectators experience national pride.⁸⁵ In addition, many spectators spread their national feelings by wearing the colors of their respective country's flag, or by displaying their nation's flag in buttons, clothing, and other paraphernalia.⁸⁶

80. *Id.* at 168-69.

81. *Id.*

82. *Id.* at 169. The question of modifying the rules to allow participation of these athletes was submitted to the Council of Europe, which agreed with the exiled athletes. The IOC, however, refused to alter the rules on this issue because it was contrary to the established organizational structure, which is firmly based on the nation-state system. Consequently, the IOC persisted in its refusal to permit the athletes to participate in the Games. *Id.*

83. Kanin, *supra* note 7, at 530-31.

84. Toohey and Warning, *supra* note 65, at 120-21. For instance, at the opening ceremonies, the athletes march into the arena nation by nation, under their national flags, displaying team colors. *Id.* The creator of the Modern Olympic Games, Pierre de Coubertin, wrote shortly after the first Modern Games of 1896: "One may be filled with a desire to see the colors of one's club or college triumph in a national meeting, but how much stronger is the feeling when the colors of one's own country are at stake . . ." *Id.* at 120.

85. *Id.* at 121. During medal ceremonies, the national flags of the three medalists are raised, and the national anthem of the winner's country is played. *Id.* Former IOC president Avery Brundage made several unsuccessful attempts to end the nationalism in the medal ceremonies during his presidency in the 1950s and 1960s. Leiper, *supra* note 66, at 108.

86.

Prestige is inherent in any major international sporting event, because great importance is attributed to the competition by the athletes, the governments, and the spectators. For the spectators it is highly significant to have the team win or the nation triumph, to feel vicarious identification with the individual athlete and their successes or failures. In the 1976 Games when Mac Wilkins, the American world-record-holding discus thrower and eventual Olympic champion, embraced the second-place East German for a particularly good throw instead of his own third-place teammate, the American press and public were aghast condemning Wilkin's act as nearly treasonous.

The closing ceremony presents a curious contrast to the egocentric nationalism of the preceding weeks. Since 1956, the practice has been for the athletes to join together and march out of the arena as one team.⁸⁷ Symbolically, the true goal of the Olympic Games is realized in these final moments.

Yet, despite these final few moments of togetherness, each nation-state promotes a number of interests peculiar in character and importance to its socio-political structure. As such, nations have differing reasons for sending athletes and athletic teams to compete in international athletic competitions. The People's Republic of China competes in international competition primarily to form friendships and to learn good techniques.⁸⁸ Countries in parts of the Middle East and Middle Asia limit participation in sports to men. Often those in the military, the affluent, and the professional elite are the only citizens permitted to compete.⁸⁹ Women and those in the lower economic classes are excluded, typifying the caste system of these nations. The goal of the United States government in supporting international sports programs is to further "mutual understanding and communication."⁹⁰ Eastern European nations have used athletic competition as a tool to gain world recognition, and other nations seek economic gains from sports participation.⁹¹

Whatever the reasons for a country's supporting its sports' teams in international competition, teams become its diplomatic representatives, identifying and honoring the ideologies and values of the society and nation they represent. Governments are generally proud of the athletes who are sent to foreign territories for representation in athletic competition.⁹²

Sports have effectively been used as a diplomatic device by a few countries. The Peoples' Republic of China has conducted "peoples diplomacy" or "ping-pong diplomacy" as a means of establish-

R. ESPY, *supra* note 21, at 7.

87. Toohey and Warning, *supra* note 65, at 121.

88. Nafziger, *U.S. Sports Policy*, *supra* note 28, at 849.

89. *Id.*

90. *Id.* at 845-46. The U.S. also practices people-to-people communication and has given monetary support to encourage public diplomacy as used by private individuals and groups. *Id.* at 846.

91. *Id.* at 272.

92. Sometimes these athletes even have a duty of spreading the ideology to people they come in contact with, especially to the other competing teams. For instance,

"The overriding principle [of socialist states' international sporting relations] consists in developing relations between fraternal Community workers' parties which control physical culture and sport and formulate the foreign policy tasks of the national sports organizations." Sports contacts "help to strengthen fraternal cooperation and friendship and develop a sense of patriotism and internationalism among young people of the socialist states."

Riordan, *Soviet Sport and Soviet Foreign Policy* in *SPORT AND INTERNATIONAL RELATIONS* 316, 331 (B. Lowe, D. Kanin, and A. Strenk eds. 1978).

ing diplomatic relations with the United States.⁹³ By making its diplomatic overtures in such an innocent setting, the Chinese succeeded in de-emphasizing the underlying political motives for their hospitality. Through peoples diplomacy, they set in motion and laid the foundation for political recognition by the United States and the development of diplomatic relations on a nation-state level.⁹⁴

The Soviet Union also uses sport as a means of attaining national goals. The main purpose for international sports participation of the Soviet Union:

is to consolidate the authority of the Soviet Union by ensuring that Soviet athletes play a leading role internationally, that their sports skill instantly grows, that the successes of the Soviet people in building communism are made widely known and that physical culture and sport are promoted in our country.⁹⁵

Soviet athletes serve as symbols of goodwill in order to set the stage for peaceful negotiations with a foreign nation.⁹⁶ Thus, prior to a scheduled meeting with a foreign government, the Soviets will participate in a sports festival or an athlete exchange with that country's athletes, in which the negotiating country's athletes compete to lighten the mood for the negotiations.⁹⁷

As demonstrated by the preceding examples, sport can be used to promote diplomatic relations through two-nation competition, as

93. Nafziger, *Transnational Sports*, *supra* note 1, at 204-05. The United States table tennis team accepted an invitation extended by the government of the Peoples' Republic of China to visit Mainland China in 1971. This is the first official invitation to U.S. citizens from the Peking government since its establishment. The visit successfully led to a visit by the Chinese team to the United States after an official invitation of the Nixon government. Ping-pong was chosen as the activity in which the teams were to compete, as well as to share skills and techniques for two reasons: first, ping-pong creates minimal tension, and second, national prestige is only loosely tied to athletic success in such a sport. *Id.*

94. *Id.* The success of the Peoples' Republic of China's ping-pong diplomacy resulted in U.S. President Richard Nixon's accepting an invitation to visit China. *Id.* at 204. The Syrian government also became involved in the use of bilateral sports competition for diplomatic relations when it invited a U.S. basketball team to participate in an international basketball tournament in August, 1971, as one step towards improving U.S.-Syrian relations. *Id.* at 206.

95. Riordan, *supra* note 92, at 329.

96. *Id.*

97. *Id.* For example, prior to President Richard Nixon's visit to Moscow, and during a period of important negotiations between the two countries, the Soviet leaders sent their top women gymnasts, including Olga Korbut and Ludmilla Turishcheva, on a gymnastics tour of America. The success of the gymnastics tour led to the inclusion of a clause on sports exchanges in the USA-USSR Treaty on Contacts, Exchanges and Cooperation signed in Moscow two months later. *Id.* Section XI of the Agreement between the United States of America and the Union of Soviet Socialist Republics in Exchanges and Cooperation in Scientific, Technical, Educational, Cultural and Other Fields in 1972-1973 contains the following provision on sports:

1. The Parties agree to encourage reciprocal exchanges of athletes and athletic teams as well as visits of specialists in the fields of physical education and sports.
2. These exchanges and visits will be agreed upon between the appropriate United States and Soviet sports organizations.

Id.

well as through world competitions such as the Olympics. The use of sport to achieve the specific goals of a nation is most effective on a bilateral level.⁹⁸ The contacts between two nations on the athletic field can bring the two together, thereby offering an opportunity for government leaders to broaden and strengthen their economic and social ties with each other. Within the Olympic arena, "the lack of bilateral confrontation and the diffusion of actors and types of encounter renders directed bilateral diplomacy almost impossible."⁹⁹ This is not to say, however, that governments cannot and do not use the multi-national sporting events, especially the Olympic Games, as means to establish contacts with other countries.

B. *Sport for Political Goals*

Athletic events can be efficiently employed to combat problems or to attain political goals.¹⁰⁰ States have used international sporting events for the following reasons: (1) to gain national/political recognition and prestige;¹⁰¹ (2) to combat human rights problems, such as racial discrimination;¹⁰² (3) to foster international cooperation,¹⁰³ and (4) to spread ideology or propaganda.¹⁰⁴ Excessive use of sport for political purposes within the parameters of international law has often resulted in the exploitation and abuse of sport as a bargaining chip.

1. *Recognition and Non-Recognition of Nations.*—One of the most common uses or abuses¹⁰⁵ of athletic competition has been in granting or denying diplomatic recognition. When a nation decides to engage in international sports competition, it represents to other countries participating that it formally recognizes their existence. A refusal to permit its athletes to participate is thus equated with diplomatic nonrecognition.¹⁰⁶

98. Nafziger, *Transnational Sports*, *supra* note 1, at 206.

99. *Id.* Both forms of athletic participation, bilateral and multi-lateral, remain effective diplomatic tools because: "the minimal impact that the Olympic model may have for the promotion of friendly relations among nation-states should not diminish expectations that other forums of sports competition, particularly bilateral ones, will continue to serve as relatively low risk, face-saving vehicles of rapprochement." *Id.*

100. See generally SPORTS AND INTERNATIONAL RELATIONS (B. Lowe, D. Kanin, and A. Strenk eds. 1978); Nafziger, *Transnational Sports*, *supra* note 1; and Nafziger and Strenk, *supra* note 34.

101. See *infra* notes 105-14; 172-79 and accompanying text.

102. See *infra* notes 122-32; 189-96 and accompanying text.

103. See *infra* text accompanying note 163.

104. See *supra* note 97.

105. For example, an abuse of sports by non-recognition occurs when a national team officially recognized by the IOC is not permitted to participate in an Olympic event because the host government does not formally recognize that nation. See *infra* notes 178-88 and accompanying text for a recent example of such an abuse of sport by the Canadian government.

106. Nafziger and Strenk, *supra* note 34, at 261.

One example of a country using sports to gain diplomatic recognition is the German Democratic Republic (East Germany). Shortly after World War II, many countries did not recognize two separate German states, harboring the belief that Germany would become reunified within the near future.¹⁰⁷ As a consequence, nations that recognized West Germany refused to allow East German athletes to enter and compete in sporting events within their boundaries.¹⁰⁸

The granting of visas to East German athletes to participate in sport competitions was a slow uphill battle.¹⁰⁹ The process began in 1949, when the East German Soccer Team competed against a Hungarian "labor union" team, and demonstrated its existence as an "independent political entity capable of conducting cultural relations with other countries."¹¹⁰ The process culminated in 1972, when the IOC allowed East Germany to compete in international sporting events under its own emblems.¹¹¹

In the period between 1949 and 1972, the East German government actively sought formal diplomatic recognition through sports by expending a lot of time and money on its athletic programs. This expenditure took shape through the construction of new sports facilities and national training centers, the training of coaches, and the awarding of financial and other material aid for excellence in sports.¹¹² Due to this commitment, East German athletes excelled in so many sporting events that they could no longer be excluded from competing against other world class athletes.¹¹³ As a consequent of this lawful use of sport for political goals, other nations concluded that East Germany was a viable and stable government warranting formal diplomatic recognition.¹¹⁴

107. *Id.* at 262. During this time, West Germany also used sports as a diplomatic tool. With its ultimate goal of reunification of the two Germanys, West Germany stepped into the shoes of pre-war Germany within the IOC and international sports federations. East Germany had the choice of either being represented by West Germany in international sporting organizations or of stepping out of international sporting events. East Germany chose to fight for recognition. *Id.*

108. For example, the NATO powers refused to participate in sports with East Germany. *Id.* at 263.

109. *Id.* at 263-64. "East German athletes competed anywhere they were recognized as East German athletes on the program." *Id.* at 263. From 1957 to 1967, East Germany was refused visas on thirty-five different occasions, and frequently refused to participate with West Germany. *Id.* at 263 n.13.

110. *Id.* at 262. The Hungarians described their athletes as a "labor union" team simply because East Germany was not a member of the international soccer federation (FIFA). *Id.*

111. *Id.* at 263-64. In 1955, the IOC granted the East Germans provisional recognition, allowing them to compete on a team with the West Germans in the 1956, 1960, and 1964 Olympic Games. In the 1968 Mexico City Games, the two Germanys sent separate teams but participated under a common flag. *Id.* at 263.

112. *Id.* at 265.

113. *Id.* at 263.

114. East Germany continues to use sport against West Germany despite the Four Power Agreement of 1971 between the United States, France, the United Kingdom and the U.S.S.R. *Id.* at 264-65. The relevant provisions of Part I of the Four Power Agreement of

In contrast to the use of sports for recognitional purposes, the use of sports for nonrecognition is looked upon with disfavor. In the process of furthering its relations with the Peoples' Republic of China, the Canadian government engaged in the use of sport for diplomatic nonrecognition of the Republic of China.¹¹⁵ The controversy involved the Republic of China and the Peoples' Republic of China, with the Peoples' Republic of China prohibiting their athletes from taking part in international competition if the "other China's" athletes were participating.¹¹⁶ The problem climaxed at the 1976 Montreal Games, when the Canadian government, at the last minute, refused to admit athletes of the Republic of China so long as they competed under any symbolic representation of China, such as its flag or national anthem.¹¹⁷ The athletes would be permitted entrance if they participated under the designation of "Taiwan."¹¹⁸ The Republic of China refused to compete as "Taiwan," and subsequently withdrew from the Games. The Canadian government's decision was opposed by the IOC, its member federations, and the United States.¹¹⁹ Canada, however, insisted that it was following official government policy.¹²⁰ Regardless of Canada's reasons for its actions, it failed to consider the purposes of the Olympic Games and the ideals that the athletes are the key figures in the Games.¹²¹

1971 are as follows:

1. The four Governments will strive to promote the elimination of tension and the prevention of complications in the relevant area.
2. The four Governments taking into account their obligations under the Charter of the United Nations, agree that there shall be *no use or threat of force* in the area and that disputes shall be settled solely by peaceful means.

Quadrupartite Agreement on Berlin 1971, 24 U.S.T. 203, T.I.A.S. No. 7551.

115. Nafziger and Strenk, *supra* note 34, at 265-66. The Canadian government was following "its 1970 decision to accord diplomatic recognition to the Peoples' Republic of China and to withdraw recognition from the Republic" of China. *Id.* at 266.

116. *Id.* at 265. In 1958, the Peoples' Republic of China withdrew from the IOC, because the IOC extended recognition to the Republic of China. *Id.*

117. *Id.*

118. *Id.*

119. *Id.* at 266.

120. *Id.* Allan J. MacEacheu, Canada's Secretary of State for External Affairs stated on July 16, 1976:

We have not accepted [the Peoples Republic's] views, which asked us to prohibit totally the admission of Taiwanese athletes under any circumstances. That we were not prepared to do. We were prepared to admit the athletes if they accepted a designation that was compatible with our national policy on China.

Canadian Embassy, Public Affairs Division, CANADA REPORT, July 22, 1976, at 3, *noted in* Nafziger and Strenk, *supra* note 34, at 265 n.27.

121.

The central ideal of the Olympics was peaceful competition, and the central protagonist was the athlete. A last minute refusal of entry over something so trivial as a name was diametrically opposed to the central value of the Games. It destroyed all that the athlete had worked for and it lacked humanitarian concern.

R. ESPY, *supra* note 21, at 155.

2. *Promoting Peace and Human Rights.*—Underlying the concept of using sport to gain political recognition is the notion of working towards international cooperation through sport. International peace and friendship are part of the Olympic ideals¹²² and remain a part of international sporting events. More importantly the interaction of the athletes before, during, and after the actual contests is a primary concern.¹²³ Athletes of different cultures are involved in a similar experience and can communicate with each other on a non-nationalistic level. Once contacts are established through sports and international ties strengthened through further athletic exchanges and contests between the nations, the door of opportunity is opened for these nations to meet and negotiate on other, more important world concerns.

One concern that has been seriously addressed in the sports arena is the protection of human rights and the eradication of racial discrimination and apartheid.¹²⁴ The persistence of the problem has forced states to realize that the athlete, the individual, is the most important player in the sports world. Through the cooperation of many nations and applicable IOC rules concerning the practice of apartheid, sport has been effectively used to compel governments of nations such as South Africa and Rhodesia to alter their apartheid policies in sports,¹²⁵ thus allowing all individual athletes to compete, regardless of race.

The existence of apartheid in South African sports has led to the use of protests, boycotts and other pressure tools to force the South African government to change its policies on racial segregation in sports.¹²⁶ Because of this, sports play an all-important role in preserving South Africa's presence on the international scene. Thus, South Africa's acceptance in the international sports community has become an obsession, especially since South Africa has recently been

122. See *supra* note 22 and accompanying text.

123. Nafziger and Strenk, *supra* note 34, at 275. Ideally, the exposure of athletes of different cultures to each other will produce the following results: "Cultural bias and preconceptions will disappear as understanding and cooperation replace fear and distrust. Sports exchanges will afford an opportunity to understand the values of other cultures, and will foster a sense of communality." *Id.*

124. *Apartheid* is defined as "An official policy of racial segregation practiced in the Republic of South Africa." WEBSTER'S II NEW RIVERSIDE DICTIONARY 34 (5th ed. 1984);

Apartheid means not only that sport is practiced separately by different racial groups but also that sports opportunities and resources for white are vastly superior to those provided for other races. Sport is almost a religion in White South Africa; meanwhile, non-white facilities are minimal and blacks have been excluded from international teams.

Shaw and Shaw, *Sport as Transnational Politics: A Preliminary Analysis of Africa*, in OLYMPISM 386 (J. Segrave and D. Chu eds. 1981).

125. Nafziger, *Transnational Sports*, *supra* note 1, at 207-10.

126. *Id.* A boycott was threatened by thirty-two nations if South African athletes were permitted to compete in the 1968 Mexico City Games. *Id.* at 207.

condemned in international political circles.¹²⁷ Participation in the Olympic Games and Regional Games, therefore, is a top priority of the South African government.¹²⁸

Due to the overwhelming opposition to the apartheid policies of South Africa in sports as well as on a society-wide basis, a large number of countries ceased competing with South African athletes.¹²⁹ Isolation of South Africa from the international sports community was taking its toll on the South African government and sports participants. Thus, beginning in 1969, the South African officials realizing the need for changes in their country's apartheid policies, began to make plans for a change.¹³⁰ These changes, however, have been extremely slow in coming to fruition.

As a consequence of the importance with which the success of South African athletes is viewed by their government, the use of international sports to effect changes in South African government policy has been relatively successful.¹³¹ While South African athletes are the victims of the political uses of sport against apartheid in the short run,¹³² in the long run, a victory against racially discriminatory policies will benefit athletes and many other potential victims.¹³³

3. *Terrorism as a Political Tool.*—Terrorism is a recent world threat that caught the sports world by surprise in Munich at the 1972 Summer Olympic Games. There, Arab terrorists stole into the Olympic Village at night and took nine Israeli athletes hostage, killing two others.¹³⁴ During a rescue attempt by West German police, all nine Israelis and five terrorists died.¹³⁵ The terrorists, members of the Black September organization had hoped "to further Palestinian

127. Lapchick, *Apartheid Sport: South Africa's Use of Sport in Its Foreign Policy*, in *SPORT AND INTERNATIONAL RELATIONS* 369, 371 (B. Lowe, D. Kanin and A. Strenk eds. 1978). IOC acceptance of South Africa is translated by the South African government to its people as acceptance of its apartheid policies in international circles, despite United Nations Resolutions to the contrary. *Id.* See *supra* note 195 and accompanying text.

128. Nafziger, *Transnational Sports*, *supra* note 1, at 208.

129. Lapchick, *supra* note 127, at 379. In addition, by 1970, approximately eighty-nine nations actively opposed South Africa's right to international sports participation. *Id.*

130. Nafziger, *Transnational Sports*, *supra* note 1, at 207; see also *infra* notes 189-96 and accompanying text.

131. Lapchick, *supra* note 127, at 380.

132. *Id.* at 380. The Johannesburg *Sunday Times*, on May 31, 1970, stated concerning the attack on South Africa through sports:

South Africa's critics have simply discovered that sport is the most useful weapon they have yet found with which to beat us and while it is the sportsmen who are the sacrificial victims — they are being ostracized and deprived of the right to participate in world sport — the main target of attack is the racial policy of South Africa, or, to put it more precisely, the racial policy of the Nationalist Party.

Id. at 380.

133. *Id.*

134. Nafziger and Strenk, *supra* note 34, at 277.

135. *Id.* at 277-78.

recognition through a stunning propaganda coup at a major sporting event."¹³⁶

Terrorism is a very real problem in the sports arena, as well as in the everyday world. Deaths due to terrorist acts continue to rise each year.¹³⁷ The Olympic Games, Regional Games and other major sporting events¹³⁸ are prime targets for terrorists wishing to make a statement. Not only are millions of people present at the actual event, but millions of people are following the Games on television as well. Since the Munich tragedy, people have become more aware of the vulnerable position of athletes traveling abroad for athletic competition. The athletes look to their country for matters of safety. If the athletes themselves must be concerned about their safety, many would decide not to compete in foreign territories. A number of teams and individual athletes have already made the difficult decision to forego competition in a foreign country because of threats to safety.¹³⁹

Because of the prime opportunities for terrorist groups to make statements, and the fact that athletes look to the host country to account for their safety, security precautions have often been a major concern.¹⁴⁰ The upcoming 1988 Summer Olympics in Seoul, South Korea will be no exception. Indeed, the games are "shaping up as the most heavily fortified sporting event in history."¹⁴¹

136. *Id.* at 277.

137. Hatch, *Fighting Back Against Terrorism: When, Where and How?*, 13 OHIO N.U.L. REV. 5, 6 (1986). The number of international terrorist attacks throughout the globe in recent years is frightening — "more than 600 in 1984 and 812 for 1985, approximately one-quarter of which occurred in European countries. In fact, half of the worldwide terrorist acts during this decade have been aimed at just 10 countries, and one-third of that total had the United States as a direct target." *Id.*

138. The Super Bowl in the United States and the World Cup Soccer Championships are two major events in the professional sporting world which draw a world audience.

139. Hatch, *supra* note 137, at 8. Many American teams and individual athletes decided not to compete abroad because of terrorist threats:

The United States Tennis Association decided to keep the U.S. junior tennis players from competing at the Italian Open, the French Open, and the prestigious Wimbledon tournament. The Phoenix Suns professional basketball team withdrew from a trip to Bulgaria where they were to conduct a series of basketball clinics. Trips to Europe have been called off by the Aberdeen, Washington basketball allstars; a champion U.S. gymnast; the DePauw University football team; the Rollins College basketball team; the University of North Carolina basketball team; an American cycling team; and several American professional golfers, among others. Security arrangements were unprecedented at the May, 1986, Italian Open with armed guards stationed at each corner of the court during the final tennis matches in Rome.

Id. at 8.

140. See *supra* text accompanying note 46 for a discussion of security's role in the choosing of a site.

141. Haberman, *Seoul Olympic Rings Include Some Made of Barbed Wire*, N.Y. Times, Mar. 18, 1988, at A33, col. 1. The security precautions taken will consist of:

1. the South Korean armed forces of 620,000 and the national police force of 120,000 being placed on full alert to protect an estimated 34,000 athletes, officials, journalists and technicians;

Given the potential for political intrigue, pressure, and even violence, it is critical that international sporting events be carefully regulated to guard against goals extrinsic to the competition. As will be seen, the framework of the Olympic Movement provides an effective but, at times, insufficient mechanism for addressing these concerns.

IV. Legal Analysis of Politics in International Sports

Sports and athletic activities conducted on an international basis are subject to the laws of the international sports legal system. International sports law is governed by the rules and regulations of the International Olympic Committee,¹⁴² the international sports federations, and United Nations authority.¹⁴³ Athletic activities that are within the Olympic System, as well as other sporting events conducted between foreign athletes and teams, fall under the jurisdiction of at least one of these law-making authorities.

The legal framework of the Olympic System revolves around the Olympic Charter,¹⁴⁴ which lays out the rules and regulations of Olympic participants, and the IOC, which is the final authority on all Olympic matters.¹⁴⁵ The IOC, which has juridical status and perpetual succession under international law, administers the rules of the Olympic Charter.¹⁴⁶ The Olympic Charter and various ministerial and protocol provisions comprise the *Olympic Rules and Regulations*, a document that also includes the organizational rules, and Eligibility Code and its decisions.¹⁴⁷ According to the Olympic Charter "[e]very person or organization that plays any part whatsoever in the Olympic movement shall accept the supreme authority of the IOC and shall be bound by its Rules and submit to its jurisdic-

2. more than 30,000 specially hired security guards, being posted at training areas, hotels, and other potential targets;

3. the 40,000 American soldiers stationed in South Korea being placed on alert;

4. several aircraft carriers cruising off the South Korean coast;

5. aircraft and satellite surveillance increasing;

6. the use of 117,000 gadgets, including TV cameras, metal detectors and x-ray machines that will be able to detect plastic explosives, in Olympic Park;

7. the use of a special terminal at the airport for the athletes;

8. the placement of an electric fence around the entire Olympic Park;

9. the placement of three concrete fences around the Athlete's Village within the Olympic Park;

10. the use of police dogs to sniff out explosives; and

11. the patrolling of troops toting machine guns outside key locations.

Id. at col. 1-2.

142. The Olympic Charter contains the rules and regulations of the Olympic Movement.

143. Nafziger and Strenk, *supra* note 34, at 279.

144. Krotee, at 212. The Olympic Charter was adopted in Montevideo, Uruguay, in April of 1979. *Id.*

145. See *supra* note 19 and accompanying text.

146. Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 332.

147. Nafziger, *Transnational Sports*, *supra* note 1, at 190. The document consists of "basic law" provisions, rules, norms and a few admonitions. *Id.* at 190-91.

tion."¹⁴⁸ The IOC insures that the rules are observed, interprets the rules, and applies penalties to organizations and individuals under its jurisdiction.¹⁴⁹ Although the IOC is non-governmental and cannot in itself compel state obedience, its rules, as provided by the Olympic Charter, are evidence of international custom pertaining to sports competition.¹⁵⁰

The rules of law in sport are laid down by an authority distinct from the usual legislature. Moreover, due to the fact that the rule-making officials are elected from within the Olympic Movement or the international federations, and not through politics in the member countries, the rules of law guiding international sports are formulated independently of specific nations' concerns and priorities.¹⁵¹ Because participation in international sports is voluntary, participating nations and individuals submit themselves to the rule of law and authority of the governing bodies, agreeing to obey their rules and regulations or be subject to penalties and sanctions for disobedience to them. Consequently, "[t]he sports juridical system is applied in preference to the state juridical system."¹⁵² The authoritative force of the rules and regulations of sports organizations are recognized by both state and international law.¹⁵³

A. *Regulating the Force of Nationalistic Sentiment*

The presence of national flags and other national symbols in the Olympic Games is part of the Olympic tradition. Each nation or state has various interests creating differing levels of importance that

148. Olympic Charter, at Rule 4 (1983) noted in Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 333.

149. Krotee, *Sociological Perspectives of the Olympic Games*, in *OLYMPISM* 207 (J. Segrave and D. Chu eds. 1981). Under the Olympic Charter, technical disputes such as disqualifications, timekeeping, etc., are settled by a jury, appointed by the international federation for each sport. Rule 40, Olympic Rules and Regulations (1971), noted in *id.* at 191. All controversies of a non-technical nature must be submitted to the IOC Executive Board by a national committee, an international federation or the organizing committee of the city hosting the Games. Rule 15, Olympic Rules and Regulations 11 (1971), noted in Krotee, *supra* note 21, at 191.

150. Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 332-33. For example:

A 1977 Belgian court decision, confirming the position of the French courts, the Council of Europe, and the High Court of Justice of the European Communities, ruled that the international rules of sport supersede conflicting national policies and laws. The Second Conference of European Sports Ministers adopted a resolution that explicitly confirmed the authority of the Olympic Charter. Furthermore, leading publicists have established the authority of the Olympic Rules in the international sports arena.

Nafziger, *Foreign Policy*, *supra* note 32 at 259 n.22; see also Silance, *Interaction of the Rules in Sports Law and the Laws and Treaties Made by Public Authorities*, *OLYMPIC REV.* 619, 622, 627 (1977).

151. Silance, *supra* note 150 at 622.

152. *Id.*

153. *Id.* at 628.

it wishes to promote by supporting sport at the international level.¹⁵⁴ When a nation is successful in international competition, the effect is used to bring the people of the country closer together, as well as to further the political objectives of the country.¹⁵⁵ The use of nationalism for general diplomatic and recognitional purposes is not necessarily contrary to Olympic ideals, and awareness of such use is acknowledged by the Olympic Charter.¹⁵⁶ While nationalism is strongly encouraged by the Olympic Movement, and in itself does not cause abuses of sport for political purposes, nationalism may be used by governments for purposes that are contrary to the Olympic ideals, or in violation of Olympic rules and regulations.

Nationalism plays a lesser role in individual Olympic events, where respect and goodwill are more likely to be exchanged between the individuals of foreign nations.¹⁵⁷ However, in team sports, nationalism is more likely to play a dominant role.¹⁵⁸ Sports teams from rival countries meeting in competition are likely to experience an increased level of stress and tension because a country's national prestige and honor is at stake.¹⁵⁹ Because nationalism is a part of sport the potential is ripe for rule violations and abuses of sport. For this reason, international sporting contests within the Olympic System must be tightly regulated.

One major premise upon which Olympic sport is based is that

154. Nafziger, *U.S. Sports Policy*, *supra* note 28, at 848-49.

Individuals may be culturally conditioned to participate actively or passively for a variety of diverse reasons: for aesthetic pleasure related to the beauty of controlled body movement, for dramatics and strategy-interplay, for the sheer excitement of competition, for the thrill of physical exertion or even violence within the rules, or for the experience of learning. The controlling perspectives will depend on the sport, the age, sex, and other characteristics of the participants, the level and intensity of competition, the type of exchange, and most importantly, the cultural context.

Id.

155. *See generally*, Kanin, *supra* note 7; Nafziger, *U.S. Sports Policy*, *supra* note 28; Nafziger, *Nonaggressive Sanctions*, *supra* note 19; and Nafziger, *Transnational Sports*, *supra* note 1.

156. Note, *supra* note 29, at 163. The IOC also recognizes the dangers to Olympic ideals presented by national feelings in the Olympic Movement "instead of the realisation that the sharing of friendly effort and rivalry is the essential aim of the Olympic Games." Olympic Charter instruction I (1980), *noted in id.* at 163.

157. Nafziger, *Transnational Sports*, *supra* note 1, at 200-01. One example of goodwill overshadowing nationalism in Olympic Competition is "the crucial assistance that was given to Jesse Owens by his chief competitor in the broad jump in the politically-charged 1936 Olympics." *Id.* at 201.

158. *Id.*

159. *Id.* at 200.

The thousands of spectators, and sometimes the players as well, seem to behold a mighty contest between their country and the enemy. The national prestige is at stake; a victory is no longer the success of the team that could play better but becomes a national victory and is an occasion for national rejoicings, out of all proportion with reality. Such an attitude is not favorable to international understanding.

Id.

the Games are between individuals and not countries.¹⁶⁰ While team members are considered representatives of their country,¹⁶¹ the government of each country is to play no part whatsoever in the selection of the team or in the structure of the team. Team selection is conducted by the National Olympic Committee,¹⁶² and the government is not permitted to appoint any of its members. Furthermore, the rules call for strict adherence to these principles.

B. Legitimate Uses of Sport For Political Ends

Nations can, and do, however, manipulate sports to their advantage after teams are selected and are participating in international events. The use of a country's sports teams to advance relations with another nation or to "recognize"¹⁶³ the government of another nation is encouraged. The use of sport by the Peoples' Republic of China for ping-pong diplomacy¹⁶⁴ to strengthen relations with the United States is a valid use of sport as well as an effective diplomatic tool. The Chinese had subordinated any nation-state feelings that might have been present during the ping-pong tournament with the United States to emphasize people-to-people relations. The Chinese, therefore, succeeded in providing a politically harmless setting so that the athletes, coaches, and government officials could establish contacts with a former adversary and set the stage for future meetings between the two governments.¹⁶⁵ The Peoples' Republic of China succeeded by playing within the rules of international sports.

The Soviet Union's use of sport in trying to establish contacts with other nations may be just as effective if the Soviets do not overstep the bounds of the rules with regard to their reasons for using sports. The Soviets plan athletic tours and exchanges, as both a goodwill gesture and to lighten the mood before a visit or a meeting with officials of a foreign government.¹⁶⁶ These tours and exchanges are appropriate diplomatic uses of sports, and are thus received with approval by the international community.

C. Illegitimate Use of Sport for Political Ends

Despite the Soviet Union's successful use of sports within the boundaries of international law, the potential exists for Soviet ideol-

160. *Id.* at 202. Rule 8, OLYMPIC RULES AND REGULATIONS 11 (1971), *noted in id.* at 202.

161. *See supra* text accompanying note 79.

162. *See supra* text accompanying note 30.

163. *See supra* text accompanying note 101.

164. *See supra* notes 93-94 and accompanying text.

165. Nafziger, *Transnational Sports*, *supra* note 1, at 205.

166. *See supra* note 97 and accompanying text. For example, Soviet gymnasts toured the United States prior to a visit to the Soviet Union by President Richard Nixon. Riordan, *supra* note 92, at 329.

ogy to conflict with Olympic ideals.¹⁶⁷ In the Soviet view of sports, a success in an athletic contest against an adversary is a point for the Soviet government and for the Soviet way of life.¹⁶⁸ This view is not only contrary to the Olympic ideals, but also indicates possible violations of international sports law and custom. Rule 8 of the Olympic Rules and Regulations states that the Olympic Games are between individuals and not countries; Rule 44 states that the "Olympics are not contests between nations and no scoring by countries is recognized."¹⁶⁹ Both of these rules dictate that governments are not to interfere with the administration of the athletic programs in their countries. Yet the Soviet government prepares its athletes for Olympic and other international sports competition. Any victories of its athletes are thus victories for the Soviet Union. In Soviet eyes, the goals of international sports competition are not to promote international sportsmanship, the promotion of friendly contests between athletes, or the recognition of personal achievements. They are to assert the superiority of the Soviet way of life.¹⁷⁰

167. See generally *id.* A few of the duties of Soviet sports organizations are as follows:

1. to ensure top performance by Soviet athletes abroad as a means of widely publicising our attainments in building communism and in promoting physical culture and sport and to gain a prominent position internationally in the major sports;

2. systematically to propagate the aims and tasks of the Soviet sports movement, to explain the attitudes of Soviet sports organizations [sic] to the principal problems confronting the international sports movement, vigorously to combat slander, and misinformation in regard to Soviet sport, anti-communism and ideological diversions made by imperialist circles in world sport, to expose the real nature of bourgeois sport and the strategy and tactics of bourgeois sports organisations, [sic] to thwart actions directed against the sports organisations [sic] of the Soviet Union and of other socialist and young independent states;

3. to unite progressive forces in the international sports movement, to consolidate the united front of sports organisations [sic] of the socialist states, of the young independent states and the workers' sports organisations [sic] in capitalist states for the purpose of reaching progressive decisions on issues facing the international sports movement and of using sport as a weapon in the campaign for peace and mutual understanding.

Id. at 317.

168. Edwards, *Crisis in the Modern Olympic Movement*, in *OLYMPISM* 227, 232 (J. Segrave and D. Chu eds. 1981).

169. Rule 8; Rule 14, noted in Nafziger, *Transnational Sports*, *supra* note 1, at 202 n.3.

170. Clumpner, *Federal Involvement in Sport to Promote American Interests or Foreign Policy Objectives — 1950-1973*, in *SPORT AND INTERNATIONAL RELATIONS* 400, 402 (B. Lowe, D. Kanin, and A. Strenk, eds. 1978). The Soviet athletes competing in the Olympics have been criticized as being professionals:

The Soviet Athlete is as much a pawn in the vast Soviet mechanism as any other segment of the total Soviet proletariat. He is not an individual. He has no independence. He is anything but a free agent. His only right is the right to obey. And his duty is simple and absolute. He must win What further evidence do we need that the atheistic masters of the Kremlin are flagrantly violating the principle of the Olympic Games when we consider that these 12 million athletes are trained from childhood to adolescence, like performers in a circus, and to young manhood and womanhood? The head of government possession, direction, compulsion is everywhere. This is clearly in violation of Olympic rules.

These abuses of sport by the Soviet Union may be found to be in contravention of the Olympic Rules and Regulations, and may subject the Soviet NOC to sanctions by the IOC, thereby restricting or suspending athletes from Olympic competition. Furthermore, other nations' opposition to the Soviet's abuses may be expressed in a variety of ways, including cessation of bilateral sports exchanges with Soviet athletes.¹⁷¹

D. Effectiveness of the Olympic System in Regulating Political and Governmental Interference

For the most part, the Olympic System has effectively maintained obedience to its rules and regulations. A close working relationship between the IOC, the international federations, and the National Olympic Committees, keeps the system working, provided that each organ maintains control over its jurisdiction of participants.¹⁷²

The three organs of the Olympic System attempt to stop any political or governmental interference with its members so that the problem does not become an international problem. The use of sports for purposes of recognition and non-recognition of a nation's government are examples of compliance and non-compliance, respectively, with the rules of international sport. Using sports to formally recognize a foreign government is encouraged by international law. East Germany employed this system to gain diplomatic recognition.¹⁷³ It established contacts with individual nations in an effort to gain formal recognition by the IOC so that it could compete under its own flags and symbols in the Olympic Games, finally achieving this goal in 1972.¹⁷⁴

E. Visa Restrictions: Government Interference with Sport

The International Olympic Committee may have difficulty in enforcing Olympic rules with regard to entrance of athletes of IOC-recognized nations into a country hosting an athletic event because of a government controlled legal device, the visa.¹⁷⁵ It is within the powers of a government to grant or deny visas to athletes trying to enter its country for sports participation, regardless of whether the

U.S. Congressional Record, Vol. 110, 88th Congress, 2nd Session, 1964, p. A1451, *noted in id.* at 402.

171. For example, non-participation is used against South Africa as a sanction against its apartheid policies. *See infra* notes 202-06 and accompanying text.

172. Nafziger, *Transnational Sports*, *supra* note 1, at 203. *See also supra* notes 21-22, 29-31, 57-61 and accompanying text.

173. *See supra* notes 107-14 and accompanying text.

174. Nafziger and Strenk, *supra* note 34, at 262-64. *See also* text accompanying note 111.

175. *Visa* has been defined as "an authorization appended to a passport allowing entry into a specific country." WEBSTER'S II NEW RIVERSIDE DICTIONARY 769 (5th ed. 1984).

athletes are nationals of an IOC-recognized country.¹⁷⁶

1. Case Example: East Germany and the NATO Pact.—Before East Germany was formally recognized by the IOC, many Western nations refused visas to East German athletes. Under the terms of the Munich Pact, NATO member countries had an affirmative duty to prohibit the entry of East German nationals. Such denial of visas is legal, since East Germany had not yet been recognized by the IOC, and therefore, the host nation was not obligated to permit East German athletes to compete. However, after formal recognition by the IOC, such denial of visas would constitute a violation of Olympic Rule 3, which “prohibits discrimination against any country or person on political grounds,”¹⁷⁷ and any illegal political interference with an Olympic sporting event.

2. Case Example: Canadian Restrictions on Visas to the Republic of China.—The visa was again used as a political tool by Canada in 1976. Canada violated a number of Olympic rules and breached its promise to adhere to all Olympic rules and protocol when it refused to admit the Republic of China to the 1976 Montreal Games under its designation as the “Republic of China.”¹⁷⁸ The IOC had recognized the NOC of the Republic of China, under its chosen title,¹⁷⁹ thereby giving its NOC the right to select the team and send it to the Olympics to participate as the Republic of China. Canada, as the host country was, therefore, under Olympic Rules, obligated to admit all teams sent by the NOCs recognized by the IOC.

In addition to breaching an express promise by Canadian Prime Minister Trudeau, that “all Olympic rules and protocol would be followed if Montreal were granted the Games,”¹⁸⁰ Canada prevented its NOC from fulfilling all duties and obligations undertaken upon receiving host nation status.¹⁸¹ Under Olympic rules, Canada’s NOC had a duty to “guarantee that the Games will be organized to the satisfaction of and in accordance with the requirements of the International Olympic Committee”¹⁸² It was too late to change the site of the Games when the IOC became aware that Canada would

176. For an example of visas being denied to a non-IOC-recognized country, see *supra* note 109 and accompanying text.

177. Nafziger and Strenk, *supra* note 34, at 282.

178. See *supra* notes 117-20 and accompanying text.

179. Leiper, *supra* note 66, at 112. In 1968, the IOC recognized Taiwan as the “Republic of China.” *Id.*

180. *Id.*

181. Canada seems to have feared cancellation of wheat sales to mainland China if she were offended by the admittance of the team from the Republic of China. *Id.*

182. Rule 4, noted in Nafziger and Strenk, *supra* note 34, at 281.

deny admission of the team from the Republic of China, therefore, the IOC was forced to capitulate.¹⁸³ Because it was too late to change the site for the Games, they were held without the Republic of China, which reluctantly withdrew.¹⁸⁴

Canada's decision, motivated by its more friendly political relationship with the Peoples' Republic of China, resulted in political discrimination against athletes from the Republic of China. This was a clear violation of Olympic Rule 3¹⁸⁵ as well as the provision that "[n]o legal condition or regulation may be valid in opposition to IOC rules."¹⁸⁶ Furthermore, this illegal act was unnecessary because the Olympic rules provided an avenue for the Republic of China's athletes to be admitted without Canada granting official recognition to their government.¹⁸⁷ Because of this, Canada should have allowed the team from the Republic of China to enter the country and to compete under its official name. No political interference of the Canadian government was necessary, and no formal recognition of the government of the Republic of China as required. The athletes would have been allowed to compete in the Olympic Games for the sake of competition and sportsmanship.

The Canadian abuse of its control over visas demonstrates how the political sphere may interfere with the realm of sports. Its use of a sporting event to achieve better diplomatic relations with one nation while causing diplomatic injury to another can only be classified as an abuse of the Olympic System. Canada received the benefits related to the prestige of hosting the Games, but did not fulfill all of its obligations attached to such an honor. Such an abuse of sports must be prevented in the future.¹⁸⁸

183. Leiper, *supra* note 66, at 112; see also Nafziger and Strenk, *supra* note 34, at 283.

184. In 1968, the IOC was almost forced to move the Winter Olympic Games from Grenoble, France, to another location because of the French government's refusal to grant visas to East German athletes. France, as a member of NATO, did not yet recognize East Germany as an independent country. The solution was for East Germany athletes to compete as part of the West German team. Leiper, *supra* note 66, at 113.

185. Rule 3, *noted in* Nafziger and Strenk, *supra* note 34, at 282.

186. Nafziger and Strenk, *supra* note 34, at 282.

187. Rule 25, "Recognition of . . . a country[s] [National Olympic Committee] does not imply political recognition of that country. Recognition of [a National Olympic Committee] is dependent on [its] country having enjoyed a stable government for a reasonable period of time." Rule 25, *noted in* Nafziger and Strenk, *supra* note 34, at 281.

188.

The IOC and other international athletic organizations must assure their members that the abuse of international sporting events like Canada's assault on the Republic of China will not be tolerated. It is immaterial whether the Rules operate as binding obligations or as the best evidence of customary global authority. Every effort must be made to assure that the Olympic Rules and bilateral commitments are honored at . . . other sites of international competition in the future.

Nafziger and Strenk, *supra* note 34, at 283.

F. Attacking Human Rights Violations Through International Sports — South Africa: A Case Analysis

1. *Apartheid and the Boycott of South Africa.*—While Canada's political use of sports was detrimental to the Olympic Movement, political employment of sports can be used to benefit sports and people in general. Protection of human rights in apartheid is an area of international concern in which the IOC, the United Nations, and many governments have cooperated. Elimination of racial discrimination within the sports arena and beyond the playing field are one target of this international cooperation. In an effort to compel countries like South Africa and Rhodesia¹⁸⁹ to end their policies of racial discrimination in sports, the IOC enforces the Olympic rules and ensured that the NOCs are fulfilling their duties. The United Nations has passed resolutions concerning sports and the apartheid issue, and the member states of the IOC that have followed Olympic rules and decisions and have adhered to U.N. resolutions on racial discrimination in sports.¹⁹⁰

Under Rule 34, the NOCs must make sure that "no one has been left out [of the Olympic Games] for racial . . . reasons."¹⁹¹ If an NOC selects its Olympic team using the racially discriminatory practices of that state, the NOC has violated Rule 34. This was the case with the South African NOC. Up until 1964, the South African team was limited to white athletes. Therefore, the IOC refused to permit South African teams to participate in IOC events, based upon an application of Rule 1.¹⁹² Admission of South African athletes would indicate IOC approval of segregation against victims of South Africa's discriminatory process.¹⁹³

Between 1964 and 1968, the South African government made policy changes, adopting non-discriminatory practices of selecting, training and lodging of its Olympic participants.¹⁹⁴ This new policy did not affect competitions held in South Africa, which remained segregated. The IOC was convinced that the new South African non-discrimination policies met the rule requirements, and therefore de-

189. While the apartheid discussion in this Comment will be limited to the South African policies of racial segregation, it is noted that the Rhodesian government also practices apartheid and has thus been criticized for human rights violations. Rhodesian sports teams have been multi-racial since 1971, and multiracial sporting events are conducted in Rhodesia. Nafziger, *Transnational Sports*, *supra* note 1, at 210-11. Nevertheless, Rhodesia has been the object of diplomatic isolation because of its racially discriminatory policies. Nafziger and Strenk, *supra* note 34, at 284 n.125.

190. *Id.* at 285.

191. Nafziger, *Transnational Sports*, *supra* note 1, at 206.

192. "Rule 1 of the Olympic Rules prohibits discrimination in the Games against any country or person on grounds of race, religion or politics." *Id.*

193. *Id.* at 209.

194. *Id.* at 207.

cided to recognize its NOC and extend South Africa an Olympic invitation. Others, however, were not as easily convinced. Thirty-two nations threatened a boycott of the 1968 Olympic Games unless the South African team was excluded.¹⁹⁵ The IOC finally buckled under the threats of a boycott of the Games, and rescinded the South African invitation.¹⁹⁶

It seems as if the IOC made a hasty decision in believing that South Africa had significantly changed its apartheid policies when such an important issue as human rights were involved. However, the IOC is constantly working towards the goal of giving every nations' teams an opportunity to participate in the Olympic Games, based primarily on the Olympic ideals. The IOC tries to view the situation with ignorance to politics and fairness to the athletes who were originally the central figures of the Olympic Movement. The threat of a boycott, however, would take an even larger number of athletes out of the Games; because of this, the IOC gave in to the threatening countries.

2. *The Legality of Boycotts.*—Boycotts,¹⁹⁷ in general, are contrary to the Olympic rules because a boycott is a "form of political interference in the activity of a nongovernmental organization."¹⁹⁸ However, in the situation of apartheid, fundamental human rights principles outweigh any rights South Africa has in participating in sports. Therefore boycotting racial discrimination and apartheid is not only legitimate,¹⁹⁹ but may also be sanctioned by international authority, provided that the reasons for the boycott are not in violation of the United Nations Charter.²⁰⁰ In addition, the boycotting nation must show that racial discrimination is used in training, team selection and integration of teams.²⁰¹

3. *The United Nations Role in Combatting Apartheid through Sports.*—The U.N. itself has become involved in the fight against

195. *Id.*

196. *Id.* at 208.

197. *Boycott* was defined as "conduct whereby two or more States combine to interfere with the economic or political freedom of another, as by cutting off trade with its territory," by Professor Charles Cheney Hyde of Columbia University in an address entitled "The Boycott as a Sanction of International Law," (Apr. 27, 1933). J. HOBERMAN, *THE OLYMPIC CRISIS: SPORT, POLITICS AND THE MORAL ORDER* 6 (1986).

198. *Id.* at 5. See also Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 334.

199. *Id.*

200. Nafziger and Strenk, *supra* note 34, at 284. Article 2 of the United Nations Charter provides that:

(4) All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations.

U.N. CHARTER art. 2, para. 4.

201. Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 335.

apartheid, both in sports and beyond the sports arena. The International Convention on the Elimination of All Forms of Racial Discrimination,²⁰² as interpreted by the Supervisory Committee established under this Convention, creates an affirmative duty of states to implement the condemnation of apartheid.²⁰³ Specific to apartheid in sports is the United Nations Declaration against Apartheid in Sports which provides: "States shall deny visas and/or entry to representatives of sports bodies, members of teams or individual sportsmen from any country practicing apartheid."²⁰⁴ Both of these actions taken by the United Nations have proven successful,²⁰⁵ and increased the legitimacy of boycotts to fight official policies of racism.

Inherent in the fact that sport is important to the international relations policies of South Africa, a boycott of its athletic teams might impact heavily its foreign policy objectives and its relations with other countries, causing the South African government to modify its apartheid policy. Perhaps such an effective tool might enhance the progress for human rights.

Problems within the international sporting field have been successfully remedied almost wholly under the laws and customs of the International Olympic System. New issues,²⁰⁶ which closely follow the ever-changing situations in the political world, arise in international sports. A new issue that must be confronted by sports authorities is the problem of terrorism.

202. The International Convention on the Elimination of All Forms of Racial Discrimination (opened for signature Mar. 7, 1966, 660 U.N.T.S. 195, noted in Nafziger, *Nonaggressive Sanctions*, *supra* note 19) provides in pertinent part as follows:

Article 2(1):

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations.

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

Article 3:

States Parties particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Id. at 335-36.

203. *Id.* at 336.

204. U.N. Monthly Chronicle, 32 U.N. GAOR at 122, G.A. Res. 105(m) (1978).

205. "As of 1981, 92 of the 107 States Parties had taken steps to prohibit South African sportsmen from entering their territories. Of the remaining 15 States, only eight have continued to allow South African athletes to compete in their territory." Nafziger, *Nonaggressive Sanctions*, *supra* note 19, at 336.

206. For example, the problems concerning the two Germanys, the two Chinas and later, apartheid in South Africa and Rhodesia were issues which arose in the international sports world. See *supra* notes 202-05 and accompanying text.

G. *Terrorism Threatens Sports: Providing Security Against Political Terrorism*

Terrorism is a difficult problem to combat because it operates on the element of surprise. Consequently, when dealing with terrorism in sports, the goals of an event's host are first, to deter terrorists from attempting to attack, and second, to be prepared for any type of attack, thereby eliminating the surprise factor. Because these are difficult tasks to achieve, the key element to success is cooperation.

The IOC, its member states, the host nation and its NOC cooperate in order to create a safe location for the Olympic Games. All of these groups have an interest in ensuring the safety of the athletes and the other participants in the Olympic Games and, therefore, they should be willing to cooperate.

The Olympic organizations must work within the Olympic rules and regulations to ensure that the Games are conducted without interference. First, the IOC has the responsibility of selecting the site for the Olympic Games.²⁰⁷ Adequacy of security measures and characteristics of the proposed Olympic site are important factors considered by the IOC for selection of a site.²⁰⁸ The city bidding to host the Games must convince the International Olympic Committee that it has the capabilities of securing the city so that (1) it is extremely unlikely that terrorists will attack,²⁰⁹ and (2) if there is any type of attack, security personnel will be well prepared to handle it.²¹⁰

Once the site has been chosen, the host city and the organizing committee have primary responsibility for security measures, but the government of the host country provides back-up support in most instances.²¹¹ The organizing committee, which is responsible for preparation of the Olympic site and management of the Games, forms a security organization that is run from a centrally located headquarters. It is this organization that assumes primary responsibility for the safety of the athletes and the Games. In addition, the host nation, hoping to increase its prestige through the Games, has a strong interest not only in the success of the Games but in prevent-

207. See *supra* note 21 and accompanying text.

208. Size was one deciding factor in selecting Montreal in 1976. Officials believed it might be easier to secure the Games in a smaller city than in a larger city like Los Angeles. See *supra* note 46 and accompanying text.

209. Proof of ability to provide security for the city may be shown in the questionnaire which each bidding city must submit to the IOC. J. LUCAS, *supra* note 39, at 144; see also *supra* note 41 and accompanying text.

210. *Id.*

211. For example, in the 1988 Winter Games in Calgary, the city police secured events held in Calgary, and the Royal Canadian Montreal Police (RCMP) were responsible for security outside the city. In the upcoming 1988 Summer Games in Seoul, the host nation, South Korea has taken elaborate precautions to protect the athletes from feared terrorism from North Korea. See *Haberman, supra* note 141.

ing the occurrence of any major incidents. Because of this, the host nation generally cooperates with the organizing committee to ensure that the site is secure. The host nation may also solicit the cooperation of other nations, especially in exchanging information about terrorism and known terrorists.²¹² International cooperation in ensuring the safety of the Olympic site will benefit all nations sending teams to compete.

The countries sending teams to the Games are limited in the actions they can take to ensure the safety of their athletes in the territory of another government. Foreign nations cannot send armed security personnel to the Games to protect their nationals because the Games are in another country whose assurances of safety must be relied on.²¹³ A nation concerned for the safety of its athletes might be limited to diplomatic channels: demand assurances that the sports arena and Olympic Village are safe and secure. It is the host nation's responsibility to ensure the safety of foreigners on its soil for the Olympic Games.

While the 1972 Munich Games first alerted Olympic authorities to the problem of terrorism in sports, subsequent host nations have made tremendous efforts to guarantee the safety of athletes at the Games.²¹⁴ Hopefully, security personnel at future Olympic sites will not be forced to prove their readiness for a terrorist attack.

V. Conclusion

It has finally been universally accepted that politics and sports are inseparable. Although Pierre de Coubertin, the founder of the modern Olympics had hoped to keep politics out of the Olympic Games, there has yet to be an Olympics without some form of political overtones. Therefore, the goal of the organization within the Olympic System is to control the use of politics in sport so that sport is not misused or abused.

The rules and regulations of the International Olympic Committee can be applied to politics in sport to determine if sport is being abused. The Olympic rules operate to preserve the Olympic Games and to protect the rights and interests of the individual ath-

212. The security personnel at the command post for the Calgary Games used computers connected to Interpol data banks, which provide a checklist of suspected terrorists. Howse, *Securing the Games*, MACLEANS, July 27, 1987, at 38. For the Seoul Games, the South Korean officials will be assisted by some 40,000 American soldiers stationed in the country, if necessary. *Haberman, supra* note 141. Further, "Air Force planes may be flown in from Japan, and [U.S.] Marine amphibious battalions based in Okinawa are to be made available." *Id.*

213. For example, no bodyguards from foreign countries were permitted to carry weapons in Canada during the 1988 Calgary Winter Games. *Id.*

214. See *Haberman, supra* note 141 for precautions to be taken in the 1988 Summer Games in Seoul, South Korea.

letes. When politics interfere in sports, resulting in injury to the Games or to the athletes, the Olympic rules and international law should be employed to punish the offenders.

With world politics constantly changing, the Olympic System will be confronted by new situations in which countries try to manipulate sports to their advantage. The states are forgetting the Olympic ideals of sportsmanship and good will. Therefore, the organizations and members of the Olympic System will be forced to cooperate to ensure that the interference of politics in the Olympic arena does not destroy the Olympic Games or the ideals of the Games.

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