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Defining the olympic legal framework and the IOC's lawmaking capability: *lex Olympica*, Olympic law and their relationships with *lex sportiva* and sports law

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Abstract

The Olympic Games, the International Olympic Committee (IOC), and the legal framework that regulates them, have long been the subject of multidisciplinary scrutiny. Despite significant academic critique, the operations of the Olympic Movement, particularly in relation to the IOC's governance and its interactions with athletes, have been relatively underexplored by legal scholars. The study of *lex Olympica* and Olympic law is evolving, with a growing emphasis on its application and limitations. Early legal analyses assumed that the Olympic Charter was largely immune to conventional legal challenges, with courts often hesitant to interfere with the IOC's decisions. However, recent rulings from the Court of Arbitration for Sport and the Bundeskartellamt (the German Competition Authority), indicate that the legality of specific provisions of the Olympic Charter can be challenged under both international sporting-legal frameworks and before national courts and tribunals. This article begins by defining what is understood as the Olympic legal framework, *lex Olympica* and Olympic law, distinguishing them from their more generally applicable equivalents, *lex sportiva* and sports law. It then traces the process by which *lex Olympica* is created by focusing on the IOC's incorporation of its human rights obligations into the Olympic Charter and related secondary and subsidiary documents. The article concludes by proposing ways that the IOC may be able to navigate more effectively these complex legal processes.

Keywords Lex Olympica · Lex sportiva · Olympic law · Sport law · The Olympic games

1 Introduction

The study of the Olympic legal framework, specifically *lex Olympica* and Olympic law, is a rapidly developing area of Olympic studies, as is evidenced by this Special Issue. The importance of studying these categories of law is twofold. First, they are key components of the more widely used and understood concepts of *lex sportiva* and sports law, sharing many characteristics with them. Secondly, and perhaps more importantly, *lex Olympica* and Olympic law are key drivers of the development of *lex sportiva* and sports law, as the

Olympic Charter has evolved into a transnational constitution of the Olympic Movement.¹

For many years, legal analyses were undertaken on the assumption that, to a significant degree, the Olympic Charter and the decisions of the International Olympic Committee (IOC) had some sort of immunity from the law. Three cases from North America demonstrate starkly that the courts did not want to engage with a review of the legality of the IOC's decision-making processes.² In *Martin v IOC*, the first of two American cases, the court held that:

[we] find persuasive the argument that a court should be wary of applying a state statute to alter the content of the Olympic Games. The Olympic Games are organized and conducted under the terms of an international agreement - the Olympic Charter. We are extremely hesitant to undertake the application of one state's statute to alter an event that is staged with

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¹ Duval 2018.

² For more detail on these cases see James 2025.

competitors from the entire world under the terms of that agreement.³

Similarly, in *Michels v United States Olympic Committee (USOC)*,⁴ the court stated that, ‘There can be few less suitable bodies than the federal courts [of the USA] for determining the eligibility, or the procedures for determining the eligibility, of athletes to participate in the Olympic Games.’ Finally, in the Canadian case of *Sagen v Vancouver Organizing Committee for the 2010 Olympic and Paralympic Games (VANOC)*, the court held that:

VANOC cannot be held to be in breach of the [Canadian] Charter [of Rights and Freedoms] in relation to decisions that it cannot control. VANOC did not make the decision to exclude women’s ski jumping from the 2010 Games... VANOC does not have the power to remedy it.⁵

Following decisions of both the Court of Arbitration for Sport (CAS) and the Bundeskartellamt (the BKA (the German Competition Authority)), it is now clear that the Olympic Charter is susceptible to legal review before both the internal *lex sportiva* framework developed by sport to regulate itself, and the appropriate national and international tribunals and courts. In *USOC v IOC*,⁶ the CAS held that a change to the Olympic Charter was unlawful on the grounds that it was *ultra vires*. The new Rule provided that an additional ban from the next two editions of the Olympic Games must be imposed on any athlete who had been banned for six months or longer for an anti-doping rule violation. As a signatory of the World Anti-Doping Code, the IOC was prohibited from imposing additional punishments outside of World Anti-Doping Agency’s (WADA) regulatory framework, resulting in the Rule being struck out as unlawful. In a landmark decision in Germany, the BKA held that Rule 40 of the Olympic Charter was anti-competitive and, therefore, unlawful under both German law and Articles 101 and 102 of the Treaty on the Functioning of the European Union. The BKA determined that the operation of Rule 40 was unnecessarily restrictive in the ways that it reduced athletes’ ability to maximise their income from their appearance at the Olympic Games, resulting in the redefinition of what is now Rule 40.1 of the Olympic Charter.⁷ As a result of these cases, it is imperative to determine the

definition, scope and purpose of *lex Olympica* as the locus of the internal normative framework of the IOC and the wider Olympic Movement.

This article begins by explaining the infrastructure of the Olympic legal framework and providing working definitions of the concepts of *lex Olympica* and Olympic law, which will also provide the contextual backdrop against which the issues raised in subsequent articles in this Special Issue can be understood more clearly. More broadly, it casts light upon the scope and definitions of *lex sportiva* and sports law, and the importance of their relationship with their Olympic equivalents. The process by which *lex Olympica* is created is then examined in detail, using the IOC’s objective of incorporating its human rights responsibilities into the Olympic Charter as an example of how its internal legal norms evolve from policy to law. It concludes by proposing that, in an era of much closer scrutiny of the IOC’s lawmaking capabilities, greater care must be taken to ensure a preciseness of definitional clarity across all forms of *lex Olympica* that will make it easier for Olympic stakeholders to navigate these badly chartered waters.

2 The Olympic legal framework: defining *lex Olympica* and Olympic law

To be able to undertake analyses of the legal norms created by the IOC, and the laws to which the Olympic Movement is subject, it is essential to provide an understanding of the meaning, aims and scope of these concepts so that the evolving and expanding literature on the Olympic legal framework continues to be built on solid foundations.⁸ It is, therefore, important to provide robust definitions of the terms being used so that we have a clear understanding of what comprises the Olympic legal framework and what we mean when using the terms *lex Olympica* and Olympic law. This will require an understanding of the processes by which these forms of law are created and why it is important to distinguish them from each other and from the more generally used *lex sportiva* and sports law. This more nuanced understanding of the key underpinning concepts of the Olympic legal framework will enable future analyses to build on and develop further the evolution of *lex Olympica* and its place in the transnational legal space.⁹

The Olympic legal framework is an overarching concept that covers the internal and external legal architecture by which the IOC, the National Olympic Committees (NOCs),

³ 740 F.2d 670 (9th Cir., 1984), para. 22.

⁴ 741 F.2d 155 (7th Cir., 1984), para. 17.

⁵ 2009 BCSC 942, para. 121.

⁶ Arbitration CAS 2011/O/2422 *United States Olympic Committee v. International Olympic Committee*, award of 4 October 2011.

⁷ James and Osborn 2024a, ch. 3.

⁸ Previous analyses of *lex Olympica* include Latty 2001 and 2007, Maestre 2009 and 2024, Duval 2013, Gauthier 2017, Vedder 2022 and James and Osborn 2024a and 2024b.

⁹ Duval 2021.

the wider Olympic Movement, and the Olympic Games are governed and regulated. It consists of a dual legal-regulatory approach, with the internal legal norms combining to create a transnational *lex Olympica*, and where Olympic law is the more traditional sources of specialist national and international law that are created by governments, or which are derived from internationally recognised Treaties.¹⁰

Both *lex Olympica* and Olympic law are analogous to the more well-known and more widely used concepts of *lex sportiva* and sports law. Writing on the evolution of sport's internal codes and regulations, it has been stated that:

In contradistinction to more traditional forms of law, *lex sportiva* encapsulates the internal rules and regulations of sport, including the various governing statutes and charters, key contracts, and the decisions of the IOC, the international sports federations (ISFs), the WADA and the CAS.¹¹

Alternatively, sports law can be defined as the body of law that:

[incorporates] the bodies of national and EU legislation, the jurisprudence of national, EU and international courts, and the international treaties that apply to sport.¹²

Foster's explanation provides further clarity:

Whereas sports law is applied to, or imposed on, sport by the appropriate legal jurisdiction governing the dispute in question, the authority and applicability of *lex sportiva* is grounded in a series of interlocking contracts that require adherence to the internal legal norms and regulatory frameworks of specific sports bodies and is increasingly transnational in its outlook and application.¹³

Duval adds further nuance to this position, locating *lex sportiva* as something that operates with an intimate connection to the legal and political contexts in which it is grounded.¹⁴

Where *lex sportiva* provides a contractually derived internal legal system for international sport in general, and in particular for the major ISFs, *lex Olympica* acts in the same way by being the specific subset of both transnational law

and *lex sportiva* that provides the normative legal framework for the Olympic Movement.¹⁵ Its content is found in, and enforced by, a series of interlocking contracts, with the Olympic Charter at its apex, and incorporating a range of secondary and subsidiary sources that derive their authority from it, or which are needed to operationalise its requirements. Duval has described the Olympic Charter as a transnational constitution without a state and an overarching constitution of the *lex sportiva*.¹⁶ *Lex Olympica* is, therefore, both an Olympic-specific sub-category of *lex sportiva* and one of its key driving forces as its incorporation into the *lex sportiva* of ISFs is a requirement of their membership of the Olympic Movement.

2.1 The Olympic Charter as the primary source of *lex Olympica*

The Olympic Charter is the foundational document of the IOC and the Olympic Movement and provides the overarching source of its constitutional norms.¹⁷ As such, the Olympic Charter is the primary source of *lex Olympica*. Sitting beneath the Olympic Charter is a series of secondary and subsidiary sources of *lex Olympica*. These further sources provide clarification of and/or add detail to the Rules and bye-laws in the Olympic Charter, or derive their authority from the Charter itself, acting as additional sites of *lex Olympica* that are applicable to specific contexts.

The Olympic Charter stands as the constitutional document for the Olympic Movement as a whole and provides the IOC's governing regulatory framework. It defines the nature and scope of the IOC's key relationships with members of the Olympic Movement and beyond, including the ISFs, NOCs, the hosts and the local organising committees of the Olympic Games, WADA and its Code, and the CAS.¹⁸ Split into six parts, the Olympic Charter defines: the Olympic Movement and the IOC's key commercial and intellectual property rights; the legal status and powers of the IOC; the IOC's relationships with the ISFs and NOCs; the framework within which the Olympic Games are celebrated; and the means by which disputes are to be resolved. It is the apex document of the Olympic Movement and is seen as having a superior validity by its member organisations.¹⁹

As with any constitutional document, there will be situations where its legal norms will need to be interpreted to

¹⁰ For a detailed explanation of the genesis of these terms see, James and Osborn 2024a, ch. 2.

¹¹ James and Osborn 2024b, p. 96. For a more detailed discussion of the scope and definition of *lex sportiva*, see Duval (2013).

¹² Ibid.

¹³ Foster 2012.

¹⁴ Duval 2013. For further discussions on the definition of *lex sportiva*, see Siekmann and Soek (eds) (2012).

¹⁵ On the influence of the IOC over the wider Olympic Movement see Carter 2012.

¹⁶ Duval 2018.

¹⁷ James and Osborn 2024a, ch. 2.

¹⁸ Respectively, Rules 25–26, Rules 27–31, Rules 33–37, Rule 43, and Rule 61 of the Olympic Charter.

¹⁹ Duval 2018, p. 251.

ensure that their application is contextually appropriate. The first layer of interpretative nuance to the understanding of *lex Olympica* is provided by the Fundamental Principles of Olympism (Fundamental Principles). These seven Fundamental Principles are defined at the start of the Olympic Charter and provide a statement of the values to which all members of the Olympic Movement must adhere (Fundamental Principle 7).²⁰ Preceding the substantive elements of the Olympic Charter, the Fundamental Principles can be seen as generally applicable interpretative norms for the Rules that constitute the rest of the Charter.²¹ Extracting the key elements of the Fundamental Principles, the Olympic Charter must be interpreted so that it promotes:

Principle 1: social responsibility and respect for internationally recognised human rights and universal fundamental ethical principles.

Principle 2: a peaceful society concerned with the preservation of human dignity.

Principle 4: the practice of sport as a human right.

Principle 5: political neutrality.

Principle 6: the enjoyment of the rights and freedoms contained within the Olympic Charter without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status.

Using the Fundamental Principles as interpretative guidance ensures that the values of Olympism, the ideal that the Olympic Games transcends normal sport, are embedded in all aspects of the Olympic legal framework.

The second source of authoritative interpretations of the Olympic Charter are the decisions of the CAS, including those of its Olympics-specific Ad Hoc Division on matters directly related to each edition of the Olympic Games. Although Rule 59 secures for the IOC Executive Board and IOC Session the means of imposing sanctions for breaches of the Olympic Charter, Rule 61 ensures that any disputes on the interpretation of the Charter, or arising in connection with the Olympic Games, must be heard before the CAS. This has, for example, enabled the CAS to interpret the meaning of the word ‘country’ as used in Rules 28.5 and 30.1 of the Olympic Charter, and ‘political neutrality’ in Fundamental Principle 5 to uphold the IOC Executive Board’s decision to suspend the Russian Olympic Committee for including amongst its members four regional sports organisations that fall under the authority of the National Olympic Committee of Ukraine. The Russian Olympic Committee had, therefore, committed a breach of the Olympic Charter by violating

the territorial integrity of the National Olympic Committee of Ukraine, as recognised by the IOC in accordance with the Olympic Charter.²² At its most extreme, CAS is able to declare Rules of the Olympic Charter unlawful, as discussed above in *USOC v IOC*.²³

2.2 Additional sources of *lex Olympica*

As with any legal system, the sources of *lex Olympica* reach beyond its primary source of legal norms found in the Olympic Charter. The most important of these additional sources of *lex Olympica* are found in the documents that are referred to in the Olympic Charter. This can include documents that are external to the IOC and the wider Olympic Movement, but which are necessary for the effective operationalisation of specific elements of the *lex Olympica*.

2.2.1 Secondary sources of *lex Olympica* referred to explicitly in the Olympic Charter

The Olympic Charter makes explicit reference to a range of documents with which it expects compliance from its signatories. These secondary sources provide specific detail on context-specific requirements of members of the Olympic Movement and/or participants at the Olympic Games.

Perhaps the most important of these is the IOC Code of Ethics.²⁴ First mentioned in Rule 22 of the Olympic Charter, the IOC Code of Ethics provides the framework within which the requirements of integrity and ethical accountability are defined. All members of the Olympic Movement, and anyone participating in the Olympic Games are, by Article 1 of the Code of Ethics, expected to respect the universal fundamental ethical principles that are the foundation of Olympism, as defined in the Fundamental Principles. The remainder of the document ensures the integrity of conduct, competitions, and governance of all who are bound by the Code.

The Olympic Charter also requires compliance with two further codes: the World Anti-Doping Code (WADC)²⁵ and the Olympic Movement Code on the Prevention of Manipulation of Competitions (OMCPMC).²⁶ Rule 25 of the Olympic Charter requires that the statutes, practice and activities of ISFs within the Olympic Movement are in conformity with the Olympic Charter, including specifically

²⁰ IOC 2025, p. 8-9.

²¹ Duval 2018, p. 253.

²² Arbitration CAS 2023/A/10093 *Russian Olympic Committee v. International Olympic Committee*, award of 23 February 2024.

²³ Arbitration CAS 2011/O/2422 *United States Olympic Committee v. International Olympic Committee*, award of 4 October 2011.

²⁴ IOC 2024, pp. 9-18.

²⁵ WADA 2021.

²⁶ IOC 2022c.

the adoption and implementation of these two Codes. Similarly for NOCs, Rules 27.2.2, 27.2.6 and 27.2.7 require the observance of the Olympic Charter in their countries and the adoption and implementation the WADC and OMCPMC respectively. This position is reiterated in Rule 43 of the Olympic Charter, which states unequivocally that compliance with the World Anti-Doping Code and the Olympic Movement Code on the Prevention of Manipulation of Competitions is mandatory for the whole Olympic Movement.

A failure to adhere to the requirements of either the Olympic Charter, which includes the IOC Code of Ethics, or either of the two additional Codes could result in an ISF having its entire sport, or specific disciplines of that sport (including individual events), withdrawn or suspended from the Olympic Games, or, as the ultimate sanction, the withdrawal of its recognition as a member of the Olympic Movement under Rule 59.1.2. For NOCs, failure to comply with the Olympic Charter, the IOC Code of Ethics, the WADC or the OMCPMC can result in its suspension from the Olympic Movement, withdrawal of its recognition as a member of the Olympic Movement, and/or withdrawal of the right to organise a meeting of the IOC Session or an Olympic Congress (Rule 59.1.5).

Where the Olympic Charter is silent on its detailed application to specific circumstances, the IOC Executive Board can issue further guidance on how a Rule should be interpreted. For example, Rule 40.2 of the Olympic Charter states that freedom of expression shall be enjoyed where it is in keeping with the Olympic values and the Fundamental Principles of Olympism, and in accordance with the Guidelines determined by the IOC Executive Board. The most recent version of this additional guidance is contained in *The Guidelines on athlete expression - Olympic Games Paris 2024* (the 2024 Guidelines),²⁷ and explains how athletes' freedom of expression is regulated by Rule 40.2 and, in certain circumstances, prohibited under Rule 50.2.

Although the 2024 Guidelines provide a degree of clarity on what athletes can say and where they can say it, there remains a significant degree of ambiguity in their application. Fundamental Principles 1 and 4 explicitly require respect for internationally recognised human rights, which would include athletes' freedom of expression in accordance with Article 19 of the Universal Declaration on Human Rights (UDHR), Article 19 of the International Covenant on Civil and Political Rights (ICCPR), and Article 10 of the European Convention on Human Rights (ECHR). However, Rule 40.2 states that such freedom is protected only where it is in keeping with the Fundamental Principles and with the 2024 Guidance, which provides a series of specific restrictions on athlete expression. Further, Rule 50.2 specifically

prohibits demonstrations and political, religious or racial propaganda in any Olympic sites. The potential for confusion on the interpretation and application of *lex Olympica* in this situation is twofold. First, there is no explanation of the relationship between, or hierarchy of, Fundamental Principles 1 and 4, and Rules 40.2 and 50.2 of the Olympic Charter. Fundamental Principles 1 and 4 require respect for the freedom of expression as a right recognised specifically by the UDHR, ICCPR and the ECHR. However, although Rule 40.2 acknowledges the need to be guided by these Fundamental Principles, it provides that athletes' freedom of expression is to be limited by the Guidelines produced by the IOC Executive Board. Finally, Rule 50.2 was left unchanged as an absolute prohibition on certain forms of freedom of expression. This leaves athletes in the complex and contradictory position where their freedom of expression is to be respected, except where it is to be limited by Rule 40.2 and the Guidelines, or is prohibited entirely by Rule 50.2.

Secondly, there are still no definitions of the key terms used within the Olympic Charter. Using the same example of the regulation of athletes' expression, there is no explanation of when a legitimate exercise of an athlete's freedom of expression, as protected under Fundamental Principles 1 and 4, and to a limited extent under Rule 40.2, becomes a prohibited demonstration or dissemination of propaganda contrary to Rule 50.2. These definitional ambiguities mean that it is impossible for an athlete to determine in advance what the IOC's response to their exercise of free expression will be, nor that of their own NOC or the relevant ISF, each of which may also consider taking action against an athlete.²⁸ This clash between elements of the primary source of *lex Olympica* and the secondary sources that are used to interpret it sets up the potential for disputes over its interpretation and application, as can be seen in respect of athletes' freedom of expression, and will require further clarification in the future.

The last key document referred to in the Olympic Charter is the Olympic Host Contract (OHC).²⁹ Rule 36.1 of the Olympic Charter requires the host NOC, and once established the local organising committee, to be parties to the OHC; where appropriate, other bodies, including municipal, regional and state governments may also be parties. Rule 36.2 of the Olympic Charter states that the OHC shall determine the responsibilities of the NOC and local organising committee concerning the hosting of the Olympics and

²⁷ Athlete 365 2024.

²⁸ For detail on the application of Rule 50 and the Guidelines prior to the 2023 amendments to the Olympic Charter, see James and Osborn 2024c.

²⁹ IOC (n.d.). What is the Olympic Host Contract? Available at: <https://www.olympics.com/ioc/faq/electing-olympic-hosts/what-is-the-olympic-host-contract> (last accessed 7 March 2025).

contains the IOC's waiver of financial responsibility for the staging of the Games.

This group of secondary sources can be considered to be integral to the canon of *lex Olympica* as they are referred to explicitly in the Olympic Charter. Each of them addresses specific issues that require more detail than is provided in the Charter: on ethics and integrity; anti-doping; competition manipulation and match fixing; the regulation of freedom of expression; and on the organisation of the Olympic Games. Whether developed by the IOC, or by external bodies such as WADA, these secondary sources of *lex Olympica* contain essential legal norms applicable to the Olympic Movement, Olympic hosts and Olympians.

2.2.2 Subsidiary sources of *lex Olympica*

In addition to the secondary sources of *lex Olympica* that are referenced in the Olympic Charter, there are further documents to which reference must be made to ensure that compliance with the Charter's requirements is possible, or to which reference must be made to give meaning to its aims. These subsidiary documents also form part of the wider *lex Olympica*.

Fundamental Principles 1 and 4 both require 'respect for internationally recognised human rights.' Similarly, Article 1.1.4 of the IOC Code of Ethics requires 'respect for international conventions on protecting human rights insofar as they apply to the Olympic Games' activities.' However, no further detail is provided about which human rights are recognised internationally or which conventions should be referred to in either the Charter or the Code of Ethics. To find that detail, reference can be made to the IOC Strategic Framework on Human Rights (SFHR).³⁰ The SFHR states that the IOC affirms its commitment to respecting human rights within its remit in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs),³¹ which are internationally accepted as being a benchmark set of principles for the management of human rights impacts. The UNGPs then provide us with the necessary explanation of what is required of the IOC in terms of respecting human rights, and which international instruments contain the rights that need respecting. Principle 11 of the UNGPs states that respecting human rights requires that business enterprises, which now includes the IOC, should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. Principle 12 of the UNGPs then explains that, as a minimum, the human rights that need to be respected are those expressed in the International Bill of Human Rights

and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.³² Thus, the SFHR and the UNGPs can be incorporated into the *lex Olympica* as subsidiary instruments that are necessary for the understanding and operationalisation of the requirements of the Olympic Charter.

A similar approach can be applied to provide the detail necessary for members of the Olympic Movement to meet the requirements of Fundamental Principle 5 of the Olympic Charter. This requires that all sports organisations within the Olympic Movement are responsible for ensuring that the principles of good governance are applied within their operations. To operationalise this requirement, all members of the Olympic Movement must adopt the Basic Universal Principles of Good Governance within the Olympic Movement.³³ These standards of good governance must be reflected in each sports organisation's respective rules, regulations, policies and operations. These Principles ensure basic minimum standards of good governance, covering institutional governance, ethical and integrity standards, financial governance, the support of athletes, sustainable development and political autonomy and neutrality, are achieved.

What can be seen from this discussion is that the range of secondary and subsidiary sources of *lex Olympica* ensure that the aims and objectives of the Olympic Charter, and its underpinning Fundamental Principles, can be applied to the operational contexts needed to run the IOC, organise the Olympic Games, and provide leadership to the Olympic Movement. The source of the creation of these documents can be both internal to the IOC, such as the IOC Code of Ethics, or external, such as the World Anti-Doping Code. In each case, the secondary and subsidiary sources of *lex Olympica* build on, or flow from, the primary norms established by the Olympic Charter. *Lex Olympica* is, therefore, the internal legal norms created and/or adopted by the IOC that are imposed on both itself and the wider Olympic Movement through a series of interlocking and interdependent contracts. The Olympic Charter is the foundational, constitutional document and is the primary source of *lex Olympica*. It is supplemented by the secondary and subsidiary sources of *lex Olympica* that are found in a wide range of documents that include additional Codes, the opinions of the CAS, key contracts, frameworks, policies and guidelines.

³⁰ IOC 2022a.

³¹ IOC 2022a, p. 12.

³² The International Bill of Human Rights consists of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

³³ Preamble to the Basic Universal Principles of Good Governance within the Olympic Movement, IOC 2024, p. 71.

2.3 Distinguishing *lex Olympica* from Olympic law

In contrast to the internal legal norms created by *lex Olympica*, Olympic law comprises the body of national and international laws that are enacted to protect and/or regulate specific aspects of the Olympic Movement, and in particular, the Olympic Games. It also includes the laws that are enacted as a contractual requirement of the Olympic Host Contract.

The first group of Olympic laws includes the specific legislative protections granted to the Olympic symbols and Olympic-related terminology including, for example, the UK's Olympic Symbol etc. (Protection) Act 1995³⁴ and Germany's Olympiaschutzgesetz 2004,³⁵ and the legislation that establishes NOCs, including the USA's Ted Stevens Olympic and Amateur Sports Act 1978³⁶ and Sri Lanka's Sports Law No. 25 of 1973.³⁷ Additional protections at the international level are provided by the World Intellectual Property Organisation's Nairobi Treaty on the Protection of the Olympic Symbol 1981,³⁸ which prevents anyone in one of the signatory countries from using the Olympic symbol for commercial purposes without the authorisation of the IOC.

These generally applicable measures are supplemented by the national laws that the IOC requires to be enacted by each host nation of an edition of the Olympic Games. These Acts of Parliament can be extremely wide-ranging in their scope. A step change in the approach to creating Olympic law was seen in the UK's implementation of the London Olympic Games and Paralympic Games Act 2006 as the regulatory cornerstone of London 2012.³⁹ This Act addressed the specific demands of the IOC, including the criminalisation of ambush marketing and ticket touting, and the creation of the London Olympic Association Right,⁴⁰ as well as creating the Olympic Delivery Authority, which was responsible for the preparations of London 2012. The Act also provided the framework under which secondary legislation could be created to regulate transport networks and

provide tax exemptions to members of the Olympic family. Similar legislation has been passed by all subsequent host nations.⁴¹

Olympic law exhibits a number of unusual traits that are not generally seen in other forms of legislation. Under the first group of laws, the specific legislative protections provided for the key Olympic symbols and terms go beyond what is usually provided to private organisations. Often, they create a novel form of protection for the IOC's intellectual property, the breach of which is easier to prove than an infringement of traditional copyright and trademark laws.⁴²

The edition-specific Olympic laws exhibit two further elements that distinguish them from more traditional forms of legislation.⁴³ First, the normative framework that is to form the basis of the Olympic law, the *lex Olympica*, is developed by the IOC, a private, transnational non-state organisation, not by the government that will be responsible for the law's enactment. Once the edition of Olympic Games is completed, the efficacy of the host's Olympic laws are reviewed and, where necessary, inform the updating of the *lex Olympica*. This new version of the *lex Olympica* is in turn transplanted into the Olympic laws of the next host. This cycle of norm creation, forced enactment, and norm revision is repeated with each edition of the Games. A failure to accept these legal transplants can, at least in theory, result in the invitation to host the Olympic Games being rescinded.⁴⁴ This process of forcing the transplantation of *lex Olympica* into the new host's national law provides the IOC with an indirect law-making capability that draws directly on its leverage over the host and the latter's desire to be an Olympic city.

2.4 The relationships between *lex Olympica* and *lex sportiva* and Olympic law and sports law

From these analyses, it is possible to make some broad and reasonably robust generalisations about the relationships between *lex sportiva*, sports law and their Olympic equivalents. *Lex sportiva* and *lex Olympica* concern the internal

³⁴ Available at: <https://www.legislation.gov.uk/ukpga/1995/32/contents> (last accessed 7 March 2025).

³⁵ Available at: <https://www.gesetze-im-internet.de/olympschg/> (last accessed 7 March 2025).

³⁶ Available at: <https://uscode.house.gov/view.xhtml?path=/prelim@title36/subtitle2/partB/chapter2205&edition=prelim> (last accessed 7 March 2025).

³⁷ Available at: <https://www.moys.gov.lk/media/2020/4/YsG0ZejYh5bTABYuSfQPsOQQpLisCOhGK6zBuhbx.pdf> (last accessed 7 March 2025).

³⁸ Available at: <https://www.wipo.int/treaties/en/ip/nairobi/> (last accessed 7 March 2025).

³⁹ Available at: <https://www.legislation.gov.uk/ukpga/2006/12/contents> (last accessed 7 March 2025).

⁴⁰ Sections 19, 31 and 33 of the London Olympic Games and Paralympic Games Act 2006.

⁴¹ For Paris 2024 see LOI n° 2018-202 du 26 mars 2018 relative à l'organisation des jeux Olympiques et Paralympiques de 2024, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000036742943> and LOI n° 2023-380 du 19 mai 2023 relative aux jeux Olympiques et Paralympiques de 2024 et portant diverses autres dispositions, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000047561974> (last accessed 7 March 2025).

⁴² James and Osborn 2013.

⁴³ James and Osborn 2024b, p. 105.

⁴⁴ IOC (n.d.) Host City Contract Principles: XXV Olympic Winter Games 2026 cl. 38.2.c, available at: <https://stillmed.olympics.com/media/Document%20Library/OlympicOrg/Documents/Host-City-Elections/XXV-OWG-2026/Host-City-Contract-2026-Principles.pdf> (last accessed 19 June 2025).

norms of ISFs and the IOC, whereas sports law and Olympic law frame the external application of the more traditional forms of law to sport in general and the Olympic Games and the Olympic Movement in particular. Although sports law and Olympic law appear to be more formal, created as they are by national and transnational parliaments, or treaty-based international organisations, *lex sportiva* and *lex Olympica* are often no less formal in terms of their appearance, language and operationalisation. It is instead the processes by which they are created and enforced that differs; the traditional machinery of government creates and enforces sports law and Olympic law, whereas the internal legal frameworks developed by ISFs and the IOC create *lex sportiva* and *lex Olympica* and which are enforced by means of interlocking contracts. Finally, sports law and Olympic law are, in general, mono-jurisdictional in their application, whereas *lex sportiva* and *lex Olympica* are transnational in their development and application.

It is important to note one final point about the relationship between *lex Olympica* and *lex sportiva*. Whereas *lex Olympica* can be seen as an important subset of *lex sportiva*, a specialist version that applies to the IOC, the Olympic Games and the Olympic Movement, it is also one of the key driving forces of *lex sportiva* and the desire of sport for greater autonomy from the law. As the IOC considers itself to be the leader of transnational sport, and because many major ISFs are signatories of the Olympic Charter even where their sports are not part of the Olympic Games,⁴⁵ the innovations in legal regulation and governance created by the IOC through the *lex Olympica* can drive, and require, similar changes in the *lex sportiva*. These innovations are required of the Olympic Movement through its members being signatories of the Olympic Charter, and therefore, are contractual obligations of their continuing membership.

In summary, the Olympic legal framework is a dynamic source of legal norms and laws. *Lex Olympica* is the internal legal norms created by the IOC and which applies to the Olympic Movement, and itself, through a series of interlocking and interdependent contractual arrangements. Olympic law is the body of national and international laws that are enacted to protect and/or regulate specific aspects of the Olympic Movement and the Olympic Games.

3 The creation of *lex Olympica*: how the IOC's human rights obligations were incorporated into the Olympic Charter

The creation of *lex Olympica* follows a similar approach to the creation of national law in many jurisdictions. First, an overarching policy framework is created. This is epitomised by Agenda 2020, and its follow-up Agenda 2020 +5,⁴⁶ which provide the strategic direction that the Olympic Movement aims at following in the short to medium term.⁴⁷ This policy framework is provided with additional substance through the commission of expert reports and the production of strategic documents that describe how these policies will be implemented. Their eventual operationalisation can be through either an amendment to the Olympic Charter, the creation or amendment of secondary sources of *lex Olympica*, for example the 2024 Guidelines, or the adoption of subsidiary documents, such as IOC Strategic Framework on Human Rights.

Using the incorporation of the IOC's human rights commitments into the Olympic Charter as a worked example, this section maps the key milestones on the journey from policy idea to incorporation into the Olympic Charter to demonstrate how *lex Olympica* is created.

3.1 Creating *lex Olympica*

The route to the IOC's human rights responsibilities becoming a formal part of the *lex Olympica* began in 2014 with the publication of the IOC's Olympic Agenda 2020.⁴⁸ This strategic route map for the modernisation of the IOC and the Olympic Movement introduced a range of recommendations 'whose overarching goal was to safeguard the Olympic values and strengthen the role of sport in society',⁴⁹ and through which human rights were to become a strategic priority for the Olympic Movement. This was followed in 2019 by the commissioning of an independent report that sought to assess the IOC's approach to human rights.⁵⁰ The report was asked to make recommendations on the core content of a new strategic framework on human rights in the IOC's three spheres of responsibility: the IOC as an organisation itself; the IOC as owner of the Olympic Games; and the IOC as the leader of the Olympic Movement.⁵¹ The report's key recommendations included that the IOC: develop a human rights strategy that aligned with the UNGPs; embed respect

⁴⁵ For example, the members of The Association of IOC Recognised International Sports Federations and the sports for which they are responsible.

⁴⁶ IOC 2014 and IOC 2021.

⁴⁷ MacAloon 2017 and Nicolliello 2021.

⁴⁸ IOC 2014.

⁴⁹ IOC 2014, p. 7.

⁵⁰ Al Hussein and Davis 2020.

⁵¹ Al Hussein and Davis 2020, p. 16.

for human rights throughout its operations; identify human rights risks through effective due diligence; and strengthen the remedy ecosystem in sports. In 2021, the findings of this report were incorporated into Recommendation 13 of the IOC's Olympic Agenda 2020+5, which sought to strengthen the IOC's human rights approach by:

- Adopting an overarching IOC human rights strategic framework with specific action plans for each of the IOC's three different spheres of responsibility;
- Linking the overarching IOC human rights strategic framework to various existing and/or forthcoming IOC strategies;
- Amending the Olympic Charter and the Basic Universal Principles of Good Governance of the Olympic and Sports Movement to better articulate human rights responsibilities; and
- Enabling the newly created IOC Human Rights Unit to develop the IOC's internal capacity to deal with human rights issues.⁵²

In line with Agenda 2020+5's Recommendation 13, the IOC's Strategic Framework on Human Rights (SFHR) was published in 2022. This creates a new human rights focus for the IOC and, more generally through their being signatories of the Olympic Charter, the members of the Olympic Movement,⁵³ which includes in particular the NOCs and ISFs. The SFHR states specifically that, 'The IOC affirms its commitment to respecting human rights within its remit in accordance with the UNGPs.'⁵⁴ The UNGPs set out a 'Protect, Respect and Remedy Framework' that aims at ensuring that the human rights of everyone affected by a business' operations are recognised appropriately. Within this framework, nation states are expected to respect, protect and fulfil human rights and fundamental freedoms; businesses are required to respect human rights; and effective remedies must be provided, by either state or non-state grievance mechanisms, whenever these rights and freedoms are breached.⁵⁵ Although there have been criticisms that businesses are only required to respect human rights as the line between respecting and protecting human rights is notoriously blurred,⁵⁶ the IOC's alignment with the UNGPs has the potential to foreground its human rights responsibilities in the same ways as other private sector organisations and thereby provide strategic leadership to the wider Olympic Movement.⁵⁷

The last stage in the process of the creation of primary *lex Olympica*, requires an amendment of the Olympic Charter. The human rights responsibilities of the IOC, and through their membership of the Olympic Movement the ISFs and NOCs, was incorporated into the Olympic Charter at the 141st IOC Session, held in Mumbai in 2023. The Session agreed unanimously to accept amendments to the Olympic Charter that would embed the requirements of the SFHR into primary *lex Olympica*.⁵⁸ As a result, Fundamental Principles 1 and 4 were amended to require, 'respect of internationally recognised human rights within the remit of the Olympic Movement.'⁵⁹ The Basic Universal Principles of Good Governance within the Olympic Movement were also amended to require all members of the Olympic Movement to incorporate respect for human rights within the framework of their activities through its inclusion in the mission and goals of their founding statutes, constitutions and/or charters.⁶⁰

Using the incorporation of the IOC's human rights responsibilities into its internal legal norms, we are able to track the evolution of *lex Olympica* from its beginnings as a policy objective in Agenda 2020, through a white paper-like report stage in Al Hussein and Davis' report and recommendations, to a more explicit policy objective in Agenda 2020+5, to a formalised policy in the IOC's Strategic Human Rights Framework, to its formal adoption as *lex Olympica* in Fundamental Principles 1 and 4 of the Olympic Charter. This process has also seen the UNGPs incorporated into the *lex Olympica* through the SHRF and has resulted in amendments to subsidiary forms of *lex Olympica*, such as the Basic Universal Principles of Good Governance in the Olympic Movement.

4 Conclusion: charting a way forward

This article has provided a detailed explanation of the structure and operation of the Olympic legal framework. Building on previous work, it has provided definitions of *lex Olympica* and Olympic law that establish a structure for future analyses of their scope and operation. It demonstrates clearly that *lex Olympica* is created in a similar manner to how national law is created by sovereign lawmakers. Further, it has the ability to have a transnational impact on the governance and regulation of sport and the development of *lex sportiva* through the requirement that ISFs comply with

⁵² IOC 2021.

⁵³ IOC 2022a.

⁵⁴ Ibid p. 12

⁵⁵ UN 2011, p. 1.

⁵⁶ Wettstein (2015), p. 172.

⁵⁷ Byrne and Ludvigsen (2024).

⁵⁸ IOC (2023). Olympic Charter amendments approved by 141st IOC Session, 15 October, available at: <https://www.olympics.com/ioc/news/olympic-charter-amendments-approved-by-141st-ioc-session> (last accessed 7 March 2025).

⁵⁹ IOC 2024, p. 8.

⁶⁰ IOC 2022b, p. 2, Principle 1.2.

their contractual obligations as signatories of the Olympic Charter. However, it also highlights the challenges faced by the IOC when creating *lex Olympica*. Using the incorporation of its human rights responsibilities into its operations, it demonstrates that greater care needs to be paid to the definition and operationalisation of primary and secondary *lex Olympica* and its compatibility with existing national and international laws.

Although the IOC has acknowledged the need to respect internationally recognised human rights in Fundamental Principles 1 and 4 of the Olympic Charter, as both an organisation itself and as the leader of the Olympic Movement, that journey is still very much ongoing;⁶¹ definitional ambiguities remain, which in turn raise questions about the wider legality of the *lex Olympica*. If the *lex Olympica* is defined in a clear, precise and internally coherent manner, then it has the potential to influence more directly both *lex sportiva* and the legal systems of Olympic hosts. By using its legal guarantee to enforce *lex Olympica* in host nations, the IOC could become a genuine driver of change.

From a pragmatic perspective, the IOC needs the *lex Olympica* to be robust enough to ensure that it is insulated from future legal challenges. A failure to do so, and to engage with the wider legal frameworks within which it operates, leaves the IOC at risk of having changes to the *lex Olympica*, including to the Olympic Charter itself, forced on it, as has happened with the restrictions on athletes' earnings in Rule 40. The next challenge to face the *lex Olympica*, specifically its requirement in Fundamental Principle 4 that sport is a human right to which every individual must have access without discrimination of any kind in respect of internationally recognised human rights, is already on the horizon. The flurry of executive orders emanating from the USA, including the possibility of refusing visas to specific groups of athletes seeking to participate at LA 2028,⁶² will test whether the IOC will allow such discriminatory provisions to trump the *lex Olympica*, or whether the covenants signed during the bidding process that require the host country's public bodies to comply with the requirements of the Olympic Charter will be enforced.

The development and enforcement of *lex Olympica* provides the IOC with an opportunity to provide much needed leadership to the Olympic Movement on a range of key governance, regulatory, human rights and legal issues. By foregrounding more visibly the importance of *lex Olympica* within its operations and in accordance with the Olympic

legal framework,⁶³ the IOC is in a position to utilise the *lex Olympica* as a tool for change, by ensuring that its contractual requirements are implemented by all signatories of the Olympic Charter, both sporting and municipal. The aim for the IOC has to be to ensure that the *lex Olympica* develops an internal coherence that is capable of withstanding both internal and external legal challenges.

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Data availability No datasets were generated or analysed during the current study.

Declarations

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⁶¹ For a historical review of the IOC's engagement with human rights see Chappelet 2022.

⁶² Oller A (2025). First visa bans threaten LA28's core values, *Insidethegames*, 1 March. Available at: <https://www.insidethegames.biz/articles/1152095/first-visa-bans-a-threat-to-la28s-core-values> (last accessed 7 March 2025).

⁶³ Byrne and Ludvigsen (2024).

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