

## Chapter 3

### The Olympic Governance Framework:

#### The IOC, Brazil's Olympic Organizations, and the Contract Between Them

##### Executive Summary

The IOC has little legal authority over host nations – it is not a governmental organization and its charter is not a treaty. Still, the committee possesses enormous soft power, which it has wielded to pressure host nations to adopt various legal and practical measures. While the IOC over the last two decades has addressed internal corruption risk at some length, it has yet to leverage its influence to address host nation corruption. Credit for Brazil's remarkable anti-corruption reforms thus belongs to Brazil alone. We examine the key documents involved in the bidding and awarding of the Games – the Olympic Charter, the candidature file, the host city contract, and Brazil's Olympic Acts. We find varying degrees of attention paid to intellectual property environmental concerns, and even human rights, as well as to two of corruption's three dimensions: among the athletes, and within the IOC. But there is virtually no concern expressed for host nation corruption. Because the Olympics ostensibly aim to promote the virtues of fair play, we argue in this and subsequent chapters that a prospective host nation's commitment to adopting meaningful anti-corruption measures should become a criterion for awarding a bid.

Our Preface described three dimensions of Olympic corruption: athletic corruption (match-fixing, doping, etc.); corruption within the IOC; and official corruption in the host city and country. Of these, the latter two are both implicated in the process of bidding for and awarding the Games. As is well known (and discussed in Chapter 1), the bidding process has historically raised corruption concerns within the IOC. However, scholars have generally not examined the various documents and laws involved in the bidding process – the Olympic Charter, the candidature file, the host city contract, and the Olympic Acts – and the absence of host-country anti-corruption measures contained therein.

When the IOC announces a bid solicitation – typically seven years in advance of the Games – candidate cities prepare a candidature file, which summarizes how they propose to host the games and makes their case for being the best candidate. When the IOC awards a bid, it then enters into the host city contract, which incorporates many of the representations made in the candidature file. So too does the host country enact a number of laws, called Olympic Acts, which make the representations in the candidature file enforceable. The host nation will then form a series of organizations, both public and private, to oversee the Games' preparation. This chapter discusses those documents, maps out Brazil's governance organizations, and considers the extent to which these agreements are designed to address corruption. The first section below describes the IOC's legal status and authority, an authority that is at once limited and vast. It then maps out the institutions that Brazil established to interface with the IOC throughout the bidding, preparation, and execution of the Games. Finally, it examines the legal instruments that impose binding obligations on the host city/nation.

Although the IOC is less an institution of international government than a private entity entering into a contract, it retains tremendous influence over the host. Just as the IOC has addressed internal corruption, we urge the IOC to now use its authority to encourage anti-corruption measures within the host country.

## *The IOC and the Olympic Charter*

The International Olympic Committee derives its influence not from any formal legal authority, but from the Games' prestige and the Committee's monopolistic control over them. Historically, the IOC has used its power to compel host cities and nations to uphold what it considers to be Olympic values. The prevention of host-nation corruption is not yet among them.

The IOC was first established in 1894, two years before the first modern Olympics.<sup>1</sup> At its inception, the organization sought to remain relatively unfettered, and only a limited number of internal rules and planning regulations were in place for decades.<sup>2</sup> After many iterations and restructurings, the organization arrived at the Olympic Charter, the primary legal document that governs the Olympics today.<sup>3</sup>

Governing the organization and operation of the games, the Olympic Charter outlines three primary objectives: to set forth the essential values of Olympism, to serve as statutes for the IOC, and to define the rights and obligations of the IOC, the International Federations, the National Olympic Committees, and the Organizing Committees of each Games.<sup>4</sup> The Charter specifically states that the above-listed organizations are "required to comply" with this body of Olympic law, declaring itself "a basic instrument of a constitutional nature."<sup>5</sup> As the fundamental document of the Olympic Movement, the Charter "assumes a transcendent authority over the universe of sport that is subject to it."<sup>6</sup>

Despite its role as the constitutional footing of the Olympic Movement and its claim of authority over various national organizations from around the globe, the Olympic Charter has no international legal foundation.<sup>7</sup> At the end of the day, the Olympic Charter is "a document approved by the IOC, which is, in turn, a corporate body under Swiss private law."<sup>8</sup> No international body has ratified the Olympic Charter to apply to all nations.<sup>9</sup> The Olympic Charter can be practically viewed as the bylaws of a Swiss corporation, thinly disguised as an international convention. Indeed, the IOC is not legally an international organization, but rather a non-governmental not-for-profit organization that

has members from around the world and substantial international goals.<sup>10</sup> As one scholar has noted:

The IOC may obviously and legitimately adopt its own rules, but this originating right does not derive from any higher order rule that confers such legitimacy, and so it is logical to query the form and legal basis upon which the IOC was able to set up the Olympic Charter, and impose its terms on all those who voluntarily form part of the Olympic Movement, and so come under its authority.

The fundamental question is why the Olympic Charter claims, ‘in the eyes of the IOC as well as of the whole Olympic Movement, amounts to a fully-fledged international treaty, when in reality it is not one. In order to reach this conclusion, it suffices to observe that the IOC was not founded by an international convention and that its members are not representatives of governments.’<sup>11</sup>

If the Olympic Charter operates as a transcendent, universal authority, this is not upon any compulsory legal basis, but rather custom — “the social, economic and sporting magnitude of the Olympic Games.”<sup>12</sup> The participant individuals, organizations, and states voluntarily submit to its decrees to be a part of the larger Olympic Movement, and thus they give the Olympic Charter its authority.<sup>13</sup> In this respect, the Olympic Charter, or bylaws of the IOC, becomes the basis for the host city contract. This informal authority can raise difficult questions of sovereignty when a host city brings the Olympic Games within the confines of its national and local laws.<sup>14</sup>

Typically when an IOC mandate does not line up with the laws of a host nation, the Olympic requirements win out over national laws. This has been the IOC’s intention from its early days, aiming to “effectively compel states to subject themselves to the primacy of ‘Olympic Law’ over national state legislation.”<sup>15</sup> A fascinating example occurred when IOC President Henri de Baillet-Latour warned Hitler and the German OCOG that they must follow the Olympic rules if they were to host the Games, even if the rules were contrary to laws in Germany.<sup>16</sup> One historian contends that Hitler’s submission to the IOC’s requirements for the Olympic Games may be the only example of Hitler

submitting to the orders of others during his entire tenure as Chancellor of Germany from 1933 to 1945.<sup>17</sup>

Conversely, when Australia hosted the Olympics in Melbourne, a conflict arose between Australian law and the Olympic Charter.<sup>18</sup> Australian legislation required a stringent six-month quarantine period for horses.<sup>19</sup> This would prove an impossible timeframe for equestrian event participants to comply with in order to compete in the Olympics.<sup>20</sup> In light of this barrier, the IOC at one point asked Melbourne to abandon hosting the Games.<sup>21</sup> Melbourne and the IOC eventually came to an agreement to hold all equestrian events in Stockholm, Sweden, but this resolution was in direct contravention of the Olympic Charter, which requires all sports competition to take place in the host city, or at the very least, in another city in the host country that the IOC has approved.<sup>22</sup> However, a case like this is really the exception rather than the rule.

In modern Games, the host nation will often pass legislation to create special carve outs for the Games to bypass the normal legal parameters and procedures in order to accomplish the monumental task of completing preparations on time.<sup>23</sup> Many times the bidding host nations will prepare such legislation before the host city has even been selected — then, upon selection, the legislation can be passed quickly and without much fuss.

The IOC has developed a detailed guide of what needs to occur and what rules need to be in place for an Olympic Games to take place. The organization inserts this knowledge, and the corresponding requirements, into the host city contract, which is signed almost immediately after the host city wins its bid for the Olympics. This contract, along with the promises made in the host city's bid, is how the IOC truly enforces its power over the host city. Complying with the Olympic Charter is one of the hundreds of requirements that are incorporated into the host city contract. As one source pointed out, the thorough contract inevitably does not cover everything in the course of preparation for the Games — often when an issue arises, the onus is on the host country to fulfill whatever the IOC demands, often without much compromise.

It is also important to note that the Olympic Charter puts forward measures for punishment that the IOC can take against various stakeholders in

the Games.<sup>24</sup> The most interesting one for the purposes of this report is the punishment for a host city, OCOG, or NOC if they violate the Olympic Charter or “any other regulation.”<sup>25</sup> The IOC reserves the right to pull the Games out of the host city if the host city does not comply.<sup>26</sup> This seems like a colossal threat, but logistically and practically, withdrawing the Olympics from a host city is almost completely infeasible in the few years leading up to the Games. Once a host city is only one or two years out from the Opening Ceremony, it is highly unlikely that the IOC could send the Games anywhere else. Even if the organization attempted to move the Games back to a city who had recently hosted, there would still remain difficulties in re-establishing a working Olympic Village, re-building any temporary sport structures that were necessary for the Games but have since been torn down, and preparing for the influx of visitors and the resulting security issues, just to name a few. In light of these barriers to moving the Games, the threat of taking the Games out of a host city if they do not comply proves quite hollow.

On-time completion concerns for city infrastructure and the Olympic Village appear to be paramount reasons to the IOC for removal of the Games, but there are other relevant standards that the Olympic Charter puts forth. As explained above, the Charter promotes preserving human dignity and demands a culture of non-discrimination. The Charter depicts the IOC’s mission as one to help host cities and countries develop an Olympic Games that will have lasting positive legacy for its citizens and that will embrace sustainable development.<sup>27</sup>

These are promising ideals that may be met in the actual performance of the sporting events during the Games. But if a host city’s preparation of the Games does not meet these standards — if there are issues with ethics, humanitarian efforts, or environmental concerns that are not properly addressed — how can the IOC call the Games a success? Moreover, in light of the IOC’s stated desire to follow universal ethical principles, concerns about transparency, corruption, and exceptions to the law must come to the forefront of the big picture of hosting the Games. The Olympic Charter does not explicitly address transparency or corruption. But the IOC could use its power

to increase accountability and transparency in all aspects of Olympic preparation, and to spread anti-corruption measures that protect the investments that stakeholders make in supporting an Olympic Games. We will return to this untapped potential in subsequent chapters.

### *Brazil's Olympic Governance Institutions*

Both in awarding the games and then in executing them, the IOC interfaces with a series of local governance institutions. Brazil's brand of federalism posed a unique challenge to executing the Games, as three levels of government – federal, state, and municipal – would need to act in concert. But among the most convincing features of Brazil's candidature bid was its proposal to create a first-of-its-kind governmental organization that would coordinate these levels of government. This section describes Brazil's unique system of Olympic governance.

Rio 2016, the host city's Organizing Committee of the Olympic Games ("OCOG") is a private organization that serves as a bridge between the IOC and the public entities in Brazil that are responsible for executing the 2016 Olympic Games.<sup>28</sup> To that end, Rio 2016 is responsible for the logistical and organizational planning and implementation of the Games. Indeed, it coordinates the more than 100,000 people necessary to stage the event, including volunteers and suppliers.<sup>29</sup> Its President is Carlos Arthur Nuzman, who is also President of the Brazilian Olympic Committee (which is Brazil's National Olympic Committee)<sup>30</sup> and a member of the International Olympic Committee. A lawyer and former member of Brazil's national volleyball team, Nuzman led the Brazilian Olympic Committee's successful bid for the 2016 Games. Rio 2016 also hosts communication between the IOC and the governmental entities like the Autoridade Pública Olímpica and Empresa Olímpica Municipal, which are discussed below.

To accomplish its mission, Rio 2016 has both an internal and external governance structure, which establishes the role of both private and public entities in the execution of the Games. Internally, Rio 2016 is headed by a

General Assembly that meets annually to set and oversee the agenda for the Games. Below the General Assembly is an Executive Council that meets quarterly and is responsible for implementing the agenda set by the General Assembly. On an equal level of authority and autonomous from the Executive Council is an Audit Committee, which is responsible for the internal fiscal auditing of Rio 2016. The Audit Committee meets monthly, but likely conducts on-going audits of Rio 2016's finances. Closer to the day-to-day operations of Rio 2016 is the Board of Directors, which meets monthly. This Board of Directors presides over a Sport Advisory Committee and Executive Management Team, which are both outside of Rio 2016's Articles of Association.<sup>31</sup>

Externally, Rio 2016's governance structure contains four distinct groups, which are themselves comprised of representatives from the various stakeholders in the 2016 Games. These groups include a Steering Committee, Executive Committee, and Working Groups. The external governance is where the collaboration between the Brazilian governmental entities, Rio 2016, and the IOC takes full effect. Each group has distinct responsibilities, but together, they work towards the common goal of putting on the 2016 Olympics.

The Steering Committee is tasked with ensuring that the strategic issues surrounding various Olympic projects, including those listed in the Responsibility Matrix,<sup>32</sup> are properly addressed and discussed. This committee is comprised of representatives from executive offices of the federal, state, and municipal governments; the Olympic Public Authority Executive Director, Marcelo Pedrosa; and the CEO and COO of Rio 2016, Sydney Levy and Leonardo Gryner.

The Executive Committee meets in conjunction with the Steering Committee. This committee is tasked with ensuring that the Steering Committee has been informed of the day-to-day progress of infrastructure projects and services provided for the games. In that role, the Executive Committee acts in a supervisory role over the various working groups. The Executive Committee is comprised of representatives from the federal, state, and municipal governments; the APO; and Rio 2016.

Finally, the working groups make up the last stage of the external governance structure. These working groups are comprised of representatives from Rio 2016 functional areas who work directly with the various entities responsible for preparing the games. To that end, they meet with all those involved to ensure compliance with the specifications for delivery of the games, as they are dictated by the Games Council.

Brazil's unique federalism required the creation of the Autoridade Pública Olímpica (APO) – the primary Olympic public authority in Rio. The APO brings together the federal, state, and local governments in the planning of the Games.<sup>33</sup> This is a unique body in Brazil — the first and only public body to bring all three levels of the government together — and was one of the strongest points of Rio's bids to host the Olympics.<sup>34</sup> The organization allocates responsibilities and coordinates preparation for the Games among the many entities, public and private, that are overseeing the construction, infrastructure, and revitalization projects taking place around Rio. These entities include the Empresa Olímpica Municipal (“EOM”) and Rio 2016, as well as the participating offices of the federal and state governments.<sup>35</sup> In its near-daily interactions with the IOC, the APO works to ensure that all entities work together to meet Rio's obligations to the IOC.

One of the most important aspects of the APO is its creation and maintenance of the Responsibility Matrix (“Matrix”). The Matrix encompasses many of the “commitments made by government agencies viz-a-vis the staging and organization of the 2016 Rio Games.”<sup>36</sup> This Matrix is a dynamic document that is made publically available to provide a transparent explanation of the projects underway, the cost of those projects, and the project's current status. The Matrix is an important step towards transparency and is highlighted as one of the main steps Brazil has taken to reduce corruption in preparation of the Olympic Games.

At the municipal level, the Empresa Olímpica Municipal (“EOM”) is in charge of completing many of the sports venues and infrastructure projects.<sup>37</sup> Operating out of the Rio mayor's office, the EOM, along with the Municipal Secretary of Public Works, is responsible for the Olympic Park in Barra da

Tijuca and the Deodoro Sports Complex.<sup>38</sup> While primarily focused on the construction works necessary for the Games, the EOM also seeks to improve Rio for the future through changes in transportation, urban infrastructure, environment, and social development, and is using the Games as a catalyst to launch important public projects. Some of the so-called “legacy” projects include the Bus Rapid Transit line (“BRT”), light Rail Transit, and the revitalization of Rio’s port region, as well as the Rio Operation Centre, which monitors the city and coordinates integrated responses to emergencies, and the Seropédica Waste Treatment Centre, which allows for the closing of the environmentally harmful Gramacho landfill. These projects are being completed in conjunction with the state and federal bodies.

### *The Bidding Process, the Candidature File, and the Host City Contract*

As explained in Chapter 1, corruption in the bidding process has been a hot topic nearly two decades. But corruption post-bid – in the preparation and execution of the Games – has not received the attention that the IOC could, and should, give it.

If we picture a country’s hosting of the Olympics like a timeline, the first opportunity for corruption that appears on the spectrum is at the host city selection phase. Corruption in the bid-process seems like old news today, but it was first brought to the public’s attention in the wake of the Salt Lake City bribery scandal, during the winter of 1998-1999.<sup>39</sup> The news storm erupted over measures taken by the Salt Lake City bid committee to secure the votes of the International Olympic Committee (“IOC”) members for Salt Lake City’s hosting of the 2002 Winter Games; these measures largely consisted of bribes paid directly to IOC members and substantial “gifts” given to IOC members’ families.<sup>40</sup> The Salt Lake City revelations sparked inquiries into previous host-city selections and also a review and revision of IOC regulations and practices going forward.<sup>41</sup> Results from various post-Salt Lake City inquiries indicate that IOC members had been “materially benefit[t]ing] from the host-city selection

process at least as early as 1991.<sup>42</sup> Some commentators suspect the date to be far earlier.<sup>43</sup>

What is notable, however, is that corruption in the bid-process has not been associated with corruption in the rest of the Games-planning or hosting, either in the public or academic eye. When the Salt Lake City scandal broke, the scope of the subsequent inquiry was limited to the IOC and host-city bid committees (which are institutionally linked to the IOC). It does not appear that people at the time asked whether corruption at the bid-committee level was indicative of corruption in other levels of the planning, or whether the potential profit provided by a Games-year, if sufficient to induce corruption at the committee-level, was also sufficient to induce companies or businesses on the ground in host-countries to engage in similar corrupt practices to secure Olympic contracts. Scholarship, too, has largely failed to extend the corruption-risk analysis beyond the bidding process.

Extending the analysis to examine the execution of the Games for corruption does not necessarily mean looking for a correlation between bidding-corruption and on the ground corruption. In fact, we would argue against any such presumption of correlation, in favor of conceptualizing the opportunities for corruption in bidding and the opportunities for corruption in the general hosting and execution of the Games as discreet corruption-risks, influenced by separate factors (such as “IOC culture”<sup>44</sup> versus a given host-country’s political and economic culture). Assuming a correlation between corrupt practices in the bidding process and corrupt practices in hosting and execution would imply that, in the context of Salt Lake City, bribery and other forms of corruption also occurred in the contract procurement and performance phases of the city’s hosting. This goes against the weight of the evidence and against relatively well-established conceptions of transparency in US government and business practices. A facially corruption-free bid-process cannot be read as dispositive of corruption on the ground; it simply means that a particular prospective Olympic host avoided the corruption-pitfalls present at the bidding stage, and permits the analysis to continue onto a deeper

examination of the “cleanliness” of a country and city’s actual hosting of the Games.

That being said, the bidding process remains relevant to a discussion of corruption risks facing Brazil’s hosting of the Olympics, due to the promises that are made in the course of that process. These promises take the form of a city’s “candidature file.” Once a city is selected to host, these promises become contractual obligations, incorporated by reference into the host city contract.<sup>45</sup> The pressure to deliver on those obligations has the potential to encourage corner-cutting and to open the way for corruption, especially if a country was overly optimistic in the economic or infrastructural projections it made in its bid and candidature file.<sup>46</sup>

Rio’s candidature file was created and presented with the cooperation of the Brazilian federal government, the state government of Rio de Janeiro, the city (municipal) government of Rio, and the Brazilian Olympic Committee. The guarantees in that file pertain to performance and preparation by all three of those authorities. Some of the key promises are essential project-specific guarantees. These cover infrastructure projects and “Games-time transport operations,” including extending and upgrading the Rio International Airport, completing a motorway bypass for the city, and extending the coverage and capacity of suburban rail and metro lines.<sup>47</sup> They also include guarantees regarding Games-security and construction of the Olympic Village, venues, and spectator and media accommodation.<sup>48</sup> The execution of any one of these ambitious projects, facing the relentless countdown to the Opening Ceremonies, creates corruption risks, absent a strong legal and social anti-corruption framework. Parties could be tempted to, for example, award contracts on the basis of pre-existing relationships and tit-for-tat practices rather than properly evaluating the merits and financing plan of a company or provider, or to skim off the top of projects and inflate prices because of the ability to hide such practices in the frenzy of time-pressured projects and innocent accounting error, or under the guise of demand-related inflation.

In addition to the project-specific guarantees, the Rio 2016 candidature file includes governmental guarantees such as assertions of the city and

country's financial and infrastructural ability to host. The document reads: "The three levels of Government making up Brazil's Federative system have all committed their policy, delivery and economic capabilities to ensure the success of the Olympic and Paralympic Games in Rio de Janeiro."<sup>49</sup> The three levels of Brazilian government also guaranteed to cover any economic shortfall encountered by the Organizing Committee of the Olympic Games ("OCOG").<sup>50</sup> Further, they each guaranteed to enact new "coordinated and integrated" legislation establishing the "legal structure of Games responsibilities," in the form of Olympic Acts ratified at each level of government.<sup>51</sup> Brazil already had a strong legislative framework in place at the time of its bid, due to new laws it had enacted for its hosting of the 2007 Pan American Games,<sup>52</sup> such that the IOC did not perceive any additional legislation -- other than the Olympic Acts -- to be necessary for the organization of the Games. However, the Rio bid committee still needed to make a showing in its candidature file that Brazil had the appropriate legal protections in place for Olympic intellectual property and marketing, which are recurring concerns within the Olympic documents.<sup>53</sup> In contrast to this, there is no equivalent IOC-required showing or guarantee that there be satisfactory -- or even any -- anti-corruption or anti-bribery legislation in place. It would seem that execution of the Games is Priority Number One for the IOC, with protection of IOC/ Olympic intellectual property, symbols, and advertising being Priority Number Two,<sup>54</sup> while "ethics" generally, though given a nod in the host city contract and other Olympic documents, is not important enough to merit a guarantee. Anti-corruption lies somewhere entirely off the spectrum of notice, despite the abovementioned corruption risks inherent in the sort of ambitious promises included in the candidature file.

The making of such ambitious guarantees as those in the Rio 2016 candidature file is not a Brazil-specific phenomenon; many of the promises are tailored to certain "IOC . . . required undertakings and guarantees."<sup>55</sup> The fact that these guarantees (and their concurrent pressures) are recurring, Olympics-induced phenomena supports the need for the inclusion of strong anti-corruption language and anti-corruption guarantees in the Olympic

documents. At the very least, even if practically unenforceable, the language would serve as a reminder of the corruption risks inherent in an undertaking such as this.

The host city contract is a kind of rubber-stamp contract outlining the legal relationship between the IOC and the various parties involved in Olympic delivery, made of broad-strokes language,<sup>56</sup> while the bidding documents mentioned above are more important for identifying particular obligations because they include the project-specifics.<sup>57</sup> However, the host city contract remains important because it is one of the mechanisms for making those bid-guarantees legally enforceable, as it incorporates them by reference.<sup>58</sup> The host city contract is signed by the IOC, a representative of the host city (here, Eduardo Paes, Mayor of Rio), and a representative of the National Olympic Committee (“NOC”) (here, Carlos Arthur Nuzman, President of the Brazilian Olympic Committee).<sup>59</sup> Additionally, the contract requires the formation of an Organizing Committee of the Olympic Games (“OCOG”), which upon formation becomes an additional party bound by the contract.<sup>60</sup> The named parties are obligated to ensure that all other parties involved in the delivery of the Games (such as the various levels of the Brazilian government) perform their responsibilities related to the “planning, organizing, and staging of the Games” and any other commitments they have made in the course of the bid process.<sup>61</sup>

The cost city contract establishes Rio (referred to in the Contract as “the City”), the NOC and the OCOG as the liable parties in the event of any Olympics-related suit, and establishes their duty to indemnify the IOC for any damages the IOC may have to pay resulting from an act or omission of the City, NOC or OCOG.<sup>62</sup> The contract additionally establishes the breakdown of revenues from marketing and other rights and benefits the IOC will provide to the NOC and OCOG in consideration for their delivery of the Games, as well as other standard “financial and commercial obligations” of the parties.<sup>63</sup> There are also boilerplate clauses reiterating the obligations of the City, the NOC, and the OCOG, as well as those of “the appropriate authorities of the Host Country” regarding services and preparations such as planning, organizing and staging,

development, transport, security, and doping controls-- obligations which are all outlined with much more particularity in the guarantees of the candidature file.<sup>64</sup>

The only hint of interest in anti-corruption measures found in the host city contract is in Part S of the Preamble, which states that “the City and the NOC acknowledge and agree to carry out their activities pursuant to this Contract in full compliance with universal fundamental ethical principles, including those contained in the IOC Code of Ethics.”<sup>65</sup> Again, however, there is no specific anti-corruption clause or obligation contained within the contract. There is an environmental protection clause, and a clause governing even the “Look of the Games,” but nothing disclaiming or predicating potential liability on a discovery of corrupt practices in the execution of the Games.

It should be noted that, approaching our project, there was some question of the contract’s enforceability. After all, how realistic is the threat to “take away the Games” from a host, even if the contract does provide for such a remedy?<sup>66</sup> Some sources we interviewed suggested that this was entirely an empty threat.<sup>67</sup> Others suggested that it was a real threat, up until a “point of no return” in the preparations when there is not enough time to relocate the Games and have another site as ready as even the under-prepared intended host.<sup>68</sup> The APO (Autoridade Pública Olímpica, or Public Olympic Authority), however, indicated that they did not perceive this clause of the Contract as a mere bluff.<sup>69</sup> While surprising, it is, after all, the perception of the actual Olympic delivery organizations such as this that is the only thing that matters when it comes to this issue, and so we adopt their respect for the document.

In addition to the host city contract, Brazil has enacted a number of statutes, generally called the Olympic Acts, which also create legally enforceable obligations. These statutes are variously passed at the federal, state, and/or municipal levels. Brazil’s Olympic Acts (which are unavailable in English) include Federal Law no. 12.035 (2009), Federal Law no. 12.396 (2011), State Law no. 5.949 (2011), Municipal Law no. 5.260 (2011), Federal Law 12.780 (2013), and Federal Law 13.284 (2016). Generally speaking, these statutes obligate the various levels of government to fulfill their responsibilities in preparing for

and hosting the Games. The statutes grant Rio 2016 the right to sue the federal, state, or municipal governments for failure to meet these responsibilities. These statutes, and the rights of action they confer, are widely considered credible legal threats that incentivize good performance. However, like the candidature file and host city contract, the Olympic Acts generally do not mention official corruption and impose on neither the federal, state, nor municipal governments an obligation to curb official corruption.

Plainly, these Olympic laws and documents could do substantially more to promote core Olympic principles of fair play in the preparation and execution of the games. Subsequent chapters will explain precisely precisely how they might do so.

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<sup>1</sup> CHARTER at 10.

<sup>2</sup> ALEXANDRE MIGUEL MESTRE, THE LAW OF THE OLYMPIC GAMES 9-10 (2009).

<sup>3</sup> ALEXANDRE MIGUEL MESTRE, THE LAW OF THE OLYMPIC GAMES 9-10 (2009).

<sup>4</sup> CHARTER at 9.

<sup>5</sup> CHARTER at 9.

<sup>6</sup> MESTRE at 11.

<sup>7</sup> MESTRE at 11.

<sup>8</sup> Id. at 14.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id. at 40.

<sup>12</sup> Id. at 14.

<sup>13</sup> Id.

<sup>14</sup> Id. at 14-15.

<sup>15</sup> Id.

<sup>16</sup> MESTRE at 16.

<sup>17</sup> Christopher Hilton, HITLER'S OLYMPICS: THE 1936 BERLIN OLYMPIC GAMES 16-17 (2006).

<sup>18</sup> Id.

<sup>19</sup> Id. at 16.

<sup>20</sup> Id.

<sup>21</sup> Id.

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<sup>22</sup> Id.; Rule 34, CHARTER at 70. At the time of the Melbourne Olympics, the relevant rules in the Olympic Charter were 38 and 39. MESTRE at 16.

<sup>23</sup> See, e.g., London Olympic Games and Paralympic Games Act 2006.

<sup>24</sup> Rule 59, CHARTER at 101–03.

<sup>25</sup> Id. at 101–02.

<sup>26</sup> Id.

<sup>27</sup> Rule 2, CHARTER at 16–17.

<sup>28</sup> See Rio 2016, <http://www.rio2016.com/en>.

<sup>29</sup> Id.

<sup>30</sup> As of 2015, there were 206 National Olympic Committees (“NOCs”) that act as constituents of the International Olympic Committee (“IOC”).<sup>30</sup> These NOCs represent their respective countries in the bidding and organization process for the Olympic Games. However, as is discussed below, the NOC for a given country becomes more narrowly focused once a country, and more specifically a city within that country, is awarded the opportunity to host the Olympics. For Brazil, the NOC is formally known as the Brazilian Olympic Committee (“BOC”), which is a private entity that serves as the final authority over Brazil’s involvement in any Olympic events.<sup>30</sup>

<sup>31</sup> <http://www.rio2016.com/en/organising-committee>

<sup>32</sup> The Responsibility Matrix is a document created and maintained by the Olympic Public Authority (APO) that details the responsibilities of each governmental entity involved in the Olympics.

<sup>33</sup> Autoridade Pública Olímpica, About APO, APO.GOV.BR, <http://www.apo.gov.br/eng/index.php/about-apo-2/>.

<sup>34</sup> Interview with the Autoridade Publica Olimpica (“APO”), Rio de Janeiro (March 13, 2015) (notes on file with author).

<sup>35</sup> Interview with the Autoridade Publica Olimpica (“APO”), Rio de Janeiro (March 13, 2015) (notes on file with author).

<sup>36</sup> <http://www.brasil2016.gov.br/en/news/olympic-public-authority-apo-publishes-update-responsibility-matrix>

<sup>37</sup> See Empresa Olímpica Municipal, CIDADEOLIMPICA.COM.BR, <http://www.cidadeolimpica.com.br/>.

<sup>38</sup> The Olympic Park in Barra da Tijuca and the Deodoro Sports Complex are two of the for regions of Rio de Janeiro where the Olympic competitions will take place. Email Interview with the Empresa Olímpica Municipal (Apr. 28, 2015) (on file with author).

<sup>39</sup> Bill Mallon, The Olympic Bribery Scandal, May 2000, J. OF OLYMPIC HIST. at 11.

<sup>40</sup> Id. Such gifts included tuition to American University in Washington, free medical care amounting \$28,000, jobs, and more.

<sup>41</sup> Id at 13-14; Wolfgang Maennig, Corruption in International Sports and Sport Management: Forms, Tendencies, Extent and Countermeasures, 5.2 EURO. SPORT MGMT. Q. 187, 195 (2005).

<sup>42</sup> Mallon, *supra* note 1 at 26.

<sup>43</sup> See, e.g., Vyv Simson & Andrew Jennings, DISHONORED GAMES: CORRUPTION, MONEY & GREED AT THE OLYMPICS (1992).

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<sup>44</sup> for example, as alleged by Andrew Jennings. See Andrew Jennings, Investigating Corruption in Corporate Sport: the IOC and FIFA, 46:4 INT'L REV. FOR SOCIOLOGY OF SPORT (Dec. 2011).

<sup>45</sup> See Host City Contract: Games of the XXXI Olympiad in 2016- RIO DE JANEIRO 10 § 5 (Oct. 2, 2009) [hereinafter "HCC"], available at

<http://www.rio2016.com/en/organising-committee/transparency/documents>.

<sup>46</sup> Brazil drafted the President of the National Central Bank to present to the IOC an overview of the Brazilian economy and an inflation-prediction for the country for the years leading up to the 2016 Summer Games. See IOC, REPORT OF THE 2016 IOC EVALUATION COMMISSION 47 (2009) [hereinafter "Evaluation"], available at

[http://www.olympic.org/Documents/Reports/EN/en\\_report\\_1469.pdf](http://www.olympic.org/Documents/Reports/EN/en_report_1469.pdf).

<sup>47</sup> Rio 2016, CANDIDATURE FILE FOR RIO DE JANEIRO TO HOST THE 2016 OLYMPIC AND PARALYMPIC GAMES 53 (2009) [hereinafter "Candidature File"], available at <http://www.rio2016.com/en/organising-committee/transparency/documents>; see also IOC, Evaluation at 60.

<sup>48</sup> Rio 2016, Candidature File at 53; see also IOC, Evaluation at 53-59.

<sup>49</sup> Rio 2016, Candidature File at 47.

<sup>50</sup> Rio 2016, Candidature File at 53.

<sup>51</sup> Id. at 65.

<sup>52</sup> Id.

<sup>53</sup> See id at 53; IOC, Evaluation at 52.

<sup>54</sup> See IOC, Evaluation at 52; HCC at 5 (listing Olympic symbols and other "identifications" as Olympic properties, the rights to which "belong exclusively to the IOC," at the third point of the Preamble to the entire contract, reflecting the importance of this term to the IOC).

<sup>55</sup> Candidature File, Cover Letter from Luiz Inácio Lula da Silva, Sergio Cabral, Eduardo Paes, & Carlos Arthur Nuzman to Jacques Rogge; see also IOC, Evaluation at 48 ("All guarantees required by the IOC were provided."); Id at 52, 56, 58 (discussing how particular advertising, Olympic Village and accomodation guarantees "meet IOC requirements").

<sup>56</sup> See generally HCC.

<sup>57</sup> Interview with the Autoridade Publica Olimpica ("APO"), Rio de Janeiro (March 13, 2015) (notes on file with author).

<sup>58</sup> HCC at 11.

<sup>59</sup> Id at 4, 64.

<sup>60</sup> Id. at 8-10. The OCOG for the Rio Games is the private entity Rio 2016. See Rio 2016, Frequently Asked Questions No. 8, <http://www.rio2016.com/en/transparency/frequently-asked-questions>.

<sup>61</sup> Id. at 10, 11.

<sup>62</sup> Id. at 12.

<sup>63</sup> Id. at 14-15, 37-48.

<sup>64</sup> Id. at 17-31.

<sup>65</sup> Id. at 7. The Preamble is a legally enforceable part of the Contract. See id. at 8 ("[T]he parties agree that the foregoing Preambles shall form an integral part of this Contract.").

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<sup>66</sup> HCC at 57 (“Termination of Contract: (a) The IOC shall be entitled to terminate this Contract and to withdraw the Games from the City if: (iv) there is a violation by the City, the NOC or the OCOG of any material obligation pursuant to this Contract, the Olympic Charter, or the applicable law.”)

<sup>67</sup> Interview with Anonymous [Pedro Malavolta, formerly of Ethos] on Mar. 9, 2015. Notes on file with Author.

<sup>68</sup> Interview with Anonymous [Sylvia Schenk of TI Germany] on Feb. 20, 2015. Notes on file with Author.

<sup>69</sup> Interview with Ricardo Silveira Ribeiro and Enio Poubel de Carvalho of the Autoridade Pública Olímpica on Mar. 13, 2015. Notes on file with Author.