

Chapter I

When the Games Transcend the Games: Globalization, Corruption, and the New Olympic Legacy

Executive Summary

The founding purpose of the modern Olympic Games was not to see who could run or swim the fastest. From their origins in 1896, the Games were to serve a broader social and political goal: teaching individuals and nations how to unite in competition and to play by the rules, in the hopes of bringing to pass a fairer and less conflictual world order. The historical periods of the World Wars and the Cold War would both challenge and ultimately affirm this purpose. But the founding ideals of the modern Olympics find fullest vindication in this, the third era of modern Olympic history: Globalization. As the world grows increasingly integrated through economic competition, issues of fairness – of leveling the so-called playing field – have become paramount. And a key feature of Globalization has been a focus on curbing official corruption – the aptly named “Corruption Eruption” that began in the 1990s and continues to this day. So too has this period produced an enduring concern with limiting corruption related to the Olympic Games. The issue of Olympic corruption would burst onto the scene in 1996 with the Salt Lake City bid scandal, and lead to substantial reforms within the International Olympic Committee. This book calls attention to another dimension of corruption – official corruption within the host city and country. In so doing, we redefine the concept of a host-country’s “Olympic legacy” to include much more than the economic benefit of infrastructure investment. Rather, Brazil is creating for itself a governance legacy: a series of anti-corruption, and pro-democracy, reforms that have application well beyond the sporting event itself and that will endure long after the Games are gone.

Even the most casual observers of the Olympic Games will remember a handful of Olympic “moments.” We may have witnessed these moments in real time, or perhaps we read about them but felt pierced, as if we were there. To this American author, two such moments rise to the fore: Jesse Owens’ four gold medals in the 1936 Berlin Games; and the so-called “Miracle On Ice,” that famed 1980 hockey match between the Soviet Union and the United States.

But notably, the significance of these moments has only partly to do with athletic achievement. Owens is hardly the only athlete ever to have won four gold medals, and indeed, most of us have forgotten that the “Miracle On Ice” was a semi-final match that produced no medal at all. Rather, each took place within a broader social and political context that infused the moment with drama and triumph. Owens’ victory, occurring literally under the watch of Adolph Hitler, was a repudiation of the Nazi’s Aryan supremacy; the 1980 match was less about hockey than it was about a clash of political ideologies.

And indeed, the World Wars and the Cold War have been the two most dramatic periods of world history since the modern Olympics began. Those Olympic moments became symbols of the broader struggles in which the world was then engaged, struggles that played out on the track and the ice in particularly poignant and memorable ways.

As this chapter will explain, we are now in the midst of a third era of world history, one that very much shapes our understanding of the Olympics’ broader significance, though perhaps in subtler ways. Just as World War II led to the Cold War, the collapse of communism and the end of the Cold War has given rise to this third era: Globalization. The Globalization era is characterized by the rising influence and prominence of developing countries, the movement toward democracy and freer markets, the rise of international trade and foreign investment, an emphasis on the rule of law and accountability, and a particular concern with controlling corruption. Globalization has shaped the Olympic Games with its increasing inclusion of developing countries and an emphasis on fair play and reducing corruption.

This chapter will further show that Globalization's focus on reducing corruption and promoting the rule of law amounts to a powerful vindication of the founding Olympic ideals. As explained below, the original purpose of bringing back the Olympic Games was not to see who could run or swim the fastest or jump the highest. Rather, the Games had a much broader social and political meaning: they would teach the world's youth how nations could unite through competition, all playing fairly by agreed upon rules, and integrate these nations in a way that prior centuries of warfare and exploitation had not. With the proliferation of various kinds of corruption related to the Games, cynicism about these ideals is perhaps at an historic high. But as this book will explain, Brazil has done more than perhaps any previous country to uphold and magnify those ideals.

Resurrecting the Olympic Games

The original Olympic Games began in 708 BC as part of a religious festival for the Greek god, Zeus Olympios. The Games continued for 1000 years until, in 294 A.D. the newly Christianised Roman Empire disbanded the games as pagan rituals.¹ Then, after a gap of nearly 1500 years, in mid-nineteenth century, diverse movements began. In Sweden, the Jeux Olympiques Scandinaves occurred in 1834 and 1836; in England, multiple minor Olympic Games were staged in the mid-nineteenth century; the "Montreal Olympic Games" took place in 1844; in Germany, in 1852, the call was made to excavate the original site of the ancient Greek games (which the Germans took up in 1875); and the Greeks sought to revive the games and staged minor events between 1859 and 1889.²

But none gained momentum until seized by the French nobleman Pierre de Fredy, Baron de Coubertin. Biographers have traced Coubertin's motivation to revive the Olympic Games to a formative event of his youth. In 1870, as a very young boy, he was traumatized by his country's defeat at the hands of the Prussians and the loss of the Alsace and Lorraine provinces.³ This event seems to have affected Coubertin in at least two ways. First, he attributed

these defeats to the physical inferiority of the French youth, and as an adult went about looking for ways to cultivate physical development in the youth. He first turned to the German educational system, which included a component of strenuous physical exercise unknown in the French system. So too did he study, and admire, the emerging love of sport among the English. And in a visit to the United States, he observed its intercollegiate athletic competitions and the extraordinary degree of institutional support those colleges and universities provided.⁴ He would also befriend the not-yet-President Theodore Roosevelt, whose belief in the “strenuous life” impressed him.⁵

But athletics for Coubertin were not merely about physical strength. He was struck by the potential of sport to promote strength not just of body but of character, by its promotion of moral as well as physical development. Sports, he felt, taught youth how to compete, with all that competition entails: discipline and hard work, but also the ability to collectively agree on rules, to gather together to play by those rules, and to compete with collegiality. Athletics were thus a vehicle for promoting the moral attributes of fair play, and of cooperation through competition. As one historian noted, Coubertin’s motives in organizing international athletic competitions were “at once practical and noble;”⁶ he sought to strengthen French youth but also educate a new generation of global leaders. In the words of another, “the political purpose of the games – the reconciliation of warring nations – was more important than the sports. They were merely the competitive means to a cooperative end: a world at peace.”⁷ Coubertin hoped that the modern Olympics would help to build bonds between ruling elites and contribute to the peaceful resolution of conflict.⁸

Animated by these motives, Coubertin organized the first International Olympic Committee, comprised of individuals from Sweden, Russia, Bohemia, Hungary, Britain, France, and the U.S. The original modern Games would then occur in 1896, in Athens, Greece. But even Coubertin could not have anticipated the dramatic events that would soon beset the world’s nations, and the powerful symbolic significance the Games would assume.

Three Eras in Olympic History

Given the Olympics' broader political significance, the history of the modern Olympic Games can be understood as falling into three periods. The first was the World Wars. In the context of the Olympics, the wars were first about excluding aggressor nations, and then about reintegrating those nations into the global order. The second era was the Cold War, in which political ideologies were perceived to play out on the pitch, and nations were excluded not by IOC ruling but by voluntary boycott. The third era would emerge from the demise of the Cold War, as nations became less polarized by political ideology, and uniform standards of fair play and competition came to be expected among citizens, governments, and transnational business enterprises. This is the era of Globalization.

The drama of the World Wars would begin with the Sixth Olympic Games, of 1916, slated for Berlin, Germany. With the outbreak of the First World War, the Games were cancelled. It would turn out that cancelling that event would be a relatively easy question; the harder question concerned whether and when to invite Germany to rejoin the Olympic movement. After a decade of ostracization, that invitation would come in 1928. And by 1931, the IOC would even decide that Berlin would be a suitable host for the 1936 Games.⁹

But at the time, in 1931, Germany was ruled by a fragile centrist coalition. By the time of the 1936 Games, that coalition had been displaced by the Third Reich. The Nazis initially resisted hosting the Games and all of modern sports – the Olympic ethic of universalism and equality were antithetical to Nazi Aryan supremacy. Indeed, one Nazi government spokesperson condemned the Olympics and sport generally because they were “infested” with “Frenchmen, Belgians, Pollacks, and Jew-Niggers” who were allowed to “start on the tracks, to play on the soccer fields, and to swim in the pools.”¹⁰

But Nazis quickly realized that the Games would be an opportunity to showcase the Third Reich's strength and organizational skill, not to mention Aryan racial superiority. The IOC was predictably concerned that Nazi

Germany would systematically prevent German Jews from competing. In an effort to allay these concerns, Germany pledged to not discriminate, and 21 Jews were invited to try out. None made the team. However, organizationally, the Games set an historic precedent, widely perceived as the most magnificent Games of the modern era to date. Among other things, the 1936 Berlin Games were the first to receive large-scale organizational and financial support from a national government.¹¹

The 1936 Games are of course best remembered for Jesse Owens' winning of an historic four gold medals. Notably, his was not the only non-Aryan achievement; African-Americans won a total of 13 medals. The Nazi propaganda regime rushed to reframe the success of African-American athletes as a symbol of their own moral inferiority, attributing their success to a "jungle inheritance."¹² Though an obvious repudiation of Aryan supremacy, stories of Hitler's refusal to personally congratulate Owens are exaggerated. In truth, Hitler's practice, irrespective of Owens' racial challenge, was to extend personal congratulations only to the German winners.¹³ Although Owens took no offense at Hitler's habits, he publicly spoke of his offense at never receiving congratulations from his own President, Franklin Delano Roosevelt. Said Owens, "Hitler didn't snub me – it was our president who snubbed me. The president didn't even send me a telegram."¹⁴

But Nazi racism would only be part of this era's Olympic social tensions; broader political tensions would provide a powerful complement. Following 1936, the next scheduled Olympic host was Japan, slated for 1940. That country's prior invasion of Manchuria was not thought to be an act of sufficient aggression to disqualify its bid. And indeed, when Japan then invaded China in 1937, the IOC seemed to remain unfazed. But external pressure mounted, first from Australia and then Great Britain, to boycott the 1940 Games if Japan were still at war. The boycott question was avoided when in 1938, Japan decided the Games were a mere distraction and, two years prior to the event, announced that it would not host them. IOC first moved the summer Games to Finland and the Winter Games to Germany, but the Games were ultimately cancelled in 1940, and then again in 1944.¹⁵

Just as with World War I, the IOC would commit to reintegrating both Japan and Germany back into the global Olympic order. Indeed, Tokyo would ultimately host the Summer Games in 1964, and Berlin in 1972. These would be success stories, but for the tragic events in Berlin. Wishing to change the country's image, the Berlin organizers elected to reduce the police presence at the Games, attempting to create an atmosphere of openness and trust. This trust would be violated in the most horrific of ways when a Palestinian terrorist group took hostage, and eventually murdered, eleven Israeli Olympic athletes.¹⁶ Still, the Olympics would emerge from the eras of the World Wars with former divisions having healed, and countries once divided by direct military engagement now united in peaceful competition.

However, the post-World Wars era would of course give rise to new political rivalries, new forms of warfare, and new tensions within the Olympic movement. The Cold War would raise a series of questions for the IOC. Should it admit communist Russia, with its state-sponsored athletes? Is divided Germany one team or two? And what about North and South Korea, or China and Taiwan? In this era, nationalism would become a dominant influence in Games; journalists begin tallying national medal counts (though the original role of country was principally the selection of athletes. Only in the Cold War, then, did the Olympics become a battle among nations and political ideologies.¹⁷

This period in Olympic history was characterized by deep politicization, national and ideological rivalries, and the rise of commercialism. Cold War tensions reached their Olympic apex when, in 1979, the Soviet Union invaded Afghanistan. President Carter, unwilling to counter with military action but needing to do something, proposed a boycott of the 1980 Games, to be hosted by the Soviet Union. Great Britain and then West Germany joined the United States, and eventually, sixty-two of the 143 invited nations joined the boycott. In apparent retaliation (there was no other catalyst or credible proffered justification), the Soviet Union boycotted the 1984 Games hosted by the U.S.; sixteen of its allies joined. But unlike the World War eras, the IOC would not have to face the question of how and when to reintegrate these divided

countries. With the collapse of the Soviet Union in 1991, the Cold War divisions ended – or at least, diminished – organically.

As communism ceased to be a formidable political ideology, the world grew closer than at any point in history to a (very) loose consensus on the principles of good government. This is the era of Globalization, and it has several components. Economically, it has entailed a move toward market economies and diminished state control. Relatedly, trade barriers have dropped as nations have increasingly committed to freer international trade and foreign direct investment. Politically, more nations came to be classified as democracies than at any point in history. In international politics, a previously bi-polar world has become far more pluralistic and inclusive of developing countries. The once-powerful G8 (France, Germany, Italy, the UK, Japan, the US, Canada, and Russia) was largely displaced by the G-20 (which adds Argentina, Australia, Brazil, China, India, Indonesia, Italy, South Korea, Mexico, Saudi Arabia, South Africa, and Turkey, as well as the European Union).

To be sure, dramatic disagreements remain on the proper degree of both economic and political liberalization; not unlike past eras, major countries or even regions remain characterized by principled disagreement to certain components of the Globalization agenda. But these disagreements are less radical, and perhaps less antagonistic, than at any point in history. Major developing countries practice variants of “state capitalism,” in which the state more heavily regulates or even monopolizes major sectors of the economy. But as the grammatical structure of the phrase plainly implies, this is a variation on the general principles of capitalism. East Asian countries may continue to push against the individualism of human rights and democracy, but few would attempt to justify in principle the authoritarianism of China or North Korea. Mainstream Islamic cultures may reject the separation of church and state, certain aspects of gender equality, and the modern right to privacy in procreation, but generally not the broader commitment to democracy. With the exception of ISIS and radicalized militant Islam, which has proven violent and

destructive but probably not a threat to global democracy, the 21st century is characterized by remarkable degree of global agreement in principle.

The Globalization era has impacted the Olympic Games in at least two dramatic ways. First is the rise of developing nations in hosting the Games. Between 2014 and 2022, for example, the Games will be hosted by three of the four BRIC nations. In this eight-year period, host countries will include Russia, Brazil, South Korea, and China. And the only developed country in this span is conspicuously non-western: Japan (2020). Plainly, the prior Olympic order, in which the wealthiest European and then North American countries dominated, is long gone.

Globalization's second Olympic impact may be less obvious and more powerful. A component of the Globalization era, or if you prefer, agenda, has been the promotion of the rule of law: government in accordance with rules, that are promulgated by legitimate governance institutions, are written down and publicly accessible, and to which all persons are subject irrespective of wealth, power, or connection. Among the greatest obstacles to the rule of law – indeed, in many ways its antithesis – is systemic official corruption. To wit, the 1990s produced a concentrated worldwide focus on the causes and remedies of official corruption, known as the “Corruption Eruption.”

The Corruption Eruption

The economist Moises Naim coined this catchy moniker in 1995 to describe that decade's extraordinary surge in attention among lawmakers, commentators, and citizens to the problem of public corruption.¹⁸ This so-called eruption occurred along several dimensions, and was due to a variety of cultural, legal, and economic changes that in large part emanated from the Cold War's collapse.

Societies that to varying degrees had historically tolerated corruption were suddenly protesting, forcing high-profile resignations and impeachments around the world. These occurred both in countries with relatively strong rule-of-law traditions, such as Great Britain, France, and the U.S., as well as

countries still seeking to build such traditions like Venezuela. The eruption even spilled over into Brazil, with the impeachment of President Fernando Collor de Mello, who claimed to be a “cacador de marajas” (“hunter of overpaid bureaucrats).

So too did anti-corruption scholarship explode during this time. After the foundational work of political scientists Joseph Nye and Samuel Huntington in the 1960s, economist Susan Rose-Ackerman in the 1970s, Robert Klitgaard in the 1980s, in the 1990s the interdisciplinary study of corruption began to produce innumerable articles.¹⁹

Perhaps most importantly, the 1990s and first few years of the 2000s yielded a series of international anti-corruption conventions that provide the foundation for anti-corruption initiatives to this day. These include: the highly influential NGO Transparency International (1993); the Inter-American Convention Against Corruption (1996); the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997); Europe’s Group of States Against Corruption (1999) with its Criminal Law Convention (2002) and Civil Law Convention (2003); The United Nations Convention Against Corruption (2002); African Union Convention on Preventing and Combating Corruption (2003); the Asia Pacific Economic Cooperation Course of Action on Fighting Corruption and Ensuring Transparency (2004); and others.²⁰

But if the world had been talking about corruption as far back as the 1960s, why did the full “eruption” occur in the 1990s?

The first and most obvious reason was the collapse of the Soviet Union and the rapid transition to free markets and elected government. With the end of communism as a formidable global force (Chinese communism, of course, is not communism by any meaningful definition of the world) came a diminished sense of our resignation to the inevitability of corruption. This occurred both among citizens, whose expectations changed, and among states and international organizations that no longer needed to tolerate corrupt dictators to further Cold War goals. As Naim explained, “secrecy and Orwellian manipulation of the truth – those cornerstones of authoritarian and totalitarian

rule – have become increasingly difficult to maintain”²¹ in the face of ever-expanding liberalization. This connection between centralized authority and corruption has long been recognized, and most famously articulated by the Harvard professor Robert Klitgaard. He wrote that corruption depends on three variables: the monopoly on the supply of a good or service; the government’s discretion (D) in allocating that good or service, but which can be checked by the officials’ accountability (A) for such allocations, creating a memorable equation: $C=M+D-A$.²² Where the government monopoly is weakened, corruption is expected to decrease.

So too did liberalization bring an increase in international trade, and with it, increased expectations concerning the business environments of other countries. As major companies increasingly invested overseas, the degree of corruption became of paramount concern. The governments of developed countries became interested in how their companies were behaving overseas, and began enforcing prohibitions on foreign bribery. As one set of commentators put it, “In the integrated economy, there is no somewhere else.”²³ With global interdependence came an expectation of sameness, and of fairness.

Finally, liberalization brought with it much higher scrutiny of government and business conduct from the mass media. This occurred both because countries became more open and the press had greater freedom, but also because technological developments made possible the rapid spread of information. Media conglomerates emerged, satellite broadcasts became commonplace, and the internet continued the trend of drawing people into more regular interaction.²⁴ So too have some observed that the culture of journalism changed in this era, becoming increasingly aggressive and doing more probing investigative reporting.²⁵

This Corruption Eruption would ultimately provide the broader context in which an otherwise local news event would transform into a global crisis and prompting significant reforms among prominent governance institutions. That crisis, and indeed, the modern Olympic corruption narrative, began in the perhaps unlikely and certainly unsuspecting town of Salt Lake City, Utah.

The Fire Within

The historian Richard Espy observed that the modern Olympic Games represent the struggle between our ideals and the reality in which we live.²⁶ Perhaps nowhere did that prove truer than in Salt Lake City, host of the 2002 Winter Olympics. The Games' official slogan, "Light the Fire Within," was likely meant to have a double meaning: it connotes the passion of athletic competition, but also seems a subtle reference to the region's characteristic religious beliefs. But no one could have known that it would take on a third meaning. The decades-old process of awarding Olympic Games to bid cities would turn out to be a bomb that was waiting to explode. Salt Lake City unwittingly lit the fuse.

Salt Lake City had literally been trying to win the Winter Olympics for half a century. Following more distant failures in 1932, 1972, and 1976, the city would lose the 1998 bid to Nagano, Japan, by a mere four votes. This failure particularly hurt, and sentiment arose that Salt Lake simply wasn't playing the kind of hardball that a successful effort required. A SLC bid committee member complained, "we were giving out saltwater taffy and cowboy hats, and they were giving out computers. IOC members who came to inspect Nagano were put up in ritzy hot spring resorts, where they washed down expensive sushi with sake poured by kimono-clad geisha. They went home laden with souvenir gifts and expensive paintings."²⁷ Surrounding these and other bid efforts, rumors had circulated for years that bribery was occurring in relation to the bids. But no evidence had ever been produced, and indeed, corruption in the bidding might not have been thought entirely shocking or scandalous.

Salt Lake's disappointment would end on June 16, 1995, when the International Olympic Committee announced that the Utah city had won the 2002 Winter Games. This victory made heroes of the two local businessmen who led the effort: Thomas Welch, and David Johnson. These two men would continue to serve in leadership roles in the Games' preparation.

But word on the street was that they simply did not get along. And after four years of rumored tensions between the two men, a curious thing

happened. An unidentified source released to SLC news correspondent Chris Vanocur (son of well-respected Washington DC correspondent Sander Vanocur) a draft copy of a 1996 letter. Written on the stationery of the Salt Lake Organizing Committee, the letter was addressed to Sonia Essomba, a student at American University in Washington DC and daughter of an influential member of the IOC. The letter read, “the enclosed check for \$10,114.99 will have to be our last payment for tuition.” The letter bore the signature of David Johnson.²⁸

To this day, the precise reason why the letter was leaked remains unknown. But it seems likely that whoever did it could not have anticipated what happened next. On November 24, 1999, Vanocur revealed the letter on the 10 pm news. The New York Times and National Public Radio quickly picked up the story. And then the issue exploded. An investigation would eventually discover that Essomba had received a total of \$108,350 over the course of several years. Swiss IOC member Marc Hodler, head of the committee overseeing the organization of the 2002 games, publicly accused a group of IOC members of having taken bribes for years.²⁹ The scandal had begun.

The United States Attorney’s Office eventually indicted both Welch and Johnson for conspiracy, mail fraud, wire fraud, racketeering, and interstate travel in aid of racketeering. It alleged that Welch and Johnson had improperly influenced more than dozen delegates of the IOC. An independent ethics panel investigating SLC’s bid concluded that officials had lavished more than \$1.2 million in cash, scholarships, jobs, medical treatment, shopping sprees, luxurious travel and expensive gifts to IOC delegates and their families. But Welch and Johnson were not the only ones indicted. David Simmons, a SLC businessman, pleaded guilty to tax offenses related to a sham job provided to the son of a South Korean IOC delegate. The son, John Kim, was also indicted but left the country. Similarly, Alfredo La Mont, formerly in charge of international relations for the U.S. Olympic committee, pleaded guilty to tax charges related to payments he received from SLC bid committee as consultant to help win 2002 bid. Further investigations would reveal for the 1996 Summer

Olympics in Atlanta, the 1998 Nagano Winter Games, and the 2000 Sydney Summer Games. It seemed that bribery in the Olympic bidding process was endemic.³⁰

Salt Lake locals will be quick to point out that Welch and Johnson were acquitted of all criminal charges. In December 2003, Judge David Sam granted a rare motion for acquittal without sending the case to the jury, ruling that there was insufficient evidence to sustain a conviction on any of the 15 counts.³¹ The judge sharply criticized the government's case, saying that in 40 years of working in the criminal justice system, he had never seen a case so lacking in "criminal intent or evil purpose." According to the New York Times reporter, Judge Sam indicated in his oral comments from the bench that his "sense of justice was offended by the bringing of felony charges against Welch and Johnson while the rest of Utah enjoyed the fruits of their Olympic efforts."³²

Despite the acquittals, the Salt Lake scandal marked the genesis of the modern Olympic corruption narrative. Though allegations of corruption are almost as old as the Olympics themselves, and the modern Olympics had been hosted by jurisdictions where the corruption risk was quite high, not until Salt Lake did Olympic corruption become the subject of substantial international commentary and aggressive criminal prosecutions. Why Salt Lake, and why the late 1990s? Why did Olympic corruption become a big deal then? It may be tempting to say that the U.S. had a lower level of tolerance for corruption – that cultural norms more strongly frowned upon this conduct. So too might it be said that the U.S. law enforcement agencies took corruption more seriously than other countries at that time. But neither explanation holds up. Nobody seems to suspect that the original incriminating letter was leaked to the press due to moral disapproval of the underlying conduct. Rather, suspicions (admittedly speculative) focus on the power struggle within the Salt Lake leadership. Neither do U.S. government agencies deserve credit for blowing the case open. The story had become a global phenomenon long before the U.S. Attorney's Office got involved, and their prosecution ultimately became something of an embarrassment.

It would seem that uniquely American norms or institutions simply cannot explain why Olympic corruption became a big deal in the late 1990s. Rather, the explanation lies in global legal and cultural changes occurring in this time. Perhaps neither Welch nor Johnson appreciated the “Corruption Eruption” that had only recently been named and was occurring all around them. They likely appreciate it now.

The scandal would first produce a shock at the IOC, and then systemic reforms. Ten IOC delegates resigned or were forced out. The IOC then appointed the IOC 2000 Commission (more popularly known as the Reform Commission) to study Olympic governance. It made 50 recommendations, all of which the IOC adopted in 1999. The reforms dramatically changed the appointment and terms of IOC members, the appointment of National Olympic Committee and International Federation presidents, created eight-year terms (renewable) for IOC members, set a mandatory retirement age of 70, and established new rules for the selection of host cities, including a prohibition on IOC travel to candidate cities.³³

Future events would demonstrate that corruption within the IOC is only one dimension of the Olympic corruption issue. The second, as noted in this book’s Preface, is competitive corruption (corruption among athletes, such as doping or match-fixing); attention to competitive corruption is perhaps at an all time high today. The third dimension – corruption within the host city and country – remains largely unexplored, a problem this book seeks to remedy.

But any study of corruption needs a definition, or at least explanation, of the concept.

What is Public Corruption?

No single, universally accepted definition of corruption exists. Notably, the world’s most prominent anti-corruption document, the United Nations Convention Against Corruption, makes no effort to define the term.³⁴ Rather, it takes the same approach that US Supreme Court Justice Potter Stewart took in

relation to obscenity: admitting he could not define the term, he famously wrote, “I know it when I see it.”³⁵

Probably the most widely-cited definition is “the abuse of public office for private gain.” This formulation was first developed by the legendary Harvard political scientist Joseph Nye in the 1960s³⁶. The World Bank, whose anti-corruption effort is perhaps second in the world only to US enforcement of the Foreign Corrupt Practices Act, has adopted this definition; or rather, in their words, they have “settled” on it.³⁷ Transparency International, the world’s leading anti-corruption NGO, uses a variation thereof: “the abuse of entrusted power for private gain.”³⁸ Similarly, USAID uses “the abuse of entrusted authority for private gain.”³⁹ Note the subtle but important differences in these definitions, particularly the usage of “public office” versus “entrusted power” versus “entrusted authority.”

These definitions have three essential elements:

1. “Abuse.” This term is potentially very broad. Indeed, when scholars were wrestling with how to define this term back in the 60s and 70s, the question of whether anti-corruption efforts were better served by a wider or a narrow definition of abuse was widely debated, without resolution.

2. “Public office,” “entrusted authority,” or “entrusted power.” This is a crucial difference among the variants on the definition. Note that the first term contemplates abuse only by public officials – that is, government officials. It does not try to encompass private conduct. This has the benefit of confining the inquiry to a more discrete field, but has two limitations. First, where a private party has participated in the corruption – say, by bribing a government official – the private party’s offer or payment of the bribe is not itself corrupt. At most, it is the inducement or aiding and abetting of corruption. Second, some conduct associated with the Olympics that we might call corrupt does not involve public officials at all – match fixing, for example. Accordingly, “entrusted authority” is broader. Any actor with authority, including a company employee tasked with negotiating contracts, or an Olympic games referee, has “authority.” Finally, “power” is broader yet, as it does not refer

exclusively to a kind of formal relationship with delegated authority – any person with the ability to coerce may be said to possess power.

3. “Private gain.” The original meaning of this phrase has become somewhat obscured in contemporary anti-corruption discourse. Most today equate “gain” with financial gain. But earlier definitions, particularly Professor Nye’s, contemplated status, prestige, or power in addition to money.⁴⁰ Indeed, the Olympic Games provide opportunities for all these forms of private gain: substantial sums of money pass hands, and much prestige is at stake.

Other definitions that have gained less traction but may prove nonetheless illuminating include:

- “Behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding behavior.”⁴¹

- “A public official, acting for personal gain, violates the norms of public office and harms the interests of the public to benefit a third party who, having received access to goods or services she would not otherwise obtain, rewards the public official.”⁴²

- “Conduct by a public or private actor that is intended to procure some benefit, either personally or for someone else, the granting of which would contravene official or fiduciary duty and the rights of others.”⁴³

This book is framed by all of these definitions. It will focus on corruption among government officials as well as the private (or semi-private) individuals and organizations that are complicit in official corruption. As is appropriate to the Olympic Games, we acknowledge the opportunities for both pecuniary and non-pecuniary gain; the Olympics involve enormous amounts of both money and prestige. We will consider any conduct that violates Brazilian law or widely-established norms of official conduct as abuse.

Corruption thus defined can take on a number of forms. They include:

- Bribery: this has been defined as an illegal payment made to a government official in return for official, state-sanctioned, authoritative act that

produces a selective and tangible impact and that in the absence of the secret payment would not otherwise have been made.⁴⁴

- Kickbacks: payment is made after, rather than prior to, conferring the benefit, and usually as a portion of the payment from the government to the individual (for example, as the percentage of a contract award).

- Extortion: a public official threatens the abuse of power to induce a payment.

- Embezzlement: officials, acting alone, misappropriate public funds.

- Nepotism: decisions illegally benefitting family or friends.⁴⁵

- Illicit enrichment: the significant increase in assets that cannot be reasonably explained by lawful income.

- Abuse of functions: a generic term for the improper use of office for personal gain. Note that most commentators would consider this a definition of corruption, while UNCAC lists it as a distinct form of corruption.

Moreover, the abundant academic literature on corruption contains a number of concepts, or distinctions, which will help us think about Olympic corruption.

The term “corrupt” derives from a Latin word that means to decay, or to rot. Interestingly, at a recent conference in St. Petersburg, a Russian scholar suggested that the term “corruption” does not apply to the Russian government because a rotting or decaying process presumes the existence of something originally healthy, which the Russian government is not and never was. Historically, the term referred to both political and sexual behavior.⁴⁶ This study will avoid the latter altogether (although stories from the Olympic Villages make one wonder). A broader, more contemporary analogue would be the distinction between institutional and moral corruption. This study focuses on the former.

Professor Sayed Alatas⁴⁷ has developed a typology of corruption. Although this study will not use these terms, they are nonetheless helpful in thinking about the various manifestations of corruption.

- transactive corruption: done by the mutual agreement of two or more parties.

- extortive corruption: when one party, usually a government official, uses her power to compel conduct that the private party would not otherwise participate in.

- defensive corruption: where the victim must engage in the corrupt act for self- protection; closely related to extortion, and often occurring in developing countries.

-investive corruption: where there is no immediate reward to the payor, but a promise of future gains.

Similarly, Professor Mark Robinson draws a useful distinction between three forms of corruption: incidental, which is confined to individuals and rare; institutional corruption which pervades institutions but is not necessarily accepted or practiced in the wider society; and systemic corruption, which pervades nearly every aspect of society.⁴⁸ In a similar vein, Professor Alvaro Cuervo-Cazurra developed a distinction between pervasive corruption, which is predictable and known, and arbitrary corruption, which is uncertain and unreliable.⁴⁹ We may find examples of both in Brazil.

Legendary corruption scholar Susan Rose-Ackerman, of Yale Law School, drew a distinction between bribery intended to obtain a deviation from the application of existing rules or laws versus bribery that aims to change the existing rules or create new rules or laws.⁵⁰ Similarly, the World Bank has developed the notion of “state capture”: corruption that is aimed at changing the rules and regulations to favor the interests of the corruptor.⁵¹ While this book may not use these terms explicitly, they are useful in sharpening our understanding of what corruption is and the many forms it takes.

It may be tempting to believe, as many a zealous anti-corruption advocate has claimed, that the law’s goal is to rid of the world of these various forms of corruption – to create a world “free from corruption.” Cynics will respond that such goals are impossible: corruption is as old as human society, and simply cannot be eliminated. But the aim of anti-corruption law is no more to rid of the world of corruption than is the aim of laws prohibiting murder or assault to eliminate those harms from the face of the earth. Indeed, many economists have argued that the optimal of level of corruption in society is

actually not zero because the enforcement costs would greatly exceed the social benefit.⁵² Accordingly, the aim is to find that equilibrium in which the corruption prevention measures justify the public expense. The goal of the anti-corruption movement, then, is to meaningfully deter corruption.

This book is dedicated to that very prospect, and to Brazil's extraordinary steps in doing so. Given these steps, we should consider whether that country's Olympic legacy will be something that cannot quite be measured in economic terms.

Redefining Olympic Legacy

Legacy has traditionally been thought of as an economic matter: calculate the cost of hosting the Olympics, estimate the financial benefit to the host city and country, and compare. Infrastructure costs are of course foremost to these analyses, and are weighed against the economic benefits of the infrastructure but also tourist revenue and enhanced business relationships.⁵³ This research has generally questioned the economic benefit of these events, leading many cities – including Vienna, Munich, Hamburg, Stockholm, Oslo, Lviv, Krakow, and Boston -- to recently withdraw their candidacies.⁵⁴

Only recently have some scholars begun broadening our understanding of legacy.⁵⁵ Some have distinguished between “hard” legacy – the traditional infrastructure focus – with “soft” legacy, which may include the increase of human capital through training in management or security, reputational gains, the promotion of grass-roots participation in sports, or the acceleration of urban planning.⁵⁶ Some scholars have focused on a nation's, or leader's, pursuit glory. Examples of pursuing this so-called “political legacy” might include Hitler's extravagant 1936 Berlin Olympics, in which he sought to establish the Third Reich as a leading global power, or the 2014 Winter Olympics in Sochi, which appeared to be part of Putin's broader effort to reassert Russia in global politics.⁵⁷

Though globalization is recognized as a distinguishing feature of the modern Olympic Games, scholarship has produced little in the way of the

impact on governance of a globalized Olympics.⁵⁸ Existing commentary has primarily emphasized the excessive power of corporations, restrictions on civil liberties, and disenfranchisement.⁵⁹ Scant attention has been paid to long-term governance reforms in the host city/country.

Accordingly, we wish to introduce a new kind of legacy: a governance legacy. A host city or nation's governance legacy consists of the laws, institutions, practices, and cultural norms that change in response to hosting the Olympics, that have application beyond the sporting event itself, and that will likely endure after the Games are over. This book details Brazil's governance legacy, its significance within the history of both the country and the Olympic Games.

¹ RICHARD ESPY, *THE POLITICS OF THE OLYMPIC GAMES* vii (1979).

² ALLEN GUTTMANN, *THE OLYMPICS: A HISTORY OF THE MODERN GAMES II* (1992).

³ *Id.* at 8

⁴ *Id.*

⁵ *Id.* at 10.

⁶ ESPY, *supra* note ___ at vii.

⁷ GUTTMANN, *supra* note ___ at 1.

⁸ Mark Golden, *The Ancient Olympics and the Modern: Mirror and Mirage*, in *THE PALGRAVE HANDBOOK OF OLYMPIC STUDIES*, (Helen Jefferson Lenskyj and Stephen Wagg, eds.) 20 (2012).

⁹ GUTTMANN, *supra* note ___ at 37.

¹⁰ *Id.* at 54.

¹¹ David Clay Large, *The Nazi Olympics: Berlin 1936*, in Lenskyj, *supra* note ___, at 60.

¹² *Id.* at 65.

¹³ GUTTMANN, *supra* note ___, at 68.

¹⁴ Large, *supra* note ___, at 65.

¹⁵ ESPY, *supra* note ___ at 21.

¹⁶ *Id.* at 125.

¹⁷ *Id.* at 163-64.

¹⁸ Moises Naim, *The Corruption Eruption*, *BROWN JOURNAL OF WORLD AFFAIRS* (1995) available at <http://carnegieendowment.org/1995/06/01/corruption-eruption/>.

¹⁹ For a modern bibliography of anti-corruption scholarship, see the *Global Anti-Corruption Blog*.

²⁰ Patrick Glynn, Stephen J. Kobrin, and Moises Naim, *The Globalization of Corruption*, Institute for International Economics, available at

²¹ Id.

²² ROBERT E. KLITGAARD, *CONTROLLING CORRUPTION* (1987).

²³ Glen, et al, supra note ___ at 13.

²⁴ Naim, supra note ___.

²⁵ Naim, supra note ___.

²⁶ ESPY, supra note ___ at vii. His actual quote is, “The modern Olympic Games symbolize the struggle between man’s ideals and the reality within which he must live.”

²⁷ Donalt Macintyre, *Japan’s Sullied Bid*, TIME MAGAZINE, February 1999.

²⁸ Id.

²⁹ Id.

³⁰ *Acquittals End Bid Scandal that Dogged Winter Games*, NEW YORK TIMES, December 6, 2003.

³¹ Id.

³² Id.

³³ Bruce Kidd and Heather Dichter, *Introduction*, in OLYMPIC REFORM TEN YEARS LATER (2012).

³⁴ United Nations Convention Against Corruption, G.A. Res. 58/4, U.N. Doc. A/58/4 (Oct. 31, 2003), reprinted in 43 I.L.M. 37 (2004).

³⁵ *Jacobellis v. State of Ohio*, 378 U.S. 184, 197 (1964) (J. Stewart, concurring).

³⁶ Joseph Nye, *Corruption and Political Development: A Cost-Benefit Analysis*, AMERICAN POLITICAL SCIENCE REVIEW 61(2), 417-27.

³⁷ The World Bank Group, *Helping Countries Combat Corruption: The Role of the World Bank*, 8-22 (1997), available at <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/corrptn.pdf> [hereinafter World Bank Report].

³⁸ INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY AND TRANSPARENCY INTERNATIONAL, *CORRUPTION AND HUMAN RIGHTS: MAKING THE CONNECTION* 16 (2009) available at http://www.ichrp.org/files/reports/40/131_web.pdf.

³⁹ UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, AN ANTICORRUPTION READER (2005) available at http://pdf.usaid.gov/pdf_docs/PNADF530.pdf [hereinafter “USAID Report”].

⁴⁰ Nye, supra note ___.

⁴¹ KLITGAARD, supra note ___ at 23.

⁴² Mark Philip, *Corruption Definition and Measurement*, in MEASURING CORRUPTION (Charles Sampford, Arthur Shacklock, Carmel Connors, and Fredrik Galtung, eds.) at 45.

⁴³ Andrew Brady Spalding, *Corruption, Corporations, and the New Human Right*, 89 WASH. L. REV. 1365 (2014).

⁴⁴ MICHAEL JOHNSTON, *SYNDROMES OF CORRUPTION: WEALTH, POWER AND DEMOCRACY* (2005).

⁴⁵ Stephen D. Morris, *Forms of Corruption*, in CESifo DICE Report 2/2011 at 10.

⁴⁶ KLITGAARD, supra note ___ at 23.

⁴⁷ *CORRUPTION: ITS NATURE, CAUSES AND FUNCTION* (1990).

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- ⁴⁸ M. Robinson, *Corruption and Development: An Introduction*, in CORRUPTION AND DEVELOPMENT (M. Robinson, ed.), 1-14.
- ⁴⁹ Alvaro Cuervo-Cazurra, *Better the Devil You Don't Know: Types of Corruption and FDI in Transition Economies*, 14 JOURNAL OF INTERNATIONAL MANAGEMENT 12-27.
- ⁵⁰ SUSAN ROSE-ACKERMAN, CORRUPTION: A STUDY IN POLITICAL ECONOMY.
- ⁵¹ See Boris Begovic, *Corruption: Concepts, Types, Causes, and Consequences*, in CENTER FOR INTERNATIONAL PRIVATE ENTERPRISE ECONOMIC REFORM, March 21, 2005, at 4.
- ⁵² KLITGAARD, supra note ___, at 25.
- ⁵³ See, e.g., WOLFGANG MAENNIG AND ANDREW ZIMBALIST, INTERNATIONAL HANDBOOK ON THE ECONOMICS OF MEGA SPORTING EVENTS (2012).
- ⁵⁴ See Laurence Chalip, *From Legacy to Leverage* in LEVERAGING LEGACIES FROM SPORTS MEGA-EVENTS (Jonathan Grix, ed.), (2014).
- ⁵⁵ See, e.g., Holger Preuss, *Legacy Revisited*, in Grix, supra note ___. He includes six: infrastructure, knowledge, policy, emotions, networks, and culture. For a summary of literature critical of the unequal effects of legacies on certain segments of the population, see, e.g., Michael Silk, Neoliberalism and Sports Mega-Events, in Grix, supra note ___.
- ⁵⁶ See, e.g., Richard Holt and Dino Ruta, *Introduction*, in ROUTLEDGE HANDBOOK OF SPORT AND LEGACY: MEETING THE CHALLENGE OF MAJOR SPORTS EVENTS, 2015.
- ⁵⁷ Id.
- ⁵⁸ See, e.g., OLYMPIC GAMES, MEGA-EVENTS AND CIVIL SOCIETIES, (Graeme Hayes and John Karamichas, eds.), 2012.
- ⁵⁹ Id.