

'Géographie Sportive:' Over 100 Years of Charting the Globe's Territorial Disputes with the Olympic Formula

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After the decades-long exclusion of one billion people from the Olympic Movement, the 'Olympic Formula' finally brought the People's Republic of China into the Olympic fold, a move that has been hailed as a pragmatic solution to the International Olympic Committee's difficulties in determining whether it should recognize China, Taiwan or both. Although the Olympic Formula refers specifically to this case, the IOC's general policies on who to recognize over what territory may be thought of as an imperfect formula that, although based on codified regulations, has proven particularly flexible. While the IOC prefers to recognize National Olympic Committees from United Nations member States, the maneuverability around this practice has allowed for some innovative solutions but also some headaches. The IOC continues to be faced with questions of State legitimacy (as with Kosovo) and it may want to consider adapting its espousal that its recognition decisions merely reflect global politics.



Introduction

The fundamental rule of the modern Olympics is contained in two lines: all games, all nations and it is not even in the power of the International Olympic Committee, which is the highest authority in the matter, to do anything to change this. I would add that a nation is not necessarily an independent State and a sporting geography exists that may differ, at times, from the political geography.¹

There are many political motives of countries. You have countries that exist only because of their athletes and their flag is only shown at the Games because, in all other aspects they are not powerful enough but at the Games they are... You literally have nations that have come to the forefront because of their flag being shown on television [during the Olympic Games].²

Several years ago, I was attending a conference where I raised the prospect of a more bottom-up approach to certain kinds of Olympic affairs. Before long, I found myself being berated by a member of the International Olympic Committee's Executive Board who angrily exclaimed that the Games could not be staged without the participation of countries and governments, a premise which I had in no way denied nor even addressed. Although I had not given a great deal of thought to his position, his repeated insistence has since made me ask myself more precisely what the relationship is between the Olympic Movement and the global community of States. While I would agree that the Olympic Games as presently operated are not possible without gov-

ernments, I am not sure that the inverse is also true; in other words, would States exist without the Olympic Movement?

Of course the question seems ridiculous; after all the widespread acknowledgment of a world divided into sovereign States originated with the Treaty of Westphalia in 1648 not the IOC Congress of Paris in 1894. But I would nevertheless argue that for many countries, the Olympic Movement, while not exclusively responsible, has been an absolutely pivotal instrument in making their case for legitimate statehood. I am not alone in feeling this way as the preceding statement made several months ago by current International Olympic Committee (IOC) president Jacques Rogge makes clear.

In a global system where international law asserts that States may exist irrespective of other States recognizing them but where political and economic realities have also necessitated some form of recognition for the perpetuation of a country, membership in the Olympic family has become one of the most coveted prizes of aspiring States. Such aspirations have come from all corners of the earth, irrespective of political system, geographic location, relative wealth, population size, or the success or skill of its athletes. Consider, for example, how desperately the pre-2001 Taliban of Afghanistan (an organization not exactly friendly to Western influences such as the Olympic Movement might be considered) wanted its athletes to compete in the 2000 Games in Sydney; while the IOC-recognized NOC of Afghanistan had been suspended some years prior to 2000, the Taliban nevertheless sought and (later) claimed IOC recognition because the IOC had extended an invitation to send some officials (but no athletes) to Sydney for talks. Once the Taliban began using the news to declare that the IOC had recognized its regime in Afghanistan, however, the IOC immediately withdrew its invitation stating "They have turned this into a political issue by making a statement that this is recognition."³ The Taliban had, after all, only been recognized as the legitimate government of the State of Afghanistan by three other States and it craved further acknowledgement from the international community, including, if needs be, the transnational Olympic Movement. Despite claims of ethnocentrism, racism, sexism, elitism, political favoritism, and over-commercialization, the IOC and the Movement it governs remains one of the most attractive clubs for even the oddest of bedfellows.

This paper is an attempt to provide an overview of some of the major ideas that have informed the somewhat ambiguous IOC recognition policies and the reasons why its attempts to blindly reflect (not create) international law, politics, and norms have created as many political pitfalls as they have resolved. One of the more contentious historical examples of the difficulties the IOC has faced was the decades-long struggle to determine how the peoples of China and the island of Taiwan would participate in the Movement; when the IOC finally accepted both regimes as NOCs with the stipulation that the Taiwanese compete under the nomenclature "Chinese Taipei" the solution began to be called the 'Olympic Formula.' While the Olympic Formula designation refers specifically to the Movement's solution to the troubles across the Taiwan Strait, it is useful to think of all of modern Olympic recognition policies as a 'formula,' in that there are guidelines that may be modified in the pursuit of a successful experiment. It is hoped that, beyond a short deconstruction of these policies, the present study, broad as it is, will provide a general framework for further, more detailed research into the hundreds of case studies that have emerged from the intersection of statehood and the Olympics since the latter's revival in 1894.

Definitions and Tensions: Old and New

Both within and without the Olympic Movement, the political and legal complexities of nationality and statehood are made only more difficult by the synonymous or ambiguous use of terms which

are not synonymous and have precise meanings. Consider, for example, the words of Pierre de Coubertin above, in which he correctly observes that "a nation is not necessarily an independent state;" as a result of this position, the Movement is divided up today into 'National' Olympic Committees (NOCs) and not 'member state Olympic delegations' or some similar construct. And even though these linguistic entanglements were clearly not foreign to Coubertin and the early Olympic revivalists, the Movement has only complicated matters further by (sometimes intentionally and sometimes ignorantly) interchanging the words, thus creating a Saussurian puzzle that the Olympic family and the community of States and governments has had to negotiate to move into or remain within the Movement. The most recent version of the Olympic Charter, for example, states that "The area of jurisdiction of [a 'National' Olympic Committee] must coincide with the limits of the country in which it is established and has its headquarters."⁴ Fair enough. But what is a "country" in the eyes of the IOC? "In the Olympic Charter, the expression 'country' means an independent State recognised by the international community."⁵ Again, this may seem straightforward, but as we shall see, the terms 'recognized' and 'international community' are fraught with ambiguity and are political lightning rods.

For the sake of clarity, the following definitions are submitted and will be used accordingly throughout this paper. A nation, generally defined, is a group of persons who share a sense of identity based on common historical or ancestral origins. Nations have often been described as "imagined communities"⁶ indicating the importance of individuals 'feeling' a sense of belonging to a nation that may or may not exist within legal and political systems. Nations can be found within the boundaries of a State, such as the First Nations peoples who live in Canada, or across country boundaries, such as the (largely) theoretical Kurdistan.⁷ A State, on the other hand, is a specific, legal unit with distinct boundaries and a government. States are subjects of international law, are completely sovereign, and have the capacity to enter into relations, including treaties, with other States. Finally, 'countries' are generally synonymous with States, although some authors in the social sciences consider the term 'country' more related with the *territory* of a State or even *territories* within States than with the notion of a government and the capacity to enter into relations with other States.

These varying and conflicting definitions were important to Coubertin because there were, from the very beginning of the Olympic revival, tensions between *who* would be representing *what* at the Games. Coubertin's statement reproduced above was in response to an article in the *Allgemeine Sport Zeitung*, an Austrian periodical which lamented that there were, in 1911, no longer any Austrians in the IOC, just a Bohemian and a Hungarian. This was significant because Bohemia and Hungary were both nations within the politically sovereign Austro-Hungarian Empire. Coubertin's assertion of an independent 'géographie sportive' proved either one or both of the following two ideas: that "Olympic sport felt self-confident enough to draw up its own world map and shake off the shackles of political geography, when this got in the way of the realities of sport" or, that it was the only pragmatic solution to the already politically charged Olympic Movement. Coubertin had, after all, consciously kept direct government interference out of the Movement from early on and the first two editions of the Games "had strengthened [his] liberal conviction that any kind of state involvement in sports introduced 'the fatal germ of impotence and mediocrity.'"⁸ The IOC has, ever since, maintained its ability to draw its own boundaries and establish its own geographical units, though not always as wisely nor as independently as it would have liked.

So how does the supreme body of the Olympic Movement decide what goes where? What criteria does it use? Have political considerations been eliminated altogether? In order to determine what form this 'géographie sportive' has taken in the intervening century we must first consider how *political* geography is shaped.

Theory of the State

Although it has been 360 years since the Peace of Westphalia and the principle of strict State sovereignty that it established, the world and its governments, lawyers, and political theorists have failed to agree on what exactly constitutes a State and how to recognize which regimes meet those criteria. For the limited purposes of this current study let us consider the dominant theory of statehood in contemporary world politics.

Statehood, particularly in the 20th century, involved the recognition of governments and legal regimes that are in *de facto* control of a State or State-like territory. This approach seeks to recognize factual conditions on-the-ground, as they are. If, for example, a formerly revolutionary force now controls the territory of a State, that force is 'effectively' the State government. The approach which more accurately explains the way in which such *de facto* regimes are brought into the community of States and under international law is called the declaratory theory. According to this theory, "a State [is] a State because it's a State;"⁹ in other words if it looks, walks, and smells like a State, it is one.

The declaratory theory stands in contrast to the constitutive theory (that it has largely replaced) which stipulated that a State only existed if it was recognized as such by other States. Of course, the increased objectivity presumed in the declaratory theory does not eliminate the importance of inter-state recognition, it simply asserts that such recognition does not *create* legal personality. Antonio Cassese maintains that formal recognition continues to fulfill three important roles: first, it indicates that the recognizing State is entering into political relations with the recognized State, second it proves that (at least some) States consider that a given regime meets the factual conditions of statehood, and finally it means that recognizing States cannot subsequently claim that the recognized State is not indeed a legitimate State.¹⁰ There remains, however, a great deal of ambiguity in the declaratory theory and this fact, combined with the continuing importance of recognition, has made NOC recognition, an informal yet powerful legitimization, very desirable.

State and Olympic Legitimacy in the Declaratory Legal Framework

The International Olympic Committee is, as the Olympic Charter states, "an international non-governmental not-for-profit organization...with the status of a legal person."¹¹ Each of these components mentioned is important to the identity of the IOC and, although it is not within the scope of this study to address each of them in depth, there are several issues which have direct relevance here. In the universe of international law and relations, the phrase 'public international organization' refers to a specific kind of association that is entitled to certain privileges and immunities by States. Notably, the IOC is not a public international organization, but, as it asserts in the Charter, a nongovernmental organization. This is so because the IOC is not an intergovernmental organization whose membership is composed of delegations from States, but a private organization with self-selecting membership that was neither established nor is operated by governments. Despite the fact that the IOC fulfills very many public-esque objectives, not least of hosting the Games, and arguably possesses international legal personality, it is not a formal international organization like the United Nations, the North Atlantic Treaty Organization, or the European Union.¹² Its informal, quasi-public status in global affairs (tied up with its enormous cultural significance) makes the IOC and the Olympic Movement uniquely positioned to serve as a springboard for fringe or aspiring States. Having one's NOC recognized by the IOC carries with it a certain amount of prestige and legitimacy that many territories and regimes would find difficult to achieve in public international organizations which usually limit their membership to States which are widely recognized by other States or organizations such as the United Nations system. As Maurice Roche has put it:

The Olympic Movement and the United Nations have played something of a parallel role in the international sphere in the post-war and post-colonial period. New nations in particular have needed both political and cultural 'international arenas' or public spheres in which to display themselves, be recognized and be legitimated. Allowing for exaggeration there is some truth in the view that, albeit in different ways and with different implications, nations could be said to have needed recognition by the Olympic Movement—particularly participation in the periodic ceremonies and sport of the Olympic Games events—almost as much as they have needed recognition by and participation in the United Nations organization.¹³

These realities have not been lost on regimes in different parts of the world in the past century. In the decades after World War II and again after the Cold War, many new States and self-administered territories have emerged. The process of decolonization multiplied the number of States several fold. Because of the general international sentiment of the time, many of these countries' NOCs were recognized in fairly short order by the IOC. Again, after the Cold War, the breakup of the Soviet Union likewise brought several new NOCs into the Movement.

NOC recognition has proven more difficult, however, in instances where secessions, civil wars, invasions and other occurrences have generated more controversy about the legitimacy of a given State or regime. The difficulties the IOC has had in trying to reflect geopolitical realities without being 'political' (an obviously impossible task) have generally fallen into two imprecise categories: emerging States and divided States.¹⁴

IOC Recognition Policy

The role of the Olympic Movement as a signifier of global, albeit limited and informal, recognition has given the IOC a role which it maintains it does not want, that of political arbiter. The Committee's checkered history with NOC recognition has led to the policy currently codified in the Olympic Charter which is meant to depoliticize the recognition process. The exact wording is as follows: "In the Olympic Charter, the expression "country" means an independent State recognised by the international community."¹⁵ While this construction is an attempt to create simple, apolitical criteria that merely reflect what the world's politicians (not IOC members) have already decided, an international lawyer would find it ticklingly ambiguous and ridden with many of the same problems that States themselves face when deciding to recognize or not recognize. As previously discussed, the idea that 'recognition' is a relatively straightforward process that has uniform consequences is completely erroneous. Equally ambiguous is the reference to the 'international community.' Who comprises the international community and how does it reach decisions? As any good political realist will explain, the international system of States is anarchic and the absence of a sovereign world government means that 'the international community' will rarely ever be in complete agreement about which regimes to recognize as States.

As it is an immediately current and illustrative example of the hurdles the IOC faces when treating National Olympic Committee applications, the remainder of this section considers the hypothetical question: What would it take to recognize the Kosovo Olympic Committee? Several problems present themselves immediately.

A Kosovo Olympic Committee would, for example, have numerous difficulties with the idea of international community recognition. Although the idea of an 'international community' is ambiguous, the most obvious quorum that may claim to represent such a designation would be the United Nations, and particularly the General Assembly (GA). If the IOC is the backdoor, the General Assembly is the most overt and formal institution which a State may look to for confirmation of its legitimate

existence. In the years since its founding in 1945, the Assembly has become perceived as the most universal of international organizations on political matters and that, on an unspoken level, if any institution is capable of conferring *de facto* statehood on a given regime, it is the General Assembly.

This is, however, a romanticized version of the Assembly. Despite the principle of 'one country, one vote,' a seemingly democratic system, decision-making in the GA has often been subject to prohibitive voting blocs and influential powers that have, at different times and on different issues, been able to skew the body's resolutions in highly-politicized, subjective ways. Additionally, many forget that the General Assembly can only approve applications for membership "upon the recommendation of the Security Council."¹⁶ And the Security Council is often paralyzed by the permanent veto power that five of its members hold and use in their own interests or the interests of regimes for whom they are surrogates. Thus, State-like conditions on the ground may never be recognized by the General Assembly or may be prevented *a priori* by one or more of the permanent members of the Security Council or a coalition of non-veto-holding States that are elected to the Council. For Kosovo to be achieve recognition from these two main organs of the United Nations (UN) would be asking a lot, and is unlikely to occur any time in the near future. Russia, one of the victors of World War II and thus a framer of the UN and one of its permanent Security Council members, has clearly asserted that it will veto any attempt by the Council to recognize Kosovo. Russia is Serbia's closest ally and is therefore likely to continue to resist any form of recognition for the breakaway republic. Russia also fears that regions within its own sovereign borders that already have demanded independence will gain momentum from the Kosovo move. China, likewise a permanent veto holder, has also signaled its disapproval of any UN attempts to legitimize Kosovo sovereignty.

But does this all matter to the IOC? Is UN recognition in either the General Assembly or the Security Council a precondition for IOC recognition of the fledging regime? Some, including an IOC spokeswoman, say 'yes.' Others, including an IOC president, say 'no.'

With widespread media interest in the possibility of a new Kosovo Olympic Committee participating in this summer's Beijing Games, IOC spokeswoman Emmanuelle Moreau stipulated (the day the Kosovo declaration was made) that "Kosovo needs to be recognized by the United Nations as an independent state."¹⁷ Although hesitating to comment on whether Kosovo's participation would be possible before Beijing, she was quite clear in an Associated Press interview that "At this stage we still have to see what that the U.N. decides," and again later, as if to be sure, "We will have to wait and see what the U.N. decides."¹⁸

Such statements are problematic on numerous levels. To begin with, the Olympic Charter does not establish the United Nations or any of its organs or affiliated agencies as 'the international community' referenced in the Charter. Many aspirant NOCs may, therefore, find such sentiments from an official spokesperson confusing.

Even more problematic, however, are conflicting statements in reference to the same Kosovo dilemma. The chairman of the IOC's own International Relations Commission, Mario Pescante, said, on the same day as Moreau's statement, that although time constraints made it unlikely that Kosovo would compete as Kosovo at Beijing, "There will be a recognition of Kosovo on the part of the IOC. I can announce this in advance."¹⁹ This very forthright assertion seems to be in direct contradiction to the hesitancy and preconditions expressed by Moreau. The Russian Federation is, after all, extremely unlikely to endorse Kosovo's application to the United Nations for the foreseeable future. With this deathblow to UN recognition, how can such contradictory statements be justified? Perhaps Moreau meant to express the IOC's hesitancy about recognizing Kosovo *before* the Beijing Games were to begin *unless* a body such as the UN showed a great eagerness in accepting Kosovo as a member State.

This seems unlikely, however, as the build up to the date of Kosovo's declaration was long and most observers knew not only *that* it was coming but *when* as well; because Kosovo officials made no secret of these plans, it was also well-known and publicized that Russia would automatically veto any UN application.

During his own tenure as IOC president, Juan Antonio Samaranch seems to have given the most explanatory and accurate statement about the relationship between UN and IOC recognition: "We have to be very cautious. We want to recognise not countries, but states. What is the difference? For us, a state is a country recognised as a state by the United Nations. With that recognition by the UN, it is very easy to get Olympic recognition. Though not automatic, it is more or less a formality."²⁰

One would have hoped that a career diplomat might have chosen his words more carefully, for even though it may have been unintentional, his phrasing creates several new dilemmas. For one thing, it seems to be in tacit contradiction with the Olympic Charter which makes frequent use of the word 'country' when referring to both the political concept and the territorial extent of an NOC. As was seen above, Rule 15.1 defines 'country' in terms of States, not the other way around. And although the distinction most experts make between 'country' and 'State' may be very slight (if it is made at all), the IOC seems to place great value on defining them separately or at least using them (albeit confusingly) to identify certain, specific entities.

For all of its new problems, however, this statement by Samaranch may have demonstrated just how (in)formal a process IOC recognition can be. His assertion that UN membership is not an "automatic" ticket to the Olympic family seems also to imply the converse, namely that UN recognition is also not an absolute necessity for NOCs seeking to represent their States. The fact that he counts such recognition as "more or less a formality" is an even stronger indication that there is an informal, albeit less desirable, backdoor entrance.

There is certainly ample evidence that the IOC prefers its actions to follow those of the United Nations when it comes to recognition. In 1993, for example, the Russian Information Agency reported that "the decision to recognize Macedonia's National Olympic Committee was taken by the International Olympic Committee's ruling Executive Board, which took into consideration the fact that the Former Yugoslav Republic has now been recognized by the United Nations."²¹

But there is a comparable number of examples that prove that UN recognition is *not* a prerequisite. Numerous examples of NOCs from non-States who are not even seeking recognition as a State prove this. Many United States protectorates and commonwealth territories (such as Puerto Rico, Guam, American Samoa, and the Virgin Islands) have recognized NOCs despite their firm and self-assigned status under US sovereignty which, in turn, excludes them from membership in the United Nations. Similarly, non-UN members Aruba and the Netherlands Antilles (under the Netherlands) as well as the British Virgin Islands and Bermuda (under the United Kingdom) all have NOCs, as do several other dependencies and self-governing territories. Autonomous areas within a sovereign State such as Hong Kong also have NOCs. And these are all, of course, very modern incarnations of a pattern the IOC established long ago; as we have already seen, in Coubertin's time and in subsequent decades (notably while European empires still governed large parts of the earth), many non-State, non-sovereign areas had NOCs.²²

Clearly, therefore, based on both its history as well as (most of) its explicit, contemporary policies and statements, UN recognition is not a prohibitive criterion for the Olympic Movement. What else, then, could qualify as 'the international community' to which the IOC defers in its recognition policies?

Taken at its most basic and literal level, ‘international recognition’ might be as simple as inter-nation (or inter-State) recognition, as the etymology implies. The most extreme, and perhaps absurd, example of this might be the Turkish Republic of Northern Cyprus (TRNC). Is the TRNC a State? This question returns to the theoretical problems addressed in the discussion of legal statehood above. One thing is certain however, there is one State, and one State only, that recognizes the TRNC: the Republic of Turkey. Leaving aside its own interests in the partitioned northern section of the Cypriot island and its absolutely central role in the establishment of the TRNC, it is a fact that Turkey recognizes the disputed republic as a legitimate State. Because this situation involves one State recognizing another State, it could be described as ‘international recognition.’²³

Ridiculous though it may seem, an application from the Turkish Republic of Northern Cyprus for its own NOC should force interested parties to ask where the line might be drawn. Pescante’s assertion that Kosovo will have its own NOC seems to indicate that the question is not whether the UN grants recognition, but if there is *enough* recognition from various sources. So if, as in the case of the TRNC, recognition by *one* State does not suffice, how many States are required? And is it the quantity or the influence of States that matters? In the end it seems as though it is actually power politics that has the most influence on the IOC, something the Committee would be loath to admit.

Consider, for example, the ‘State’ of Palestine. Although a Palestinian State had previously been recognized by nearly 100 countries (29 of which recognized passports issued by the Palestinian Authority), the Arab League, and the Organization of the Islamic Conference, the IOC did not recognize it until 1993. The decision to recognize the Palestinian Olympic Committee came after the groundbreaking Oslo Accords. Although the greater autonomy granted to the Palestinian Authority in the accords provided the IOC with a logical impetus to recognize the Palestinian Olympic Committee, the timing also indicates several other realities about NOC recognition policies. To begin with, it is worth noting that the recognition of a substantial proportion of the ‘international community’ (~100 States) did not convince the IOC to recognize Palestine. Indeed, a cynic would point to the fact that the ‘Oslo’ Accords were actually signed in Washington under the oversight of U.S. President Bill Clinton. If the U.S. approves of the move, the reasoning goes, then it is good enough for the IOC.

Compare that with Mario Pescante’s affirmation the day after Kosovo declared independence that the republic would achieve IOC recognition despite its statehood claims having only been recognized by several States. But when those few States are the United States, Germany, Britain, France, Japan, and the vast majority of EU and NATO members that seems to matter more.

Or does it? One of Pescante’s IOC colleagues, a Russian, said some weeks later, “declared independence themselves, however, this hasn’t been recognised by the international community, while only a few countries have recognised it’s independence from Serbia. This is the main criteria for a country being accepted into the International Olympic Committee, so at the current time, there is no way Kosovo can join.”²⁴

The charge that the United States or other superpowers have a disproportionate (or even absolute) influence over the IOC and the NOCs it chooses to recognize is not isolated to the Palestinian case. Both the Taliban regime and the head of the pre-2001 NOC of Afghanistan also blamed the United States for its non-recognition stating, “We know that it is at the behest of the United States that we are being kept out of the Olympics.”²⁵ While these Afghan claims are more dubious than the Palestinian and Kosovo examples, it does seem accurate to say that not all ‘States’ are created equal in the eyes of the IOC.

Of course, countries and NOCs cannot be blamed for espousing such criticisms. The majority of the Olympic budget comes from some of the largest American corporations and claims of Euro-centrism would also be relevant considering the disproportionate quantity and influence of European

leadership in the IOC and the Movement in general. Regardless of the oath that IOC members are now required to take, promising "to keep myself free from any political or commercial influence,"²⁶ these clear conflicts of interest will do nothing to eliminate the suspicion (or realization) of the politicization of NOC recognition. The numerous examples of IOC members acting like political delegates of their respective States in the struggle for or fight against a given NOC application is ample proof of this and would not be proudly acknowledged by the institution.²⁷

What the IOC has lacked in stringent policies and consistent explanations, however, it has partially made up for in innovative, or at least pragmatic, solutions. There is no time to elaborate here, but consider merely a few of the more prominent recent examples. With the breakup of the Soviet Union shortly before the Barcelona Games in 1992, IOC President Samaranch and his vice presidents provisionally accepted 12 new NOCs into the Movement since the IOC Session necessary to ratify such a decision would not have occurred until the Games had already begun. The IOC allowed a 'Unified Team' of former Soviet republics to compete together since logistical, financial, and athletic institutions were neither advanced nor clearly distinguished between the new NOCs. Although the Unified Team's victorious *teams* were honored by Olympic flag and hymn, individual athletes who earned medals were accompanied by their new State's flag and anthem.²⁸ The IOC faced another tough situation when the UN Security Council sought to isolate the Serbian/Yugoslavian regime in response to its forceful opposition to Bosnian independence by explicitly demanding that member States "prevent the participation in sporting events on their territory of persons or groups representing...Yugoslavia."²⁹ The Barcelona Games, which were to occur the following year, had already extended an invitation to Serbia/Yugoslavia so "The IOC appealed to the UN and got an agreement that while Serbia/Yugoslavia should not be permitted to compete nonetheless individual Serbians/Yugoslavs could compete under the Olympic flag, and also that Bosnia could compete as a nation."³⁰

"A Very Exceptional Decision"?

In 1991, the IOC recognized a National Olympic Committee from the new Namibian republic which had recently gained independence from South African sovereignty. Since Namibia had only become a State in 1990, the quick acceptance of the country's application for recognition of its new NOC was called a "very exceptional decision" by Keba Mbaye, an IOC Executive Board member responsible for issues of apartheid (and the former vice president of the International Court of Justice). Then-President Samaranch likewise had comments to make on the pace and fashion in which both the Namibian and a new interim South African Olympic Committee (which had recently pledged to dismantle apartheid) were recognized: "It is very good to find a quick solution if possible."³¹ Yet, in the next breath, he added, "We have to be very careful not to go too fast and not to be involved in political problems."³² Based on these kinds of incongruous statements and the huge and diverse range of experiences that States, National Olympic Committees, athletes, and other public and Olympic officials have had, can any NOC recognition process really be called "very exceptional"? Exceptions are naturally defined in contrast to a rule; if Rule 31 of the Olympic Charter, namely the stipulation that an NOC represents "an independent State recognised by the international community," is the rule to which Namibia (and many, many others) have been the exception, it may be a generous use of the term 'rule.'

It might be argued, however, that ambiguity in the recognition process is not only natural but even desirable. The lack of absolute and undeviating policies grants the IOC a degree of flexibility and pragmatism that most governments enjoy in the exercise of the same function and one which most legal scholars have accepted as the most equitable and logical. But unlike global politics, the Olympic Movement is not anarchic. Thus, any unclear or contradictory decisions by the supreme authority of

the Movement, whether perceived or real, will be greeted with resentment and claims of hypocrisy, double standards, bias, and politicization.

In fairness, the IOC adheres to its Charter at least as firmly as most States adhere to their international legal obligations. But there is obviously a great degree of variability to the Olympic recognition process. The broader idea of an Olympic Formula is actually a loose set of patterns, preferred methods, and general practices, that the IOC has historically consulted like a recipe that may be altered according to the ingredients available (political and legal constraints), the particular tastes of the consumers and chefs (politics of the global audience, governments, and IOC leadership), and the amount needed (coping with universal aspirations). In reality, however, the recipe often leaves a bitter taste in the mouth and requires fine-tuning.

Endnotes

- 1 Pierre de Coubertin, "Géographie Sportive," *Revue Olympique*, no. 64 (1911): 51.
- 2 "The State of the Olympics as Seen by Jacques Rogge," *Vancouver Sun*, March 2, 2008.
- 3 Clare Nullis, "IOC Withdraws Invitation to Taliban," *Associated Press*, August 25, 2000.
- 4 *Olympic Charter*, International Olympic Committee (2007), Chapter 4, Rule 29(5).
- 5 *Ibid.*, Rule 31(1).
- 6 See Benedict Anderson, *Imagined Communities* (New York: Rutgers University Press, 1983).
- 7 For a broader discussion of these issues, see Daniel Chernilo, Gerard Delanty, and Krishan Kumar, *Handbook of Nations and Nationalism* (London: Sage, 2006).
- 8 Allen Guttmann, *The Olympics: A History of the Modern Games* (University of Illinois Press, 2002), 22.
- 9 Stefan Talmon, "The Constitutive Versus the Declaratory Doctrine of Recognition: *Tertium Non Datur?*" *British Year Book of International Law* 74 (2004), 101-81.
- 10 Cassese, *International Law* 2nd ed. (Oxford: Oxford University Press, 2005), 74.
- 11 *Olympic Charter*, Chapter 2, Rule 15(1).
- 12 For several very good (albeit highly legalistic) sources on the exact legal status of the IOC in international affairs see James A. R. Nafziger, *International Sports Law*, (Dobbs Ferry, NY: Transnational Publishers, 1988); David J. Ettinger, "The Legal Status of the International Olympic Committee," *Pace Year Book of International Law* 4 (1992): 97-121; James G. Goettel, "Is the International Olympic Committee Amenable to Suit in a United States Court," *Fordham International Law Journal* 7 (1983): 61-82.
- 13 Maurice Roche, "The Olympics and "Global Citizenship," *Citizenship Studies* 6 (2002): 2.
- 14 Many of the details about how these two problems are distinct in IOC history have been removed for the sake of time. For extensive resources about them, please contact me.
- 15 *Olympic Charter*, Chapter 4, Rule 31(1).
- 16 Charter of the United Nations, art. 4(1).
- 17 Stephen Wilson, "IOC: Kosovo Olympic Team 'Unlikely,'" *Associated Press*, February 18, 2008.
- 18 *Ibid.*
- 19 "IOC to Recognise Kosovo," *Agence France-Presse*, February 18, 2008.
- 20 "Namibia is Declared Eligible for 1992 Games," *New York Times*, June 17, 1991.
- 21 "Macedonia Becomes 186th Member of IOC," *ITAR-TASS*, June 20, 1993.
- 22 Of course during many of these prior periods the United Nations did not exist, did not have much influence, or was not the nearly-universal body it is now.
- 23 Again, the terminology of 'international' is confusing, as it is now used by most observers to describe inter-State or perhaps inter-governmental relations and not relations between 'nations' as defined at the beginning of this paper. On a

separate note, it is worth pointing out a fundamental difference between the universe of global affairs and the universe of Olympic affairs; while the anarchic global system allows any given State to recognize any other, the hierarchical Olympic system does not. Turkey, after all, is not only considered a State by most governments and international organizations, it also possesses an NOC, which means it belongs to the Olympic family. Since the Turkish Olympic Committee is a valid member of the Movement, this might suggest, to some, that the Turkish NOC (or any NOC for that matter) ought to be competent to determine who else belongs to the Movement. But unlike world politics, the Olympic Movement *has* central oversight that is superior to the sum of its parts. Thus, while legal scholars debate what constitutes a State, observers can easily identify the IOC as the supreme authority on what constitutes an NOC.

- 24 "Olympic Movement won't Recognise Kosovo," *Russia Today*, March 14, 2008; <http://russiatoday.ru/sports/news/22122> last accessed on June 6, 2008.
- 25 Karla Bruner, "Adversity's Champions," *Newsweek: International Edition*, September 11, 2000, 36.
- 26 *Olympic Charter*, Chapter 2, Rule 16(1.3).
- 27 To be fair, however, there have also been numerous examples of IOC members who have resisted their own impulses or governmental pressure. When, for example, the IOC recognized the Palestinian Olympic Committee in 1993 and allowed it to field athletes in the 1996 Atlanta Games, Israeli Prime Minister Benjamin Netanyahu tried to compel the IOC to designate the Palestinian committee the Authority, the Palestinian Autonomy or the Palestinian Delegation to which the Israeli IOC member, Alex Gilady responded "I cannot describe it in words other than sorrow... They [government officials] have gone against our advice. Everything has happened according to what we told them will happen." Luke Cyphers, "Team Palestine Gets OK; Olympic Ruling Hits Israel's Objections," *Daily News*(New York), July 16, 1996.
- 28 "Twelve NOCs Recognized but Unified Team in Barcelona," *Olympic Review*, 295 (1992): 221-222.
- 29 United Nations Security Council, Resolution 757, May 20, 1992.
- 30 Roche, 175.
- 31 "Namibia is Declared Eligible for 1992 Games," *New York Times*, June 17, 1991.
- 32 *Ibid.*