

RINGS OF EXCLUSION: WHEN SANCTIONS COLLIDE WITH THE RIGHT TO SPORT

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Abstract

In the 2024 Paris Olympics, Russian athletes were required to compete as “Individual Neutral Athletes” (“AIN”) due to sanctions following Russia's invasion of Ukraine. These sanctions reflect the Olympics’ practice of excluding athletes from participation based on the policies of their homeland. Such international sports sanctions unfairly punish athletes for the actions of their governments and violate their rights to self-determination and sport. These sanctions strip athletes of their individual rights and are ineffective in deterring political aggression, mainly because their application has historically been inconsistent and politically driven. While sports-related sanctions, such as those addressing doping scandals, are justified to maintain the integrity of competition, politically related bans fail to achieve their intended goals. International sports competitions, specifically the International Olympic Committee (“IOC”), whose Charter claims to uphold neutrality and human rights, should abandon politically charged sanctions and develop alternative measures that hold governments accountable without depriving athletes of their rights.

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I. INTRODUCTION

Last year, fifteen Russian athletes competed in the 2024 Paris Olympic Games.¹ However, these athletes competed as Individual Neutral Athletes, (“AIN”), representing themselves as athletes—but not as Russians—because the International Olympic Committee (“IOC”) prohibited them from competing under Russia’s name due to the country’s invasion of Ukraine in 2022.² Since they competed as AINs, the athletes did not participate in the opening ceremonies, wear national colors, or hear their national anthem play when they won medals.³ Russian athletes also had to prove their lack of involvement in and support of the Ukraine War through a screening process.⁴

¹ James Ellingsworth, *The 15 Russian ‘Neutrals’ at the Paris Olympics Are Politically Isolated and Rarely in the Spotlight*, ASSOCIATED PRESS (Aug. 4, 2024), <https://apnews.com/article/olympics-2024-russia-ukraine-neutralathletes-0c753936cc1da967756a64cdeff8cb59>.

² *Id.*

³ *Id.*

⁴ *In Russia, Many Likely to Ignore Olympics After IOC Ban Over Ukraine War*, REUTERS (July 26, 2024), <https://www.reuters.com/sports/olympics/russia-many-likely-ignore-olympics-after-ioc-ban-over-ukraine-war-2024-07-26>.

Arguably, this sanction did not affect Russia, or at least did not have the effect the IOC hoped for. Last year, the Russian government did not televise the Olympics, and some politicians viewed competing Russian athletes as traitors.⁵ It seems that the sanctions have not incentivized Russia to change its political relationship with the rest of the world but rather have further alienated the country.⁶ On the other hand, the sanction has affected individual Russian athletes more heavily: The number of competing Russian athletes experienced a dramatic decrease in Russian AINs from the previous Summer Olympics in Tokyo, where over 300 Russians competed unaffiliated.⁷ The decrease in participating athletes correlates with increased restrictions on the AINs themselves; for example, during the Tokyo Olympics, Russian AINs could wear their country's colors, and a Russian song played when they won medals, but this was not the case in Paris.⁸ The most significant restriction of the IOC last year—and likely an extensive explanation for why so few AINs competed in Paris—was that Russian AINs had to undergo a screening process to prove that they did not take part in or support the war in Ukraine.⁹

This Note argues against the Olympics' requirement of making individuals who reside in sanctioned countries compete unaffiliated, which violates their human rights to self-determination and sport. Furthermore, the practice of completely banning a country from participating for political reasons should stop. Because these practices punish a country's athletes more than deterring the government from pursuing its policies, the IOC and other international sports competitions should find ways to sanction a country without punishing its athletes.

Part II of this Note provides an overview of the history of international sports sanctions and AINs. Part III analyzes the individual rights to self-determination and sport, whether they exist, and whether international sports competitions should recognize these rights. Part IV of this Note argues that

⁵ *Id.*

⁶ *Id.*

⁷ Ellingsworth, *supra* note 1.

⁸ *Id.*

⁹ *In Russia, Many Likely to Ignore Olympics After IOC Ban Over Ukraine War*, REUTERS, *supra* note 4.

international sports sanctions violate these two rights, maintains that nonpolitical, sports-related bans are appropriate, analyzes the impact of political bans, and addresses counterarguments against the claim that international competitions should not engage in politically related sanctions.

II. THE HISTORY OF INTERNATIONAL SPORTS SANCTIONS

Many international sports competitions, such as the Olympics and Paralympics, the FIFA World Cup, and the Davis Cup, have historically sanctioned countries and prohibited their teams from competing for various political and human rights reasons. This Note will highlight examples of banned countries and discuss the history of allowing individuals to participate in sporting events as neutral athletes.

A. BANNED COUNTRIES

1. *Russia and Belarus*

The IOC and the International Paralympic Committee (“IPC”) sanctioned Russia from 2016 to 2022 because of state-sponsored doping of its athletes to dope.¹⁰ The IOC allowed some Russian athletes to compete under the Russian Olympic Committee (“ROC”) name at the Tokyo and Beijing.¹¹ The IPC prohibited all Russian team members from competing in 2016 but then allowed some to compete in subsequent Olympic games, with stringent restrictions.¹² Since 2022, the IOC and IPC have sanctioned both Russia and Belarus for their involvement in the

¹⁰ Ben Church & Ben Morse, *Russia Banned From 2020 Olympics and 2022 World Cup Over Doping Scandal*, CNN (Dec. 9, 2019), <https://www.cnn.com/2019/12/09/sport/wada-ban-russia-decision-rusada-doping-spt-intl/index.html>; *The IPC Suspends the Russian Paralympic Committee with Immediate Effect*, INT’L PARALYMPIC COMM. (Aug. 07, 2016), <https://www.paralympic.org/news/ipc-suspends-russian-paralympic-committee-immediate-effect>.

¹¹ Anna Gordon, *What Is AIN? How Russians and Belarusians Are Competing at the Olympics*, TIME (July 27, 2024), <https://time.com/7004418/what-is-ain-russia-olympics-2024>.

¹² Karolos Grohmann, *Russian Athletes to Compete as Neutrals at Paris Paralympics, IPC says*, REUTERS (Sept. 29, 2023), <https://www.reuters.com/sports/russian-athletes-compete-paris-paralympics-after-ipc-votes-against-full-ban-2023-09-29>.

Ukraine invasion.¹³ In 2022, the Committees fully banned all Russian and Belarusian athletes from competing in the Olympics that year, and in the 2024 Games, athletes participated as neutrals.¹⁴

Russia's invasion of Ukraine prompted other international sports organizations to ban Russia and Belarus in 2022, and these bans remain in effect. FIFA banned Russia from participating in the World Cup and other FIFA-sponsored competitions due to its invasion of Ukraine.¹⁵ The International Tennis Federation ("ITF"), which sponsors tennis competitions, like the Davis Cup and the Billie Jean King Cup, imposed sanctions on the Russian and Belarusian teams, while allowing individuals to compete as neutrals.¹⁶ This prohibition heavily affected Russia because the Russian team won both Cups in 2021 but could not defend its title.¹⁷

2. *South Africa*

For decades, various international sporting organizations sanctioned South Africa due to its apartheid policies. The IOC banned South Africa from competing in the Olympic Games from 1964 to 1988,¹⁸ while both the IPC and FIFA fully banned the country from 1964 until 1992.¹⁹ The International Cricket Council ("ICC") and the ITF sanctioned South Africa, followed

¹³ *Q&A Regarding the Participation of Athletes with a Russian or Belarusian Passport in International Competitions*, INT'L OLYMPIC COMM. (Oct. 25, 2023), <https://olympics.com/ioc/media/q-a-on-solidarity-with-ukraine-sanctionsagainst-russia-and-belarus-and-the-status-of-athletes-from-these-countries>.

¹⁴ *Id.*

¹⁵ Sanya Mansoor, *These Are the Countries FIFA Has Ever Banned from the World Cup*, TIME (Nov. 17, 2022), <https://time.com/6234776/countries-banned-world-cup-russia>.

¹⁶ Graham Dunbar & James Ellingworth, *Russia Excluded from More Sports as Sanctions Mount*, ASSOCIATED PRESS (Mar. 1, 2022), <https://apnews.com/article/russia-ukraine-vladimir-putin-winter-olympics-sports-belarus-a0b3aa48199dfefc17b254ae3ba5b13d>.

¹⁷ *Serbia and Australia to Replace Suspended Russia in Davis Cup and Billie Jean King Cup*, BBC SPORT (Mar. 14, 2022), <https://www.bbc.com/sport/tennis/60734943>.

¹⁸ *Find Out Why South Africa Was Barred from the Olympics for 32 Years*, OLYMPICS (July 26, 2018), <https://olympics.com/en/news/why-south-africa-barred-from-the-olympics-apartheid>.

¹⁹ Mark Gleeson, *South Africa Marks 30 Years Since Return from Footballing Wilderness*, BBC SPORT (July 07, 2022), <https://www.bbc.com/sport/africa/62067004>; *South Africa at the Paralympic Games*, BRAND SOUTH AFRICA (Aug. 23, 2012), <https://brandsouthafrica.com/104178/sports-news/paralympics>.

suit, but lifted their sanctions, along with most other organizations, when President Nelson Mandela got rid of the country's segregationist policy.²⁰ Since then, South Africa has enjoyed full participation in international sports, including hosting the FIFA World Cup in 2010.²¹

3. *Yugoslavia*

In the early 1990s, the breakup of Yugoslavia and the subsequent Yugoslav Wars caused FIFA to suspend Yugoslavia from competing in the 1994 FIFA World Cup Qualifiers.²² The ITF banned the Yugoslavian team from competing in 1992 in keeping with United Nations sanctions, which prevented the country from participating in international sporting competitions.²³ The new countries from the Yugoslav breakup began to participate in these competitions once they gained statehood and formed their own sporting teams.²⁴

4. *The Middle East and Other Countries*

In the 2000s and 2010s, FIFA temporarily banned Iraq and Iran from competing because the countries' governments interfered in their respective national football associations, which FIFA requires to be independent entities.²⁵ The ITF suspended both Iran and Kuwait in 2008 for government interference in the

²⁰ *History of Cricket*, ICC, <https://www.icc-cricket.com/about/cricket/history-of-cricket/20th-century> (last visited Dec. 5, 2024); Steve Tignor, *The Shots Not Heard Around the World*, TENNIS (Nov. 19, 2014), <https://www.tennis.com/news/articles/the-shots-not-heard-around-the-world>.

²¹ *FIFA World Cup History*, NDTV SPORTS, <https://sports.ndtv.com/fifa-world-cup-2022/history/2010-south-africa-football-world-cup> (last visited Dec. 5, 2024).

²² *Yugoslavia Banned for 1994 World Cup*, UPI (Oct. 1, 1992), <https://www.upi.com/Archives/1992/10/01/Yugoslavia-banned-for-1994-World/8232717912000/>.

²³ *Yugoslav Athletes Banned*, N.Y. TIMES (June 1, 1992), <https://www.nytimes.com/1992/06/01/sports/soccer-yugoslav-athletes-banned.html>.

²⁴ See, e.g., Jerrad Peters, *Yugoslavia and the Breakup of Its Soccer Team*, CBC SPORTS (June 2, 2010), <https://www.cbc.ca/sports/soccer/yugoslavia-and-the-breakup-of-its-soccer-team-1.892207>.

²⁵ *FIFA Suspensions Caused by Political Interference*, REUTERS (Nov. 23, 2016), <https://www.reuters.com/article/world/africa/factbox-fifa-suspensions-caused-by-political-interferenceidUSL4N1DO3H0>.

countries' national tennis federations.²⁶ FIFA and other international sporting associations have sanctioned other countries, such as Greece and Nigeria, for government interference.²⁷ Furthermore, Afghanistan was banned from the 2000 Sydney Olympics because of its discriminatory policies towards female athletes.²⁸ The Taliban's takeover of Afghanistan in 2021 has created concerns over whether the country will let women participate in international sporting competitions.²⁹ The ICC has not officially sanctioned Afghanistan, as it did in 2000, but continues to monitor its compliance closely.³⁰ Moreover, because it attacked the Sri Lankan cricket team in 2009, Pakistan could not host international cricket matches for almost ten years.³¹ However, some teams began to tour Pakistan in 2018, and the country hosted the 2025 ICC Champions Trophy.³²

5. *Non-Banned Countries*

Though international sporting associations have long sanctioned countries from competing in international events for various political reasons, many other countries have not been banned for similar concerns. For example, unlike Russia, North

²⁶ *Current Sanctions*, ITIA, <https://www.itia.tennis/sanctions/> (last visited Dec. 5, 2024).

²⁷ *FIFA Bans Nigeria for Interference*, ESPN (July 9, 2014), https://www.espn.com/soccer/story/_/id/37371522/fifasuspends-nigeria-government-interference-football-federation; *FIFA & UEFA Warn Greek Football Federation It Faces Ban*, BBC SPORT (Apr. 23, 2015), <https://www.bbc.com/sport/football/32425151>.

²⁸ Ethan Jewell, *Olympics to Lift Ban on North Korea's Participation Ahead of 2024 Paris Games*, NK NEWS (Dec. 7, 2022), <https://www.nknews.org/2022/12/olympics-to-lift-ban-on-north-koreas-participation-ahead-of-2024>.

²⁹ Tanya Aldred, *Afghanistan Women's Cricket Future Again Rests with Wrangling of Men*, THE GUARDIAN (July 10, 2024), <https://www.theguardian.com/sport/article/2024/jul/10/afghanistan-womens-cricket-future-again-rests-with-wrangling-of-men>.

³⁰ Tristan Lavalette, *Push to Fund Afghanistan Women's Cricket Fails to Materialize*, FORBES (July 23, 2024), <https://www.forbes.com/sites/tristanlavalette/2024/07/23/push-to-fund-afghanistan-womens-cricket-fails-to-materialize>.

³¹ Diaa Hadid, *International Cricket Returns to Pakistan for the First Time Since 2009 Terror Attack*, NPR (Oct. 28, 2017), <https://www.npr.org/2017/10/28/560615409/international-cricket-returns-to-pakistan-for-the-first-timesince-2009-terror-a>.

³² *Id.*; Stephan Shemilt, *India Will Not Travel to Champions Trophy*, BBC SPORT (Nov. 11, 2024), <https://www.bbc.com/sport/cricket/articles/c5yr4l8prp9o>.

Korea has never been banned from competing in the Olympics.³³ The IOC only banned the country from participating in the 2022 Beijing Olympics because it violated the Olympic Charter by refusing to participate in the 2021 Tokyo Olympics due to COVID-19.³⁴ The reasoning behind banning Russia for invading Ukraine was that the invasion violated the Olympic Truce (hereinafter “Truce”).³⁵ The Truce is a tradition that countries observe during the Olympic Games by ceasing global conflicts; it starts a week before the Olympics and ends a week after the Paralympics end, usually lasting two to three months.³⁶ However, the IOC did not ban North Korea for violating the Truce when it invaded South Korea in 1950, which lasted through the 1952 Helsinki Olympics.³⁷ It did not sanction the Soviet Union for its invasion of Afghanistan in 1979; rather, it allowed the country to host the Moscow Olympics the following year.³⁸ And the Committee also did not ban the United States for invading Iraq in 2003; while

³³ Robbie Newton, *The IOC Should Help Protect North Korean Athletes Returning from the Paris Olympics*, HUMAN RIGHTS WATCH (Sept. 17, 2024), <https://www.hrw.org/news/2024/09/17/ioc-should-help-protect-north-korean-athletes-returning-paris-olympics>.

³⁴ *Id.*

³⁵ Andrew Bertolli, *The Politics Behind Olympic Bans*, IE UNIV. (July 23, 2024), <https://www.ie.edu/insights/articles/the-politics-behind-olympic-bans/>.

³⁶ See G.A. Res. 71/160, Sport as a Means to Promote Education, Health, Development and Peace (Dec. 16, 2016); G.A. Res 78/10, Building a Peaceful and Better World Through Sport and the Olympic Ideal (Nov. 21, 2023); UNITED NATIONS, *UN General Assembly Adopts Olympic Truce for Paris 2024* (Nov. 21, 2023), <https://olympics.com/ioc/news/un-general-assembly-adopts-olympic-truce-for-paris-2024>.

³⁷ Sheila Miyoshi Jager, *The Strange, Dark History of North Korea and the Olympics*, POLITICO (Feb. 9, 2018), <https://www.politico.com/magazine/story/2018/02/09/north-korea-olympics-2018-history-216951/>. However, it could be argued that the reason for not banning North Korea was because North Korea did not participate in the Olympics until 1964, though it became a separate governing body in 1948. Perhaps if North Korea had wanted to participate earlier, such as in the 1952 Helsinki Olympics, where South Korea participated, the IOC would have sanctioned the country. Furthermore, the IOC did not officially integrate the Olympic Truce until 1992, though the Truce has been a part of the Olympics since their advent in 1896. See Koryo Tours, *North Korea at the Olympics*, KORYO GROUP (Aug. 9, 2024), <https://koryogroup.com/blog/north-korea-at-the-olympics>; see also *The History of the Olympic Truce*, INT’L OLYMPIC COMM. (Nov. 13, 2017), <https://olympics.com/ioc/news/the-history-of-theolympic-truce>.

³⁸ *Moscow 1980 Olympic Games*, BRITANNICA, <https://www.britannica.com/event/Moscow-1980-Olympic-Games> (last visited Dec. 5, 2024).

only a one-month invasion, the Iraq War lasted until 2011 and through four Olympic Games.³⁹ It did not even ban Russia for its invasion of Georgia on the opening day of the 2008 Beijing Olympics and its first invasion of Ukraine, less than a week after the 2014 Sochi Olympics—both of which broke the Truce.⁴⁰

Additionally, the IOC banned South Africa for its policy of apartheid and Afghanistan for its discrimination against women, but the IOC has never banned China or North Korea for their various human rights violations.⁴¹ The situations in South Africa and Afghanistan differ from those in China and North Korea because apartheid and sexism are policies that affect which athletes may participate in international competitions, whereas human rights violations might affect participation less directly. However, the IOC's line-drawing is ambiguous, especially because the Olympic Charter requires the IOC to remain politically neutral (yet many of its bans take a political stance against a country's national or foreign policy) and "oppose any political...abuse of...athletes."⁴² While sanctioning countries for human rights violations falls under the latter change, it violates the former.

B. INDIVIDUAL NEUTRAL ATHLETES ("AIN")

Some international sporting competitions, most notably the Olympics, have allowed some athletes to compete in individual events as neutral or unaffiliated athletes if their home countries are banned.⁴³

³⁹ Dana E. Abizaid, *US Is Pushing Olympics to Exclude Russia, But What About Its Own War Crimes?*, TRUTH OUT (Feb. 20, 2023), <https://truthout.org/articles/us-is-pushing-olympics-to-exclude-russia-but-what-about-its-own-war-crimes>; *The Iraq War*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/timeline/iraq-war> (last visited Dec. 5, 2024).

⁴⁰ Bertoli, *supra* note 35.

⁴¹ *China: Censorship Mars Beijing Olympics*, HUMAN RIGHTS WATCH (Feb. 18, 2022), <https://www.hrw.org/news/2022/02/18/china-censorship-mars-beijing-olympics>; Newton, *supra* note 33.

⁴² *Declaration by the IOC Against the Politicisation of Sport*, INT'L OLYMPIC COMM. (Mar. 19, 2024), <https://olympics.com/ioc/news/declaration-by-the-ioc-against-the-politicisation-of-sport>.

⁴³ See, e.g., *Individual Neutral Athletes at the Olympic Games Paris 2024*, INT'L OLYMPIC COMM. (July 20, 2024), <https://olympics.com/ioc/paris-2024-individual-neutral-athletes>; *FIA to allow Russian Drivers to Compete Under Neutral Flag Following Meeting of World Motor Sport Council*, FIA (Mar. 1, 2022),

The IOC first allowed athletes to compete as AINs under the Olympic flag during the 1980 Moscow Olympics, when many countries boycotted the Games to protest the Soviet Union's invasion of Afghanistan.⁴⁴ Then, in 1992, 58 Yugoslav athletes competed in the Barcelona Games as AINs when sanctions prohibited Yugoslavia from competing.⁴⁵ These athletes won three medals and thus began the practice of playing the Olympic song at the awards ceremony.⁴⁶ After that, a few athletes participated as AINs during the dissolution or formation of their home countries and their National Olympic Committees.⁴⁷ Later in 2016 and 2018, Russian athletes not involved in the state's doping program were allowed to compete as "Olympic Athletes from Russia" under the Olympic flag.⁴⁸ In 2020, the IOC relaxed its standards and allowed Russia to compete under the name "Russian Olympic Committee."⁴⁹ The team could fly the Committee's flag and wear uniforms featuring the Russian national colors.⁵⁰ However, as stated earlier, the IOC changed course for the 2024 Olympics and severely limited Russian representation of its athletes as neutrals. Furthermore, the IOC also prohibited Russian and Belarusian AINs from using the Olympic flag and anthem, which was the previous custom for neutral athletes.⁵¹

The restrictions and exceptions that international sporting groups place on nations and their athletes have evolved over time and vary between organizations and countries. Understanding their nuances is key to determining whether they violate athletes' rights, which this Note will discuss next.

<https://www.formula1.com/en/latest/article/fia-to-allow-russian-drivers-to-compete-under-neutral-flag-followingmeeting.4YMU1E3wsM8Z3EcByUyQ0B>.

⁴⁴ *Independent Olympians at the Olympic Games*, WIKIPEDIA, https://en.wikipedia.org/wiki/Independent_Olympians_at_the_Olympic_Games#cite_note-6 (last visited Dec. 5, 2024).

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Ellingsworth, *supra* note 1.

III. RELEVANT HUMAN RIGHTS

The human rights relevant to the discussion surrounding international sanctions on national sporting teams include an athlete's rights to self-determination and sport. This Note will discuss each in turn.

A. THE RIGHT TO SELF-DETERMINATION

1. *Existence*

While the right to statehood is not an individual human right, the right to self-determination is.⁵² Under Article I of the International Covenant on Civil and Political Rights (“ICCPR”), all people “have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”⁵³ The right to self-determination allows all people to preserve their group identity and culture.⁵⁴ This heavily intersects with the right to expression because a way to represent one's national or cultural identity is through expression, such as carrying a flag. The right to express oneself is a fundamental human right as stated in Article 19 of the Universal Declaration of Human Rights (“UDHR”).⁵⁵ As the ICCPR is a legally binding treaty, and 174 parties have ratified it,⁵⁶ the right to self-determination is not only a principle of customary international law but is also

⁵² U.N. HUMAN RIGHTS OFF. OF THE HIGH COMM’R, *Right to Self-Determination Not Synonymous with Independent Statehood, Third Committee Told, As Debate Continues* (Oct. 31, 2001), <https://www.ohchr.org/en/press-releases/2009/10/right-self-determination-not-synonymous-independent-statehood-third>.

⁵³ International Covenant on Civil and Political Rights, art. 1, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter *ICCPR*]. This right is also found in Article 1 of the International Covenant on Economic, Social and Cultural Rights [hereinafter *ICESCR*].

⁵⁴ AUSTRALIAN GOVT’ ATT’Y-GEN.’S OFF., *Right to Self-Determination* (last visited Dec. 5, 2024), <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-self-determination>.

⁵⁵ UNITED NATIONS, *Freedom of Expression, A Fundamental Human Right* (Feb. 26, 2010), <https://www.un.org/en/chronicle/article/freedom-expression-fundamental-human-right>.

⁵⁶ *ICCPR*, *supra* note 53.

recognized by treaty.⁵⁷ Thus, the international community must uphold the right to self-determination.

2. *Application to International Sports Competitions*

International sports organizations are not states and are thus not bound by the UDHR and ICCPR. However, as organizations of global governance, they should recognize individuals' right to self-determination. This Note argues that the Olympics must recognize this right because the IOC is governed by international law.⁵⁸

The Olympic Charter is “a basic instrument of a constitutional nature”⁵⁹ that governs the IOC. It states that the IOC is an “international non-governmental not-for-profit organisation, of unlimited duration, in the form of an association *with the status of a legal person*, recognised by the Swiss Federal Council in accordance with an agreement entered into on 1 November 2000.”⁶⁰ While it is not enough that the IOC recognizes its own legal personhood, countries besides Switzerland have recognized its international legal status, as scholar William Thomas Worster points out.⁶¹ For example, a United States Ninth Circuit decision recognized the Charter as an international agreement.⁶² The Supreme Court of British Columbia, Canada, determined that the IOC could not be subjected to Canadian law.⁶³ The UN General Assembly admitted the IOC as an observer and placed it in a group with other international legal bodies, such as the ICRC and the Inter-Parliamentary Union.⁶⁴

⁵⁷ LEGAL INFO. INST., *Self-Determination (International Law)* (last visited Dec. 5, 2024), [https://www.law.cornell.edu/wex/self_determination_\(international_law\)](https://www.law.cornell.edu/wex/self_determination_(international_law)).

⁵⁸ See Alexandre Miguel Mestre, *the Law of the Olympic Games* 39 (2009).

⁵⁹ International Olympic Committee (IOC), *Olympic Charter*, in force as of July 23, 2024, Introduction at 6 (2024) [hereinafter *2024 Olympic Charter*]; see also William Thomas Worster, *Coming Full Circle: The International Legal Status of the International Olympic Committee*, 31 UNIV. OF MIAMI INT'L AND COMPARATIVE L. REV. 390, 411 (2024).

⁶⁰ *2024 Olympic Charter*, *supra* note 59, at Rule 15.

⁶¹ Worster, *supra* note 59.

⁶² See, e.g., *Martin v. Int'l Olympic Comm.*, 740 F.2d 670, 673, 705 (9th Cir. 1984).

⁶³ See *Sagen v. Vancouver Org. Comm. for the 2010 Olympic & Paralympic Winter Games*, [2009] B.C.S.C. 942 (Can. B.C.).

⁶⁴ See G.A. Res. 45/6 (Oct. 16, 1990); See G.A. Res. 57/32 (Jan. 20, 2003).

Scholars have also argued that the IOC is not bound by domestic law.⁶⁵

However, Worster points out that international organization entities “must be created by other international legal persons” and “its membership must at least include international legal persons,” both of which the IOC lacks.⁶⁶ Thus, the IOC may have international legal personhood but not be an international organization bound by international law.⁶⁷ Legal personhood implies that if the entity can sue and be sued,⁶⁸ is bound by the law of the jurisdictions in which it operates. Thus, the IOC must follow the laws of Switzerland, its headquarters country, and the Games’ host nations, even though it is an autonomous body.⁶⁹ However, because its influence and jurisdiction extend beyond a single country’s borders and reach all international states that are part of the Games, it follows that the IOC operates internationally and thus should follow international law, including upholding athletes’ rights to self-determination.

B. THE RIGHT TO SPORT

1. *Existence*

There is debate as to whether a right to sport exists, as participating in sports and recreation is “often viewed as a luxury and not as a human right.”⁷⁰ International law scholar Ilias Bantekas argues that the right to sport is not a justiciable right, so countries “do not have an obligation, under available treaty and customary law, to avail non-disabled [or disabled] persons on

⁶⁵ See Thomas Kistner, *So korrupt ist das IOC* [That’s How Corrupt the IOC Is], CICERO (June 2008), <https://www.cicero.de/weltbuhne/so-korrupt-ist-das-ioc/38707>.

⁶⁶ Worster, *supra* note 59, at 415.

⁶⁷ *Id.*

⁶⁸ LEGAL INFO. INST., *Legal Person*, https://www.law.cornell.edu/wex/legal_person (last visited Dec. 5, 2024).

⁶⁹ *2024 Olympic Charter*, *supra* note 59, at Preamble.

⁷⁰ Elise C. Roy, *Aiming for Inclusive Sport: The Legal and Practical Implications of United Nation's Disability Convention for Sport, Recreation and Leisure for People with Disabilities*, 5 E.S.L.J. 1, 1 (2007).

their territory of a right to sport or recreation.”⁷¹ However, “[t]he fact that many recognized human rights have not yet achieved a level of elaboration so as to render them justiciable does not mean that those rights simply do not exist: enforceability is not to be confounded with the existence itself of a right.”⁷² Multiple sources of international law recognize the existence of an individual right to sport, and this Note argues that it is a human right.

For a right to exist, someone must “have a claim against [another] whose recognition as valid is called for by some set of governing rules.”⁷³ Various binding and non-binding international governing rules either expressly or impliedly call for the recognition of the right to sport. For example, the International Charter on Physical Education and Sport (“ICPES”) states that “every human being has a fundamental right of access to physical education and sport...[this right] must be guaranteed both within the educational system and in other aspects of social life.”⁷⁴ The 194 United Nations Educational Scientific and Cultural Organization (“UNESCO”) member states adopted this charter in 1978.⁷⁵ An integral part of the charter is its inclusion of people with disabilities and a discussion about protecting the integrity of sports from violence, corruption, and doping.⁷⁶ Furthermore, the United Nations Inter-Agency Task Force on Sport for Development and Peace Report states, “access to and participation in sport is a human right and essential for individuals of all ages to lead healthy and fulfilling lives.”⁷⁷

⁷¹ Ilias Bantekas, *The Right of Access to Sport and Recreation for Disabled Persons Under International Law: What Does It Really Entail?*, 45 LOYOLA INT’L & COMP. L. REV. 157, 159 (2022).

⁷² Roy, *supra* note 70, at 5 (quoting Eide, 1989).

⁷³ Joel Feinberg, *The Nature and Value of Rights*, 4 J. OF VALUE INQUIRY 243, 249, 270 (1970); *see also* Danielle Ireland-Piper & Kim Weinert, *Is There a “Right” to Sport?*, 1 SPORTS L. AND GOVERNANCE J. 1, 1 (2014).

⁷⁴ United Nations Educational, Scientific and Cultural Organization, *International Charter on Physical Education and Sport*, G.A. Res. 20C/15, 20th Sess., U.N. Doc. 20C/Resolution 15 (Nov. 21, 1978).

⁷⁵ *International Charter of Physical Education, Physical Activity and Sport*, UNESCO (Oct. 6, 2022), <https://www.sportanddev.org/research-and-learning/resource-library/international-charter-physical-education-and-sport>.

⁷⁶ *Id.*

⁷⁷ UNITED NATIONS INTER-AGENCY TASK FORCE ON SPORT FOR DEVELOPMENT AND PEACE REPORT, at 1-4 (2003).

The 1948 UDHR and the ICCPR, the two foundational rights-based international documents, do not list the right to sport as a fundamental and universal human right.⁷⁸ However, Article 24 of the UDHR grants “the right to rest and leisure,” and Article 27 grants all people the right to participate in their community’s culture,⁷⁹ which could include the right to sport.⁸⁰ All 193 UN member states have signed the UDHR.⁸¹ Likewise, the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) recognizes the rights to rest, leisure, cultural life, and “the right to the *highest* standard of physical and mental health.”⁸² 172 states have ratified the ICESCR.⁸³

Furthermore, international human rights treaties that protect vulnerable members of the international community allude to a right to sport. The United Nations Convention on the Rights of the Child (“UNCRC”), has specifically guaranteed the “right of the child to rest and leisure, to engage in play and recreational activities” in Article 31,⁸⁴ and scholars argue that the right to sport falls under the right to rest and leisure and the right to play.⁸⁵ The UNCRC has been signed by all countries except for the United States.⁸⁶ Thus, if most states recognize that the UNCRC impliedly includes a right to sport, then the UDHR,

⁷⁸ S. Elumalai & S. Bhargavi, *Right to Inclusive Sporting—Disability Regime—Evolving Jurisprudence*, 3 GLOBAL SPORTS POL’Y REV. 1, 1 (2023).

⁷⁹ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess, 183rd Plen. Mtg., U.N. Doc. A/810 (10 Dec. 1948).

⁸⁰ Ireland-Piper & Weinert, *supra* note 73, at 3; *see also* Tony Veal, *Sport and Human Rights: Assessing the Performance of Nation States in Assuring the Right to Sport Participation*, 20 EUR. J. FOR SPORT AND SOCIETY 140, 140-41 (2023).

⁸¹ MJ Altman, *The Universal Declaration of Human Rights Is Turning 75: Here’s What You Need to Know*, UNITED NATIONS FOUNDATION (Dec. 6, 2023), <https://unfoundation.org/blog/post/the-universal-declaration-of-human-rights-is-turning-75-heres-what-you-need-to-know>.

⁸² ICESCR *supra* note 53, arts. 7, 12, 15 (1966) (emphasis added).

⁸³ U.N. HUMAN RIGHTS OFF. OF THE HIGH COMM’R, *UN Committee on Economic, Social and Cultural Rights Issues Findings on Albania, Cyprus, Honduras, Iceland, Kyrgyzstan, Malawi and Poland* (Sep. 30, 2024), <https://www.ohchr.org/en/press-releases/2024/09/un-committee-economic-social-and-cultural-rights-issues-findings-albania>.

⁸⁴ Convention on the Rights of the Child, art. 31, Nov. 20, 1989, 1577 U.N.T.S. 3.

⁸⁵ Elumalai & Bhargavi, *supra* note 78, at 3.

⁸⁶ *Frequently Asked Questions on the Convention on the Rights of the Child*, UNICEF (last visited Dec. 5, 2024), <https://www.unicef.org/child-rights-convention/frequently-asked-questions>.

which contains the same rights-based language as Article 31 and was signed by all UN member states, does as well.

Additionally, the Convention on the Rights of Persons with Disabilities (“CRPD”) “sets out the right of access to sport and recreation for disabled persons.”⁸⁷ Currently, 184 states are signatories to the CRPD.⁸⁸ The CRPD sought to place disabled people on the same legal footing as non-disabled people, which demonstrates that the treaty’s signatories impliedly recognize the right of access to sports for non-disabled people. Likewise, the UN Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) ensures equality between men and women in sports.⁸⁹ To date, 189 states have ratified CEDAW.⁹⁰

Apart from the treaties listed above, there is a convincing argument that the right to sport should be considered customary international law. For example, while the ICPEs and UDHR are not binding on their signatories, the entire international community has signed both documents. Thus, the right to sport should be considered part of customary international law and therefore “universally obligatory.”⁹¹ And even though some signatories may not enforce the right to sport under the ICPEs and UDHR in their countries,⁹² it should nevertheless qualify as customary international law because many countries have domestic law that implicitly recognizes the right. At least fifty countries have enacted legislation specifically concerning sport, and there are 26 countries that include provisions on sports in

⁸⁷ Convention on the Rights of Persons with Disabilities (CRPD), art. 30(5), Dec. 13, 2006, 2515 U.N.T.S. 3; Bantekas, *supra* note 71, at 157.

⁸⁸ Julian Walker, *The United Nations Convention on the Rights of Persons with Disabilities: An Overview*, LIBRARY OF PARLIAMENT OF CANADA (Feb. 27, 2012), https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201309E.

⁸⁹ Convention on the Elimination of All Forms of Discrimination against Women, art. 10(g), Dec. 18, 1979, 1249 U.N.T.S. 13.

⁹⁰ *List of States Parties*, UN WOMEN WATCH (last visited Dec. 5, 2024), <https://www.un.org/womenwatch/daw/cedaw/cedaw20/list.htm#:~:text=List%20of%20States%20Parties,Japan>.

⁹¹ *The Universal Declaration of Human Rights and its Relevance for the European Union*, EUROPEAN PARLIAMENTARY RSCH. SERV. (Nov. 2018), [https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628295/EPRS_ATA\(2018\)628295_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628295/EPRS_ATA(2018)628295_EN.pdf).

⁹² Ireland-Piper & Weinert, *supra* note 73, at 3 (For example, Ireland-Piper and Weinert recognize that Australia does not enforce the treaties that the country has signed unless the treaty obligations have been incorporated into domestic law).

their constitutions.⁹³ Furthermore, because all countries besides the United States have signed the UNCRC, and most countries have signed the CRPD, which are both binding treaties, the right to sport for children and the right of access to sport for both disabled and non-disabled people should be considered customary international law at the minimum. Thus, the international community should uphold the right to sport.

2. *Application to International Sports Competitions*

As shown by declarations and agreements that most or all the international community have signed, a human right to sport exists. Under this assumption, this Note now looks to its application to international sports competitions. As discussed earlier, sports associations are not states and thus not parties to these documents, but because they have international influence and legal power, they should be bound by international law.⁹⁴ And just as international sports competitions should uphold the right to self-determination, as argued earlier,⁹⁵ these organizations should also uphold the right to sport.

Furthermore, the organization and recognition of international sports competitions have arguably “created a human rights culture through sport.”⁹⁶ Not only have these organizations impliedly recognized human rights generally,⁹⁷ but

⁹³ Janwillem Soek, *Sport in National Sports Acts and Constitutions: Definition, Ratio Legis and Objectives*, GALE ACADEMIC ONEFILE (July 2006), [⁹⁴ See *supra* Part III.A.2.](https://go.gale.com/ps/i.do?id=GALE%7CA169017212&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=15677559&p=AONE&sw=w&userGroupName=anon%7E1b050d29&aty=open-web-entry#:~:text=By%20means%20of%20a%20questionnaire,than%20through%20a%20Sports%20Act; see also Bede Harris, <i>The Sports Grants Scandal: Constitutional Protection of Socioeconomic Rights as a Remedy for Pork-Barrelling</i>, 29 J. COOK U. L. REV. 43 (2023) (“The right to sport is also protected in national constitutions, either impliedly as an aspect of the rights to health and to education, or expressly in constitutions which impose on the state an obligation to ensure access to sports facilities, examples being those of the Philippines, Ecuador, and Ethiopia.”).</p>
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⁹⁵ *Id.*

⁹⁶ Richard Giulianotti, *Human Rights, Globalization and Sentimental Education: The Case of Sport*, SPORT IN SOCIETY: CULTURES, COMMERCE, MEDIA, POLITICS 355, 361 (2010).

⁹⁷ See, e.g., *Human Rights and Anti-Discrimination*, INSIDE FIFA, <https://inside.fifa.com/social-impact/human-rights> (last visited Dec. 5, 2024).

some have also explicitly stated that the right to sport is a human right that cannot be infringed upon. For example, the IOC has stated in its official Charter that “[t]he practice of sport is a human right. Every individual must have the possibility of practising sport, without discrimination of any kind... Any form of discrimination *with regard to a country* or a person on grounds of race, religion, politics, gender or otherwise is incompatible with belonging to the Olympic Movement.”⁹⁸

The IOC has upheld its Charter, for example, by its exclusion of South Africa from the Olympic Games for twenty-eight years due to the country’s discrimination against black citizens.⁹⁹ However, this human rights culture has not fully embraced the idea of the right to sport as a human right; other than the Olympics and Paralympics, no other major international sports competition has taken a similar official stance.

Thus, not only does the right to sport exist, and international sporting organizations should recognize it in tandem with countries.

IV. DISCUSSION

This Note recognizes that there are reasons to limit athletes’ participation in international sports competitions that do not concern the policies of their home country. Some athletes do not participate in the Olympics because they do not have the requisite talent. Some athletes come from countries that do not have an Olympic team, even if they are talented enough to compete. Those considerations are beyond the scope of this Note. The following discussion applies to all sporting competitions with

⁹⁸ International Olympic Committee (IOC), Olympic Charter, in force as from July 7, 2007, at 11 (2007) https://stillmed.olympic.org/Documents/Olympic%20Charter/Olympic_Charter_through_time/2007-Olympic_Charter.pdf (emphasis added); *see also* Kba Mbaye, *Sport and Human Rights*, OLYMPIC REV., (Dec. 1998), <http://www.la84foundation.org/OlympicInformationCenter/OlympicReview/1998/oreXXVI24/oreXXVI24i.pdf> (“I should like to make three comments. The first is that sport is a human right.”).

⁹⁹ *See supra* Part II; *see also* Julie H. Liu, *Lighting the Torch of Human Rights: The Olympic Games as a Vehicle for Human Rights Reform*, 5 NW. J. INT’L HUM. RTS. 213, 218-19.

more than one country participating, regardless of size, prestige, or international designation.

A. ANALYZING INTERNATIONAL SPORTS SANCTIONS UNDER THE RIGHT TO SELF-DETERMINATION

The Olympics have infringed upon athletes' right to self-determination in applying its sanctions. The primary example of this infringement is that the IOC prohibited Russian and Belarusian athletes from participating as citizens of their home country and required them to compete as unaffiliated athletes in the 2024 Paris Olympics. This violates the right to self-determination by forcing an athlete to be known for something other than her membership in a country, while that designation is allowed for all other competing athletes. Being appointed by a country is central to the Olympics because a main part of the competition is determining which country's team can win the most total medals. So, if a non-affiliated athlete wins a medal, the medal does not count towards any national medal tally, including an AIN medal tally.¹⁰⁰ Prohibiting an athlete from carrying their country's flag, wearing their country's state colors, and having their country's national anthem played when they enter the competition and accept any awards, which are all measures that the IOC took this past Olympics,¹⁰¹ and violates the right to self-determination for the same reason.

B. ANALYZING INTERNATIONAL SPORTS SANCTIONS UNDER THE RIGHT TO SPORT

The right to sport is integral to analyzing international sports sanctions. The primary example of the right to sport being infringed upon in this context is fully banning an athlete from participating in group or individual competitions due to sanctions on her home country, which the IOC has previously done.¹⁰² As stated earlier, few sports competitions allow unaffiliated individual athletes to participate, especially competitions centered around team sports.¹⁰³

¹⁰⁰ Gordon, *supra* note 11.

¹⁰¹ Ellingsworth, *supra* note 1.

¹⁰² See *supra* Part III.A.

¹⁰³ See *supra* Part III.B.

While the Olympics have allowed individual athletes to compete in recent years, even if their country's team is banned, which does not violate athletes' right to sport, the IOC's sanctions have forced unaffiliated athletes to choose between their right to self-determination and sport. If a Russian or Belarusian athlete wanted to participate under the name of her home country, she would not be able to compete at all. But if she wanted to compete, she would not be able to do so under the designation of her country. Many athletes have chosen not to participate because they view the IOC's sanctions as discriminatory.¹⁰⁴ However, is it really a "choice" if the IOC puts athletes in a dilemma where they must choose whether to represent themselves or their country?

Participation bans and other sanctions on countries and their athletes violate at least one of two human rights that the international community and the IOC should uphold. However, this Note concedes that there are valid reasons why international sports competitions should ban countries. The following section discusses these exceptions.

C. WHEN BANS ARE APPROPRIATE

International sporting associations have sanctioned countries for a plethora of reasons.¹⁰⁵ This Note argues that the IOC may sanction a country, even if it violates its athletes' rights to self-determination and sport, for reasons that relate to the sporting event itself. For example, the IOC's ban of Russia for doping-related concerns from 2016 to 2021¹⁰⁶ is a valid sanction because allowing performance-enhanced athletes to participate would unjustly alter the Games' results, giving the Russian team an advantage. The IOC needed to stop doping to uphold the sanctity of the Games and promote "fair play,"¹⁰⁷ so a full-out ban

¹⁰⁴ Oleg Matytsin, Russia's sports minister, spoke publicly against the IOC sanctions: "They are going against the principles of sport...They are damaging the Olympic Games themselves, and not Russian sport." Erika Ryan, *Russians and Belarusians Can Compete in the 2024 Olympics—As Neutral Athletes*, NPR (Dec. 9, 2023), <https://www.npr.org/2023/12/09/1218406353/russian-belarus-athletes-ioc-2024-olympic-games>.

¹⁰⁵ See *supra* Part III.A.

¹⁰⁶ Church & Morse, *supra* note 10; *The IPC Suspends the Russian Paralympic Committee with Immediate Effect*, *supra* note 10.

¹⁰⁷ *2024 Olympic Charter*, *supra* note 59, at Preamble.

on the team was appropriate, especially because over a thousand team members were involved in the doping scandal.¹⁰⁸ Even still, the IOC provided an exception to a few Russian athletes who were not implicated in doping and allowed them to participate in the Olympics to avoid equivocally violating their right to sport.¹⁰⁹

FIFA and ITF's previous decisions to ban countries due to governmental interference are also justified, because allowing governments to intervene in the activities and decisions would compromise the associations' third-party nature.¹¹⁰ It is important for sporting organizations to function independently of governments to avoid biased officiating, corruption, tarnished reputation, and resource misuse.¹¹¹ Furthermore, South Africa's apartheid policies led to the segregation of black and white athletes in the Olympic qualifiers and other international competitions, so the ban was justified because apartheid affected the fair administration of the Games.¹¹² Thus, sporting associations should enact temporary bans as needed to protect the autonomous character of international competitions, even if they limit athletes' rights to self-determination and sport for a time.

On the other hand, the IOC should not deny athletes their rights to sanction a country, such as banning Russia for its invasion of Ukraine, when the fair and smooth operation of the Olympic Games is unaffected.¹¹³ These sanctions are unjustified because Russia's invasion did not directly affect the core

¹⁰⁸ Camila Domonoske, *More Than 1,000 Russian Athletes Involved in Doping Conspiracy, Report Says*, NPR (Dec. 9, 2016), <https://www.npr.org/sections/thetwo-way/2016/12/09/504937994/more-than-1-000-russian-athletes-benefited-from-doping-conspiracy-report-says>.

¹⁰⁹ *Decision of the IOC Executive Board Concerning the Participation of Russian Athletes in the Olympic Games Rio 2016*, INT'L OLYMPIC COMM. (July 24, 2016), <https://olympics.com/ioc/news/decision-of-the-ioc-executive-board-concerning-the-participation-of-russian-athletes-in-the-olympic-games-rio-2016>.

¹¹⁰ *Current Sanctions*, *supra* note 26; *FIFA Bans Nigeria for Interference*, *supra* note 27; *FIFA & UEFA Warn Greek Football Federation It Faces Ban*, *supra* note 27.

¹¹¹ *Do We Need Government Intervention in Sports*, CHURCH COURT CHAMBERS (last visited Dec. 5, 2024), https://churchcourtchambers.co.uk/wp-content/uploads/2022/06/Government-Intervention-in-the-Sports-Sector_280622.pdf; see Francesco Belcastro, *A Game of Politics? International Sport Organisations and the Role of Sport in International Politics*, 58 ITALIAN J. INT'L AFFS. 107 (2023).

¹¹² Michelle Sikes, *It's impossible to Separate Politics and the Olympics*, WASH. POST (July 28, 2021), <https://www.washingtonpost.com/outlook/2021/07/28/its-impossible-separate-politics-olympics/>.

¹¹³ Q&A, *supra* note 13.

administration and organization of the Olympic Games, yet the resulting sanctions inevitably circumscribed athletes' individual rights. Most sanctions unrelated to event administration and fair play tend to have a political slant against a country's policies. Furthermore, as discussed above, the IOC has applied politically motivated sanctions across countries unevenly due to various factors, such as financial or reputational concerns.¹¹⁴ For example, pressure from other countries influenced the decision to sanction Russia and Belarus in 2022.¹¹⁵ British sports minister Lucy Frazer stated, "As long as Putin continues his barbaric war, Russia and Belarus must not be represented at the Olympics."¹¹⁶ Ukraine also threatened not to participate in the Olympics if Russia was not banned.¹¹⁷ But any calls on the IOC to ban the United States when it invaded Iraq were nonexistent.¹¹⁸ Therefore, because the IOC's sanctions disparately impact some athletes' rights and not others', then all the more reason to limit them when they are unnecessary to preserving the Games' functionality, especially when its own Charter requires the Committee to "apply political neutrality."¹¹⁹ While the Olympic Truce was the historical basis for the original Olympic bans back in the time of the Spartans, if the IOC has not applied it evenly, it should not apply when it punishes individual athletes more than the state itself.

The IOC and other sporting associations' encroachment on athletes' rights to self-determination and sport is unwarranted if they do not impose sanctions to preserve the realm of sporting

¹¹⁴ See *supra* Part II.A.5.

¹¹⁵ See, e.g., Alan Blinder & Tariq Panja, *Russia Faces Global Sports Crackdown After Invasion of Ukraine*, N.Y. TIMES (Feb. 28, 2022), <https://www.nytimes.com/2022/02/28/sports/olympics/international-olympiccommittee-russia-belarus.html>.

¹¹⁶ Abizaid, *supra* note 39.

¹¹⁷ George Wright, *Ukraine War: Russian Athletes Cannot Be Allowed at Olympics, Zelensky Says*, BBC NEWS (Jan. 29, 2023), <https://www.bbc.com/news/world-europe-64448808>.

¹¹⁸ Drew Thompson, *The Olympics, War, and Political Neutrality*, ETHICS & INT'L AFFS. (July 17, 2024), <https://www.ethicsandinternationalaffairs.org/online-exclusives/the-olympics-war-and-politicalneutrality#:~:text=Japan%20and%20Germany%20were%20not,invasion%20of%20Iraq%20in%202003>.

¹¹⁹ 2024 Olympic Charter, *supra* note 59, at Preamble.

events themselves. Furthermore, politically motivated bans do not influence the banned country to change its policies, which the next section will discuss.

D. ANALYZING THE EFFICACY OF POLITICAL BANS

Other than the violation of individual rights, the IOC should not enact bans related to a country's national or international politics because they do not meaningfully influence the country to change its policies and incite division when the Olympics' express purpose is to "strengthen the unity of the Olympic Movement."¹²⁰ Thus, sanctions affect individual athletes more than the actual government.

Take the recent 2022 ban on Russian athletes. Rather than induce Russia to withdraw troops from Ukraine—or at least induce the ROC to revoke its recognition of regional Olympic councils for Russian-occupied regions of Ukraine,¹²¹ the Committee's sanctions infuriated Russia. State television did not show the Olympics, and Russian officials "denounced the IOC measure as politically motivated."¹²² The government even paid the 245 Russian athletes who could not participate in the Paris Olympics over \$2 million USD¹²³ but did not compensate the fifteen competing athletes,¹²⁴ showing its resistance to the sanctions. The Russian Sports Minister, Mikhail Degtyarev, who will fill the ROC's chief position, recently stated that "[r]eturning to the Olympic movement in accordance with the contributions of Russian and Soviet sport. And restoring the rights of our athletes—this is the policy we will stick to. . . We need to maintain dialogue without insulting each other or shaking our

¹²⁰ *IOC Mission*, INT'L OLYMPIC COMM. (last visited Dec. 5, 2024), <https://olympics.com/ioc/mission>.

¹²¹ *In Russia, Many Likely to Ignore Olympics After IOC Ban Over Ukraine War*, REUTERS, *supra* note 4.

¹²² *Id.*; *Russian Minister Calls for Dialogue with IOC*, REUTERS (Oct. 17, 2024), <https://www.reuters.com/sports/olympics/russian-minister-calls-dialogue-with-ioc-2024-10-17/>.

¹²³ *Russia Compensates Athletes Not Invited to Paris Games*, REUTERS (July 11, 2024), <https://www.reuters.com/sports/olympics/russia-compensates-athletes-not-invited-paris-games-2024-07-11/>.

¹²⁴ Riley Overend, *Russia Will Not Pay Olympians for Paris 2024 Participation — Medals, Maybe*, SWIMSWAM (Sep. 21, 2023), <https://swimswam.com/russia-will-not-pay-olympians-for-paris-2024-participation-medals-maybe/>.

fists.”¹²⁵ While banned countries care that sanctions cause their athletes to lose their rights, Degtyarev’s statement demonstrates that this matter comes second to Russia’s grievance that the IOC is acting against its government because of disagreements with its “Russian and Soviet” policies. Degtyarev seeks to come to an understanding with IOC members—but not at the expense of his country’s political autonomy.¹²⁶

E. COUNTERARGUMENTS AND RESPONSES

There are several valid counterarguments to the idea that international sports competitions should not enact political sanctions on a country at the expense of athletes’ rights. First, the idea that international competitions should not engage in politically related sanctions immediately raises the dichotomy of asking the IOC and others to be organizations of global governance by recognizing human rights, such as the rights to self-determination and sport, while simultaneously expecting them to stay truly politically neutral by halting political bans.

Furthermore, halting political bans may result in the neglect of other human rights, such as the right to life and self-determination of Ukrainian athletes, in the case of the 2022 Russia sanctions. However, the Olympic Charter requires the IOC to both give “[e]very individual...access to the practice of sport, without discrimination of any kind in respect of internationally recognised human rights within the remit of the Olympic Movement”—one of which is the right to self-determination¹²⁷—and “apply political neutrality.”¹²⁸ A policy that allows bans of a sports-related nature but not of a political nature fulfills both charges, whereas allowing the latter, especially when the IOC

¹²⁵ *Russian Minister Calls for Dialogue with IOC*, REUTERS (Oct. 17, 2024), <https://www.reuters.com/sports/olympics/russian-minister-calls-dialogue-with-ioc-2024-10-17/>.

¹²⁶ *Id.*

¹²⁷ *The Olympic Movement and its Responsibility for Human Rights*, INT’L OLYMPIC ACADEMY (last visited Dec. 5, 2024), <https://www.ioa.org.gr/post/the-olympic-movement-and-its-responsibility-for-humanrights#:~:text=Freedom%20of%20thought%2C%20consciousness%20and%20religion%2C%20freedom%20of%20movement%2C,feels%20primarily%20obliged%20to%20pursue.>

¹²⁸ 2024 *Olympic Charter*, *supra* note 59, at Preamble.

inconsistently applies them, breaks both charges.¹²⁹ However, if the Olympic Charter expressly rejects discrimination and seeks to uphold human rights, as stated above, shouldn't the IOC affirmatively act against countries that discriminate against its own or another nation's people and their rights to uphold this part of the Charter? This Note certainly does not support Russia's horrific invasion of Ukraine. However, the Charter limits its discussion of discrimination and human rights to the context of sports, rather than in a broader political context, which likely justifies its ban of South Africa because of its apartheid policies, which led to the segregation of black and white athletes in international competitions,¹³⁰ but does not account for its ban on Russia.

Another related counterargument is that the Charter also states that the "IOC's role is to . . . oppose any political . . . abuse of . . . athletes,"¹³¹ so it should condone political practices with which it does not agree. While a valid argument, there are many unanswered questions about the meaning of this provision. Although the Charter is a constitution of sorts that governs the IOC, the international community does not have access to court cases or other official memoranda on what this provision might mean in practice. Does "political abuse of athletes" just mean within the context of sports, such as coercion or abuse of power, or does it encompass the political well-being of athletes in their non-Olympic lives? Because much of the Charter is limited to the context of its sporting events, the former interpretation is valid, but it is not the only interpretation or clearly the correct one. If the latter interpretation is correct, then the IOC is justified in banning Russia from the Paris Games to oppose the government's political abuse of Ukrainian athletes who are affected by the war. If correct, then the Charter contradicts itself by asking the IOC to "oppose political abuse" and simultaneously "apply political neutrality."¹³² If the Charter truly contradicts itself, causing the IOC to choose which role to follow, then this Note still advocates

¹²⁹ See *supra* Part IV.A-D.

¹³⁰ 2024 Olympic Charter, *supra* note 59, at Preamble. "Every individual must have access to the practice of sport, without discrimination of any kind in respect of internationally recognised human rights within the remit of the Olympic Movement."

¹³¹ *Id.*

¹³² *Id.*

for it to remain politically neutral to protect athletes' rights within the practice of sport.

Yet another counterargument is that the IOC should limit applying politically related bans to governments that are intertwined with its nation's sports to incentivize them to comply with the IOC's political ideals. For example, many Russian athletes grew up representing military teams with sponsorship; the Russian Defense Ministry pays athletes their salaries, and many athletes hold ranks in the military.¹³³ Thus, Russian athletes and state and military funding are intricately tied together, which is not the case in America,¹³⁴ which may explain why the IOC did not ban the United States for the Iraqi invasion, while it banned Russia for the Ukraine invasion. However, this would be another example of the IOC applying sanctions unevenly among countries that engage in similar disparaged acts, and the IOC should not curtail athletes' rights just because their governments function closely with the nation's sports.

Various counterarguments arise when discussing the idea that international sporting associations should not impose non-sporting political bans on countries to prevent the infringement of athletes' rights. It is a valid argument that the right of self-determination in the sporting context and the right to sport should come second to limiting the participation of countries engaged in war and discriminatory practices. However, the fact that political sanctions often do not dissuade a country from engaging in questionable policies and that the IOC is required by its Charter to apply political neutrality bolsters the idea that its political bans should cease.

¹³³ *The Fallout of Russia's Invasion in the Wide World of Sports: The Guardian*, COLUM. J. INT'L AFFS., <https://jia.sipa.columbia.edu/content/fallout-russias-invasion-wide-world-sports-feature-the-guardian> (last visited Dec. 6, 2024); Yanina Kornienko, *Olympic Athletes in Uniform: How Russian Sportsmen Receive Salaries from the Russian Defence Ministry and Openly Campaign for Military Service*, SLIDSTVO (Mar. 21, 2023), <https://www.slidstvo.info/english-stories/olympic-athletes-in-uniform-how-russian-sportsmen-receive-salaries-from-the-russian-defence-ministry-and-openly-campaign-for-military-service/>.

¹³⁴ Ashley Eneriz, *How Athletes Get Funding for the Olympics*, INVESTOPEDIA (Aug. 15, 2016), <https://www.investopedia.com/news/how-athletes-get-funding-olympics/> ("The United States is one of the only countries with an Olympic Committee that is not supported through federal government support.").

V. CONCLUSION

Over time, the IOC and other international sporting competitions have enacted restrictions and participation bans on countries and their athletes. They impose sanctions on some occasions to preserve the integrity of a sporting event and, on other occasions, to deter a country from engaging in unsavory political practices. Associations sometimes allow individual athletes from a banned country to participate as neutral athletes, forcing athletes to choose between competing and representing their country.

Both types of bans violate the athletes' rights to self-determination and sport. The right to self-determination is a more established right than the right to sport; however, the right to sport is found, both expressly and implicitly, in many international treaties and declarations to which most international countries are parties. International sporting competitions should uphold these human rights because they operate internationally and have legal status, even though they are not states.

Sporting associations are justified in enacting sports-related sanctions to ensure the proper administration of the events. On the other hand, politically motivated sanctions often do not meaningfully influence the sanctioned country, so they are further unjustified when weighed against protecting athletes' rights. Thus, international sports competitions should stop imposing political bans unrelated to sport on countries.

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