

COMMENTS

BRONZE, SILVER, OR GOLD: DOES THE INTERNATIONAL OLYMPIC COMMITTEE DESERVE A MEDAL FOR COMBATING HUMAN TRAFFICKING IN CONNECTION WITH THE OLYMPIC GAMES?

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I. INTRODUCTION

Over the past few years the international media have highlighted, and sometimes sensationalized, a possible correlation between human trafficking and international mega-sporting events. The first significant report of this correlation occurred during and after the 2004 Olympic Games in Athens, Greece. According to the Greek Ministry of Public Order, the number of human trafficking victims in Greece increased by 95% during that year.¹ In 2005, the year after the Athens Olympics, the number of known human trafficking victims in Greece had decreased by 24%, but was still 47% higher than the 2003 figure.² The second

1. THE FUTURE GROUP, FASTER, HIGHER, STRONGER: PREVENTING HUMAN TRAFFICKING AT THE 2010 OLYMPICS 14 (2007) [hereinafter THE FUTURE GROUP], available at http://www.childtrafficking.com/Docs/futuregroup_1007.pdf (citations omitted).

2. *Id.*

significant report of the possible link between human trafficking and international mega-sporting events occurred prior to the 2006 FIFA World Cup in Germany. The international media widely predicted that over 40,000 women and children would be trafficked into Germany to serve the prostitution demands of millions of soccer fans.³ More recently, expected increases in human trafficking for sexual and labor exploitation prompted planners of the 2010 Vancouver Olympics, the 2010 FIFA World Cup, and the 2012 London Olympics to implement human trafficking prevention measures in their security plans.⁴

The International Olympic Committee (IOC) is the corporate entity that owns the rights to the Olympic Games.⁵ It is responsible not only for operating the Olympic Games,⁶ but also for promoting the values of Olympism.⁷ These values include “respect for universal fundamental ethical principles” and promotion of “a peaceful society concerned with

3. JANA HENNIG ET AL., INT’L ORG. FOR MIGRATION, TRAFFICKING IN HUMAN BEINGS AND THE 2006 WORLD CUP IN GERMANY 13 (2007) [hereinafter IOM Report] (on file with author); THE FUTURE GROUP, *supra* note 1, at 11; Anne Marie Tavella, *Sex Trafficking and the 2006 World Cup in Germany: Concerns, Actions and Implications for Future International Sporting Events*, 6 NW. U. J. INT’L HUM. RTS. 196, 196 (2007).

4. See *Delayed Government Reply—Justice—2010 Vancouver Winter Olympics Prevention of Human Trafficking—Legalization of Brothels*, SENCANADA.CA (Apr. 1, 2008), <http://mjaffer.sencanada.ca/en/DELAYED-GOVERNMENT-REPLY-JUSTICE-2010-VANCOUVER-WINTER-OLYMPICS-PREVENTION-OF-HUMAN-TRAFFICKING-LEGALIZATION-OF-BROTHERLS> [hereinafter Response from Senator Mobina Jaffer]; E. Benjamin Skinner, *The New Slave Trade*, TIME, Jan. 18, 2010, at 54, 57; *Britain to Crack Down on Sex Traffickers Ahead of London 2012 Olympics*, INFORM SPORTS (Nov. 9, 2009), <http://inform.com/sports/uk-crack-sex-traffickers-2012-735263a>; *2012 Olympics is ‘Huge Target’ for Terrorists, Say Police*, EVENING STANDARD (Oct. 19, 2006), <http://www.thisislondon.co.uk/news/article-23371385-2012-olympics-is-huge-target-for-terrorists-say-police.do>.

5. Paul Mastrocola, *The Lords of the Rings: The Role of Olympic Site Selection as a Weapon Against Human Rights Abuses: China’s Bid for the 2000 Olympics*, 15 B.C. THIRD WORLD L.J. 141, 143 (1995); David J. Ettinger, *The Legal Status of the International Olympic Committee*, 4 PACE Y.B. INT’L L. 97, 99 (1992); Jeffrey Levine, *A Golden Opportunity for Global Acceptance? How Hosting the Olympic Games Impacts a Nation’s Economy and Intellectual Property Rights with a Focus on the Right of Publicity*, 15 SPORTS LAW. J. 245, 249 (2008).

6. See Olympic Charter at r. 2, para. 2, available at http://multimedia.olympic.org/pdf/en_report_122.pdf; see also Mastrocola, *supra* note 5, at 143-44.

7. See Olympic Charter, *supra* note 6, at r. 1, para. 1; see also *id.* at r. 2.

the preservation of human dignity.”⁸ Human trafficking is the antithesis of the values of Olympism. Instead of respecting fundamental ethical principles and preserving human dignity, human trafficking immorally exploits its victims. As such, the IOC should use its influence, mandated by the values of Olympism and the Olympic Charter, to curb human trafficking associated with the Olympic Games. One method the IOC may lawfully use to combat the potential surge in trafficked individuals is careful and standardized host country selection.⁹ It is only by awarding the Olympic Games to countries with appropriate human trafficking legislation, prosecution, victim protection, and a specific Olympic Games human trafficking prevention plan that this dark side of the Olympics can be satisfactorily resisted. Therefore, the IOC should consider a country’s human trafficking record when awarding the Olympic Games, and compare this record to international counter-trafficking standards.

Recently, the IOC awarded the 2016 Olympic Games to Rio de Janeiro, Brazil.¹⁰ Brazil sports a less than exemplary human trafficking record. It is both a source and destination country for individuals trafficked for sexual and labor exploitation.¹¹ Brazil is also well known for its child sex tourism industry, which flourishes from children trafficked from surrounding South American countries and rural parts of Brazil.¹² To combat human trafficking, Brazil has adopted some

8. *Id.* at Fundamental Principles of Olympism, paras. 1, 2.

9. See Mark McMullen, *The Green Olympics: Boon or Farce?*, COLO. J. INT’L ENVTL. L. & POL’Y 119, 124 (2001); see also Julie H. Liu, *Lighting the Torch of Human Rights: The Olympic Games as a Vehicle for Human Rights Reform*, 5 NW. U. J. INT’L HUM. RTS. 213, 215 (2007).

10. *Rio de Janeiro to Host 2016 Olympics*, CNN (Oct. 2, 2009), <http://www.cnn.com/2009/WORLD/europe/10/02/olympics.2016> [hereinafter *Rio de Janeiro to Host 2016 Olympics*].

11. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 89 (10th ed. 2010) [hereinafter TIP REPORT - BRAZIL 2010], available at <http://www.state.gov/documents/organization/142979.pdf>.

12. *Id.* at 90.

positive measures;¹³ however, with great numbers of victims trafficked both to and from Brazil, the problem persists.¹⁴

This Comment will explore whether it is feasible for the IOC to consider a host country candidate's human trafficking record when awarding the Olympic Games as a method to prevent the possible trafficking surge previously correlated with international mega-sporting events. Part II of this Comment will describe the current face of human trafficking in our global society. Part III will highlight specific international and domestic efforts to curb human trafficking. Part IV will cover the possible correlation between the Olympic Games and human trafficking. Part V will explore steps taken by countries that have hosted the Olympics and other international sporting events to curb human trafficking. Part VI will explain the IOC's structure and jurisdiction, and will advocate for the IOC's use of host country site selection to curb human trafficking. Part VII will briefly explore human trafficking patterns in Brazil with a look toward actions Brazil could take over the next five years to prevent Olympics-related human trafficking.

II. THE CURRENT FACE OF HUMAN TRAFFICKING IN OUR GLOBAL SOCIETY

A. *Human Trafficking—Defined*

In general, human trafficking involves the forced movement of a person between countries or within the same country, although there are disagreements as to how to define it.¹⁵ Forced movement does not necessarily include a physical act of abduction. Threats, coercion, fraud, or deceit will suffice to supply the element of force.¹⁶ The most widely accepted definition of human trafficking is found in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in

13. See generally Sarah Richelson, *Trafficking and Trade: How Regional Trade Agreements Can Combat the Trafficking of Persons in Brazil*, 25 ARIZ. J. INT'L & COMP. L. 857 (2008).

14. TIP REPORT - BRAZIL 2010, *supra* note 11, at 89.

15. Tavella, *supra* note 3, at 198.

16. *Id.*

Persons, Especially Women and Children (“U.N. Protocol”).¹⁷ The U.N. Protocol defines human trafficking as:

The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.¹⁸

Exploitation can include “sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”¹⁹ This Comment will focus on the two most prevalent forms of exploitation²⁰: sexual exploitation of women and forced labor.

B. Prevalence of Human Trafficking

In 2006, the Vatican stated that international human trafficking had grown worse than the historical African slave trade.²¹ In fact, there are more slaves today than at any point in recorded history.²² The International Labor Office (“ILO”) estimates that over 12.3 million people are in “forced labor . . . and[/or] sexual servitude at any given time.”²³ Up to 800,000 people are trafficked internationally per year,

17. *Id.*

18. Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime, G.A. Res. 55/25, Annex II, art. 3(a), U.N. Doc. A/RES/45/49 (Nov. 15, 2000) [hereinafter U.N. Protocol].

19. *Id.*; see also Katherine L. Morrow, *Soccer, Sex, and Slavery: Human Trafficking in the World Cup*, 17 TUL. J. INT’L & COMP. L. 243, 245 (2008).

20. Morrow, *supra* note 19, at 245 (citing MARTIN FOWKE ET AL., U.N. OFFICE ON DRUGS & CRIME, TRAFFICKING IN PERSONS: GLOBAL PATTERNS 64 (2006) [hereinafter UNODC GLOBAL PATTERNS], available at http://www.unodc.org/pdf/traffickinginpersons_report_2006-04.pdf).

21. Tavella, *supra* note 3, at 197-98; see also *Trafficking now ‘Worse than African Slavery,’* CNN (Nov. 14, 2006), http://www.iht.com/articles/ap/2006/11/14/europe/EU_GEN_Vatican_Human_Trafficking.php.

22. Skinner, *supra* note 4, at 56.

23. Morrow, *supra* note 19, at 244 (citing *Report and Analysis of Immigration and Nationality Law*, 83 INTERPRETER RELEASES 1138, 1139 (2006)); INT’L LABOUR

and many more are trafficked within state borders.²⁴ The International Organization for Migration (“IOM”) reports that human trafficking is a “thriving \$7 billion annual global business with links to the international arms trade, drugs, prostitution, and child abuse.”²⁵ “This makes human trafficking the third most profitable criminal activity in the world, after drugs and arms trafficking.”²⁶ While drug and arms dealers sell their commodities only once, human trafficking victims are “sold” over and over again, creating a continuous return on the trafficker’s investment.²⁷

C. Trafficking Data

Data on the extent of human trafficking is unfortunately scarce and difficult to quantify.²⁸ The most documented form is for sexual

CONF.: 93D SESSION, A GLOBAL ALLIANCE AGAINST FORCED LABOUR 12 (2005) [hereinafter GLOBAL ALLIANCE].

24. Morrow, *supra* note 19, at 244; see also *Counter-Trafficking*, INT’L ORG. FOR MIGRATION, <http://www.iom.int/jahia/Jahia/pid/748> (last visited Feb. 2, 2011).

25. The IOM is an intergovernmental organization working in tandem with the U.N. to resettle migrants and refugees. Robin M. Rumpf, *The New Slavery: The United Nation’s Interregional Crime & Justice Research Institutes Global Program against Trafficking in Human Beings*, 19 N.Y.L. SCH. J. HUM. RTS. 879, 880 (2003) (citing Thalif Deen, *Trafficking in Human Beings Reprehensible, Says UN’s Kofi Annan*, INTER PRESS SERV., Dec. 12, 2000, available at <http://www.commondreams.org/headlines/121400-02.htm>). U.N. estimates place human trafficking profits at \$9 billion per year. Richelson, *supra* note 13, at 859. The ILO places the total illicit profits produced by trafficked laborers to be around \$32 billion annually. GLOBAL ALLIANCE, *supra* note 23, at 55.

26. Tavella, *supra* note 3, at 197.

27. Richelson, *supra* note 13, at 859.

28. Richelson, *supra* note 13, at 861. For example, whether data refers to the number of victims or the number of border crossings may be unclear. Whether data encompasses victims trafficked within national borders or solely internationally, and whether data includes long-time victims or solely new recruits may be additional sources of ambiguity. Further, the disparity between different countries trafficking legislation may create anomalies. For example, in one country an individual could be considered a victim of human trafficking, but in another country the same individual may not fall under that country’s legislative definition of human trafficking. This “result[s] in a high level of uncounted crimes . . . and make[s] trafficking hard to identify, control, and prevent . . .” *Id.* at 862 (citing Martti Lehti & Kauko Aromaa, *Trafficking for Sexual Exploitation*, 34 CRIME & JUST. 133, 142 (2006)). “When an

exploitation—at 79% of reported cases—though this is likely the result of statistical bias. Because the sexual exploitation of women tends to be at least partly visible (occurring along highways or in city centers), it may be more frequently reported than other types of exploitation.²⁹ In contrast, trafficking for forced labor is probably more widespread than trafficking for commercial sexual exploitation, as the “worldwide market for labor is far greater than that for sex.”³⁰ Additionally, men are excluded from trafficking statistics in certain countries.³¹

In an effort to fill the “information deficit” about the worldwide prevalence of human trafficking,³² two U.N. agencies sponsor the Global Programme Against Trafficking in Human Beings (“GPAT”).³³ The GPAT report aims to increase knowledge on the “causes and processes of . . . trafficking in person[s], and promote the development

offence is not clearly defined by law, and when its incidence is primarily in the shadow economy, it tends to escape most statistics” GLOBAL ALLIANCE, *supra* note 23, at 48. The most extensive global human trafficking database is the U.N. Global Program against Trafficking in Human Beings (“GPAT”). GPAT contains data from 161 countries and territories between 1996 and 2003. *Id.* In addition, the annual U.S. State Dept.’s Trafficking in Persons (TIP) Report “estimates global, regional, and national numbers and assessments of the crime prevention activities of nation-state governments.” *Id.* (citing Lehti & Aromaa, *supra*, at 145). Even though the TIP Report is widely used, the data’s reliability is uneven, since the report is compiled using local contacts in each country. *Id.*; Janie Chuang, *The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking*, 27 MICH J. INT’L L. 437, 474-83 (2006).

29. U.N. OFFICE ON DRUGS & CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 6 (2009), available at http://www.unodc.org/documents/Global_Report_on_TIP.pdf. The ILO estimates that forced commercial sexual exploitation only accounts for 11% of the 12.3 million victims of trafficking. GLOBAL ALLIANCE, *supra* note 23, at 12.

30. David A. Feingold, *Human Trafficking*, FOREIGN POL’Y, Sept.-Oct. 2005, 26, 26. In 2005, the ILO reported that worldwide, less than half of all human trafficking victims are part of the sex trade. *Id.*

31. For example, men cannot qualify as trafficking victims under Thai law. *Id.*

32. Morrow, *supra* note 19, at 248 (citing UNODC GLOBAL PATTERNS, *supra* note 20, at 1, 5, 10).

33. GPAT is sponsored by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Interregional Crime and Justice Research Institute (UNICJRI). Morrow, *supra* note 19, at 248 (citing UNODC GLOBAL PATTERNS, *supra* note 20, at 48).

of effective responses.”³⁴ However, the report acknowledges the difficulty in collecting reliable data.³⁵

D. Methods & Causes of Human Trafficking

Disagreement on how to define human trafficking and the under-representation of victims of forced labor are not the only reasons for unreliable trafficking statistics. Law enforcement officials often have a difficult time identifying victims of human trafficking.

A typical trafficking case has three steps: abduction or recruitment of the victim in the source country; transfer through transit countries; and exploitation in the destination country.³⁶ Impoverished individuals are more susceptible to becoming victims of trafficking due to their dire economic circumstances.³⁷ These victims are easy to recruit because they are more willing to believe promises of wonderful job opportunities in foreign countries.³⁸ The trafficker, who many times is already acquainted with the victim, tempts the victim with work³⁹ and promises to smuggle them out of the country for a fee.⁴⁰ This illegal

34. *Id.* (citing UNODC GLOBAL PATTERNS, *supra* note 20, at 5).

35. *Id.* (citing UNODC GLOBAL PATTERNS, *supra* note 20, at 10). In fact, the GPAT report speculates that some countries that provide plentiful data may appear to be greater offenders than those that provide patchy statistics, as incomplete data could mask the full extent of their trafficking problem. *Id.*

36. Morrow, *supra* note 19, at 245 (citing UNODC GLOBAL PATTERNS, *supra* note 20, at 17).

37. Along with severe poverty, high unemployment rates, gender or ethnic discrimination, degraded environmental conditions, and internal conflict have all fueled the search for work abroad. Luz Estella Nagle, *Selling Souls: The Effect of Globalization on Human Trafficking and Forced Servitude*, 26 WIS. INT’L L.J. 131, 137-38 (2008). Destination countries which contribute to the demand for trafficked individuals tend to have a high demand for cheap labor coupled with loose enforcement of forced servitude laws; men looking for commercial sex; lack of public awareness; government corruption; weak law enforcement, and/or entrenched organized crime networks. *Id.* at 138.

38. Rumpf, *supra* note 25, at 880-81.

39. *Id.*; *see also* Morrow, *supra* note 19, at 245.

40. Tavella, *supra* note 3, at 199 (citing HUM. SMUGGLING & TRAFFICKING CTR., U.S. STATE DEP’T, FACT SHEET: DISTINCTIONS BETWEEN HUMAN SMUGGLING AND HUMAN TRAFFICKING 2 (2006) [hereinafter U.S. STATE DEP’T FACT SHEET], available at <http://www.state.gov/documents/organization/90541.pdf>).

smuggling arrangement evolves into a case of trafficking when coercion occurs.⁴¹ For example, traffickers may initially mislead their victims about the jobs they are to perform in their destination countries, then force their victims into prostitution or other criminal activities.⁴²

Once a trafficking victim reaches the destination country, the victim is an illegal immigrant often working in an illegal trade (such as prostitution). Thus, trafficking victims are often treated as criminals in their destination countries.⁴³ The result is that many victims distrust law enforcement and are reluctant to report crimes against them for fear of deportation.⁴⁴ In addition, because many traffickers are from the same source countries as their victims, they presumably have access to their victims' families. This threat of retaliation further frustrates victim communication with law enforcement.⁴⁵ Traffickers may also use physical violence or restraint, economic penalties, confiscation of identity documents, geographical isolation, or even narcotics to keep trafficking victims under their control and away from law

41. *Id.* at 200 (citing U.S. STATE DEP'T FACT SHEET, *supra* note 40, at 2). Tim Riordan Raaflaub of the Parliamentary Information and Research Service illuminates the distinction between human trafficking and migrant smuggling. While "'smuggled migrants are usually free once they arrive at their intended destination,' victims of human trafficking are subject to exploitation at their intended destination." THE FUTURE GROUP, *supra* note 1, at 7 (citations omitted).

42. Rumpf, *supra* note 25, at 880-81. Paulo Marchins da Cunha, chief of Sao Paulo's Federal Highway Police, explains that traffickers tempt impoverished women with false promises of work, prosperity, or marriage. Other economically desperate women know they will work as prostitutes, but do not comprehend the forced working conditions under threat of great bodily harm. Richelson, *supra* note 13, at 864 (citing Jen Ross, *Brazil Tries to Stem Tide of Sex Slavery*, WOMEN'S ENEWS (June 19, 2005), <http://www.womensenews.org/article.cfm/dyn/aid/2342/context/archive>).

43. Tavella, *supra* note 3, at 200 (citing Jane Freedman, *Selling Sex: Trafficking, Prostitution and Sex Work Amongst Migrant Women in Europe*, in GENDER AND INSECURITY: MIGRANT WOMEN IN EUROPE 119 (2003)).

44. *Id.* (citing Freedman, *supra* note 43, at 121). Traffickers may also create the perception that they have close links with law enforcement, further frustrating any possibility that trafficking victims will turn to the police. CAROL ASSAIS ET AL., TSIRELEDZANI: UNDERSTANDING THE DIMENSIONS OF HUMAN TRAFFICKING IN SOUTHERN AFRICA 90 (2010), *available at* <http://www.africa4womensrights.org/public/Rapports/Humantraffickingfullreport.pdf>.

45. Tavella, *supra* note 3, at 200.

enforcement.⁴⁶ Thus, trafficking victims' reluctance to assist or even speak with law enforcement means that victims go undetected and statistics remain unreliable and under-inclusive.⁴⁷

III. EFFORTS TO CURB HUMAN TRAFFICKING

A. U.N. Protocol

The U.N. Protocol, created within the framework of the Convention Against Transnational Organized Crime, is the most prominent unified approach in the fight against human trafficking.⁴⁸ The U.N. Protocol sets forth measures to prevent trafficking through “research, information, and mass media campaigns.”⁴⁹ It requires states to initiate social reforms aimed at reducing poverty and lack of equal opportunity.⁵⁰ It also requires parties to adopt measures to eliminate the demand for services—such as prostitution or slave labor—that make exploitation of others a profitable business.⁵¹

Perhaps most importantly, the U.N. Protocol requires member states to enact legislation criminalizing human trafficking⁵² and provides countries with a framework upon which to base their own trafficking legislation.⁵³ It advocates prosecution of traffickers by encouraging countries to facilitate information exchanges between law

46. GLOBAL ALLIANCE, *supra* note 23, at 5-6.

47. Tavella, *supra* note 3, at 200.

48. Morrow, *supra* note 19, at 246-47; *see also* Tavella, *supra* note 3, at 201. The U.N. Protocol went into effect on December 25, 2003 and currently has 117 signatories. Tavella, *supra* note 3, at 202; *Signatories to the United Nations Convention Against Transnational Crime and its Protocols*, U.N. OFFICE ON DRUGS & CRIME (Feb 6, 2011), <http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>; *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, U.N. TREATY COLLECTION, at 1 (Feb. 4, 2011), <http://treaties.un.org/doc/Publication/MTDSG/Volume%20II/Chapter%20XV%20III/XVIII-12-a.en.pdf>.

49. U.N. Protocol, *supra* note 18, at art. 9(2).

50. *Id.* at art. 9(4).

51. *Id.* at art. 9(5).

52. *Id.* at art. 5.

53. *See id.* at Annex II pmb1.; Morrow, *supra* note 19, at 246.

enforcement and immigration officials, allowing countries to better identify perpetrators and victims.⁵⁴ The U.N. Protocol also sets forth measures to protect known victims⁵⁵ through state cooperation with non-governmental organizations (NGOs),⁵⁶ and to permit victims of trafficking to remain in the destination country in appropriate cases.⁵⁷

B. U.S. Trafficking Victims Protection Act (TVPA)

In 2000, U.S. President William J. Clinton signed the Trafficking Victims Protection Act (TVPA) into law.⁵⁸ The TVPA implements the U.N. Protocol's mandates and "is aimed at deterring trafficking, punishing traffickers and protecting and rehabilitating the victims."⁵⁹ Under the TVPA, victims are not immediately deported, but may stay in the U.S. pending cooperation in their trafficker's trial. This gives victims the opportunity to apply for a special "T" visa.⁶⁰

Under the TVPA, the U.S. Department of State is required to submit an annual Trafficking in Persons Report ("TIP Report") to Congress.⁶¹ The report catalogues the efforts of foreign governments to combat "severe forms" of human trafficking "to raise global awareness . . . and to encourage foreign governments to take effective actions to counter all forms of trafficking in persons."⁶² To be included

54. U.N. Protocol, *supra* note 18, at art. 10(1)(a).

55. *Id.* at art. 10(2).

56. *Id.* at art. 6(3).

57. *Id.* at art. 7(1).

58. Susan W. Tiefenbrun, *Updating the Domestic and International Impact of the U.S. Victims of Trafficking Protection Act of 2000: Does Law Deter Crime?*, 38 CASE W. RES. J. INT'L L. 249, 250 (2006-2007).

59. Tavella, *supra* note 3, at 203.

60. Tavella, *supra* note 3, at 204 (citing Jeffrey Thomas, *U.S. Determined to Fight Trafficking, Bush Says, Signing New Law*, WASH. FILE, Jan. 10, 2006, available at http://news.findlaw.com/scripts/printer_friendly.pl?page=/wash/s/20060110/200601101742371.html). The "T" visa provides temporary resident alien status for up to three years. *Id.*

61. Morrow, *supra* note 19, at 249; *see also* Tavella, *supra* note 3, at 204.

62. Morrow, *supra* note 19, at 249; *see also* Tiefenbrun, *supra* note 58, at 266 ("The TIP Reports are not designed to be a condemnation of countries, but rather a catalyst for foreign governments to combat trafficking in persons around the world . . .").

in the TIP Report, data must show that a “significant number of persons were trafficked to, from, or within a country.”⁶³ Evaluation of a particular country’s counter-trafficking efforts center around “the three P’s”: *Prevention* of human trafficking; *Prosecution* of traffickers; and *Protection* of victims.⁶⁴ The report makes counter-trafficking recommendations tailored to the specific issues of each country.⁶⁵ Efforts to comply with the TIP Report’s recommendations may be supported with targeted foreign assistance. Failures to comply are pointed out in the annual TIP Report and/or sanctioned by restricting U.S. foreign aid.⁶⁶

The TIP report analyzes countries’ efforts to combat trafficking by ranking them in tiers. Tier 1 countries generally comply with the TVPA’s minimum standards for government prohibition and punishment.⁶⁷ Tier 2 countries do not fully comply with TVPA standards, but are making concerted efforts to do so.⁶⁸ For example, a Tier 2 country may lack specific provisions to prohibit trafficking in its penal code, but may enforce prohibition of associated crimes, such as false imprisonment or kidnapping. Certain Tier 2 countries are placed on a “Watch List” and receive special scrutiny.⁶⁹ Placement on the “Watch List” occurs if: (1) the number of trafficking victims within a country is significant or increasing; (2) the country has provided no evidence of increased efforts to fight trafficking; or (3) the country has committed to make significant additional efforts to combat trafficking

63. Morrow, *supra* note 19, at 249 (citing *Report and Analysis of Immigration and Nationality Law*, 83 INTERPRETER RELEASES 1138, 1139 (2006)).

64. Tavella, *supra* note 3, at 204.

65. See TIP REPORT – BRAZIL 2010, *supra* note 11.

66. David E. Guinn, Admin. Jud. Inst., *Ambiguous Knowledge: Seeking Clarity in the Effort to Define and Assess Trafficking and the Sexual Exploitation of Children 1* (June 21-22, 2007) (unpublished report), available at <http://ssrn.com/abstract=997677> (follow “One-Click Download” hyperlink).

67. Morrow, *supra* note 19, at 249; Tiefenbrun, *supra* note 58, at 266-67; Tavella, *supra* note 3, at 204.

68. Morrow, *supra* note 19, at 250; Tiefenbrun, *supra* note 58, at 267; Tavella, *supra* note 3, at 204.

69. Morrow, *supra* note 19, at 250; Tavella, *supra* note 3, at 204.

within the next year.⁷⁰ Tier 3 countries fail to comply with the TVPA's minimum standards and put forth no real effort to do so.⁷¹

IV. CORRELATION BETWEEN THE OLYMPICS (OR OLYMPIC-SIZED EVENTS) AND HUMAN TRAFFICKING

International mega-sporting events, like the Olympics, can affect a host country's human trafficking problem in three ways. First, the Olympics could contribute to a spike in demand for commercial sexual exploitation around the event's locale.⁷² Second, the Olympics could cause an increase in demand for forced labor to build the necessary stadium infrastructure.⁷³ Third, the Olympics could facilitate entry of trafficking victims into the host country disguised as "visitors" before they are transported elsewhere.⁷⁴ The European parliament,⁷⁵ intergovernmental organizations (IGOs), NGOs, and the media have frequently cited major international events, including the Olympics, as a contributing factor to temporary increases in human trafficking.⁷⁶ Examples of this correlation follow.

70. Tavella, *supra* note 3, at 204.

71. Morrow, *supra* note 19, at 250; Tiefenbrun, *supra* note 58, at 267; Tavella, *supra* note 3, at 204.

72. THE FUTURE GROUP, *supra* note 1, at 9.

73. Stewart Tendler, *Sex Trafficking and Illegal Workers Threaten Olympics*, SUNDAY TIMES (LONDON), Mar. 24, 2007, <http://www.timesonline.co.uk/tol/news/uk/crime/article1560555.ece>. For example, prior to the 2008 Beijing Olympics, public concern over the exploitation of migrant construction workers hired to quickly build sports venues and athlete housing was raised as an example of increased risk for workers. Global Alliance Against Traffic in Women, Trafficking in Persons and the 2010 Olympics 3 (Feb. 2009) (unpublished briefing paper), available at http://bceec.files.wordpress.com/2009/04/gaatw_2010olympics1.pdf.

74. THE FUTURE GROUP, *supra* note 1, at 9.

75. IOM Report, *supra* note 3, at 7, 10-14.

76. *Id.* at 11. For example, a European Parliament resolution on world sports states "experience has shown that any major event at which large numbers of people congregate results in a temporary and spectacular increase in the demand for sexual services . . ." EUR. PARL. DOC. P6_TA-PROV 0086 (2006). This concern has been echoed by the ILO, Amnesty International, and signatories of the "Red Card to Forced Prostitution" and "Buying Sex is not a Sport" campaigns. IOM Report, *supra* note 3, at 20.

A. 2004 Athens Olympics

The first significant media coverage of the correlation between human trafficking and the Olympic Games occurred before and during the 2004 Games in Athens, Greece.⁷⁷ Prior to the Athens Olympics, NGOs feared that the influx of tourists⁷⁸ would increase the demand for sexual services. The NGO Terre Libere remarked that the number of women trafficked into Athens was expected to rise to meet this perceived demand.⁷⁹ While post-event analysis on the issue is sparse,⁸⁰ the Greek Ministry of Public Order found a 95% increase in the number of known trafficking victims in Greece between 2003 and 2004.⁸¹

B. 2006 FIFA World Cup in Germany

Prior to the 2006 FIFA World Cup in Germany, the international media widely predicted that 40,000 women and children would be trafficked into the country to serve the desires of the 3.36 million World Cup attendees.⁸² This estimate was 40 times the annual average

77. Morrow, *supra* note 19, at 255.

78. The Athens Olympics hosted 10,625 athletes, 45,000 volunteers, 21,500 members of the media, and over a million tourists. THE FUTURE GROUP, *supra* note 1, at 13 (citations omitted).

79. IOM Report, *supra* note 3, at 12 (citing Paul Radu et al., *Trafficking in Women: The Balkan Red Road*, TERRELIBERE.IT, Dec. 17, 2004, available at www.childtrafficking.org/pdf/user/balkans_12_17.doc).

80. IOM Report, *supra* note 3, at 12. Speaking to the European Parliament in 2006, one commentator noted that “[f]rom past experience—for example in Athens, during the Olympics—we have seen that international sporting events cause an increase in human trafficking.” *Id.* at 10 (citing Remarks of Ms. Gurmai, EUR. PARL. DEB. 2006 O.J. 54 (June 12, 2006), available at <http://www.europarl.europa.eu/omk/sipade3?L=EN&OBJID=120219>). However, there is a “paucity of credible empirical data . . . [to] legitimise or verify such a claim.” *Id.*

81. THE FUTURE GROUP, *supra* note 1, at 14 (citations omitted).

82. Tavella, *supra* note 3 at 196; Karen Chon & Derek Ellerman, Op-Ed., *Soccer with a Side of Slavery*, WASH. POST, June 10, 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/09/AR2006060901477.html>; see also THE FUTURE GROUP, *supra* note 1, at 9 (citing *2006 FIFA World Cup Germany*, FIFA, <http://www.fifa.com/worldcup/archive/germany2006/index.html> (last visited Feb. 9, 2011)).

of documented human trafficking cases in Germany.⁸³ Though the 40,000 estimate was almost immediately disclaimed by German officials as unrealistic,⁸⁴ the media embraced this darker side of fandom.⁸⁵ Instead of 40,000 victims, Germany reported no significant increase in human trafficking or forced prostitution.⁸⁶

It is worth noting, however, that the German government did report an increase in prostitution (which is legal in Germany) as a result of the World Cup.⁸⁷ Further, at least five cases of human trafficking “were assumed to have a direct link to the 2006 World Cup.”⁸⁸ Though accurate data on the actual number of trafficked victims during the World Cup is not available,⁸⁹ there was no marked increase in human trafficking detected at the end of the tournament.⁹⁰

83. THE FUTURE GROUP, *supra* note 1, at 11.

84. See Morrow, *supra* note 19, at 256. The IOM states that the 40,000 figure was “unfounded.” While multiple theories exist, there is no consensus as to where the 40,000 figure originated. IOM Report, *supra* note 3, at 14.

85. Morrow, *supra* note 19, at 243 (citing *Human Trafficking: Germany Shares Its World Cup Experience*, EUR. SOC. POL’Y, Mar. 16, 2007 [hereinafter *Human Trafficking, Germany Shares*]).

86. *Id.* at 244 (citing *Human Trafficking, Germany Shares, supra* note 85); Tavella, *supra* note 3, at 197.

87. THE FUTURE GROUP, *supra* note 1, at 11 (citing Council of the European Union, Note, Experience Report on Human Trafficking for the Purpose of Sexual Exploitation and Forced Prostitution in Connection with the 2006 Football World Cup in Germany, No. 5006/1/07, at 4 (Jan. 19, 2007), <http://register.consilium.europa.eu/pdf/en/07/st05/st05006-re01.en07.pdf> [hereinafter Germany Report to EU]). The increase in prostitution was attributed to the fact that demand for commercial sex was filled by domestic prostitutes who traveled from outside regions to the game venues, as opposed to international human trafficking victims. *Id.*; see also Joan Delaney, *2010 Olympics Could Boost Human Trafficking*, EPOCH TIMES (N.Y.), Dec. 12, 2007, <http://www.theepochtimes.com/news/7-12-12/62850.html>.

88. Tavella, *supra* note 3, at 211; THE FUTURE GROUP, *supra* note 1, at 12 (citing Germany Report to EU, *supra* note 87, at 5). In an IOM Albania report, a research team interviewed 84 participants to assess the perception that the World Cup may be used by international traffickers for the purpose of sexual exploitation. IOM Report, *supra* note 3, at 28. While the small sample size obviates the results, 29% of the sample had received employment offers to travel abroad for the World Cup. *Id.* The researchers stated “[t]his finding can be taken as an indication that the world football event can serve as an opportunity for the traffickers to be active.” *Id.*

89. One reason for inaccurate trafficking data pre-World Cup versus post-World Cup is that Germany reformed the portion of its penal code covering human

C. 2010 Vancouver Olympics

On May 29, 2007 the Standing Committee on the Status of Women recommended “[t]hat the [Canadian] government . . . develop and implement a plan prior to the opening of the 2010 Olympics to curtail the trafficking of women and girls for sexual purposes”⁹¹ The Canadian government responded with reassurances that the 2010 Winter Olympics would not become a venue for human traffickers.⁹² Human trafficking workshops for law enforcement and immigration officials were held across Canada to address trafficking concerns related to the Olympics.⁹³ Unfortunately, statistics on human trafficking in connection with the Vancouver Games are not yet available.⁹⁴

trafficking for sexual exploitation on February 19, 2005. THE FUTURE GROUP, *supra* note 1, at 12. The code reform changed the manner in which cases were reported, from initiation to completion of investigations. *Id.* According to the IOM, the number of human trafficking “investigations” in Germany before the World Cup was 431 in 2003, 370 in 2004, and 317 in 2005. *Id.* In 2006, the year of the World Cup, the German Federal Police reported 712 human trafficking “cases” for sexual exploitation. *Id.* A case is defined as: “[e]very unlawful act that comes to light during an investigation . . . regardless of how many victims are involved.” *Id.* (citing IOM Report, *supra* note 3, at 16).

90. The IOM Report concluded that “[p]revention campaigns and increased law enforcement efforts during the World Cup may have reduced the risk of trafficking.” IOM Report, *supra* note 3, at 6; *see also* THE FUTURE GROUP, *supra* note 1, at 11 n.12.

91. THE FUTURE GROUP, *supra* note 1, at 5 (citations omitted).

92. Response from Senator Mobina Jaffer, *supra* note 4.

93. *Id.*

94. However, Benjamin Perrin, a law professor specializing in human trafficking at the University of British Columbia, said he knew of “dozens” of young women sent to Vancouver to accommodate the expected surge of tourists looking for prostitutes. Mike Barber, *Vancouver Olympics get an ‘F’ for failing to curb sex trafficking: group*, CANWEST NEWS SERV., Feb. 10, 2010, reproduced at <http://www.emancipationnow.com/media.html>. Pointing to recommendations that The Future Group made to the Royal Canadian Mounted Police and the Vancouver Olympic Committee, Perrin stated, “I’m very disappointed to say we were expecting this . . . Fortunately, what is apparent today, is that a number of women who have been brought to Vancouver for the purpose of being sold for sex during the Games by their traffickers have been rescued . . . How many more out there, who are going to be subject to exploitation, we just don’t know.” *Id.*

D. 2010 World Cup in South Africa

The 2010 World Cup was held June 11th through July 11th, 2010 in nine host cities throughout South Africa.⁹⁵ With a Gross Domestic Product (GDP) four times greater than any surrounding country⁹⁶ and porous borders, South Africa has long attracted economic migrants.⁹⁷ In fact, anecdotal references suggest that 2010 World Cup preparations prompted illegal migration and increased the likelihood of human trafficking for forced labor.⁹⁸ For example, traffickers in Ethiopia took advantage of World Cup hype to dupe male victims into believing that South Africa had created immense employment opportunities.⁹⁹ Prior to the World Cup, women and children were also believed to be at risk of commercial sexual exploitation. Sister Melanie O’Conner, coordinator of the counter-trafficking desk for the Southern African Catholic Bishops Conference, claimed that South Africa’s human trafficking problems were underestimated. “Being a country of origin, transition[,] and destination for trafficking, there is the fear that

95. *Match Schedule: 2010 FIFA World Cup South Africa*, FIFA, http://www.fifa.com/mm/document/tournament/competition/64/42/24/2010fwc_matc_hschedule_postevent_e.pdf (last visited Feb. 9, 2011).

96. ASSAIS, *supra* note 44, at 89.

97. Saviour Kwinika, *Prostitutes Flock to South Africa Ahead of World Cup 2010*, CHRISTIAN SCI. MONITOR, May 12, 2010, <http://www.csmonitor.com/layout/set/print/content/view/print/300452>. South Africa’s 5,000 kilometer long land border has 72 official ports of entry and many unofficial pores where people come in and out undetected. Melanie O’Connor, *Human Trafficking in South Africa: 2010 and Beyond*, S. AFR. CATH. BISHOP’S CONF. (Apr. 17, 2010), http://www.sacbc.org.za/Site/index.php?option=com_content&view=article&id=286&Itemid=111.

98. Morrow, *supra* note 19, at 263 (citing Press Briefing, Int’l Org. for Migration, Research on Trafficking of Men for Labour Exploitation (Dec. 18, 2007), available at <http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAF/cache/offonce/lang/en?entryId=16263> [hereinafter Press Briefing, IOM]). Though most research has concerned trafficking for sexual exploitation, there is growing awareness of trafficking of men for forced labor. *Id.* at 263 (citing Press Briefing, IOM, *supra*). For example, one investigation claimed human traffickers used the World Cup as “bait” to lure people to work at South African construction sites, hotels, and as stadium marshals. Issa Sikiti da Silva, *2010 FIFA World Cup Boosts Africa’s Human Trafficking*, BIZCOMMUNITY (Jan. 15, 2010), <http://www.bizcommunity.com/Article/196/147/43704.html>.

99. *Ethiopia: Traffickers Exploit World Cup Fever*, IRIN AFR. (Mar. 16, 2010), <http://www.irinnews.org/report.aspx?ReportId=88438>.

trafficking of women and children will increase significantly during the World Cup.”¹⁰⁰

In August 2009, South African President Jacob Zuma addressed human trafficking concerns, stating “[w]e have noted the concern . . . that the 2010 FIFA World Cup may have the unintended consequence of creating opportunities for human trafficking . . . [and] are putting systems in place to prevent this.”¹⁰¹ Luis CdeBaca, President Obama’s ambassador-at-large to combat human trafficking, echoed the importance of a World Cup-related counter-trafficking plan: “Dedicated cops, prosecutors and victim advocates are fighting the traffickers in several host cities, but they’re largely doing it on their own.”¹⁰² “An exploitation-free World Cup will require resources and political will from the South African government and the international community alike.”¹⁰³

100. Sarah Hudleston, *South Africa: Tabling of Human Trafficking Bill ‘Not Prompted by World Cup,’* ALLAFRICA (Mar. 18, 2010), <http://allafrica.com/stories/201003180662.html>. Though accurate estimates of the number of people trafficked to, in, or from South Africa are not available, “there is enough . . . quantitative data . . . and a lot of anecdotal data . . . ; it is definitely a problem and a lot of people are at risk.” Delia Robertson, *Spotlight on Human Trafficking Before World Cup in South Africa*, VOA NEWS, Apr. 13, 2010, <http://www.voanews.com/english/news/africa/southern/Spotlight-on-Human-Trafficking-Before-World-Cup-in-South-Africa-90754049.html> (quoting Carol Allais of the University of South Africa). Prior to the World Cup, police reported twice as many non-native prostitutes working in Johannesburg as before. Anne Driscoll, *Journalists Use World Cup Hoopla to Spotlight Human Trafficking*, TONIC (June 17, 2010), <http://blog.tonic.com/journalists-use-world-cup-hoopla-to-spotlight-humantrafficking>. The Cape Town vice squad also saw a doubling of the number of foreign nationals working as prostitutes. John Barr & Nicole Noren, *Concerns Raised About Illegal Sex Trade*, ESPN, June 4, 2010, <http://sports.espn.go.com/espn/otl/news/story?id=5251940>. “These girls didn’t come here by themselves . . . They’re being brought here through syndicates, who have the means to manipulate immigration processes, to bribe border patrol, border guards, to bribe immigration officials . . . The only assumption you can make is [the traffickers are] anticipating increased business around the World Cup.” *Id.* (quoting Cape Town City Councillor J.P. Smith).

101. Skinner, *supra* note 4, at 57.

102. Skinner, *supra* note 4, at 57. One sex trafficker has done “brisk business among the stadium’s construction workers . . . [and is] really looking forward to doing more business during the World Cup.” *Id.* at 56.

103. Skinner, *supra* note 4, at 57. The international community did respond to South Africa’s human trafficking problem. Prior to the World Cup, the U.N.

In March 2010, South Africa's government seemed to heed this call by submitting a counter-trafficking bill to Parliament. However, Justice Minister Jeff Radebe clarified that the counter-trafficking bill was not motivated by the upcoming World Cup.¹⁰⁴ Currently, South Africa has not published an official report on human trafficking statistics during the World Cup.¹⁰⁵

E. 2012 London Olympics

With the upcoming 2012 London Olympics, the correlation between international mega-sporting events and human trafficking has generated recent attention in Europe.¹⁰⁶ Graham Maxwell, an English spokesman on human trafficking, stated: “[t]here is a possibility for labour exploitation and a possibility for sexual exploitation. There will be huge construction projects taking place.”¹⁰⁷ A United Kingdom Home Office Report on Combating Trafficking noted: “[c]riminal elements are expected to exploit the situation [of the 2012 Olympics] by establishing themselves in London from now on. Organised

announced that a \$24 million donation by the European Union would be used on a project to tighten South Africa's leaky borders and strengthen law enforcement. Hudleston, *supra* note 100. The U.N. Office on Drugs and Crime (UNODC) said the project was “mindful of the fact that almost 500,000 visitors from neighboring countries and international destinations were expected during the 2010 Soccer World Cup . . .” *Id.*

104. Hudleston, *supra* note 100. Instead, Radebe cited compliance with the U.N. Protocol as the catalyst for the bill's introduction. *Id.*

105. In a presentation to Parliament, Kamogelo Lekubo-Wilderson, Director of the Department of Justice and Constitutional Development, stated she was unsure whether the South African police services had detected any instances of human trafficking in connection with the World Cup. *Human Trafficking during 2010 Soccer World Cup: Department of Justice Briefing*, PARLIMENTARY MONITORING GRP. (August 5, 2010), <http://www.pmg.org.za/print/22420>. A report from the Department of Home Affairs was still outstanding; however, no trafficking cases were taken to court. *Id.*

106. BOWEN & SHANNON FRONTLINE CONSULTING, HUMAN TRAFFICKING, SEX WORK SAFETY AND THE 2010 GAMES: ASSESSMENTS AND RECOMMENDATIONS 15 (2009) [hereinafter SIWSAG Report].

107. Stewart Tendler, *Sex Trafficking and Illegal Workers Threaten Olympics*, SUNDAY TIMES (LONDON), Mar. 24, 2007, <http://www.timesonline.co.uk/tol/news/uk/crime/article1560555.ece>.

immigration crime, including human trafficking, has been factored into the strategic planning for the Olympics 2012.”¹⁰⁸

As the United Kingdom prepares to host the 2012 London Olympics, the government will work with London police and other organizations to prevent Olympics-related trafficking.¹⁰⁹ Metropolitan Police Commissioner Ian Blair has even appointed a new Assistant Commissioner to lead Olympic security. Two of the mandates for this new position are to deal with human trafficking and illegal construction workers.¹¹⁰

V. STEPS TAKEN BY INTERNATIONAL SPORTING EVENT HOST COUNTRIES TO PREVENT HUMAN TRAFFICKING

In the autumn of 2005, German authorities developed an action plan to combat human trafficking during the World Cup.¹¹¹ Though the 40,000 estimate was not deemed reliable by Germany’s trafficking experts, the threat of any increase in human trafficking motivated officials and NGOs to begin preparations.¹¹² As previously noted, Germany recorded no significant increase in human trafficking during the 2006 World Cup.¹¹³ Because of this success (and despite statistical paucity), Germany’s efforts to combat trafficking should be examined

108. *Id.*

109. *Britain to Crack Down on Sex Traffickers Ahead of London 2012 Olympics*, ASSOCIATED PRESS, Nov. 9, 2009, <http://inform.com/sports/uk-crack-sex-traffickers-2012-735263a> (Olympics Minister Tessa Jowell: “We are absolutely determined to take all pre-emptive action that we can . . . to make sure the London 2012 Olympics and Paralympics don’t become a target for this vile trade and don’t become tainted as a result . . . We will be making sure that a very clear message goes out to the traffickers, that there is no point coming to London.”); *see also* SIWSAG Report, *supra* note 106, at 23-26. In 2007, the U.K. launched the “Blue Blindfold” human trafficking public awareness campaign with posters and notices on buses in high risk areas. *Id.* at 23.

110. *2012 Olympics is ‘Huge Target’ for Terrorists, Say Police*, EVENING STANDARD (LONDON), Oct. 19, 2006, <http://www.thisislondon.co.uk>.

111. IOM Report, *supra* note 3, at 29.

112. Tavella, *supra* note 3, at 209.

113. *Id.* at 211; *see also* Morrow, *supra* note 19, at 244.

as a model or starting place for other countries hosting international mega-sporting events.¹¹⁴

A. Germany's Information Campaigns

Prior to and during the World Cup, Germany implemented four major information campaigns.¹¹⁵ The campaigns used nationwide information-sharing techniques to spread awareness that human trafficking could skyrocket in Germany as a result of the World Cup. Some of these techniques included counter-trafficking messages printed on posters, shirts, whistles, and beer coasters.¹¹⁶ The NGO Solwodi disseminated counter-trafficking leaflets, posters, and stickers.¹¹⁷ With their partner Renovabis, Solwodi also carried out prevention campaigns in source countries.¹¹⁸ The NGO Frauenrecht ist Menschenrecht (FiM) attempted to raise awareness among clients of prostitutes by linking counter-trafficking information to popular sex websites.¹¹⁹ In addition, the IOM teamed up with MTV Europe and the Swedish International Development Cooperation Agency (SIDA) to launch a public service announcement that women might be trafficked into Germany for forced sexual exploitation during the World Cup.¹²⁰

B. Hotlines

Germany established three national human trafficking hotlines. Two were for trafficking victims, while the third was to encourage clients of prostitutes to report suspicious situations with anonymity.¹²¹

114. See Tavella, *supra* note 3, at 213.

115. IOM Report, *supra* note 3, at 17. The campaigns included the German Women's Council's "Final Whistle—Stop Forced Prostitution"; the NGO Solwodi's "Red Card for Sexual Exploitation and Forced Prostitution"; the NGO Frauenrecht ist Menschenrecht's [FiM] "Stop Forced Prostitution"; and Diakonie's "Action against Forced Prostitution." *Id.* at 17-18.

116. Doerthe Keilholz, *Will Olympics Be Magnet for Human Traffickers?*, TYEE NEWS (Sept. 4, 2008), <http://theyee.ca/News/2008/09/04/HumanTraffic>.

117. IOM Report, *supra* note 3, at 18.

118. *Id.*

119. *Id.* at 14-15.

120. *Id.* at 15.

121. Tavella, *supra* note 3, at 211; IOM Report, *supra* note 3, at 18-19.

C. German Law Enforcement Efforts

Law enforcement preparations in each of the twelve World Cup host cities included large increases in police presence. However, actual police approaches differed between German states.¹²² Some intensified raids on brothels and sex clubs.¹²³ Others gathered intelligence from red-light districts and increased usual checks on brothels and sex clubs.¹²⁴ Still other states distributed informational materials to hoteliers, monitored internet and newspaper advertisements, and conducted undercover police investigations as potential clients.¹²⁵

D. Other Factors

At least one commentator suggests that Germany's human trafficking prevention efforts offer an "effective model for future, large-scale international sporting events."¹²⁶ However, some experts attribute the lack of a significant increase in human trafficking during the 2006 World Cup to unrelated factors.¹²⁷ The hot weather, low-budget tourists, fan parties, and the fact that the 2006 World Cup was attended by many couples and families have all been cited as possible reasons for why the expected surge in human trafficking did not occur.¹²⁸

122. Morrow, *supra* note 19, at 254 (citations omitted).

123. *Id.* For example, in May 2006, Bavaria, Rhineland-Palatinate, Hesse, and Baden-Wuerttemberg used over one thousand police officers to carry out large-scale, coordinated raids. IOM Report, *supra* note 3, at 19.

124. IOM Report, *supra* note 3, at 19. Hamburg gathered intelligence from red-light districts. Berlin intensified checks on brothels and clubs. *Id.*

125. *Id.*

126. Morrow, *supra* note 19, at 244 (citing *State Dept.: NGOs Work To Eradicate Human Trafficking, Help Victims*, U.S. FED. NEWS, June 12, 2007, <http://www.america.gov/st/washfile-english/2007/June/20070605161941bcrekaw0.5122492.html>).

127. IOM Report, *supra* note 3, at 24.

128. *Id.*

VI. THE IOC'S POWER AND JURISDICTION

A. Overview of the IOC

The International Olympic Committee ("IOC") was created in 1894,¹²⁹ when the International Athletic Congress of Paris¹³⁰ unanimously voted to establish the modern Olympic Games.¹³¹ Today, the IOC is a corporate entity, made up of no more than 115 members,¹³² which owns the rights to the Olympic Games.¹³³ According to the Olympic Charter, the IOC is an international NGO with the status of a legal person.¹³⁴ The IOC has also been recognized as an international person by the U.S. Judiciary, which has described the IOC as "a highly visible and influential international body."¹³⁵ Because the IOC is an NGO, it cannot compel governmental obedience.¹³⁶ Nevertheless, its rules evince current practice and thus have authority as customary international law.¹³⁷

The IOC is governed by the rules set forth in the Olympic Charter.¹³⁸ It relies upon these rules to regulate all aspects of the Games, determine the qualifications of Olympic participants, and select

129. Olympic Charter, *supra* note 6, at pmb1.

130. Modern Olympism was the brainchild of Pierre de Coubertin, who was responsible for convening the International Athletic Congress of Paris. *Id.*

131. Ettinger, *supra* note 5, at 98.

132. The IOC does not regard its members as representatives of their home countries, but as "ambassadors of the Olympic ideal" to their home countries. Mastrocola, *supra* note 5, at 144 (citing Barbara O'Neill, *International Sports: Have States Succeeded Athletes as the Players?*, 6 DICK. J. INT'L L. 403, 407 (1988)). New members pledge "to keep myself free from any political or commercial influence and from any racial or religious consideration; to fight against all other forms of discrimination . . ." Olympic Charter, *supra* note 6, at r. 16, para. 1.3.

133. JAMES A.R. NAFZIGER, INTERNATIONAL SPORTS LAW 26 (2004); Levine, *supra* note 5, at 249; Mastrocola, *supra* note 5, at 143 (citing O'Neill, *supra* note 132, at 407; Olympic Charter, *supra* note 6, at r. 16, para. 1.1).

134. Olympic Charter, *supra* note 6, at r. 15, para. 1. The IOC was recognized by the Swiss Federal Council via a Nov. 1, 2000 agreement. *Id.*

135. S.F. Arts & Athletics, Inc. v. U.S. Olympic Comm., 483 U.S. 522, 550 (1987); *see also* Ettinger, *supra* note 5, at 107; Mastrocola, *supra* note 5, at 150.

136. Mastrocola, *supra* note 5, at 148 (citing NAFZIGER, *supra* note 133, at 34).

137. *Id.*

138. Olympic Charter, *supra* note 6, at Intro. to the Olympic Charter.

host city sites.¹³⁹ The Olympic Charter not only governs the organization and operation of the Games, but also codifies Fundamental Principles of Olympism¹⁴⁰: “to promot[e] a peaceful society concerned with the preservation of human dignity. . .”¹⁴¹ and “respect for universal fundamental ethical principles.”¹⁴²

B. IOC “Host” City Selection

The IOC entrusts the responsibility of hosting the Olympic Games to a city.¹⁴³ To become a candidate, city authorities submit an application to the IOC. As part of this application, the candidate city must fill out a questionnaire¹⁴⁴ that addresses issues like event organization and electronic media rights.¹⁴⁵ The IOC Executive Board then eliminates the majority of candidate cities based on their answers to this questionnaire.¹⁴⁶ Remaining candidates are then subject to more specific inquiries from the IOC’s Evaluation Committee,¹⁴⁷ which may be assisted by experts.¹⁴⁸ The Evaluation Committee prepares a report on each remaining city for the IOC Executive Board. After approval by the Executive Board, candidate cities¹⁴⁹ are submitted to the full IOC Session for election.¹⁵⁰

139. Mastrocola, *supra* note 5, at 144 (citing NAFZIGER, *supra* note 133, at 19).

140. Olympic Charter, *supra* note 6, at Intro.

141. *Id.* at Fundamental Principles of Olympism, para. 2.

142. *Id.* at para. 1.

143. *Id.* at r. 33, para. 2. Elections generally take place seven years before the Games. *Id.* at r. 34, para. 2.

144. Mastrocola, *supra* note 5, at 145 (citing O’Neill, *supra* note 132, at 409).

145. *Id.*

146. *Id.*

147. *Id.*

148. Olympic Charter, *supra* note 6, at r. 34 bye-law 2.2.

149. *Id.* at para. 3.1.

150. *Id.* at paras. 3.1, 3.2.

C. The Non-Economic Benefits of Hosting the Olympics

Hosting a mega-event¹⁵¹ such as the Olympic Games may have long-term consequences for the host city. If successful, the Olympic Games can project an internationally positive image of the host city and country.¹⁵² Extensive media coverage—not limited to the actual athletic competition—provides the host country with a unique opportunity to showcase its tourism, economic offerings, and system of government.¹⁵³ By diverting attention away from the actual sports competition to highlight its culture, city, and people, the host nation is given an opportunity to forge a new, modern identity.¹⁵⁴

Using the high profile Olympic forum as a platform to broadcast a host country's political and economic success is hardly unique.¹⁵⁵ Previous host countries have used the Olympics as a stepping stone towards receiving wider cultural acceptance.¹⁵⁶ By selecting a particular country to be the Olympic host, the IOC seemingly places its

151. A mega-event is a large scale leisure or tourism event—such as the Olympic Games and World Fairs—that involves the creation of infrastructure and event facilities, and often carries long-term debts and long-term use programming. Solomon J. Greene, *Staged Cities: Mega-Events, Slum Clearance, and Global Capital*, 6 YALE HUM. RTS. & DEV. L.J. 161, 165 (2003).

152. *Id.*

153. Mastrocola, *supra* note 5, at 156 (citing James A.R. Nafziger & Andrew Strenk, *The Political Uses and Abuses of Sports*, 10 CONN. L. REV. 259, 273 (1978)).

154. Levine, *supra* note 5, at 247.

155. *Id.*

156. *Id.* For example, the 1964 Tokyo Olympics helped Japan show the world that Japan had recovered from World War II, reemerging as an advanced industrial, market-capitalist nation. *Id.* at 252. Similarly, China bid for the 2000 Olympics not only to achieve world acclaim for their economic and cultural opportunities, but also to improve the country's image after the 1989 Tiananmen Square massacre and to boost the Communist Party's image at home and abroad. Mastrocola, *supra* note 5, at 160 (citing Lena H. Sun, *China Pulls Out Stops in Olympic Bid; Political Factors Dominate in Beijing Try for 2000 Games, With Chances Uncertain*, WASH. POST, July 15, 1993, at D1). The Tiananmen Square massacre occurred when the Chinese Army crushed a student-led pro-democracy demonstration. Dave Todd, *Olympic Bid: 'Lack' of Dissidents Makes Beijing Ideal Games Site, Chinese Argue*, OTTAWA CITIZEN, June 22, 1993, at A1. More than 1000 unarmed demonstrators and bystanders were killed and thousands more were wounded. The massacre occurred only four years before the 2000 Olympic bid. *Id.*

stamp of approval on the host country's political institutions.¹⁵⁷ This is why, in recent years, several developing countries have aggressively pursued bids to host the Olympic Games.¹⁵⁸

D. The Olympic Charter does not Prevent the IOC from using Host Country Site Selection to Combat Human Trafficking

The IOC has argued that its current form of representation ensures that the Games remain apolitical.¹⁵⁹ IOC President Jacques Rogge has stated: “We do not make political choices, because if we do, this is the end of the universality of the Olympic Games.”¹⁶⁰

Whether the IOC makes “political” choices when selecting Olympic hosts, human rights issues—such as human trafficking—do not seem to be a factor in the IOC's determinations.¹⁶¹ As previously discussed, the IOC Evaluation Committee creates a report outlining the qualifications of each candidate city. This report is submitted to the full IOC Session prior to voting, so that IOC members can familiarize themselves with each candidate city's individual merits.¹⁶² The IOC Evaluation Committee report does not mention human rights issues.¹⁶³ It also does not mention human trafficking considerations.¹⁶⁴

157. Greene, *supra* note 151, at 168; *see also* Levine, *supra* note 5, at 252 (“The IOC, by selecting Japan as the first host of the Olympic Games in Asia, seemed to award Japan ‘the West’s seal of approval for membership (economically, politically and culturally)’ into the club of international elite that ‘centered on the IOC.’” (citations omitted)).

158. Greene, *supra* note 151, at 167.

159. Ettinger, *supra* note 5, at 119.

160. John Hoberman, *The Olympics*, FOREIGN POL’Y, July-Aug. 2008, at 22.

161. For purposes of this discussion, this Comment assumes human trafficking is a political issue.

162. Olympic Charter, *supra* note 6, at r. 34 bye-laws 2.2-2.3, 3.2; *see also* Mastrocola, *supra* note 5, at 145.

163. *Id.* at 145-46 (citing Bert Roughton Jr., *Chinese Bid for Games Puts IOC on the Spot*, ATLANTA J. & CONST., June 21, 1993, at A1).

164. The IOC Evaluation Committee report addresses eleven categories: governmental support and public opinion; general transportation and telecommunications infrastructure; sports venues; Olympic villages; environmental conditions and impact; accommodation; transport concept; safety and security; experience from past sports events; finance; and overall project and legacy. Simon Balderstone et al., Int’l Olympic Comm., Games of the XXXI Olympiad 2016

However, for the reasons discussed in this section, the IOC should consider a country's human trafficking record when deciding to award that country the Olympic Games.

1. Historically, the IOC has not taken a Country's Human Rights or Human Trafficking Record into Consideration when Awarding the Olympic Games

The IOC has historically awarded the Olympic Games to countries with abominable human rights and human trafficking records. The 1936 Games were awarded to Berlin, Germany.¹⁶⁵ Even though Nazi agents promoted the Berlin Games,¹⁶⁶ an international boycott of the Games did not result from Nazi anti-Semitism.¹⁶⁷ Avery Brundage, then president of the IOC, simply stated that politics should never affect sports.¹⁶⁸ Ten days before the 1968 Mexico City Games, the Mexican Army killed approximately 300 anti-government protestors.¹⁶⁹ Avery Brundage also insisted that teams from South Africa and Rhodesia should participate in the 1968 Mexico City Games despite their practice of racial discrimination.¹⁷⁰ This IOC decision was made despite opposition from the National Olympic Committees ("NOCs"), denunciation by the U.N., and refusal by the Mexican Government to

Working Group Report 8-9 (2008) [hereinafter IOC Candidature Report], *available at* http://multimedia.olympic.org/pdf/en_report_1317.pdf.

165. Hitler's Nazi regime in Germany was responsible for trafficking hundreds of thousands of Jews to their deaths in concentration camps.

166. Hoberman, *supra* note 160, at 22.

167. Sarah Bainbridge, *Not all Fun and Games*, LIVING GENEROUSLY, <http://www.livinggenerously.com/articles/155> (last visited Feb. 12, 2010).

168. *Id.*

169. Hoberman, *supra* note 160, at 22 (referring to the Tlatelolco Massacre on Oct. 2, 1968). For more information on the Tlatelolco Massacre see Kate Doyle, *The Tlatelolco Massacre: U.S. Documents on Mexico and the Events of 1968*, NATIONAL SECURITY ARCHIVE (Oct. 10, 2003), <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB99>.

170. Ettinger, *supra* note 5, at 114 (citing EDMUND JAN OSMANCZYK, ENCYCLOPEDIA OF THE UNITED NATIONS AND INTERNATIONAL AGREEMENTS 565, 581 (1985)).

grant entry visas to those countries' athletes.¹⁷¹ The IOC awarded the 1988 Olympic Games to Seoul, South Korea only one year after the Kwangju massacre.¹⁷² Critics of the Seoul Olympic bid chastised South Korea's military government for blatant human rights abuses and advocated that South Korea was an inappropriate host for a major international event.¹⁷³ And of course, most recently, the IOC awarded the 2008 Olympic Games to Beijing, China.¹⁷⁴ Taking note of China's deplorable human rights record, *The Economist* compared Beijing's honor to the one Hitler received when he hosted the 1936 Berlin Games.¹⁷⁵ If the above examples tell us anything, it is that human rights do not seem to be on the IOC's agenda when awarding the Olympic Games.¹⁷⁶

2. *Contrary to IOC Claims, The Olympics are Political*

Despite the IOC's renunciation of political choices, and its failure to consider human rights or human trafficking issues when awarding the Games, IOC decisions and human rights politics are intertwined. In fact, the Games have often been used as a platform to effectuate social

171. *Id.* It was only through efforts of the Co-ordinating and Research Committee ("CRC") of the National Olympic Committees, founded in 1968, that the Republic of South Africa was excluded from the 1968 Games and Rhodesia was excluded from the 1972 Munich Games for practicing apartheid. Ettinger, *supra* note 5, at 115 (citing OSMANZYK, *supra* note 170, at 581).

172. Hoberman, *supra* note 160, at 22. During the Kwangju massacre military paratroopers crushed a citizens' revolt, killing 200 and injuring over 1000. *Id.*

173. Liu, *supra* note 9, at 218.

174. *Id.* at 220. China's human rights abuses include banning religious and political groups, controlling labor activism, restraining the press and public protest, prisoner torture, and prohibiting the work of human rights groups. *Id.*

175. Dean Barnett, *A Fool's Gold Medal: Don't Waste Your Time Looking for High Ideals from the Olympic Committee*, WKLY. STANDARD, Aug. 11-18, 2008, <http://www.weeklystandard.com/Content/Public/Articles/000/000/015/390kcxhs.asp>.

176. One exception is the denial of China's bid for the 2000 Games. Greene, *supra* note 151, at 168. It is widely recognized that this bid, initiated soon after the 1989 Tiananmen Square massacre, failed due to China's dismal human rights record. *Id.* In awarding the 2008 Games to China, the IOC assured the world that it was "not naïve" and that there would be "discussions" about China's human rights policies. Hoberman, *supra* note 160, at 23.

change.¹⁷⁷ One prominent example is South Africa's exclusion from the Olympic Games from 1964 to 1991. The exclusion was justified as a way to protest South Africa's apartheid policy, "which [was] in contravention of the Olympic Charter."¹⁷⁸ Though the IOC was initially reluctant to exclude South Africa on the theory that politics should remain separate from international sport,¹⁷⁹ it eventually succumbed to international pressure and issued an Olympic boycott.¹⁸⁰ Although it is impossible to credit the Olympic boycott alone for South Africa's 1994 conversion to a democratic, multiracial society, the boycott did contribute to South Africa's gradual transformation into a country with more respect for racial equality.¹⁸¹

Though the Fundamental Principles of Olympism prohibit discrimination on the basis of "politics," the use of a boycott was generally accepted as a technique that did not violate these principles.¹⁸² Boycotts are internationally recognized as a means to apply coercive pressure to a country to alter its behavior.¹⁸³ Sanctions, such as the boycott, are also legal under Chapter VII of the U.N. Charter.¹⁸⁴ In fact, U.N. Secretary-General Boutros Boutros-Ghali has advocated using the Olympic boycott as an effective tool for

177. See Liu, *supra* note 9, at 215.

178. Mastrocola, *supra* note 5, at 158 (citing NAFZIGER, *supra* note 133, at 107). In 1956, South Africa's National party banned interracial sport. Liu, *supra* note 9, at 216. In 1958, Norway proposed excluding South Africa from the Olympic Games as a weapon to protest apartheid. *Id.*

179. Mastrocola, *supra* note 5, at 158 (citing NAFZIGER, *supra* note 133, at 190).

180. Liu, *supra* note 9, at 216.

181. *Id.* at 217. One less successful boycott was prompted by the Soviet invasion of Afghanistan. *Id.* at 219. Approximately fifty nations boycotted the 1980 Moscow Games. *Id.* However, this boycott proved futile, as the Soviets not only remained in Afghanistan but also retaliated by boycotting the 1984 Los Angeles Games. *Id.*

182. *Id.* The current provision of the Olympic Charter reads "[a]ny 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." Olympic Charter, *supra* note 6, at Fundamental Principles of Olympism, para. 5.

183. Liu, *supra* note 9, at 224.

184. *Id.*

communicating the international community's disapproval of certain practices.¹⁸⁵

3. Human Rights Issues Such as Human Trafficking are Permissible Uses of "Politics" Under the Olympic Charter and International Law

There are both permissible and impermissible uses of politics in international sport. According to one commentator, when a country's use of sport to gain international prestige becomes too intertwined with political ideology, that use rises to the level of propaganda and is forbidden by the Olympic Charter.¹⁸⁶ However, as previously mentioned, not all governmental use of sport is inconsistent with the Olympic Charter and international law.¹⁸⁷ The Olympics have been appropriately used as a platform to protest the conduct and policies of a particular government.¹⁸⁸ Protest intended to enhance human rights (including human trafficking) falls within these permissible bounds.¹⁸⁹ In fact, James A.R. Nafziger, an expert on international sports law, suggests that the Olympic Charter specifically protects and promotes human rights.¹⁹⁰

Although the Olympic Charter does not allow discrimination against a country on political grounds, a conflict arises in the face of

185. *Id.*

186. Mastrocola, *supra* note 5, at 156 n.119 (“[P]ropaganda is used to glorify a particular political system, whereas international prestige is more typically the culmination of a country's effort to show, for example, that it is a favorable vacation spot or economic partner.” (citing Nafziger & Strenk, *supra* note 153, at 273)). For example, when Hitler converted the 1936 Berlin Games from a post-World War I attempt to increase national prestige to the promotion of racial and religious bias through Nazi ideology, sport was used as an impermissible “instrument of propaganda.” Mastrocola, *supra* note 5, at 156. Mastrocola also believes that China's 2000 goal—the glorification of the Communist Party—fell into the impermissible area of propaganda. *Id.* at 160.

187. *See id.* at 153. One acceptable political use of sport is human rights reform. *Id.*

188. *Id.* at 156 (citing Nafziger & Strenk, *supra* note 153, at 267); *see also* discussion of the Olympic boycott of South Africa *supra* Part IV.D.2.

189. *See* Mastrocola, *supra* note 5, at 157 (citing NAFZIGER, *supra* note 133, at 98).

190. Liu, *supra* note 9, at 215.

human rights abuses.¹⁹¹ This conflict is between the “obligation to promote and protect human rights, which is clearly an aspiration of the Olympic Movement, and the customary rule against exclusion . . . for political reasons.”¹⁹² Despite this conflict, the growing body of international human rights law tips the scale toward Olympic awareness of human rights problems,¹⁹³ as the boycott of South Africa demonstrated.

The Olympic Charter obligates the IOC to uphold the Fundamental Principles of Olympism,¹⁹⁴ which include “*respect for universal fundamental ethical principles.*”¹⁹⁵ The Olympic Charter also states that the goal of Olympism is to “place sport at the service of the harmonious development of man, with a view to *promoting a peaceful society concerned with the preservation of human dignity.*”¹⁹⁶ Therefore, under the Olympic Charter, the IOC must work to (1) promote respect for *universal fundamental ethical principles*; and (2) preserve *human dignity*.

Human trafficking clearly offends the Fundamental Principles of Olympism. By restricting individuals’ freedom of movement, stripping their autonomy, and placing them in modern-day slavery, human trafficking violates *universal fundamental ethical principles*. By subjecting vulnerable people to forced labor or commercial sexual exploitation at the hands of their traffickers, human trafficking clearly degrades *human dignity*. The IOC cannot shirk its duty to uphold the Fundamental Principles of Olympism. It cannot abstain from taking action to prevent human rights abuses on the theory that the Games should remain apolitical, especially since the Olympic Games are a possible contributor to the human trafficking problem.¹⁹⁷

191. Mastrocola, *supra* note 5, at 157.

192. *Id.* (citing NAFZIGER, *supra* note 133, at 81).

193. *Id.* at 158 (citing NAFZIGER, *supra* note 133, at 81).

194. *See* Olympic Charter, *supra* note 6, at Intro. to the Olympic Charter.

195. *Id.* at Fundamental Principles of Olympism, para. 1 (emphasis added).

196. *Id.* at Fundamental Principles of Olympism, paras. 1-2 (emphasis added); *see also* Mark McMullen, *The Green Olympics: Boon or Farce?*, 2001 COLO. J. INT’L ENVTL. L. & POL’Y 119, 126 (2002).

197. *See* Bainbridge, *supra* note 167.

The IOC defines itself as an NGO.¹⁹⁸ NGOs, even if created as domestic corporations, have an important place in international law as “agents of the public interest.”¹⁹⁹ The IOC is responsible for upholding the Fundamental Principles of Olympism embodied in the Olympic Charter.²⁰⁰ It has complete control over Olympic host selection.²⁰¹ Combined, this gives the IOC the opportunity—and also the jurisdictional power—to “flex its muscles” against human trafficking.²⁰²

IOC President Jacques Rogge summed it up when he stated: “[w]e have no army; we have no police force. The only strength we have is values.”²⁰³ Whether welcome or not, human rights politics are part of the Games.²⁰⁴

4. Other International Sports Organizations Have Embraced Human Rights and Human Trafficking Causes

As with the IOC, governments and IGOs have repeatedly requested the Federation Internationale de Football Association (FIFA) to become involved in political issues outside the narrow realm of athletic competition.²⁰⁵ In 2007, FIFA adopted a new slogan, “For the Game. For the World.” In keeping with this slogan, FIFA broadened its role to encompass greater social responsibilities.²⁰⁶ Recognizing soccer’s political function, public awareness campaigns featuring German and South African soccer stars have called attention to human trafficking issues.²⁰⁷

198. Olympic Charter, *supra* note 6, at r. 15, para. 1.

199. Liu, *supra* note 9, at 224 (citations omitted).

200. See Olympic Charter, *supra* note 6, at Intro. to the Olympic Charter.

201. Liu, *supra* note 9, at 224.

202. See *id.* at 215, 224.

203. Hoberman, *supra* note 160, at 24.

204. *Id.* at 22.

205. Morrow, *supra* note 19, at 251; see also *FIFA Has No Power To Take Legal Action Against Human Trafficking and Forced Prostitution*, FIFA (Apr. 13, 2006), <http://www.fifa.com/aboutfifa/federation/releases/newsid=103821.html>.

206. Morrow, *supra* note 19, at 252.

207. *Id.* Before a nationally televised game, South Africa’s soccer team wore counter-trafficking t-shirts with the IOM’s trafficking hotline number printed on

5. *The IOC Should Consider a Country's Human Trafficking Record when Awarding the Olympic Games*

Olympic host city selection is the primary IOC decision that communicates the Olympic ideal to the world.²⁰⁸ There are two schools of thought on how Olympic site selection should be used in relation to a country's human rights—and thus, human trafficking—record. The first school of thought is anti-boycott. This school believes that rather than deny an Olympic bid in an attempt to coerce human rights reform. Instead, the IOC should freely award the Olympic Games to countries with human rights issues. By awarding the Olympics to such countries, the IOC will provide host nations with motivation to improve their human rights records.²⁰⁹ Proponents from the second school of thought disagree. They argue that the Olympics should not be awarded to countries with widespread human rights abuses since the Olympics is an event promoting peace, ethical principles, and human dignity.²¹⁰ Awarding the Olympic Games to countries with poor human rights records could send a signal that the countries' questionable human rights practices are accepted by the international community.²¹¹ Thus, an IOC award would act as a “stamp of approval” for host countries' human rights abuses.²¹²

them. The team wore the shirts to show support for South Africa's National Human Trafficking Awareness Campaign. *Id.* at 261; Tavella, *supra* note 3, at 216.

208. Mastrocola, *supra* note 5, at 146.

209. *See* Liu, *supra* note 9, at 214. Proponents of this rationale have used the 2008 Beijing Games in China as an example. Leading up to the Games, advocates asserted that because Chinese leadership would be in the glare of the international spotlight, this heightened scrutiny could result in positive advances in China's human rights policies. *See* Ellen S. Reinstein, *Turn the Other Cheek, or Demand an Eye for an Eye? Religious Persecution in China and an Effective Western Response*, 20 CONN. J. INT'L L. 1, 34 (2004).

210. *See* McMullen, *supra* note 9, at 124.

211. *See* Mastrocola, *supra* note 5, at 163.

212. *See* Liu, *supra* note 9, at 224 (citing Christopher Clarey, *IOC Vote Is More Than Fun and Games to Olympic Finalists*, N.Y. TIMES, July 13, 2001, http://www.nytimes.com/2001/07/13/news/13iht-ioc_ed3_.html). Proponents of this rationale have also cited the 2008 Beijing Games. According to Hopkins, the IOC's selection of Beijing as the 2008 Olympic host spawned a string of human rights violations. After receiving the bid, the Chinese government destroyed many citizens' homes to make way for Olympic infrastructure. These citizens received little to no

Both schools of thought have inherent problems. Boycotting all host countries but those with only the most stellar human rights and human trafficking records would effectively limit the possible sites to highly developed or “westernized” countries. In addition, deciding which countries have human trafficking records that are strong enough to immunize them from boycott would be impossible. First, human trafficking data is unreliable. Because of the elusive nature of human trafficking reporting (due to factors like the victim’s reluctance to communicate with law enforcement) and the lack of reliable international data, useful human trafficking statistics from every country in the Olympic Movement are not presently available.²¹³ Second, even if accurate data was available, considering that the IOC has 115 members from 81 countries²¹⁴ and considering the prestige involved with hosting the Olympic Games, it is unlikely IOC members could agree on which countries have pristine enough human trafficking records to avoid boycott. For these reasons, an Olympic host boycott based on current human trafficking knowledge is simply unrealistic. As one IOC official stated: “[i]f we always picked a city wearing a halo . . . we wouldn’t have had enough cities to host the games.”²¹⁵

On the other hand, freely awarding the Olympic Games to countries with abominable human trafficking problems does not uphold

compensation and had no recourse against their government’s decision. Because the taking of these citizens’ homes with no compensation violated their fundamental rights, the IOC’s endorsement of Beijing is “inapposite to its stated goals and offensive to human rights activism.” Martha M. Hopkins, *Olympic Ideal Demolished: How Forced Evictions in China Related to the 2008 Olympic Games are Violating International Law*, 29 HOUS. J. INT’L L. 155, 126 (2006).

213. Even assuming the United States’ TIP Report is reliable—which I do not—there are only 28 countries that comply with the TVPA’s minimum (Tier 1) standards. To limit Olympic host selection to Tier 1 countries as a method of encouraging Tier 2 and Tier 3 countries to increase their counter-trafficking efforts would amount to effective discrimination in violation of the Olympic Charter. See *Country Rankings: Tier Placements*, GVNET (June 17, 2009), <http://gvnet.com/humantrafficking/00-Ratings.htm>.

214. *List of Members of the International Olympic Committee*, WIKIPEDIA, http://en.wikipedia.org/wiki/List_of_members_of_the_International_Olympic_Committee#IOC_members_by_continent (last updated Feb. 20, 2011).

215. Liu, *supra* note 9, at 224 (citing Lena H. Sun, *China Pulls Out Stops in Olympic Bid; Political Factors Dominate in Beijing Try for 2000 Games, With Chances Uncertain*, WASH. POST, July 15, 1993, at D1).

the Fundamental Values of Olympism embodied in the Olympic Charter. By ignoring human rights and human trafficking issues when awarding the Games, the IOC is passing on an opportunity to promote respect for *universal fundamental ethical principles* and preserve *human dignity*. Even worse, it is also potentially exacerbating worldwide human trafficking by creating a forum in which traffickers operate with ease. Host nations play a crucial role in managing the potential increase in Olympics-related human trafficking.²¹⁶ As such, the IOC Executive Board should work with each host country candidate to ensure a comprehensive counter-trafficking plan is in place before awarding the Games.²¹⁷

There are several possible methods the IOC can use prior to Olympic host selection to ensure the host country will make adequate counter-trafficking preparations. One possibility is use of a conditional boycott. The U.N. Protocol has been adopted by 117 countries.²¹⁸ It contains the most widely recognized international definition of human trafficking.²¹⁹ It also requires its member states to create and enforce trafficking legislation²²⁰ and work to eliminate the root causes of human trafficking.²²¹ By requiring an Olympic host candidate to adopt and enforce the U.N. Protocol, the IOC would ensure that the host country is at least minimally responsive to its human trafficking problem. Thus, adoption of the U.N. Protocol would be a prerequisite for an Olympic host candidate's bid. Without adoption, the IOC boycott would take effect. This is one technique the IOC may

216. Bainbridge, *supra* note 167; *see also* discussion *supra* Part V (detailing Germany's anti-trafficking efforts during the 2006 World Cup).

217. *See* Greene, *supra* note 151, at 187 ("At an international level, organizations sponsoring or participating in mega-events—such as the International Olympic Committee . . . should establish human rights standards to govern venue selection.").

218. Tavella, *supra* note 3, at 202 (citing Signatories to the United Nations Convention Against Transnational Crime and its Protocols (Feb 6, 2011), <http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>).

219. *See* Morrow, *supra* note 19, at 244-45 (citing U.N. Protocol, *supra* note 18, at art. 3(a)); Tavella, *supra* note 3, at 198-99.

220. U.N. Protocol, *supra* note 18, at arts. 5(1), 10, 11.

221. *Id.* at arts. 9(4)-(5).

permissibly use to combat the potential surge in human trafficking associated with the Olympic Games.²²²

A second possibility is for the IOC to amend its Candidature Questionnaire to add a human trafficking “theme.” As stated earlier, the Candidature Questionnaire is the first major step in the Olympic host application process.²²³ It contains questions on seventeen different “themes,” but does not address human trafficking.²²⁴ The IOC should add a human trafficking “theme” with detailed questions about the scope of the candidate country’s human trafficking problem, its prevention efforts, and its plan to combat Olympics-related human trafficking.²²⁵ By ferreting out the scope of a candidate country’s human trafficking problem, the IOC will have the tools to do two things. First, the IOC will be able to assess the likelihood that a particular candidate country will erode the Fundamental Values of Olympism by contributing to an increase in human exploitation—and vote accordingly. It is essential that the IOC Session is fully informed before voting for a particular host. Second, this line of questioning will allow the IOC to monitor the chosen host country’s Olympics-related trafficking plan and inform the appropriate international bodies if it appears the plan is inadequate or ignored. As one commentator stated: “[d]etailed planning, exposure and reviewing of anti-trafficking efforts,

222. The permissibility of this conditional boycott is analogous to IOC sanctions against South Africa. The South African boycott, which applied not only to Olympic host selection, but also to participation in the Games themselves, is credited with alleviating South Africa’s oppressive apartheid system. Liu, *supra* note 9, at 224; *see also* discussion *supra* Part VI.D.2 (detailing the Olympic boycott of South Africa from 1964 to 1991).

223. Mastrocola, *supra* note 5, at 145 (citing O’Neill, *supra* note 132, at 409).

224. *See* INT’L OLYMPIC COMM., 2016 CANDIDATURE PROCEDURE AND QUESTIONNAIRE: GAMES OF THE XXXI OLYMPIAD (2008), *available at* http://www.olympic.org/Assets/ImportedNews/Documents/en_report_1318.pdf. For details on the seventeen themes, *see id.* at 59-228.

225. The current Questionnaire does not address either human rights or human trafficking issues. The 2008 IOC Evaluation report for Beijing not only made no inquiry into China’s human rights issues but even stated, “[t]he overall presence of strong governmental control and support is healthy and should improve operational efficiency” McMullen, *supra* note 9, at 124.

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has to be a prominent condition in awarding the Olympic bids of the future.”²²⁶

A third possibility for the IOC to help prevent an Olympics-related surge in human trafficking may occur just after the IOC awards the Olympic Games. At this time, the IOC and the host city enter into a contract.²²⁷ The IOC could include a human trafficking clause within this contract. A human trafficking clause should require the host country to adopt and enforce a counter-trafficking prevention plan with IOC oversight.²²⁸ Ideally, plans should include allocation of national government counter-trafficking resources to the host city’s municipal government, as well as to community based counter-trafficking NGOs. This allocation of resources could be recouped by an IOC contractual provision dedicating a portion of attendance fees or media sponsorship fees to counter-trafficking efforts.²²⁹

The IOC is in a unique position to counter Olympics-related human trafficking. In order to remain faithful to the Fundamental Principles of Olympism, the IOC needs to ensure that host countries provide adequate safeguards against trafficking when it awards the Games. Implementing the above methods in host city evaluation is a step in the right direction.

VII. 2016 OLYMPICS IN RIO DE JANEIRO, BRAZIL

A. *Brazil and the Olympics*

On October 2, 2009, the IOC announced it had awarded the Games of the XXXI Olympiad to Rio de Janeiro, Brazil.²³⁰ The 2016 Games

226. Bainbridge, *supra* note 167.

227. Olympic Charter, *supra* note 6, at r. 34 bye-law 3.3. This is called the Host City Contract. *Id.*

228. *Cf.* Greene, *supra* note 151, at 187. Host cities like Beijing should be monitored to ensure protection of basic tenant rights during slum clearance in preparation for Olympic infrastructure. *Id.*

229. *See id.* at 187.

230. Upon hearing the news, Brazilian President Luiz Inacio Lula da Silva wiped his eyes with a handkerchief saying, “Our hour has arrived.” *Rio de Janeiro to Host 2016 Olympics*, *supra* note 10.

will be held from August 5 to August 21 of that year.²³¹ They are the first Games to be held in South America and only the second to be held in Latin America.²³²

B. Brazil's Human Trafficking Record

Brazil's human trafficking record is less than exemplary. The U.S. State Department's Trafficking in Persons (TIP) Report lists Brazil as a Tier 2 country, which means it does not fully comply with the minimum standards for the elimination of human trafficking.²³³ According to the U.N., Brazil is one of the most important actors in global trafficking.²³⁴ Sex trafficking occurs in every Brazilian state.²³⁵ In fact, Brazil exports more women than any other South American country.²³⁶ To a lesser extent, Brazil is a destination country for men, women, and children trafficked for forced labor.²³⁷ Victims from Bolivia, Paraguay, and China are trafficked into metropolitan centers to

231. Rio's mayor has admitted that there are "big issues" facing the city, especially in securing the Games from violence, adding that the IOC was presented with these issues during the bidding process. *2016 Summer Olympics*, WIKIPEDIA, http://en.wikipedia.org/wiki/2016_Summer_Olympics (last modified Mar. 22, 2011). For its part, the IOC has expressed optimism in Rio's capacity to address the cities' violence. *Id.* However, one critic worries about the IOC's choice stating that "[f]or the first time in modern history, the IOC [has] selected a host city [with] large areas outside state control, dominated by heavily armed drug gangs and militias made up of off-duty police officers and firefighters." Megan McAdams, *Can Brazil get Olympic Gold for Fighting Crime, Child Sex, and Police Brutality?*, BRAZZIL (Mar. 18, 2010), <http://www.brazzil.com/component/content/article/217-march-2010/10372-can-brazil-get-olympic-medal-for-fighting-crime-child-sex-and-police-brutality.html>.

232. The first Games in Latin America were the 1968 Mexico City Games. *2016 Summer Olympics*, *supra* note 231. Rio is also hosting the FIFA World Cup in 2014. *Id.* The fact that South America has never hosted an Olympic Games was certainly a major push for Rio's award. *Rio de Janeiro to Host 2016 Olympics*, *supra* note 10. As IOC President Jacques Rogge put it, "Rio had the 'extra added value of going for the first time to a continent that's never had the games.'" *Id.*

233. TIP REPORT - BRAZIL 2010, *supra* note 11, at 89-90.

234. Richelson, *supra* note 13, at 863.

235. TIP REPORT - BRAZIL 2010, *supra* note 11, at 89.

236. Richelson, *supra* note 13, 863.

237. TIP REPORT - BRAZIL 2010, *supra* note 11, at 90.

work in textile sweatshops.²³⁸ Men are also trafficked internally for slave labor on large farms, cattle ranches, logging and mining camps, and sugar cane plantations.²³⁹

There is no centralized human trafficking database in Brazil.²⁴⁰ However, the Joint Legislative Inquiry Committee of the National Congress estimates that between 500,000 to 800,000 women are exploited per year via 241 human trafficking routes.²⁴¹ Other figures from the Brazilian Federal Police suggest that between 250,000 to 400,000 children are forced into domestic prostitution along highways, in tourist centers, and within Amazonian mining brothels.²⁴² Over 25,000 Brazilian men are exploited per year for slave labor.²⁴³

C. Brazil's Efforts to Curb Human Trafficking

Though Brazil was the last country in the world to abolish slavery, recently it has enacted a number of counter-trafficking laws.²⁴⁴ On March 12, 2004, Brazil adopted the U.N. Protocol.²⁴⁵ Brazil also criminalized domestic trafficking under Article 231-A of the Brazilian penal code.²⁴⁶ However, this statute is limited to trafficking for sexual

238. *Id.*

239. *Id.* at 89.

240. Richelson, *supra* note 13, at 864.

241. *Id.*; BRAZIL AND COMPLIANCE WITH CEDAW: SHADOW REPORT OF CIVIL SOCIETY TO THE SIXTH NATIONAL REPORT OF BRAZIL ON THE CONVENTION FOR THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)—2001-2005 PERIOD, at 21 (2007), available at http://www.iwraw-ap.org/resources/pdf/BRAZIL_SHADOWREPORT_CEDAW_June,18%5B1%5D.pdf.

242. U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 85 (9th ed. 2009) [hereinafter TIP REPORT—BRAZIL 2009], available at <http://www.state.gov/documents/organization/123357.pdf>.

243. TIP REPORT—BRAZIL 2010, *supra* note 11, at 89; GLOBAL ALLIANCE, *supra* note 23, at 41.

244. Richelson, *supra* note 13, at 868 (citations omitted).

245. *Id.* at 871.

246. *Id.* Article 231-A defines domestic trafficking as “promoting, serving as an intermediary, or facilitating, within national territory, the recruitment, transport, transfer, harboring, or receipt of a person with the intention to practice prostitution, or the exit of a person with the intention to practice prostitution on foreign soil.” *Id.* at 871.

exploitation and does not include other forms of exploitation listed in the U.N. Protocol.²⁴⁷ As such, these victims are left without adequate protection.²⁴⁸ Though a separate anti-slavery statute criminalizes forced servitude, it is not sufficiently stringent.²⁴⁹ Another major concern is that laws go unenforced.²⁵⁰

The 2008 through 2010 TIP Reports make several recommendations for Brazil to improve its counter-trafficking efforts. These include: amending federal legislation to place forced labor under the domain of human trafficking; increasing penalties for fraudulent recruiting crimes; investigating and prosecuting corrupt officials;

247. *Id.* at 875.

248. *Id.* at 875. Despite the deficit in Brazil's human trafficking legislation, Brazil's non-legislative efforts to eradicate slave labor have vastly improved over the past fifteen years. For example, in 1992, the Brazilian government denied that forced labor existed in the country. PATRÍCIA TRINDADE MARANHÃO COSTA, INT'L LABOUR OFFICE, FIGHTING FORCED LABOR: THE EXAMPLE OF BRAZIL 7 (2009), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_111297.pdf. Yet between 1995 and 2008, over 30,000 slave workers were rescued by the government's Special Mobile Inspection Group (GEFM). *Id.* In general, however, perpetrators of slave labor have enjoyed legal and penal immunity as the government has failed to take significant action against them. *Id.* at 2-3.

249. Richelson, *supra* note 13, at 875. Sentences for violating section 231-A of the Penal Code (domestic trafficking) run between 3-8 years imprisonment and up to 12 years when violence, threats, or fraud are involved. Sentences for violating Section 149 of the Penal Code (slave labor) run between 2-8 years imprisonment. TIP REPORT - BRAZIL 2010, *supra* note 11, at 90. However, under Section 149, courts may suspend sentences or substitute community service. COSTA, *supra* note 248, at 22. Articles 206 and 207, which prohibit recruiting forced laborers using coercion (such as threatening immigrants with deportation) only carry a sentence of 1-3 years. TIP REPORT - BRAZIL 2010, *supra* note 11, at 92. Forced slave labor in Brazil (called *trabalho escravo*) is regularly found in charcoal manufacture and on isolated soy and sugarcane plantations. *Id.* The term *trabalho escravo* refers to degrading working conditions in which the victims are forced to remain due to fraudulent debts and armed guards. GLOBAL ALLIANCE, *supra* note 23, at 41.

250. Richelson, *supra* note 13, at 876. The Joint Legislative Inquiry Committee of the Brazilian National Congress found that of the known human trafficking networks, many were linked to the police and were "integrated by influential people in the economic and political sphere." *Id.* at 881. Landowners accused of violating section 149 (slave labor) have also revealed that state police and the judiciary colluded with them. COSTA, *supra* note 248, at 26-27.

improving victim assistance and protection (especially victims of slave labor); and creating a centralized data collection system.²⁵¹

VIII. CONCLUSION

Brazil has a lot of work to do in the five years leading up to the 2016 Games because of the following: trafficking legislation that does not recognize forced labor; poor enforcement of trafficking laws; and widespread reports of corrupt law enforcement. To appropriately combat a potential increase in Olympics-related human trafficking, Brazil should start with Germany's 2006 World Cup example. By implementing and improving existing information campaigns and victim hotlines, and by increasing counter-trafficking law enforcement efforts, Brazil will be on par with other countries' attempts to stop the exploitation associated with international mega-sporting events.

Though historically the IOC has not considered human rights or human trafficking concerns when awarding the Olympic Games, it should in the future. Despite the IOC's claims that the apolitical nature of the Olympic Charter prohibits its involvement in the political arena, human rights issues—such as human trafficking—are exempt from this general rule. In fact, the Olympic Charter promotes political intervention for human rights issues. The Olympic Charter's Fundamental Principles of Olympism mandate respect for *universal fundamental ethical principles* and preservation of *human dignity*. Human trafficking directly contravenes these principles. Thus, as the NGO responsible for upholding the Olympic Charter, the IOC must act to combat human trafficking associated with the Games.

Moreover, the IOC cannot abstain from fighting human trafficking when its work product—the Olympic Games—may cause a potential surge in trafficking for sexual exploitation and forced labor. Though trafficking data is generally unreliable, statistics from the 2004 Athens Olympics suggest that the Olympic Games may serve as a catalyst for

251. See TIP REPORT - BRAZIL 2010, *supra* note 11, at 90; TIP REPORT - BRAZIL 2009, *supra* note 242, at 86; U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 75 (8th ed. 2008), available at <http://www.state.gov/documents/organization/105501.pdf>.

exploitation. Furthermore, other international sporting organizations, such as FIFA, have taken steps to prevent human trafficking. The IOC should follow suit.

One way the IOC can help prevent Olympics-related human trafficking is by considering a candidate country's trafficking record and counter-trafficking efforts before awarding the Games. Requiring candidate countries to adopt the U.N. Protocol as a prerequisite to the application process would ensure that all future host countries are at least putting forth minimal efforts to comply with internationally accepted counter-trafficking procedures. The IOC should also amend its Candidature Questionnaire. Including questions about a candidate's human trafficking record and prevention efforts will allow the IOC Session to better assess a country's fitness to host the Games—before the final vote. Had the IOC inquired into Brazil's counter-trafficking efforts, Brazil would have received politically appropriate pressure to examine its counter-trafficking strategy and perhaps make changes (such as amending Article 231-A to include forced labor or implementing a nationwide trafficking database).

Furthermore, if the IOC required transparent disclosure of human trafficking issues from each host candidate, preventive solutions could be incorporated into the Host City Contract. For example, if the IOC had required Rio de Janeiro and the Brazilian government to disclose what is known about their country's human trafficking problem, a cohesive plan to combat Olympics-related trafficking could have been legally incorporated into the 2016 preparations. Incorporating counter-trafficking measures into the Host City Contract would make the host accountable and reserve legal recourse to the IOC if the host country failed to implement or comply with its counter-trafficking plan.

IOC President Jacques Rogge has said, "We have no army; we have no police force. The only strength we have is values."²⁵² However, the IOC has more than *just* values. It also has power. The IOC is the sole body with jurisdiction to award a country the coveted opportunity to host the Olympic Games. But with this power comes

252. See *supra* note 203 and accompanying text.

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the responsibility to uphold the Olympic Charter's Fundamental Principles of Olympism and prevent the dark side of the Olympics—human trafficking—from tarnishing those principles.

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