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A PHILOSOPHICAL ANALYSIS OF OLYMPIC ELIGIBILITY, VALUES, AND AUXILIARY RULES

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ABSTRACT AND KEYWORDS

This dissertation examines whether or not the rules governing participation in the Olympic Games facilitate the attainment of the values and ideals associated with the Olympic Games. Compared to the constitutive and regulative rules of sport, little critical analysis has been done on sports' auxiliary rules concerning who can compete and under what conditions. While restrictions on entries are warranted to ensure the size of the Olympic Games does not grow to include an unmanageable number of competitors, some rules that limit eligibility appear to be more unfair and discriminatory than others. Utilizing a mixed ethical framework, which focuses on rule-consequentialism and the moral concepts of equality, justice, and moral desert, through a liberal feminist lens, this dissertation examines the moral acceptability of current Olympic eligibility rules.

Four components are common among many conceptions of Olympism. The four aspects include: 1) an emphasis on fairness and fair play, 2) expectations of equality and non-discrimination, 3) a focus on ethical behaviour, and 4) the belief that the Olympic Games offer educational prospects for youths worldwide. A thematic analysis of the *Olympic Charter* and a representative sample of rulebooks of the International Federations (IFs) rendered six themes of rules that restrict eligibility to compete at the Olympic Games: 1) sex and gender; 2) anti-doping; 3) citizenship; 4) behaviour and dispute resolution; 5) uniforms and competitive attire; and 6) age limits. Each theme was critically analyzed to determine if the rules restricting eligibility are morally acceptable or unacceptable and in need of revision.

Through a comparative analysis of the Olympic ideals and the eligibility rules of participation it was determined that auxiliary rules set by the IOC and IFs both hinder and

facilitate the pursuit of the Olympic ideals. Several imposed auxiliary rules pertaining to an athlete's eligibility to compete at the Olympic Games are in opposition to the goal of promoting equality, fairness, ethical behaviour and education through sport. The most pressing inequities stem from rules that restrict women from competing in a program of events equitable to the men's program and rules that violate athletes' rights to autonomy and privacy.

Keywords: Olympic Games, auxiliary rules, eligibility, Olympic ideals, Olympic values, rules, rule-consequentialism, sport ethics

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LIST OF ABBREVIATIONS

AIBA	Association Internationale de Boxe
CAS	Court of Arbitration for Sport
FIFA	Fédération Internationale de Football Association
FIG	Fédération Internationale de Gymnastique
FIL	Fédération Internationale de Luge de Course
FIVB	Fédération Internationale de Volleyball
FSFI	Fédération Sportive Féminine Internationale
IAAF	International Association of Athletics Federations
IBU	International Biathlon Union
IF	International Sports Federation
IIHF	International Ice Hockey Federation
IOC	International Olympic Committee
ISF	International Ski Federation
ISU	International Skating Union
NF	National Sport Federation
NOC	National Olympic Committee
OCOG	Organizing Committee of the Olympic Games
UCI	Union Cycliste Internationale
UIPM	International Modern Pentathlon Union
VANOC	Vancouver Organizing Committee for the 2010 Olympic and Paralymic Winter Games
WADA	World Anti-Doping Agency
WADC	World Anti-Doping Code

CHAPTER I
Introduction

The Olympic Games[1] are rule-governed festivals that represent more than elite-level, multi-sport competitions according to the organizers, the International Olympic Committee (IOC). Rules and definitions abound in the Olympic Games' operating manual, known as the *Olympic Charter*, which stipulates when, how, and why the Olympic Games take place. To examine the rules involved in the Olympic Games, one must first understand the function of rules in games and sport. Bernard Suits' widely-accepted definition of games includes four elements stipulating the necessary and sufficient conditions of games.[2] According to Suits:

> to play a game is to engage in activity directed toward bringing about a specific states of affairs, using only means permitted by specific rules, where the means permitted by rules are more limited in scope than they would be in the absence of rules, and where the sole reason for accepting such limitation is to make possible such activity.[3]

From this passage, one can identify clearly the four elements of games: 1) the goal of the game, 2) the means one can use to achieve the goal, 3) the rules of the game, and 4) the attitude players must adopt, which is known as a lusory attitude.[4] Using this definition of games, a workable definition of sport follows:

> all sports possess the same four essential characteristics of games previously delineated and, in addition, one significant, distinguishing feature, namely, sport requires the demonstration of physical skill and, as a consequence, the outcome is dependent, to a certain degree at least, upon the physical prowess exhibited by the participants.[5]

Suits' definitions of games and sport constitute the dominant view in sport philosophy.[6]

Peter Arnold applies these definitions, noting:

> What marks out sport, apart from its goal-directed and rule-bound features, is that additionally it is concerned with physical skill and prowess. It should be noted that although play can enter into both games and sport, sport is distinctive in that it places a premium on bodily skill and frequently upon strength, speed and stamina as, for example, in track and field events or in the playing of football or rugby.[7]

Similarly, sport philosopher Warren Fraleigh argues:

> Rules specify the goal-within-the contest which all participants must necessarily pursue, the means all participants must use and are allowed to use in pursuing that goal, and the means all participants may not legally use to pursue the goal.[8]

While critics contend that definitions of sport based on Suits' criteria may be too narrow or too broad, too vague or too ambiguous, and may lack internal consistency,[9] the majority of philosophers of sport accept Suits' definitions of sports and games, which I will use to define games and sport throughout this dissertation.

In all of the above definitions the concept of rules is prominent. The importance of rules in the definitions of games is evident in Suits' conception, where three of his four characteristics of games invoke the concept of rules. All games and sports require participants to perform actions and strategies that are permitted by rules. The rules of sports not only stipulate what actions athletes can and cannot perform, but also identify the goal of the sport and classify particular acts as permissible or prohibited in the pursuit of that goal. Rules in sport are divided into three classes in the philosophy of sport literature – constitutive rules, regulative rules, and auxiliary rules.[10] The literature review will discuss each type of rule in more detail below, but an initial examination and clarification is helpful here. Constitutive rules define a game and specify the acceptable and unacceptable actions and behaviours that participants can and cannot perform during a game. One could read a list of constitutive rules and understand the objective of the game and come away knowing how to achieve the goal of the game. In contrast to

constitutive rules, regulative rules function to 'regulate' or police a game by specifying the consequences that will result if participants intentionally or inadvertently break a constitutive rule. The third type of rule, known as the auxiliary rules, pertains to eligibility, training practices, and pre- and post-event requirements. Auxiliary rules serve the purpose of specifying the conditions participants must meet in order to be deemed eligible to participate in a game or sport.[11]

For sports festivals such as the Olympic Games, all three types of rules are set by international sport governing bodies. Each sport that is recognized by the IOC has its own International Sports Federation (IF) that sets and regulates the rules for its sport. As defined in the *Olympic Charter*, IFs are "non-governmental organisations administering one or several sports at world level and encompassing organisations administering sports at national level."[12] Each IF administers its sport autonomously; however, the IOC mandates additional rules for athletes, countries, and IFs that must be followed in order to participate in the Olympic Games, which are included in the *Olympic Charter*.[13] Included among the protocol and organizational specifications in the *Olympic Charter* are rules specifying who is eligible to compete at the Olympic Games and what conditions potential participants must meet in order to qualify. As I will show in this dissertation, the IOC promotes the Olympic Games as more than a multi-sport, elite-level competition by connecting the Games with ethics and values.[14] Consequently, a tension exists between the image of the modern Olympic Games as a source of values and ethics that the IOC aims to promote and the auxiliary rules governing Olympic eligibility that are delineated in the *Olympic Charter* and the rulebooks of the IFs. I will examine this tension, and specific rules contributing to the tension, in subsequent chapters.

Statement of Ethical Issue and Purpose

In this dissertation, I argue that several auxiliary rules regarding eligibility to compete at the Olympic Games hinder the pursuit of the Olympic values and ideals. Through a comparative analysis of the Olympic values and ideals and the eligibility rules of participation, I will investigate whether auxiliary rules of Olympic sports prohibited individuals and groups of people from competing in the past, and whether rules unrelated to the goal or objective of sports continue to work against the notion of equity in sport today. While recognizing that methods of limiting the number of athletes that compete in the Olympics are warranted to ensure the size of the Games does not grow out of control,[15] I question whether some of the rules stipulated by the IOC and IFs are fair and able to withstand moral scrutiny. In performing a critical analysis of who can participate in the Olympic Games and under what conditions, I argue that there are auxiliary rules for competing in Olympic sports that obstruct the IOC's goals of using sport to promote the pursuit of values and ideals, and that rules contradicting the IOC's written goals need to be reviewed and revised.

Justification

The Olympic Games are more than a sports competition. Pierre de Coubertin, who is credited with reviving the ancient festival by creating the contemporary Olympic Games, understood that in addition to sport the Olympic Games are "about politics, broadly understood, and ethics."[16] Sport philosopher Cesar Torres' research shows that for Coubertin and the original IOC members, "the worth of the games did not lie in the athletic events but in their *raison d'être*."[17] Coubertin's writings espouse the view of the modern Olympics Games as a site for peace, equality, and goodwill where humanity is

celebrated.[18] The IOC has certainly not discouraged this image and has consequently attempted to promote the values and ideals first described by Coubertin in his writings on the modern Olympic movement. This study examines whether barriers, in the form of eligibility rules, prevent the Olympic Games from achieving its stated potential. I will identify rules that do not withstand philosophical scrutiny, and I will suggest positive changes to reduce inequitable and discriminatory practices that remain in the Olympic Games. Accepting and maintaining the status quo without critical reflection allows questionable practices to flourish and continue unchallenged. Before positive action can take place, one must identify problems and areas of concern. Once identified and analyzed, suggestions and recommendations, which may be of interest to organizations associated with the Olympic movement and national organizations, can be devised.

The literature on auxiliary rules is sparse. Compared to the constitutive and regulatory rules of sport, very little critical analysis has been performed on sports' auxiliary rules, particularly in regard to the Olympic movement from a philosophical perspective. This area of study has tremendous practical relevance that has been largely neglected by scholars since Meier's influential article, "Restless Sport," defined the topic in the mid 1980s.[19] The two notable works focusing on rules in sport published since Meier's article, Sigmund Loland's *Fair Play in Sport: A System of Moral Norms* and Graham McFee's *Sport, Rules, and Values: Philosophical Investigations into the Nature of Sport*, fully address the application of constitutive and regulative rules, in addition to the value of rules in sport. However, both books do so without direct discussion of the auxiliary rules of sport.[20] In most analyses of rules in the sport literature, auxiliary rules

are ignored in favour of examining particular applications of constitutive and regulative rules in specific sports.[21]

It is not uncommon for scholars, reporters, fans, and athletes to question the modern Olympic ideals and the relevance of these ideals to sport today, but they typically result in a call to make sport more fair and equitable, which often fails to move past the theoretical level and produce positive change. A dilemma arises in the Olympic movement when official policies, rules, and regulations fail to maximize the alleged benefits sport can offer. In order to help make the sporting environment more suited for human flourishing, it is necessary to continually reflect upon current practices and to contrast what *is* being done with what *ought* to be done. This type of reflection involves the application and analysis of moral theories. As sport philosopher Scott Kretchmar has argued, "No one has agreed upon a single set of procedures for doing philosophy. The road map… is but one formulation of a multitude of possible approaches."[22] Kretchmar's influential observation on the nature and applicability of moral theories informs the need to specify a clear research perspective and methodology to evaluate the moral acceptability of applied issues in sport.

Methodology

This section describes the mixed ethical theory I employ to examine and analyze the tension between rules and values in the Olympic movement. This approach includes a critical analysis that relies on multiple theories and perspectives, specifically a rule-consequentialist, liberal feminist, non-formalistic approach, to examine the moral acceptability of Olympic eligibility rules that are in opposition to the ideals that the

Olympic movement endorses. Each component of the framework contributes elements that, together, provide a more nuanced understanding of Olympic rules.

A clear understanding of what ethics involves will help illuminate how philosophers of sport approach and study applied ethical issues. Ethics is the philosophical study of morality, and can be considered the "local, particular, thick, stuff of personal attachments, projects and relation."[23] Kretchmar accepts using the terms *ethical* and *moral* interchangeably when discussing philosophical aspects of sport, with the rationale that an "ethical issue is a moral issue."[24] Moral norms are justifiable and universal, and as such can be thought of as "very general norms which would be morally optimum in all societies."[25] Studying ethics involves moving beyond simply describing empirical norms and the values of a group to also perform a systematic critical reflection.[26] Unlike scientific theories where the value of a theory is determined based on its ability to be falsified, ethics and moral norms rely on logic and critical thinking in addition to empirical observations. The study of ethics seeks to address fundamental values "regardless of people's widely different national, ethnic, cultural, socio-economic, and religious background."[27] The methodological approach to studying ethical issues in sport can vary depending on the theoretical framework established and the topic that one seeks to analyze.

To analyze the moral acceptability of Olympic eligibility rules, one must address the claimed universality of Olympic values and ideals. Philosopher J. L. Mackie argues the cultural relativist position that "there are no objective values,"[28] and philosopher Paul Taylor argues that every "society has its own view of what is morally right and wrong

and these views vary from society to society because of the differences in their moral codes."[29] To elaborate further, Taylor explains:

> Since every culture varies with respect to its moral rules and standards, and since each individual's moral beliefs – including his inner conviction of their absolute truth – have been learned within the framework of his own culture's moral code, it follows that there are no universal moral norms. If a person believes there are such norms, this is to be explained by his ethnocentrism, which leads him to project his own culture's norms upon everyone else and to consider those who disagree with him either as innocent but "morally blind" people or as sinners who do not want to face the truth about their own evil ways.[30]

Relativists argue that a person "who uses the norms of one society as the basis for judging the character or conduct of persons in another society is consequently in error,"[31] because no society's framework is superior to another's. In rejecting this position, I take the position that societies do not vary so significantly in their interpretations of right and wrong actions to preclude discussion of universal moral values.[32]

In response to claims that morality is socially constructed, counterarguments maintain that cultural relativism is self-defeating and illogical because if one accepts that relativism is true then the statement that relativism is false must also be true. In this vein, philosopher Jim Parry argues:

> [relativism] is a theory that claims that there are no cross-cultural truths. But we can ask, does relativism apply to itself? If so, relativism is not true (because it says that there are no cross-cultural truths, so relativism is just a cultural practice of Western anthropologists, with no claim to truth and therefore nothing to say to outsiders). So even if relativism could be true, it would make itself false (or, at least, merely relative). But relativism cannot be true, since it claims that there is no such thing as truth.[33]

Furthermore, as philosopher James Rachels discusses, "relativism would not only forbid us from criticizing the codes of *other* societies; it would stop us from criticizing our *own,*"[34] which would render all critical reflection futile. Often, disagreement rests at the level of beliefs, not values, and further specification of a belief enables interlocutors to

find common ground. Philosopher Peter Singer's explanation that from a moral relativist view there is "no way of moving outside the morality of one's own society and expressing a transcultural or objective moral judgment about anything, including respect for the cultures of different peoples"[35] reinforces Rachels' remarks on relativism and helps show the concept behind the idea is self-defeating.

Relativists reject the realist idea that principles can be justifiable and universal. A similar concept, philosophical scepticism, goes one step further and "denies that we can know whether ethical beliefs or claims are justified or whether some are more reasonable and more defensible than others."[36] This view goes beyond ordinary scepticism, which involves being wary of accepting unsupported premises and conclusions. From a relativist point of view it is impossible to evaluate any act as right or wrong:

> when a normative ethical relativist says that moral norms vary from society to society, he does not intend merely to assert the fact that different societies have adopted different norms. He is going beyond descriptive relativism and is making a normative claim. He is denying any universal validity to moral norms. He is saying that a moral standard or rule is applicable only to those who are members of the particular society which has adopted the standard or rule as part of its moral code. He therefore thinks it is illegitimate to judge the character or conduct of those outside the society by such a standard or rule.[37]

This perspective is in contrast to Rachels' argument that all societies will have some moral rules in common.[38] The Olympic Games serve as an example to illustrate Rachels' argument. One could argue that in international sports the similarities among cultures far outweigh the differences. Sport is an area with considerable overlap between cultures due to the acceptance of systems of codified rules by all participants in order for a game, or any sport on the Olympic program, to take place. In the next chapter, I will examine universal moral values associated with the Olympic movement.

Philosophers who support the idea of universal ethical theories "engage in ethical inquiry and argument to see whether the best reasons support their view rather than to accept it merely because it is the view of the group to which we belong."[39] In doing so, one can reach his or her own decision, independent of the beliefs one learned as a child, by reflection to decide "whether to act in accordance with them, or to go against them."[40] Furthermore, philosopher W. D. Ross suggests critical reflection and thought serve to help people determine what the good and the right involve. He equates critical thought to scientific data with the argument that "the moral convictions of thoughtful and well-educated people are the data of ethics just as sense-perceptions are the data of a natural science."[41] Moreover, Singer suggests that when we engage in critical reflection we are "thinking about what principles we should follow at the everyday level."[42] Critical reflection is necessary in order to perform a critical analysis of an ethical issue in sport.

In following the tradition of philosophical writing, throughout this dissertation I will look at eligibility rules in the Olympic movement using a critical analysis. William Graham Sumner warned of the dangers of uncritical thought over one hundred years ago, and in doing so motivated logicians, philosophers, and scientists among others to adopt a critical outlook in their research. His warning that critical analysis is needed to "guarantee against delusion, deception, superstition, and misapprehension of ourselves and our early circumstances"[43] is still applicable today. A critical analysis involves scrutinizing an issue or a source of information to determine if the argument(s) put forth by the author(s) in support of a conclusion are both logically sound and valid in addition to being descriptively accurate and comprehensive of the issue. Determining an argument's validity and soundness requires knowledge of formal and informal logic.[44]

Logicians describe premises as either true or false. However, the binary and mutually exclusive categories 'true' and 'false' do not accurately account for the grey areas or partial truths that commonly occur.[45] Hence, the terminology 'acceptable' and 'unacceptable' is often used rather than the stricter notation of true and false. Sometimes it is only possible to accept a premise provisionally; in these cases, the conclusion can only be accepted provisionally as well.

Performing a critical analysis of a topic enables a researcher to evaluate arguments from people with different points of views and perspectives in a more objective manner. Philosophers seek to gain understanding by considering all possible valid and sound arguments with an open mind, and accepting that alternative positions that deviate from one's intuition can be superior. A comprehensive understanding of the issue as a whole, not simply its scientific or economic aspects, for example, is needed to offer morally acceptable recommendations and determine the position that an individual or organization ought to hold in order to come closer to uncovering and understanding how something ought to be.

Comprehensive understanding of an issue comes from discerning and appreciating the concepts and notions that inform a topic under investigation. Kretchmar argues that ethics is always in debt to metaphysics, noting "metaphysical understanding must precede ethical prescriptions."[46] According to Kretchmar, prior to examining any ethical issue in sport, one must first acknowledge and address the metaphysical foundations in sport that underpin the issue. For example, one must understand what rule breaking involves before one can argue why rule breaking is wrong and how rules ought to be revised.[47] Philosopher Angela Schneider applies Kretchmar's work in arguing that

"understanding the notion of fair play in sport, requires at the outset an understanding of the nature of sport and its relations to games and play."[48] Further corroboration of this view comes from Loland's observation that a "focused normative analysis requires some conceptual groundwork,"[49] and Meier's remark that "it is reasonable to contend that applied concerns in various disciplines can only be addressed after substantive philosophical foundational work has been completed."[50]

The resulting implication for this dissertation is that sound knowledge of the function and goals of the IOC and the rules contained within the *Olympic Charter* is required before beginning any type of moral evaluation of the acceptability of the rules governing Olympic eligibility.[51] The same rationale has been put into practice by the Fédération Internationale de Volleyball (FIVB), which explains in its *Rules of the Game Casebook* that referees require extensive knowledge of the rules and how to apply them before refereeing a game because successful refereeing requires "full acquisition of the fundamental principles of formulation and application of the rules."[52] However, the focus of this thesis is not on the physical and metaphysical foundations of sport. Although I acknowledge the importance of the issue, as described by Kretchmar, Schneider, Loland, and Meier, I defer to the work on the metaphysical foundations of sport expounded in the *Journal of the Philosophy of Sport.* I will not attempt to address the foundational issues of epistemology and metaphysics in this dissertation. Nonetheless, a deep respect for the importance of this issue underpins my analysis.

A further consideration that requires discussion here is the problem of bias and fallacies in arguments. Recognizing biased and fallacious reasoning is an important part of any philosophical examination; thus, "while no litmus test has yet been devised that

would detect all biased or otherwise narrow thinking, we must be forever vigilant in looking for parochial recommendations and then rejecting them."[53] Understanding of the naturalistic fallacy, in particular, is pertinent for this dissertation. Identified by philosopher G. E. Moore in his famous 1903 book, *Principia Ethica*, in which he discussed the "is-ought" problem, the naturalistic fallacy states that evaluative conclusions cannot be drawn from factual premises.[54] In the context of evaluating the acceptability of auxiliary rules in sport, Morgan's warning regarding this type of fallacy must be taken into consideration:

> any judgment that moves from what the basic nature and point of sport is to a judgment about how sport should be treated is to be roundly rejected on logical grounds, because one cannot deduce a moral "should" from premises that contain nary a single "should."[55]

Throughout this dissertation, this concept will be taken into consideration and applied in evaluating arguments and applying moral theories.

Using a mixed ethical framework, applicable concepts, perspectives, and insights stemming from a number of traditional, distinct theories can be combined in a pragmatic way to evaluate specific ethical issues in sport. In advocating for a mixed ethical theoretical approach, philosopher William Frankena noted the strengths and weaknesses of several common moral theories. He argued that deontological theories, which focus on intentions, respect people in an admirable way but fail to give similar levels of importance to promoting the good. On the other hand, egoistic theories focused on promoting the good at the expense of respecting other human beings led him to conclude that neither egoistic nor deontological theories alone can provide the framework necessary to analyze applied ethical issues in sport.[56] Combining aspects of both with other approaches can be more productive.

Frankena's ideas are prevalent in Loland's work and both philosophers maintain that consequentialist considerations are very important in analyzing ethical issues in sport, but are not the only central concerns. Loland supports the use of non-consequentialist constraints in a mixed ethical theory to unite consequentialist considerations with respect for persons and justice.[57] Similar to the approach Loland used to evaluate fair play, in this dissertation I will use a combination of theories to evaluate eligibility rules in Olympic sports.[58] While Loland combined "a consequentialist norm inspired by utilitarianism and a non-consequentialist norm for justice"[59] in his methodological framework, the framework I will use includes Loland's two components plus the addition of a liberal feminist perspective that recognizes the importance of equity, desert,[60] and intentions.

Governing bodies in sport often investigate issues surrounding fair play, doping, and cheating using frameworks based on consequentialist moral theories. For example, the World Anti-Doping Agency (WADA) and the Court of Arbitration for Sport (CAS) both function under the auspices of consequentialism by basing decisions and evaluations on direct evidence and proof of misconduct rather than on an athlete's character or intention. Sport governing bodies such as the CAS and WADA make rulings based on the evidence with which they are presented. Evaluating actions based on an individual's intentions is notoriously difficult in the sporting context because one can only speculate on the intentions of athletes and officials, and one cannot know if an athlete speaks honestly about his or her intentions or is being deceptive. In addition, good intentions are not an explicit requirement for participation in sport. Making the athlete accountable for any banned substance or method detected in his or her body draws on consequentialist

considerations, as a positive test result is a tangible consequence of an athlete's consumption, either by choice or by inadvertent use, of prohibited practices and methods. Basing anti-doping policies on deontological theories or virtue ethics alone seems inappropriate due to the inherent difficulties involved in judging an accused athlete's intentions or character in a fair and informed manner.[61] As officials associated with the CAS act as judges in sport and render the final decision on athletes' continued eligibility to compete, a method of ensuring that the rules and policies implemented are morally acceptable is required. Before discussing why the study of sport aligns itself well with a framework that includes the consequences of actions and rules, some background information on the theory of consequentialism is required.

Consequentialist moral theories evaluate the moral acceptability of actions or rules based on the resulting consequences. Philosopher Thomas Hurka defines consequentialism as theories that "identify some states of affairs as intrinsically good, and characterize the right action in terms of the quantity of good it produces."[62] Several contemporary philosophers, including Peter Singer, William Shaw, Michael Slote, Richard Brandt, and Shelly Kagan, have attempted to refine consequentialism to make it more applicable to life today than the traditional accounts provided by Jeremy Bentham, John Stuart Mill, and Henry Sidgwick.[63] Although consequentialist moral theories do not automatically emphasize the intentions of athletes, the nature of sport, considerations of justice, or an athlete's right to privacy and autonomy, they are useful tools in evaluating ethical issues in sport and can be used as part of a mixed ethical framework when performing a critical analysis of an applied ethical issue in sport.

The most well known consequentialist moral theory is utilitarianism, which defines the good in terms of happiness or utility, as opposed to justice or any other mode of measuring the consequences of actions. Utilitarian theories invoke a "fluid, flexible, and situational approach to behaviour as long as the end result is worthy of the claim that the greatest good was achieved."[64] Classical utilitarians Bentham, Mill, and Sidgwick considered the good to be the overall happiness or utility produced by an action; they thought actions were either right or wrong depending on the outcome, namely, if the consequences produced contributed to maximizing the good. According to Sidgwick, utilitarianism can be described as the "ethical theory, that the conduct which, under any given circumstances, is objectively right, is that which will produce the greatest amount of happiness on the whole."[65] Drawing on Sidgwick's theory, William Shaw proposed a simpler description: "an action is right if and only if it brings about at least as much net happiness as any other action the agent could have performed; otherwise it is wrong."[66] Many consequentialist moral theories, including Shaw's, incorporate considerations of welfarism and well-being in addition to consequences, which leads to the classification of this type of theory as utilitarian. However, one could describe many different types of consequentialist moral theory by replacing 'happiness' in Shaw's definition above with welfare, justice, or equality and substituting 'actions' with desert, rules, or laws.

Consequentialist moral theories come in many forms and variations. Recent attempts to fine-tune the theory of consequentialism have produced theories that are subjective or objective, direct or indirect, maximizing or satisficing,[67] and based on acts or rules. However, these theories have in common the stipulation that the moral worth of an action depends on whether the consequences of that action bring about more good than

the consequences of alternate actions. While consequentialist moral theories vary depending on the conception of the good utilized, adopting the common utilitarian motto that an action is good if it produces "the greatest good for the greatest number" enables one to determine the moral acceptability of an act, action, or rule by calculating the net aggregate of 'good' that each possible alternative produces. One should then perform the action that produces the greatest good for the greatest number.[68]

Singer's support of utilitarianism as a moral theory stems from his interpretation that the theory serves as a practical way of evaluating human actions.[69] Frankena is sympathetic to utilitarian theories for similar reasons. In Frankena's view, utilitarianism balances respect for other people with promoting the good:

> What could be more plausible than that the right is to promote the general good – that our actions and our rules, if we must have rules, are to be decided upon by determining which of them produces or may be expected to produce the greatest balance of good over evil?[70]

Frankena's conception of rule-utilitarianism, specifically, involves reflecting on "which rules will promote the greatest general good for everyone."[71] Rule-consequentialists consider the good in terms of the consequences that result from following a rule. Accordingly, a rule is right if it brings about at least as much net good as any other rule the agent could have followed; otherwise it is wrong and a different rule ought to have been implemented and followed. Evaluating the consequences of rules in sport using the theory of rule-consequentialism seems appropriate since sport is based on a system of rules that define the game and specify the actions participants must follow. I will address the fact that not all rules in sport are moral rules in the literature review below.

Any theory of the right or good that focuses on rules and rule-following is subject to claims of the difficulties and inappropriateness of determining the moral worth of an act based on a system of rules. Frankena addresses this concern, pointing out:

> prevailing rules are generally literal, negative, and conservative, not affirmative, constructive, creative, or adaptable to new situations. The most serious objection, perhaps, is the fact that the rules of a society, even its so-called moral rules, may be bad, immoral, or wrong, being unjust or unnecessarily impoverishing of human life.[72]

Philosopher Thomas Scanlon's work addresses this issue, as he suggests that considerations of fairness and equality can be built into a consequentialist theory by requiring that "in evaluating states of affairs to be promoted, we give equal consideration to the interests of every person."[73] Furthermore, philosopher Philippa Foot, who is known for her work on virtue ethics, considers consequentialist theories' focus on consequences to be both the appeal and downfall of the theories.[74] Foot argues that rule-utilitarian theories are flawed because "surely it will be irrational, we feel, to obey even the most useful rule if in a particular instance we clearly see that such obedience will not *have the best results*."[75] Rule following hardly seems morally acceptable if the rules one follow are immoral, or if one's preferences are evil, anti-social, dangerous, or coerced. A further criticism of consequentialist theories, and utilitarianism specifically, is John Rawls' opposition based on utilitarianism's failure "to take seriously the separateness of persons,"[76] and its placement of the good as more important than the right.[77] The lack of emphasis placed on justice is another notable criticism of consequentialist moral theories. Philosopher Fred Feldman makes a case for including considerations of justice within a consequentialist framework because "sometimes, because of its injustice, the best outcome is not the one we ought to produce ... the greater value might arise, on [a] new

axiology, from the amount of justice in the consequence."[78] In the context of sport, Feldman's idea receives support from the distinction between a good win and a bad win. For example, the amount of good produced from a just and deserving win, known as a good win, seems intuitively greater than the good produced by an unjust or bad win, which occurs when the winning team wins because of poor refereeing, cheating, or despite its inferior skills.[79]

It is not my intention to show in this dissertation that rule-consequentialism, or any other particular conception of consequentialism, is the superior ethical theory, when countless philosophers continue to debate ethical theory at the meta-ethical level. Despite the criticism consequentialist moral theories face, I consider rule-consequentialism an appropriate theory to use in framing and evaluating the auxiliary rules of sport as a component of a mixed ethical framework. As Foot has convincingly proclaimed, "utilitarianism tends to haunt even those of us who will not believe in it. It is as if we forever feel that it must be right, although we insist that it is wrong."[80] In the same vein, Judith Jarvis Thompson's avowal that utilitarianism "keeps on reappearing, every spring, like a weed with a long root,"[81] demonstrates the widespread grasp and persistence of consequentialist thinking despite the remaining problems associated with these theories. Together these statements demonstrate consequentialist theories' intuitive appeal and worth as a component of a mixed ethical framework for studying applied ethical issues in sport.

To assess the consequences of rules governing Olympic sport, one must take into account not only how a rule will affect the athlete following the rule, but also how each rule will affect the other athletes and competitors, the officials and judges, the athlete's

family and friends, the fans and sponsors of the sport, and anyone else involved in sport. Clearly, calculating all of the consequences will be challenging. Examining the consequences produced if Olympic eligibility rules that are deemed problematic were modified, compared to their remaining the same, will enable me to evaluate Olympic eligibility rules from a rule-consequentialist perspective infused with relevant discussions from the literature on rights, justice, and equality.

A central criticism of moral theories is that mainstream philosophy, in the past, was neither neutral nor applicable to people who were considered 'irrational' in many theories; in other words, people who were not affluent, white males with power. Many theories require a reader to think of people as independent agents instead of as human beings who place great importance on their relationships with family and friends. In reality, human beings do not function as autonomous agents in the way deontological theories presuppose; instead, humans form relationships with others and take selected other people's best interests into consideration when determining their own.[82] Feminist frameworks recognize these oversights and flaws in traditional moral theories and challenge the conventional conceptions of autonomy and objectivity in research.[83]

Feminist philosopher Barbara Humberstone questions the traditional understandings of objectivity in research, noting that knowledge resulting from research "becomes acceptable/unacceptable, valid/invalid depending upon whether it 'fits' with the values, assumptions and ideologies of those in a position to legitimate its credibility."[84] Humberstone asks what counts as knowledge, how we determine that knowledge is valid, and which groups of people benefit from any knowledge produced.[85] As the elite sport world remains, arguably, one of the last bastions of patriarchal

governance, and one of the last widely accepted, gender-segregated social activities, it is important to ask questions of this nature in any study of sport, particularly studies examining equality in the Olympic movement.

Feminist perspectives do not impose particular prescriptive values,[86] but feminist perspectives applied to sport generally follow two broad forms.[87] Liberal feminist and radical feminist perspectives are the most prevalent in sport studies, with Marxist feminist frameworks used sparingly as well.[88] The liberal feminist approach involves reworking existing moral concepts to include women's and community experiences, whereas the radical feminist approach urges women to reject the predominantly male model of sport and create a new standard. Radical feminist outlooks are encompassed in Audre Lorde's famous observation that "the master's tools will never dismantle the master's house."[89] The mixed ethical framework used in this dissertation acknowledges the concerns with conventional theories associated with the liberal feminist perspective throughout each chapter. Doing so allows for a more comprehensive and realistic examination of eligibility requirements in the Olympic movement.

When the first modern Olympics took place in 1896, many medical professionals held the belief that intensive exercise was harmful to women. The rationale was that "women who diverted scarce physical resources from reproductive to productive pursuits risked permanent sterility."[90] Myths of this nature have long since been falsified and rejected, yet this achievement was not reached without struggle. Liberal feminist approaches sought, and continue to seek, gender equality with the acknowledgement that men and women are worthy of the same rights, respect, and treatment. Early proponents sought assimilation of women into a hegemonic male society in order to work and live

alongside men as equals.[91] Liberal feminists noted that women need female role models and encouragement to challenge the status quo because hundreds of years of subordination cannot be reversed overnight. However, feminist perspectives and approaches are not just about women's rights and freedom but also about the distribution of power within societies.[92] Approaches that acknowledge unequal power are relevant to studies of Olympic-level sport because men remain the predominant governors and gatekeepers of the Olympic Games.

Liberal feminists seek change through legislation and policy initiatives to ensure that women receive the same rights and benefits as men,[93] and that power is distributed evenly. Philosopher Michele Moody-Adams' work argues that feminist frameworks espouse the ideas that men and women are both vulnerable to misfortune, both deserve respect and concern, and that societies require a commitment to equality based on respect and concern not only directed at individuals but implemented systematically by social and political institutions.[94] In a similar vein, Gisela Bock and Susan James note that feminist discourse has focused on the meaning of the terms 'equality' and 'difference' since the 1980s, and they argue that the two terms continue to influence present and future interpretations of gender relations.[95] Bock and James contend that societies often treat ideas surrounding equality differently in the public sphere and the private sphere, which is problematic.[96]

In addition to equality, the mixed ethical framework I utilize in this dissertation acknowledges the role of formalist theories in discussions of rules in sport. The legal theory of formalism has had considerable impact on how philosophers view rules, not only in sport but also in its original application in the field of law.[97] In the philosophical

and legal literature, the term 'formalism' refers to making decisions based on following rules. Formalism is thus the view that rules restrict the choices available to a decisionmaker. Opposition to formalistic approaches to law and ethics "stems from denial that the language of rules either can or should constrict choice in this way."[98] As a result, legal philosopher Frederick Schauer argues, "insofar as formalism is frequently condemned as excessive reliance on the language of a rule, it is the very idea of decisionmaking by rule that is being condemned."[99] Schauer compares the concept of formalism to the concepts of liberty and equality, and describes all three as "pervasively indeterminate," because for all three concepts, "every application, every concretization, every instantiation requires the addition of supplementary premises to apply the general term to specific cases."[100] Formalism is critiqued not only for limiting or denying choice, but for focusing on the letter of the rule at the expense of the spirit of the rule. In legal language, this criticism corresponds to the idea that "the literal language of a rule does not serve that rule's original intent."[101] Accordingly, formalism involves the strict adherence to rules and the denial of choices not mentioned. Moreover, Schauer notes, acting formalistically "is to be enslaved by mere marks on a printed page."[102]

Proponents of formalism reject the idea that linguistic restraints can limit the options open to decisionmakers. Contextual cues people use in conversations, such as gestures, body language, and the inflection and pitch of voices, provide information that aid in understanding the message one tries to convey. Furthermore, Schauer points out, "[w]e frequently laud not history's rule followers, but those whose abilities at particularized decisionmaking transcend the inherent limitations of rules."[103] With respect to rules in sport, the resulting implication is that people who push the boundaries

of rules may not be cheating but instead may be interpreting existing rules in novel, and acceptable, ways.

Arguing against formalism in both law and sport, philosopher J. S. Russell contends that people assume "the rules that are laid down settle authoritatively the terms for cooperation and competition,"[104] and rules clarify what counts as permissible and impermissible conduct. Russell entertains the following claims:

> rules must have some core of agreed meaning if they are to have any use as guides to action. But because language is an imprecise instrument, the core of agreed meaning may break down.... So a rule like "Dogs must be kept on a leash in public spaces" may be vague in meaning and purpose. What is a "leash" or a "public space"? Is a 100-foot long bungee cord attached to a dog a leash? Is a shopping mall a public place? Does the rule mean that dogs may run free if they are simply attached to a leash that is not held by the owner? In answering these questions, uncertainties about meaning force us to consider the purpose or intent of a rule, which may, in turn, be vague.[105]

As Russell points out, accepting that rules effectively determine right actions and conduct from wrong is misleading and "obscures the untidiness of rules and institutions."[106]

When applied to sport, the theory of formalism holds that sports "can be defined primarily by reference to constitutive rules [and that the] goals or obstacles of the sport are defined by the rules and are unintelligible outside the context of rules."[107] Rather than rely on the formal rules of the game exclusively, Russell suggests using principles to help interpret rules and adjudicate sports.[108] Drawing on the philosophy of law literature, Russell proposes four principles:

1. Rules should be interpreted in such a manner that the excellences embodied in achieving a lusory goal of the game are not undermined but are maintained and fostered.
2. Rules should be interpreted to achieve an appropriate competitive balance.
3. Rules should be interpreted according to principles of fair play and sportsmanship.
4. Rules should be interpreted to preserve the good conduct of games.[109]

Russell's work is important for this dissertation because it contextualizes the scope that rules can cover and because it cautions against expecting the adherence to rules to solve all of the problems associated with an issue. In the upcoming analysis of Olympic eligibility rules in subsequent chapters, I will draw on Russell's four principles of adjudication rather than a formalistic reverence to the rules. I maintain that the rules in sport, specifically the rules found in the *Olympic Charter* and rulebooks of the IFs, are open to interpretation and that decisionmakers ought to focus on the spirit, not the letter, of the rules.

In summary, the methodology I will use to explore the moral acceptability of auxiliary rules in the Olympic movement includes a non-formalistic, liberal feminist perspective as part of a mixed ethical framework that relies heavily on rule-consequentialism while considering justice, rights, and moral desert in sport. This position acknowledges the plausibility of identifying universal, fundamental ethical values. Doing so will allow me to examine the eligibility rules that support and hinder the attainment of the Olympic ideals included in the *Olympic Charter*. The next section discusses the methods I will use to complete this research project.

Method

In several primary sources, the IOC and IFs impose auxiliary rules concerning Olympic eligibility that specify the pre-event conduct required of participants. The core of the research involved in this study is located in primary source documents published by these organizations, which contain the rules athletes seeking to compete in the Olympic Games must follow to compete. With the theoretical framework and plan of

action demarcated above, the next step involves identifying the Olympic values, ideals, and themes of auxiliary rules found in the *Olympic Charter* and rulebooks of the IFs.

The IF rulebooks explain how athletes can qualify for the Olympic Games and provide additional qualification standards and requirements above and beyond those set out in the *Olympic Charter,* which apply to all athletes and IFs regardless of the sport in which an athlete competes. The most recent update of the *Olympic Charter*, which has been in effect since July 2007, can be downloaded from the IOC's official Website of the Olympic Games. Relevant policy statements and discussions of rule changes by the IOC will also be analyzed. Examples include the minutes reported in Olympic historian Wolf Lyberg's edited volumes, *The IOC Sessions,* which summarize the meetings of the IOC and various IOC subcommittees;[110] the *World Anti-Doping Code*; and documents found in the *Avery Brundage Collection* and the *James Worrall Collection*, which are housed in the International Centre for Olympic Studies at the University of Western Ontario.

Research for this dissertation includes clarification and analysis of the Olympic ideals using primary sources from the IOC and secondary sources from scholars studying the Olympic Games. Particular instances of auxiliary rules found within the *Olympic Charter* and the rulebooks of the IFs are identified and organized by theme. As a pre-existing system of classifying auxiliary rules does not exist in the literature, it was necessary to perform a content analysis of the primary source documents to identify and describe themes of auxiliary rules.[111] The most relevant study on analyzing rules in sport involved a content analysis of the rulebooks of the basketball, ice hockey, and soccer IFs to determine if rules pertaining to injury prevention were mandated in the rulebooks and whether the documents specified officials' duties to keep sports safe.[112] In that study,

Lori Livingston and Susan Forbes tabulated the absolute number of rules related to player safety in the rulebooks of three IFs and then grouped the identified rules into categories using a framework attributed to Debra Shogan, known as rules taxonomy, which divided the rules into regulative and constitutive components.[113] I performed a similar content analysis in this study, but the focus here is not on counting the absolute number of auxiliary rules but rather on categorizing auxiliary rules present in the codes and rulebooks for critical analysis. As a result, in this dissertation I categorized the auxiliary rules found in the rulebooks of the IFs and in the *Olympic Charter* into themes to organize the rules into categories for further analysis.[114] To draw conclusions and make recommendations for improvement, I will analyze the moral acceptability of the rules falling under each theme identified in the analysis using the mixed ethical framework described in the previous section.

Secondary sources on rules, Olympism, equality, justice, and the nature and history of rules in sport complement the official policies and documents. Most of the secondary sources are philosophical in nature and can be found in philosophy journals, such as the *Journal of the Philosophy of Sport*. However, I also consulted sport-related literature from the fields of sociology, history, gender studies, and cultural studies. I evaluated arguments contained within these sources using the critical thinking techniques described above. The purpose of this evaluation was to determine if auxiliary rules in the Olympic movement contradict Olympic values and can withstand rigorous scrutiny in terms of moral acceptability. Doing so enabled me to analyze the philosophical arguments surrounding Olympic eligibility and make recommendations for improvement

where inconsistencies or inequalities were detected. The next section contains a discussion of the relevant literature that informed the research.

Review of Literature

Research on auxiliary rules in sport from a philosophical perspective is very sparse. With the exception of Meier's (1985) examination of auxiliary rules and, to a lesser extent, sport historian Wray Vamplew's discussion of the history of rules in sport,[115] few other authors have spent more than a few paragraphs addressing the auxiliary rules of sport from a critical perspective. An examination of the research literature on the rules of sports and games shows a well-developed body of work on the constitutive and regulative rules, and a hefty collection of philosophical essays and books on rule-following and the function of rules in societies. These sources are helpful in explaining how rules function and the authority that rules hold in different contexts, and information of this nature can inform a study on eligibility rules in the Olympic movement despite not addressing Olympic sports specifically. The purpose of this section is to present the key arguments and contributions from the sport and philosophy literature.

The rules of sport have several functions. As Schneider explains, the most basic function of rules in sport is "to indicate when and how testing starts as well as when and how it comes to an end."[116] Sports without rules cannot exist,[117] and rules are necessary for sports to develop. As Parry has noted, "the first task of an international federation, for example, is to clarify rules and harmonize understandings so as to facilitate the universal practices of its sport."[118] Emphasis is placed on clarifying rules because rules "define particular sporting activities, and collectively contribute much to saying what

sport in general is."[119] To introduce a sport to a population, the new players must understand the rules of the sport to partake in and enjoy the activity.

Several sport historians have attempted to trace the history of codified systems of rules for different sports. Historian Allen Guttman argues that sport rules emerged in eighteenth century England when the standardization of rules transformed spontaneous play into games,[120] following which the growth of competition encouraged the formation of standardized rules. Simple athletic events and blood sports, such as cockfighting, required rules to govern the competition after the popularity of events grew to the point where the social conventions that had previously governed the activity required clarification and specification. According to Vamplew:

> Claims that 'my horse or messenger is faster than yours', 'my bodyguard is tougher than yours' or simply 'I'm better at this game than you' inevitably led to stake-money challenges. Once this occurred, then rules had to be formalized to determine how the contest would be organized and decided.[121]

Thus, according to Vamplew's historical research, gambling had a considerable impact on the development of standardized sport rules and created a demand for rules of conduct for participants to follow.

The higher the stakes involved, the greater the demand grew to establish standardized rules for events. Motivating this need was the desire by both the people placing the bets and those organizing the bets to address loopholes and ambiguous regulations in the rules in order to prevent people from cheating.[122] While gambling had considerable influence on the development of systems of rules, other social, economic, and political factors also contributed to rule development in sport. Contributing factors included participants' and organizers' expectations of fair play and their desire to ensure their opponents followed the rules. The development of technology also helped extend

systems of rules because competitors needed to know whether new innovations were permissible or banned. In addition, legal disputes related to betting and cheating led to the demand for formal rulebooks.[123]

As early as 1743, a book outlining the rules for cockfighting was published in Britain, and by the 1820s governing bodies for modern sports had formed.[124] Most of the IFs that participate in the Olympic Games today were established in the late 1800s and early 1900s. As the rules of sport spread from local communities to surrounding regions, then eventually to neighbouring countries and empires, the popularity of particular sports flourished. The distribution of rulebooks to an increasingly larger number of geographical areas allowed the same version of sports to be played in national and international competitions.

The structural goal of sport, as argued by Loland, is to "measure, compare and rank competitors according to their performances," and rules are set to enable and facilitate the accomplishment of this goal in a fair and just way.[125] No matter how fair and equitable sport rules are, the desire for each contest to produce winners and losers exists; otherwise, all participants would finish in a massive tie, or luck and environmental influences would decide victories. Paradoxically, sports require athletes to perform actions in a fair and equitable manner with the hope of gaining an advantage over an opponent. The way in which the advantage is gained is important.[126] As Kretchmar has shown, "[w]e can't have everyone win and still retain the tension of contesting. There have to be losers, and losing has to matter if the drama is to engage us."[127] As a result, games in which competitors do not face a consistent challenge are flawed.[128] A major

function of rules, then, is to provide fair guidelines for determining a winner among the participants.

Few people would challenge Angela Schneider and Robert Butcher's argument that athletes "must accept the strange and sometimes arbitrary world the game creates," because "to play the game, the player must abandon the goals and concerns of the everyday world and take on the goals and rules of the game."[129] The rules of sport to which Schneider and Butcher refer are, for the most part, different than the moral rules that govern our daily actions and interactions. Participants in sport are free to opt out of a game at any time, whereas the same is not true of the laws of the land. Rules in sport "create a separation of the inside, i.e. the world of the game, and the outside, i.e. the world of unrestricted possibilities of actions."[130] However, similarities exist between rules in general and rules specific to sport. A common feature in discussions of rules is the idea that acceptable rules must apply to everyone equally and impartially. According to Arnold, rules in sport must "apply to all who can understand them and be responsible for their actions,"[131] and what applies to one athlete must apply to his or her competitors as well. Universality and impartiality are thus important components of rules in sport. The codification of a game's constitutive and regulative rules contributes to creating universality and impartiality. Moreover, understanding the "compulsion to adhere to the rules of a game" can "illuminate the nature of morality and moral discourse."[132]

Constitutive rules, which define a game and distinguish a particular game from other games, "provide the very possibility of a game or sport occurrence,"[133] and "define what it means to win."[134] Furthermore, these rules "invent or create a unique conceptual framework that makes up or defines the fundamental aspects of, and determines exactly

what it entails to engage in, a particular sport or game."[135] Constitutive rules are both prescriptive and proscriptive, and serve to specify the acceptable and unacceptable means a participant can use to achieve the goal of the game.[136] In this vein, Fraleigh points out, "constitutive rules specify in advance the special area of the sports contest, its duration, the specific state of affairs to be achieved by contestants or the prelusory goal, and the means used to achieve that goal, or lusory means."[137] Examples of constitutive rules include the size of field, the acceptable equipment participants can use, and what actions will lead to penalties.[138]

One must not confuse constitutive rules with strategic rules or guidelines that participants follow in order to maximize their performances. Simon explains the difference between constitutive rules and rules of strategy, noting that strategic rules only refer to "how to play the game well," whereas constitutive rules "determine what counts as a permissible move within the game itself."[139] Rules of strategy are similar to what Suits described as "rules of skill," which function "*within* the area circumscribed by constitutive rules."[140] Rules of skill include rules that act as directives in order for an individual to obtain an end or goal, such as keeping one's eye on the ball while batting in baseball, whereas rules of strategy involve using tactics appropriately. While breaking constitutive rules prevents one from playing the game in Suits' view, breaking a rule of skill usually only causes the athlete to perform poorly.[141] Thus, as Meier argues, rules of strategy and skill are morally irrelevant, because these rules "are nonbinding in any formal or legalistic sense."[142] Rules of skill and strategy are thus more appropriately conceptualized as guidelines for playing effectively because these types of rules, which

are "adopted or followed as a means to an end, in order to 'accomplish a purpose' or 'get a job done'"[143] are suggestions for maximizing performance.

The rules that specify the penalties that participants face as a consequence of violating a constitutive rule are known as the regulative rules. Regulative rules apply when an athlete is engaged in a sport, and "what is typically regulated is any advantage [athletes] seek to gain by contravening the rules."[144] Rules of this type "regulate pre-existing activities that exist logically independently of the rules,"[145] and "place constraints, restraints, and conditions upon activities that are logically independent of the process of competing."[146] Regulative rules also "facilitate the realization in practice of the constitutive rules,"[147] and "speak to the unfolding lusory project, particularly when something goes awry."[148]

Meier explains that the distinction between constitutive and regulative rules in sport stems from Kant's discussions of constitutive and regulative principles and Searle's work on Speech Acts.[149] An absolute distinction between constitutive and regulative rules is not possible. Searle pointed out that breaking some constitutive rules does not lead to the imposition of a penalty because doing so produces a non-genuine instantiation of the rule-bound activity:

> Not all constitutive rules have penalties; after all, what penalty is there for violating the rule that baseball is played with nine men on a side? Indeed, it is not easy to see how one could even violate the rule as to what constitutes checkmate in chess, or touchdown in football.[150]

In response to Searle's discussion of constitutive and regulative rules, sport philosopher Gordon Reddiford adds, "certain commitments, for example to win, and certain values and satisfaction—all very intimately related to games play—are not, and could not be,

constitutive rules of a game."[151] Differences exist between playing a particular game and the institution of that game.[152]

Constitutive and regulative rules are often presented as bifurcated classes of rules without any overlap. As McFee explains, clearly separating the constitutive and regulative rules does not account for the similarities between the two sets of rules sufficiently.[153] Prior to McFee's discussion, Meier had argued:

> it is by no means clear that an absolute dichotomization may be supported. The behavior that violated one rule simply falls under another rule delineating a fixed penalty which was itself previously formulated specifically to handle such expected occurrences; thus, these rules are perhaps best viewed as extensions, or as a subset, of constitutive rules rather than as indicators of the termination.[154]

Loland adds to Meier's argument the idea that it is more accurate to view regulative rules as extensions of constitutive rules because regulative rules "presuppose a practice to regulate."[155] Loland thus conceptualizes the distinction between constitutive and regulative rules as a *prima facie* distinction that players need not think about when participating in a sport.[156] Indeed, even Searle, whose work motivated the use of the terms regulative and constitutive in sport, acknowledged the difficulty in distinguishing the two types of rules:

> I am fairly confident about the distinction, but do not find it easy to clarify. As a start, we might say that regulative rules regulate antecedently or independently existing forms of behavior; for example, many rules of etiquette regulate interpersonal relationships which exist independently of the rules. But constitutive rules do not merely regulate, they create or define new forms of behavior. The rules of football or chess, for example, do not merely regulate playing football or chess, but as it were they create the very possibility of playing such games. The activities of playing football or chess are constituted by acting in accordance with (at least a large subset of) the appropriate rules. Regulative rules regulate a preexisting activity, an activity whose existence is logically independent of the rules. Constitutive rules constitute (and also regulate) an activity the existence of which is logically dependent on the rules.[157]

Overlap is thus present between constitutive and regulative rules.

As Meier explains in "Restless Sport," a third category of rules, which he calls 'auxiliary,' exists in addition to the constitutive and regulative rules. The auxiliary rules of sport serve several functions and often address matters arising outside of the actual competition. Because auxiliary rules pertain to eligibility, training practices, and behaviours that are carried out prior to, during, or after a competition, these rules are "of a different color or nature entirely than constitutive rules and, as such, [have] *nothing whatsoever to do with the essence of sport*."[158] Thus, unlike the constitutive and regulative rules that apply during competition, auxiliary rules "place constraints beyond those specified for 'on the field' action."[159]

Auxiliary rules function as appendices to the constitutive and regulative rules of sport, because both constitutive and regulative rules "are silent on actions that occur 'off the field' as these rules do not specify permissible and prohibited means that may arise before, or after, a sport occurrence."[160] These rules "specify a number of extra lusory requirements that reveal certain aspects of the institution governing the game or the milieu in which the game takes place."[161] Examples of auxiliary rules that Meier identifies include rules related to: safety concerns; exposure to physical stress; empirical classifications such as age, sex, and weight; arbitrary restrictions implemented for social and political reasons; deliberate exclusions of groups or nations; limits on numbers of participants; uniform regulations; professional or amateur status; training hours or techniques; and, banned substances and methods.[162] Lumer considers rules of this nature "the law of the sports associations,"[163] because the governing body of the sport sets the rules to match its values and preferences. As a result, organizers can implement

discriminatory auxiliary rules to restrict a competition to certain groups and individuals and exclude others from participating.

Vamplew describes some attributes of auxiliary rules throughout the history of sport and demonstrates how auxiliary rules were used as a form of discrimination:

> There is nothing in the nature of sport itself that determines who can and cannot play. In the purest form of sport only self-exclusion should apply… Exclusion is a cultural creation specific to sports in a certain domain at a particular time. Consider women's football. Women can play soccer in Britain at both amateur and semi-professional level, but in many Muslim countries they cannot play at all. However, even in Britain, between the 1920s and 1970s they could not kick a ball on any ground registered with the FA, as its executive committee had decided to take a firm stance against female participation.[164]

Vamplew notes it is important to remember that when sports were developing, and codified systems of rules were being put in place, most rule-makers and participants were white, male members of the aristocracy who practiced sports in private, members-only clubs. Consequently, the majority of sport-governing organizations that emerged were far from inclusive and democratic, and membership was often contingent upon being a member of the 'appropriate' gender, race, and social class.[165] Given this context, the purpose of many auxiliary rules in the late 1800s, when the first IFs were forming, was to exclude all but amateur gentlemen from participating in the newly formed leagues and organized sports.[166] This function of auxiliary rules differs from current sports rules where the purpose of eligibility rules is not as clearly designed to effect exclusion or discriminatory policies as it was in the past. However, specific auxiliary rules require critical analysis to determine their acceptability in the Olympic movement.

Not all philosophers would agree with a call for examining discrimination in sport through the perspective of rules. McFee dismisses the study of auxiliary rules with the objection that one must adopt a formalist position to see the value in classifying rules in

sport.[167] In contrast, I believe there is ample practical value in examining the auxiliary rules of sport and regard McFee's disregard of auxiliary rules as a major flaw of his book. Rules that affect eligibility and inclusion are important from not only a philosophical perspective in understanding the structure of sport, but also from a social justice position that seeks to eradicate discrimination and exclusion in sport. Lumpkin, Stoll, and Beller argue, "every athlete desires to compete against opponents who have met the same criteria for playing"[168] and, as a result, participants must follow agreed-upon rules. Lumpkin *et al* propose an additional type of rule, which they term 'sportsmanship rules.'[169] These rules "preclude behaviors that place winning above everything else, including opponents' welfare and competition between equitable opponents," [170] in order to decrease violence acts in sport. Sportsmanship rules focus on virtuous behaviour and promote the spirit of the game but do not appear in a sport's rulebook; they are therefore not rules but optional guidelines for participating in sport.

The legal and philosophical literature is ripe with discussion of rules and rule-following behaviours. Genuine rules differ from rules of thumb with the distinction that genuine rules "provide in themselves reasons for acting," whereas rules of thumb:

> remind us of factors that are often normatively (legally, morally, prudentially) relevant. These factors must be weighed against others that may oppose them in given contexts, and the reasoning that takes place in those situations will consist not in simply applying the rules, but in whatever that weighting consists in.[171]

Genuine rules that make up the laws of society may, at times, seem arbitrary. In sport, arbitrary rules are accepted to enable participants to play a game. Many philosophers have argued that athletes are morally bound to the rules in sport because in agreeing to participate they tacitly consent to abide by the rules.[172] John Rawls' work can be used to

demonstrate the obligation athletes have to follow the rules of sport when they know their competitors have agreed to follow the rules:

> when a number of persons engage in a mutually advantageous cooperative venture according to certain rules and thus voluntarily restrict their liberty, those who have submitted to these restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission.[173]

People who view sports rules as moral requirements believe that when rules are implemented by governing organizations, such as the IOC, "participants are both 'legally' and morally bound by them" because "[n]ot to do so is to break with the condition to which all participants are tied."[174] Morgan explains this idea well:

> when participants in sport agree beforehand to abide fairly by the rules and relevant conventions of sport and not to tailor them to their own idiosyncratic interests and concerns, in other words, to apply those rules and conventions impartially to themselves as well as to their fellow competitors, they are acknowledging that the interpersonal relationships that bind them to one another in competitive sport are indeed moral ones they are mutually obliged to observe.[175]

Simon adds that cheaters fail to respect their opponents as persons when they choose to break or ignore rules their opponents expect them to follow.[176] Based on these arguments, one might consider some of the rules of sports to be moral rules for competitors because of the agreement one has either verbally agreed to or tacitly assumed to have taken by participating, which is comparable to the agreement one undertakes when making a promise.[177] Yet as Loland and McNamee argue, "the fact that adherence to a set of formal playing rules is logically necessary to realize a game, however, does not necessarily issue in moral reasons for abstaining from rule violations."[178] The constitutive rules of games are almost always morally neutral, but breaking a neutral rule can be morally problematic if the deliberate breaking of a rule harms someone who expects you to respect the rule.[179]

Sports are rule-governed practices, and participants expect to follow rules when playing a sport.[180] Athletes show respect for their sports by respecting the sports' rules,[181] but it is important to remember that not all rules in sport are good, just, or fair. As Lumpkin *et al* explain, "[t]he existence of a rule does not necessarily make it honest. Civil disobedience calls for violating a rule if it is unjust."[182] Rules in sport ought to be open for discussion and alteration pending critical analysis and reflection. Sports rules can be suspended, ignored, or discounted when harmful or dangerous situations arise, and players are always free to stop participating or boycott.[183] For example, an athlete can stop mid-race and drop out of the competition if he or she pulls a muscle and fears further injury from continuing; no one will force the athlete to continue even though walking off the track breaks a rule and disqualification results.

As discussed in the methodology section, a formalist account of sports centres on the claim that a sport is a set of rules that an athlete must follow in order to play the game. As philosopher Stephen G. Utz argues, rules in sport bear a resemblance to rules in law because they "require, forbid, and permit players of the game to behave in various ways as rules of law require, forbid, and permit people in society to behave in various ways."[184] Utz questions whether legislating an act as wrong makes it wrong if the act in question was accepted and considered morally permissible prior to the introduction of the legislation.[185] Kretchmar contributes to the discussion on the problems that can arise from relying on rules, and identifies several problematic aspects of rule-following. Uncertainty about when rules apply can occur, and conflict between two or more rules may result despite attempts to specify rules to avoid ambiguity. It might not be clear which rule trumps the others in cases of conflict. Moreover, rulebooks would have to

become increasingly detailed, bulky, and cumbersome to address every possible scenario.[186] McFee corroborates Kretchmar's position, arguing "whatever rules were set up (and however carefully), a situation could always be envisaged where either those rules were silent or where they produced an answer intuitively contrary to the *spirit* of the game."[187] Consequently, McFee rejects formalistic applications of rules in sport.

In sport, the application of formalistic thinking leads to the view that "a game is only a game if it is played in accordance with the formal rules of that particular game."[188] If one does not adhere to the rules of the game, then one is not participating in a valid game and therefore cannot win the game. Sport literature discussing formalism dates back to the mid-1970s and proponents of formalistic interpretations of sport include philosophers Edwin Delattre, Bernard Suits, and Kathleen Pearson.[189] The view that the rules of the game are inseparable from the goal is known as the logical incompatibility thesis among philosophers of sport, and according to this thesis, it is impossible to break a rule and play the game simultaneously.[190] If an athlete cheats and breaks a rule, he or she stopped playing the game at the moment he or she broke the rule because "if one cannot really win a game unless one plays it, and if one cannot really play a game unless one obeys its rules, then it follows that winning and cheating are logically incompatible."[191] Suits argued that it "is impossible to win a game and at the same time to break one of its rules"[192] because "to break a rule is to render impossible the attainment of an end."[193] It is logically impossible to win a game and cheat because the player who cheats fails to play the game at all in this view.[194] However, as philosopher Danny Rosenberg points out, an athlete who breaks an auxiliary rule, and is ineligible to

play according to the rules, can still play the game and fulfill the constitutive and regulative rules of the sport.[195]

Considerable disagreement surrounds the application of the logical incompatibility thesis in the philosophy of sport literature. Feezell has raised the objection that, "we can violate a variety of rules, strategically or otherwise, and still play the game."[196] Intentional fouls, also known as professional fouls, create controversy about whether a player who purposefully breaks a rule to help his or her team, expecting to be charged with the corresponding penalty, not only plays unfairly but also fails to play the game at all. Fraleigh argues that games allowing intentional fouls as part of the strategy to win are flawed.[197] Uncertainty surrounding how closely players must follow the rules contained with a rulebook in order to 'play the game' and avoid cheating stems from these concerns.[198]

Several philosophers reject both game formalism and the logical incompatibility thesis. Critics of game formalism contend that formalism is too abstract to apply to sport and that the theory ignores the social context of sports. Other disagreements stem from the belief that rules are written too ambiguously to apply correctly, that perfect adherence to the rules is required but impossible, and that the theory does not allow for the possibility of interpreting rules contextually.[199] To address these problems, several philosophers, including William Morgan, Sigmund Loland, and Fred D'Agostino, supplement formalistic theories of sport by adding considerations of the social context and ethos in which the sport takes place.[200] Loland argues that a fair game can occur in the presence of non-decisive rule violations, but if a rule violation influences the outcome of the game, then the game is not fair.[201] In rejecting the formalist position, opponents

argue that to understand a sport one needs to first understand the cultural and social context.[202]

An ethos-based approach to sport acknowledges the conventions and norms associated with the playing of a game in a specific area. Fred D'Agostino introduced the term 'ethos' of a game or sport to the philosophy of sport literature, and he used the term to refer to the rules and conventions that dictate how the formal rules are applied and interpreted in specific contexts.[203] A danger of an ethos-based approach to sport is the possibility of a society condoning an ethos that permits racism, homophobia, violence, or cheating, for example. Not all ethos of sport are morally acceptable. Loland questions whether any rule can be acceptable if the participants accept it, and states: "if the ethos of a sport tolerates a high number of rule violations, its rule system may lose clear meaning and no longer serve as a conceptual framework for a practice at all."[204] As a result, two teams that interpret a game differently may have difficulty competing against each other unless they establish shared norms, common ground, and a mutually accepted interpretation of the rules before the competition begins.

Reid has presented a convincing argument in favour of modifying the rules of sport to meet the needs of the participants, which includes the idea that "[b]eing a sanctimonious stickler for the rules may show respect for a kind of sporting law, but it is disrespectful to the people who make up the living culture of the game."[205] Reid's argument that rule-breaking is often tolerated to improve the game is supported by premises that are in line with D'Agostino's unofficial system of conventions for determining how the official rules of a sport apply, which provides an alternative to the formalist account of sports. Recognizing the ethos of a game or sport takes into

consideration the cultural and geographical nuances that exist among sports played around the world. D'Agostino's account does not require the Platonic requirement of an ideal game and allows for strategic fouling and rule violations that vary by geographical location. Most ethical issues arising in sport fall outside the range of the formal rules and can be understood more clearly using an ethos-based approach.[206]

How one should think about rules and what it means to follow a rule is a contested topic in the mainstream philosophy literature. Philosopher Karsten Stueber acknowledges that social theorists and social philosophers, such as Bourdieu, Dreyfus, and Searle, agree that rules do not explain individual's actions "because we cannot make sense of the idea of how rules can guide an individual's behaviour."[207] However, Stueber disagrees with this view and considers rule following "a second-order disposition to monitor one's behavior for its normative appropriateness."[208] Stueber's view helps clarify why it is wise to avoid dismissing rules and rule-following as sources of information on moral behaviours. Problems arise when the rules people follow are corrupt, not good rules, or involve fallacies. Adding to this idea, philosopher Paul Boghossian explains rules can be bad and cause irrational behaviours that might be "entirely correct relative to the rule that one is following."[209] Boghossian emphasizes the importance of ensuring that the rules people accept and follow are morally correct and defensible. This notion plays an important role in my subsequent analysis of the themes of auxiliary rules in force in the Olympic movement, particularly in determining if the rules are morally acceptable or if they ought to be revised to match the values and ideals that the IOC profess.

The distinction between the spirit and the letter of rules requires clarification. Fraleigh argues that the spirit of the rules cannot be conveyed in a standard rulebook. While the letter of the rule expresses in an explicit manner the substance of the rule, the spirit of the rule, as described by Fraleigh, "is the reason why the rule makers made that particular rule a constitutive rule."[210] The spirit of a rule incorporates the principles that motivate the rule.[211] In the context of fair play, the letter of the rule corresponds to the decision to obey the official rules whereas the spirit of the rule appeals to "the chivalrous respectfulness Coubertin had in mind."[212] Reducing sport to the uncritical adherence to the text contained within the rulebook ignores the spirit and ethos of a sport; moreover, it leaves little room for introducing innovative techniques. As Loland and Sandberg argue, "creative athletes introduce new movement patterns or techniques which lead to significant changes in the rules and practices of an activity."[213] Accepting rules or modifications of rules without critical reflection allows unacceptable rules to continue unchallenged.

Arnold cautions that if the rules of sport are based too heavily on contracts and the law, fair play then becomes synonymous with merely following the rules.[214] Supererogatory acts, where athletes go above and beyond what the rules requires them to do, such as yelling ahead to a competitor to inform him or her that he or she is about to go the wrong way in a running or skiing race, are not required if an athlete only follows the formal rules of the sport. Emphasis on the formal rules of the sport can lead to competitors doing merely as much as the rules require them to and nothing more. As a result, "compliance with the letter of the law may replace genuine care and concern."[215] Furthermore, Kretchmar cautions that the increasing reliance on creating and enforcing

codes is worrisome because it alludes to "a deeper problem with ethics in a society or culture."[216]

The literature on rules in sport demonstrates that rules not only contribute to defining sports and evaluating actions, but can also address

> the sporting and possibly social visions of the rule-makers … [and] their attitudes towards violence, equality, gambling, winning and losing and even race and gender. [Rules] matter because they can change when contemporary circumstances alter the context within which the sport is played.[217]

The rules governing the Olympic movement are very important in positioning the Olympic Games to live up to its reputed values and ideals. Chapter II addresses the values associated with the Olympic movement that the rules in the *Olympic Charter* and the rulebooks of the IFs are intended to maximize.

Delimitations

This study was deliberately narrowed to focus on the auxiliary rules in specific sports contested at the Olympic Games. Only the sports that are part of the Olympic summer or winter program were considered for analysis. Sports that have IFs recognized by the IOC but are not part of the Olympic program were excluded to reduce the number of sports and because scholarly work on several of the sports in this category is sparse. These restrictions left 53 disciplines containing more than 400 events, requiring a further delimitation to select a sample that included a manageable number of rulebooks and policy statements for analysis. I selected a representative sample of eight IFs that includes team and individual sports, winter and summer sports, and traditionally female and traditionally male sports, as well as sports not associated with a specific gender. To meet these criteria, I opted to analyze the auxiliary rules found within the rulebooks of the following eight IFs: 1) athletics; 2) volleyball; 3) boxing; 4) gymnastics; 5) ice

hockey; 6) biathlon; 7) luge; and 8) figure skating. The sports governed by these eight IFs serve as a representative sample of sports and have global appeal or, in the case of winter sports, appeal in the nations that compete.

In terms of the literature I consulted, only discourses related to rules, fairness, fair play, equality, universal values, and the Olympic Games found in the philosophy, history, and sociology of sport literature, as well as in gender and cultural studies resources, are included in my analysis. Sources consulted in this dissertation were restricted to scholarly journals, books, policy documents, and position papers from IFs and sports organizations, such as the World Anti-Doping Agency (WADA), the Canadian Centre for Ethics in Sport (CCES), the Canadian Association for the Advancement of Women in Sport (CAAWS), and so on. I did not consult archived newspapers because this project does not entail a historical analysis of rules in sport, but it instead focuses on the contemporary, philosophical literature and arguments about rules, fairness, and equality in the modern Olympic movement.

Limitations

Limitations associated with this project include the availability of resources and the lack of analysis of the practical application of auxiliary rules in terms of ethics in sport. The conclusions of this study are limited to the sports governed by the eight IFs selected for analysis because the findings might not be generalizable to the Olympic disciplines not analyzed in this dissertation. While I have access to many primary documents on Olympic rules through the IOC's official Olympic website (www.olympic.org), the Wolf Lyberg summaries, and the Avery Brundage and James Worrall collections available at the International Centre for Olympic Studies, I do not

have complete access to the records of decisions made by the IOC, the IOC executive committee, and the IOC subcommittees. This project is thus limited to rules and policies that have been made public or are available in the International Centre for Olympic Studies. In addition, this project is limited to sources written or translated into English and French. Documents appearing in languages other than English and French are thus categorically excluded from my analysis; however, as English is an official language of the IOC, all official documents are either published in or have since been translated into English. Secondary sources are limited to articles that appear in journals with wide distributions that appear in the databases Sports Discus, Pub Med, Philosopher's Index, and JSTOR.

Another limiting factor is that the literature on the Olympic ideals, goals of the Olympic movement, and the definition of Olympism are neither clear nor universally accepted. Throughout this project, I make clear my own understanding of these concepts but note that each one is contested and requires specification. In the same vein, the lack of a universally accepted, superior moral theory limits me to including the theories that I consider the most appropriate for the content in my theoretical framework without going deeper into the field of meta-ethics. Scientists and social scientists might contend that this project is limited by a lack of empirical data, interviews, or consultation with those who the auxiliary rules in the Olympic movement affect most: the athletes, coaches, and supporting personnel who are either selected to take part in the Olympic Games or barred from participation. However, it must be stressed that this topic is approached from a philosophical perspective and focuses on argument and policy evaluation through the

application of philosophical theories, notions and concepts, rather than other forms of qualitative or quantitative research.

Chapter Overview

In the remaining chapters of this thesis, I will demonstrate that several imposed auxiliary rules pertaining to an athlete's eligibility to compete at the Olympic Games are in opposition to the goal of promoting equality and fair play in sport, and I will suggest ways of eliminating unnecessary sources of inequality if any emerge in the analysis. Chapter II entails an examination of the Olympic movement, Olympic values, Olympic ideals, and Olympism. I will identify the Olympic values and ideals that will later be contrasted with the eligibility practices associated with the Olympic Games in this chapter. The third chapter involves the identification and analysis of categories of auxiliary rules through performing a thematic analysis of the *Olympic Charter*, rulebooks, and supporting documents. In Chapter III, I identify and group auxiliary rules into themes to determine the rules employed to restrict the number of athletes competing at the Olympic Games and to identify rules that require moral scrutiny and justification.

Chapter IV compares the Olympic ideals determined in Chapter II with the themes of auxiliary rules identified in Chapter III. In this chapter, I also examine the tensions involved in treating athletes as equals and adhering to official rules and policies. Chapter IV addresses the moral acceptability of themes of auxiliary rules concerning sex and gender categories; doping; citizenship; behaviour and dispute resolution; clothing and equipment; and minimum and maximum age requirements. The fifth and final chapter concludes my critical analysis of the auxiliary rules in the Olympic movement and draws conclusions from the analysis in the previous three chapters. In Chapter V, I analyze and

challenge auxiliary rules not supported by valid and sound arguments. Furthermore, I discuss strategies to modify or eliminate auxiliary rules that foster inequality and I address the difference between the letter and the spirit of Olympic eligibility rules. Suggestions for implementing positive changes and recommendations for future areas of study bring this dissertation to a close.

Endnotes

[1] Unless otherwise specified, in this dissertation the term 'Olympic Games' refers to both the Games of the Olympiad, also known as the Olympic Summer Games, as well as to the Olympic Winter Games.

[2] Bernard Suits, *The Grasshopper: Games, Life and Utopia* (Toronto: University of Toronto Press, 1978), 41.

[3] Bernard Suits, "What is a Game?" *Philosophy of Science* 34 (1967): 156.

[4] Suits, 1978: 36.

[5] Klaus V. Meier, "Triad Trickery: Playing with Sport and Games," *Journal of the Philosophy of Sport* 15 (1988): 13.

[6] Suits and Meier's contributions to these definitions appear in the *Journal of the Philosophy of Sport*. Suits proposed that sports involve the four elements of games plus the addition of four additional characteristics: 1) the involvement of skills; 2) the skills must be physical; 3) a wide following of the game must exist around the world; and 4) the following is persistent and stable rather than a fad. Suits later revised his position in 1988 and declared not all sports are games. Meier's convincing retort accepted Suits' conception of games, but rejected Suits' revision, to argue that all sports are games that involve physical skill but a wide and stable following is not necessary for a game to be a sport. See Bernard Suits, "The Elements of Sport." In *The Philosophy of Sport: A Collection of Essays*, ed. Robert Osterhoundt (Springfield, IL: Charles Thomas Publisher, 1973), 52-60; Bernard Suits, "Tricky Triad: Games, Play, and Sport," *Journal of the Philosophy of Sport* 15 (1988): 1-9; and Meier, 1988.

[7] Peter J. Arnold, "Sport as a Valued Human Practice: A Basis for the Consideration of some Moral Issues in Sport," *Journal of Philosophy of Education* 26, no. 2 (1992): 238. Similarly, Sport Canada's definition of sport emphasizes the role of rules, noting sports involve tactics and strategies between at least two people that require formal rules, specialized skills, and large amounts of difficulty and effort. See, Fidelis Ifedi, *Sport Participation in Canada, 2005* (Ottawa: Minister of Industry, 2008), 15. The requirement of "difficulty and effort" is similar to Suits' requirement of physical prowess, but neither is universally accepted by philosophers of sport. See Klaus V. Meier, "On the Inadequacies of Sociological Definitions of Sport," *International Review of Sport Sociology* 12, no. 2 (1981): 84.

[8] Warren Fraleigh, "Why the Good Foul is Not Good." In *Philosophy Inquiry in Sport*, ed. William J. Morgan and Klaus V. Meier (Champaign, IL: Human Kinetics, 1988), 268. These rules are also known as the prelusory goal, lusory goal, and goal of the game in the philosophy of sport literature.

[9] Frank McBride, "A Critique of Mr. Suits' Definition of Game Playing," *Journal of the Philosophy of Sport* 6 (1979): 49-52.

[10] Klaus V. Meier, "Restless Sport," *Journal of the Philosophy of Sport* 12 (1985): 64-77. However, some rules fit into more than one category.

[11] Meier, 1985.

[12] Rule 26 of the *Olympic Charter* stipulates the duties and responsibilities of an IF. Included in this rule are the statements, "statutes, practice and activities of the IFs within the Olympic Movement must be in conformity with the Olympic Charter, including the adoption and implementation of the World-Anti Doping Code. Subject to the foregoing, each IF maintains its independence and autonomy in the administration of its sport." Hence, the IOC gives itself the right to overrule IF decisions at the Olympic Games if an IF fails to follow the rules and regulations mandated in the *Olympic Charter*. See, International Olympic Committee (hereafter cited as IOC), *Olympic Charter* (Lausanne: IOC, 2007), 57.

[13] The *Olympic Charter* is published by the IOC and governs the Olympic movement. The latest version came into effect on July 7, 2007, and supersedes all previous editions.

[14] One could argue that the IOC does not embrace the principle of inclusion using its past record of deliberately excluding certain countries as evidence. Examples include the IOC's decisions to ban specific countries from participating in the Olympic Games, such as Germany after World War II, South Africa while the country supported apartheid, and Iraq in 2003 and 2008. I contend that while the IOC has used exclusionary practices many times throughout its history, the public image it promotes is one of ethics and values, even if this does not always match the reality of its actions.

[15] Olympic Games now involve upwards of 10 000 athletes competing for over 300 gold medals whereas the Ancient Games held at Olympia consisted of 14 events and attracted approximately 300 competitors. See, David Young, "From Olympia 776 BC to Athens 2004: The Origin and Authenticity of the Modern Olympic Games." In *Global Olympics: Historical and Sociological Studies of the Modern Games*, ed. Kevin Young and Kevin B. Wamsley (New York: Elsevier, 2005), 3-4.

[16] Cesar R. Torres, "Ethics and Olympic Games." In *International Olympic Academy Proceedings of the Fourty-fourth* [sic] *Session 23 May – 6 June 2004* (Ancient Olympia: International Olympic Academy, 2004), 132.

[17] Torres, 2004: 132.

[18] Several scholars would fervently disagree and hold other views. See, for example, Kevin B. Wamsley, "Laying Olympism to Rest." In *Post-Olympism? Questioning Sport in the Twenty-first Century*, ed. John Bale and Mette Krogh (New York: Berg, 2004), 231-250. See also Dwight H Zakus, "The International Olympic Committee: Tragedy, Farce, and Hypocrisy," *Sociology of Sport Journal* 9 (1992): 340-353.

[19] Meier, 1985.

[20] See, Sigmund Loland, *Fair Play in Sport: A Moral Norm System* (New York: Routledge, 2002) and Graham McFee, *Sport, Rules and Values: Philosophical Investigations into the Nature of Sport* (London: Routledge, 2004).

[21] See, Lori Livingston and Susan Forbes, "Rule Modification and Strict Rule Enforcement as a Means of Reducing Injury in Invasion Games?," *Avante* 8, no. 3 (2003): 12-20. For an exception, see Danny Rosenberg, "The Concept of Cheating in Sport," *International Journal of Physical Education* 32, no. 2 (1995): 4-14.

[22] R. Scott Kretchmar, *Practical Philosophy of Sport and Physical Activity* (Champaign, IL: Human Kinetics, 2005b), 25.