OLYMPIC RULE 50 AND POLITICAL NEUTRALITY: IS IT TIME FOR A TURNING POINT?

Abstract - Since 1955 the Olympic Charter (OC) declares that there must be no extraneous events within the Olympic Games (OG), in particular of a political nature. The so-called Rule 50 has banned the use of the Games to externalize one's ideas. Its infringements were mostly due to symbolic behavior by athletes who were then punished despite demanding respect for fundamental human rights trampled on in many regions of the world. The first question this essay poses is: is the rule an unjustified impediment to acting for just cause? Recent international political events and in particular the Russian-Ukrainian armed conflict have sparked renewed interest in the declared apolitical and neutrality of the Olympic Movement (OM) and its effectiveness in promoting peace and achieving the goals of Olympism. The second question of this essay is: is this positioning always reconcilable with real events? It will be concluded that the current rule 50 adheres to the rules of international law while neutrality should be rethought and sacrificed if it makes the pursuit of the objectives of peace and justice less effective. The two issues are independent but can act in complementary ways to pursue legitimate objectives of the OM.

Keywords: Olympism; rule 50; neutrality.

REGRA OLÍMPICA 50 E NEUTRALIDADE POLÍTICA: É HORA DE UMA VIRADA?

Resumo - Desde 1955, a Carta Olímpica (CO) declara que não deve haver eventos estranhos nos Jogos Olímpicos (JO), em particular de natureza política. A chamada regra 50 proibiu o uso dos Jogos para externalizar as ideias de alguém. As violações foram, principalmente, devido ao comportamento simbólico de atletas que foram punidos, apesar de exigirem respeito por direitos humanos fundamentais que foram transgredidos em muitas regiões do mundo. A primeira pergunta que este ensaio coloca é: a regra é um impedimento injustificado para agir por uma justa causa? Eventos políticos internacionais recentes e, em particular, o conflito armado russo-ucraniano despertou um interesse renovado na declarada apolítica e neutralidade do Movimento Olímpico (MO) e sua eficácia na promoção da paz, alcançando os objetivos do Olimpismo. A segunda questão deste ensaio é: esse posicionamento é sempre reconciliável com eventos reais? Concluir-se-á que a atual regra 50 adere às regras do direito internacional enquanto a neutralidade deve ser repensada e sacrificada caso torne menos eficaz a prossecução dos objetivos de paz e justiça. As duas questões são independentes, mas podem agir de maneiras complementares para buscar objetivos legítimos do MO.

Palavras-chave: Olimpismo; regra 50; neutralidade.

LA REGLA OLÍMPICA 50 Y LA NEUTRALIDAD POLÍTICA: ¿ES HORA DE UN PUNTO DE INFLEXIÓN?

Resumen - Desde 1955, la Carta Olímpica (CO) establece que no debe haber eventos extraños en los Juegos Olímpicos (JO), en particular de carácter político. La llamada Regla 50 prohibía el uso de los Juegos para exteriorizar las propias ideas. Las violaciones fueron, en su mayoría, por la conducta simbólica de deportistas que fueron sancionados a pesar de exigir el respeto a los derechos humanos fundamentales que fueron vulnerados en muchas regiones del mundo. La primera pregunta que plantea este ensayo es: ¿es la regla un impedimento injustificado para actuar por una causa justa? Los recientes acontecimientos políticos internacionales, y en particular el conflicto armado ruso-ucraniano, han despertado un renovado interés en la apolítica y neutralidad declaradas del Movimiento Olímpico (OM) y su eficacia en la promoción de la paz y el logro de los objetivos del Olimpismo. La segunda pregunta de este ensayo es: ¿es esta posición siempre conciliable con hechos reales? Se concluirá que la actual regla 50 se apega a las normas del derecho internacional mientras que la neutralidad debe ser repensada y sacrificada si hace menos efectiva la búsqueda de los objetivos de paz y justicia. Los dos problemas son independientes pero pueden actuar de manera complementaria para perseguir objetivos legítimos de MO.

Palabras-clave: Olimpismo; regla 50; neutralidad.

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I thank Professor Heather Reid for giving me the incentive to try to understand Olympism better.

Introduction – History of rule 50

Since 1955, the Olympic Charter (OC) establishes that to host the Olympic Games (OG): "Invitations must state that no political demonstrations will be held in the stadium or other sport grounds, or in the Olympic Village, during the Games, and that it is not the intention to use the Games for any other purpose than for the advancement of the Olympic Movement (p. 31)"[1] and furthermore "There must be no extraneous events connected with the Games, particularly those of a political nature. The loud speaker must be used for sport purposes only and no political speeches are to be permitted. In fact, there must be no commercial or political intervention whatsoever P. 34)"[1].

The 1974 Olympic charter established the exclusive use of the stadium during the Games with a ban on political meetings and demonstrations[2].

The possibility of athletes to express their ideas during OGs has been governed since 1975[3] by rule 55: "Every kind of demonstration or propaganda, whether political, religious or racial, in the Olympic areas is forbidden (p. 35)". This rule has changed over time and has become rule 50 of the current OC which, in paragraph 2, states: "No kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas (p. 94)"[4].

Some events or decisions concerning the expression of athletes during sporting events will be mentioned below. The selected examples, reported in chronological order, are intended to broaden the vision for subsequent analysis and discussion.

In the editions of the Olympic Games held in 1906, subsequently not recognized as an official edition, the athlete Peter O'Connor climbed a flagpole and waved the Irish flag which he brought to the podium three times. His gesture was a sign of protest as he could not compete for Ireland which did not have its own National Olympic Committee (NOC) and he had to formally compete as an English athlete[5,6].

During the Melbourne Olympics in 1956 the water polo match between Hungary and Russia took place and the Hungarian team captain, Dezso Gyarmati, refused to shake hands with the Russian one. An epic match began, culminating in a fight and subsequent suspension. The tension linked to the conflict between the two countries was evident[7].

In 1968 Tommie Smith and John Carlos raised their fists wrapped in black gloves to show solidarity with oppressed blacks around the world as they received their medals on the Olympic podium in Mexico[8].

In the same edition of the Games, the Czech gymnast Věra Čáslavská, awarded *ex-equo* with a Russian athlete, bowed her head and looked down in a 'silent protest' while, accompanied by the sound of the anthem, the flag of the Soviet Union was hoisted on the flagpole[9,10].

In 2012, the International Olympic Committee (IOC) warned that penalties would be imposed on athletes who refused to compete with other athletes of rival religion or nationality[11]. In the same year, the IOC decided that there would be no minute of silence for the commemoration of the Jewish athletes killed in the 1972 Munich terror attack[12]. In 2013, the possibility of proactive behaviors for the promotion of gay rights was excluded[13].

Ethiopian runner Feyisa Lilesa, at the arrival of the Rio 2016 Olympic marathon, with his gesture of showing his wrists crossed, reminded the world of the abuses of human rights in his country. After 2 years and many changes in Ethiopia, he was rewarded by the new government for contributing to the democracy process[14].

In 2020, a tragic event radically and probably permanently changed the activism of athletes: "Mr. Floyd died after being handcuffed and pinned to the ground by an officer's knee in an episode that was captured on video, touching off nationwide protests (w/p)"[15*]. Since that moment, the events of solidarity have multiplied and the gesture of kneeling, made for the first time by Colin Kaepernick in 2016 to express a non-verbal message of reverence, humility, and request for protection[16] was also carried out in the American Senate with the effect of being associated in particular with the protection of the rights of African Americans[17]. Gradually this gesture has spread all over the world starting from the football fields[18]. The first significant case of George Floyd's commemoration (albeit in the form of an inscription in the shirt shown by player Jadon Sancho to fans) took place during a Bundesliga match on May 31, 2020. Commenting on this gesture, the FIFA president Infantino gave his approval and esteem for a gesture of solidarity for a just cause[19]. Until then, all player behaviors aimed at bringing non-sporting problems to the field had been opposed. For this reason, the case

[*] The death took place in Minneapolis with effects that spread far beyond the American federal borders as will be highlighted below.

of George Floyd's death and the growth of the Black Lives Matter movement constitute a turning point in the discussion on the correctness of restrictions on athletes to express themselves on the competition field. The domino effect of what happened in football is in line with the evidence that football is a lens from which larger *glocal*[†] effects can be seen[20].

In the wake of these events and the pressures of athletes' organizations who declared that any obstacles to the possibility of demonstrating solidarity with anti-racist movements would be considered intolerable[21], the IOC has admitted moderate forms of expression on issues relating to the fundamental rights of the human person. The change in the interpretation of rule 50 was transferred to the "Athlete Expression and its recommendations to the IOC Executive Board (EB) (w/p)" [22].

On July 31, 2021, at the moment of the official photos that followed the award ceremony of the women's shot put of the Tokyo Olympics, the athlete Raven Sanders, who defines herself as the representative of the queer community and people with mental health problems[23], formed an X with his arms raised above his head. She herself indicated that the X represents the place of oppressed people[24]. Such behavior of an American athlete had been widely anticipated in communications to athletes from that country by USOPC CEO Sarah Hirshland[25] who recognized that "[…] their right to advocate for racial and social justice as a positive force for change aligns with the fundamental values of equality that define Team USA and the Olympic and Paralympic movements (w/p)". The statement followed that of the Team USA Council on Racial and Social Justice, of which John Carlos himself is a member. In December 2020, the Council ruled that "Rule 50 of the Olympic Charter and International Paralympic Committee (IPC) Section 2.2 […] violate athletes' rights to free speech and freedom of expression (p. 65)"[26]. On that occasion, a distinction was proposed between behaviors for the promotion of human rights and hate speech and racist and discriminatory propaganda[27].

That we are experiencing a time of great change is further demonstrated by the fact that, after the start of the conflict between Russia and Ukraine, the IOC has recommended athletes to join the solidarity campaign for peace[28] asking for their active behavior, even if not specifically detailed and thus leaving room for a new and broader

[†] Acronym for global + local.

interpretation of rule 50. As a consequence of the war in Ukraine, many athletes have turned to forms of refusal to compete or different forms of activism[26].

The events cited are signs of changes that have effects on the OM's intentions of dealing only with its own development and maintaining a neutral and apolitical position. For this reason, a different approach is urgently needed that takes into account the growing demand of athletes to exercise their freedom of expression and to promote their ideas with forms of activism.

The International Paralympic Committee also restricts the freedom of expression of athletes with article 2.2 of the IPC Manual and point 1.11 of the Code of Ethics prohibits the use of the Paralympic Games to promote any political agenda[29]. Further recommendations were also issued for the Tokyo Paralympic Games[30].

Why does rule 50 matter? Rule 50 as a means of maintaining the apolitical nature of the Olympic movement.

The recommendations on the IOC state that "The aim of Rule 50 is that each and every athlete can enjoy the experience of the Olympic Games without any divisive disruption (w/p)"[31].

This statement makes rule 50 a means not aimed at the self-realization of the OM, which declares itself to be non-political, but functional to third parties such as athletes, spectators and national Olympic committees.

Update of rule 50 - Study of the IOC Athlete Commission

The persistence and spread of phenomena related to racial discrimination makes the problem of freedom of expression current as a means of activism and contrast to what constitutes a serious obstacle to the realization of social justice and peace. Consequently, it has become urgent for the IOC to verify the positions held up to now regarding the activism of athletes in the context of competitions. With the premise of condemning all forms of racism[32], in June 2020 the IOC appealed to its Athletes Commission (IOC AC) in order to take into account, the athletes' point of view with regard to rule 50. Quantitative research was carried out through a questionnaire. An accurate protocol was used for sampling, the review of the questions and their cross-cultural translation, up to the interpretation of the results. The IOC AC used the advice of a law firm carrying out international activities to collect and exploit information with

the broadest possible approach to the laws relating to human rights, sports law and governance applicable to non-profit organizations‡. The questionnaire was administered online to 3547 athletes from 41 sports, representing 185 NOCs, of which 55% are Olympic athletes and the remaining 45% are elite athletes but who have never participated in the Olympics. The athletes were reached through information campaigns in order to promote their participation also by registering on the Athlete365 website. Through the site each received a link that can be used only once to complete the questionnaire, divided into 19 questions. The sample was broken down by gender.

The findings of the questionnaire indicate that over 40% of athletes believe that the best place to express their points of view is the Media, Press Conferences and the Mixed Zone. Only one out 7 athletes believe it is appropriate to express their ideas on the pitch, in ceremonies and on the podium. 2 out of 3 athletes believe that these venues are not appropriate at all and 40% of athletes believe that the claims of other athletes would detract from their Olympic experience. According to the sample, the choice of unified messages collectively agreed on specific causes could be the most appropriate way to promote Olympic values, also making use of distinctive signs such as bracelets and clothing to be produced with collective initiatives. The choice of email and social media is the option with which athletes are more open to express their opinions[33].

The IOC Athletes Commission[34] has provided its recommendations for ceremonies (with the possible introduction of solidarity and non-discrimination messages and with a new formula of the oath), to create opportunities for confrontation in the Olympic village and improve media campaigns. The recommendations also concern the safeguarding of the podium, the playing field and official ceremonies in line with most of the athletes' requests. The recommendations were endorsed by the IOC which actually changed the formula of the oath, launched awareness campaigns to increase the awareness and participation of athletes in the initiatives to promote the values of Peace, Respect, Solidarity, Inclusion and Equality[35]. It also initiated the modification of rule 50, the widespread dissemination of the guidelines for its application, for the consultation of athletes and the use of the tools for the protection of the Olympic Charter and the spraying of sanctions. Furthermore, a long list of observations and proposals by the various ACs on these specific issues was made (in

‡ This approach is consistent with the fact that the IOC is a private non-profit organization.

particular relating to behavior on the playing field, on the podium, in the Olympic village, the opportunities to participate in information and discussion activities and have suitable opportunities for communicating relevant messages). A new element has also been introduced that justifies the rule: athletes could be pressured to take a public position regardless of their personal beliefs, themselves becoming victims of interference and political exploitation[36,35].

The most relevant work from a regulatory point of view was the verification of the legal admissibility of rule 50, balancing different needs, in particular those relating to respect for fundamental human rights and above all to freedom of expression. The main prerequisite lies in the possibility of limiting an individual freedom in a legal, proportionate, temporary way and of achieving a legitimate goal. The prerequisites of this limitation are in the application of a rule (i) defined and clear, (ii) indicating the precise and legitimate objective of the restriction (which must be admissible by law), (iii) with clear conditions of applicability, which must be limited in space and time, with (iv) a constraint imposed by the strictly necessary law and not exceeding the achievement of the legitimate objective, and (v) with indications on how to handle any violations. The recommendation of the IOC AC is therefore to modify the rule so that it also formally meets all these pre-existing needs and in particular it has confirmed that the restrictions must be imposed in limited circumstances of time and space (podium, playing field, official ceremonies and for a period of a few weeks in a four-year period). The purpose of the rule is to privilege the sporting significance of events without afflicting athletes with problems other than sport, preventing athletes from being subjected to external pressure to expose themselves to issues that they may not want to publicly address. Furthermore, the aim is to prevent messages of incitement to hatred and discrimination, while also preserving public order and peace. To balance the specific restrictions so that the individual limitation is temporary and does not prejudice the effective use of rights, the availability of alternative opportunities for expression, such as press conferences, social media, mixed zone and organized meetings, must be ensured, also promoting collegial initiatives and shared forms of expression. Furthermore, the IOC AC specifies that preserving the apolitical nature of the OM does not mean demanding that athletes are also apolitical, confirming this approach precisely for the safeguarding of opportunities to exercise their prerogatives of freedom of

expression on political or other issues in distinct occasions from those of the moments and spaces for which they are absolutely forbidden. All of these measures should proportionally achieve the best protection for athletes and countries participating in the games. Furthermore, the rule leave room for the IOC to manage the actual difficulty of immediately discriminating between admissible and non-admissible manifestations and declarations, leaving this task to a judgement that is not under its own responsibility and that may fall on CAS (Court of Arbitration for Sport) or on the authorities and local government[36].

Hierarchy of Law Sources: is Rule 50 a Sporting Rule?

The IOC, like any other organization, is required to respect the hierarchy of sources with international conventions relating to the protection of human rights at the top. These include the Universal Declaration of Human Rights - UDHR, and regional conventions and charters such as the European - ECHR, American - ACHR, and African - ACHPR. The possibility of a temporary suspension of the individual's fundamental rights under controlled conditions is permitted and justifiable according to the criteria verified by the consultants of the IOC AC and reported in the previous paragraph. Any infringement of the rules imposed by the IOC and therefore of rule 50, as the IOC AC itself specifies, can be assessed taking into account the specific circumstances and the application of the principles of international law and local government.

Article 50, while being susceptible to a better enunciation like all rules, will presumably retain its validity, albeit limited and circumscribed, provided that the IOC can justify the usefulness of its respect for the protection of athletes and integrity of the Games, preventing non-sporting conflicts from contaminating the celebrations of all the peoples gathered in the Olympic venues.

With this goal in mind, the IOC produced guidelines for athletes for the OGs hosted in Tokyo in August 2021 and for the Beijing 2022 Winter Olympics, and the same was done by the IPC for the Paralympic Games.

When rule 50 infringes the right of athletes

An athlete participating in a sports competition must comply with the relevant regulations. In the case of participation in the OGs, the athletes must respect what is stated in the formula of the oath[37] whose current version states:

> We promise to take part in these Olympic Games, respecting and abiding by the rules and in the spirit of fair play, inclusion and equality. Together we stand in solidarity and commit ourselves to sport without doping, without cheating, without any form of discrimination. We do this for the honour of our teams, in respect for the Fundamental Principles of Olympism, and to make the world a better place through sport (w/p)

Through this oath the athletes undertake to respect the Olympic Charter and ultimately the rules contained therein, including rule 50.

At the same time, each athlete, as a person, can exercise their individual freedom rights recognized by international conventions.

The United Nations General Assembly (UN GA) has established that States are primarily responsible for the promotion and implementation of human rights and fundamental freedoms and also for protection from the adverse consequences deriving from the exercise of these rights by third parties. Furthermore, it is established that even people, acting as individuals or in organizations, in the exercise of their fundamental rights and freedoms are subject to limitations in accordance with international obligations and determined by law in order to ensure respect for the freedoms of others, the requirements of morality, public order and general welfare[38].

Therefore, as already indicated, the owners and organizers of the Olympic Games, in order to protect the legitimate reasons set out above, may require athletes to voluntarily submit to the competition rules, explaining the reasons and indicating the consequences in case of infringement, including disqualification or non-eligibility for future tenders. The other sanctions for any infringements of the general rules remain subject to evaluation by the judicial authorities in charge. An assumption that is not functional to the competition and of an ideological type arbitrarily imposed by the organizer and which limits the freedom of expression of an athlete, would constitute harassment and would result in a form of arrogance and oppression to the point of

culminating in unjust punishment. In this condition there would be an unnecessary restriction on the freedom of athletes without this constituting a guarantee of the protection of a pre-eminent general interest[26,39].

The IOC, as described in the previous paragraph, made use of a legal advisor to verify, in line with the regulatory framework of international conventions, how to preserve its own legitimate purposes. These include proportionate measures to restrict individual freedom of expression. The athletes commission verified the athletes' point of view with a validated questionnaire. This process made it possible to promote the revision of the rule 50 in a way more appropriate to international conventions and the expectations of athletes, with the aim of preserving the athletes themselves. An adequate information campaign is in place to make athletes aware that with the solemn formula of the oath they voluntarily undertake to respect specific and measured behavioral constraints. These constraints are justified by legitimate and shared reasons and are not oppressive impositions to which they must submit in exchange for the right to participate. Athletes are assured opportunities to exercise their rights. Behaviors different from those established through legitimate constraints to which they have chosen to undergo, on the other hand, involve the personal responsibility of the athletes. In the event of ascertained damage to third parties, sanctions may be applied proportionate and specific to the circumstances, respectively by the organizer and by the judicial authorities, in accordance with the competition's regulations and with the laws in force in the host country.

Origin and meaning of political neutrality - Purpose-related models of neutrality

This paragraph will use external references to analyze neutrality in the history of international relations as a method of foreign policy, with a brief mention of the internal politics of liberal movements. Framing this strategy in a broader sense will help to analyze the benefits that are expected to be obtained with an appropriate implementation of the principles of neutrality and apoliticality by the Olympic movement, given its peculiarity as a non-state organization that has achieved the recognition of UN Observer[40].

Before going into a reasoning concerning politics, I will refer to the thought of Socrates and Protagoras who discuss the art of politics[41]

> […] Socrates asks is this the art of politics and is Protagoras undertaking to make men good citizens, and Protagoras agrees. Socrates replies that he had supposed that this art could not be taught, and he gives two grounds: (I) the Athenians are agreed to be wise men, yet, while they call in experts in the assembly to advise them on technical matters, they regard all citizens alike as capable of advising them on matters pertaining to the city; (II) the wisest and best of the citizens are not able to hand this virtue on to others. So Pericles educated his sons well in all that could be taught by teachers, but he did not try to teach them, or have them taught his own wisdom, but left them to pick it up unaided (p. 42).

Protagoras and Socrates agree that the art of politics is a virtue that must be exercised from an early age for the good of the community[42].

The idea that political participation is one of the fundamental dimensions of citizenship is still dominant today, along with the civil and social dimension and the additional cultural dimension[43].

Nowadays there are 21 neutral countries[44] and political neutrality has always existed, with examples since the Greek and Roman times. It mainly concerned the abstention from armed conflict by states lacking adequate military forces.

The study of political neutrality should be approached from two main points of view. The first approach, of aversion, is based on two distinct hypotheses that converge in considering neutrality as a failure: (i) political realism, which argues for the practical impossibility of neutrality on the part of those without power and (ii) the morality perspective that condemns the non-deployment of the neutral in the just wars. The second, more recent approach recognizes neutrality as a force capable of acting on the international system of relations and multilateralism for the prevention of conflicts, creating situations that are favorable to the prosperity of an interconnected and globalized world.

Political realism as a tool in international politics grounds its origin in Thucydides' historical account which describes how the island of Melos, which had taken a neutral approach in the Peloponnesian war, sought to maintain independence from the Athenian victors[45]. While on the one hand the Melii[46] argued that any aggression would be unjust, on the other the Athenians replied

> LXXXIX ΑΘ. Ἡμεῖς τοίνυν οὔτε αὐτοὶ μετ' ὀνομάτων καλῶν, ὡς ἢ δικαίως τὸν Μῆδον καταλύσαντες ἄρχομεν ἢ ἀδικούμενοι νῦν ἐπεξερχόμεθα, λόγων μῆκος ἄπιστον παρέξομεν, οὔθ' ὑμᾶς ἀξιοῦμεν ἢ ὅτι Λακεδαιμονίων ἄποικοι ὄντες οὐ ξυνεστρατεύσατε ἢ ὡς ἡμᾶς οὐδὲν ἠδικήκατε λέγοντας οἴεσθαι πείσειν, τὰ δυνατὰ δ' ἐξ ὧν ἑκάτεροι ἀληθῶς φρονοῦμεν διαπράσσεσθαι,

> ἐπισταμένους πρὸς εἰδότας ὅτι δίκαια μὲν ἐν τῷ ἀνθρωπείῳ λόγῳ ἀπὸ τῆς ἴσης ἀνάγκης κρίνεται, δυνατὰ δὲ οἱ προύχοντες πράσσουσι καὶ οἱ ἀσθενεῖς ξυγχωροῦσιν.
> […] LXXXIX Ath. Well, then, we on our part will make use o no fair phrases, saying either that we hold sway justly because we overthrew the Persians (1), or that we now come against you because we are injured, offering in a lenghthy speech arguments that would not be believed; nor, on the other hand, do we presume that you will assert, either that the reason why you did not join us in the war was because you were colonists of the Lacedæmonians, or that you have done us no wrong. Rather we presume that you aim at accomplishing what is possible in accordance with the real thoughts of both of us, since you know as well as we know that what is just is arrived at in human arguments only when the necessity of both sides is equal and that the powerful exact what they can, while the weak yield what they must (p. 157-159).

Neutrality, according to the political realism approach, is a position capable of short-term results. For example, it allows to avoid conflicts on the part of those countries that do not have military potential or that do not intend to take sides in a definitive manner. The realistic approach explains the profound crisis of neutrality in the global scenarios of the twentieth century, in which wars without geographical borders took place[47]. The provisional nature of neutrality could be confirmed once again by the current international crisis: Sweden and Finland are considering abandoning their neutral position[48] until recently considered the example to be replicated to alleviate tensions between Russia and Ukraine[47].

The perspective of neutrality as immoral has its roots in the Greek and Roman interpretation of the 'just war', which has spanned Western history in many forms[49]. Its relevance was even argued at the solemn moment of the withdrawal of the Nobel Peace Prize in 2009 by the then President of the United States Barack Obama[50]

> […] The concept of a "just war" emerged, suggesting that war is justified only when certain conditions were met: if it is waged as a last resort or in self-defense; if the force used is proportional; and if, whenever possible, civilians are spared from violence.
>
> […] Inaction tears at our conscience and can lead to more costly intervention later.
>
> […] First, in dealing with those nations that break rules and laws, I believe that we must develop alternatives to violence that are tough enough to actually change behavior -- for if we want a lasting peace, then the words of the international community must mean something. Those regimes that break the rules must be held accountable. Sanctions must exact a real price. Intransigence must be met with increased pressure -- and such pressure exists only when the world stands together as one (w/p).

In the context of the current conflict between Russia and Ukraine, there are examples of contesting the position of inertia / neutrality with moral arguments. Although wartime communications require more scrutiny and may be part of a partisan propaganda, the media reported that Ukrainian President Zelensky argues that lacking support by sending weapons to Ukraine entails co-responsibility for the deaths[51]. Switzerland, a constitutionally neutral country, has denied the legitimacy of the German handing over to Ukraine of Swiss-made bullets[52] exposing itself to criticism. Both facts should be justified taking into account their outcomes with respect to the protection of the international law of collective legitimate defense established by Article 21 of UN resolution 56/83 of 12 December 2001[53]. Therefore, the inaction or the exercise of neutrality by one state should not lead to the lesser effectiveness of another state in pursuing its own internationally recognized right. The governments of Italy and Germany until recently viewed the supply of weapons to belligerent countries as an action with the potential to widen conflicts. Now the idea prevails that under certain conditions imposed on countries to which weapons are supplied it is possible to confine and stop the escalation of conflicts[54].

A further argument in support of the immorality of neutrality is that countries would use it to balance themselves in a system of overwhelming forces, to the extreme of avoiding deciding who are their friends and enemies[55] privileging their own safety over the collective one[55] to the point of reaching forms of isolationism[55]. Neutrality has been most effective in times of peace as a prerequisite for separating security policy from economic policy and therefore for safeguarding the flow of goods and money.

The second approach to neutralities is that through the perspective of the system of international relations: a well-supported neutral behavior, capable of resisting the dominant forces that intend to maintain their position by uniting all states in an ‘we’ or ‘you’ scheme, allows you to create very large spaces for maneuver. These must therefore be taken into consideration precisely by those who act for saving the polarization by conferring resilience to neutrality as a method in international relations: in a context of growing interdependence, heterogeneity and pluralism, extremes sometimes remain or sometimes collapse while neutrals can pursue strategies of sovereignty, autonomy and the consolidation of one’s identity[56]. In turn, this acts on the international system with a more effective convergence in avoiding conflicts, seeking

stability in exchanges, and cooperating in many other initiatives: "[…] Neutrality is not a naïve joke. It's a new philosophy and new strategy based on soft and smart power for international peace and justice (p. 213)"[57].

However, as we have seen with the recent examples cited above, there are still situations that are very difficult to face in the logic of neutrality or not at all compatible with this position.

I will now briefly touch on the neutral approach in domestic politics. Such an approach could be a ploy to break free and leave the slippery ground of principles and ideals. We are inspired by Calculli[58] for a critique of this position. He argues that apoliticality was an option of the neoliberals who, by atrophying the political conflict, made it possible to sweeten the technical solutions useful for preserving the logic of the market with the assumption of their neutrality. This has led to the paradoxical outcome that today apoliticality is the dress chosen by the so-called activists. They testify to the need to return to politics because technicalities are not suitable for identifying solutions capable of solving the relevant problems, lacking any definition of principles to be respected where to ground fair solutions through an ethical perspective.

This long excursus precedes the following last step, which will allow us to discuss neutrality and Olympism. I will discuss the specific legal nature of the Olympic movement. Through the IOC, it represents a sui generis international entity. The IOC, the pinnacle of the international sports movement, unites more countries than those that are part of the United Nations, with over 200 NOCs. According to its own mission established in the OC, the IOC is called upon to coordinate cooperation with the relevant state organizations, ensuring the regular celebration of the Olympic Games, the strengthening of friendship between peoples and other tasks. This implies that the IOC can decide in which city the GOs will be held, has ownership of its symbols, decides on the recognition of NOCs and FIs. The decisions of the IOC are based on the application of the OC whose interpretation is up to the IOC EC and the Court of Arbitration for Sport. Upon the appointment as an IOC delegate, he/she is required to swear to serve in the Olympic Movement and not to submit to any political, commercial, racial or religious influence. In fact, the CIO is the owner of a huge system that has economic characteristics and also enjoys a huge audience. The representatives of the states, regardless of their rank, have no power over its regulations and are spectators like all the

others of the OGs[59]. The binding nature of the decisions of this organization in matters of international law is much discussed considering that even the decisions of supranational organizations are binding only for the states that sign them (think of the case of the European Community which does not bind non-member states) and those of the United Nations have not always been respected by privileging the principle of national sovereignty. If the cogency is also questioned in the case of the recommendations or norms of intergovernmental organizations, although countries have their own delegates, how can it apply to an organization whose members cannot represent their own countries? The justification for the extension of the concept of de facto acquisition of legal personality, as recognized by the United Nations itself[60], is the acceptance of its objective existence as it performs functions on the international level according to criteria of having lawful purposes, powers distinct from those of states and juridical powers exercisable internationally[61]. Although "[…] the IOC alone cannot compel governmental compliance, however, the Olympic Charter exemplifies current international practice and has the effect of customary international law (p. 104)"[62]. This is due to the presence of the elements of "[…] repetition, duration and adherence under legal impulsion (*opinio juris*) (p. 107)"[62].

We now have elements to evaluate the applicability of the criteria of apoliticality and political neutrality by the Olympic Movement.

The declaredly neutral and apolitical positioning of the IOC is also continuously supported in the statements of the incumbent president Thomas Bach who invited[63]

> […] respect political neutrality in everything you do. […] It is not up to sport to take political sides. […] Our mission is to unite the entire world in peaceful competition. To achieve this, we must keep solidarity, political neutrality, respect and unity in everything we do and everything we say (p. 5)

> […] This means, in very concrete terms, that we have to be politically neutral in everything we do, in everything we say. Many of you experienced in the last year since we met in Tokyo, but also before, a growing tendency to politicize sport and to use sport for political means. Many of you had problems with a visa for your athletes, with flags, with anthems, with the allocation of competitions, you name it. Many of them we could solve; but not all of them. And many we could also not solve, and we could not solve them because, for political neutrality, it needs two to tango, as in many respects in our world. It takes two to tango. It takes us to apply political neutrality and it takes the governments, politics, to respect this political neutrality because we cannot impose it. This world is run by politics and not by us, so we need to earn this respect. We need to convince these leaders to respect this political neutrality. We have to make them understand that the

> Olympic Games are the only event in this world which brings together the entire world in a peaceful competition, and that they should not destroy this great achievement, that they should not jeopardise this great achievement by using it for short-term political interest (p. 5)[64].

President Bach[65] himself also stated:

> […] But in order to fulfill our role to make sure that in the Olympic Games and for the participants the Charter is respected, we have to be strictly politically neutral. And there we also have to protect the athletes (w/p).
>
> […] The IOC sets an example in this regard. We want the "Universal Principles of Good Governance of the Olympic Movement" to be accepted as a minimum standard and implemented at all levels of sport. Within this partnership, sport must remain politically neutral. This does not mean that sport is apolitical. Sport must include political considerations in its decisions. It must consider the political, economic and social implications of its decisions. This is particularly true when choosing the venues for major sports events, above all the biggest and most important of these, the Olympic Games (p. 3)[66].

Despite these statements of principle, there is a constant thread that unites sport and politics, since the Olympics in ancient Greece. This thread has always been emphasized also by philosophers as an added value to what simply derives from the practice of physical exercise, and which is confirmed by the affirmation that the political objective of sport is the promotion of a peaceful society[67]. A sharper and more critical statement is that there is no place for politics in sport other than that reserved for its own politics[68]. Coakley[68] himself lists the reasons why politics is concerned with sport, ranging from the safeguarding of public order to the maintenance of health, to its use to spread the dominant values and ideologies of a community, to the promotion of a sense of belonging to the point of providing a 'lazy excuse for patriotism'[69]. The opposite argument, that is, the fact that sport deals with politics, has just as many confirmations. The Olympic Charter itself states that the games must leave a positive legacy to the host city[4] and the Olympic Games legacy assessment process aims to address economic, social, environmental, and cultural aspects[70] which are the normal occupation of politics.

In my recent essay on the exclusion from competitions of Russian and Belarusian athletes, I reported an example of a possible lack of explicit positioning of the OM with respect to the current international crisis[26]. In the Russia-Ukraine conflict, a circumstantial and limited deviation from neutrality would instead be relatively safe and more adherent to the fulfillment of the mission of Olympism than to preserve an

unlikely equidistance functional to the protection of one's own apoliticality, even if in any case it will not mean to prevent criticism to the IOC[71]. In fact, the strenuous defense of apoliticality determines decisions and actions of the OM that resort to technicalities, that do not have their roots in the ethical foundations of Olympism and that leave (or call!) others to act. This leads to situations similar to those criticized by Calculli[58] with reference to neoliberal politics (see above): with the intention not to upset anyone, they can act weakly in pursuing equity.

In any case, states that move in the broad space of neutrality in foreign policy without giving up their identity and specific ways of realizing their strategic objectives and governments that choose a technical approach to avoid the clash of principles provide further examples to affirm the potential of this approach that has actually allowed the OM to obtain international recognition as well. In fact, the policy of the OM, which intends to preserve itself as neutral and apolitical, generally has sufficient space to pursue the results that President Bach himself proclaims, with the faculty of resorting to technicalities when the position of equidistance is irreconcilable with specific events.

I am approaching the conclusion of this paragraph. In it I investigated whether the most appropriate space for conciliation to be sought is to support fundamental principles 1 and 2[4] through forms of greater activism and direct exposure of the OM for the resolution of conflict situations and injustices. By deviating from the equilibrium aimed at protecting itself, the OM could better protect those suffering from injustices and condemn those who procure them, continuing the path that makes "[...] the proposal of Olympism [...] a dynamic thought open to rethinking and evolutions over time (p. 5)"[72], in line with President Bach's statement[73]

> We need to change because sport today is too important in society to ignore the rest of society. We are not living on an island, we are living in the middle of a modern, diverse, digital society. If we want to continue to put Olympic Sport at the service of society, which is part of our Olympic Principles, we must engage with this society, we must be in a respectful dialogue with this society. This society is changing faster than ever. This society will not wait for sport to change. If we want our values of Olympism - the values of excellence, respect, friendship, dialogue, diversity, non-discrimination, tolerance, fair-play, solidarity, development and peace - if we want these values to remain relevant in society, the time for change is now (p. 3).

Non-positioning on the basis of an unnecessary and not strictly functional neutrality implies shirking the responsibility of directing change[26].

At the same time, a strong positioning of the OM could address and resolve skepticism and distrust towards the implementation of their goals, also safeguarding athletes who could more profitably dedicate their otherwise lost personal energies to drive attention on the crucial problems of the contemporary world with a single voice. In this sense, the invitations to invoke peace[28] on the occasion of the ongoing conflict could also be better framed. These invitations constitute recognition by the IOC of the positive potential for activism of athletes who engage in common causes with collective initiatives or with individual and spontaneous contributions.

The pitfalls to the quality of content in today's communication

This paragraph deals with the most modern and effective forms of communication and their potential to impact the right of others to quality information appropriate to the circumstances. It will be concluded that despite the opportunity to regulate the right to use the formal moments of the OGs as an opportunity for communication, not all the admissible cases can be foreseen and that any doubtful behavior must be evaluated retrospectively.

Social media make up most of the relationships in the online world and there are risks related to their use by those who are not fully aware of these implications. The desire to express oneself, to do it before others and to validate one’s opinion can act as a lever of confusion rather than improvement of knowledge, including having effects on conflict and respect for others[74]. The opinions of each individual can be added to flows already saturated with divergent contributions, to the testimonies from individual and partial perspectives to the biases and inaccuracies[75] generated by those who try their hand without the appropriate skills, use a misplaced credibility and perform inadequate deductions and affirmations to the complex nature of the topics addressed, intervening on the contrasts that also emerge in the dialogue between real experts[76]. All this reverberates in the network, is amplified and constitutes the terrain of the growing polarization of positions that hinders the verification of the facts and the theoretical assumptions of the arguments[77], building a relativistic version of reality[78].

Social media amplifies the opportunities already available to athletes participating in sporting events of global significance, facilitating the dissemination of

their messages. Many people follow their favorite athletes who therefore have the opportunity to influence their fans without making great efforts[79].

There is general agreement of the need to safeguard the right of each person to express their ideas and therefore also of the unacceptability of putting a gag on athletes[21]. This need was acknowledged by the IOC athletes' commission, which nevertheless highlighted how the majority of athletes declare that they would be uncomfortable if others raised issues that are not relevant to sport during awards and competitions. Therefore, without questioning the content and fairness of the messages, it is appropriate to evaluate the context in which they are transmitted in relation to other legitimate purposes and the right to carefree that people want to enjoy in specific moments of their life.

Discussion

If it is true that a sporting event can be an opportunity for an athlete to have the spotlight on himself and address very important topics, an effort must be made to evaluate the adequacy of such a choice. I will do this by imagining a context familiar to many students and asking myself a question, to which each one can give his own personal answer. For exemple

> A student believes that the best stage at his/her disposal to tackle problems that are relevant to him/her is the time of the chemistry lesson, the most followed in the course of studies in which he/she participates. He/she thus decides to draw the attention of the other students through singing and waving a sign with writings. The teacher, recognizing the good intentions, invites the student to postpone his/her utterances to another time by pointing out that in this way he/she is interfering with the understanding of some chemistry principles by other students. The student insists that he/she does not intend to give up his/her freedom of expression, especially since he/she does so for a just cause. The teacher asks the dean to prevent the student from taking part in the class if his/her behavior persists. The dean is called upon to assess whether the teacher has arrogated to himself/herself the right to place his/her chemistry lesson before the protection of freedom of expression of the student.
>
> What would be right to do?

This short story, fruit of my imagination, represents an attempt to experience the behavior of a classmate as an observer while I identify with a student who is participating in a lesson. Thus, hoping to instill in the reader reflections and feelings that could be similar to those of athletes engaged in a competition. Concentrated on the lesson, I would be uncomfortable with any interference, despite the good intentions of my classmate. I am not disinterested in addressing the most disparate issues nor do I want to put a gag on anyone's faculty of expression. I simply have direct experience of the effectiveness of participating in thematic activities with other people, dedicating separate and appropriate moments in accordance with the aims previously established. Exceptionally, I consider that I might be fascinated or interested by the arguments faced in an unexpected and creative way by my classmate; at other times I might be irritated and disagree with his/her ways and content. I also want to enjoy social moments that are not plagued by other problems, even if I am aware of their existence and relevance. Likewise, I understand that an athlete may find it frustrating to be forcibly distracted and losing his/her focus on the race due to external initiatives by an opponent.

However, there are personal perspectives that affect the assessment of the appropriateness of a restriction on freedom of expression. An athlete may experience specific suffering and feel that no attempt should be lost to make it known. Other athletes may already be knowledgeable enough to believe that it is inappropriate to present problems in this way.

For these reasons, the IOC, as reported in a previous paragraph, has been concerned with establishing how athletes prefer to live some moments of their sporting life. The request to maintain the separation of activities not directly connected to sport during the competition and from the award ceremony is prevalent.

The same study by the Athletes Commission analyzes in which cases people's rights can be suspended, identifying the prerequisite for legitimate reasons, limited and temporary circumstances and with the guarantee of separate and suitable opportunities for use. Aspects on which the legal framework for the current rule 50 is based.

In the history of the Olympic Games, athletes have sometimes planned or improvised forms of communication that have disregarded the rule and their behaviors have been sanctioned. In other cases, athletes were first punished and then considered inspirational. Finally, there have been cases in which the organizers have not

intervened. These eventualities have been taken into account by the IOC. In fact, rule 50 does not aim to predict in advance and classify all the possible creative behaviors of athletes, both for the form of expression and for their content. The application of any sanctions must take into account the circumstances, the best interests to be protected and the real consequences of any specific infringement that may occur. The commission also highlighted the need to protect the athletes themselves from any pressure and avoiding the damages deriving from creating further tension between the participants who come from all over the world.

The previous ex-cursus on the communication focused on the multiplication of contents that undermine the representation of factual reality. It should also be taken into account that many fans do not attend sporting events to receive science lessons[80] and probably not even other topics. This constitutes a further reason for the best caution in order to involve the sports audience in the most appropriate ways even when it comes to raising awareness on important issues. These ways do not necessarily coincide with those chosen by an athlete in his personal intent to emphasize a specific topic that is dear to him.

However, this approach cannot escape the pitfalls and opportunities that emerge from the statements that Associate Professor Simon Darnell made in an interview with Mr. Grierson: the power of activism is symbolic and is based on conscientious objection without expecting any specific result from its own actions. These are not carried out after obtaining a permit to express one's opinion. For this he concludes that, "Trying to regulate such behavior is a fool's errand (w/p)"[81].

Conclusions and perspectives

This article has dealt with the regulation of the ability of athletes to make use of freedom of expression at the specific moment of the podium and of the competition. Although there has been a lot of pressure to convince the IOC to remove all forms of restrictions, the study commissioned by the IOC Athletes Commission has provided evidence that regulation is legally acceptable precisely because it has legitimate purposes, because it is temporary and limited, and because the IOC safeguards the rights of athletes to express their ideas in other circumstances in the immediate future of those for which the restrictions apply.

The declared apolitical nature of the Olympic Movement and the limitation of the athletes' expression are not mutually necessary arguments and the former is not a presupposition that legitimizes the latter.

Through a look at the States operating in international relations and also taking into account the current conflict, I suggested the limited and motivated abandonment of the assumption of apoliticality and neutrality of OM: Olympism pursues its own policy which, in order to achieve the objectives indicated in the Olympic Charter, must be flexible and changeable according to the circumstances, as indicated by President Bach himself. This does not mean losing one's identity, but it implies being actors in the system of international relations for a more effective promotion of Olympic values.

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