

## Book Note

### THE LAW OF THE OLYMPIC GAMES, by Alexandre Miguel Mestre<sup>1</sup>

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WRITTEN SHORTLY AFTER THE 2008 BEIJING OLYMPICS, Alexandre Miguel Mestre's *The Law of the Olympic Games* comments on some of the legal issues arising from the Olympic Games and, more broadly, the Olympic Movement. In particular, Mestre relies on the use of the Olympic Charter, decisions of the Court of Arbitration for Sport, and "State Law."<sup>2</sup> Mestre points out, however, that his work is incomplete and that his introductory contribution to this legal arena is simply to generate a dialogue.

The rich Olympic tradition is captured at the outset with a succinct historical overview of the role of law in the Olympic Games of Antiquity—which goes back as far as 776 BCE. The tenets of Greek civilization, involving universally accepted moral and social principles and rules, were reflected in the Games and the "Fundamental Laws of Olympia."<sup>3</sup>

Transitioning to a discussion about the Olympic Games of the modern era, Mestre examines the legal development of the Games from what was a "utopian"<sup>4</sup> approach to a highly structured organization with codified principles and rules. A detailed analysis of the Olympic Charter reveals that it adopts constitutional and contractual characteristics while embodying executive, legislative, and judicial powers. As much as the Olympic Charter has a constitutional function, in that it has universal acceptance, the Olympic Charter operates on custom, moral authority, and voluntary recognition generated by the significance

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1. (The Hague: T.M.C. Asser Press, 2009) 256 pages.

2. *Ibid.* at 3.

3. *Ibid.* at 6.

4. *Ibid.* at 9.

and magnitude of the Games. Nonetheless, Mestre raises the difficulty of merging “Olympic Law” with “State Law.”<sup>5</sup>

Mestre later covers the numerous institutional facets of the Olympic Movement—mainly the International Olympic Committee (IOC), the National Olympic Committees, and International Sports Federations. Supplemented with a relatively brief dialogue on “satellite organisations,”<sup>6</sup> and the “organs” of the IOC,<sup>7</sup> Mestre offers a satisfying account of the Olympic Games’ multifaceted organizational framework.

The next chapter highlights some of the legal dilemmas in the modern Olympic Movement and opens with an intriguing discussion on eligibility, which raises issues of age, gender, nationality, sexual orientation, and dual participation. The rules and by-laws of the Olympic Charter are used to illustrate legal issues regarding “Olympic properties,”<sup>8</sup> environmental protection, advertising, freedom of expression, and boycotting of the Games. Mestre’s examination of the freedom of expression, as it relates to media coverage and propaganda, is noteworthy. The Olympic Charter and its corresponding by-laws clearly state that media coverage of the Olympic Games is to promote the principles and values of Olympism. It was these provisions that required the Chinese government to approve legislation to guarantee coverage of the Beijing Olympics by foreign journalists, which serves as an excellent demonstration of the intersection between Olympic law and state law.

In the conclusion, Mestre comments on the preventative and reactive dispute resolution mechanisms available. While strongly doubting the effectiveness of the Olympic Oath as a deterrent to breaches of the Olympic Charter, Mestre suggests that the standardization of legal regimes, akin to the World Anti-Doping Code, is necessary to ensure equal opportunity within a sport. Mestre accepts the inevitability of disputes and favours the establishment and use of independent tribunals to handle them. The reproduction of the Olympic Charter, in addition to the provision of other basic Olympic documents, is a useful reference. In the end, Mestre achieves what he set out to do: promote a dialogue.

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5. *Ibid.* at 16.

6. *Ibid.* at 52. “Satellite organizations” include the World Anti-Doping Agency, the International Olympic Academy, and the International Paralympic Committee.

7. *Ibid.* at 68. “Organs” refers to the Session, Executive Board, and the President of the IOC.

8. *Ibid.* at 85.