

## II. Special Research Papers

### LOOKING BEYOND THE HUGE MEDIA EVENT THE OLYMPIC GAMES ARE

Camila Florencia Tort

*Universidad Torcuato Di Tella, Bachelor of Arts in International Studies, Argentina\**

**Abstract:** *The aim of this article is to highlight the basis, values and positive impacts of the Olympic Games. Besides being a major event, the Olympic Games bring with it, important values and ideas; they try to send a message to the world. This year will be focused on children and refugees. Not to mention, the value of the Olympic Truce itself, that is recognized by the international community and its customs.*

**Key words:** *Customary International Law - General Assembly - International Law - Peace - Refugees - Rights - Olympic Movement - Olympic Games - Olympic Truce – Values*

#### Introduction

It is time to take a look beyond the big media event itself and pay attention to the essence of the Olympic Games. Since the first games, in Athena in 776 BC, considering at least those that were recorded, one of the main goals of the Olympic Games has been to promote peace, diversity, communication and reconciliation among the world's nations. These principles were the main drivers behind the establishment of the *Ekecheiria* (Olympic Truce) when the world was at a constant state of war.<sup>1</sup> It was, under this scenario of conflict that the Greeks

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\* Ms. Tort holds a Bachelor of Arts in International Studies from Universidad Torcuato Di Tella, with a specialization in Law; and a Master's degree in Global Rule of Law and Constitutional Democracy from the Universitat de Girona and the Università degli Studi di Genova. Her master's graduation thesis on "The Social Costs of Transnational Corporations' Corruption and the Duty to Compensate" focused on the role of transnational corporations in promoting corruption and the negative impact their practices have on the citizens' rights and interests. Camila is a member of the International Anti-Corruption Academy (IACA) Alumni, having successfully participated in the 2020 IACA Summer Academy.

1. The tradition of the "Truce" or "Ekecheiria" was established in ancient Greece in the 9th century BC by the signature of a treaty between three kings. During the Truce period, the athletes, artists and their families, as well as ordinary pilgrims, could travel in total safety to participate in or attend the Olympic Games and return afterwards to their respective countries. As the opening of the Games approached, the sacred truce was proclaimed and announced by citizens of Elis who travelled throughout Greece to pass on the message. *See* <http://www.olympic.org/content/the-ioc/commissions/public-affairs-and-social-development-through-sport/olympic-truce/>

wanted to gather all the athletes in the same place for them to compete as equals; despite their nationalities and despite the political situation of each country. A place that, under the Olympic Truce idea, would be considered as sacred and hostilities-free.

As generations passed by, the Olympic Truce became one of the instruments for establishing and maintaining peace and, a practice accepted by almost all the international community of states. The latter is reflected in the General Assembly's multiple resolutions addressing the Olympics and the world peace and development,<sup>2</sup> and the number of countries which accepted such resolutions and put into practice programs aimed to spread the Olympic Truce. Not to mention the high-level of support received by other UN organs and international organizations such as the UNESCO. The Olympic Truce today is seen as the idea of making a better world, a world where tolerance is one of the most important principles that everyone should respect, a world of reconciliation; as a proof that institutions can make a better world if the world cooperates.<sup>3</sup> An idea that is not that much idealistic since, for instance, in the 2000 Olympic Games which took place in Sydney, the audience saw North and South Korea marching side by side, action that was thought to be almost impossible when analyzing their political and social relation.<sup>4</sup>

Thus, it is not just a hope for a better world and "little" actions supporting such a hope, but the Olympic Truce, as mentioned before, also brings equality. Equality in the sense that every nation has the same right to participate in the games, and equality in the sense that the rules apply symmetrically to all participants regardless of their nationality, their political and social status and, regardless of their gender. At a domestic level people are equals under the law; under international law, each country counts as one, and the same is here. Competitors are equal under the law and principles of the Olympics. Thus, individual differences should be tolerated and stereotypes might disappear.

## 1. Olympic Truce and International Law

By observing not only the beginning of the Olympic Truce, but also the level in which it has become a general practice of the international community and, its implications and objectives acquiring acceptance, one might be able to consider

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2. See <http://www.un.org/events/olympictruce/resolutions.shtml>

3. *See* <http://unesdoc.unesco.org/images/0013/001339/133907s.pdf>

4. *Koreas to March into Olympics Together*, ABC News (last accessed: July 6, 2016). Available at: <http://abcnews.go.com/Sports/story?id=100609>

the Olympic Truce as part of the customary international law.<sup>5</sup> Despite the fact that the General Assembly resolutions are not binding for the

UN State members, the fact that the resolutions need the affirmative vote of 2/3 of the assembly representatives,<sup>6</sup> shows the existence of a general state practice when they sign and follow the respective resolutions. For instance, there are at least sixteen General Assembly resolutions which appeal to the Olympic Truce,<sup>7</sup> all of which have been remarkably successful in promoting peace and communication.

It is in hand with the character of the recommendation of the General Assembly resolutions that since 1993, most of the yearly session's agenda of the organization calls upon all Member States to cooperate with the International Olympic Committee in its efforts to promote the Olympic Truce and recognize that the goal of the Olympic Movement is to build a peaceful and better world by educating the youth of the world through sport and culture. At the same time, it recognizes the ideal of promoting international understanding which can be achieved by carrying out peaceful and multinational Olympic Games. Hence, it invites all States, organizations of the United Nations system and interested non-governmental organizations to participate in the observance of the Year and to cooperate with the Secretary-General in achieving said objectives.<sup>8</sup>

One can observe once again the acceptance of the UN Member States when agreeing on the A/RES/66/5 in 2011 which welcomed all the international community nations to develop national and international programmes with the aim of promoting peace and conflict resolution through the values proclaimed by the

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5. The Statute of the International Court of Justice describes customary international law as "a general practice accepted as law" (Art. 38 (1) (b) ICJ). It is generally agreed that the existence of a rule of customary international law requires the presence of two elements, namely State practice (*usus*) and a belief that such practice is required, prohibited or allowed, depending on the nature of the rule, as a matter of law (*opinio juris sive necessitates*). See <https://www.icrc.org/customary-ihl/eng/docs/v1rulinasofcuin#Fn8010>

6. *See* Art. 18 of the UN Charter.

7. See <http://www.un.org/en/events/olympictruce/appeal.shtml>. See also GA Resolution A/70/L.3 [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/70/L.3&referer=/english/&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/70/L.3&referer=/english/&Lang=E)

8. *See* GA Resolution A/RES/48/10 [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/48/10](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/48/10). See also GA Resolutions <http://www.un.org/documents/ga/res/48/a48r011.htm>;

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/62/4](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/62/4); [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/64/3](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/3); [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/64/4](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/4); [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=%20A/RES/66/5](http://www.un.org/en/ga/search/view_doc.asp?symbol=%20A/RES/66/5); [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/67/17](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/17);

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/67/296](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/296); [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/9](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/9); [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/70/4](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/4)

Olympic Movement and, once more, “calls upon all Member States to cooperate with the International Olympic Committee and the International Paralympic Committee in their efforts to use sport as a tool to promote peace, dialogue and reconciliation in areas of conflict during and beyond the period of the Olympic and Paralympic Games.”<sup>9</sup>

Even though one can say that the existence of numerous General Assembly resolutions is not enough to prove the existence of a general agreement of the states with the Olympic Truce, the fact that the tenth goal of the United Nations Millennium Declaration “urge Member States to observe the Olympic Truce, individually and collectively, now and in the future, and to support the International Olympic Committee in its efforts to promote peace and human understanding through sport and the Olympic Ideal”<sup>10</sup> and that, said declaration, was signed by 189 countries, reflects the existence of a world-spread acceptance of the agreed goals. Said acceptance on the goal number tenth regarding the Olympic Truce is reaffirmed in the General Assembly’s resolution A/RES/70/4 which not only acknowledged the tradition of *Ekecheiria* and urged once more the Member States “to observe the Olympic Truce individually and collectively, within the framework of the Charter of the United Nations”, but also, recognized the inclusion of the value of the Olympic Truce in the United Nations Millennium Declaration, and “underline(d) the importance of cooperation among Member States to collectively implement the values of the Olympic Truce around the world.”<sup>11</sup>

Nonetheless, it would be incorrect to automatically accept that the Olympic Truce has a legal status among the international law system. Even though it may appear that there is enough evidence to hold that the Olympic Truce constitute customary international law, one needs to evaluate the existence of *opinio iuris* around the concept of the Olympic ceasefire and athletes’ safe-frontier passage. In other words, if the Olympic Truce goes beyond the political interests of the States by being a legal obligation that States must not violate. The fact that there are no concrete sanctions for cases of Olympic Truce breaches reflect that, at least at first sight, there is no *opinio iuris* supporting a legal status of the Olympic Truce in the international law system. However, taking into consideration the ICJ judgment in the Nicaragua case in 1986<sup>12</sup> which established that “*opinio juris* may, though with all due caution, be deduced from, inter alia, the atti-

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9. *See* GA Resolution A/RES/66/5

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=%20A/RES/66/5](http://www.un.org/en/ga/search/view_doc.asp?symbol=%20A/RES/66/5)

10. *See* Millennium Declaration <http://www.un.org/millennium/declaration/ares552e.pdf>

11. *See* GA Resolution A/RES/70/4 [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/70/4](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/4)

12. *See* ICJ, Nicaragua v. United States of America <http://www.icj-cij.org/docket/files/70/6503.pdf>

tude of the Parties and the attitude of States towards certain General Assembly resolutions [...]. The effect of consent to the text of such resolutions cannot be understood as merely that of a 'reiteration or elucidation' of the treaty commitment undertaken in the Charter. On the contrary, it may be understood as an acceptance of the validity of the rule or set of rules declared by the resolution by themselves."<sup>13</sup> Thus, together with the fact that the General Assembly's resolutions regarding the Olympic Truce had been signed by the majority of the states, reflects the existence of the status of customary international law of the Olympic Truce (contrary to the

ICJ finding in relation with the *Nuclear Weapons case*).<sup>14</sup> In other words, "[a]lthough the breadth of the Olympic Charter's authority may be questioned, its fundamental principles and operational rules generally satisfy the requirements of international custom involving the repetition, duration, and universality of practices, regarded as *opinio iuris*."<sup>15</sup>

## 2. The Olympics and its Values

The Olympics are a perfect moment for countries to show themselves not only sportily but also, the perfect moment to show the other nations their developments and how much they have changed. Thus, the worldwide spread of the mass-media contemporary Olympics are an opportunity to promote values, ideas and visions. As it was in 2008 for China, for whom the Olympics allowed the communist government to prove the western world how much open they had become. Brazil, this 2016, is supposed to be another example by making the protection of boys and girls the theme of the Rio Olympic Truce.<sup>16</sup> Since, according to the Brazilian declarations,<sup>17</sup> the goal behind this year's Olympic Games is to

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13. Nicaragua, *supra* note 79, at 99-100, para. 188. See also Judge Ago's separate opinion, at 184, para. 7.

14. "This finding of the ICJ was in relation to an analysis of whether there was sufficiently consistent *opinio juris*. In this context, the Court found, with respect to UN General Assembly resolutions which stated that the use of nuclear weapons was illegal and which were adopted by a large majority of States, that they did not create sufficient *opinio juris* to establish a rule of customary law because of the large number of negative votes and abstentions." ICJ, *Nuclear Weapons case*, *supra* note 28, p. 255, § 73

15. International Sports Law, James AR Nafziger. Max Planck Encyclopedia of Public International Law [MPEPIL] January 2009, para.13.

16. Protection of boys and girls is theme of Rio 2016 Olympic Truce proposal (last accessed: July 6, 2016).

Available at: <http://www.rio2016.com/en/news/protection-of-boys-and-girls-is-theme-of-rio-2016-olympic-truce-proposal>

17. Speech by Carlos Arthur Nuzman, President of the Rio 2016 Organising Committee for

promote the rights of the children by using the sports as a tool for the transformation and promotion of global values. Taking into consideration the number of people who watch the games every four years, each host city is empowered to spread an idea, and its perspective regarding a certain issue. However, at the same time, each host city carries the responsibility to spread a valuable message aimed at peace, tolerance and world connection; to spread the Olympic values<sup>18</sup> and the Olympic Truce.

As it was stated above, the Brazilian Olympic Games, aim to promote the rights of the children, proposal that was presented at the UN General Assembly and was supported by 180 countries which accepted to co-sponsor the Rio 2016 Olympic in which, as the former president of the International Olympic Committee Thomas Bach said, “[a]thletes from all 206 National Olympic Committees are [going to] liv[e] together in harmony and without any kind of discrimination”. 206 nationals committees that are going to be contributing to the *Transforma* programme (name of the Rio 2016 education programme) benefiting a total of about one million Brazilian school children and, hopefully, many more abroad by offering courses also to teachers with the goal of spreading their new knowledge to even more children.<sup>19</sup>

Adopting the proposal of the UN Office on Sport for Development and Peace (UNOSDP) which recognizes sports “as an integral part of quality education [that] can be used to mobilize and educate individuals (especially youth) and communities”,<sup>20</sup> children and all individuals can acquire fundamental values and valuable social skills through sports. Belief that was also manifestly supported<sup>21</sup> by the Singapore government when hosting the Youth Olympic Games (YOG) in 2010 and promoted by numerous of international organizations.<sup>22</sup> Hence, it is

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the Olympic and Paralympic Games, to the UN General Assembly in New York on 26 October 2015, on the occasion of the adoption of the Olympic Truce resolution (last accessed: July 6, 2016). Available at: [https://www.rio2016.com/sites/default/files/users/Samuel%20Green/carlosnuzman speech to un oct 2 015.pdf](https://www.rio2016.com/sites/default/files/users/Samuel%20Green/carlosnuzman%20speech%20to%20un%20oct%202015.pdf)

18. Olympic Charter 2015, page 13 [http://www.olympic.org/Documents/olympic\\_charter\\_en.pdf](http://www.olympic.org/Documents/olympic_charter_en.pdf)

19. Rio 2016 education programme to go global with online launch (last accessed: July 6, 2016). Available at: <https://www.rio2016.com/en/news/rio-2016-education-programme-to-go-global-with-online-launch>

20. See Achieving the Objectives of the UN through Sports, pag. 8. Available at: [http://www.un.org/wcm/webdav/site/sport/shared/sport/pdfs/Achieving%20the%20Objectives%20of%20the%20UN%20through%20Sport Sep 2011 small.pdf](http://www.un.org/wcm/webdav/site/sport/shared/sport/pdfs/Achieving%20the%20Objectives%20of%20the%20UN%20through%20Sport%20Sep%202011%20small.pdf)

21. *See* Culture and Education Programme (CEP) Explanatory Brochure. Available at: [https://www.dosb.de/fileadmin/fm-dosb/downloads/YOG/CEP GeneralInformation EN.pdf](https://www.dosb.de/fileadmin/fm-dosb/downloads/YOG/CEP_GeneralInformation_EN.pdf)

22. Such as WADA (which focused mainly on anti-doping prevention), the IOA (which focused mainly on Olympism), UNICEF (which focused mainly on children's rights and responsibilities), UNEP (which focused mainly on climate change and biodiversity), IFRC (which focused

clear that although the Olympics pursue to spread their social and moral values worldwide, the Olympic Movement makes explicit emphasis on the children's incorporating and learning of the ideas and specific conducts the Olympic Games try to project.<sup>23</sup>

The Olympic Movement's insistence on sport as a human rights, on sports as a tool for education, on sports as a forum of intercultural exchange and equality, reflect the existence of a mission beyond what most people believe the Olympic Games are. Olympism goes beyond a global sports competition and its impact is much more significant than just recognizing the athletes' performance with medals. From the first moment, when the host country is to invest in its city in order to make all services available and in conditions for the Olympic Games, to the closing ceremony of the games, countless things happen in order to permit the successful realization of the games. The efficient promotion of the Olympic Movement values, can only be achieved by the carrying on the Games; the games have a significant values of their own so they should not be cancelled.

I address this last point regarding the Rio 2016 Olympic Games whose cancellation by the IOC, for a moment, was under debate because of the Zika virus. Not only, as stated by the World Health Organization (WHO), "the 2016 Olympics will not significantly alter the international spread of Zika virus"<sup>24</sup>, but also, cancelling even temporally the games will generate anger and discontent among the Brazilian citizens who have suffered the costs of building the infrastructure needed to host the Olympics<sup>25</sup>; not to mention this would impair the promotion

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mainly on first aid, blood donation, and accident prevention), CIFP (which focused mainly on fair play), UNAIDS (which focused mainly on HIV/AIDS education and prevention), and UNEP (which focused mainly on climate change and biodiversity) [http://doc.rero.ch/record/24317/files/2011- Different Perspectives on the CEP of the YOG - DOLL-TEPPER G. pdf](http://doc.rero.ch/record/24317/files/2011-Different%20Perspectives%20on%20the%20CEP%20of%20the%20YOG%20-%20DOLL-TEPPER%20G.pdf)

23. To bring together the world's best young athletes and to celebrate them; 2. To offer a unique and powerful introduction to Olympism; 3. To innovate in educating and debating the Olympic values and challenges of society; 4. To share and celebrate the cultures of the world in a festive atmosphere; 5. To reach youth communities throughout the world to promote Olympic values; 6. To raise sports awareness and participation among young people; 7. To act as a platform for initiatives within the Olympic Movement; 8. To be an event of the highest international sporting standard for young people. [http://doc.rero.ch/record/22125/files/2010 - Torres.pdf](http://doc.rero.ch/record/22125/files/2010-Torres.pdf) .

24. WHO public health advice regarding the Olympics and Zika virus (last accessed: July 6, 2016). Available at: <http://www.who.int/mediacentre/news/releases/2016/zika-health-advice-olympics/en/>

25. Violent protests in Brazil over cost of World Cup and Olympics (last accessed: July 6, 2016). Available at: <http://www.telegraph.co.uk/news/worldnews/southamerica/brazil/10126626/Violent-protests-in-Brazil-over-cost-of-World-Cup-and-Olympics.html>. Public Money to Cover More than Half of All Private Projects Ahead of Rio Olympics (last accessed: July 6, 2016). Available at: <http://www1.folha.uol.com.br/internacional/en/sports/olympicgames/2014/08/1496453-public-money-to-cover-more-than-half-of-all-private-projects-ahead-of-rio-olympics.shtml>.

of the “rights of the children” which is the theme of the Rio 2016 Olympic Truce and the most important goal behind this year Olympic Games.

### **Refugees: Newest Competitor Team at the Olympics**

As it is well known, the Rio 2016 Olympic Games is characterized, among other things, by being the first Olympic Games in which a group of refugees will participate as a team equal to other national teams. The official name of the team, as decided by the IOC Executive Board, will be “Team Refugee Olympic Athletes” and the athletes who integrate it will compete under the

Olympic flag and wear uniforms provided by the committee.<sup>26</sup> So the question is: what is the message the IOC wants to send to the world? And, which is going to be the impact of their participation in the games? Taking the words of the IOC’s President Thomas Bach, the aim is to send a message of hope for all refugees in our world.

Taking aside the possible controversy the participation of athletes who do not belong to a National Olympic Committee might bring up, since one could argue that, that simple fact goes against point 41 (1) of the Olympic Charter,<sup>27</sup> non-discrimination and equal treatment are part of the Olympic Charter<sup>28</sup> too. What is more, they are one of the main values and principles supported by the IOC. Thus, the fact that refugees athletes will be participating in the Olympic Games implies that said participants will be treated as equals as the rest of the competitors despite their lack of national anthem and support of a specific world nation.

Even though the games have not started yet, the equal treatment and recognition of the refugees as 100% participants, has already started. For instance, Syrian refugee Ibrahim Al- Hussein was one of the few who had the honor of carrying the Rio 2016 Olympic Torch.<sup>29</sup> The Olympic Torch represents solidarity, it transmits peace and friendship; and that is exactly what the refugees carrying

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Brazil protests show cost of hosting major sports events (last accessed: July 6, 2016). Available at:

<http://www.cbc.ca/news/world/brazil-protests-show-cost-of-hosting-major-sports-events-1.1358504>;

26. Team of Refugee Olympic Athletes (ROA) created by the IOC (last accessed: July 6, 2016). Available at: <https://www.olympic.org/news/team-of-refugee-olympic-athletes-roa-created-by-the-ioc>

27. *See* <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf#ga=1.177963107.772737244.1461799011>

28. *Ibid*, pag. 13.

29. Syrian refugee carries Rio 2016 Olympic Torch in Athens and calls for end to all wars (last accessed: July 6, 2016). Available at: <https://www.rio2016.com/en/news/syrian-refugee-carries-rio-2016-olympic-torch-in-athens-and-calls-for-end-to-all-wars>

the Olympic Torch symbolize. As the president of Brazil's national committee for refugees, Beto Vasconcelos, said: "The Olympic Games are an international event which represent unity, solidarity, respect and peace between peoples. Therefore it is an opportunity to call the peoples attention to the sad human drama of the worst humanitarian crisis in 70 years."<sup>30</sup>

At the same time, as all athletes, the refugee team will be living in the Olympic Village which means that they will have the opportunity to reconnect with the outside world and beyond the refugees' camps where most of them live. Refugee's participants will have the chance to interact with peers of totally different backgrounds and cultures. The opposite is also true: national competitors are going to have the opportunity to connect with the refugees and try to understand their conditions and situation making possible an increase in the help the world provides to the world refugees and empathy towards them.

The aim of allowing the participation of refugees in the mega-event that the Olympic Games are should be precisely to increase the international community help towards world refugees. Not only the other teams' competitors are going to be the ones connecting with the refugees, but also the world by seeing the refugees as they deserve to: as talented, strong and inspiring people. It is in order to advance in said objective that, for instance, the IOC has provided a fund of 2 US\$ million dollars to help the world refugees,<sup>31</sup> working with the UN<sup>32</sup> and the United Nations' Refugee Agency and calling for the NOC to work with them towards this goal.

## Conclusion

Taking everything into consideration, it will not be incorrect to conclude that the Olympic Games are much more than a huge media and competitive event which gathers athletes from all over the globe. The Olympic Games, with the basing idea of the importance of the Olympic Truce in mind, is a mean to promoting multiple ends. Among these ends, it is noteworthy to highlight the spread of social values, common ideas, the goal of embrace a mutual feeling of community among the nations despite the fact the athletes are competing between

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30. 'I feel Brazilian,' says Syrian refugee, 12, after carrying Olympic Torch (last accessed: July 6, 2016). Available at: <https://www.rio2016.com/en/news/syrian-refUgee-12-carries-rio-2016-olympic-torch-in- brasilia>

31. International Olympic Committee announces emergency US\$2 million fUnd to help refUgees (last accessed: July 6, 2016). Available at: <https://www.rio2016.com/en/news/international-olympic- committee-announces-emergency-us-2-million-fUnd-to-help-refUgees>. Hellenic Olympic Committee scores big with RefUgee Support Programme (last accessed: July 6, 2016). Available at: <https://www.olympic.org/news/hellenic-olympic-committee-scores-big-with-refugee-support-programme>

32. *See* <https://www.worldhumanitariansummit.org/>

each other, to promote peace, and to send messages to the world population and States' government.

Not to mention that the fact that the Olympic Truce has been incorporated as a constituent of the international community of States practice, raise a hope for a possible world permanent peace. Even admitting that the path towards the world peace is going to be fraught with obstacles and pitfalls, resulting in a snail's pace journey, the positive effects of the Olympic Movement make, at least in a long term, this idealistic idea not fully impossible.