I. INTRODUCTION

The Olympic Games are made possible by the International Olympic Committee ("IOC"), an international non-government organization that governs over international sports federations that, in turn, governs the sport for which it is named. Both the IOC and the international federations have self-created, self-governing laws. The IOC’s laws govern itself and all entities that are part of the Olympic Games. The Global Association of International Sports Federations ("GAISF") is another organization, separate and independent of the IOC, but is also comprised of independent international sports federations and other organizations that “contribut[e] to sport[s] in various field[s],” organize “multi-sports event[s],” and supports the organisation of international, multi-sports events by its members. GAISF also has its own self-governing laws.

The Court of Arbitration for Sport ("CAS") is a private, non-government “arbitral tribunal that handles both commercial matters related to sports in the first instance and also serves as an appellate body,” thus offering services for “the settlement of sports-related disputes through arbitration or mediation by means of procedural rules adopted to the specific needs of the sports world.” When hearing a dispute, CAS may use governing statutes created by the IOC, GAISF, or the international federations involved in the dispute. Upon resolution of a dispute, CAS issues an arbitration award which “resolves the subject dispute, orders

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* George Mason University School of Law, J.D., May 2019.
2 Id. at 56, 86.
4 Id. at 4.
5 Id. at 12-13.
8 See e.g., Paolo Barelli v. Fédération Internationale de Natation (FINA), CAS 2016/A/4924 & 4943, ¶ 51 (2016), http://jurisprudence.tas-cas.org/Shared%20Documents/4924,%204943.pdf (applying the rules and regulations of the Fédération Internationale de Natation to determine whether the Appellant had standing on the dispute).
appropriate relief, and is final and binding on the parties.”9 “CAS arbitration awards are creating a uniform body of Olympic and international sports law, a so-called *lex sportiva*.”10

This comment argues that IOC and GAISF should revise their governing statutes to provide for due process mechanisms and increased transparency in their operations. Part I describes the hierarchy and functions of international sports government. It also describes the potential issues that a non-IOC regulated sports community may experience when an IOC-regulated governing body tries to govern over the sports community. Specifically, this comment describes how the parkour community has responded to an attempt by the international governing body for gymnastics to govern over parkour.

Part II analyzes the problems resulting from this kind of conduct. These problems include the contradictory statement made by sports governing organizations to become more transparent while not disclosing its decision-making processes or their criteria, the absence of due process guarantees coupled with limited availability of judicial relief, and the absence of rules and guidance where several organizations want to govern a sport. Part II then describes how these problems can be addressed by revising the existing governing statutes to improve transparency and provide for due process and involvement opportunities for entities not formally recognized by major international sports governance entities that may be affected by decisions made by major international sports governing entities.

II. BACKGROUND

The Olympic Games are managed by the IOC, a private, non-government organization so influential that in 2016, the United Nations resolution “reaffirmed the recognition of the autonomy of the [IOC] and the role of sport as an ‘important enabler’ of peace.”11 “Participation in the Olympic Games is voluntary. Thus, nations and individuals [participating] in the Olympic Games submit themselves to the rules and regulations established by the IOC.”12

A. Governance Over the Olympic Games

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10 Id.
The Olympic Games are one part of a set of actions called the Olympic Movement. The Olympic Movement “is the concerted, organized, universal and permanent action” executed under IOC’s authority. The IOC, National Olympic Committees, and international federations are the three main constituents of the Olympic Movement. The Olympic Charter is the codification of laws that governs all the constituents. It includes “the Fundamental Principles of Olympism, Rules, and Bye-laws adopted by the [IOC].” All organizations “belonging in any capacity . . . to the Olympic Movement [are] bound by the . . . Olympic Charter and shall abide by” the IOC’s decisions.

The Olympic Charter defines the “reciprocal rights and obligations of the three main constituents.” It also describes various measures the IOC may use if a constituent violates the Olympic Charter, the Olympic Movement Code, or any other regulation. For example, the Olympic Charter authorizes the IOC to withdraw a discipline or an event from the Olympic Games if an international federation violates a regulation. The Olympic Charter, through the requirement that international federations adopt the World Anti-Doping Code, may also ban individuals from participating in Olympic Games.

i. The International Olympic Committee

The IOC is the ultimate authority of the Olympic Movement. Under the Olympic Charter, decisions made by the IOC are final. Any dispute over the IOC’s “application or interpretation may be resolved solely by the IOC Executive Board and, in certain cases, by arbitration before the Court of Arbitration for Sport.” The Olympic Charter authorizes the IOC to, among other things, recognize (1) an activity as a sport, and (2)
international federations that govern a sport and disciplines of that sport.\(^{28}\) The IOC is also tasked with “encourag[ing] and support[ing] the promotion of ethics and good governance in sport.”\(^{29}\) The “general meeting of the members of the IOC” is called the Session.\(^{30}\)

ii. International Federations

International federations are non-government organizations\(^ {31}\) that take part in organizing various activities of the sport for which they are named at an international level. For example, an international federation may make and enforce rules for the sport and disciplines within the sport that it governs.\(^ {32}\) While IOC recognizes various organizations as the international authority governing a sport,\(^ {33}\) an organization need not be recognized by the IOC to be an international federation.\(^ {34}\) The World Skateboarding Federation is an example of an international federation that is not recognized by the IOC but participates in organizing and facilitating skateboarding activities by, among other things, “assist[ing] in building quality skateparks” and “creat[ing] a centralized judging and scoring system[.].\(^ {35}\)

A discipline is “[a]ny of the sports and/or activities defined” in a sport.\(^ {36}\) For example, the international federation for gymnastics manages at least six disciplines: “Men’s Artistic Gymnastics, Women’s Artistic Gymnastics, Rhythmic Gymnastics, Trampoline Gymnastics, Acrobatic Gymnastics and Aerobic Gymnastics[].”\(^ {37}\) An international federation’s rules extensively regulate the sport. Regulations may, for example, expressly determine which companies may furnish the equipment for use at the Olympic Games.\(^ {38}\) Regulations can also establish appeals processes for

Olympic Charter; recognizing and supporting the National Olympic Committees' (NOCs) and International Federations' (IFs) respective rights; determining new IOC members; and negotiating television rights.

\(^{28}\) Id.

\(^{29}\) OLYMPIC CHARTER, supra note 1, at 16.

\(^{30}\) Id. at 42.

\(^{31}\) Id. at 55.

\(^{32}\) Other responsibilities of international federations include maintaining integrity of their sport on the international level and to ensure “the development of their sports throughout the world.” Id. at 56; see also INT’L OLYMPIC COMM., International Sports Federations, OLYMPIC GAMES, https://www.olympic.org/ioc-governance-international-sports-federations (last accessed Oct. 13, 2017) [hereinafter “IOC Federations”].

\(^{33}\) IOC Federations, supra note 32.

\(^{34}\) Id.


\(^{37}\) FIG Statutes, supra note 36, at 27.

\(^{38}\) OLYMPIC CHARTER, supra note 1, at 87.
technical matters of a sport. 39 Rules created by the IOC-recognized international federation extend “by reference to those organizations recognized by the international . . . federations as governing such sports at the national level.”40 Thus, IOC-recognized international federations are responsible for managing and monitoring the “everyday running of the world’s various sports disciplines, including for those on the [Olympic Games] program[.]”41

IOC-recognized international federations “maintain[] [their] independence and autonomy in the governance of [their] sport[s].”42 Thus, IOC-recognized international federations and sports activities governed by such international federations are regulated by their own international federation-specific statutes.43 These statutes must be consistent with the Olympic Charter.44

iii. National Olympic Committees

National Olympic committees are national level, non-government sports organizations recognized by the IOC as “authority for the representation of their respective countries at the Olympic Games and at the regional, continental, and world multi-sports competitions patronized by the IOC.”45 National Olympic committees are responsible for the development, promotion, and protection of the Olympic Movement in their own countries.46 One of their responsibilities is to recognize a single national sports organization as a national federation for a sport governed by the respective IOC-recognized international federation.47

iv. National Federations

National federations, also known as national sports federations, are non-government organizations that “govern[] and administer [a] sport” at the national level in addition to the Olympic Committee administering sports at the “world level.”48 Any national federation recognized by a national Olympic committee is additionally affiliated with the IOC-recognized international federation that administers the sport that they represent.49 For example, USA Gymnastics is the national federation for

39 See id. at 88 (defining more examples of subjects regulated by an international sports federation, including “characteristics of the required technical installations and the sports equipment to be used at the venues during the Olympic Games.”).
40 Id. at 55.
41 IOC Federations, supra note 32.
42 OLYMPIC CHARTER, supra note 1, at 55.
43 See id.
44 Id.
45 Id. at 60.
46 Id. at 59, 63, 66.
47 Id. at 63.
49 See OLYMPIC CHARTER, supra note 1, at 66.
gymnastics recognized by the United States National Olympic committee, and thus is governed by the statutes created by the Federation of International Gymnastics (“FIG”). Like international federations, an organization need not be recognized by a national Olympic committee to be a national federation.

To be recognized by the IOC as a member of a national Olympic committee, an organization must “exercise a specific, real and on-going sports activity, be affiliated to an [international federation] recognized by the IOC and be governed by and comply in all aspects with both the Olympic Charter and the rules of its [international federation]."

v. Court of Arbitration for Sport (“CAS’

CAS, despite its name, is not a court of law, but instead is an international arbitral tribunal formed by the IOC “to resolve Olympic and international sports legal disputes by arbitration before an independent and impartial body.” CAS was established in 1983 by the then-President of the IOC Juan Antonio Samaranch and an International Court of Justice

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52 For example, the Australian Parkour Association is a “nationally recognised organisation” that aims to “primarily act as the pre-eminent organization for the development of Parkour in Australia.” Australian Parkour Association, About the Australian Parkour Association, AUSTRALIAN PArkOUR ASSOCIATION, https://parkour.asn.au/about/ (last accessed Feb. 3, 2019).
53 OLYMPIC CHARTER, supra note 1, at 66.
54 Ken Foster, Lex Sportiva and Lex Ludica: The Court of Arbitration for Sport’s Jurisprudence, 3 ENTM’T & SPORTS L. J. 1, 11 (2005) (“[CAS] is not a fully-fledged judicial procedure that replaces national courts. Neither is it an international court, such as the International Criminal Court, because that would need national governments to have established it by treaty.”)
55 Mitten, supra note 9, at 12. CAS’ independence was questioned in a proceeding in Switzerland’s highest court, the Swiss Federal Tribunal. Westlaw, Swiss Federal Tribunal, UK PRACTICE LAW, https://uk.practicallaw.thomsonreuters.com/7-523-9007 (last accessed Nov. 2, 2017). CAS was later restructured to have a separate governing body “empowered with administrative functions [and the] responsibility for amending the Court of Arbitration for Sport procedural rules.” Louise Reilly, An Introduction to the Court of Arbitration for Sport (Court of Arbitration for Sport) & the Role of National Courts in International Sports Disputes, 2012 J. DISP. RESOL. 63, 64 (2012). The Swiss Federal Tribunal later acknowledged CAS’ independence from the IOC in a later proceeding in which two cross-country skiers challenged the IOC and the International Ski Federation. Id. The Swiss Federal Tribunal referred to CAS as the “true Supreme Court of world sport” and that CAS “offered all guarantees of independence and impartiality.” Id. (citing Tribunal fédéral [TF] [Swiss Federal Tribunal] Mar. 15, 1993, Arrêts du Tribunal Fédéral Suisse[ATF] 119 271 (Switz.), translated into English in MATTHIEU REEB, D IGEST OF COURT OF ARBITRATION FOR SPORT AWARDS 1, 1986-1998 545 (2001)).
judge, Kéba Mbave, after Samaranch recognized a “need to create a specialised authority capable of settling international disputes[.]” CAS thus “provides a forum for the world’s athletes and sports federations” and offers an alternative to a court by providing “a flexible, quick and inexpensive procedure” that “resolv[es] disputes arising in the context of sport by arbitration and/or mediation.” With few exceptions, all international federations recognize CAS “as the final instance of appeal for international disputes, to the exclusion of national courts.”

Individuals such as athletes as well as organizations belonging to national federations or international federations may file “appeals against the decision of a federation, association, or sports-related body” only if the statutes or regulations of the federation, association, or sports-related body provide them. Alternatively, appellants may appeal to the extent that the parties involved have a specific arbitration agreement and “if the [a]ppellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body.” In short, for CAS to have jurisdiction over a dispute, both parties must have agreed to arbitration in some way. For example, CAS has been recognized by Swiss courts as “an independent and impartial arbitration system[.]” CAS decisions are appealable to the Swiss Federal Tribunal.

B. GAISF

GAISF is a “not-for profit association, composed of the autonomous and independent international sports federations and other international organisations contributing to sport in various fields.” Independent from the Olympic Movement, GAISF works “to organise . . . multi-sports events and support the organisation of multi-sports games by

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57 Reilly, supra note 55, at 63.
58 History of the Court of Arbitration for Sport, supra note 56.
59 Mitten, supra note 9, at 12.
60 History of the Court of Arbitration for Sport, supra note 56.
62 Court of Arbitration for Sport lacks jurisdiction over “North American profession sports leagues, which operate their own form of arbitration.” Reilly, supra note 55, at 67.
63 Mitten, supra note 9, at 12.
64 Reilly, supra note 55, at 66.
65 Id.
66 History of the Court of Arbitration for Sport, supra note 56.
67 Foster, supra note 54, citing A & B v IOC, judgment of 27 May 2003, 1st Civil Chamber, Swiss Federal Tribunal (concluding that by bringing their case before Court of Arbitration for Sport, athletes impliedly accept Court of Arbitration for Sport as impartial).
69 GAISF Statutes, supra note 3, at 4.
its Members in agreement and cooperation with its Members[.]

GAISF is governed by its own statutes. GAISF’s executive body is called the Council.

GAISF is similar to the IOC in that its structure includes an international federation and a national federation, which its statutes define as “a body representing a sport or a number of sports in a country that is recognised by the NOC and/or the highest sporting authority of the country[.]

C. Recognition Processes

i. Criteria for International Federation Recognition by the IOC

To become recognized as an international federation by the IOC, a non-government organization must send an official letter to the IOC Sports Department stating “its willingness to apply for IOC recognition[.]

Second, GAISF studies the organization’s request. The analysis “serve[s] as a basis for discussion within the IOC, which will submit potential recognition request to the IOC Executive Board for a provisional recognition of two years, and subsequently to the IOC Session for full recognition.”

Third, “the IOC Executive Board . . . stud[ies] and decide[s] upon the recognition requests from applicants.”

This provisional period is, by default, two years.”

“Official notification of recognition or non-recognition will be sent by the IOC to each applicant.”

Fourth, the IOC Session “decides whether or not full recognition of the [international federation] concerned will be granted” “[a]t the end of the provisional recognition period, and upon the recommendation of the IOC Executive Board[.]

In considering the organization’s application for recognition, the IOC evaluates several themes, including governance, history and tradition, universality, and development of the international federation or sport.

Within the themes are several criteria, which each have at least one item to

70 Id. at 10.
71 Id. at 12.
72 Id. at 9.
73 See generally id. at 3.
be evaluated. 82 The governance theme includes a criteria on “[g]ood governance basic principles[,]” which includes the items “[e]xistence of transparent and enhanced international dispute resolution mechanism” and “[s]ubmission to the Court of Arbitration for Sport . . . of all disputes which cannot be settled amicably or through local arbitration or mediation; types of disputes for which the Court of Arbitration for Sport is used; number of cases in which the [international federation] is involved.”83

The history and tradition theme includes the general criteria World Championships, which includes the items “Year the World Championships and Junior World Championships were first held for each discipline or sport, for men and women”84 and “Number of World Championships and Junior World Championships held to date for each discipline or sport, for men and women[,]”85 The “[o]ther multi-sports [g]ames”86 criteria includes the item “[n]umber of times each recognised discipline or sport has been included in the selected multi-sports Games (World Games, Universiade, Commonwealth Games, Continental Games – All Africa Games, Asian Games, Pan-American Games and Mediterranean Games, Sport Accord Multi-Sports Games)[.]”87

The universality88 theme includes the criteria “Number of affiliated national federations[,]”89 which includes an item on the “[n]umber of [n]ational [f]ederations affiliated to the [i]nternational [f]ederation which correspond to the National Olympic Committees[.]”90 “Active member national federations” is another criterion 91 which includes the item “[n]umber of [n]ational [f]ederations which participated in the last two [c]ontinental [c]hampionships for men and women[.]”92

Finally, the “[d]evelopment of the [international federation]/Sport”93 theme includes the criteria “[t]echnical evolution of the sport”94 which includes the item “[e]xistence of means to control the technical evolution within the sport regarding venues, sports equipment (items used by athletes in

82 See e.g., International Sports Federations Requesting IOC Recognition, supra note 74 at 2-5.
83 Id. at 3.
84 Id.
85 Id.
86 Id.
87 Id.
88 Id.
89 Id.
90 Id.
91 Id.
92 Id.
93 Id. at 5.
94 Id.
the practice of the sport) and competition clothing (items worn by athletes and subject to IF technical specifications).”

Another criteria is on “[t]ransparency and fairness on the field of play” which includes the item

“[s]teps taken by the [international federation] to ensure that the outcome of the competition will be as objective and fair as possible, including selection & evaluation process for judges, training and certification and impact of judging on results.”

The applicant-organization’s

“statutes, practice and activities of the [international federations] within the Olympic Movement must be in conformity with the Olympic Charter, including the adoption and implementation of the World Anti-Doping Code as well as the Olympic Movement Code on the Prevention of Manipulation of Competitions. Subject to the foregoing, each [international federation] maintains its independence and autonomy in the governance of its sport.”

It is worth noting that IOC’s recognition criteria for international federations are not easily accessible or otherwise easy to locate on the IOC’s official page.

ii. Criteria for Internal Federation Recognition by GAISF

GAISF has two main categories of members, Full Members and Associate Members, which are then categorized into one of five divisions. GAISF may grant applicant-organizations “observer status,”
which allows the applicant-organization to attend the General Assembly, while its application is pending if “no reasonable rivalry issues with an existing Member.”

A condition of membership for Full Members is that the organization “groups together the majority of the National Federations (or organisations) throughout the world practising its sport and regularly holding international competitions[.]” A condition of membership for Associate Members is that the organization “groups together the activities of several Members generally for the purpose of organising competitions.”

The statutes explicitly lists its criteria for organizations interested in applying as a Full Member or Associate Member. Full Membership for GAISF requires, among other things:

- “a written declaration justifying that the sport or activity which [the applicant] control does not conflict with or is not in rivalry with an already existing Member of GAISF;”
- “a written declaration justifying that the IF is the only federation governing its sport on a world level. Provide, if any, the name of dissident organisations and explain how and which solutions were arranged;”
- “a copy of its constitution/statutes, regulations and directives which must comply with the World Anti-Doping Code. . . . The constitution/statute of the candidate must also contain a specific provision recognising the exclusive jurisdiction of the Court of Arbitration for Sport, in Lausanne, Switzerland;”
- “a list of its Member National Federations (where applicable), grouped by continents[;]”
- “at the national level, the sport – represented by the IF applying for GAISF membership – must include one of the disciplines recognised by the member NF. The National Federation must be a full member of the corresponding International Federation applying for GAISF membership. No categories other than the full membership to the IF will be taken into account;” and

Federations, the Association of IOC Recognized International Sports Federations, and the Alliance of Independent Recognized Members of Sport, and Associate Members. Id. 101 GAISF Statutes, supra note 3, at 12. “The General Assembly is the meeting of all GAISF Members. It is the supreme organ of GAISF.” Id. 102 GAISF Statutes, supra note 3, at 10. 103 Id. at 5. 104 Id.
• “a list of the National Olympic Committees (NOCs) or National Sport Authorities (NSAs) recognising its Member National Federations; A recognition certification signed and stamped by the NOC and/or NSA must be enclosed within the membership application for GAISF.”

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iii. Recognition for Sports and Disciplines Within a Sport

Both the Olympic Charter and the Statutes do not provide a definition of what a sport is. Similarly, the Olympic Charter and the Statutes do not define what constitutes a discipline of a sport. Neither set of governing documents describes criteria must be met to determine when activity constitutes a sport, nor do either set of governing documents provide criteria to determine whether an activity qualifies as a sport rather than a discipline of a sport.106

D. Parkour and FIG: A Live Dispute of the IOC’s Recognition Process

The absence of definitions for “sport” and “discipline” in the Olympic Charter and the Statutes, as well as the absence of readily-available international federation recognition criteria by the IOC, has led to struggles in authority between sports communities where no organization has taken a clear lead in the sport and already-recognized international federations. The controversy between parkour practitioners and FIG is an example of the issues that may surface as a result.

i. Parkour

Parkour107 is the “physical discipline of training to move freely over and through any terrain using only the abilities of the body, principally

105 Id. at 6–7.
106 Compare with Council of Europe, European Sports Charter (May 2001), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804c9dbb (defining sport as “all forms of physical activity which, through casual or organised participation, aim at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels.”)
107 The terms “parkour,” “freerunning,” and “Art du Déplacement” are often used interchangeably among practitioners. See e.g., Letter from Eugene Minogue, Chief Executive, Parkour UK, & Stephen Mitchell, Independent Chair, Parkour UK, to Morinari Watanabe, President, Fédération Internationale de Gymnastique at unp. 1 (Mar. 31, 2017), available at http://parkour.uk/wp-content/uploads/2017/03/Letter-to-FIG-March-2017-FINAL.pdf. David Belle, one of the nine people credited for founding parkour, first introduced the word “parkour” in 1998. Id. at 2. Parkour comes from the French word, “parcours,” which means "route" or "course." Id. The other eight people credited for founding parkour are “Sabastien Foucan, Yann Hnautra, Chau Belle, Laurent Piemontesi, Guylain N’Guba Boyeke, Charles Perriere, Malik Diouf and Williams Belle.” Id. Buillaume Pelletier, one of several French practitioners, created the word “freerunning” to “describe the ethos of this new sport to an English-speaking audience.” Id. Some organizations distinguish between parkour and freerunning. For example, some describe parkour as “running, swinging, jumping, and
through running, jumping, climbing[,] and quadrupedal movement.”

Its practice includes “functional strength and fitness, balance, spatial awareness, agility, coordination, precision, control[,] and creative vision.” Parkour practitioners are called “traceurs.” Since its founding in the 1980s, community groups, gyms and governing bodies have surfaced across the globe. Despite being recognized or described as a sport in some countries, parkour is not competitive.

“Parkour” treats parkour, freerunning, and Art du Deplacement as the same sport.

Id. at 2.


Parkour UK has been recognized by the UK Sports Councils as the national governing body for parkour in the United Kingdom. Letter from Eugene Minogue, supra note 107, at 2. Part of UK Sports Council’s recognition of an organization as a NF includes recognizing the activity practiced by the organization is a sport. Sports Councils’ Recognition Policy 2 (2017), https://www.sportengland.org/media/12132/uk-recognition-policy-2017.pdf.

Rendao unknowingly took the textualist approach when describing parkour as a sport by referencing the Miriam-Webster dictionary, which defines sport as “physical activity engage in for pleasure . . . a particular activity (as an athletic game) so engage in[,]” Amos Rendao, Brandon Douglass, & Ryan Ford, On Competition & Collaboration, APEX SCHOOL OF MOVEMENT (Apr. 23, 2017), https://apexmovement.com/blog/on-competition-collaboration/.

Letter from Eugene Minogue, supra note 107, at 1. See also Max Bell, Leaked Email Stating FIG’s Intent to Create Obstacle Course Competitions, OBSTACLE RACERS NZ (May 17, 2017), http://www.obstacleracersnz.co.nz/2017/05/17/obstacle-sport-federation-comments-
something you can win.” Among the reasons for the increasing popularity of parkour, one is its application for recognition, “has been pending for three years.”

While parkour as a sport is not competitive, parkour techniques “fit easily into competition culture.” Traceurs have recognized the benefits that competition brings to a sport. Accordingly, gyms and other community organizations have planned and executed obstacle course competitions that incorporate parkour movements. For example, Apex Movement, “a group of professional parkour coaches, athletes, and performers. . . . [with] multiple gym locations in Colorado, California, and Connecticut” has hosted obstacle course competitions, called Obstacle Course Sprints, since 2009. These competitions “are not exclusive to parkour practitioners but are inclusive to anyone who thinks they have the skills to go the fastest on short, dense, real-world based obstacle courses.”

While traceurs do not compete with each other, competitors can compare “who has the biggest jump the fastest time” and count the number of techniques executed over certain obstacles. Amos Rendao, owner of Apex, compared the potential for exposure of parkour in obstacle course competitions, stating that competitors

“get a lot of positive exposure in the same way a mixed martial arts . . . fighter gives exposure to their background martial arts. A[ . . .] fighter may have a Muay Thai and Brazilian Jiu Jitsu background that makes up the bulk of their style of combat. In the same way, a course runner may have a track [and] field, [obstacle course

on-gymnastics-new-obstacle-sport/; Rendao et al., supra note 116. Some may describe parkour as a competition, but against yourself rather than against others. Amy Han, Parkour: The Spectacle, the Practical, the Philosophical, and Where Competition Fits In, FALLING LEAVES & A BIRD (Nov. 29, 2016), https://fallingleavesandabird.com/.

118 Rendao et al., supra note 116.

119 Max Bell, Controversy Over New Gymnastics-based Obstacle Sport as Key Partner Pulls Out, OBSTACLE RACERS NZ (May 14, 2017), http://www.obstacleracersnz.co.nz/2017/05/14/controversy-over-new-gymnastics-based-obstacle-sport-as-key-partner-pulls-out/.


121 Han, supra note 117.

122 Rendao et al., supra note 116. Rendao noted that his obstacle course competitions foster: (1) the development of skills “to maintain control under high pressure,” (2) community, (3) a sense of humility. Id.


124 Rendao et al., supra note 116.

125 Id.

126 Han, supra note 117.

racing], parkour, and speed climbing background as they compete in [Obstacle Course Sprints].”

Rendao explains that, like skiing, climbing, and surfing, parkour should not “be recognized as [a] competitive sport[]” in its entirety. Parkour, skiing, climbing, and surfing are all similar because training methods for these sports predates and goes beyond what a specific event focuses and showcases. Thus, obstacle course competition competitors may borrow parkour techniques like vaults to traverse an obstacle, but the library of parkour techniques includes more than just vaults. A new competition can be created without encompassing the sport as a whole.

ii. The International Extreme Sports Festival

In late 2016, Rendao and others learned of the opportunity to bring obstacle course competitions to an international audience. Discussions became serious around February and March of 2017 when FIG and a group, the International Extreme Sports Festival Association emerged as key partners for Apex’s Obstacle Course Sprint. The International Extreme Sports Festival Association organizes the International Extreme Sports Festival, “a staple event in the action sports calendar” involving “over 25 competitions that bring together the most popular action sports: skateboard, BMX, mountain bike, wakeboard, [and] inline skate.” Rendao agreed to work with FIG under certain conditions. First, he sought “significant control over ongoing development, presentation, format, etc. of the [Obstacle Course Sprint] by having two spots on the highest committee that would have final say.” Second, as an extension of the control process, Rendao agreed to move forward if he was “assured that important off-limit terms like parkour, gymnastics, freerunning, art du déplacement, and parcours were never to be used in the naming of [the] competition format.” Lastly, Rendao proceeded under the premise that governance of parkour was not on

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128 Rendao et al., supra note 116.
129 Id.
130 Id.
131 See id.
132 See id.
135 Id.
137 Rendao et al., APEX Ends Collaboration, supra note 134.
138 Id.
the table for consideration. Rendao recalls that, “[t]here was zero mention of any interest in FIG governing parkour.”

iii. FIG Debuts a New Discipline

On February 24, 2017, FIG issued a press release on the development of a FIG discipline based on parkour following the presentation and research into parcours d’obstacles (obstacle course competitions) and parkour, already part of the work of many national gymnastics federations including Sweden, The Netherlands and Belgium. FIG President Watanabe stated that he “deeply respects the development of parkour as a non-competitive training methodology, based on obstacles that were not created as such, and with a particular philosophy emphasizing efficiency, usefulness and personal development.”

While the development of FIG’s creation of a parkour-based discipline was ongoing, news spread that FIG planned to appoint a FIG Parkour Committee, chaired by Belle and include Perriere, other parkour experts, and two athletes “which shall work in three areas, education, development and competitions.”

iv. The Parkour Community Responds to FIG’s Announcement

Beginning March 31, 2017, parkour communities across the globe began issuing open letters to FIG President Watanabe to protest the development of FIG’s new discipline. The following shows how sports communities with no international federation respond to an international federation’s attempt to adopt a discipline with “completely different histories, cultures, and purposes[,] [where] [a]ny overlap” between the two sports community to be annexed as a discipline and the international federation trying to annex the sport is superficial.

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139 Id.


142 Id.


144 See generally Parkour UK’s Open Letter to FIG, supra note 140.

Parkour UK, a parkour organization recognized in the United Kingdom as the national governing body for parkour, was one of the first parkour organizations to respond to FIG’s February 24, 2017 press release. A letter from Parkour UK Chief Executive, Eugene Minogue, and Stephen Mitchell, Independent Chair, stated FIG’s decision to create new discipline was “encroachment and misappropriation” of their sport. Minogue and Mitchell highlighted one of the Fundamental Principles of Olympism:

“Recognising that sport occurs within the framework of society, sports organisations [within the Olympic Movement] shall have the rights and obligations of autonomy, which include freely establishing and controlling the rules of sport, determining the structure and governance of their organisations, enjoying the right of elections free from any outside influence and the responsibility for ensuring that principles of good governance be applied.”

The letter also mentions Parkour UK’s previous experience with similar events at the national level when British Gymnastics, Britain’s national federation for gymnastics, developed a program that imitated parkour. Parkour UK “addressed this with British Gymnastics [and] the UK Sports Councils [in] March 2013, to ensure that [parkour] is not misappropriated and/or encroached upon.” Parkour UK’s letter also reiterated its position that Parkour UK is the national recognized governing body for parkour as a sport in the UK. Minogue and Mitchell wrote that parkour is not gymnastics, that traceurs are not gymnasts, and that parkour is its own “sovereign sport with independently recognised distinct uniqueness and cultural status.” Minogue and Mitchell invited other national communities to “issue letters of support for Parkour UK’s position to FIG . . to ensure[,] protect[,] and promote the integrity of our sport, the rights, freedoms and interests of [t]raceurs . . internationally[.]”

Parkour UK provides two main arguments. First, FIG lacks the competence to govern over a discipline based on parkour. Parkour is different from gymnastics, featuring different environments that require different techniques. For example, many gymnasts perform routines on

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147 Parkour UK’s Open Letter to FIG, supra note 140.
149 See Parkour UK’s Open Letter to FIG, supra note 140.
150 Id.
151 See id.
152 Id.
153 Id.
Parkour, by contrast, is performed in outdoor environments which often require traceurs to interact with concrete, asphalt, grass, brick, and other less impact-absorbent structures. Thus, how a gymnast would perform a front flip and how a traceur perform a front flip are different. Second, Parkour UK argues, FIG lacks the authority and legitimacy to develop a parkour-related discipline. The letter concludes by welcoming a meeting with FIG, to be memorialized in a Memorandum of Understanding, “to formally acknowledge and [recognize] sovereignty of Parkour[.]” Minogue and Mitchell requested that the meeting be “prefaced with an agreed and binding arbitration agreement referring any dispute” to CAS’ jurisdiction. Minogue and Mitchell proposed that if FIG failed to act in 60 days, “any dispute arising from and/or related to the binding arbitration agreement will be submitted exclusively to [CAS] . . . and resolved definitively in accordance with the Codes of sports-related arbitration.”

b. Response from Others Parkour Communities and Organizations

Soon after Parkour UK published its letter, other communities issued open letters of their own to FIG. The International Parkour Federation stated FIG lacked any “organic understanding of [p]arkour” and compared FIG’s announcement of its new discipline as “someone breaking into our home and saying, ‘Just give us two of your four children and we’ll leave you alone to raise the other two as you wish.’” New Zealand Parkour and the Australian Parkour Association echoed Parkour UK’s sentiment that FIG’s announcement represented encroachment and misappropriation. The Australian Parkour Association and other

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157 Id.
158 Id.
159 Id.
160 Id.
161 At the time of writing this Note, International Parkour Federation has not been recognized by either the IOC or GAISF.
163 Id.
communities stated that FIG Secretary General Andre Guiesbugler’s understanding of parkour’s history was inaccurate and ill-informed. The Australian Parkour Association also rejected Guiesbugler’s comment that the parkour community was not organized in its development of parkour. Other geographically-based communities began collaborating to create new, national federations “to prevent the encroachment and misappropriation of our sport nationally.”

On May 13, 2017, Rendao updated Apex Movement’s website announced its formal termination with FIG in the development of the obstacle course competition. Rendao stated that he and the rest of the Apex Movement community, as defenders of the parkour community, “do not stand for FIG governing parkour.” Rendao said the opportunity to collaborate with FIG for the obstacle course competition “as it was presented to us is no longer aligned with surfacing information, and key assurances over the naming of our competition format were neglected publicly in statements made by FIG.” “FIG’s interests do not coincide with what we perceive to be a step forward for the international parkour-

the-federation-internationale-de-gymnastique-on-the-encroachment-and-misappropriation-of-parkour.


Letter from Eliot Duffy, supra note 164.

Id. In a separate update by Rendao on Apex’s website, he quoted Secretary General Gueisbugler, who stated,

“At the moment [parkour practitioners] are not organized. Their basic spirit is to be free, not to be organized. Yet they want to have competitions. But if they want to do competitions, obviously they need minimum rules and environment to make attractive competitions. I’m sure FIG is the international federation most qualified to further develop parkour.”


For example, four German-based parkour groups reached an accord to create a new national federation. Letter from Ashigaru, et al., supra note 167.

Letter from Eliot Duffy, supra note 164.

Rendao et al., APEX Ends Collaboration, supra note 134.

Id.
community.”

Across all open letters were the same theme: parkour is its own sovereign, culturally independent from gymnastics.

E. Development and Events After the Open Letters

Despite the open letters from members in the parkour community, FIG continued pursuing the new discipline and proposed its “full inclusion at Tokyo 2020.”

On May 10, 2017, FIG issued another press release stating its approval of “the key stages for the discipline’s formal inclusion, with a view to organizing World Cup series in 2018 and 2019 and World Championships from 2020.” FIG’s parkour experts, who remained unnamed, sought to include two obstacle course formats: an obstacle course sprint, in which participants would race through a course against the clock, and a freestyle, in which participants would be judged. The courses would be “based on real-world shapes found in urban and natural environments.” President Watanabe again stated that FIG was developing its new discipline “with the desire to respect the philosophy that drove the founders of parkour, and to empower them.”

On May 19, 2017, FIG’s Secretary General André Gueisbuhler sent an email to Minogue reading “[i]t is not FIG’s policy to correspond with ‘open letters’ and we do not wish to interfere in any National

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172 Id.
174 Id.
175 Id.
176 Id.
177 Id.
178 Id.

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172 Id.
174 Id.
175 Id.
176 Id.
177 Id.
178 Id.
recognition procedures.” Gueisbuhler also clarified that FIG is an international organization and that it invited the other international federations representing parkour that they were aware of.

FIG’s first event featuring its new discipline was scheduled for debut in May 28, 2017, during the International Extreme Sports Festival in Montpellier, France. The event would serve as a model for “a proposed urban cluster at the Tokyo Olympics and future games.” IOC Representatives were at the event “to observe the new trends in view of the Tokyo Olympic Games.” Belle stated that the “weekend was a very big step forward for parkour.”

On July 4, 2017, several national parkour federations “reached an accord . . . to establish Parkour Earth as the International Federation for Parkour.” In its announcement, Parkour Earth stated that it intended to be parkour’s only international governing and administering body “to protect the rights, freedoms[]” and sought to “promote the interests of traceurs[].”

By July 26, 2017, sixty days after Parkour UK wrote its open letter to FIG, Parkour UK did not receive a response to meet. FIG “remained[] on track with their plans to bring parkour into gymnastics[].” From November 3–5, FIG hosted their first Parkour World Cup in Chengdu. President Watanabe and members of Parkour Earth met on November 7, 2–17 in hopes to “formalise the clarification, understanding[,] and recognition of the sovereignty of” and “to demonstrate [Parkour Earth’s] goodwill and intention to bring the prevailing uncertainty of the FIG’s proposals and intention to an amicable and swift resolution.” On December 14, 2017, Parkour Earth wrote a letter to FIG which concluded that the meeting, while

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179 E-mail from André Gueisbuhler, Secretary General, Fédération Internationale de Gymnastique, to Eugene Minogue Chief Executive, Parkour UK (May 29, 2017, 10:46 BST), http://parkour.uk/wp-content/uploads/2017/05/FIG-email-29.05.2017.pdf.
180 Id.
182 Id.
183 Id.
184 Daniel Etchells, FIG President Admits He Has Been Excited by Parkour Since First Seeing It Seven Years Ago, INSIDE THE GAMES (May 31, 2017), https://www.insidethegames.biz/articles/1050993/fig-president-admits-he-has-been-excited-by-parkour-since-first-seeing-it-seven-years-ago.
186 Bell, supra note 120.
187 Id.
188 Id.
189 Pavitt, supra note 176.
appreciated, failed to address any of Parkour Earth’s “fundamental, legitimate[,] and substantiated concerns.”

F. Similar Developments in Other Sports

The parkour community is not the first to experience the struggle over the governance of its own sport from a seemingly arbitrary organization. Developments in other sports shows a pattern in IOC’s disregard for consideration of existing governing bodies.

i. Snowboarding

In 1998,

“the IOC included snowboarding for the first time in the Winter Olympics, but under the International Ski Federation’s . . . umbrella, rather than ushering in the burgeoning International Snowboard Federation,” effectively making snowboarding a subdiscipline of skiing.

“Terje Haakonsen, one of the most influential snowboarders ever and the best in the world at the time,” stated that International Ski Federation’s absorption of snowboarding hindered the International Snowboard Federation’s development.


Predictions of whether International Snowboard Federation would not have shut down for economic reasons if IOC instead recognized the International Snowboard Federation over International Ski Federation are only speculative. The cultural effects, however, have been recognized. “Olympization of snowboarding [has] fractured the community as some competitors perfected their skillsets for Olympics-style competition, while others like Haakonsen adhered to previous ideals of creativity and expression.”

Haakonsen believes Olympization of snowboarding has made it worse, “and many view the standardization of competitions as detrimental to its founding values of riding whatever the terrain provides.”

191 Id.
192 Gordon, supra note 146.
193 Id.
194 Id.
195 Id.
196 Id.
197 Gordon, supra note 146.
ii. BMX

Union Cycliste Internationale is the international federation for “all other Olympic cycling events[].”\(^{198}\) Union Cycliste Internationale absorbed BMX, allegedly only because BMX practitioners also happen to use bicycles, thus completely failing to consider other factors like independent cultural heritage.\(^{199}\) If BMX practitioners wish to take action, they would “have little sway in what funding they receive from their national governing bodies because they’re a small fish in a big pond.”\(^{200}\)

iii. Skateboarding

Skateboarders have experienced a fate similar to the BMX practitioners. “[M]any skaters don’t want to be in the Olympics at all[].”\(^{201}\) The International Roller Sports Federation is the IOC-recognized international federation for all roller skating.\(^{202}\) Its disciplines include inline freestyle, inline hockey, roller derby, and others.\(^{203}\) The IOC requested for the International Roller Sports Federation, despite the existence of the International Skateboarding Federation, a separate organization “established to provide direction and governance … of skateboarding worldwide[].”\(^{205}\) While the International Roller Sports Federation and the International Skateboarding Federation have “agreed to jointly run the Tokyo 2020 Skateboarding Commission,” some argue that the collaboration is only a short-term fix for “what promises to be a protracted legal fight over who owns skateboarding.”\(^{206}\)

III. ANALYSIS

IOC has exhibited an ongoing pattern of filing sports that have their own unique history, culture, techniques, teaching structures, and other logistical infrastructure in the cabinet of existing, international federations as a new discipline rather than recognizing organizations with existing, long-standing leadership and involvement of the sport, to govern new sports or new disciplines. To remedy these issues, the Olympic Charter and the Statutes should be revised to (1) provide a means of due process by

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198 Id.
200 Id.
201 Id.
204 Gordon, supra note 146.
205 Gordon, supra note 146.
presenting mandatory criteria for both international federation recognition and the adoption new disciplines by an international federation; (2) provide for increased transparency its major executive body and of its parts; and (3) require public involvement. While these suggestions may not provide the exact relief aggrieved organizations and athletes would seek, sports proceedings would better mimic existing processes from government’s that already show deference for the IOC and CAS. In some instances, these topics overlap and thus providing revising the Olympic Charter and/or the Statutes in one area will address several issues at once.

A. Issues with the Current Approach to International Federation Recognition

IOC’s behavior of allocating sports to already-recognized international federations rather than non-government organizations that have invested resources and years’ worth of time and experience in a sport is problematic. First, IOC’s pattern is contrary to a statement it made in its 2016 Annual Report in which the IOC said that one of its aims is to give “full transparency on our operations.” Despite this declaration to strive for transparency, IOC does not make the international federation criteria for recognition readily available on its site, nor does it clearly define what activities constitute a sport or what how an activity would constitute a discipline in a sport. Further, the Olympic Charter is silent on any specific criteria for consideration, save for the requirement that the international federation’s statutes be consistent with the Olympic Charter and the Olympic Movement in its entirety.

Second, any organization wishing to challenge the IOC’s decision to recognize one organization as the international federation for a new sport or discipline faces unique challenges because of IOC’s structure and deference for IOC’s operations. For example, in Martin v. International Olympic Committee, the U.S. judicial branch showed deference for IOC’s operations by refusing to apply U.S. law to an IOC decision. Similarly, in Liang Ren-Guey v. Lake Place 1980 Olympic Games Inc., the U.S. Department of Justice stated that the U.S.

“has repeatedly committed to the IOC that the United States would be bound by the list of invitees and the conditions of participation set by the IOC . . . based on our ‘recognition of the private character of the [IOC] and the games.”

Thus, suits brought by, say, organizations that claim to “have been sidelined by [a different international federation] and [the IOC]” may have

207 IOC ANNUAL REPORT, supra note 11, at 5.
209 Ettinger, supra note 12, at 108–09 (internal citation omitted).
limited access to judicial relief because of the deference towards IOC decisions “despite investing money and resources into preparations.”\(^\text{210}\)

This limited access to judicial relief is exacerbated by CAS’ limited jurisdiction. Recall that CAS has jurisdiction over appeals only where both parties have consented to its jurisdiction. A non-government organization that has functioned as an international federation but has not been recognized as an international federation by the IOC or GASIF, or where one party feels aggrieved by a recognized international federation’s decision to adopt another sport as a discipline, is limited in where to seek relief should IOC decides against the interests of that non-government organization.

Further, “[t]he IOC answers to no higher authority and it is free to make decisions without appeal to any other body.”\(^\text{211}\) Decisions made by the Session are final.\(^\text{212}\) The Olympic Charter offers no mechanism for appeal from a decision by the IOC to the Court of Arbitration for Sport.\(^\text{213}\)

Third, the Olympic Charter and the Statutes lack any opportunity for public involvement or commenting. Neither document requires a forum for organizations and athletes interested in the outcome of the decisions from the IOC or GAISF to be heard. Additionally, if a recognized international federation choose to adopt a sport as a new discipline, nothing in the Olympic Charter nor the Statutes requires, or even suggests, that the international federation seeking to adopt a new discipline receive any public input on the matter.

Fourth, even if the Olympic Charter and the Statutes had provisions for public involvement or comment, and even if both parties have consented to CAS’ jurisdiction, there are no criteria for CAS to apply regarding the adoption of a new discipline or recognizing a new sport. Parkour Earth has unsuccessfully requested for FIG to consent to dispute resolution through CAS for misappropriation.\(^\text{214}\) Even if FIG agreed to subject itself to CAS’ jurisdiction, CAS lacks any rules that directly apply to FIG’s adoption of parkour as a discipline. The silence of the Olympic Charter and the Statutes on criteria for adopting a new discipline can lead to almost arbitrary results if left unchecked. For example, FIG could, if it wanted to, adopt kite flying as a discipline, against the interests of groups like the International Kite Federation, because nothing in the either the Olympic Charter nor the Statutes offers requirements when international federations seek to adopt a new discipline.


\(^{211}\) Ettinger, *supra* note 12, at 116 (internal citation omitted).

\(^{212}\) OLYMPIC CHARTER, *supra* note 1.

\(^{213}\) See generally *id*.

B. Revising the Olympic Charter and the Statutes

Self-governance of and by these organizations has led to negative criticism. Critics have highlighted that the undemocratic nature of self-governance by the IOC and GAISF “consider the organization’s deliberations to be the ‘machinations of a fascist-like clique’ and that the IOC consists of ‘arrogant old aristocrats.’”

The lack of transparency, availability of judicial remedies, and opportunity to be heard are surprising given the United States’ constitutional requirements for due process and the availability of the Swiss judicial system if an appellant seek appeals from a decision by CAS.

The issues of self-governance in international sports is important because international sports organizations influence international governance. For example, the Helsinki Accords reads,

“To expand existing links and co-operation in the field of sport the participating [s]tates will encourage contacts and exchanges on this kind, including sports meetings and competitions of all sorts, on the basis of the established international rules, regulations and practice.”

Some have argued that the Olympic Charter are rules of customary international law because they are the basis of international rules, regulations, and practice for sports as described in the Helsinki Accords. Though the Helsinki Accords are not legally binding, “they provide a ‘morally compelling, comprehensive expression of norms to guide the behavior of the signatory states.’”

If sports are so highly revered to be recognized and included in an international agreement signed by 35 states, their regulation should be subject to the same standards that courts and other dispute resolution methods are subject to. Increased regulation may lead to increased costs borne by the IOC, GAISF, international federations, and all parts of international sports. But balancing costs for the sake of due process is not impossible, as judicial systems are faced with this problem have already shown. CAS already shows deference for international policy.

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215 Ettinger, supra note 12, at 117. Others have referred to the IOC as the “most exclusive club in the world.” Id. Critics have also stated self-governance of these organizations is open to acts of nepotism. Id.


217 See Ettinger, supra note 12, at 104.

218 Id. at 104–05.

219 See Matthews v. Eldridge, 424 U.S. 319, 347 (1976) (“In striking the appropriate due process balance the final factor to be assessed is the public interest. This includes the administrative burden and other societal costs that would be associated with requiring, as a matter of constitutional right, an evidentiary hearing upon demand in all cases prior to the termination of disability benefits.”).
also recognizes the importance of due process because it recognizes the right to be heard as part of international public policy. Since CAS already shows respect for international policy and due process, this counters the cost concerns against amending international sports’ governing documents to further due process and transparency.

i. Due Process

A clear authority over the actions of sporting federations is necessary.\(^{221}\) An important part of clear authority over sport involves the process that sports-governing organizations use to adopt new regulations. In *USA Shooting Union (UIT)*, CAS “refused to imply a strict liability rule into the rules and practice of a sporting federation.”\(^{222}\) A sports governing body’s decision to implement a new rule may affect the “careers of dedicated athletes.”\(^{223}\) Rules must be “adopted in constitutionally proper ways. They should not be the product of an obscure process of accretion.”\(^{224}\)

Just as CAS held that a governing body’s rules should be adopted in a constitutionally proper way, so too should a sports governing body’s decision to create a new discipline be adopted in a constitutionally protected way. The Olympic Charter, the Statutes, and international federations self-governing statutes, including those of FIG’s, do not provide procedures nor criteria that must be used by international federations to decide when it may to adopt a new discipline.\(^{225}\) Yet according to FIG’s February 24, 2017 press release, FIG’s decision to create a new discipline resulted from the Executive Committee’s mandate to the Presidential Commission to continue the development of the discipline.\(^{226}\)

Further, CAS has regularly pronounced that “decisions of sporting federations can be challenged for various reasons that constitute an unfair procedure or an unfair hearing.”\(^{227}\) For example, in *AEK Athens & SK Slavia Prague v Union of European Football Ass’n*,\(^{228}\) CAS stated that “the
principle of procedural fairness is . . . among the unwritten principles of sports law to be complied with by international federations.”

Ideally, the Olympic Charter and the Statutes would create minimum standards that an international sports federation must “observe to avoid legal challenges before national courts.” Example protections would include due process considerations like a notice and comment period, “proper and precise notification of the charge; an opportunity to present their case; cross-examination of witnesses; legal representation; . . . reasons for decisions; and a right of appeal.”

On the issues of international federation recognition and adopting a new discipline faced by the parkour and other sports communities not yet governed by a recognized international federation, the Olympic Charter and the Statutes could adopt some of the criteria provided by UKSport in its recognition process. UKSport is an organization in the United Kingdom that established a recognition process for national federations. One of the several considerations for its recognition process includes an applicant-organization’s influence in the community, in which the applicant-organization

“must demonstrate it is the leading body for the sporting activity . . . that it has influence throughout the sporting activity[,] and that it is working in co-operation with other organisations within its sport, or that other organisations have minimal influence within the sport.”

Where several organizations exist for a sport, “the applicant should demonstrate that it is better placed than others to govern and develop its sport.” Providing this language would address issues of governance by providing notice to those interested in becoming a recognized international federation and would address what to do if more than one organization is interested in becoming a recognized international federation.

ii. Transparency

The Olympic Charter and the Statutes should be revised to require more transparency within its own process by, for example, requiring that the IOC, the Council, and international federations to describe its decision and its rationale for that decision. This would improve transparency and accountability of the IOC and its parts, including international federations

229 Foster, supra note 54, at 8 (quoting AEK Athens, CAS 98/200, ¶ 158).
230 Id.
231 Id. (citing Philip Morris, et al., Challenging Sports Bodies’ Determinations, 17 Civ. J. Q. 128 (1998)).
233 Id. at 13 (emphasis added).
234 Id.
and those governed by international federations such as national federations, athletes.

A requirement provided in the Olympic Charter and the Statutes that international federations be transparent in the decision-making process would allow those who may be impacted by a decision of the IOC or an international federation to better understand when and how a decision was made. It would help to address issues like those experienced by Rendao who was blindsided by FIG’s idea to govern parkour. Alternatively, organizations seeking to become part of the IOC by becoming a recognized international federation would benefit if the IOC was transparent about its international federation recognition requirements by knowing how to conduct activities towards recognition. Organizations like Parkour Earth would then be able to take the initiative to seek inclusion and involvement in the Olympic Movement.

CAS has arbitrated on the issue of transparency several times. In Chiba v. Japan Amateur Swimming Federation, a swimmer “challenged her non-selection for the Sydney Olympics” on grounds that she had swam a qualifying time and finished first in the qualifying trials, the two announced criteria to qualify for the Olympics. CAS accepted JASF’s use of a third, unannounced criteria used only for the “few but best” like Chiba. In doing so, however, CAS also

“issue[d] a strong statement that selection criteria should be announced in advance; that professional athletes have a right to know the criteria; and that federations 'should pursue a policy of transparency and open information.'”

Similarly, in Beashal & Czislowski v Australian Yachting Federation, the Court of Arbitration for Sport referred a selection for the Olympics back to the AYF

“because it had failed to follow its procedures for nomination and, because it was a close sporting call, it was possible that this may have made a difference to the outcome.”

While these proceedings relate only to the “selection of athletes to compete in the Olympic Games[,]” the IOC has shown signs of its

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236 Foster, supra note 54, at 7 (citing Chiba, CAS 2000/A/278).
237 Id. (citing Chiba, CAS 2000/A/278).
238 Id. (citing Chiba, CAS 2000/A/278, ¶ 10).
240 Id.
willingness to become transparent where no law requires it do so.\textsuperscript{241} Similarly, GAISF already emphasizes transparency of operations in its own statutes. For example, one of the requirements listed in its Application Procedure for Full Membership are “copies of audited financial statements, together with a detailed description of sources of income and a transparent report on expenses[.]”\textsuperscript{242} GAISF is also “competent to enact guidelines implementing the provisions on admission, and to determine transparent and objective criteria for admission into GAISF.”\textsuperscript{243}

iii. Public Involvement

Revising the Olympic Charter and the Statutes to include public involvement in the international federation recognition process and the adoption of a discipline process would supplement the aforementioned due process and transparency improvements. The new provision on international federation recognition could include language similar to the following: the IOC (Council) must publish a press release when it wants to recognize a new international federation. The press release shall describe the time, place, and manner for other international federations to provide input on the IOC’s decision. The press release shall also describe how those that may be impacted by this decision, but are not part of the Olympic Movement or GAISF, can provide input on the IOC’s decision. The press release shall summarize why the international federation should be recognized for the sport according to the criteria provided by the Olympic Charter (Statutes).

New provisions on the adoption of a new discipline would contain language similar to: an international federation must publish a public press release when it seeks to adopt a new discipline. The press release shall also provide information on how those who may be impacted by this decision, but are not part of the Olympic Movement or GAISF, can provide input on the IOC (Council)’s decision. The press release shall summarize why the international federation is adopting the new discipline according to the criteria provided by the Olympic Charter (Statutes).

Both provisions would feature a discrete window for involvement, using language similar to: the input period for those from those who may be impacted by this decision, but are not part of the Olympic Movement or the Global Association of International Sports Federation, must remain open for at least two months before the IOC, Council, or the international federation decides.

\textsuperscript{241} See IOC ANNUAL REPORT 2016, supra note 11, at 5 (stating that the IOC “aim[s] to give full transparency on [its] operations, including all [its] financial figures and [its] indemnity policies for IOC Members.”).
\textsuperscript{243} GAISF Statutes, supra note 244, art. 7.A.8.
Providing the opportunity for input would help those who may be impacted by a decision of the IOC, the Council, or an international federation an opportunity to voice their concerns over adopting a discipline or recognizing an international federation beforehand. By adding a provision similar to the one suggested, the IOC, the Council, and an international federation would provide more opportunity for organizations that have functioned as international federations but have not yet been recognized a chance to be involved in the process, ideally resulting in the reduction of the type of controversies experienced by the parkour, snowboarding, BMX, and skateboarding communities.

In addition to allowing organizations that function as international federation to be heard or to dispute a decision, other organizations that lack resources for a global reach, but are otherwise enthusiastic about international involvement and the mass exposure international competitions provide, would have an opportunity to give valuable input to an international federation seeking to properly administer and govern over a sport or adopt a new discipline.

Further, CAS has already recognized that

“[i]t is a general principle of sports law, constantly recognized by the CAS jurisprudence, that the right to be heard has to be respected, even if there is no applicable rule expressly providing for such principle[.]”\(^{244}\)

“Furthermore, the respect of the right to be heard has also to be considered as being part of international public policy, at least under the conception adopted under the Lex arbitri, that is to say Swiss law.”\(^{245}\)

C. Maintaining the Status Quo

IOC is a respected international organization comprised of representatives to ensure the development of their own sports. It has been recognized as an international personality and its role in promoting peace has been recognized by the UN. Though IOC and GAISF provides some kind of independent relief in the form of CAS and by allowing constituents to govern themselves, it provides no relief for those who may be impacted by decisions made by itself or by its constituents through CAS.

From a legal standpoint, even if FIG fully committed to and absorbed parkour as, both the competitive obstacle sprint and the non-competitive parts such as education, as its own discipline, nothing in

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\(^{245}\) Id.
Olympic Charter, nor do any regulations, or other laws prevent FIG from governing over parkour.

The question that surfaces, then, is whether CAS’ involvement in the development of a new discipline by an international federation need to even be addressed by the IOC or GAISF at all. Participation in the Olympic Movement is a private effort, wherein participation is voluntary. Thus, organizations and communities unhappy with how FIG develops its new discipline need not apply to be an organization, club, or any part of FIG. An international federation’s newfound authority, even if self-made, to govern a sport does not mark the end of the non-competitive community of the sport. For example, after snowboarding became “one of the most popular winter sports” since its Olympic debut in 1998, the non-competitive snowboarding culture and community continued to exist, albeit with tension from both the competitive and non-competitive communities.  

Foucan echoed the same sentiment when he asked, “Who is going to stop me [from practicing parkour] my own way, on my own?”

The need for the IOC and GAISF to provide a remedy, or at least that the Olympic Charter and the Statutes provide for and require due process from its constituents for organizations that suddenly find their sovereignty encroached upon by another organization, however, does not disappear just because organizations can continue practicing separately. The IOC and international federations and control licensing for their sports. This level of control over exposure has real effects. For example, “when BMX racing lost its television coverage with ESPN, its popularity and participation rates experienced a significant decline.”

IV. CONCLUSION

The IOC and several international federations recognized by the IOC have exhibited recurring patterns of disengaging existing sports governing bodies and communities from the sports they influence despite the existence of independent technique, culture, and appreciation. IOC should offer these unrecognized sports’ governing bodies the opportunity to be recognized by the IOC, thus allowing such organizations to continue cultivating an activity with its existing constituents. Alternatively, the IOC should offer opportunities for these communities to provide input to the already recognized federations propose adopting an already existing activity as its own sport or discipline. The parkour community, along with other sports communities, has felt the effects of Olympization of their sports.

246 DEFINING SPORT: CONCEPTIONS AND BORDERLINES 137, (Shawn E. Klein eds., 2016).
248 DEFINING SPORT: CONCEPTIONS AND BORDERLINES 139, (Shawn E. Klein eds., 2016).
While some of those communities thrive, those that do not have little recourse against IOC or the IOC-recognized international federation they seek to challenge. A revision in the Olympic Charter to require a more transparent decision-making process, complete with due process considerations could provide a means of relief for these organizations unrecognized by the IOC.