
WLF CONFERENCE ON HUMAN RIGHTS IN INTERNATIONAL SPORT

RESOURCES

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Human Rights in International Sport: A Short Primer

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1. Human rights violations in mega-sporting events

This agenda point will be divided into two panels – the first, on the human rights of child and adult athletes, and the second, on incidental violations involving workers and residents in host countries.

1.1 The rights of athletes

Athletes face a number of human rights challenges that begin well before they compete. These include discrimination or harassment, excessive training, doping, sexual abuse, violations of privacy, online and offline bullying, and trolling, among others. The implications of these are greater at mega sporting events, with increased risks for child athletes. Any human rights due diligence undertaken by governing bodies and hosts must include the rights of athletes. Effective representation in decision making and remedy mechanisms are integral to addressing rights violations.

During the course of competitions, athletes have the right to be protected against anti-competitive practices, a duty that host countries and governing bodies owe them. While host entities and governing bodies must endeavour to protect athletes rights from third-parties who are non-state actors, they must also re-examine the impacts of their own policies. Discriminatory rules and regulations often counteract well-intended systems. For instance, while anti-doping mechanisms have been created to ensure fair-play among sportspersons, one would be remiss to exclude instances where hyperandrogenism in athletes results in governing bodies themselves forcing athletes to take medication to regulate their hormones.

1.2 The rights of workers and citizens in host countries

There are several international treaties that enshrine the rights of workers and citizens in their own or host countries. Even though most States have not signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, there are still other treaties that encompass the necessary international human rights standards. The International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work is binding on all Member States, and commits them to protect human rights even if they have not ratified the relevant Conventions. These protections encompass four categories, i.e., the freedom of association and effective recognition of the rights to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour, and the elimination of discrimination related to employment and occupation. Proper monitoring, reporting, and enforcement are integral to ensuring that the human rights of workers in host countries are protected.

Furthermore, in the process of hosting mega sporting events, large-scale construction is often required, for which citizens in many countries have been evicted from their properties in the past. Additionally, in order to safeguard international relations, their freedom of speech and expression is often suppressed when rights violations are brought to light.

2. Implementation of obligations by sports governing bodies

Most sports governing bodies have published and declared an official human rights policy. In May of 2017, FIFA published its Human Rights Policy. This document contains the FIFA pledge to respect human rights. The same is reiterated in Article 3 of their Statutes. In addition, FIFA claims to implement human rights in accordance with the UN Guiding Principles on Business and Human Rights. FIFA also declares that these standards of conduct are not only applicable to it, but also its partners, subsidiaries, members, and anyone associated with the organization and its events.

2.1 International Olympic Committee's Obligations

The International Olympic Committee (IOC) is currently working towards creating a human rights strategy and policy documents with explicit references to human rights.

Firstly, Fundamental Principle 4: The practice of sport is a human right. Every individual must have the possibility of practising sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play.

Secondly, Principle 6: The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status.

In preparation for the Tokyo 2020 Games, the IOC published their stance on Human Rights, Labour, and Fair Business Practices. They pledge their commitment to diversity and inclusion, and The UN'S Guiding Principles on Business and Human Rights.

Ideologically, all the international sports bodies are committed to bringing people together, respecting each other's cultures and beliefs, and cultivating a place for fostering gender and racial equality. Overall, they all exhort non-discrimination policies and declare that equality and fair treatment is at the nucleus of all the events. Despite this, both sports governing bodies have had multiple human rights offences and there is little evidence to show that they have been focused on implementing their policies.

2.2 World Athletics' Obligations

For a significant amount of time World Athletics (International Amateur Athletic Federation) has been accused of violating human rights, specifically those of women and children. One of the core policies of the IAAF is 'Empowering girls and women through athletics'. In 2019, it modified its Eligibility Regulations, which now states that any athlete who has a difference of sexual development must medically reduce their testosterone level to be eligible to compete. If they decide not to, they can either compete as a man or intersex athlete. The UN had denounced this rule and said that it breaches international human rights norms and standards. The Working Group

on the issue of discrimination against women stated that these types of regulations enforce negative stereotypes and the idea that women are not women because of their natural disposition and that they need to be medically fixed in order to be 'normal'.

2.3 FIFA's 2022 World Cup Obligations towards Human Rights

With the upcoming FIFA 2022 World Cup, FIFA has been under a lot of criticism for not performing any due diligence checks when it comes to labour rights in Qatar. Despite stating that they work in accordance with the UN Guiding Principles on Business and Human Rights, recent developments have proven otherwise. In December 2010, Qatar won the bid for the 2022 World Cup. Several issues were raised; the possible treatment of LGBT fans was a pressing one. Sepp Blatter (President of FIFA), stated that there would be no problems and that the games are for everyone. However, a major issue that has since arisen is the treatment of workers, an area in which Qatar has struggled for decades. Amnesty International had stated in 2013 that the working conditions were appalling and that they were 'basically slaves'. According to the UN Guiding Principles on Business and Human Rights Provision 13(b) FIFA should have then intervened to attempt to prevent or mitigate human rights violations, which it has so far failed to do.

3. The responsibility of host countries in upholding rights

Countries that host large scale international competitions undergo a lot of construction and development to be able to stage these events. They often have to build new roads, airports, hotels and stadiums. There are a number of elements that hosting countries need to take into account, amongst which. Considering that in a lot of these countries, a sizable amount of work needs to be done, requiring a significant amount of manpower, there are a lot of concerns over the treatment of workers. Furthermore, human rights violations within host countries have been a growing concern, as can be seen with China and Qatar, both of whom will be hosting major events in the near future.

The construction workers for the 2018 FIFA World Cup, hosted by Russia, were often not paid and did not receive their bonuses. In addition, when they were finally paid they were often paid less than what was initially agreed upon. Reports also documented that at least 21 workers had died. This was mainly due to "falls from heights or because of heavy equipment falling on workers". These deaths could have been avoided if proper safety and security had been put into place. In addition, it was also reported that North Korean forced labourers were building the St. Petersburg Stadium. Similarly, questions regarding the protection of anti-LGBTQ+ individuals and fans in Russia were quelled using archaic laws that suppressed the freedoms of citizens.

In August last year, Qatar announced changes to its controversial Kafala labour law, which requires unskilled labourers to have an in-country sponsor who obtains a significant amount of control over their visas and legal status. The new changes include the removal of the need to obtain a "no-objection certificate" from the employer in order to change jobs. A new minimum wage law has also been introduced in early 2021.

Host countries have several responsibilities under international law to uphold the rights of those working on these events. Most countries have signed and ratified the International Covenant on Civil and Political Rights (ICCPR), and there are several provisions that require countries to protect the lives of citizens and workers. Article 8 of the ICCPR prohibits all forms of slavery and forced labour. Not only do host countries owe obligations under international treaties and agreements, they also have contractual obligations towards sports governing bodies that grant them such status.

Qatar has acknowledged that human rights violations occurred. However, the country largely placed the blame on the corporations. Under international law, Qatar is still liable and can not avoid responsibility. In addition, countries can also be held responsible under Articles on Responsibility of States for Internationally Wrongful Acts (ARISWA), which articulates that the State is liable for every international law violation.

One of the host countries' most important tasks is to strengthen human rights within the governing sports bodies and the organisations and companies that work on these projects. Even though many NGOs and companies have made public declarations that they will follow the UN Guidelines on Business and Human Rights and will do mandatory due diligence, the state plays an important role in enforcing these guidelines, strengthening the legislations, and promoting human rights. Many have also called for human rights as a criteria to be included into the bidding for international sport events. Under this bid, the host governments need to submit a written guarantee that human rights will be respected and protected. In addition, governments should clearly set out guidelines and expectations of contractors who work on these projects.

4. The role of sponsors, broadcasters, and other stakeholders in addressing human rights violations

In 2015, the Human Rights Council Advisory Committee published a report on the possibilities of using sport and the Olympic ideal to promote human rights for all and to strengthen universal respect for them. It advocates that sports events can and should combat all forms of discrimination and inequality (social exclusion, violence, racism and xenophobia). In addition, it also states that these sports events should not lead to forced evictions, child and labour exploitation, and should not violate any economic, social and cultural, or civil and political human rights.

The main objective of this report is to assist stakeholders in assessing human rights policies related to sports. They outline several steps stakeholders can take to promote universal human rights. For example, Principle 77 outlines the gender discrepancy with sponsors. Sponsors rely on athletes to win and pay millions for their success. However, only 0.5% of all commercial sponsorships are centered around female athletes. Media coverage is another source of gender discrimination, with women's sports only accounting for 5% of the media coverage. Lastly, the principle highlights the gender wage gap and the underrepresentation of women in leadership and management positions.

Many sponsors have recently come out with their own human rights policies and have declared the importance and necessity for human rights due diligence. However, sponsors have reported that they usually perform due diligence at the local level and with local businesses instead of at the large international sporting events. They claim that their due diligence has little influence over where the event takes place. In addition, sponsors have also claimed that they do not want to have formal clauses related to human rights as they feel like these clauses would serve as a formal mechanism to end (or threaten) the contract, therefore, it is usually discussed in a conversational setting.

However, the claim that sponsors are unable to do anything is widely contested. Sponsors are indirectly contributing to these human rights violations by sponsoring these events. In the case of FIFA, it costs around \$25 million and \$50 million annually to be a FIFA partner and \$10 million to \$25 million to be a major World Cup sponsor. This accounts for 20% of their 2019-2022 budget.

Nevertheless, sponsors have also made a positive contribution to human rights, specifically women's rights. In 2021, Naomi Osaka withdrew from the French Open for mental health reasons. All her sponsors supported her in this decision and came out with public statements to show their support. This shows the positive and powerful role a sponsor can play in shaping human rights in sports. As such, there is a need to bring accountability to this facet as well.

5. Human Rights Due Diligence and Applicable Standards

The UN Guiding Principles of Business and Human Rights (UNGPs) are a new form of social responsibility and human rights protection that do not just apply to states. They express the need for human rights due diligence and the need for corporations to take an active and direct role in protecting human rights.

The integral part of the UNGPs is corporate human rights due diligence (HRDD). This is the most active way corporations and enterprises can mitigate human rights violations. HRDD contains 4 core components:

1. Identifying and assessing actual or potential adverse human rights impacts
2. Integrating findings from impact assessments across relevant company processes and taking appropriate action according to its involvement in the impact
3. Tracking the effectiveness of measures and processes to address adverse human rights impacts in order to know if they are working
4. Communicating on how impacts are being addressed and showing stakeholders – in particular, affected stakeholders – that there are adequate policies and processes in place.

In 2018, the OECD came out with the OECD Due Diligence Guidance for Responsible Business Conduct. Even though these guidelines are not binding, they possess a detailed process of due diligence that states should take:

1. Embed responsible business conduct into policies and management.
2. Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services.
3. Cease, prevent and mitigate adverse impacts.
4. Track implementation and results.
5. Communicate how impacts are addressed.
6. Provide for or cooperate in remediation when appropriate.

The OECD also published specific due diligence for different sectors. These include minerals, garments and footwear, agriculture, extractives, child labour, and due diligence for the financial sector.

There are multiple guidelines, standards and laws that govern human rights in sports. When women's rights are discussed in international sports, the Convention on the Elimination of All Forms of Discrimination against Women is the main treaty that governs practices. Moreover, UNESCO also adopted the International Charter of Physical Education, Physical Activity and Sport, which also calls for more women to be involved in the decision making and managerial aspects of sports. In 2015, the IOC also had a Consensus Meeting on Sex Reassignment and Hyperandrogenism. It highlighted the guidelines for Transgender athletes and athletes with Hyperandrogenism.

Several guidelines help govern the international sports community, including the jurisprudence of the Court of Arbitration for Sport (CAS). However, the CAS rulings do not always conform with International Human Rights. Highly controversial cases are those that involve hyperandrogenism in female athletes and puts into question the natural biological composition of their bodies and if they should be medically altered. Despite many human rights organizations expressing their concern about these rulings and their nonconformity with international law, these rulings remain.

6. Redressal mechanisms for victims

Both the UNGPs and the OECD principles state that the victims have access to effective remedies. Access to remedy is part of the due diligence process that corporations have to go through. The forms of remedies are different and also depend on the gravity of the issue. These remedies include but are not limited to, apologies, restitution, rehabilitation, financial or non-financial compensation, punitive sanctions, and preventions (through injunctions or guarantees of non-repetition).

The UNGPs also highlight the importance of effective judicial mechanisms. The states must ensure that everyone has equal access to judicial assistance and there should be no institutional barriers. It is also the responsibility of the state to ensure that the judicial system is free from corruption, and economic and political pressures. The cost of bringing a claim should not discourage and prevent victims from seeking a remedy. Furthermore, the UNGPs also highlight the necessity for

businesses to develop operational-level grievance mechanisms. These types of grievances are handled directly by the business and potential stakeholders, often preventing the situations from exacerbating and tensions rising.

Professor John Ruggie, former UN Secretary-General's Special Representative for Business and Human Rights also stated that it is important that athletes do not face any repercussions when bringing forward a complaint. In 2015, after the Women's World Cup, several countries filed complaints against FIFA on the grounds of gender discrimination. This claim was brought in front of the Human Rights Tribunal of Ontario. FIFA responded by threatening their suspension from their teams and the World Cup. This severely limits the player's opportunities for an effective remedy. The access to effective remedies should not be limited by governing bodies, and the option to seek an effective remedy through domestic courts and tribunals must be a reality, without any threatening consequences.

John Ruggie also stated that the sports arbitration system is currently inadequate. Considering that all major sports governing bodies have pledged their conformity with international human rights, their arbitrators need to have some experience with human rights, which Ruggie points out is lacking.

Outside of the organisations, there are already mechanisms in place to help with grievances. The IOC has reporting tools that allow journalists to complain if they feel like their freedom of the press has been violated. There is also a tool on integrity and abuse and harassment. However, both tools lack substantive and procedural mechanisms. They are also limited by existing contracts and regulations.

Further, national organisations are present in several countries that can assist victims. National human rights institutions (NHRIs) are independent bodies that are established in several countries to promote and protect human rights. However, most of these NHRIs are not able to compensate or adequately aid victims.

List of Suggested readings:

- Doping and the Rights of Athletes under International Human Rights Law, Opinio Juris
- Promoting human rights through sport and the Olympic ideal, Human Rights Council
- “They’re Chasing Us Away from Sport” Human Rights Violations in Sex Testing of Elite Women Athletes, HRW Report
- Athletes’ Rights and Responsibilities Declaration (Athletes’ Declaration)
- Qatar and labour rights issues: Qatar World Cup Of Shame, Amnesty International
Labour Rights and the Qatar World Cup 2022, BHRRC,
- The Mega-Sporting Event Lifecycle: Embedding Human Rights from Vision to Legacy (MSE Platform for Human Rights & IHRB)
- Workers’ groups call on FIFA sponsors to act on Qatar conditions - Coca-Cola, Visa respond, BHRRC,
- Games Time: Planning and Acting to Respect Human Rights in Mega-Sporting Events, Centre for Sports and Human Rights
- FIFA’s Human Rights Policy, FIFA
- The 2011 UN Principles on Business and Human Right, OCHR
- Recommendations for an IOC Human Rights Strategy, Independent Expert Report by Prince Zeid Ra’ad Al Hussein and Rachel Davis

