



EVALUATING HUMAN RIGHTS RISKS FOR MEGA-SPORTING EVENT HOSTS

Sporting Chance White Paper 1.1 – Summary Report
March 2017

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The Mega-Sporting Events Platform for Human Rights (MSE Platform www.megasportingevents.org) is an emerging multi-stakeholder coalition of international and intergovernmental organisations, governments, sports governing bodies, athletes, unions, sponsors, broadcasters, and civil society groups. Through dialogue and joint action its mission is to ensure all actors involved in staging an event fully embrace and operationalise their respective human rights duties and responsibilities throughout the MSE lifecycle.

DLA Piper has been supporting the MSE Platform as a pro bono partner since 2016.

This is a summary version of a fuller report produced for the MSE Platform. Statements made may be incomplete. Reference should be made to the full report for further information:

Mega-Sporting Events Platform for Human Rights, “Evaluating Human Rights Risks in the Sports Context” (Sporting Chance White Paper I.I, Version I, January 2017)¹.

¹ <https://www.ihrb.org/programmes/mega-sporting-events/white-paper-I.I-evaluating-human-rights-risks>



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INTRODUCTION

OVERVIEW

The purpose of this review is to analyse data from UN and ILO public sources on human rights and labour standards and assess the extent to which these sources can serve as a basis for preparing “country human rights briefs” on mega-sporting event candidate and host cities/countries. These sources, endorsed by the vast majority of countries, are envisaged as a credible starting point for assessing levels of human rights risks in a country context.

Four countries were selected from the mega-sporting event context in order to gauge whether the research and methodology proposed for this study holds up in practice. The countries chosen are the four next hosts for the Commonwealth Games (Gold Coast 2018, Australia, and Durban 2022, South Africa) and Commonwealth Youth Games (Nassau 2017, The Bahamas, and Belfast 2021, Northern Ireland). These were chosen because the selection process for these events has already been finalized and because they provide good geographic spread.

We have reviewed a defined list of International Labour Organization (“**ILO**”) and United Nations Human Rights Council sources (“**UN sources**”), referred to jointly as “primary sources”. The full list is included in appendix 1. Sources are not specifically tailored to mega-sporting events.

It should be noted that the results of this report in relation to the countries that have been reviewed do not represent observations that can be applied to all other countries, that is, different countries have different levels of engagement with the UN and ILO and as a result a review of different countries may produce slightly different results. This observation does not affect the outcome or findings of this report.

Primary sources were reviewed against a list of non-exhaustive human rights issues that are typically associated with the life-cycle of mega sporting events. The list was used as a guide only and the overarching objective was to identify issues that could potentially be relevant to all stakeholders involved in the life-cycle of mega sporting events, not just businesses. We have been over-inclusive in this regard. In the report these issues are referred to as “key issues”. The list is included at appendix 2.

In relation to labour issues it should be noted that the minimum standards of relevant rights are those contained in the ILO fundamental Conventions, which cover subjects that are considered as fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. Our review covered these conventions and a number of additional labour rights that were agreed to be relevant at the outset of our review. These are outlined in appendix 2.

A number of secondary sources (“**secondary sources**”) were also reviewed to determine whether they could be used to fill any gaps left by primary sources. Secondary sources include reports from credible sources, including civil society organizations, labour organizations and government sources. These sources are referred to in the findings for each country, where relevant.

FINDINGS

The final sections of the report present the overall findings of the review. This report only contains a summary of the overall findings, which can be found in the full report.



THE BAHAMAS 2017 COMMONWEALTH YOUTH GAMES

SUMMARY OF THE KEY HUMAN RIGHTS CHALLENGES IDENTIFIED

The main human rights challenges in The Bahamas relevant to the life-cycle of a mega-sporting event relate to impacts relating to the use of land, issues around security and criminal justice, specifically on the excessive use of force and violence and discrimination against vulnerable groups.

A number of significant labour issues were identified, including in relation to freedom of association, rights to organize, inadequate protection from discrimination in work and inadequate protects for children in work. Also identified were issues relating to sex and drug trafficking, pornography and prostitution, including involving children and the exploitation of migrant workers.

NON-LABOUR ISSUES

Land

Issues raised:

- Harassment, intimidation and criminal sanctions on charges of intent to sell drugs against human rights defenders and activists working on environmental and land issues connected to extractive industries, construction and development projects.²

Security

Issues raised:

- The death penalty as punishment for some serious crimes.³

- Excessive use of force by the security forces during arrest and detention procedures and a lack of an independent oversight body to receive and investigate complaints of police misconduct and reports of human rights violations.⁴

Violence and Discrimination

Issues raised:

- Legislation that discriminates against people on the basis of sexual orientation.
- A the lack of policies and initiatives to address homophobia and protection from discrimination on the basis of sexual orientation is not included in the Constitution nor does protection from discrimination in the workplace on the basis of sexual orientation exist in labour laws.⁵
- Concerns that legislation enabling the use of force, even killing, taken in combination with judgements by national courts, could be interpreted as justifying such force be used due to supposed “advances of homosexual nature”.⁶
- Violence against women, including rape.⁷

LABOUR ISSUES

ILO core conventions

Issues raised:

- Potential impacts on rights of workers’ organizations to recourse to strike, recalling that penal sanctions should not be imposed against workers for carrying out a peaceful strike.⁸

2. Special Rapporteur on the situation of human rights defenders, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya A/HRC/19/55

3. Summary of stakeholders’ information, A/HRC/WG.6/15/BHS/3, 2012, page 4.

4. Summary of stakeholders’ information, A/HRC/WG.6/15/BHS/3, 2012, page 3.

5. Summary of stakeholders’ information, A/HRC/WG.6/15/BHS/3, 2012, page 3.

6. Summary of stakeholders’ information, A/HRC/WG.6/15/BHS/3, 2012, page 4.

7. Committee on the Elimination of Discrimination against women, Concluding observations of the Committee on the Elimination of Discrimination against women, CEDAW/C/BHS/CO/1-5, 2012.

8. Compilation of UN information, A/HRC/WG.6/15/BHS/2, page 8.



- Gaps in legislation relating to the protection of direct and indirect discrimination in employment on the basis of the grounds of colour, national extraction and social origin.⁹
- Gaps in legislation resulting in elements of ILO standards not being given full effect in local legislation.¹⁰
- Gaps in protection of children based on local legislation and ILO standards, including in relation to the minimum age of work, the minimum age for hazardous work, determination of the types of hazardous work, light work and penalties.

Additional labour issues

Issues raised:

- Lack of legislation to prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.¹¹
- Number of children involved in prostitution and child pornography.
- Human trafficking.¹²
- Exploitation of migrant workers in domestic work, construction and in agriculture.¹³

SPECIFIC REVIEW FINDINGS – THE BAHAMAS

For specific finding in relation to the sources reviewed please see the full report.¹⁴

⁹ Direct Request (CEACR) – adopted 2015, published 105th ILC session (2016) Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

¹⁰ Direct Request (CEACR) – adopted 2012, published 102nd ILC session (2013), Worst Forms of Child Labour Convention, 1999 (No. 182).

¹¹ Compilation of UN information, A/HRC/WG.6/15/BHS/2, page 7.

¹² Compilation of UN information, A/HRC/WG.6/15/BHS/2.; Report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to the Bahamas, 2013, A/HR/26/37/Add.5, page 4.

¹³ Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, A/HRC/26/37/Add.10, page 3.

¹⁴ Accessed at https://www.ihrb.org/uploads/reports/MSE_Platform,_Evaluating_Human_Rights_Risks_in_the_Sports_Context,_Jan._2017.pdf.



AUSTRALIA 2018 COMMONWEALTH GAMES

A note on methodology specific to Australia. Australia is a constitutional democracy with freely elected federal and state parliamentary governments. The 2018 Commonwealth Games is to be held on the Gold Coast in the state of Queensland. Therefore references not relevant or applicable to Queensland did not form part of the review, i.e. where information relates to Australia generally it was included but where information related to states or territories other than Queensland it was not included.

SUMMARY OF KEY HUMAN RIGHTS CHALLENGES IDENTIFIED

The key human rights challenges in Australia that were brought out in the primary sources and relevant to a mega-sporting event relate to security and the use of force by police, including against children. Freedom of expression and protest is impacted by restrictive legislation and racially motivated violence and discrimination is a concern in some communities.

In relation to labour issues there are concerns around rights to organize and the impact of Ministerial powers on those rights. In addition, issues relating to migrant workers and violations of those workers' rights in some areas. Concerns were also raised about commercial sexual exploitation of children and human trafficking.

NON-LABOUR ISSUES

Security

Issues raised:

- surveillance powers that could cause serious violations of rights to freedom from arbitrary or unlawful interference of privacy and correspondence.¹⁵

- the use of conducted energy weapons (tasers) by police and law enforcement authorities and their inappropriate or excessive use, though the total number of incidents relied on is very low.¹⁶
- Inadequate regulation, monitoring and investigation of the use of force by law enforcement officials, specifically in relation to state and territory models of investigation for excessive use of force by police and law enforcement related deaths.¹⁷
- Local legislation in some states and territories that give the police power to remove children and young people who are congregated.¹⁸

Freedom of expression and protest

Issues raised:

- Anti-association legislation being introduced in states and territories around Australia that would restrict members of designated organizations from associating with each other.¹⁹ Legislation is primarily aimed at targeting organized crime but it has the potential to create impacts beyond that aim and unduly restrict peoples' right to socialise and assemble peacefully and in some cases effectively creates association as a basis of criminal conviction or punishment.

Violence and Discrimination

Issues raised:

- Racially motivated violence and discrimination against minorities.²⁰ This issue is increasingly associated with Islamophobia and fears of terrorism.

¹⁵ Summary of stakeholders' submissions, A/HRC/WG.6/23/AUS/3, 2015, page 8.

¹⁶ Summary of stakeholders' submissions, A/HRC/WG.6/23/AUS/3, 2015; Compilation of UN Information, A/HRC/WG.6/23/AUS/2, 2015; Committee against Torture, Concluding observations on the combined fourth and fifth periodic reports of Australia, CAT/C/AUS/CO/4-5, 2014, page 3.

¹⁷ Human Rights Law Centre, Torture and Ill-treatment in Australia, Submission to the UN Committee on the issues to be included in Australia's List of Issues prior to Reporting, June 2016.

¹⁸ Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, 2012, CRC/C/AUS/CO/4, page 9.

¹⁹ Summary of stakeholders' submissions, A/HRC/WG.6/23/AUS/3, 2015.

²⁰ Compilation of UN Information, A/HRC/WG.6/23/AUS/2, 2015.



LABOUR ISSUES

ILO Core Conventions

Issues raised:

- Inconsistencies between legislation and ILO standards in relation to rights to organize.²¹
- Legislation that permits protected industrial action to be terminated on the basis that it was or is causing significant harm to the Australian economy or an important part of it. There were concerns raised that this legislation also enables large employers to have protected industrial action terminated rather than having to make concessions within the context of collective bargaining.
- Legislation in Queensland that gives the government power to terminate protected industrial action where the Minister decides that it causes damage to the economy or community.²²
- Both family and caring responsibilities are not included as grounds of discrimination in labour legislation.²³

Additional labour issues

Issues raised:

- Violations of migrant workers' rights, specifically in relation to excessive working hours, under payment of wages, excessive placement fees and interest rates on loans for "457" visa holders, and threats of dismissal on the ground of trade union membership,²⁴ with documented cases of disproportionately unfair treatment of migrant workers.²⁵
- The vulnerability of migrant workers in Australia, for example that national legislation differentiates between temporary and permanent migrants in relation to the issuance of visas and permits to start and work.²⁶
- The commercial sexual exploitation of children,²⁷ including a lack of measures to prevent the commercial sexual exploitation of children was highlighted as a concern.²⁸
- Human trafficking on the basis that Australia continues to be a destination country.²⁹

SPECIFIC REVIEW FINDINGS – AUSTRALIA

For specific finding in relation to the sources reviewed please see the full report.³⁰

21. Observation (CEACR) – adopted 2013, published 103rd ILC session (2014), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); 2014-103-IA, Application of International Labour Standards 2014 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, page 53.

22. Direct Request (CEACR) – adopted 2013, published 103rd ILC session (2014), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

23. 2014-103-IA, Application of International Labour Standards 2014 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, page 280-281.

24. Direct Request (CEACR) – adopted 2014, published 104th ILC session (2015), Forced Labour Convention, 1930 (No. 29).

25. Summary of stakeholders' submissions, A/HRC/WG.6/23/AUS/3, 2015.

26. 2016 – 105-IB, Promoting Fair Migration, General Survey concerning the migrant workers instruments, page 25 – 26.

27. Compilation of UN Information, A/HRC/WG.6/23/AUS/2, 2015.

28. Committee on the Rights of the Child Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography CRC/C/OPSC/AUS/CO/1 2012, page 4.

29. Committee against Torture, Concluding observations on the combined fourth and fifth periodic reports of Australia, CAT/C/AUS/CO/4-5, 2014, page 3.

30. Accessed at https://www.ihrb.org/uploads/reports/MSE_Platform,_Evaluating_Human_Rights_Risks_in_the_Sports_Context,_Jan_2017.pdf

THE UNITED KINGDOM AND NORTHERN IRELAND 2021 COMMONWEALTH YOUTH GAMES

- Issues over which the Northern Ireland legislature has legislative power include: health and social devices, education, employment, agriculture, social security, pensions and child support, housing, economic development, local government, environmental issues and planning, transport, culture and sport, equal opportunities, justice and policing. Remaining, or “reserved”, matters remaining the responsibility of HM Government include, international relations, constitutional matters, defence and armed forces, nationality, immigration and asylum, elections, national security, nuclear energy, currency, international treaties and UK-wide taxation. It should be noted that a number of these powers have been granted over time.
- For the purposes of this review and on the basis that the Youth Commonwealth Games 2021 are to be held in Belfast, comments and references to policy and practice in primary sources were only captured where they specifically relate to policy and practice in Northern Ireland, or UK-wide policy and practice as it relates to Northern Ireland. Our review found that in many instances comments relevant to the UK were not relevant to Northern Ireland. We have included all comments relating specifically to Northern Ireland and we have been over inclusive where there was ambiguity. Where comments are clearly not relevant to Northern Ireland, they have not been included. This rules out a large amount of information that was available.

SUMMARY OF KEY HUMAN RIGHTS CHALLENGES IDENTIFIED

The key challenges for Northern Ireland relate to issues around freedom of association, with restrictive legislation having an impact on the right and the right to peaceful assembly. Security was also raised as a concern with the excessive use of force on children raised and concerns raised around police powers, including stop and search

and the use of Tasers and non-lethal weapons for riot control. Violence and discrimination against racial and ethnic groups was raised as a concern with reports highlighting negative public attitudes towards Muslims and discrimination against ethnic minorities in relation to the use of racial and ethnic profiling, which disproportionately affects Black and minority communities. Hate crimes on the basis of race, nationality or religion was highlighted as a problem in Northern Ireland. Children are also inadequately protected from age discrimination.

In relation to labour issues blacklisting of trade union members was highlighted as a concern as was the need to address discrimination and the promotion of equality of opportunity and treatment in employment and occupation in Northern Ireland. A number of issues were raised in relation to migrant workers, including a particular vulnerability created by a lack of awareness about their employment rights, and measures that restrict migrant workers’ right to settlement status and treatment of migrant workers from outside the EEA. Human trafficking was also highlighted as a relevant issues in Northern Ireland.

NON-LABOUR ISSUES

Standards of living

Issues raised:

- The right to housing in the United Kingdom, including Northern Ireland, was addressed in a country visit by a thematic mandate holder.³¹ In relation to Northern Ireland it highlighted particular concerns related to long-standing, historical issues around urban distribution. There was no information that was specifically relevant to major projects or potentially relevant to mega-sporting events however it does outline a context that would require further due diligence in relation to any planning or access to land decisions.³²

³¹ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Addendum Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur*, 2014, A/HRC/25/54/Add.4; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Addendum Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur*, 2014, A/HRC/25/54/Add.2.

³² Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik 2014, A/HRC/25/54/Add.4, page 12.



Freedom of Assembly

Issues raised:

- Legislation in Northern Ireland that could enable blanket bans on public processions and meetings by police, which are intrinsically disproportionate and discriminatory.³³
- Legislation that provides for the offence of “obstructive sitting, etc., in public space” against anyone who wilfully obstructs or seeks to obstruct traffic, which may be used to impede the exercise the right to freedom of peaceful assembly.³⁴
- A lack of clarity around the application and scope of these laws and when police could take action, including complaints that the police did not decisively respond to protests that turned violent by arresting or prosecuting offenders.³⁵ The potential for parade or demonstration organizers to incur liability for the unlawful or violent acts of others where they are responsible for organizing a parade.³⁶
- Access to public space, which is impacted by the increased privatization of public space in many States, where peaceful assemblies are curtailed through the use of private bodies, companies and individuals, of private injunctions, which can be difficult to challenge, coupled with the issue of aggravated trespass.³⁷

Security

Issues raised:

- The use of restraint against children, including for disciplinary purposes.³⁸ and that it is not being used only as a last resort and exclusively to prevent harm to the child or others.
- Legislation that enables stop and search activities without reasonable suspicion provided that specific criteria was satisfied.³⁹
- Stop and search powers that exist without guidelines for their operational use, making them even more discretionary than those which exist in England, which the European Court of Human Rights found to be in breach of human rights and open to arbitrary and discriminatory use.⁴⁰
- The use of plastic bullets electro-shock weapons (tasers) by police for riot control in Northern Ireland as a concern, particularly as they can cause fatalities,⁴¹ including on children.⁴²
- A lack of understanding by police around hate crime targeting disabled people.⁴³

33. Rights to freedom of peaceful assembly and of association, Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur, A/HRC/23/39/Add.1, 2013, page 13.

34. Rights to freedom of peaceful assembly and of association, Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur, A/HRC/23/39/Add.1, 2013, page 14.

35. Ibid.

36. Rights to freedom of peaceful assembly and of association, Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur, A/HRC/23/39/Add.1, 2013, page 15.

37. Special Rapporteur on the rights to freedom of peaceful assembly and of association, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 2013, A/HRC/23/39.

38. Compilation of UN information, A/HRC/WG.6/13/GBR/2, 2012, page 8.

39. Summary of stakeholders' information, 2012, A/HRC/WG.6/13/GBR/3, page 9.

40. Committee on the Elimination of Racial Discrimination, Summary record of the 2109th meeting held at Palais Wilson, Geneva on Monday, 22 August 2011, CERD/C/SR.2109, page 9.

41. Summary of stakeholders' information, 2012, A/HRC/WG.6/13/GBR/3, page 6; Rights to freedom of peaceful assembly and of association, Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur, A/HRC/23/39/Add.1, 2013, page 15.

42. Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 2016, CRC/C/GBR/CO/5, page 8.

43. Summary of stakeholders' information, 2012, A/HRC/WG.6/13/GBR/3, page 11.



Violence and Discrimination

Issues raised:

- Hate crimes in Northern Ireland on the basis of race, nationality or religion was highlighted in recent treaty body reports.⁴⁴
- The prevalence in the media and on the internet of racist and xenophobic expression that may amount to incitement, discrimination, hostility or violence was raised as a concern.⁴⁵
- Proposed legislation protecting children from age discrimination in Northern Ireland, specifically that it excludes children under the age of 16 from protection.⁴⁶

LABOUR ISSUES

Employment law is a devolved matter with responsibility over legislation in this area residing with the legislature of Northern Ireland.

ILO core conventions

Issues raised:

- Blacklisting individuals in the construction sector on the basis of their trade union membership or activities.⁴⁷
- Equality legislation in Great Britain, Equality Act 2010, is not applicable in Northern Ireland.⁴⁸

Additional labour issues

Issues raised:

- The vulnerability of migrant workers to exploitation because of a lack of knowledge about employment rights, amongst other factors.⁴⁹
- Policies and legislation that promote negative perceptions of migrant workers,⁵⁰ including rhetoric which singles out groups of citizens, for example undocumented migrants as deserving of hostile treatment, can fuel negative associations in public perceptions of migrants generally, regardless of status, and contribute to misleading propaganda.
- Measure that restrict migrant workers' right to settlement status and treatment of migrant workers from outside the EEA is often so bad that it is alleged to amount to a form of slavery.⁵¹ Migrant workers face significant obstacles in raising complaints and faced repatriation even after unfair dismissal.⁵²

SPECIFIC REVIEW FINDINGS – NORTHERN IRELAND

For specific finding in relation to the sources reviewed please see the full report.⁵³

44. Human Rights Committee, Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland – International Covenant on Civil and Political Rights, 2015, CCPR/C/GBR/CO/7, page 4

45. Ibid; CERD, Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland*, CERD/C/GBR/CO/21-23, page 4.

46. Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 2016, CRC/C/GBR/CO/5, page 5.

47. Observation (CEACR) – adopted 2014, published 104th ILC session (2015), Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

48. Observation (CEACR) – adopted 2014, published 104th ILC session (2015), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

49. Summary of stakeholders' information, 2012, A/HRC/WG.6/13/GBR/3, page 9.

50. Direct request (CEACR) – adopted 2014, published 104th ILC session (2015), Migration for Employment Convention (Revised), 1949 (No. 97).

51. Committee on the Elimination of Racial Discrimination, Summary record of the 2109th meeting held at Palais Wilson, Geneva on Monday, 22 August 2011, CERD/C/SR.2109, page 13.

52. Committee on the Elimination of Racial Discrimination, Summary record of the 2109th meeting held at Palais Wilson, Geneva on Monday, 22 August 2011, CERD/C/SR.2109, page 14.

53. Accessed at https://www.ihrb.org/uploads/reports/MSE_Platform_-_Evaluating_Human_Rights_Risks_in_the_Sports_Context,_Jan_2017.pdf

SOUTH AFRICA

2017 COMMONWEALTH YOUTH GAMES

SUMMARY OF KEY HUMAN RIGHTS CHALLENGES IDENTIFIED

In South Africa issues around the use of and access to land, specifically in relation to indigenous people's rights was raised as a concern. Forced evictions were highlighted as a relevant cause of homelessness, affecting rights to adequate housing. Security and the excessive and disproportionate use of force was highlighted as a concern, including in the context of public protests and including by both public and private security forces. There were also issues highlighted in relation to legislative attempts to limit freedom of expression. Violence and discrimination against women and girls was raised as a concern in the labour market but also more generally with sexual violence a particular issue. Discrimination on the basis of sexual orientation was raised as a problem as was xenophobia, racial discrimination and other forms of related intolerance, including hate crimes, particularly against migrants and non-citizens. The harassment and criminalization of the activities of human rights defenders was also highlighted as an issue in South Africa.

In relation to labour issues there were concerns raised about child labour, child prostitution and sexual exploitation and the entry of unaccompanied minors into the country connected with the growing tourism industry. Other labour related issues included violent repression of strike actions and arrests of striking workers, difficulties faced by casual workers, especially those employed by labour brokers, to join trade unions and inadequate protection for occupational health and safety in national legislation. The exploitation of migrant workers was raised as a concern, including in relation to their living conditions. Human trafficking was raised as a concern especially in relation to children for sexual exploitation.

NON-LABOUR ISSUES

Land

Issues raised:

- Delays in processing land claims before the Commission on Restitution of Land Rights and the inability of some indigenous communities in accessing restitution.⁵⁴ Indigenous people and victims of apartheid continue to be affected by problems with land redistribution, access to ancestral lands and a lack of information on their rights.⁵⁵
- Forced evictions in the context of causes of homelessness and violations of rights to adequate housing.⁵⁶

Security

Issues raised:

- The impact on rights to life and the right not to be subject to torture as a result of actions by law enforcement officials.⁵⁷
- The excessive and disproportionate use of force by law enforcement officials, including in the context of public protests resulting in loss of lives.⁵⁸
- The lack of effective remedy for victims of human rights violations by private military and security companies.⁵⁹

Freedom of expression and protest

Issues raised:

- Legislative attempts to limit freedom of expression and freedom of information, with specific mention of proposed new laws that could potentially have an impact

⁵⁴ United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1 2016, page 9.

⁵⁵ Committee on the Elimination of Racial Discrimination, Concluding observations on the fourth to eighth periodic reports of South Africa adopted by the Committee at its ninetieth session (2-26 August 2016) CERD/C/ZAF/CO/4-8, page 5; Committee on the Elimination of Racial Discrimination, International Convention on the Elimination of All Forms of Racial Discrimination, Summary record of the 2460th meeting, 2016, CERD/C/SR.2460, page 9.

⁵⁶ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (HRC 31st 30/12/2015 A/HRC/31/54), page 13.

⁵⁷ Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 5.

⁵⁸ United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1 2016, page 5; Human Rights Committee, Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1, 2016, page 5-6.

⁵⁹ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 8.



on these rights, including by punishing whistleblowers, investigative journalists and criminalizing editors who publish classified information.⁶⁰

Violence and Discrimination

Issues raised:

- Gender discrimination, particularly against women and girls.⁶¹
- A lack of progress in some areas of the labour market with specific mention was made of trade unions and the private sector.
- Lack of equal opportunities for women, maternity protections and equal pay.
- The high prevalence of sexual violence against women and girls, which was observed to be socially normalized, legitimized and met with a culture of silence and impunity.⁶²
- Discrimination on the basis of sexual orientation persists, particularly against women, including murder and sexual offences committed against women on account of their sexual orientation.⁶³
- xenophobia, racial discrimination and other forms of related intolerance, including hate crimes,⁶⁴ including impacts on foreigners and migrants, with patterns of xenophobic violence against foreigners and non – citizens.⁶⁵

- The treatment of foreigners, migrants and other non-citizens by police and law enforcement officials.⁶⁶
- The harassment or criminalization of the activities of human rights defenders and government critics, including the harassment, threats, raids, arbitrary arrest or criminalization of their activities.⁶⁷
- Private individuals and police continue to violate the rights of human rights defenders, in particular those working on corporate accountability and land rights issues.⁶⁸

LABOUR ISSUES

ILO core conventions

Issues raised:

- Child labour, including over 4 per cent of those engaged in economic activities being exposed to at least one hazardous condition.⁶⁹
- Violent repression of strike actions and arrests of striking workers, including the persistence of violent incidents leading to injury and death as a result of police intervention during strike actions and, in addition, allegations of arrests of peaceful striking workers.⁷⁰

⁶⁰ Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 8.

⁶¹ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 6.

⁶² Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 7; Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 5-6; Report of the Working Group Report on the Universal Periodic Review, A/HRC/21/16, pages 19-20,21.

⁶³ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 6; Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 5-6; Human Rights Committee, Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1, 2016, page 3-4.

⁶⁴ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 7; Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 2; Human Rights Committee, Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1, 2016, page 3-4.

⁶⁵ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 7; Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 5,6; Committee on the Elimination of Racial Discrimination, Concluding observations on the fourth to eighth periodic reports of South Africa adopted by the Committee at its ninetyeth session (2-26 August 2016) CERD/C/ZAF/CO/4-8, page 3, 5-6.

⁶⁶ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 8.

⁶⁷ Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 8; Human Rights Committee, Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1, 2016, page 7; Joint submission made by the International Service for Human Rights, Iranti-org and the Centre for Human Rights, The Situation of Human Rights Defenders, South Africa Briefing Paper for the Human Rights Committee, 18 February 2016; Legal Resources Centre, Response to the report submitted by South Africa under Article 40 of the International Covenant on Civil and Political Rights, 12 February 2016, page 14.

⁶⁸ United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1 2016, page 8.

⁶⁹ Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 8; Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 6.

⁷⁰ Observation (CEACR) – adopted 2015, published 105th ILC session (2016), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).



- Difficulties faced by casual workers, especially those employed by labour brokers, to join trade unions because of the fear of not having their fixed-term contracts of employment renewed in case of affiliation.⁷¹
- National legislation does not adequately give effect to ILO standards on occupational health and safety in a number of areas that would be relevant to various activities undertaken at various stages in a mega sporting event lifecycle.⁷²
- Persons facing evictions from farms, lack of compliance with health and safety protections.⁷³
- South Africa is a source, transit and destination country for the trafficking of children, especially for the purpose of sexual exploitation.⁷⁶ Inadequacies of efforts by the state to combat trafficking.⁷⁷
- Child prostitution and sexual exploitation and the entry of unaccompanied minors into the country in relation to the growing tourism industry.⁷⁸

SPECIFIC REVIEW FINDINGS – SOUTH AFRICA

For specific finding in relation to the sources reviewed please see the full report.⁷⁹

Additional labour issues

Issues raised:

- Difficult living conditions faced by migrants, including overcrowding, poor nutrition, insufficient ventilation, lack of sanitation and little access to clean water.⁷⁴
- Exploitation of migrant workers through labour brokers, especially in the mining sector.⁷⁵

71. Direct Request (CEACR) – adopted 2015, published 105th ILC session (2016), Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

72. Direct Request (CEACR) – adopted 2015, published 105th ILC session (2016), Occupational Safety and Health Convention, 1981 (No. 155).

73. Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 9.

74. Compilation of UN Information, A/HRC/WG.6/13/ZAF/2, page 11.

75. Human Rights Committee, Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/I, 2016, page 7.

76. Summary of stakeholders' information, A/HRC/WG.6/13/ZAF/3, page 6; Committee on the Rights of the Child, South African Alternate Report Coalition II October/November 2015, Alternate Report to the UN Committee on the Rights of the Child in response to South Africa's Combined 2nd, 3rd and 4th Periodic Country Report on the UN Convention on the Rights of the Child, page 16.

77. United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/I 2016, page 7.

78. Direct Request (CEACR) – adopted 2013, published 103rd ILC session (2014), Worst Forms of Child Labour Convention, 1999 (No. 182).

79. Accessed at https://www.ihrb.org/uploads/reports/MSE_Platform,_Evaluating_Human_Rights_Risks_in_the_Sports_Context,_Jan._2017.pdf



OVERALL REVIEW FINDINGS

GENERAL COMMENTS

The prominence of human rights abuses, even if unrelated to mega-sporting events may be indicative that a state may not be sympathetic towards other human rights issues and create a setting where human rights impacts are more likely to occur. While primary sources provide useful information on the occurrence of human rights abuses this does not provide a complete picture of actual or potential risks involving businesses and other stakeholders in mega-sporting events.

Our review identified a number of general challenges that sport governing bodies and other stakeholders should seek to engage with in the process of developing ways to engage with these sources:

- UN and ILO sources generally did not highlight impacts or risk areas that are specifically and immediately relevant to business and other stakeholders involved in mega-sporting events, or identify impacts and risk areas that are common to, or typical of, mega-sporting events. The exception to this, outlined above, is the Report of the Committee of Experts on the Application of Conventions and Recommendations. We would suggest that these sources were not designed for such a purpose and that expert analysis may be needed to connect the information from these sources on relevant issue areas to the stages of a mega-sporting event or to the various stakeholders involved and determine whether issues can be applicable to, or create a risk for, businesses and other stakeholders involved in the lifecycle of a mega-sporting event.
- In relation to both labour and non-labour issues we would suggest that a key concern is the currency of the information. Even where current information was obtained from primary sources, it would be necessary to conduct further follow up beyond these sources to identify whether these issues are still relevant. In most cases the information contained in primary sources related to law and practice of a particular state and as a result it would be necessary to conduct further

research of official, government sources at the time of the bid to identify whether that law and practice is still relevant or whether it has changed. Additionally, consideration should be given to the fact that changes in law and practice will continue after an initial review of key issues has been undertaken. Therefore it would be necessary to monitor these changes on an ongoing basis.

- In some jurisdictions we would suggest that that expert legal analysis could be required to understand how, and whether, the information in the primary sources relates to a specific location. This could be done during the initial review or once key issues have been identified. This is because a significant portion of the information contained in the primary sources relates to law and practice of a particular location however some locations operate under legal systems that make it difficult to assume a link between the issues identified in these sources than the law and practice of the relevant location. For example, in relation to Australia, the Commonwealth Games will be hosted on the Gold Coast, in the state of Queensland. In Australia there are both federal and state legal systems that can affect the issues identified in UN and ILO sources. Therefore, information may be ambiguous or unclear as to whether it is applicable. In this instance large amounts of information in primary sources were either excluded on the basis it explicitly mentioned issues not relevant to the state laws in Queensland, or required additional analysis to determine whether information could be applicable to state law and practice in Queensland. This could not be done without an understanding of how the legal system in that location operates.

Taking into account the large volumes of primary sources that were reviewed to make mostly indirectly relevant findings, we suggest that consideration should be given to how sport governing bodies engage with these sources to ensure it is time-efficient. For context, our review involved 21 lawyers who spent over 450 hours over 4-6 weeks on this review.



We observed that some locations have recently hosted other mega-sporting events and would likely have insights and resources that would be useful to explore. For example, in relation to this review Australia hosted the 2000 Olympics in Sydney and South Africa hosted the FIFA World Cup in 2010. There would likely be a number of useful sources that could provide specific insights into issues relevant to a mega-sporting event in that country. Those sources did not form part of this review.

Our review concluded that it is not always possible to objectively determine human rights concerns that might become an issue for campaigners and activists during a mega sporting event (“lightning rod” issues) solely from a review of UN and ILO sources. While it is possible to look for specific, egregious human rights issues in UN and ILO sources it is necessary to have some criteria to help clarify what types of issues may potentially be most relevant. For example, any instance of gross human rights

abuses could be used as an objective criterion to draw our important issues though this does not necessarily mean they will become “lightning rod” issues in the context of a specific event.

The question of extra-territorial human rights risks in supply chains was not adequately captured in the primary sources reviewed. In relation to internal country supply chains, it is sometimes possible to identify if particular supply chain risks are an issue where there is information relating to specific sectors or business activities. However, this does not provide a consistent or reliable source of information. It is also not possible to determine whether supply chains that extend beyond the borders of a host state are particularly exposed. In this instance we would suggest that assessment depends on individual companies associated with mega-sporting events with analysis or assessment of their own supply chain is required.





CONCLUSION & RECOMMENDATIONS

Overall, our review showed that the information compiled from UN and ILO sources could be of significant value if a more efficient process is in place to ensure that the relevant information from these sources is analyzed and placed in the context of risks associated with events. Importantly, these sources provide credible and authoritative information and when taken as a whole also give a general flavour of particular human rights sensitivities in a country. Obviously they cannot take the place of event specific due diligence at the time a bid is being considered but can provide a sound basis to start the process and a method of engagement with these sources should be developed.

We recommend that a mega-sporting event specific due diligence process could be developed to appropriately scope and capture the relevant stages of the process and outline how engagement with these sources can identify key relevant issues. This could appropriately be modelled on, at a high-level, the UN Guiding Principles, that is, the process should be able to identify and assess any actual and potential impacts that are relevant, implement findings into appropriate processes, track the effectiveness of those responses and there should be some effort to communicate this process and any responses. It would also be recommendable to investigate whether it is necessary to develop a reporting structure that highlights the key concerns and the overall risk management process to ensure comparability across countries hosting mega sporting events. This could also serve as a tool for showing progress and sharing learning and capacity building.

While we found the information in the primary sources to be somewhat inconsistent and not directly relevant at times they do provide an important starting point to the key human rights issues in a country and are a good indicator of the types of issues that, even if not directly relevant to a mega-sporting event, could be drawn on by activists to gain leverage in the context of an event in that country. While secondary sources are easy to engage with it should be noted that the information contained in these sources could be affected by the

perception of political influence. Therefore, the primary sources provide the most useful way to outline key concerns.

We also found that while some sources produced information that is easily identified as relevant to stakeholders involved in the lifecycle of a mega-sporting event (mostly in relation to labour issues) at some point the information contained in these sources would require further analysis to determine whether information on human rights issues can be applicable to, or create a risk for, businesses and other stakeholders involved in the lifecycle of a mega-sporting event and how those issues relate specifically to the roles and responsibility of the various stakeholders, i.e. developers, financiers, sports governing bodies, public or private security services, etc.

We would suggest that specific business and human rights expertise, legal expertise and/or human rights expertise relevant to mega-sporting events would be necessary to identify key issues and place them in the context of a mega-sporting event. Additionally, we would suggest that specific expertise is required to take those issues from the “identification” stage to effective “implementation”. While it is useful to identify relevant issues, it will be necessary to determine how those issues could actually be addressed through specific practical and arrangements. For example, integrating human rights concerns into relevant processes will require attention to contractual arrangements between various stakeholders, including sport governing bodies and organizing committees, governments, prime contractors and sub-contractors, sponsors, etc.

Overall, we would suggest that for the purpose of outlining the key human rights issues for a country in the context of a mega-sporting event, the mechanisms exist and they contain credible, authoritative and useful information. These mechanisms can provide sport governing bodies and other stakeholders with an appropriate baseline of information required to identify key issues and develop processes to implement these findings and reduce any actual or potential involvement in adverse human rights impacts.

APPENDIX I

REVIEWED SOURCES

UN SOURCES

All documents that are relevant to the countries under review and within the date range 2011-2016 were considered. Documents from 2016 were reviewed up to 31 August 2016.

1. UNIVERSAL PERIODIC REVIEW REPORTS:

- 1.1 National Report
- 1.2 Compilation of UN information
- 1.3 Summary of Stakeholders' information
- 1.4 Report of the Working Group

2. TREATY BODY REPORTS

3. SPECIAL PROCEDURE MANDATE REPORTS

- 3.1 Working group on Arbitrary Detention
- 3.2 Working Group on the issue of human rights and transnational corporations and other business enterprises
- 3.3 Special Rapporteur on the rights of persons with disabilities
- 3.4 Working Group on Enforced or Involuntary Disappearances
- 3.5 Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment
- 3.6 Special Rapporteur on extrajudicial, summary or arbitrary executions
- 3.7 Special Rapporteur on the right to food
- 3.8 Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- 3.9 Special Rapporteur on the rights to freedom of peaceful assembly and of association
- 3.10 Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes
- 3.11 Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- 3.12 Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
- 3.13 Special Rapporteur on the situation of human rights defenders
- 3.14 Special Rapporteur on the rights of indigenous peoples
- 3.15 Special Rapporteur on the human rights of migrants
- 3.16 Special Rapporteur on minority issues
- 3.17 Special Rapporteur on the right to privacy
- 3.18 Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- 3.19 Special Rapporteur on the sale of children, child prostitution and child pornography
- 3.20 Special Rapporteur on contemporary forms of slavery, including its causes and consequences
- 3.21 Special Rapporteur on the promotion and protection of human rights while countering terrorism
- 3.22 Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- 3.23 Special Rapporteur on trafficking in persons, especially women and children
- 3.24 Special Rapporteur on violence against women, its causes and consequences
- 3.25 Special Rapporteur on the human right to safe drinking water and sanitation
- 3.26 Working Group on the issue of discrimination against women in law and in practice

ILO SOURCES

The ILO sources below were reviewed for the date range within 2012 – 2016. Sources from 2016 were reviewed up to 31 August 2016.

1. *Reports of the Committee of Experts on the Application of Conventions and Recommendations*
2. *Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations*
3. *Outcomes of ILO Governing Body consideration of representations (Articles 24 and 25 of the ILO Constitution)*
4. *Outcomes of ILO Governing Body consideration of complaints (Article 26 of the ILO Constitution)*
5. *Decisions of the ILO Committee on Freedom of Association*
6. *Annual Review under the Follow-up to the ILO 1998 Declaration Compilation of Baseline Tables*
7. *Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*



APPENDIX 2

GUIDANCE ON RELEVANT HUMAN RIGHTS IMPACTS

Human rights impact	Details
Land	Impacts flowing from the acquisition or expropriation of land, forced evictions, forced displacement, resettlement of communities, demolition of social housing and clearing of homeless people from public places.
Standards of living	Impacts on standards of living resulting from relocation or business activities i.e. impacts on communities, residents (access to water, food, energy, housing, health, transport etc), specific impacts on women and children (access to schools, medical facilities).
Freedom of movement	History of restrictions on freedom of movement, especially in relation to large infrastructure projects, events and government activities for example, constraints imposed by construction projects or commercial exclusion zones during the event which prevent families/workers/children moving freely between the homes and place of work/schools/medical facilities etc.
Labour issues	<p>ILO CORE CONVENTIONS</p> <p>Risk of forced labour, health and safety concerns, poor working conditions, discrimination in the workplace, denial of union rights, restrictions on freedom of association, child labour.</p> <p>Relevant ILO contentions:</p> <p>C029 – Forced Labour Convention, 1930 (No. 29), C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), C098 – Right to Organise and Collective Bargaining Convention, 1949 (No. 98), C100 – Equal Remuneration Convention, 1951 (No. 100), C105 – Abolition of Forced Labour Convention, 1957 (No. 105), C111 – Discrimination (Employment and Occupation) Convention, 1958 (No. 111), C138 – Minimum Age Convention, 1973 (No. 138), C182 – Worst Forms of Child Labour Convention, 1999 (No. 182).</p> <p>ADDITIONAL LABOUR ISSUES</p> <ul style="list-style-type: none"> ■ Temporary workers, especially migrant workers, often do not enjoy the same job security as other workers. ■ exploitative recruitment practices ie recruitment fees charged to workers. ■ human trafficking where workers are at risk of ending up being trafficked into various forms of modern-day slavery, including sexual exploitation. ■ Occupational health and safety issues.



	<p>Relevant ILO conventions:</p> <p>C155 – Occupational Safety and Health Convention, 1981 (No. 155), Minimum Wage Fixing Convention, 1970 (No. 131), Standards on migrant workers Conventions, C097 – Migration for Employment Convention (Revised), 1949 (No. 97), C143 – Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), C181 – Private Employment Agencies Convention, 1997 (No. 181).</p>
Commercial sexual exploitation of women and children	Major sporting events often require huge capital improvement and infrastructure projects, creating a huge demand for cost-effective labour and materials and once events are underway, the locations become destinations for travel and tourism, he said, creating opportunities for human trafficking for sex.
Security	Risk of violence, discrimination, abuse in the provision of security. Public eg police, army, or private security contractors. History of arbitrary arrest or detention, enforced disappearances, arbitrary or unlawful killings, torture Cruel, Inhuman, or Degrading Treatment or Punishment, Arbitrary Interference with Privacy, Family, Home, or Correspondence.
Free expression and protest	Restrictions on freedom of speech and freedom of expression. Restrictions on civic space, opportunities for protestors to protest. Violence against protesters. Restrictions on freedom of peaceful assembly.
Corruption	Risk of corruption and corrupt practices, bribery, money-laundering, lack of transparency or access to public information.
Violence and discrimination	<p>Discrimination can occur in relation to a range of activities associated with mega sporting events from the exclusion of workers during construction to danger for LGBT athletes when competing.</p> <p>Discrimination might occur because of host country laws and practices, history of abuse, violence or discrimination against individuals on the basis of race, colour, gender, language, religion, political or other opinion, national or social origin, property, disability, birth or other status, or against national minorities.</p>

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