



# **SPORT, BUSINESS AND HUMAN RIGHTS**

MEETING REPORT  
28 OCTOBER 2019

# SPORT, BUSINESS AND HUMAN RIGHTS MEETING REPORT

PRACTITIONERS WORKSHOP HOSTED BY CLIFFORD CHANCE  
AND THE CENTRE FOR SPORT AND HUMAN RIGHTS  
LONDON, 28 OCTOBER 2019

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## AUTHORS

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## HOSTS

The [Centre for Sport and Human Rights](#), a new, independent organization in the world of sport and human rights and co-organizers of the workshop, is committed to implementing human rights in sport through collective action and promoting the [Sporting Chance Principles](#). The Centre unites the key actors involved in sport, in particular those who are committed to embedding human rights into the world of sports, and those whose rights have been harmed, through collective action. Its approach is based on the fact that human rights apply to the world of sports.

The workshop was cohosted by Clifford Chance, a multinational law firm based in London, UK.



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CLIFFORD  
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THE CENTRE  
FOR SPORT AND HUMAN RIGHTS



**SPORTS, BUSINESS AND HUMAN RIGHTS**  
CLIFFORD CHANCE AND THE CENTRE FOR SPORT AND HUMAN RIGHTS

28 OCTOBER 2019

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# ABOUT THE WORKSHOP

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Clifford Chance and the Centre for Sport and Human Rights brought together human rights experts with sports lawyers, legal advisers and representatives of sports bodies and their commercial partners, to discuss the roles of sporting organisations and their advisers in addressing a wide range of sport-related human rights issues including gender and non-discrimination, equality and fairness, workers' rights and forced evictions. The half-day workshop discussed the frameworks within which human rights apply to the world of sport, with a focus on the corporate responsibility to respect human rights as stipulated by the United Nations Guiding Principles on Business and Human Rights. The event provided an opportunity to share expertise and experiences and to discuss human rights considerations that arise every day in the sports industry.

The Chatham House Rule applied during the event. Therefore, this meeting report summarises the main themes discussed in each session and highlights key insights from the speakers. The views summarised herein are those of the speakers and not of the meeting hosts.



# OPENING SESSION: INTRODUCTION TO HUMAN RIGHTS IN SPORT

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The workshop provided a starting-point for a dialogue on sport, business and human rights, rooted in the broader business and human rights field that has developed from debates on responsibilities of non-state actors and their human rights impacts. While global sport is one area that has power to promote human rights, sport can also contribute to or cause adverse impacts on human rights. The agenda of the workshop focussed on how the world of sport and sports systems address human rights issues. The most authoritative international framework setting out the human rights responsibilities of all business and other non-state actors is the United Nations Guiding Principles for Business and Human Rights (UNGPs), with the common goal to prevent and address adverse human rights impacts in the most appropriate ways.

The Centre for Sport and Human Rights, a new, independent organization in the world of sport and human rights and co-organizers of the workshop, is committed to implementing human rights in sport through collective action and promoting the Sporting Chance Principles. The Centre unites the key actors involved in sport, in particular those who are committed to embedding human rights into the world of sports, and those whose rights have been harmed, through collective action. Its approach is based on the fact that human rights apply to the world of sports.

The workshop brought together sports bodies and other sports actors committed to implementing the UNGPs as well as to respecting the [Sporting Chance Principles](#), with those that have not yet made similar commitments. The goal was to discuss a range of contexts in which human rights apply to sports. To achieve this goal, the workshop was structured into three sessions. The first session discussed human rights in sports business relationships with the intention to provide an opportunity to learn from experiences in the wider business world beyond sport. The second session focused on sports bodies' experiences with embedding human rights due diligence processes into their daily operations to provide a better understanding of what the corporate responsibility to respect human rights means in the sport context. The third session addressed one of the biggest challenges, access to remedy where adverse human rights impacts occur in the sport context, and discussed potential avenues for addressing these situations.

### Key Messages

- Human rights apply to the world of sports.
- Individuals working in the fields of sport, business and human rights should maintain a dialogue to find ways forward in pursuing the common goal to prevent and address adverse human rights impacts in the most appropriate way.









# SESSION ONE: HUMAN RIGHTS IN SPORTS BUSINESS RELATIONSHIPS

The first session focused on the corporate responsibility to respect human rights in sport business relationships, including a short introduction into the structure and provisions of the UNGPs. The discussion centred around the added value of incorporating human rights due diligence into business operations as well as the awareness that respecting human rights is now a global expectation for all business actors as set out in the UNGPs.

The Universal Declaration of Human Rights affirms that the rights contained in the Declaration are “a common standard of achievement for all peoples and all nations” and that “every individual and every organ of society” shall seek to promote respect for these rights<sup>1</sup>. That includes businesses and sports organisations. Companies associated with sporting events can make a difference in many ways to promote human rights, including by demonstrating how they apply to their operations and in helping move discussions forward on this topic by including more actors and in developing collective action. Still, nearly a decade after their unanimous endorsement by the UN Human Rights Council, many companies are still not aware of their responsibility to implement the human rights due diligence provisions of the UNGPs or are unwilling to take necessary actions and will continue to fly under the radar unless called out publicly.

Different sport actors, from amateur associations to government-led sports initiatives, to not-for-profit leagues and organizations, are often not differentiated from the professional sport industry. It is important to keep in mind the diversity of actors involved in sport and the different constraints they may face, with some often operating with limited resources and capacities. Such challenges mean that steps to ensure the respect for human rights may be different for each of those actors. However, even though the approaches for individual organisations may vary, all sports actors should realise that they are not immune from human rights responsibilities.

1 Universal Declaration of Human Rights, 1948, Preamble



Some of the biggest challenges for business arise when operating in countries where governments are unable or unwilling to implement international human rights obligations. At the same time, in many countries public bodies adopt and implement human rights related standards or laws, which businesses are required to comply with or face penalties. While the requirements can vary from country to country, the problem is not necessarily a conflict of laws, but rather a conflict of practices. The good news is that companies do not necessarily need to start from scratch when considering their own human rights due diligence processes, but can look initially to instruments and policies already in place within their organisations, such as Codes of Ethic, or Codes of Conduct, which may already be in line with respect for human rights, or which can be enhanced as needed to include human rights considerations. Furthermore, companies can benefit from external expertise and the experience of peers and specialists and should seek support from lawyers and consultants as well as other stakeholders who can offer advice and partnerships on shared objectives through collective action.

Like other recognised “soft law” instruments applicable to business such as the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development, the UNGPs are intended to apply in all contexts, and are therefore a critical tool for businesses that have to engage in various markets and with various stakeholders. They also provide an authoritative international framework for understanding corporate human rights due diligence. It should be noted that a growing number of governments are developing mandatory due diligence initiatives as well. It is also important that transparency forms part of any legal framework, in a manner which encourages and facilitates companies to be open about and communicate their human rights risks and challenges.

In the context of sporting events, awareness of the human rights issues surrounding or linked to an event is key – as is the human rights due diligence that can prevent and mitigate adverse impacts associated with an event. A starting point for businesses could be to review the calendar or major sporting events to be aware of where and when events are happening and keep track of civil society, media and expert reports to assess human rights risks. While there are many complex questions as to when a company should limit or refrain from conducting business in a specific country due to the scale of serious human rights abuses, it should be recognised that all countries have some level of human rights risks and that engaging in countries facing significant challenges is not automatically contrary to corporate respect for human rights. There can be situations where business engagement in a country with significant risks may actually help promote respect for rights if activities are undertaken responsibly. Whether or not such engagement would be successful will turn on a number of factors including how much leverage an organisation has with its partners (including clients, suppliers and governments) and should be considered by an organisation in all contexts but especially before it commits to organising an event in a country with a poor human rights record.

## Key Insights

- The UNGPs are not a legally binding instrument, but components of the UNGPs can have legal effect, for example, if they are embedded in and/or referred to in national legislation or in commercial contracts.
- The UNGPs offer an overarching approach for businesses to implement their human rights responsibilities in their operations and provide an authoritative framework for conducting human rights due diligence.
- Businesses and sports organisations should see the UNGPs as offering opportunities for engagement rather than confrontation.
- Sports bodies come in many different forms and many have special features that distinguish them from a typical business enterprise. However, the complexity of sports bodies should not deter them from examining how to embed their responsibility to respect human rights into their governance and operations.
- Sports bodies and their legal advisers and lawyers can learn from peer organisations as well as human rights experts and consultants to understand how respect for human rights can be effectively incorporated into daily practices and operations.







# SESSION TWO: HUMAN RIGHTS IN THE GOVERNANCE OF SPORTS

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The second session discussed reasons and ways for sports bodies to commit to the UNGPs and embed respect for human rights into their organisations.

All sports organisations face human rights challenges. However, it is often a specific event or series of events, which creates pressure and triggers an organisation's commitment to commence the journey of embedding respect for human rights into its policies and operations. For FIFA, an important moment was the [open letter](#) sent by Mary Robinson and John Ruggie to FIFA in June 2014, asking the sports body to acknowledge the potential adverse human rights impacts of its events and operations and to make an explicit commitment to respect human rights. In 2010, the award of the FIFA World Cups 2018 and 2022 to Russia and Qatar respectively were earlier crucial moments in spurring FIFA to commit to human rights due diligence.

Other sports bodies have faced similar defining events, which spurred them to action. For the Commonwealth Games Federation (CGF), the deaths of 53 people performing work linked to the 2010 Commonwealth Games in Delhi was such a moment. The experience the organisation went through during this period strongly motivated CGF to assess the risks associated with its events and to integrate respect for human rights into CGF's impact model.



The multiplicity of different actors involved in sports, and specifically in hosting mega-sporting events (MSEs), can result in blame shifting and finger pointing when faced with human rights abuses. The UNGPs offer a useful framework for sports actors and the wider sporting community to analyze and understand the differentiated responsibilities of each actor involved and where action is needed to prevent and mitigate adverse impacts on people. For sporting governing bodies, since their roles and responsibilities are wide-ranging and various, it may not be obvious, without further analysis, how, and the extent to which respect for human rights applies or how it should be implemented within the organisation. What is clear is that there is a growing societal expectation that sports governing bodies should voluntarily understand and accept their role both in upholding human rights principles and in preventing and addressing adverse impacts on people associated with their operations.

The Centre for Sport and Human Rights has developed two guides, with support from FIFA, the CGF, and others: “[Championing Human Rights in the Governance of Sports Bodies](#)” and “[The MSE Lifecycle - Embedding Human Rights from Vision to Legacy](#)”. The process for organisations to undertake is based on four steps: committing and embedding human rights, identifying human rights risks, taking action, and communicating the actions taken. These steps reflect the central components of human rights due diligence and should be a central part of the governance system of any organisation committed to respecting rights.

Human rights due diligence is progressive and iterative. It also needs to be tailored in scale and scope to the key human rights impacts with which the organisation is connected, and appropriate to the organisation’s size and resources. A useful starting point is to review mechanisms and policies, which are already in place, and consider whether and how far they already address human rights issues. For example, many sports bodies are already looking at child safeguarding or anti-discrimination policies, but may not have categorised such steps as part of an effort to respect human rights. Identifying key stakeholders, including those whose human rights may be affected by the activities of the organisation, will be a central component of any gap analysis seeking to understand how to better embed concern for human rights into policies and operations.

## Key Insights

- Sports bodies that have committed to respecting human rights as part of their work have often done so in response to criticisms following controversies connected to specific human rights abuses.
- Embedding and implementing human rights due diligence should be part of a sports body's governance system.
- Given the trans-national nature of sport and the state-like power and influence some sport organisations have, these organisations should acknowledge their responsibilities to respect human rights and use their leverage to enhance protection through the influence of sport on actors who may be causing harms.
- A useful starting point for sports organisations is to review their existing mechanisms and policies on issues such as health and safety, non-discrimination and social responsibility from a human rights perspective.
- Human rights risks can best be managed by engaging with other stakeholders and civil society organisations in ongoing and meaningful dialogue and where appropriate, collective action.
- There are a range of ways in which sports bodies can start living up to their human rights responsibilities and the outcome of a due diligence process can differ depending on the sports body and types of human rights risks.



## THE 2018 SPORTING CHANCE PRINCIPLES

### PREAMBLE

Sport relies on a rules-based system, fair play, respect and the courage, cohesion, support and goodwill of society in all its facets, including athletes, fans, workers, volunteers and local communities, as well as governments, businesses large and small, the media and sports bodies. The foundational principles of the world's preeminent sports nations, solidarity and fair play, the preservation of human dignity, and commitment to non-discrimination. These values have much in common with international human rights instruments, principles and standards.

Recognising that there is a generation of work to be done to fully align the world of sport with the fundamental principles of human dignity, human rights, and labour rights; the Advisory Council of the Centre for Sport and Human Rights are committed to working towards the implementation of these Sporting Chance Principles.

[www.sportandhumanrights.org](http://www.sportandhumanrights.org)





# SESSION THREE: REMEDY AND ACCOUNTABILITY FOR HUMAN RIGHTS IN SPORTS

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The third and final session of the workshop dealt with remedy and accountability for sports-related human rights abuses.

While access to remedy is a human right, it is not always clear on whom the responsibility lies to ensure that remedial mechanisms are in place<sup>1</sup>. For example, if an athlete feels that sports policies are discriminatory in a specific context, where could the athlete go to complain and seek some form of remedy? The same question becomes relevant for the worker involved in building sport event venues who may suffer human rights abuses, or the athlete that faces potential infringements of privacy rights due to strict doping regulations. While a number of different avenues exist for raising a complaint in the context of sport, ranging from state and non-state based mechanisms, judicial and non-judicial mechanisms, to operational level grievance mechanisms, often these avenues are not effective or not accessible to those affected<sup>2</sup>.

There continues to be considerable debate regarding sports bodies' human rights responsibilities in general and the specific responsibility to provide for or contribute as appropriate to grievance mechanisms that ensure access to remedy for those whose rights have been adversely impacted. The view that the primary role of sport governing bodies is to protect the integrity of sport in relation to their sporting and commercial relationships has been the common position. However, today there is growing acknowledgement that sports bodies must take account of a wider range of responsibilities due to their enormous power and control over the sport they

- 1 See for instance Article 6 of the [European Convention for the Protection of Human Rights and Fundamental Freedoms](#).
- 2 The Centre for Sport and Human Rights published a paper mapping a number of those mechanisms relevant in the sport context. See Centre for Sport and Human Rights, "[Mapping Accountability and Remedy Mechanisms for Sports-Related Human Rights Grievances](#)" - Background paper for Strategic Dialogue on Remedy", The Hague, 15 October 2018" (published April 2019). The OHCHR launched a remedy and accountability project in 2014 with the aim to deliver credible and workable recommendations to enable more consistent implementation of the UN Guiding Principles on Business and Human Rights in the area of access to remedy. See [here](#).



regulate, including their relations with governments of states that won bids to host sporting events. Most would agree that while sport does not stand above the law, those who represent sport at different levels should have clear guidance on what the law is that it must obey and how the rights of those impacted by sport are to be respected.

There seems to be growing consensus that existing rules in the sport context may not always be sufficient in terms of respect for human rights and that the interpretation of these rules could infringe upon human rights protections. This can affect in particular marginalized groups of athletes, such as athletes with 'Differences of Sexual Development' (DSD) for example. A revision of existing rules applicable to those athletes needs to acknowledge their right to participate in sports and at the same time ensure a fair competition.

Gender and sports is a particularly challenging topic. A number of cases in the context of the Olympics highlight the challenge such as the 2012 London Olympics, when a group of female athletes challenged the absence of canoeing for women as Olympic discipline, and the 2010 Vancouver Winter Olympic Games, when female ski jumpers called out the absence of female ski-jumping as an Olympic discipline. In both cases, athletes struggled to access suitable grievance mechanisms to raise these complaints. Ongoing challenges range from uncertainty regarding the enforceability of sports bodies' rules and policies, to uncertainty regarding the extent to which domestic jurisdiction of sports bodies' home countries present the most adequate forum, to other substantial and procedural legal challenges. Moreover, while the Court of Arbitration for Sport (CAS) aims to provide a level playing field in the sports world, the private character and human rights capacity of CAS has been questioned as well as the adequacy of using arbitration as a dispute settlement mechanism for human rights related issues.

## Key Insights

- Access to effective remedy for adverse human rights impacts in the sports context is an ongoing challenge requiring further dialogue and action.
- In sport-related cases of human rights abuses, more clarity is needed concerning where responsibility lies in ensuring that remedial mechanisms are in place.
- In some cases, ensuring effective remedies will require efforts to balance equally valid and applicable concerns, such as the right to participate for one group of athletes while at the same ensuring fair competition.
- Due to gaps in national and international law, sports organisations do not have sufficient legal accountability for involvement in human rights impacts.
- The uncertainty regarding enforceability of human rights provisions in sport bodies' rules and policies leaves athletes in a vulnerable position because even if they can seek a remedy, that remedy might not be enforceable.
- Individual members of CAS and CAS arbitrators have human rights knowledge, however, opinions shared indicate that as a remedy for human rights violations CAS could increase its human rights expertise to ensure that human rights are adequately dealt with.





# ANNEX



## **EVENT INVITATION**

### **SPORTS, BUSINESS AND HUMAN RIGHTS**

#### **CLIFFORD CHANCE AND THE CENTRE FOR SPORT AND HUMAN RIGHTS**

**28 OCTOBER 2019, CLIFFORD CHANCE, LONDON**

Sport advances health, human development, respect and equality. As custodians of sport, with unparalleled potential to promote and advance human rights, sports bodies are increasingly including human rights into their own policy commitments and regulations, setting requirements for both large scale and day-to-day sporting events, as well as engaging in the remedial mechanisms where harms occur. Sporting organisations must also navigate a multitude of risks grounded in ethics, public expectations, international best practices, and, increasingly, law and regulation. Recent sport-related cases, which touch on human rights issues, shine a light on the role that sporting organisations and their advisers (including lawyers) can play in dealing with human rights issues ranging from gender and non-discrimination, to equality and fairness. Clifford Chance and the Centre for Sport and Human Rights are gathering leading practitioners and organisers of sport to discuss how the sporting industry can adapt and respond to this fast evolving area.

This half-day workshop will discuss the frameworks within which human rights apply to the world of sports, with a focus on the corporate responsibility to respect human rights as stipulated by the United Nations Guiding Principles on Business and Human Rights (UNGPs). The workshop brings together sports advisers (including lawyers) with human rights experts and representatives of sports bodies and their commercial partners. The workshop will be an opportunity to share expertise and experiences and to discuss the human rights considerations that arise every day in the sports industry.

#### **AGENDA:**

**14:00-14:20      Session I: Opening remarks and Introduction to Human Rights in Sports**

Discussing the human rights challenges that sport is facing and how the UNGPs apply to the world of sport and the activities of sports bodies.

**14:20-15:20      Session II: Human Rights in Sports Business Relationships**

Business representatives of the sports industry providing examples of how to incorporate the UNGPs into their operations and discussing the practical and legal implications of implementing the corporate responsibility to respect human rights including in sports business relationships.

**15:20-15:40      COFFEE BREAK**

**15:40-16:40      Session III: Human Rights in the Governance of Sports**

Discussing the challenges related to the implementation of the respect for human rights in the world of sports, including expectations and results of implementing respect for human rights within the delivery of sporting events.

**16:40-18:00      Session IV: Remedy and Accountability for Human Rights in Sports**

First part: practitioners from the field sharing their experience of the way in which human rights issues are dealt with in sport-related cases. Second Part: open discussion between speakers and contributions from the audience.

**18:00-19:30      DRINKS/NETWORKING**

# **SPORT, BUSINESS AND HUMAN RIGHTS**

## **MEETING REPORT**