



# Evaluating Human Rights Risks in the Sports Context

Sporting Chance White Paper 1.1  
Version 1, January 2017



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# The Mega-Sporting Events Platform for Human Rights

The Mega-Sporting Events Platform for Human Rights (MSE Platform – [www.megasportingevents.org](http://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 our 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. Chaired by Mary Robinson, the MSE Platform is facilitated by the Institute for Human Rights and Business ([www.ihrb.org](http://www.ihrb.org)).

## The Sporting Chance White Papers

This White Paper Series was originally developed to support the Sporting Chance Forum on Mega-Sporting Events and Human Rights, co-convened by the US Department of State, the Swiss Federal Department of Foreign Affairs, and IHRB in Washington D.C. on 13-14 October 2016. Comments were received at and following the Forum, and each White Paper has been updated to reflect those inputs.

A total of 11 White Papers have been produced, clustered into four themes referring to key stakeholder groups (see below). These White Papers aim to present the latest thinking, practice, and debate in relation to key human rights issues involved in the planning, construction, delivery, and legacy of MSEs. Each paper also considers the case for, and potential role of, an independent centre of expertise on MSEs and human rights.

Each White Paper has been published as “Version 1” and the MSE Platform would welcome comments, input, and expressions of support with regard to future iterations or research on each topic.

### 1. Sports Governing Bodies

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| White Paper 1.1 | Evaluating Human Rights Risks in the Sports Context    |
| White Paper 1.2 | Sports Governing Bodies and Human Rights Due Diligence |
| White Paper 1.3 | Corruption and Human Rights in the Sports Context      |

### 2. Host Actors

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| White Paper 2.1 | Host Actors and Human Rights Due Diligence in the Sports Context |
| White Paper 2.2 | Procurement and Human Rights in the Sports Context               |
| White Paper 2.3 | Human Rights Risk Mitigation in the Sports Context               |
| White Paper 2.4 | Remedy Mechanisms for Human Rights in the Sports Context         |

### 3. Sponsors and Broadcasters

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### 4. Affected Groups

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# Introduction

## 1.1 Overview and Methodology

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 Appendix 1.

### **The UN sources that were reviewed include:**

- Universal Periodic Review reports (the National Report, Compilation of UN information, Summary of Stakeholders’ information, Report of the Working Group);
- Treaty Body reports within the date range 2011-2016; and
- 26 Special Procedure thematic mandate reports within that date range.

### **The ILO sources reviewed included:**

- Reports of the Committee of Experts on the Application of Conventions and Recommendations;
- Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations;
- Outcomes of ILO Governing Body consideration of representations (Articles 24 and 25 of the ILO Constitution);
- Outcomes of ILO Governing Body consideration of complaints (Article 26 of the ILO Constitution);
- Decisions of the ILO Committee on Freedom of Association;

- Annual Review under the Follow-up to the ILO 1998 Declaration Compilation of Baseline Tables; and
- Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.

The tripartite ILO's supervisory system is amongst the most extensive and robust in the international system. As with UN sources, it is not specifically tailored to mega-sporting events, however the ILO Conventions and findings of its supervisory system provide the key international benchmarks concerning member states' compliance with their obligations as ILO members.

The findings of this review with respect to ILO standards are specific to the four countries covered in it and are limited to the comments and observations of the supervisory system. 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 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.

These documents were reviewed within the date range 2012 - 2016.

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.

#### **The sources were reviewed against the following criteria:**

- **Relevance** - Did the information outline human rights issues that were directly applicable to the various stages in the lifecycle of a mega-sporting event or to the various stakeholders involved?
- **Credibility** - Was there any issue with the quality or integrity of the source? For

- example, political association or the perception of political influence.
- **Currency of information** – do the reports provide up-to-date information? Is information on each country available for the same time periods?
  - **Consistency** - Did the information cover the range of human rights issues that are relevant or could potentially be relevant for a range of different countries in the same manner, i.e. was the quality of information consistent for the countries reviewed?
  - **Time efficiency of reviewing information** - Was the review time-efficient? Could identical findings be reached using the secondary sources in a time-efficient manner, or would there be a cost in terms of reliability, consistency, timelines, details?
  - **Accessibility of information** - Was information on human rights issues contained in the sources easy to access and understand?

We also sought to assess whether these sources could be used to identify human rights concerns that may become active issues for campaigners during a mega-sporting event. We have termed these “lightning rod” issues. For example, activists protesting about Tibet during the Beijing Olympics.

## 1.2 Country Human Rights Brief - Structure

Each Country Human Rights Brief sets out a summary of the key issues that were captured in the review of primary sources under the heading “Summary of the key human rights challenges for [country]”. This section highlights the key issues that were raised in relation to that country from the primary sources as relevant to a mega-sporting event.

The next section contains an outline of the “Non-labour issues” captured in the primary sources. These include areas of potential impacts under a number of headings: land, standard of living, freedom of movement, security, freedom of expression and protest, violence and discrimination and corruption. A more detailed description of these areas can be found in Appendix 2.

Under the heading “Labour issues” is any information in the primary sources concerning potential labour violations. This has been organized according to the “Core ILO Conventions” and “Additional Labour Issues”.

The final section of each Country Human Rights Brief contains specific comments relevant to the country being reviewed. In this section we have also sought to include comments as to the effectiveness of secondary sources in filling gaps in issues identified in the primary sources.

## 1.3 Findings

The final sections of the report present the overall findings of the review according to the criteria above.

# The Bahamas – 2017 Commonwealth Youth Games

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## 2.1 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.

## 2.2 Non-labour Issues

### 2.2.1. Land

Impacts on land were identified in treaty body reports in relation to to alleged violations against human rights defenders and activists working on environmental and land issues. Those impacts related to activities connected to extractive industries, construction and development projects. Violations against human rights defenders included harassment, intimidation and criminal sanctions on charges of intent to sell drugs.<sup>1</sup> This information was found in a report from 2011 which referred to communications sent by the mandate holder to the State during the period 2006-2011. No further or more recent information on these issues was found in other UN sources.

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<sup>1</sup> 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



## 2.2.2. Security

The death penalty exists in the Bahamas as punishment for some serious crimes.<sup>2</sup> Officials in The Bahamas present the retention of the death penalty as a measure to deter crime.<sup>3</sup> This information was taken from Universal Periodic Review (“UPR”) reports from 2012. No further or more recent information was found in other UN sources. Further analysis of secondary sources was necessary to confirm whether the death penalty still exists in The Bahamas.

UPR reports highlighted concerns about the 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.<sup>4</sup> No further or more recent information was found in other UN sources on this issue.

## 2.2.3. Violence and Discrimination

UPR reports expressed concerns that legislation exists in The Bahamas that discriminates against people on the basis of sexual orientation. There are 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.<sup>5</sup> Reports highlighted 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”.<sup>6</sup> This information related to UPR reports from 2012 and no further or more recent information was found in other UN sources on this issue.

Violence against women, including rape is highlighted as a persistent problem in The Bahamas.<sup>7</sup> This information related to reports from 2012 and no further or more recent information was found in other UN sources on this issue.

## 2.2.4. Corruption

Primary sources reviewed did not provide any meaningful commentary on issues relating to corruption in The Bahamas.

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

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

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.

## 2.3 Labour Issues

### 2.3.1. ILO Core Conventions

UN sources expressed concern about 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.<sup>8</sup> This information related to reports from 2012 and no further or more recent information was found in other UN sources on this issue. More recent comments relating to this issue were found in more recent ILO sources, published in 2016.<sup>9</sup> Our review identified that both sources refer to the same legislation.

ILO sources from 2016 made observations and requests for information related to impacts on rights to freedom of association and the right to organize.<sup>10</sup> However, the Government repeatedly failed to provide follow up information. As a result, most comments and requests for information relating to these rights for the date range reviewed are repetition of comments made in previous years.

ILO sources from 2016 highlighted concern about identified 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.<sup>11</sup> These concerns were raised in previous years, with no response from the State on this point.<sup>12</sup>

ILO sources expressed concerns about gaps in legislation resulting in elements of ILO standards not being given full effect in local legislation.<sup>13</sup> These comments were based on requests for information made in 2012 and no further or more recent information on this issue was identified in other ILO sources.

ILO sources outlined a range of relevant issues relating to 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. However, this information was taken from observations in 2012 and no further or more recent information was identified in other ILO sources.<sup>14</sup>

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

9 Direct Request (CEACR) - adopted 2015, published 105th ILC session (2016), Abolition of Forced Labour Convention, 1957 (No. 105).

10 Observation (CEACR) - adopted 2013, published 103rd ILC session (2014), Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Observation (CEACR) - adopted 2012, published 102nd ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

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

12 Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

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

14 Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), Minimum Age Convention, 1973 (No. 138).

## 2.3.2. Additional Labour Issues

UPR sources indicated that legislation does not exist to prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.<sup>15</sup> This information was taken from UPR reports in 2012 and no further or more recent information was found in other UN sources on this issue.

Concerns were highlighted about the number of children involved in prostitution and child pornography. Treaty body reports from 2012 highlighted a lack of awareness-raising activities among the actors directly related to the tourism industry about children engaged in certain activities related to tourism who are at risk of becoming involved in commercial sexual exploitation.<sup>16</sup> No further or more recent information was found in other UN sources on this issue.

Trafficking was identified as a particular concern for The Bahamas, which is considered a transit and destination country for trafficked persons from the Caribbean region and from Central and South America and because of its geographical location it is major transit country for migrants attempting to reach the United States.<sup>17</sup> Sources highlighted that the scale of trafficking is difficult to quantify because limited national data exists on this issue. Concerns were expressed over the form of trafficking in the Bahamas, which is predominately found to be for commercial sexual exploitation.<sup>18</sup>

Where migrants are trafficked into labour exploitation they work largely as domestic employees, labourers and in agriculture.<sup>19</sup> Detailed information on this issue was primarily drawn from a country visit by a special procedure thematic mandate holder in 2013.<sup>20</sup> It was also mentioned in UPR reports from 2012.<sup>21</sup> No further or more recent information was found on this issue in UN sources.

ILO sources highlighted the need for more specific information relating to legislation protecting migrant workers.<sup>22</sup> However this related to requests for information from previous years and no specific follow up was identified in primary sources. The only subsequent mention on this issue was found in a General Survey that contained a reference to information already identified in other sources, providing no new information.<sup>23</sup>

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

16 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, page 7.

17 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.

18 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.

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

20 Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, A/HRC/26/37/Add.10.

21 Summary of stakeholders' information, A/HRC/WG.6/15/BHS/3, 2012.

22 Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014), Migration for Employment Convention (Revised), 1949 (No. 97) ; Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013), Migration for Employment Convention (Revised), 1949 (No. 97).

23 Promoting Fair Migration, General Survey concerning the migrant workers instruments, 2016 -105-1B, page 109.

## 2.4 Specific Review Findings

### 2.4.1. Non-labour Issues

Universal periodic review (UPR) reports provided credible and accessible coverage of the key issues relevant to The Bahamas. Of particular use were two documents; the summary of stakeholder information report and the compilation of UN Information report. However, because of the nature of UPR reporting cycle and The Bahamas' last review, reports are dated 2012 and information relates to the reporting period prior to 2012, creating a potential issue with the currency of the information. Review of these sources was time efficient with most information on key issues identified from two reports.

Treaty body reports provided limited coverage of The Bahamas. We observed that this could potentially be explained by the fact that The Bahamas has not ratified a number of international human rights treaties or optional protocols: Optional Protocol to the International Covenant on Civil and Political Rights, 1976; Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty: 1991; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 2013; Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 2000; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987; Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2006; Optional Protocol to the Convention on the Rights of the Child on a communications procedure, 2014; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 2003; International Convention for the Protection of all Persons from Enforced Disappearance, 2010; Optional Protocol to the Convention on the Rights of Persons with Disabilities, 2008.

Treaty body reports provided detailed information on a small number of key issues; discrimination against women, trafficking and exploitation for prostitution, including in relation to children. Most treaty body reports that mentioned key issues relevant to The Bahamas were dated 2012 and earlier, with the exception of one report on discrimination against women. Treaty body reports added no new information to the review to what had already been identified in UPR reports though it provided more detailed follow up to those issues already identified.

Special procedure thematic mandate reports were of very limited use for the Bahamas. The Bahamas was not mentioned in the majority of the thematic mandates reviewed for the relevant date range. Even where specific issues were identified as relevant to The Bahamas, for example discrimination on the basis of sexual orientation, child prostitution and excessive use of force by police there was no specific or meaningful mention or analysis by the relevant thematic mandate holder for the date range reviewed. The exception is in relation to trafficking, with the relevant thematic mandate holder having conducted a country visit in 2013. The follow up report was useful in identifying and understanding key relevant risk factors.

Most treaty body and special procedure thematic mandate documents reviewed contained no information that was directly relevant to the actual and potential risks associated with the lifecycle of a mega-sporting event. We suggest that expert analysis would be required to make the connection between this information, any relevant issues identified and the various stages of a mega-sporting event or to the various stakeholders involved.

In relation to secondary sources we found that the 2015 United States State Department Human Rights Country Report (“State Department Human Rights Report”) and the Amnesty International Annual Report (“AI Annual Report”) provided time-efficient, accessible and current information on key issues for The Bahamas. We did not find this information to be any more or less relevant than the information in the primary sources. The State Department Human Rights Report provided the most recent coverage of the key issues of all sources reviewed. However, because of the fact that the report is produced by the United States government we would suggest that there might be an issue with credibility or political interest.

The AI Annual Report, while recent, provided less comprehensive coverage of key issues and contained high-level comments. Human Rights Watch did not produce a World Report on the Bahamas for 2016 and the country profile webpage contained limited information.

The issue of corruption was not adequately dealt with in primary sources. Secondary sources, including Transparency International had limited corruption indicators available on The Bahamas, compared with the information it has available on other states. It was unclear why this was. The US State Department Report provided some relevant information on corruption and transparency, highlighting that the procurement process in The Bahamas “was particularly susceptible to corruption, as it is opaque, contains no requirement to engage in open public tenders, and does not allow award decisions to be reviewed”.

We found these secondary sources to provide an accessible and current snapshot of the key issues. Our review found that secondary sources highlighted the same issues as the primary sources.

## 2.4.2. Labour Issues

Our assessment found relevant, accessible and current information when reviewing “observations”, which contain comments on fundamental questions raised by the application of a particular convention by a state, published in the Report of the Committee of Experts on the Application of Conventions and Recommendations, and “direct requests” found on the ILO website, which relate to more technical questions or requests for further information and are not published in the report but are communicated directly to the governments concerned. However, we observed that there was a lack of information supplied by the government of The Bahamas in response to requests for information and observations, making follow up on relevant

points difficult.<sup>24</sup>

The 2016 “General Survey concerning the migrant workers instruments” referred to The Bahamas as an example and did not provide relevant information for the purpose of this review.

The General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135) made reference to The Bahamas, outlining that some workers are excluded from the minimum wage system, including children and young persons.<sup>25</sup> There was no further, information identified for the purpose of this review.

Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations referred to The Bahamas in 2012 and 2013, noting that replies to communications from the ILO were yet to be received.

Our review found that in the date range reviewed there was no mention of The Bahamas in the remaining ILO sources.

We found that secondary sources, specifically the US State Department Human Rights Report 2015 and ITUC Survey of violations of Trade Union Rights provided coverage of the same issues as primary sources. The US State Department Human Rights Report contained information on key issues, however, it was less specific than ILO sources, i.e. ILO sources referred to specific law and practice that amounts to impacts on relevant rights, whereas the US State Department Human Rights Report gave high-level commentary and examples of impacts on relevant rights, without referring to specific legislation.

The ITUC Survey of violations of Trade Union Rights addressed some key issues, however the webpage shows that it was last updated on 3 March 2010, which raises issues with the currency of that information.

The United States Trafficking in Persons Report 2015 provided an analysis of the particular trafficking risks in The Bahamas. In instances where trafficking has been identified as a specific issue this could be a useful secondary source however because of the fact that the report is produced by the United States government we would suggest that might be an issue with credibility or political interest. In this instance, a relevant thematic mandate holder conducted a country visit in 2013 to The Bahamas and produced a useful report on this issue.

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24 Application of International Labour Standards 2016 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, 2016-105-1A; Application of International Labour Standards 2015 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, 2015-104-1A; Application of International Labour Standards 2014 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations 2014-103-1A; Application of International Labour Standards 2013 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, 2013-102-1A 2012 - Conference Committee on the Application of Standards Extracts from the Record of Proceedings.

25 The General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135), page 22-23.

# Australia - 2018 Commonwealth Games

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**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.

## 3.1 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.

## 3.2 Non-labour Issues

### 3.2.1. Security

In relation to security, UPR reports outlined concerns related to surveillance powers that could cause serious violations of rights to freedom from arbitrary or unlawful interference of privacy and correspondence.<sup>26</sup>

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

A number of UN sources commented on issues related to the use of conducted energy weapons (tasers) by police and law enforcement authorities and expressed concerns about their inappropriate or excessive use, though the total number of incidents relied on is very low.<sup>27</sup> Concerns were raised about the 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.<sup>28</sup> Our review found this information across a range of UN sources, including recent sources.

Local legislation in some states and territories was highlighted as a concern because it gave the police power to remove children and young people who are congregated.<sup>29</sup> These comments were raised in 2012 and no further or more recent information was found on this issue in UN sources.

### 3.2.2. Freedom of Expression and Protest

In relation to freedom of expression and protest, reports raised concerns about anti-association legislation being introduced in states and territories around Australia that would restrict members of designated organizations from associating with each other.<sup>30</sup> 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. This information was taken from recent UPR reports, though we suggest follow up beyond the primary sources reviewed is necessary to determine whether this legislation exists and has had the impacts that have been raised as concerns.

### 3.2.3. Violence and Discrimination

Racially motivated violence and discrimination against minorities was raised in UPR reports as a continuing problem indicating that discrimination and racism is a particular concern in some communities.<sup>31</sup> This issue is increasingly associated with Islamophobia and fears of terrorism.

### 3.2.4. Corruption

Primary sources reviewed did not provide any meaningful commentary on issues relating to corruption in Australia.

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27 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.

28 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.

29 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.

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

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



## 3.3 Labour Issues

### 3.3.1. ILO Core Conventions

In relation to rights to organize, inconsistencies between legislation and ILO standards were highlighted in ILO sources.<sup>32</sup> Specifically, a concern was raised that legislation 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. These comments relate to information from 2013, no further or more recent information was found in other primary sources on this issue.

Concerns were raised in relation to 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.<sup>33</sup> These comments relate to information from 2012, no further or more recent information was found in other primary sources on this issue.

In relation to discrimination, concerns were raised that both family and caring responsibilities are not included as grounds of discrimination in labour legislation.<sup>34</sup> These comments related to information from 2012, no further or more recent information was found in other primary sources on this issue.

### 3.3.2. Additional Labour Issues

In relation to migrant workers a number of violations of workers' rights were reported in ILO sources, 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.<sup>35</sup> These comments related to information from 2014 and no further or more recent information was found in other primary sources on this issue for the date range reviewed.

UN sources commented that Australia is a significant labour-receiving country, with documented cases of disproportionately unfair treatment of migrant workers.<sup>36</sup> No further information was identified on this issue in UN sources for the relevant date range.

<sup>32</sup> Observation (CEACR) - adopted 2013, published 103rd ILC session (2014), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); 2014-103-1A, Application of International Labour Standards 2014 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, page 53.

<sup>33</sup> Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

<sup>34</sup> 2014-103-1A, Application of International Labour Standards 2014 (I), Report of the Committee of Experts on the Application of Conventions and Recommendations, page 280-281.

<sup>35</sup> Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015), Forced Labour Convention, 1930 (No. 29).

<sup>36</sup> Summary of stakeholders' submissions, A/HRC/WG.6/23/AUS/3, 2015.

Concerns were raised in UPR sources about the commercial sexual exploitation of children.<sup>37</sup> Reference was made to reports from 2012 where the lack of measures to prevent the commercial sexual exploitation of children was highlighted as a concern.<sup>38</sup> Finally, concerns were raised about human trafficking on the basis that Australia continues to be a destination country.<sup>39</sup> No further or more recent information on these issues was found in the other UN sources.

In relation to migrant workers comments were made in the ILO General Survey about 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.<sup>40</sup> While these comments are found in a 2016 report, they are reiterating comments made in 2012.

## 3.4 Specific Review Findings

Our review found that while UN sources were useful in outlining potential impacts, in some instances information was not specific enough to determine whether concerns were relevant or applicable to Queensland and the relevance of these information would require further investigation and analysis of other sources. In most instances information relates to federal issues, however, some information relates to issues that are the responsibility of states. The distinction would be relevant when reviewing specific law and practice.

### 3.4.1. Non-labour Issues

In relation to UPR reports, our review found that they provided credible, accessible and current information on key issues. We suggest that this is because of the date of Australia's most recent review with final reports being current to 2015. Review of these sources was time efficient with most information on key issues identified from two reports. Two reports from the UPR process were particularly useful in highlighting relevant issues; the compilation of UN information Report and the summary of stakeholders' information report. The Report of the Working group was less useful in this context.

Further analysis of treaty body and special procedure reports did not add any new information on key issues identified in that process; the UPR process adequately captured information that was also contained in treaty body and special procedure sources. However, on key issues that were identified in these sources treaty body and

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

38 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.

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

40 2016 -105-1B, Promoting Fair Migration, General Survey concerning the migrant workers instruments, page 25 - 26.

special procedure reports provided more detailed information.

In relation to secondary sources, those reviewed included the 2015 US State Department Human Rights Report, Amnesty International Country Profiles, Human Rights Watch World Report. These sources affirmed the information that had been captured by the primary sources. Of these sources the US State Department Report provided an accessible and time-efficient snapshot on all relevant issues identified in the UN sources. However, because of the fact that the report is produced by the United States government we would suggest that there might be an issue with credibility or political interest.

The Amnesty International Country Profile provided high-level comments about some of the key human rights concerns for Australia, which could perhaps be used to determine “lightning rod” issues. Similarly, the Human Rights Watch World Report highlighted a useful summary of the key issues in a similar way to the AI Annual Report, mentioning asylum seekers and refugees, counterterrorism laws, indigenous rights, disability rights and discrimination on the basis of sexual orientation.

The issue of corruption was not adequately dealt with in primary sources. Secondary sources provided information related corruption in Australia. For example, Transparency International has a range of information and indicators available on risks relating to corruption in Australia, which is considered low risk. The US State Department Report did not provide any useful information other than outlining that relevant legislation exists in Australia.

We also reviewed resources available on the website of Australia’s National Human Rights Institution website, Australian Human Rights Commission. The work of the AHRC and the resources it produces are organized according to specific groups of rights and could therefore provide useful, context-specific information. However, it would be necessary to identify key rights that are relevant to analyse the information. It would not be possible to get a general overview of impacts that might be relevant to mega-sporting events without analysing information relevant to specific rights or analysing all information available to draw out relevant issues. The AHRC does produce, from time to time, some resources focused on business and human rights issues though we did not identify any specific, or consistent coverage of business and human rights issues.

### 3.4.2. Labour Issues

Our assessment found relevant, credible, accessible and current information when reviewing “observations”, which contain comments on fundamental questions raised by the application of a particular convention by a state and published in the Report of the Committee of Experts on the Application of Conventions and Recommendations, and “direct requests” found on the ILO website, which relate to more technical questions or requests for further information and are not published in the report but are communicated directly to the governments concerned.

The 2016 General Survey concerning the migrant workers instruments, while containing repeated mention of Australia, did not identify specific gaps or problems that might cause impacts in the context of mega-sporting events. This would require further, potentially expert, analysis to identify specific risk areas from the information that is provided.

The General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135), while containing repeated mention of Australia, didn't identify specific gaps or problems that might cause impacts in the context of mega-sporting events. This would require further, potentially expert, analysis to identify specific risk areas from the information that is provided.

Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations only referred to Australia once in the relevant date range and in this context did not provide relevant information for the purpose of this review.

Outcomes of the ILO Governing Body consideration of representations (Articles 24 and 25 of the ILO Constitution) contained no references to Australia for the date range reviewed.

Outcomes of the ILO Governing Body consideration of complaints (Article 26 of the ILO constitution) contained no references to Australia for the date range reviewed.

Decisions of the ILO Committee on Freedom of Association contained no reference to Australia in 2015 and 2014. A reference to Australia in 2013 was not relevant in the context of this review.

Our review of "Country baselines under the ILO Declaration Annual Review" reports for the relevant date range did not produce any useful information. The 2015, 2014 and 2012 reports outlined positive actions and measures taken by Australia in relation to the effective abolition of child labour. It did not contain information that might be used to identify potential impacts on business or other stakeholders. Our review found that these sources did not identify deficiencies or risk areas and were therefore of limited use for the purpose of this review purpose. This is consistent with the purpose of the Annual Review, which only looks at non-ratified core Conventions. Australia has ratified all core conventions except for the Convention relating to child labour. The information that measures have been taken on child labour despite non-ratification should be seen as a positive indicator.

Our assessment found that secondary sources, specifically the US State Department Human Rights Report 2015 and ITUC Survey of violations of Trade Union Rights provided coverage of key issues. The US State Department Human Rights Report covered the same issue that were identified in ILO sources except those relating to migrant workers, albeit with less detailed reference and analysis of specific legislation. The ITUC Survey of violations of Trade Union Rights also addressed key relevant rights, except those relating to discrimination in the workplace and migrant workers. However, the webpage shows that it was last updated on 18 February 2014, which raises issues with the currency of that information. The ITUC sources also contained a number of practical examples of impacts on labour rights in Australia up to 1 July 2015, though there were no consistent criteria for the inclusion of these examples.

# Northern Ireland – 2021 Commonwealth Youth Games

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A note on methodology specific to the United Kingdom of Great Britain and Northern Ireland. Northern Ireland is a constituent unit of the United Kingdom and as a result of devolution, a process designed to decentralize some functions of the Government in the United Kingdom in 1999, Northern Ireland has legislative control over certain matters, known as “transferred matters”. Remaining matters, those of national importance, remain the responsibility of the central government in Westminster, HM Government.

Issues over which the Northern Ireland legislature has legislative power include: health and social services, 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.

References in primary sources refer to the United Kingdom, including Northern Ireland and in some cases comment specifically on the devolved legislatures. Where reference is made to the United Kingdom it is generally assumed that this includes Northern Ireland. However, in some instances it cannot be determined without further investigation. This is because there can be differences in legislation passed by the Northern Ireland government and the UK-wide government in Westminster.

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.

## 4.1 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.

## 4.2 Non-labour Issues

### 4.2.1. Standards of Living

The right to housing in the United Kingdom, including Northern Ireland, was addressed in a country visit by a thematic mandate holder.<sup>41</sup> 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.<sup>42</sup> Further analysis would be needed of Northern Ireland government sources, for example housing and planning regulations rather than only civil society sources.

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41 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.

42 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.

## 4.2.2. Freedom of Assembly

Special procedure reports highlighted concerns about legislation in Northern Ireland that enables blanket bans on public processions and meetings by police, which are intrinsically disproportionate and discriminatory.<sup>43</sup> Legislation was also criticised for providing for the offence of “obstructive sitting, etc., in public space” against anyone who willfully obstructs or seeks to obstruct traffic, which may be used to impede the exercise the right to freedom of peaceful assembly.<sup>44</sup> Reports highlighted a lack of clarity around the application and scope of these laws and when police could take action, with reference made to complaints that the police did not decisively respond to protests that turned violent by arresting or prosecuting offenders.<sup>45</sup>

Concerns were expressed about 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.<sup>46</sup>

The UK, including Northern Ireland and Northern Ireland specifically were used as an example in relation to concerns raised about access to public space. UN sources highlighted that in Northern Ireland the issue of access to public space 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.<sup>47</sup>

Information on issues relating to freedom of association were raised in special procedure thematic mandate reports from 2013-2014. No further or more recent information was found on these issues in other sources.

## 4.2.3. Security

It should be noted that responsibility for public order issues passed from central Government to the Devolved Administration in Northern Ireland following the devolution of policing and justice in April 2010. Thus UK-specific reports on these matters may not provide adequate coverage where they do not specifically mention issues from Northern Ireland. Additionally, UPR reports cover this period prior to devolution of these powers. This might affect the information that was captured.

43 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.

44 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.

45 Ibid.

46 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.

47 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.

UPR reports outlined concerns relating to the use of restraint against children, including for disciplinary purposes.<sup>48</sup> There was a concern that it was not being used only as a last resort and exclusively to prevent harm to the child or others. However, this was a reference to a treaty body report from 2008 and it was not clear from the sources reviewed whether comments relate to Northern Ireland. No further or more recent information on these issues was found in other primary sources.

UPR reports raised concerns that legislation enables stop and search activities without reasonable suspicion provided that specific criteria was satisfied.<sup>49</sup> This issue was subsequently raised in more recent treaty body reports, which acknowledged changes to legislation in Northern Ireland but highlighted it remains an issue, adding that data was still not being collected to ensure use of these powers is not disproportionate or arbitrary. This issue was raised across a range of UN sources for the date range reviewed.<sup>50</sup>

Treaty body sources also raised concerns about stop and search powers in Northern Ireland. These powers 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.<sup>51</sup> Use of these powers in Northern Ireland had increased exponentially in the period reviewed (2010-2011) and data was not being gathered on use of these powers.<sup>52</sup> This issue was raised throughout the UN sources for the date range reviewed.<sup>53</sup>

UN sources highlighted 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.<sup>54</sup> Detailed government responses were identified in treaty body reports from 2011.<sup>55</sup> Treaty body reports raised additional concerns in relation to the use of these weapons on children.<sup>56</sup> This issue was consistently raised across the date range reviewed, including in recent reports.

UN sources outlined concerns raised in relation to a lack of understanding by policy around hate crime targeting disabled people.<sup>57</sup> It was not clear from the reviewed sources whether this reference is also applicable to Northern Ireland. This information relates to reports from 2012 and no further or more recent information on this issue was identified in other primary sources.

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

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

50 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 7.

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 9.

52 Ibid.

53 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 7.

54 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.

55 Common core document forming part of States parties, HRI/CORE/GBR/2011.

56 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.

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



## 4.4.2. Freedom of Expression and Protest

UN sources highlighted concerns about legislation on anti-social behaviour order with specific concerns raised relating to their application to children.<sup>58</sup> This information came from a 2012 report, drawing on previous reports from 2008. This issue was not raised in relation to Northern Ireland in other UN sources.

## 4.2.5. Violence and Discrimination

Specifically, in relation to Northern Ireland, the European Convention on Human Rights forms part of the peace settlement under the Belfast (Good Friday) Agreement 1998. Commitments were also made to adopt a Bill of Rights in Northern Ireland under the Belfast (Good Friday) Agreement of 1998 (arts. 2 and 6), and sources highlighted that progress on that front has still not been made.<sup>59</sup>

UN sources highlighted negative public attitudes towards Muslims as a concern.<sup>60</sup> The use of control orders has had a negative impact on certain groups such as Muslims and has contributed to an increase in Islamophobia.<sup>61</sup> The use of racial and ethnic profiling in the exercise of stop and search powers was identified as not being exercised in a non-discriminatory manner, disproportionately affecting Black and minority communities.<sup>62</sup> This issue was raised in a number of UN sources from 2011-2012. It was not clear from the sources reviewed whether references related to Northern Ireland. No further or more recent information was found on these issues in other primary sources.

An increase in the number of hate crimes in Northern Ireland on the basis of race, nationality or religion was highlighted in recent treaty body reports.<sup>63</sup> 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.<sup>64</sup> Concerns were raised about a sharp rise in hate crimes following the referendum on membership to the European Union.<sup>65</sup> These comments were raised throughout the UN sources for the date range reviewed in relation to Northern Ireland.

Treaty body reports raised a concern about proposed legislation protecting children from age discrimination in Northern Ireland, specifically that it excludes children

58 Compilation of UN information, page 8.

59 Submission to the United Nations Committee on the Elimination of Racial Discrimination, Parallel Report on the 21st to 23rd Periodic Reports of the United Kingdom under the International Convention on the Elimination of All forms of Racial Discrimination, July 2016.

60 Compilation of UN information, page 9.

61 Committee on the elimination of Racial Discrimination seventy-ninth session (8 August - 2 September 2011), Consideration of the reports submitted by State parties under article 9 of the Convention, CERD/C/GBR/CO/18-20, page 14.

62 Compilation of UN information, page 11-12; Committee on the elimination of Racial Discrimination seventy-ninth session (8 August - 2 September 2011), Consideration of the reports submitted by State parties under article 9 of the Convention, CERD/C/GBR/CO/18-20, page 4.

63 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.

64 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.

65 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.

under the age of 16 from protection.<sup>66</sup>

## 4.2.6. Corruption

Primary sources reviewed did not provide any meaningful commentary on issues relating to corruption in the United Kingdom, including Northern Ireland.

## 4.3 Labour Issues

Employment law is a devolved matter with responsibility over legislation in this area residing with the legislature of Northern Ireland. Where primary sources refer to legislation that does not apply to Northern Ireland it has not been included.

### 4.3.1. ILO Core Conventions

Concerns were raised in ILO sources about reported practices of blacklisting individuals in the construction sector on the basis of their trade union membership or activities. There was no specific information about whether reports referred to examples of construction activities in Northern Ireland. ILO sources outlined that Northern Ireland has approved regulations to prohibit blacklisting although no further comment was made in relation to Northern Ireland.<sup>67</sup> Issues raised relate to comments made in 2014. ILO sources identified that equality legislation in Great Britain, Equality Act 2010, is not applicable in Northern Ireland and expressed concerns that there is a need to address discrimination and the promotion of equality of opportunity and treatment in employment and occupation in Northern Ireland.<sup>68</sup> These comments did not outline what specific legislation exists in Northern Ireland to address these issues but merely highlighted that a single Equality Act for Northern Ireland does not exist. These comments were published in 2014 relating to information from previous years. No further or more recent information on this issue was found in ILO sources.

### 4.3.2. Additional Labour Issues

UPR reports highlighted the particular vulnerability of migrant workers to exploitation because of a lack of knowledge about employment rights, amongst other factors.<sup>69</sup> This information was found in a 2012 report and no further or more recent information was found on this issue in other primary sources.

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<sup>66</sup> 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.

<sup>67</sup> Observation (CEACR) - adopted 2014, published 104th ILC session (2015), Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

<sup>68</sup> Observation (CEACR) - adopted 2014, published 104th ILC session (2015), Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

<sup>69</sup> Summary of stakeholders' information, 2012, A/HRC/WG.6/13/GBR/3, page 9.

ILO sources highlighted concerns about policies and legislation that promote negative perceptions of migrant workers.<sup>70</sup> Concerns related to the danger that 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. No further or more recent information was found in primary sources on this issue.

Concerns were raised in treaty body sources in relation to measures 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.<sup>71</sup> Migrant workers face significant obstacles in raising complaints and faced repatriation even after unfair dismissal.<sup>72</sup> Although in this particular instances comments are being made by a member of the Irish Congress of Trade Unions it is not clear whether these comments are made in relation to policy and practice in Northern Ireland or the UK, or both. This information was found in a 2011 reports and no further or more recent information was found in other primary sources.

A number of comments were made throughout the primary sources about trafficking. However, these comments largely relate to issues that have now been affected by the introduction of modern slavery legislation in the UK and Northern Ireland.<sup>73</sup>

## 4.4 Specific Review Findings

Our review revealed that in relation to Belfast the primary sources did not necessarily provide accessible and relevant coverage. In some sources there was explicit reference to Northern Ireland. However, the devolved nature of the United Kingdom and general references to the United Kingdom in primary sources made it difficult to determine whether comments related to Northern Ireland without further analysis beyond these sources to confirm the applicability of the information.

### 4.4.1. Non-labour Issues

Universal Periodic Review reports provided credible and accessible coverage of the key issues for the UK and Northern Ireland and there was useful overlap between the UPR reports that were reviewed. It should be noted that because the UPR reports are dated 2012 the information in these reports may not be current, which could be relevant to comments on law and practice that may have changed. Review of these sources was

<sup>70</sup> Direct request (CEACR) - adopted 2014, published 104th ILC session (2015), Migration for Employment Convention (Revised), 1949 (No. 97).

<sup>71</sup> 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.

<sup>72</sup> 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.

<sup>73</sup> Summary of stakeholders' information, 2012, A/HRC/WG.6/13/GBR/3; Compilation of UN Information, A/HRC/WG.6/13/GBR/2; Direct request (CEACR) - adopted 2013, published 103rd ILC session (2014), Forced Labour Convention, 1930 (No. 29).

time efficient with most information on key issues identified from two reports.

Treaty body and special procedure thematic mandate holders' reports provided some follow up to specific issues that were raised in the earlier UPR process. However, the coverage of key issues was limited and inconsistent. A review of these sources would require analysis of a large quantity of material to distil useful information, which in most instances is not directly applicable to business and other stakeholders involved in the life cycle of a mega-sporting event.

In relation to secondary sources, those reviewed included the 2015 US State Department Human Rights Report, Amnesty International Country Profiles, Human Rights Watch World Report. Of these sources the US State Department Report provided a snapshot of key issues in the United Kingdom, including Northern Ireland however it did not cover all of the same key issues that were identified in UN sources. We would also suggest that because of the fact that the report is produced by the United States government there might be an issue with credibility or political interest.

The Amnesty International Country Profile provided high-level comments about some of the key issues for the United Kingdom and it included some specific information on Northern Ireland, however the information was not relevant in the context of this review. This could perhaps be used to determine "lightning rod" issues. The Human Rights Watch Country page on the United Kingdom made general, high-level comments in relation to the United Kingdom, but it was not clear whether these issues are applicable in Northern Ireland.

The issue of corruption was not adequately dealt with in primary sources. Secondary sources provided a useful indication of corruption indicators relevant to the United Kingdom, including Northern Ireland. Specifically, Transparency International has a range of information and indicators available on risks relating to corruption in the United Kingdom. Indicators show a low risk of corruption in the UK. The US State Department Report provides a recent snapshot of corruption and transparency outlining contextual examples of these issues in the UK generally.

Our review found the Northern Ireland Human Rights Commission ("NIHRC") provided some very useful, accessible and relevant information in relation to the promotion of international human rights standards in legislation applicable in Northern Ireland. The NIHRC website contains a database of submissions, reports and other publications of engagement with international human rights bodies, including UN treaty bodies. Our review found that where these publications contained information on relevant issues, the information could be relied on as being specifically relevant to Northern Ireland. We also found there was good coverage of documents across the relevant date range. We did not find the information to be any more or less relevant to mega-sporting events than the information contained in UN sources, thought it was much more accessible.

UN sources did not focus on extra-territorial issues which have been highlighted by campaigners in previous mega-sporting events. For example, prior to the London Olympics in 2012, campaigners made allegations of low wages and other labour rights abuses in the supply chain for sporting goods and clothing across Pakistan, China and

South East Asia. We also observed that despite part of this review period covering the period leading up to the Olympics and the years following it, such issues were not highlighted in the sources review.

#### 4.4.2. Labour Issues

Our review found relevant, credible, accessible and current information when reviewing “observations”, which contain comments on fundamental questions raised by the application of a particular convention by a state and published in the Report of the Committee of Experts on the Application of Conventions and Recommendations, and “direct requests” found on the ILO website, which relate to more technical questions or requests for further information and are not published in the report but are communicated directly to the governments concerned.

The 2016 General Survey concerning the migrant workers instruments contained a number of references to the United Kingdom, including Northern Ireland. However, it is not possible to identify whether information is relevant to Northern Ireland without further analysis of other, government sources. Information in this report didn’t adequately identify specific gaps or problems that might cause impacts in the context of mega-sporting events. This would require further expert analysis to identify specific risk areas from the information that is provided.

The General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135) repeatedly mentioned the United Kingdom, including Northern Ireland. However, it is not possible to identify whether information is relevant to Northern Ireland without further analysis. Information in this report didn’t adequately identify specific gaps or problems that might cause impacts in the context of mega-sporting events. This would require further expert analysis to identify specific risk areas from the information that is provided.

Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations referred to the United Kingdom, including Northern Ireland, in 2015-2013. In the 2015 report reference was made to particular challenges relating to agricultural and rural migrant workers however it is not possible to identify whether this information is relevant to Northern Ireland without further analysis. There were no specific references to Northern Ireland. Other reported contained no relevant information on the United Kingdom, including Northern Ireland, in the context of this review.

Outcomes of the ILO Governing Body consideration of representations contained no references to Northern Ireland for the date range reviewed. A reference to the United Kingdom reported in 2015 related a fact situation in London and it is not possible to identify whether applicable legislation is relevant to Northern Ireland without further analysis.

Outcomes of the ILO Governing Body consideration of complaints (Article 26 of the ILO constitution) contained no references to United Kingdom, including Northern Ireland for the relevant date range.

Decisions of the ILO Committee on Freedom of Association contained no reference to the United Kingdom, including Northern Ireland.

Our review of “Country baselines under the ILO Declaration Annual Review” reports for the date range reviewed did not produce relevant information in the context of this review. The Annual review does not apply because the UK has ratified all core Conventions and the 2014 Protocol on Forced Labour.

Our review of “Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work” reports for the date range reviewed did not contain any references to the United Kingdom, including Northern Ireland.

Our assessment found that secondary sources, specifically the US State Department Human Rights Report 2015 and ITUC Survey of violations of Trade Union Rights provided coverage of the key issues. We found the US State Department Human Rights Report to cover the same issues that were identified in ILO sources, albeit in less specific detail by not referring to specific pieces of legislation. While it is possible to determine that some references refer to issues that are not relevant to Northern Ireland it is generally not possible to identify whether references are relevant to Northern Ireland without further analysis.

The ITUC Survey of violations of Trade Union Rights also addressed key relevant rights, except those relating to discrimination in the workplace and migrant workers. The webpage shows that it was last updated on 18 February 2014, which raises issues with the currency of that information. It is also not possible to determine whether references are relevant to Northern Ireland without further analysis. The ITUC sources contains a number of practical examples relevant to 2016..

# South Africa - 2022 Commonwealth Games

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## 5.1 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.

## 5.2 Non-labour Issues

### 5.2.1. Land

Treaty body reports highlighted concerns about delays in processing land claims before the Commission on Restitution of Land Rights and the inability of some indigenous communities in accessing restitution.<sup>74</sup> 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.<sup>75</sup> Forced evictions were raised in special procedure reports in the context of causes of homelessness and violations of rights to adequate housing.<sup>76</sup> This information was taken from recent UN sources published in 2015-2016.

### 5.2.2. Security

UPR reports raised concerns about impacts on rights to life and the right not to be subject to torture as a result of actions by law enforcement officials.<sup>77</sup> The excessive and disproportionate use of force by law enforcement officials was raised throughout UN sources, including in the context of public protests resulting in loss of lives.<sup>78</sup>

UPR reports highlighted concerns about the lack of effective remedy for victims of human rights violations by private military and security companies.<sup>79</sup> This information was taken from sources published in 2012, no further or more recent information was found in other UN sources.

### 5.2.3. Freedom of Expression and Protest

Concerns were raised in UPR reports about legislative attempts to limit freedom of expression and freedom of information, with specific mention of proposed new laws that could potentially have an impact on these rights, including by punishing whistleblowers, investigative journalists and criminalizing editors who publish classified information.<sup>80</sup> This information was taken from sources published in 2012, no further or more recent information was found in other UN sources.

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

75 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.

76 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.

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

78 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.

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

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



## 5.2.4. Violence and Discrimination

UPR reports noted concerns about gender discrimination, particularly against women and girls.<sup>81</sup> Concerns were raised about a lack of progress in some areas of the labour market with specific mention was made of trade unions and the private sector. Concerns were also raised in relation to ensuring equal opportunities for women, maternity protections and equal pay. This information was taken from sources published in 2012, no further or more recent information was found in UN sources.

UPR reports expressed concern at 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.<sup>82</sup> Discrimination on the basis of sexual orientation persists, particularly against women with sources highlighting reports of murder and sexual offences committed against women on account of their sexual orientation.<sup>83</sup> These concerns were raised throughout UN sources, including treaty body reports from 2016.<sup>84</sup>

UPR reports highlighted that more efforts need to be made to prevent and combat xenophobia, racial discrimination and other forms of related intolerance, including hate crimes.<sup>85</sup> There was specific mention of impacts on foreigners and migrants, with patterns of xenophobic violence against foreigners and non-citizens being noted as a problem.<sup>86</sup> Concerns were also raised about the treatment of foreigners, migrants and other non-citizens by police and law enforcement officials.<sup>87</sup> These concerns were also raised throughout UN sources, including in treaty body reports from 2016.<sup>88</sup>

Increasing harassment or criminalization of the activities of human rights defenders and government critics was noted as a problem with concerns raised about harassment, threats, raids, arbitrary arrest or criminalization of their activities.<sup>89</sup> These issues were raised in more recent UN sources, including a treaty body reports from 2016, which

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

82 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.

83 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.

84 United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1 2016, page 4; 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 5.

85 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.

86 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 ninetieth session (2-26 August 2016) CERD/C/ZAF/CO/4-8, page 3, 5-6.

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

88 United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1 2016, page 3.

89 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.

highlighted concerns that private individuals and police continue to violate the rights of human rights defenders, in particular those working on corporate accountability and land rights issues.<sup>90</sup>

### 5.2.5. Corruption

Primary sources reviewed did not provide any meaningful commentary on issues relating to corruption in South Africa.

## 5.3 Labour Issues

### 5.3.1. ILO Core Conventions

UPR sources raised concerns about child labour, reporting that of the children engaged in economic activities, over 4 per cent were exposed to at least one hazardous condition.<sup>91</sup> This was also raised as a concern by ILO sources published in 2014 with concerns raised about exposure to hazardous work.<sup>92</sup>

ILO sources highlighted allegations of violent repression of strike actions and arrests of striking workers as a key issue. Particular concern was expressed about 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.<sup>93</sup> This issue was raised by a number of ILO sources across the relevant date range.<sup>94</sup>

ILO sources from 2016 re-stated previous concerns about the 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.<sup>95</sup>

ILO sources highlight a number of concerns that 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.<sup>96</sup> This information was taken from ILO sources published

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

91 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.

92 Observation (CEACR) - adopted 2013, published 103rd ILC session (2014), Worst Forms of Child Labour Convention, 1999 (No. 182); Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014), Minimum Age Convention, 1973 (No. 138).

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

94 Observation (CEACR) - adopted 2012, published 102nd ILC session (2013), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

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

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

in 2016. UPR reports also noted the occurrence of persons facing evictions from farms, lack of compliance with health and safety protections.<sup>97</sup>

### 5.3.2. Additional Labour Issues

Concerns were raised about the difficult living conditions faced by migrants, including overcrowding, poor nutrition, insufficient ventilation, lack of sanitation and little access to clean water.<sup>98</sup> Exploitation of migrant workers through labour brokers was raised as a concern, however in this report the information related specifically to the mining sector.<sup>99</sup>

UPR reports highlighted that South Africa is a source, transit and destination country for the trafficking of children, especially for the purpose of sexual exploitation.<sup>100</sup> Concerns were raised in other UN sources about the inadequacies of efforts by the state to combat trafficking.<sup>101</sup> The issue of trafficking was raised throughout UN sources and also picked up by ILO sources published across the relevant date range.<sup>102</sup>

Child prostitution and sexual exploitation and the entry of unaccompanied minors into the country was highlighted as a concern in relation to the growing tourism industry.<sup>103</sup>

## 5.4 Specific Review Findings

### 5.4.1. Non-labour Issues

Universal Periodic Review reports provided credible and accessible coverage of the key issues relevant to South Africa. It should be noted that because the UPR reports are dated 2012 the information in these reports may not be current, which could be relevant to comments on law and practice that may have changed. Review of these sources was time efficient with most information on key issues identified from two reports.

In a number of cases, treaty body reports and special procedure reports were an effective follow up to issues raised in 2012 UPR reports. This is predominately due to a number of key treaty body reports from 2016, without which it would have been

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

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

99 Human Rights Committee, Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1, 2016, page 7

100 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 11 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.

101 United Nations Concluding observations on the initial report of South Africa, CCPR/C/ZAF/CO/1 2016, page 7.

102 Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014), Forced Labour Convention, 1930 (No. 29); Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014), Worst Forms of Child Labour Convention, 1999 (No. 182); Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013), Forced Labour Convention, 1930 (No. 29).

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

difficult to get a recent snapshot from UN sources. There was useful coverage of key issues around violence and discrimination, restrictions on freedom of speech and protests, particularly in relation to human rights defenders, trafficking and issues for migrants and other non-nationals.

Our review found that in relation to South Africa the US State Department Human Rights Report provided accessible, current coverage of all the key issues that were raised in UN sources. Review of this source was also time efficient. In relation to some issues we found relatively detailed coverage in this source. The information in this source was not more or less relevant than the information on issues contained in primary sources in relation to mega-sporting events.

In relation to secondary sources, those reviewed included the 2015 US State Department Human Rights Report, Amnesty International Country Profiles, Human Rights Watch World Report. Of these sources the US State Department Report provided a recent snapshot of all key issues raised for South Africa in the primary sources. However, because of the fact that the report is produced by the United States government we would suggest that there might be an issue with credibility or political interest.

The Amnesty International Country Profile and Human Rights Watch World Report 2016 provided similar, high-level comments about some of the key human rights issues for South Africa, including on the excessive use of force, violence and discrimination against migrants, women's rights, discrimination on the basis of sexual orientation, attacks against human rights defenders, and corporate accountability. Most information was not relevant for the purpose of this review.

The issue of corruption was not adequately dealt with in primary sources. Secondary sources provided a useful indication of corruption in South Africa. Transparency International has a range of information and indicators available on risks relating to corruption in South Africa, which place it above a medium risk of corruption. The US State Department Report highlighted relevant information that "the procurement process was particularly susceptible to corruption, as it is opaque, contains no requirement to engage in open public tenders, and does not allow award decisions to be reviewed. In October the government charged a former state energy-company board member under the Prevention of Bribery Act, the first significant case brought under the act since 1989."

Our review found that the South African Human Rights Commission provided some information on a number of specific issues, including a useful "Human Rights and Business Country Guide", published in 2015, which contained information on the potential and actual human rights impacts of businesses operating in South Africa. We did not conduct an in-depth review of this resource.

## 5.4.2. Labour Issues

Our review found relevant, credible, accessible and current information when reviewing "observations", which contain comments on fundamental questions raised by the application of a particular convention by a state and published in the Report of the

Committee of Experts on the Application of Conventions and Recommendations, and “direct requests” found on the ILO website, which relate to more technical questions or requests for further information and are not published in the report but are communicated directly to the governments concerned.

The General Survey concerning the migrant workers instruments and the General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135) contained a number of references to the South Africa. However, the information didn’t identify any specific concerns, gaps or problems that might cause impacts in the context of mega-sporting events that were not already raised. This would require further, potentially expert analysis to identify specific risk areas from the information. Where South Africa was raised it was by way of example, usually in relation to positive steps and actions taken.

In the Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations (Extracts from the Record of Proceedings), a worker member from another state stated that South Africa was a destination country for victims of forced labour who were being trafficked for domestic slavery, prostitution or work in agriculture.<sup>104</sup> This issue was also raised in other sources.

Outcomes of the ILO Governing Body consideration of representations contained no references to South Africa for the date range reviewed.

Outcomes of the ILO Governing Body consideration of complaints (Article 26 of the ILO constitution) contained no references to South Africa.

Decisions of the ILO Committee on Freedom of Association contained a confidential reference to South Africa from 2016.

Our review of “Country baselines under the ILO Declaration Annual Review” reports for the date range reviewed did not contain any reference of South Africa.

Our review of “Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work” reports for the date range reviewed did not contain any references to South Africa.

Our assessment found that secondary sources, specifically the US State Department Human Rights Report 2015 and ITUC Survey of violations of Trade Union Rights provided coverage of the key issues. We found the US State Department Human Rights Report to be the most useful secondary source covering all of the issue that were identified in ILO sources, albeit in less specific detail by not referring to specific law and practice. However, because of the fact that the report is produced by the United States government we would suggest that there might be an issue with credibility or political interest.

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<sup>104</sup> Report of the Committee on the Application of Standards at the Conference, Extracts from the record of proceedings, page 147.

The ITUC Survey of violations of Trade Union Rights also addressed key relevant issues relating to freedom of association, collective bargaining and the right to strike. However, the information only contained a few high-level, general references to these issues. The webpage shows that it was last updated on 18 February 2014, which raises issues with the currency of that information. The ITUC sources also contains a number of practical examples relevant to 2015.

# 6

## Overall Review Findings

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### 6.1 Fit for Purpose?

Does the UN and ILO literature provide a relevant, timely, consistent, time efficient, accessible and credible basis for compiling human rights risk country briefs and means of evaluating multiple countries at one time, and as a basis of SGB and host actor due diligence?

We have sought to provide specific comments on the use of these sources in relation to specific country analysis above. We set out our general findings in relation to these sources below.

We found that the UPR process contained a useful snapshot of key information relevant to specific countries. In relation to specific UPR reports we found that:

The “national report”, which are prepared by the State on the human rights situation in the country, largely outlined positive steps taken by the state and did not outline specific risk areas, or example, they did not identify deficiencies in law and practice that might cause actual and potential impacts or highlighting criticism relevant in the context of mega-sporting events.

The “compilation of UN Information” reports contained information from treaty bodies, special procedures and other UN agencies. They are very useful to identify key human rights issues, provided a high-level overview o those issues and to identify specific treaty body and special procedure reports that can be used for further analysis of key issues that have been identified by those bodies.

The “summary of stakeholders’ information” reports provided a high-level overview of the key human rights issues relevant to the country based on submissions of key national human rights institutions and civil society organizations. These reports also

reference the full submissions made by these stakeholders, which provide a useful source where further analysis of key issues is required.

The “report of the working group” reports contained comments by other States and recommendations to the State party under review. However, this did not generally provide anything that was not covered in the other UPR documents mentioned above.

Overall, and as expected, the information contained in UPR reports was not directly relevant to the various stages of a mega-sporting event or the range of stakeholders involved. However, they provide a credible, accessible and time efficient means to identify key human rights issues. We would suggest that expert analysis, based on specific business and human rights expertise or expertise on human rights issues in the context of mega-sporting events could assist in making the connection between the key issues identified in these sources, any relevant issues identified and the various stages of a mega-sporting event or to the various stakeholders involved.

In relation to consistency the UPR reports captured key issues across a range of sources, including treaty body and special procedure reports and also stakeholders’ submission, for all countries reviewed using the same methodology and process. From that perspective it is consistent in relation to the process and methodology of how information is captured and the international human rights standards that are used as a baseline. In our view this is because the UPR process provides coverage of the full range of international human rights obligations, even where States have not ratified human rights treaties. UPR assesses human rights obligations set out in the UN Charter, the Universal Declaration of Human Rights, human rights treaties to which the State is a party, voluntary pledges and commitments made by the State, for example national human rights policies and applicable international humanitarian law.

In relation to the currency of information we identified that because countries are reviewed at varying intervals there is, in some instances, an issue with currency. This means that while some country reviews may have occurred within a 12-month period of, for example, a bid, there will be other countries that have not been reviewed for up to four years. This can affect the currency of information.

Our review identified that where UPR reports are more than a few years old, treaty body and special procedure reports can, in some instances, provide useful follow up on key issues that have been identified. For example, in relation to the United Kingdom, including Northern Ireland the UPR reports were dated 2012, which raised questions about the currency of the information. In this instance, our review of subsequent treaty body and special procedure reports provided useful follow up to some key issues. However, for some states this will not be possible because of the level of engagement with the UN treaty bodies and special procedure mandate holders.

Where more recent UPR reports available are available we found that found that treaty body and special procedure reports did not identify any additional key issues. This could potentially be because UPR captures key information contained in these sources. However, treaty body and special procedure reports do provide more detailed information on key issues than UPR reports.

Overall, the information obtained from treaty body and special procedure mandate holders' sources contained no information that was directly relevant in assessing the actual and potential risks at the time a bid is being considered. However, they provide a credible, accessible and time efficient means to identify key human rights issues. We would suggest that expert analysis, based on specific business and human rights expertise or expertise on human rights issues in the context of mega-sporting events could assist in making the connection between the key issues identified in these sources, any relevant issues identified and the various stages of a mega-sporting event or to the various stakeholders involved.

In relation to currency and consistency, the engagement between individual states and treaty body and special procedure mandate holders was ad-hoc and inconsistent. Some states have not ratified as many human rights treaties as other states, creating inherent inconsistencies in the coverage of issues by these sources. As with the UPR reports we also found that in some instances these sources were not able to provide an up-to-date account of relevant issues because of the timing of reports.

In relation to time efficiency and accessibility for the large number of sources that were reviewed very little information was drawn out of them. Also, because of the way information is stored on the Office of the High Commissioner for Human Rights' website, this information is less accessible than UPR reports. However, we would suggest that engagement with fewer specific treaty body and special procedure mandate holders may refine the process and make any engagement more time efficient and accessible.

In relation to treaty bodies and for the purpose of this review those that provided useful information on key issues were Human Rights Committee, Committee on the Rights of the Child, Committee on the Elimination of Discrimination against women, Committee against Torture, Committee on the Elimination of Racial Discrimination. We would suggest that the following could also provide useful information: Committee on Rights of Persons with Disabilities, Committee on Economic, Social and Cultural Rights and the Committee on Migrant workers.

In relation to special procedure mandate holders and for the purpose of this review those that provided useful information on key issues were the Special Rapporteur on the situation of human rights defenders, Report of the Special Rapporteur on trafficking in persons, especially women and children, 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, Special Rapporteur on the rights to freedom of peaceful assembly and of association, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Working Group on the issue of human rights and transnational corporations and other business enterprises and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We would suggest that the following could also provide useful information: Special Rapporteur on the human rights of migrants, Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Special Rapporteur on the rights of persons with disabilities. We do not suggest this list exhaustively. Where specific issues are raised that relate to a mandate holder, those reports should be reviewed.



Our key finding in relation to the treaty body and special procedure reports was that, when available, they complement generic information contained in UPR reports and provide more specific and detailed information and analysis of key human rights issues. Therefore, engagement with the UN sources outlined in this review should be carried out on the basis that one source alone is insufficient and they should be used to complement each other; UPR reports provide a useful starting point, with treaty body and special procedure reports providing more detail and specific follow up.

In relation to secondary sources we found that the US State Department Human Rights Country Report was a consistent, time efficient and accessible source. In most cases most of the issues identified in UN sources were also identified in the US State Department Reports, albeit in less specific detail than, for example, treaty body and special procedure reports. We found these reports to be as reliable in raising human rights concerns as the UN sources. In some instances, we found more detailed and comprehensive information in this secondary source than was contained in some UPR sources. We did not find this source to be any more relevant than the primary sources and as with those sources we suggest that expert analysis, based on specific business and human rights expertise or expertise on human rights issues in the context of mega-sporting events could be useful to identify relevant issues for the various stages of a mega-sporting event or to the various stakeholders involved. However, because of the fact that the report is produced by the United States government we would suggest that there might be an issue with credibility or political interest.

All Country Reports provided a high-level overview of key issues, though we do not suggest this can be relied on in the context of mega-sporting events as it contained no relevant information. It was useful in identifying what might be considered the key human rights issues for a state. To an even lesser extent the Human Rights Watch World Report provided the same sort of information but does not cover every country. These sources may be useful in determining “lightning rod” issues.

Where they exist we found that National Human Rights Institutions can provide a useful source of country-specific information. For example, the Australian Human Rights Commission has a number of resources available on specific issues, including business and human rights. However, it was necessary to identify specific issues and search for information relevant to those issues because this is how information is organized in this source. The Northern Ireland Human Rights Commission was a useful secondary source, for the purpose of this review, providing specific information on engagement with international human rights standards. However, in some instances National Human Rights Institutions will not exist.

In relation to ILO sources, our review identified that most useful information was found in “observations”, which contain comments on fundamental questions raised by the application of a particular convention by a state and published in the Report of the Committee of Experts on the Application of Conventions and Recommendations, and “direct requests” found on the ILO website. Not least because the Committee of Expert report covers compliance with minimum labour rights contained in the Declaration on Fundamental Principles and Rights at Work. This source is therefore essential to identifying key labour risk areas. The information contained in this source was directly relevant in the context of a mega-sporting event and could be applicable to a range

of stakeholders. Our review found that this information was also consistent across the countries reviewed and was easily accessible by using the “NORMLEX - Country Profile” page on the ILO website. Use of this source was therefore time efficient. It should be noted that the view of the Expert Committee is not per se the official view of the ILO. Only decisions made in the Governing body or ILO Conference are.

One issue that arose in relation to the currency of information was that some states fail to engage consistent with the Committee of Experts and provide follow up information. However, in some instances it might be implied that if issues remain unaddressed they will continue to be raised without qualification in this source.

We did not find the remaining ILO sources that were reviewed to be particularly useful in identifying labour-related impacts that could be immediately relevant in the context of mega-sporting events. A large amount of the information in these remaining ILO sources related to specific, technical issues about a States compliance with ILO Conventions or positive actions taken by a state to implement specific conventions and did not highlight actual or potential risks or provide information that would identify actual or potential risks relevant in the context of a mega-sporting event.

Secondary sources did not provide any specific benefit to outlining labour-related issues other than to give useful context and examples to the information that was contained in ILO sources. In some instances where the information in secondary sources, relevant to labour-related issues, covered the same issues as primary sources, we found that the ILO sources were more comprehensive in covering specific law and practice that was linked with these issues.

## 6.2 Questions to be Resolved and Possible Solutions

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 such 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.

## 6.3 What Role Could an Independent Centre Play in Relation to this Issue?

Specific comments as to the role of an independent centre were not included within the scope of this review. However, recommendations as to the process and the methodology of a review and specific points as to what might be required for the types of roles an independent centre could play can be drawn from the findings and recommendations in this report.

# Conclusion & Recommendations

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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 provided credible and authoritative information and when taken as a whole also give a general flavor 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 modeled 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 pointing 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 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 1: Reviewed Sources

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## 1. UN Sources

### 1.1. Universal Periodic Review reports:

- 1.1.1. National Report
- 1.1.2. Compilation of UN information
- 1.1.3. Summary of Stakeholders' information
- 1.1.4. Report of the Working Group

### 1.2. Treaty Body reports

All treaty body documents were reviewed for each country within the date range 2011-2016. Documents from 2016 were reviewed up to 31 August 2016.

### 1.3. Special Procedure

The following thematic mandates were included in the review:

- 1.3.1. Working group on Arbitrary Detention
- 1.3.2. Working Group on the issue of human rights and transnational corporations and other business enterprises
- 1.3.3. Special Rapporteur on the rights of persons with disabilities
- 1.3.4. Working Group on Enforced or Involuntary Disappearances
- 1.3.5. Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment
- 1.3.6. Special Rapporteur on extrajudicial, summary or arbitrary executions
- 1.3.7. Special Rapporteur on the right to food
- 1.3.8. Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- 1.3.9. Special Rapporteur on the rights to freedom of peaceful assembly and of association
- 1.3.10. Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes
- 1.3.11. Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- 1.3.12. 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

- 1.3.13. Special Rapporteur on the situation of human rights defenders
- 1.3.14. Special Rapporteur on the rights of indigenous peoples
- 1.3.15. Special Rapporteur on the human rights of migrants
- 1.3.16. Special Rapporteur on minority issues
- 1.3.17. Special Rapporteur on the right to privacy
- 1.3.18. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- 1.3.19. Special Rapporteur on the sale of children, child prostitution and child pornography
- 1.3.20. Special Rapporteur on contemporary forms of slavery, including its causes and consequences
- 1.3.21. Special Rapporteur on the promotion and protection of human rights while countering terrorism
- 1.3.22. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- 1.3.23. Special Rapporteur on trafficking in persons, especially women and children
- 1.3.24. Special Rapporteur on violence against women, its causes and consequences
- 1.3.25. Special Rapporteur on the human right to safe drinking water and sanitation
- 1.3.26. Working Group on the issue of discrimination against women in law and in practice

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.

## 2. 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.

- 2.1.1. Reports of the Committee of Experts on the Application of Conventions and Recommendations
- 2.1.2. Decisions of the Tripartite Conference Committee on the Application of Conventions and Recommendations
- 2.1.3. Outcomes of ILO Governing Body consideration of representations (Articles 24 and 25 of the ILO Constitution)
- 2.1.4. Outcomes of ILO Governing Body consideration of complaints (Article 26 of the ILO Constitution)
- 2.1.5. Decisions of the ILO Committee on Freedom of Association
- 2.1.6. Annual Review under the Follow-up to the ILO 1998 Declaration Compilation if Baseline Tables

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

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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><b>ILO Core Conventions</b></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><i>Relevant ILO Conventions:</i></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</p>

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).

### **Additional Labour Issues**

- Temporary workers, especially migrant workers, often do not enjoy the same job security as other workers. Looking for risk that they cannot join trade unions and will not enjoy the rights to and benefits of freedom of association, collective bargaining or worker representation, statutory employment benefits. Is there a risk they will not given contracts. (Note higher risk by sector e.g. agricultural workers such as those supplying the food products prepared and sold at MSEs, or those in the hospitality sector working in restaurants and hotels that service spectators, officials, sports participants, and others?)
- Exploitative recruitment practices i.e. 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

#### *Relevant ILO conventions:*

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).

### **Supply Chain / Procurement**

Most relevant issues will come out in relation to labour impacts above. Looking for (unlikely to find in these sources) inadequate public procurement policies or practices or any issues resulting from those policies or practices. Looking for labour issues stemming from public contracts. Relevant sectors include, apparel and sporting goods industries, electronics and consumer goods industries, hospitality, agriculture and food production, and construction.

Human Rights Impact	Details
<p><b>Commercial Sexual Exploitation of Women and Children</b></p>	<p>Major sporting events often require massive capital improvement and infrastructure projects, creating a huge demand for cost-effective labour and materials and once events are underway, the locations become massive destinations for travel and tourism, he said, creating opportunities for human trafficking for sex.</p>
<p><b>Security</b></p>	<p>Risk of violence, discrimination, abuse in the provision of security. Public e.g. 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.</p>
<p><b>Freedom of Expression and Protest</b></p>	<p>Looking for 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</p>
<p><b>Corruption</b></p>	<p>Looking for risk of corruption and corrupt practices, bribery, money-laundering, lack of transparency or access to public information.</p>
<p><b>Violence and discrimination</b></p>	<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>Looking for risks of serious discrimination 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>



# Annex: Overview of the UN Guiding Principles on Business & Human Rights

The UN Guiding Principles on Business & Human Rights state that business should “respect” human rights, “avoid infringing on the human rights of others” and “address adverse human rights impacts with which they are involved. This responsibility “exists over and above compliance with national laws and regulations protecting human rights”.<sup>1</sup>

## Level of involvement and appropriate action

UN Guiding Principles 13 identifies three ways in which a company may be associated with a human rights issue: (1) by causing an adverse human rights impact; (2) by contributing to an adverse impact; or (2) being directly linked<sup>2</sup> to it. The actions that a company is expected to take will vary depending on which level of involvement applies (UN Guiding Principle 19).

Involvement	Appropriate Action
<b>Causing</b> an adverse human rights impact	A company may “cause” an adverse human rights impact “through their own activities” (UNGP 13). Such companies are expected to try to “avoid” causing that impact and “address such impacts when they occur” (UNGP 13). This requires: <ul style="list-style-type: none"> <li>• “Taking the necessary steps to cease or prevent the impact” (UNGP 19)</li> <li>• “Provide for or cooperate in their remediation through legitimate processes” (UNGP 22)</li> </ul>
<b>Contributing</b> to an adverse human rights impact	A company may “contribute to” an adverse human rights impact “through their own activities” (UNGP 13). Such companies are expected to try to “avoid” that contribution and “address such impacts when they occur” (UNGP 13). This requires:

<sup>1</sup> UN Guiding Principle 11, p13.

<sup>2</sup> The definition of “direct linkage” has proven difficult to apply in practice across a number of industries. The issue is discussed further in the context of the Broadcasting White Paper 3.2.

	<ul style="list-style-type: none"> <li>• “Taking the necessary steps to cease or prevent its contribution” (UNGP 19)</li> <li>• “Using its leverage to mitigate any remaining impact to the greatest extent possible” (UNGP 19)</li> <li>• “Provide for or cooperate in their remediation through legitimate processes” (UNGP 22)</li> </ul>
<p>Impacts <b>directly linked</b> to a company’s operations, products, or services by a business relationship</p>	<p>A company’s operations, products, or services may be directly linked to an impact by a business relationship (UNGP 13). Such companies are expected to seek to “prevent or mitigate” the impact, “even if they have not contributed to those impacts” (UNGP 13). This requires:</p> <ul style="list-style-type: none"> <li>• Using or increasing its leverage over the entity at cause to seek to prevent or mitigate the impact (UNGP 19).</li> <li>• Where directly linked, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, “though it may take a role in doing so” (UNGP 22).</li> </ul> <p>UNGP 19 commentary explains that this situation “is more complex”. In order to determine the “appropriate action”, companies should consider:</p> <ul style="list-style-type: none"> <li>• “[Its] leverage over the entity concerned”.</li> <li>• “How crucial the relationship is”.</li> <li>• “The severity of the abuse”.</li> <li>• “Whether terminating the relationship ... would have adverse human rights consequences”.</li> </ul>

## Meeting the Responsibility: Policies and Procedures

UN Guiding Principle 15 states that a company’s responsibility to respect human rights – whether involved through causing, contributing to, or being directly linked to an impact – should be met by having in place policies and processes, including:

- A **policy commitment** to meet their responsibility to respect human rights (elaborated on further in UN Guiding Principle 16);
- A **human rights due diligence** process to identify, prevent, mitigate and account for how they address their impacts on human rights (elaborated on further in UN Guiding Principles 17-21);
- Processes to enable the **remediation** of any adverse human rights impacts they cause or to which they contribute (elaborated on further in UN Guiding Principles 22 and 29-31).