

## How Cycling Can Avoid Sports-washing

Recently, *The Outer Line* [examined](#) the complex moral dilemmas cycling often faces in its sporting and business decisions, and waded into the difficult question of who should decide when something is right or wrong for the larger objectives of the sport. We specifically called out the investment and influence leveraged by several major corporations as well as certain Middle Eastern countries. The growing efforts of entities like these, utilizing cycling events or teams in one way or another to “whitewash,” or recast poor economic, environmental or human rights records in a more favorable light represents a universal concern for all sports.

Human rights and sports have been deeply intertwined for decades. As we discussed in our earlier piece, sports were used by Nazi Germany to legitimize its emergence as a world power as early as 1936, and later by both Eastern Bloc and western countries to promote their systems of government – as expressed by the prowess and medals of their athletes. In a more modern context, Argentina’s military junta attempted to distract world attention from its political abuses – the Dirty War campaign to “disappear” political opponents – when it hosted the 1978 World Cup. China effectively leveraged the 2008 Beijing Olympics to bury its post-Tiananmen Square and Tibet occupation hardline image. This use of popular sporting events to distract attention from fundamental human rights or other abuses continues on a wide scale today.

Whitewashing, in the broader human rights context, is essentially the practice of undertaking specific activities or investments in an attempt to draw attention away from prior or ongoing human rights challenges or abuses – and to paint the presumed perpetrator in a more positive light. But Brendan Schwab, Executive Director of the UNI World Players Association (a global association of over 100 major pro athlete unions) – believes that the term “sports-washing” better describes how sporting investments and events are increasingly being used by national governments in a similar way to achieve similar objectives. Schwab has been a leading voice and activist in the push to adopt a uniform declaration of athlete and human rights – an effort that could help to corral blatant sports-washing.

“International sports federations have to be held accountable for their support of or involvement with political regimes that do not properly recognize basic human rights,” Schwab told *The Outer Line*, adding “The only way to put sports federations into a position to act is to embed human rights policies into their sporting bylaws.” UNI, in conjunction with many of its athlete union members and partners, like the Independent Centre for Sport and Human Rights, developed the [Universal Declaration of Players Rights](#) – which outlines specific guidelines for the fair treatment of all athletes. More importantly, it suggests obligations and minimum standards which sporting bodies must meet in order to protect the safety and legal rights of their athletes.

The strategy adopted by UNI and its respective union organizations has been to encourage sports governance bodies to become signatories to this Universal Declaration, or at a minimum, to recognize the United Nations’ basic human rights principles in their governance practices. Schwab’s role is largely to help set the international tone for the labor rights of athletes. This includes the full spectrum of human rights – from freedom of association to gender equality to equitable anti-doping regulations.

Schwab believes that athletes can and should be organized and engaged to demand human rights as a basic condition of their profession. Sponsors with malicious sports-washing intentions would be essentially blocked from economic or political influence in those sports where human rights are embedded in the governance system. “Basic rights can become the driver for change, once the athletes are mobilized and see their value,” says Schwab. “Human rights are a core issue for every athlete.”

Many sports leagues with strong athlete unions have been able to tackle human rights head-on through collective bargaining and governance representation, but in the case of cycling, the issue is only implicit,

via the sport's inclusion under the International Olympic Committee. While the IOC has existed since 1896, its charter was written and only enforceable under Swiss law for most of that time. This was remedied in 2015 through an endorsement by the UN General Assembly, recognizing it as an international body under the UN's "[Agenda 2030](#)" initiative.

The UN also publishes a general charter for Human Rights by which nation-states must abide, but which also applies to transnational businesses. In theory, the IOC therefore today has to comply with the UN's Guiding Principles (UNGP) for human rights, via what the IOC adopted as its "[Declaration of Athletes Rights](#)." In turn, all of its delegate sporting bodies (International Federations and National Governing Bodies, like the UCI and USA Cycling) must also hew to these guidelines. However, many of those statutes seem to be selectively ignored by the IOC because it brands itself as an autonomous sporting organization, despite its global business activities.

FIFA was the first major international sports governing body to honor the entirety of the UNGP statutes. John Ruggie of Harvard University's Kennedy School/Mossavar-Rahmani Center for Business and Government delivered a report in 2015, commissioned by FIFA, on how the international soccer federation could embed human rights into its sport. [Ruggie's work](#), entitled *For The Game. For The World. FIFA and Human Rights*, essentially defined FIFA as both a sports governance body and as a transnational business. FIFA then incorporated human rights through a consultative process into its charter and in May of 2017, global soccer made this a binding part of its constitution.

FIFA's precedent confirmed that it and other organizations like the IOC are transnational businesses, and therefore, under the UN human rights statutes, must respect internationally-recognized human rights. FIFA's approach however, seems to have been an exception to the rule. Most processes have not been quite as voluntary. Schwab and his Executive Director predecessor at UNI, former European League basketball player association pioneer Walter Palmer, point out that human rights changes in sports – like many difficult changes – are often preceded by some sort of crisis. "It has been major turning points which have ultimately forced sports to change – on the scale of population displacement, labor exploitation, or child and sexual abuse," says Palmer.

Palmer cites recent crises such as the displacement of impoverished populations to make way for Olympic venue development in Rio de Janeiro, and the Nassar abuse scandal which rocked USA Gymnastics. As mentioned above, all Olympic sports must theoretically ensure that no one will be exploited or abused in the course of participating in those sports. However, the IOC has historically and effectively insulated itself against most of its potential legal liabilities via its Court of Arbitration for Sport (CAS), which restricts grievance topics to sporting disputes only (like doping and eligibility). As a result, it has fallen on the athletes to take an active role to expose mistreatment and seek remedies in instances where criminal or civil issues might lead to real consequences, either through activism (Rio) or the courts (USA Gymnastics).

What are some sports-washing examples that might be relevant in helping cycling find its direction? FIFA offers two from its recent history, starting with the controversial award of the 2022 FIFA World Cup to Qatar. Chief among the human rights and sports-washing concerns in this case has been the exploitation of migrant "guest" workers from southeast Asia and the Indian subcontinent in the construction of the vast new football venues throughout Qatar. Abysmal accounts of worker treatment and an excessive laborer death rate have been more characteristic of the 19th century Industrial Revolution than the 21st century, in stark contrast to what many in the Middle East consider to be the region's golden opportunity to redefine itself as a global sporting destination.

Under pressure from the international community and the FIFPro athlete's union – and perhaps in need of a distraction following the public humiliation over former President Sepp Blatter's and other FIFA executives' indictments and subsequent banishments for corruption related to World Cup activities – FIFA

engaged with Qatar to address the issues and improve the working conditions. Some might consider the results mixed, given other issues lingering around *how* Qatar managed to secure the event, but with the Ruggie Report and adoption of binding human rights statutes, there was at least a precedent set.

Most recently, FIFA's action (or inaction) was also critical in the recent case of Hakeem al-Araibi, a dissident Bahraini footballer with refugee status in Australia. al-Araibi was detained when he traveled to Thailand for his honeymoon vacation on November 27, 2018, in what was suspected to be a covert and targeted Bahraini intelligence operation (apparently supported by the Thai government) to extradite him. There was real danger that al-Araibi could have been made to "disappear" by Bahrain's government – similar to the extrajudicial murder of dissident Saudi Arabian journalist Jamal Khashoggi.

Arguably, FIFA may not have wanted to directly confront a prominent Bahraini FIFA executive, [Sheikh Salman al-Khalifa](#), who was at the heart of the scandal for his alleged role in the torture of dissidents including members of al-Araibi's immediate family. Despite having made human rights a binding principle of its charter over a year prior to al-Araibi's detainment, FIFA did *not* take the lead to assist international negotiations to repatriate al-Araibi.

Instead, the impasse ultimately took a groundswell of support from prominent athletes across many international sports, orchestrated in large part by Craig Foster – an Australian sports analyst and retired soccer player – to force FIFA to act. This included many of FIFA's brightest stars and their FIFPro athlete union, all of whom waged a public campaign to pressure all parties to recognize al-Araibi's human rights. Eventually, FIFA quietly engaged with Thai and Australian officials in a way which met the athletes' demands, avoided direct conflict with al-Khalifa which could have further publicly compromised the organization, and upheld its human rights obligations to help secure al-Araibi's release.

So, to come back to our original question, how does all of this relate to pro cycling? Like FIFA, the UCI is a global sporting governance body operating as a transnational business. Unlike FIFA, however, the UCI has *never* adopted a formal position as to how it would uphold human rights, and current UCI governance documentation avoids the term "human rights" altogether. Its [Constitution](#) makes only one mention of athlete rights in Article 2 line (i), regarding the safety and rights of *cyclists*; in the [Code of Ethics](#), Article 6.4 and Appendix 1, it mentions *personal* rights, but without reference to overall human rights that would protect its athletes from mistreatment, including exploitation in sports-washing schemes. While the UCI maintains an "Athletes Commission," the body is [advisory only](#) and has no voting or other powers within the governance; it can bring athlete rights concerns forward to other Commissions, but the UCI can choose whether or not to take action without obligation.

Lacking any binding position, and despite its status as an Olympic sport, there is little precedent for how the UCI might handle a human rights situation like al-Araibi's. More to the point of cycling's sponsorship dilemma, how should the sport respond to the investment by a government or company which may have committed or been complicit in human rights or similar abuses?

The UCI could potentially follow one of three basic tracks: (1) mimic the recent approach of FIFA, publicly honoring its athletes' human rights (even if only under duress) through changes to its by-laws and basic governance structure; (2) adopt policies similar to the [Commonwealth Games](#), which embedded comprehensive human rights declarations into its charter to a greater extent than other international sporting games, or; (3) adopt the essentially autonomous policies of the IAAF (the international track & field federation) which, at least in the recent Caster Semenya eligibility case, seem to put its subjective sporting interests above the physical well-being and human rights of individual athletes.

When the UCI previously faced athlete eligibility questions regarding transgender cyclist Kristen Worley, she took the issue all the way to Canada's highest court for human rights. The UCI empowers Cycling Canada's NGB charter, and was thus party to the lawsuit – and in taking more or less the same autonomy

position as the IAAF, it lost. Worley's case set a significant global precedent in that the "autonomy of sport" as advocated by the IOC does not supersede an individual's human rights. (That case was comprehensively examined by [The Sports Integrity Initiative](#) and [The Outer Line](#) in 2017 ).

The implications for the IOC and its constituent sporting bodies like the UCI and IAAF are significant in that international courts of law – not the CAS – are increasingly asserting the final word over the health, safety, and the human rights of athletes. A wide range of sporting policies, from anti-doping to revenue sharing and personal earning, may come under fire in the near future as more and more legal cases find their way into actual courtrooms – where rigorous evidence standards are the norm, rather than CAS's more subjective closed-door arbitration sessions. As a result, cycling could be poised for some big challenges.

Cycling's dependence upon financial sponsorship leaves it more susceptible to external influences than other sports, many of which have unified television contracts, stadium revenues, and licensing models. Riders – especially the WorldTour and ProContinental men, who lack an effective athletes' union – will likewise be wary of pointing out or contradicting a sponsor's objectives. As a result there have been relatively few instances of cyclists speaking out on issues which could affect investors or power brokers in the sport. [Cadel Evans](#) was outspoken on China's occupation of Tibet during the run-up to the Beijing Olympics and the Tour of Beijing, but he kept a fairly low profile at the Games, and was not rebuked by the UCI or the IOC. Others have occasionally spoken out on issues, such as Philippe Gilbert's criticism of the Flemish separatist movement in Belgium. But by speaking up, some athletes might well find themselves out of work – and this is probably why no one on the UAE, Bahrain, or Astana teams have engaged in public dialogue about their sponsors' alleged human rights-related issues.

Optimistically, according to Palmer and Schwab, cycling has more potential than most of the IOC sporting bodies to formally adopt and embed human rights: many of its employers (men's teams) are already organized at a global level and there is a rudimentary framework for employee relations. The emergence of women athletes as a driving governance influencer and athlete body may be one more catalyst for change, as gender equality, gender rights, and economic parity take center stage. A comprehensive human rights policy in cycling might be a few years away, but the foundation could be initiated today.

Under any circumstances, the UCI has a responsibility to uphold the human rights of its athletes, and should prevent the sport from being used as a vehicle to sports-wash human rights violations. Whether the UCI publicly commits to the UN's Guiding Principles, or adopts the Athletes Rights and Responsibility clauses of the IOC, or even adopts UNI's players' rights declaration, *any* position is better than no position. At a fundamental level, the swirl around human rights and cycling isn't so much about its sponsors, but about its athletes and their issues. As Schwab says, athlete rights are human rights.

*By Joe Harris and Steve Maxwell, May 21, 2019. Special thanks to Brendan Schwab and Walter Palmer for their contributions.*