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Hailey Ferguson

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2017 was one step towards redressing the government's human rights violations.<sup>25</sup> He repeated this in August 2018 and in July 2019 when he again pardoned political activists who were critical of the Moroccan government.<sup>26</sup> However, there has been minimal progress in fulfilling the Rif protestors' demands since Mouhcine Fikr's death catalyzed the movement three years ago.<sup>27</sup> The Moroccan government has an international obligation to ensure that its citizens can safely advocate for their needs without the threat of violence or imprisonment. These protests continue to reveal how the Moroccan government has engaged in human rights violations to maintain the status quo and ignore the needs of its ethnic minorities.

## SPORTING INSTITUTIONS TURNED A BLIND EYE TO CHINA'S HUMAN RIGHTS ABUSES, BUT THEY HAVE POTENTIAL TO DRIVE GLOBAL CHANGE *by Hailey Ferguson\**

Foreign sports, such as basketball and soccer, enjoy a gargantuan cultural and commercial market in China. Basketball has been wildly popular for decades.<sup>1</sup> The love for the American sport has only continued to grow since then with over eighteen percent of Chinese athletes playing basketball today.<sup>2</sup> The foremost governing bodies representing soccer and basketball, FIFA and the NBA, have found commercial success in the Chinese market.<sup>3</sup> 187 million soccer fans hope to enjoy the 2021 FIFA Club World Cup on their home soil, now that FIFA has awarded China the hosting opportunity following a 2015 government edict that made soccer a national priority worth billions.<sup>4</sup> Last year, a conflict between the Houston Rockets general manager, Daryl Morey, and the Chinese government tested the strong partnership between the NBA and

*\* Hailey Ferguson is the Senior Articles & Partnerships Editor at the Human Rights Brief. She is a second-year student at American University Washington College of Law, and she was also published by the Brief in Spring 2020. Currently, she serves as Workforce Response Coordinator at the International Rescue Committee.*

<sup>1</sup> Claudia Klingelhöfer, *These Are the Most Popular Sports in China*, ISPO (Jul. 6, 2017, 12:02 PM), [https://www.ispo.com/en/markets/id\\_79708806/these-are-the-most-popular-sports-in-china.html](https://www.ispo.com/en/markets/id_79708806/these-are-the-most-popular-sports-in-china.html) (explaining that China boasts the highest number of soccer fans worldwide at 187 million).

<sup>2</sup> *Id.*

<sup>3</sup> See Daniel Victor, *Hong Kong Protests Put N.B.A. on Edge in China*, N.Y. TIMES (Oct. 7, 2019, 12:15 PM), <https://www.nytimes.com/2019/10/07/sports/basketball/nba-china-hong-kong.html>.

<sup>4</sup> Tariq Panja, *FIFA Set to Reward China With World Cup for Clubs*, N.Y. TIMES (Oct. 20, 2019), <https://www.nytimes.com/2019/10/20/sports/fifa-china-world-cup-expanded.html>.

<sup>25</sup> *Moroccan King Pardons More than 1,000 Protesters*, AL JAZEERA (Jul. 29, 2017, 7:49 PM), <https://www.aljazeera.com/news/2017/07/moroccan-king-pardons-thousand-protesters-170729233326493.html>.

<sup>26</sup> *Moroccan King Pardons Thousands, Including 'Hirak' Protesters*, AL JAZEERA (Jul. 30, 2019, 4:50 AM), <https://www.aljazeera.com/news/2019/07/moroccan-king-pardons-thousands-including-hirak-protesters-190730063730436.html>; *World Report: Morocco/Western Sahara*, *supra* note 2.

<sup>27</sup> See *Morocco Protests*, *supra* note 25.

China. After Morey voiced support on his private Twitter<sup>5</sup> account for protesters in Hong Kong, the Chinese government swiftly and publicly rebuked his statements. Morey found himself in trouble with the owner of his own team and the NBA itself following pressure from China for the league to unequivocally condemn Morey's statements.<sup>6</sup> Though China represents a growing market for the sports industry, it is seemingly immune to criticism related to reported human rights abuses in the country.

Human rights journalists and non-governmental organizations have long accused Beijing of human rights violations related to Beijing's response to protests in Hong Kong as well as the mass detention and forced re-education of the Uyghur community in East Turkestan.<sup>7</sup> International sports organizations seem to turn a blind eye to these illegal acts by the Chinese government. However, should public pressure mount, organizations like the NBA and FIFA could be powerful commercial influences to raise awareness and apply pressure on the government. Activist organizations have implored the United Nations to launch an investigation into the crimes against humanity against the Uyghur people, purported to be carried out by the Chinese government, but their pleas have not been answered.<sup>8</sup> Considering China's powerful position within the United Nations and their unwillingness to allow independent investigators into the area, tackling the problem through traditional legal human rights

channels at the moment is futile.<sup>9</sup> In these instances, internal public outcry coupled with foreign commercial pressure may be more effective in exacting change. Sports organizations are in a rare position to bridge that gap and have the potential to be influential.

While the Chinese government and some Chinese citizens alike hope to disconnect politics from sports, the governing bodies of international sporting organizations inherently intertwine with politics in the countries in which they choose to do business.<sup>10</sup> The mutually beneficial relationships between governments and organizations like the NBA and FIFA go beyond playing host to national and international tournaments. The cultural and commercial significance of sports permeate a society, with the governing sports organizations profiting monetarily. These financial benefits foster complacency about host state human rights violations among institutions like FIFA — and even the International Olympic Committee.<sup>11</sup> Large, international tournaments, like the Olympics, are potential propaganda machines for host states and participants alike. However, from the governing bodies' perspective, it is too controversial, or more importantly, too commercially damaging, to start banning states from hosting tournaments based on their human rights records.<sup>12</sup> There are many states — such as Saudi Arabia, the United States, and others — with recognized human rights abuses that are currently still

<sup>5</sup> See Jamil Smith, *The NBA Chooses China's Money Over Hong Kong's Human Rights*, ROLLING STONE (Oct. 7, 2019, 6:01 PM), <https://www.rollingstone.com/politics/politics-news/daryl-morey-nba-hong-kong-houston-rockets-895706/>.

<sup>6</sup> Matthew Yglesias, *The Raging Controversy Over the NBA, China, and the Hong Kong Protests, Explained*, Vox (Oct. 7, 2019, 4:00 PM), <https://www.vox.com/2019/10/7/20902700/daryl-morey-tweet-china-nba-hong-kong>.

<sup>7</sup> See Emily Feng, *As Hong Kong Protests Continue, China's Response Is Increasingly Ominous*, NPR (Aug. 13, 2019, 6:07 AM), <https://www.npr.org/2019/08/13/750695968/as-hong-kong-protests-continue-chinas-response-is-increasingly-ominous>; Fatima Taj, *Chinese Document Leaks Provide New Evidence of China's Persecution of Muslim Uyghurs*, HARV. POL. REV. (Jan. 1, 2020, 9:11 PM), <https://harvardpolitics.com/world/chinese-documents-uyghurs/>.

<sup>8</sup> *Activists Want UN to Probe 'Genocide' of China's Uighur Minority*, AL JAZEERA (Sept. 15, 2020), <https://www.aljazeera.com/news/2020/09/15/activists-want-un-to-probe-genocide-of-chinas-uighur-minority/?gb=true>.

<sup>9</sup> *Id.*

<sup>10</sup> *Keep Anti-China Politics Out of Football, for the Sake of Sports Fans Across Asia*, S. CHINA MORNING POST (Oct. 29, 2018, 2:00 AM), <https://www.scmp.com/comment/letters/article/3034557/keep-anti-china-politics-out-football-sake-sports-fans-across-asia>; Nathan Reiff, *How FIFA Makes Money*, Investopedia (May 15, 2020, 3:00 AM), <https://www.investopedia.com/articles/investing/070915/how-does-fifa-make-money.asp>.

<sup>11</sup> Keith Bradsher & Tariq Panja, *In China, FIFA's Focus Is Soccer, Not Human Rights*, N.Y. TIMES (Oct. 24, 2019), <https://www.nytimes.com/2019/10/24/sports/soccer/fifa-china-soccer-human-rights.html>; see also *China: Olympics Harm Key Human Rights*, HUM. RTS. WATCH (Aug. 6, 2008, 8:00 PM), <https://www.hrw.org/news/2008/08/06/china-olympics-harm-key-human-rights#>.

<sup>12</sup> *China: FIFA Broke Own Rules for Club World Cup*, HUM. RTS. WATCH (Nov. 27, 2019), <https://www.hrw.org/news/2019/11/27/china-fifa-broke-own-rules-club-world-cup>.

allowed to participate.<sup>13</sup> FIFA committed to comply with all internationally recognized human rights treaties, including the UN Guiding Principles on Business and Human Rights, in its guidebook on tournament host bidding.<sup>14</sup> Organizations, like FIFA, that operate worldwide have even published internal human rights policies that invoke international treaties such as the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the ILO's Declaration on Fundamental Principles and Rights at Work, among others.<sup>15</sup> Any organization that willingly commits itself to human rights and claims to operate within the international legal framework must be held fully accountable by the states within which it operates. If they are unwilling to act due to the financial risks, the public and individual athletes are justified in conducting strikes or boycotts, as seen most recently during the NBA playoffs following killings by police in the United States.<sup>16</sup>

Fans of world soccer and basketball have recently voiced disappointment in FIFA's and the NBA's decisions to engage in the colossal Chinese commercial market despite well-documented accounts that the

Chinese government is violating human rights.<sup>17</sup> FIFA is no stranger to this criticism, as it has been embroiled in controversy surrounding the working conditions in Qatar during preparations for the 2022 World Cup.<sup>18</sup> The Gulf state was awarded the hosting bid ten years ago and thousands of migrant workers immigrated to Qatar to find work building stadiums and infrastructure.<sup>19</sup> The sudden surge of deaths of migrant workers connected to unsafe working conditions forced the Qatari government to shut down 300 work sites.<sup>20</sup> Even though the public outrage against the dire working conditions was swift and many inside and out of the soccer community have called for the tournament to be hosted elsewhere, FIFA has refused.<sup>21</sup> Reports from Human Rights Watch and Amnesty International clearly show that Qatar's government and FIFA are aware of these human rights abuses.<sup>22</sup> The reports also state that the outcry from international human rights organizations and the public have little effect on curbing the violations of the same international treaties that host states, like China and Qatar, and sports organizations have both committed to.<sup>23</sup>

China hopes to be the next frontier for sports like soccer and basketball, and it has already made mas-

<sup>13</sup> See Ian Vásquez & Tanja Porčnik, *The Human Freedom Index 2019: A Global Measurement of Personal, Civil, and Economic Freedom*, CATO INST. 3-4 (2019), <https://www.cato.org/sites/cato.org/files/human-freedom-index-files/cato-human-freedom-index-update-3.pdf>

<sup>14</sup> FIFA, FIFA's HUMAN RIGHTS POLICY (2017), <https://img.fifa.com/image/upload/kr05dqyhwr1uhqy2lh6r.pdf>; UN OHCHR, GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: IMPLEMENTING THE UNITED NATIONS "PROTECT, RESPECT AND REMEDY" FRAMEWORK (2011).

<sup>15</sup> FIFA, *supra* note 14; see also G.A. Res. 217 (III) A, Universal Declaration on Human Rights (Dec. 10, 1948); International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 105; Int'l Labor Org., Declaration on Fundamental Principles and Rights at Work and Its Followup (Jun. 18, 1998), <https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>.

<sup>16</sup> Paolo Uggetti, *NBA, WNBA Players Stage Playoff Strike Days After Police Shoot Jacob Blake*, THE RINGER (Aug. 26, 2020) <https://www.theringer.com/nba/2020/8/26/21403233/nba-boycott-jacob-blake-bucks-magic>.

<sup>17</sup> See Jake Simpson, *It's Every Fan's Job to Police FIFA and the Olympics Committee*, THE ATLANTIC (Nov. 25, 2013, 10:58 AM), <https://www.theatlantic.com/entertainment/archive/2013/11/its-every-fans-job-to-police-fifa-and-the-olympics-committee/281784/>; see also Kevin Tan, *China Sports Industry Market Value and Participant Numbers Continue Steady Rise*, SPORT-BUSINESS (Jul. 11, 2019, 2:45 AM), <https://www.sportbusiness.com/news/sport-participant-numbers-in-china-reaches-over-64-million/>.

<sup>18</sup> *Reality Check: Migrant Workers Rights with Four Years to the Qatar 2022 World Cup*, AMNESTY INT'L (Feb. 5, 2019), <https://www.amnesty.org/en/latest/campaigns/2019/02/reality-check-migrant-workers-rights-with-four-years-to-qatar-2022-world-cup/>.

<sup>19</sup> *Qatar: Urgently Investigate Migrant Worker Deaths*, HUM. RTS. WATCH (Oct. 10, 2019), <https://www.hrw.org/news/2019/10/10/qatar-urgently-investigate-migrant-worker-deaths>.

<sup>20</sup> *Id.*

<sup>21</sup> Ian Black, Owen Gibson, & Robert Booth, *Qatar Promises to Reform Labour Laws After Outcry Over 'World Cup Slaves'*, THE GUARDIAN (May 14, 2014 10:56 AM), <https://www.theguardian.com/world/2014/may/14/qatar-reform-labour-laws-outcry-world-cup-slaves>.

<sup>22</sup> See *Qatar*, *supra* note 19; *Reality Check*, *supra* note 18.

<sup>23</sup> See *Reality Check*, *supra* note 18.

sive strides in the past twenty years. The commercial potential of the market alone has made it worthwhile for sporting organizations to ignore recorded human rights abuses. As such, any interference by the international legal community in that sphere has been delegitimized.<sup>24</sup> Corporate entanglements between sport organizations and governments ensure that any attempt to keep politics and human rights discussions away from sports is futile. The advertising and sponsorship revenue available in the Chinese market for soccer and basketball will only continue to grow, suggesting that no unforced action by governments or sports organizations selling their product will be enough to incite real changes.<sup>25</sup>

The response to Mr. Morey's tweet shows that the NBA has an unbreakable and mutually beneficial relationship with China.<sup>26</sup> Sports organizations are, in practice, businesses that must be obligated to enforce the UN Guiding Principles on Business and Human Rights, as written by FIFA in their own guidelines.<sup>27</sup> These principles state that corporations should "seek to prevent or mitigate adverse human rights impacts . . . even if they have not contributed to [them]" directly.<sup>28</sup> The NBA and FIFA, like many businesses, operate in states that have poor human rights records; however, not many other private industries are so intertwined with the patriotism that comes along with international athletics to have an impact through their bargaining power.

The inherent value of sports organizations relies fully on the cooperation of individual athletes, and national teams made up of individuals. As we saw recently in the United States, athletes have the power to control an entire nation's conversation and influence change at the highest levels of governing institutions. The cultural popularity of sports in countries like China has

the potential to affect human rights law by providing a mechanism through which investigations into human rights violations can occur. Pressure on the host state by individual athletes, in tandem with pressure from fans of the sport, may have as good a chance as any to alter a government's response to its own human rights record. Additionally, if sports organizations' governing bodies were to actually implement the human rights values written in their own published guidelines, they could plausibly influence governments to rethink their abusive policies.<sup>29</sup> The threat of losing the opportunity to view and participate in sport itself would ignite sufficient domestic fervor in the largest global sports market, prompting sport organizations to more carefully consider where business is taking place.

<sup>24</sup> See Howard Beck, *The NBA Can't Change China; Deal With It*, BLEACHER REP. (Oct. 19, 2019, 9:19 AM), <https://bleacherreport.com/articles/2858717-the-nba-cant-change-china-deal-with-it>.

<sup>25</sup> See Tim Wigmore, *Commercial and Moral Imperatives Collide as NBA Expansion in China Comes at a Price*, THE TELEGRAPH (Oct. 11, 2019, 3:28 PM), <https://www.telegraph.co.uk/basketball/2019/10/11/commercial-moral-imperatives-collide-nba-expansion-china-comes/>.

<sup>26</sup> Yglesias, *supra* note 6.

<sup>27</sup> See FIFA, *supra* note 14.

<sup>28</sup> *Id.*

<sup>29</sup> See *id.*