



Unclean Hands: Golf, Saudi Arabia, and Curing the Scourge of Sportswashing

By Regan Metzger

Around 1:15 in the afternoon on October 2, 2018, Saudi-born journalist Jamal Khashoggi entered the Saudi Consulate in Istanbul.¹ He was trying to obtain a marriage license.² Within minutes he was dead.³ His body hacked into pieces, beheaded, and his fingers severed, they carried his remains out of the Consulate in trash bags.⁴ Saudi Arabia's de facto leader, Crown Prince Muhammad bin Salman, had approved the operation.⁵

On April 23, 2019, Saudi Arabia's government executed thirty-seven men around the country following unfair trials.⁶ It was the largest mass execution in Saudi Arabia since 2016, when it executed forty-seven men.⁷

¹ Human Rights Council, Annex to the Rep. of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Investigation into the unlawful death of Mr. Jamal Khashoggi, at 20, U.N. Doc. A/HRC/41/CRP.1 (2019).

² David D. Kirkpatrick & Carlotta Gall, *Audio Offers Gruesome Details of Jamal Khashoggi Killing, Turkish Official Says*, N.Y. TIMES, (Oct. 17, 2018), <https://www.nytimes.com/2018/10/17/world/europe/turkey-saudi-khashoggi-dismember.html> [https://perma.cc/5C4Z-6TLS].

³ *Id.*

⁴ *Id.*

⁵ OFF. OF THE DIR. OF NAT'L INTEL., ASSESSING THE SAUDI GOVERNMENT'S ROLE IN THE KILLING OF JAMAL KHASHOGGI (Feb. 11, 2021).

⁶ *Saudi Arabia: Mass Execution of 37 Men*, HUM. RTS. WATCH (Apr. 24, 2019 7:52 AM), <https://www.hrw.org/news/2019/04/24/saudi-arabia-mass-execution-37-men> [https://perma.cc/ZQ8A-HMQN].

⁷ *Id.*



In February 2015, the Saudi government flogged Raif Badawi after he received a sentence of 1,000 lashes and 10 years in prison.⁸ His crime was founding an online forum for political debate and insulting Islam.⁹

The list could go on.¹⁰ And on.¹¹ And on.¹²

In 2022, Freedom House gave Saudi Arabia a Freedom in the World score of 7/100 for the fifth straight year.¹³ It remains one of the least free countries on the planet.¹⁴

⁸ *Ten Ways that Saudi Arabia Violates Human Rights*, AMNESTY INT'L UK (May 18, 2020 5:06 PM), <https://www.amnesty.org.uk/saudi-arabia-human-rights-raif-badawi-king-salman> [https://perma.cc/H6GD-3KVV].

⁹ *Id.*

¹⁰ Press Release, Amnesty Int'l UK, Saudi Arabia: Six Men Face Having a Hand and a Foot Amputated for 'Highway Robbery' (Dec. 16, 2011 12:00 AM), <https://www.amnesty.org.uk/press-releases/saudi-arabia-six-men-face-having-hand-and-foot-amputated-highway-robbery> [https://perma.cc/RT3M-ES9L].

¹¹ Veronika Poniscjakova, *Saudi Arabia is Imprisoning Women While the Rest of the World is not Paying Attention*, THE CONVERSATION (Sept. 20, 2022 1:00 PM), <https://theconversation.com/saudi-arabia-is-imprisoning-women-while-the-rest-of-the-world-is-not-paying-attention-189928> [https://perma.cc/6AZ6-2HRT].

¹² *World Report 2021: Saudi Arabia Events of 2020*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2021/country-chapters/saudi-arabia> [https://perma.cc/4EUQ-84GN] (accessed Nov. 22, 2022).

¹³ *Freedom in the World 2022: Saudi Arabia*, FREEDOM HOUSE (<https://freedomhouse.org/country/saudi-arabia/freedom-world/2022>) [https://perma.cc/Z7SG-5YKG] (accessed Nov. 22, 2022).

¹⁴ *Id.*



In 2021, LIV Golf Investments hired Greg Norman as its CEO.¹⁵ They embarked on a journey to challenge the PGA Tour as the reigning worldwide professional golf tour.¹⁶ The Public Investment Fund of Saudi Arabia (PIF) that bankrolls LIV Golf is among the world's largest and most secretive sovereign wealth funds.¹⁷ LIV Golf has now signed many of the world's top golfers and become a major player in the international golf scene.¹⁸

A story like this is not new. Human rights abusers have long used sports to launder their reputations-- from at least 1936, when Nazi Germany hosted the Olympics, to the present day.¹⁹ In recent years state financing of sport has driven sportswashing, with Saudi

¹⁵ Press Release, LIV Golf, Greg Norman Named CEO of LIV Golf Investments (Oct. 29, 2021), <https://www.livgolf.com/news/greg-norman-named-ceo-of-liv-golf-investments> [https://perma.cc/U3SN-V29M].

¹⁶ *Id.*

¹⁷ Simon Clark, *Saudi Wealth Fund May Be World's Least Transparent*, WALL ST. J. (Nov. 1, 2016 10:35 AM), <https://www.wsj.com/articles/saudi-wealth-fund-may-be-worlds-least-transparent-1477997912> [https://perma.cc/8YLS-4FBU].

¹⁸ Bill Pennington, *Bryson DeChambeau and Patrick Reed Set to Join Saudi-Backed LIV Golf Tour*, N.Y. TIMES (June 8, 2022), <https://www.nytimes.com/2022/06/08/sports/golf/bryson-dechambeau-patrick-reed-liv-golf-tour.html?smtype=cur&smid=tw-nytsports> [https://perma.cc/FR24-DSFF].

¹⁹ U.S. Holocaust Mem'l Museum, *The Nazi Olympics Berlin 1936*, HOLOCAUST ENCYCLOPEDIA, <https://encyclopedia.ushmm.org/content/en/article/the-nazi-olympics-berlin-1936> [https://perma.cc/47UM-ADVL] (accessed Nov. 22, 2022).



Arabia racking up a bill of over \$1.5 billion for sportswashing.²⁰ They have targeted most major global sporting events.²¹ Golf is among their most recent and successful examples.²²

Glaring holes in human rights law become clear in the realm of sportswashing. Through sportswashing, states and corporations are not necessarily violating human rights law.²³ By snatching up some of the biggest stars in golf with Saudi Arabia's money, LIV Golf is not perpetrating a single human rights abuse. But it is doing tremendous work to hide the blood stains on Saudi Arabia's hands from the global public.²⁴ This allows Saudi Arabia to create a sheen of moderation over a core of state abuse.²⁵

LIV Golf must bear some moral culpability for this, but do they face any international legal consequences? It is unclear.²⁶ The United Nations Guiding Principles on Business and Human Rights are the closest the international realm comes to dictating

²⁰ Ruth Michaelson, *Saudi Arabia Has Spent at Least \$1.5bn on 'Sportswashing', Report Reveals*, GUARDIAN (Mar. 28, 2021 9:07 AM), <https://www.theguardian.com/world/2021/mar/28/saudi-arabia-has-spent-at-least-15bn-on-sportswashing-report-reveals> [https://perma.cc/Y64S-FGVM].

²¹ *Saudi Uses Sports 'Soft Power' as Lever of Influence*, FRANCE 24 (Jan. 2, 2020), <https://www.france24.com/en/20200102-saudi-uses-sports-soft-power-as-lever-of-influence> [https://perma.cc/53Y9-XYZ8] [hereinafter *Soft Power*].

²² *Id.*

²³ Kyle Fruh et. al., *Sportswashing: Complicity and Corruption*, SPORT, ETHICS AND PHILOSOPHY 1 (2022).

²⁴ See *Soft Power*, *supra* note 21.

²⁵ *Id.*

²⁶ Yasin Patel & Jibreel Tramboo, *Sportswashing – Are Legal Remedies Available?*, CHURCH & DWIGHT, <https://churchcourtchambers.co.uk/wp-content/uploads/2022/07/Sportswashing.pdf> [] (accessed Nov. 22, 2022).



businesses' human rights obligations.²⁷ These are, however, merely advisory guidelines, and do not constitute binding international law.²⁸ Continued sportswashing worldwide exposes the need to codify the Guiding Principles into law.

Under the Guiding Principles, LIV Golf must “respect human rights” by not “causing or contributing to adverse human rights impacts through their own activities.”²⁹ These impacts may occur “as a result of their business relationships with other parties.”³⁰ Saudi reputation laundering creates leeway for further human rights abuses with less pushback from the international sphere.³¹ LIV Golf’s actions contravene their duties under the Guiding Principles.

The United States should not obstruct corporate attempts at fulfilling Guiding Principles obligations. The PGA Tour has suspended golfers who have gone to play on the LIV Golf Tour.³² For their troubles, the PGA Tour is now facing an anti-trust investigation from the U.S. Department of Justice.³³ As the premier golf tour, the PGA Tour inhibits the ability of LIV Golf to continue laundering Saudi Arabia’s reputation. If the PGA Tour can

²⁷ Rep. of the Special Representative of the Sec’y-Gen. on the issue of human rights and transnat’l corps. and other bus. enters., John Ruggie, Guiding Principles on Business and Human Rights, U.N. Doc. A/HRC/17/31, Annex, at 6 (Mar. 21, 2011) [hereinafter Guiding Principles].

²⁸ *Id.*

²⁹ *Id.* at 14.

³⁰ *Id.*

³¹ See Soft Power, *supra* note 21.

³² Tariq Panja, *PGA Tour Suspends Players Participating in Rival Golf Series*, N.Y. TIMES (June 9, 2022), <https://www.nytimes.com/2022/06/09/sports/golf/liv-golf-pga-suspensions.html> [https://perma.cc/QX8L-THZX].

³³ Louise Radnofsky & Andrew Beaton, *Justice Department is Investigating PGA Tour Over Potential Antitrust Violations in LIV Golf Battle*, WALL ST. J. (July 11, 2022 4:28 PM), <https://www.wsj.com/articles/pga-tour-antitrust-liv-department-of-justice-investigation-11657557177> [https://perma.cc/W4VW-QM2A].



maintain its status by sanctioning players who attempt to leave the Tour for LIV Golf, it exercises its responsibility to “prevent or mitigate adverse human rights impacts that are directly linked to their . . . business relations.”³⁴ The U.S. government should not stand in their way. In doing so the United States runs afoul of a state’s obligation to ensure laws and policies governing corporations “do not constrain but enable business respect for human rights.”³⁵

Sportswashing isn’t going away. International law needs to rise to the occasion. If it will not, business should. And states should not stand in their way.

³⁴ Guiding Principles, *supra* note 27, at 14.

³⁵ *Id.* at 8.