Winning at the World Cup: A matter of protecting human rights and sharing responsibilities

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On 14 June 2018, Russia’s national football team will play against Saudi Arabia for the opening match of this year’s football World Cup held in Russia. In the subsequent month, more than 3 billion people are expected to follow this mega-sporting event (MSE) on television. What the people behind their screens will see are state-of-the-art stadiums with the newest technology, each costing hundreds of millions of dollars. What most of the viewers are not aware of, however, is that during the building of these stadiums tens of thousands of workers were exposed to severe human rights violations. Human Rights Watch (HRW) and other human rights groups documented the structural exploitation of workers, including non-payment or severe delays in payment of wages, working in unsafe conditions leading to injuries, and the death of 17 workers, as well as forced illegal work due to lack of employment contracts and other documentation. Lack of proof of any employment relation made it extremely difficult for workers to complain about these exploitative practices. If workers managed to file a complaint, they were threatened by their employers with retaliation and non-payment of wages. Journalists and human rights advocates

1. FIFA, ‘2014 FIFA World Cup™ Reached 3.2 Billion Viewers, One Billion Watched Final’ (FIFA - Media Release, 2015) <http://www.fifa.com/worldcup/news/y=2015/m=12/news=2014-fifa-world-cuptm-reached-3-2-billion-viewers-one-billion-watched-2745519.html> accessed 28 December 2017.
2. Jim Powell and Nick Ames, ‘Russia 2018 World Cup: the Complete Guide to All the Stadiums’ The Guardian (2018) <https://www.theguardian.com/football/2017/nov/30/russia-2018-world-cup-the-complete-guide-to-all-the-stadiums-venues> accessed 14 February 2018.
3. Business & Human Rights Resource Centre, ‘Russia 2018 FIFA World Cup’ <https://business-humanrights.org/en/russia-2018-fifa-world-cup> accessed 14 February 2018.
4. Human Rights Watch, ‘Red Card - Exploitation of Construction Workers on World Cup Sites in Russia’ (2017) 2 <https://www.hrw.org/sites/default/files/report_pdf/russiafifa0617_web_0.pdf> accessed 14 February 2018.
5. ibid 27.
who tried to investigate and report on these conditions have been working under constant suspicion and intimidation. Journalists have been arrested during their investigations, held in detention and faced with criminal charges.6

Human rights abuses as part of the game

Unfortunately, these stories of exploitation of workers on World Cup construction sites in Russia are not isolated cases. In the past two decades, a proliferation of reports on human rights abuses connected to the organisation of MSEs have highlighted that human rights abuses occur throughout the entire lifecycle of these events.7 Similar stories of exploitation of workers have been reported and continue to pile up in relation to the 2022 FIFA World Cup in Qatar. The working conditions on the construction sites are hazardous and inhuman, with workers being exposed to heat up to 50 degrees Celsius, often without breaks and access to drinking water. HRW reported that there have been dozens of deaths related to heat and exhaustion.8 The Guardian counted Nepalese migrant workers dying at a rate of one every two days already in 2014.8 In 2013, the International Trade Union Confederation warned that before the first ball will be kicked at the 2022 World Cup in Qatar, around 4000 workers will have died.9

Almost 90% of Qatar’s population consists of migrant workers, with most of them active in the construction sector.10 More than half of all migrant workers are living in labour camps, which provide squalid accommodation and poor sanitary standards.11 Furthermore, the application of Qatar’s ‘Sponsorship Law’, better known as the kafala system, increases the risk of exploitation of migrant workers.12 This system, which has its roots in a time-honoured Bedouin tradition that originally regulated the treatment and protection of foreign guests,13 deepens the dependency of migrant workers on sponsors. The result is that employees cannot leave the country or switch employers without being provided with a permit by their employer.14 Revisions of the law in the

6. Jane Buchanan, ‘Russian Police Violently Arrest Critical Newspaper Editor’ (Human Rights Watch, 2017) <https://www.hrw.org/news/2017/11/07/russian-police-violently-arrest-critical-newspaper-editor> accessed 14 February 2018.
7. Institute for Human Rights and Business, ‘Striving for Excellence: Mega-Sporting Events and Human Rights’ (2013) <https://www.ihrb.org/pdf/2013-10-21_IHRB_Mega-Sporting-Events-Paper_Web.pdf> accessed 14 February 2018.
8. Human Rights Watch, ‘Qatar: Take Urgent Action to Protect Construction Workers’ (2017); Owen Gibson and Pete Pattisson, ‘Death Toll among Qatar’s 2022 World Cup Workers Revealed’ The Guardian (2014) <https://www.theguardian.com/world/2014/dec/23/qatar-nepal-workers-world-cup-2022-death-toll-doha> accessed 16 January 2018.
9. ibid.
10. Internationaler Gewerkschaftsbund, ‘Qatar 2022 World Cup Risks 4000 Lives, Warns International Trade Union Confederation’ (2013) <http://www.ituc-csi.org/qatar-2022-world-cup-risks-4000?lang=de> accessed 3 February 2017.
11. Jure Snoj, ‘Population of Qatar by Nationality in 2017’ (Priya Dsouza, 2017) <http://priyadsouza.com/population-of-qatar-by-nationality-in-2017/> accessed 14 February 2018.
12. Leana Hosea, ‘Inside Qatar’s Squalid Labour Camps’ (BBC News, 7 March 2014) <http://www.bbc.com/news/world-middle-east-26482775> accessed 8 March 2018.
13. Azfar Khan and Hélène Harroff-Tavel, ‘Reforming the Kafala: Challenges and Opportunities in Moving Forward’ (2011) 20 Asian and Pacific Migration Journal 293, 294.
14. United Nations General Assembly, ‘Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau’ (23 April 2014) UN Doc A/HRC/26/35/Add.1, paras 25-32.
past years made it illegal to confiscate passports of employees and easier for them to switch
between employers. Nonetheless, confiscating passports is still a widespread practice, which
ultimately violates the employee’s right to freedom of movement. The overall situation many
of the migrant workers are subject to in Qatar has been referred to as ‘forced labour’ and ‘modern
slavery’.16

Furthermore, abuses of labour rights are not the only types of human rights violations that arise
in the context of hosting the FIFA World Cup, just as the World Cup is not the only MSE with
adverse human rights impacts. In total, more than 77,000 people living in and around Rio de
Janeiro have been displaced between 2009 and 2015 to make room for construction projects related
to the 2014 World Cup and the 2016 Summer Olympic Games.17 In a number of cases, demolitions
of houses began while people or their belongings were still inside.18 Not only residents but also
local vendors were affected by evictions due to economic exclusion zones that had been created in
and around MSE-venues. In the run-up to the 2010 World Cup in South Africa, street sellers have
been displaced from their usual vending sites, which for many of those people resulted in a loss of
livelihood.19 Additional MSE-related human rights abuses are the result of a number of actions
taken by the hosting countries. Special event-related legislation adopted by hosting governments,
such as so-called “Olympic Acts”, often lead to infringements of freedom of expression and the
right to protest. In an effort to maintain peace and security just before and during those events, local
police and other security forces tend to resort to excessive use of force, arbitrarily arrest and
criminalise homeless people and street children.20

Blurred lines of responsibility
Those bidding and advocating for hosting MSEs have been arguing that the exceptionalism of
hosting such an event to some extent justifies human rights infringements.21 However, the fact that
these violations have been occurring on a structural basis in connection with every MSE hosted in
the past decades stresses the need to find ways to counter these developments. The key challenge in
addressing these cases and holding the responsible actors accountable is that these events are
jointly organised and staged by a variety of actors, which creates highly complex governance
structures that are difficult to retrace. Sports organising bodies like the Fédération Internationale de
Football Association (FIFA) and the International Olympic Committee (IOC) set the requirements

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15. United Nations General Assembly (n 13) para 32
16. United Nations General Assembly (n 13) para 26; Jonathan Liew, ‘World Cup 2022: Qatar’s Workers Are Not
Workers, They Are Slaves, and They Are Building Mausoleums, Not Stadiums’ The Independent (2017) <http://
www.independent.co.uk/sport/football/international/world-cup-2022-qatars-workers-slaves-building-mausoleums-sta
diums-modern-slavery-kafala-a7980816.html> accessed 15 February 2018.
17. World Cup and Olympics Popular Committee, ‘Mega-Events and Human Rights Violations in Rio de Janeiro Dossier -
Rio Olympics: the Exclusion Games’ (2015) 20 <http://www.childrenwin.org/wp-content/uploads/2015/12/Dossie
ComiteRio2015_ENG_web_ok_low.pdf> accessed 2 April 2017.
18. Tom Philipps, ‘Rio World Cup Demolitions Leave Favela Families Trapped in Ghost Town’ The Guardian (2011)
<https://www.theguardian.com/world/2011/apr/26/favela-ghost-town-rio-world-cup> accessed 3 February 2017.
19. Megan Corrarino, ‘“Law Exclusion Zones”: Mega-Events as Sites of Procedural and Substantive Human Rights
Violations’ (2014) 17 Yale Human Rights and Development Law Journal 180, 180, 187.
20. Lucy Amis and John Morrison, ‘Mega-Sporting Events and Human Rights—A Time for More Teamwork?’ (2017) 2
Business and Human Rights Journal 135, 137.
21. Corrarino (n 19) 182–183.
according to which these events have to be delivered. Host countries commit to those requirements and create the indispensable preconditions by adopting laws, giving orders and issuing permits. The local organising committees are responsible for following up on the commitments and hiring the necessary contractors, which range from city planners, architects and logistics experts to construction firms, manufacturers of sporting goods and other event-related merchandise, food suppliers, hospitality firms and event organisers, including their own sub-contractors. Other involved parties are national and international broadcasting firms, as well as recruitment agencies for securing the availability of workers. The entire process is financially supported by national and international corporate sponsors, such as McDonald’s and Budweiser in case of this year’s FIFA World Cup.

Under international human rights law, the first reaction is to call upon the responsibility of the hosting country, since states are not only responsible for respecting, protecting and fulfilling human rights but also for preventing third parties from abusing human rights on their territory. Hence, any violations occurring in the context of delivering a mega-sporting event like the FIFA World Cup should be dealt with under domestic laws of the hosting country. The unfortunate reality is, however, that more and more of these events are being awarded to countries with questionable human rights reputation and even to countries for which poor human rights protection has been well-known in advance. Even for countries with more positive human rights records, the burdensome conditions that come with hosting such an event, both legally and politically, makes it increasingly difficult to live up to their human rights obligations. Moreover, the approach of only calling upon the responsibility falls short of addressing the real issue at stake: the fact that those violations are the result of complex collaboration between, and various contributions of, the multiple public and private actors involved in staging these events.

The entanglement of the actors and their operations, as well as the unique structures of power between the variety of actors involved blur the lines of responsibility and accountability. This does not only impede finding the actors responsible for human rights abuses but also the identification of adequate accountability mechanisms. In practice, any attempt to establish responsibility or accountability for MSE-related human rights violations have either been unsuccessful or only addressed a fraction of the actors or types of violations involved. In a recent case before the Handelsgericht Zürich, a coalition of national and international trade unions together with a migrant worker from Qatar accused FIFA of being responsible for violating international human and labour rights by awarding the 2022 FIFA World Cup to Qatar. The Swiss Court dismissed the case arguing that the allegations were not accurate enough to come to a final judgment that can be implemented, and that it is not the competent forum to deal with the alleged infringements of human rights. While the mediation procedure at the Swiss National Contact Point involving FIFA and the Building and Woodworker’s International established a monitoring system for decent work and safety in the workplace for migrant construction workers, their living standards and the exploitation coming from recruitment agencies was not addressed. Therefore, instead of leaving it

22. For a more elaborate overview of actors, see Amis and Morrison (n 20) 136.
23. Fédération Internationale de Football Association, ‘2018 FIFA World Cup Russia™ - FIFA Partners’ (FIFA, 2017) <http://www.fifa.com/worldcup/organisation/partners/index.html> accessed 15 February 2018.
24. FNV, Bangladeshi Free Trade Union Congress, BWI & Nadim Shariful Alam v FIFA Handelsgericht Kanton Zürich (3 January 2017).
25. Specific Instance regarding the Fédération Internationale de Football Association (FIFA) submitted by the Building and Wood Workers’ International (BWI) - Final Statement Swiss National Contact Point (2 May 2017).
up to the hosting country or home country of the sports governing bodies involved, establishing responsibility and accountability for MSE-related human rights abuses should be based on an inclusive approach that takes the contribution of all actors into account. The concepts of shared responsibility and shared accountability as recently developed under international law provide a useful conceptual basis for such a framework. The main idea that responsibility and accountability is shared between a multiplicity of actors that all contributed to a single harmful outcome, as well as that legal responsibility is established separately and distributed among more than one of the contributing actors, is reflective of the scenario we are facing with mega-sporting events. Each case of human rights violations directly or indirectly linked to the event is a harmful outcome of various contributions by multiple private and public actors, based on which responsibility should be shared and distributed among all actors involved.

**Responsibility as team effort**

Establishing a shared responsibility and accountability framework for MSE-related human rights abuses certainly comes with a number of challenges. For one, it has to account for the varying nature of actors and their contributions. While some actors directly cause certain human rights abuses, such as construction firms, others are indirectly related to the abuses through financial contributions and facilitating certain operations, which is applicable to sponsors and legislative acts by host governments, or through requiring those operations to be carried out according to certain standards, which is what FIFA and the IOC do. In addition, a shared responsibility and accountability framework has to serve the different human rights obligations and responsibilities inherent to the various actors involved. Arguably, all actors have certain obligations related to human rights, as human rights obligations do not only exist on the international level but also form part of national legal systems in various ways. Whereas private parties are generally bound by the laws of their home countries and have to abide by domestic laws in the country they are operating, state actors have obligations under international human rights law. In addition, corporate actors involved in the MSE business have the responsibility to respect human rights as stipulated by the United Nations’ Guiding Principles on Business and Human Rights. It has been argued that this responsibility also extends to sports governing bodies, leading to an express acceptance of this responsibility by FIFA and a more indirect acceptance by the IOC.

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26. André Nollkaemper and Dov Jacobs, ‘Shared Responsibility in International Law: a Conceptual Framework’ (2013) 34 Michigan Journal of International Law; Arne Vandenbogaerde, Towards Shared Accountability in International Human Rights Law: Law, Procedures and Principles (Intersentia 2016).

27. Vandenogaerde (n26) 41; André Nollkaemper and others, The Practice of Shared Responsibility in International Law (Cambridge University Press 2017) 3.

28. United Nations Human Rights Council, ‘Report of the Special Representative of the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie’ (21 March 2011) UN Doc A/HRC/17/31.

29. Institute for Human Rights and Business - Mega Sporting Events, ‘White Paper 1.2 Sports Governing Bodies and Human Rights Due Diligence’ (2017) <https://www.ihrb.org/ focus-areas/mega-sporting-events/white-paper-1.2-sports-governing-bodies> accessed 6 February 2017; Fédération Internationale de Football Association, ‘FIFA’s Human Rights Policy’ (2017) <http://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/33/12/fifashumanrights policy_neutral.pdf> accessed 11 June 2017; International Olympic Committee, ‘Host City Conctract Principles Games of the XXXIII Olympiad in 2024’ (2017) <https://stillmed.olympic.org/Documents/Host_city_elections/Host_City_Contract_Principles.pdf> accessed 8 March 2018.
Furthermore, while a framework for establishing shared responsibility and accountability for MSE-related human rights violations does not have to be rooted in international law, any efforts to address the challenges and develop such a framework should nonetheless be taken as joint efforts on the international level, for two reasons. First, addressing MSE-related human rights challenges goes beyond the capacity of any one of the actors involved.\(^{30}\) Neither the respective sports governing body, nor the hosting country, nor any other actor involved is capable of holding a multiplicity of actors accountable for their joint but diverse contributions to human rights violations. Second, the various corporate actors involved, as well as the workers hired, represent numerous different nationalities regulated under various jurisdictions, which requires an approach that goes beyond the limits of the domestic legal system of the hosting country. Furthermore, MSEs like the FIFA World Cup are true international events, enjoying international prestige and character. Billions of people around the world follow the competitions. This international attention and involvement makes any harmful consequences that arise out of the organisation of these events a concern for the international community as a whole.

To a certain extent, some traces of a shared responsibility and accountability approach can already be observed in the context of human rights issues provoked by delivering MSEs. In a joint effort to address the issue of labour rights violations connected to this year’s World Cup, FIFA, Russian authorities, and representatives of trade unions worked together to set up a monitoring programme for labour conditions on World Cup construction sites. Certainly, the system has been criticised for being not effective enough in terms of its limited reach and lack of measurable results.\(^{31}\) However, similar efforts in Qatar eventually brought about positive change in domestic labour law, which reveals that these initiatives are a step in the right direction and that those actors involved increasingly become aware of their share of responsibility.

**Changing the rules of the game?**

While these developments demonstrate that several stakeholders indeed promote and practice a shared responsibility approach for addressing MSE-related human rights challenges, it remains to be explored if existing responsibility or accountability mechanisms can adapt or if new mechanisms are needed to apply this approach. In fact, a shared responsibility and accountability framework can take a variety of forms, ranging from judicial to non-judicial mechanisms, from transnational to international regulation, and be categorised as responsibility, accountability, or liability frameworks. On all possible routes, challenges will be encountered. One of the main problems with judicial mechanisms is their traditional focus on individual and exclusive responsibility. Cases involving multiple wrongdoers sharing responsibility challenge courts and other judicial dispute resolution mechanisms on a substantial and procedural level to find rules for attributing and attributing responsibility.

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29. Institute for Human Rights and Business - Mega Sporting Events, ‘White Paper 1.2 Sports Governing Bodies and Human Rights Due Diligence’ (2017) <https://www.ihrb.org/focus-areas/mega-sporting-events/white-paper-1.2-sports-governing-bodies> accessed 6 February 2017; Fédération Internationale de Football Association, ‘FIFA’s Human Rights Policy’ (2017) <http://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/33/12/fifashumanrightspolicy_neutral.pdf> accessed 11 June 2017; International Olympic Committee, ‘Host City Contract Principles Games of the XXXIII Olympiad in 2024’ (2017) <https://stillmed.olympic.org/Documents/Host_city_elections/Host_City_Contract_Principles.pdf> accessed 8 March 2018.

30. Amis and Morrison (n 20) 140.

31. Human Rights Watch (n 4) 1.
apportioning different shares of responsibility. It is obvious though, that a shared responsibility and accountability approach, similarly, holds *ex ante* and *ex post* benefits. It cannot only help to overcome the hurdles faced by victims in picking out separately the actors responsible for the harm they suffered, but by clarifying responsibilities within the multi-stakeholder framework and creating precedents, it can also contribute to preventing further violations for future events.

Without a doubt, there is still a long way to go before joint efforts based on shared responsibility and accountability start bearing fruits. However, the steps taken up to this point depict a more promising than hopeless scenario for the future of MSEs. After all, winning at the World Cup or Olympic Games is about more than just scoring goals or winning medals and the ultimate goal should be to eradicate their adverse human rights impacts to make use of their actual positive potential in terms of promoting human rights and unifying different nations in a peaceful manner. Sadly, this goal will remain in the far distance as long as billions of people continue to enjoy and benefit from MSEs without being aware of and addressing the human suffering these events have caused.

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