

University of Seville

European Master's Degree in Human Rights & Democratisation

2016/2017

**Qatar 2022, the World Cup of modern  
slavery – Is FIFA playing fair?**

**Author: Deborah Thuer**

Supervisors:

Carmen Márquez-Carrasco

Marta Bordignon

Deadline: 14 July 2017

## **Abstract**

Ahead of the World Cup 2022 in Qatar, migrant workers building the necessary infrastructure find themselves in a vulnerable, slavery-like position due to the exploitative Kafala system. The aim of this thesis is to investigate if FIFA - as one of the key actors of the World Cup in Qatar - has a responsibility to respect human rights. Another purpose is to analyse if FIFA is complying with the UN Guiding Principles on Business and Human Rights (UNGPs) and accordingly, what FIFA is doing to protect human rights in Qatar. First, this paper identifies the human rights issues in Qatar. Then, it explores the structure of FIFA and the legal framework before it then outlines what FIFA and its sponsors are doing and could be doing to improve the situation in Qatar. Through literature research and an interview with the FIFA Human Rights Manager, it is evident that the UNGPs apply to FIFA and that FIFA is acknowledging a certain responsibility, however, is not doing enough to stop the violations. As the rights of a lot of foreign labourers are at stake, it is crucial that FIFA and the important main sponsors of the event are aware of their responsibility and properly implement the UNGPs. If a well-known sports governing body like FIFA stood up for human rights and showed that it does not accept violations by host countries, it could be considered as a 'best practice' for others and also influence other mega-sporting events like the Olympics.

## Contents

Abbreviations .....	III
1. Introduction .....	1
1.1 Main research questions and objectives.....	1
1.2 Structure.....	2
1.3 Approach and methodology.....	2
2 Situation in Qatar .....	3
2.1 Overview.....	3
2.2. Abuses during the migration life cycle .....	5
2.3. Kafala system.....	6
2.3.1 How the systems works .....	6
2.3.2 New migrant labour law .....	8
2.4 Forced labour and human trafficking.....	11
2.5 Deplorable housing conditions .....	12
2.6 Indefinite detentions .....	13
2.7 Discrimination .....	14
2.8 Qatari governments' responsibilities regarding labour abuses .....	14
2.9 The Supreme Committee for Delivery & Legacy.....	17
3 Fédération Internationale de Football Association (FIFA) .....	19
3.1 Structure.....	20
3.2 FIFA reforms 2016 .....	22
3.3 Awarding of the World Cups.....	24
3.4 FIFA's responsibility beyond football: FIFA's general human rights policy and due diligence .....	25
4. The relevant legal framework: international and domestic instruments in the field of Business and Human Rights .....	34
4.1 UN Guiding Principles on Business and Human Rights and other soft law sources.....	35
4.1.1 UN Guiding Principles on Business and Human Rights .....	35
4.1.1.1 What are the UN Guiding Principles on Business and Human Rights?.....	35

4.1.1.2	How and to what extent can they be applied to FIFA? .....	39
4.1.2	Other relevant soft law sources .....	47
4.1.2.1	The OECD Guidelines for Multinational Enterprises .....	47
4.1.2.2	ILO Tripartite declaration of principles concerning multinational enterprises and social policy (MNE declaration).....	51
4.1.2.3	UN Global Compact.....	52
4.2	Swiss National Action Plans and hard law .....	53
4.2.1	Concerned Swiss National Action Plans (NAPs) .....	53
4.2.1.1	Position Paper on CSR .....	53
4.2.1.2	National Action Plan on Business & Human Rights .....	54
4.2.2	Hard law for human rights violations by businesses .....	57
4.2.3	The Responsible Business Initiative.....	59
5.	FIFA and working conditions in Qatar: its due diligence strategy and policy.....	60
5.1	What is FIFA doing to improve the situation in Qatar?.....	60
5.1.1	Is FIFA putting any pressure on the Qatari government? .....	64
5.1.2	Has FIFA investigated the human rights violations?.....	64
5.1.3	Are FIFA's steps in accordance with its BHR responsibility?.....	66
5.2	How could FIFA improve the working conditions and ensure that no violations occur under the new labour system? .....	69
5.3	FIFA's due diligence strategy for the World Cup bidding process .....	73
5.3.1	FIFA's current strategy.....	73
5.3.2	Human rights questionnaire for bidders that FIFA could apply in the future for the World Cup selection process .....	74
6.	Sponsors' responsibility .....	78
6.1	What are the important sponsors doing in relation to FIFA's human rights compliance? .....	78
6.2	What are their duties regarding the human rights situation in Qatar? .....	79
7.	Conclusion.....	81
	Bibliography .....	IV
	Annex .....	XIV

## Abbreviations

Art.	Article
BHR	Business and Human Rights
BWI	Building and Wood Workers' International
CSR	Corporate Social Responsibility
et al.	and others
f. / ff.	and the following page/s
FIFA	Fédération Internationale de Football Association
FNV	Federatie Nederlandse Vakvereniging
HRW	Human Rights Watch
ICT	Indian Trading and Contracting Group
ILO	International Labour Organization
ISIS	Islamic State of Iraq and Syria
ITUC	International Trade Union Confederation
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
LOC	Local organising committee
MNE	Multinational Enterprises
NAP	National Action Plan
NCP	National Contact Point
NGO	Non-governmental organization
No.	Number
OECD	Organization for Economic Co-operation and Development
OHCHR	UN Office of the High Commissioner for Human Rights
p.	page
SC	Supreme Committee for Delivery & Legacy
UN	United Nations
UNGP(s)	UN Guiding Principle(s) on Business and Human Rights
UNHRC	UN Human Rights Council
vol.	volume

## **1. Introduction**

Football is the world's most popular and powerful sport. Over three billions of people from all over the world enjoy watching superstars like Messi, Ronaldo or Neymar play at the World Cups. There is no doubt that football is a beautiful game, nevertheless, there is also a dark side to it. In December 2010, FIFA shocked the world by awarding the 2022 World Cup hosting rights to the small Gulf state of Qatar. Not only is it dangerously hot in Qatar, but also have human rights constantly been violated. Especially migrant workers are in a very vulnerable, modern slavery-like, position. FIFA is an association that is known worldwide, which makes it even more important that FIFA stands up to human rights and shows a real commitment. FIFA always highlights the importance of fair play. It could use its power to foster fair play also off the pitch by taking action to improve the human rights situation in Qatar.

### **1.1 Main research questions and objectives**

In this paper, the focus will be on FIFA's responsibility to respect human rights. I will analyse this regarding the human rights violations in Qatar and give an overview on how FIFA is complying with that responsibility. The main research questions are if FIFA is complying with the UN Guiding Principles<sup>1</sup> and if FIFA has an obligation to act in order to stop the human rights violations that occur in Qatar as a result of the World Cup construction works. My aim is to investigate what FIFA is currently doing to protect human rights in Qatar and also what else could be done to prevent further violations in the future. As the World Cup will take place in five years, there is still some time to improve the human rights situation there and it is important that FIFA and the main sponsors of the event are aware of their responsibility and properly implement the UN Guiding Principles. The final objective of my work is to assess how FIFA is complying with Ruggie's FIFA recommendations that he made in 2016 and that provide the main steps to be taken in order to implement the UN Guiding Principles.

---

<sup>1</sup> The UN Guiding Principles on Business and Human Rights are a common global platform of non-legally binding normative standards for states, businesses and also for the civil society. They apply to all states and businesses, regardless of their size, sector, location, ownership or structure. For more information see chapter 4.1.

## **1.2 Structure**

In my thesis I will cover the following topics and questions in the below order:

- Current human rights situation in Qatar
- FIFA; its structure and general human rights policy
- Relevant international and domestic legal framework
- What is FIFA doing regarding the human rights issues in Qatar?
- Are FIFA's actions in accordance with its Business and Human Rights (BHR) responsibility?
- Suggestions on what can be done to avoid awarding future World Cups to a host country with similar high human rights risks like Qatar
- The responsibility of the sponsors regarding human rights violations at the event they sponsor

## **1.3 Approach and methodology**

The main approach will be legal and I will look into international legal human rights sources as well as Qatari and Swiss law because FIFA is based in Switzerland. My focus will be on BHR rather than on Corporate Social Responsibility (CSR) because the BHR principles provide a real framework that also focuses on the states responsibility to ensure corporations comply with human rights and on access to remedy for victims rather than just a voluntary code of conduct of the companies.<sup>2</sup> My methodology will mainly be collecting data through literature research coupled with an interview with the FIFA human rights manager.

---

<sup>2</sup> For more information on the difference between BHR and CSR see chapter 4.

## 2 Situation in Qatar

In this chapter, I will first give a general overview of Qatar and then look at the human rights abuses there, focusing on migrant workers. Furthermore, I will describe what responsibilities the Qatari government has regarding the labour abuses. At the end of this chapter, I will explain what the 2022 Supreme Committee for Delivery & Legacy is and how it tries to improve the labour conditions for migrants who work on World Cup construction projects.

### 2.1 Overview

Qatar is the richest country per capita in the world.<sup>3</sup> Qatar has the political system of an absolute monarchy, where the Emir is the head of state. Sharia law is still applied and the death penalty is legal.

In 2016, Qatar's population was 2'421'055, of which 85.7% (2'074'844) were expatriates.<sup>4</sup> Migrants make up 94% of the country's working population.<sup>5</sup> In order to host the tournament, construction projects for eight new stadiums and new infrastructure (rail network, new airport, metro system, fanzones, hotels, etc.) are necessary. These projects require up to 1.5 million migrant workers.<sup>6</sup> The majority of the migrants are from India, Nepal, the Philippines, Sri Lanka, Bangladesh and Pakistan.<sup>7</sup> Human rights abuses are most common in the construction and domestic workers' sectors where migrants from the above countries are disproportionately represented.<sup>8</sup> According to the International Trade Union Confederation's (ITUC) 2015 report, 1993 workers from India and Nepal died between 2010 and 2015.<sup>9</sup> This is only the official figure for India and Nepal and there are probably much more deaths that have not been reported. The ITUC estimates that more than 7000 workers will die until the first ball kicks off in 2022 and Qatar's

---

<sup>3</sup> Worldatlas, The Richest Countries In The World, <http://www.worldatlas.com/articles/the-richest-countries-in-the-world.html> (consulted on 25 June 2017).

<sup>4</sup> Ganji, 2016, p. 225.

<sup>5</sup> Doha News Team, 2012.

<sup>6</sup> Patisson, 2013.

<sup>7</sup> Snoj, 2014.

<sup>8</sup> Ganji, 2016, p. 223.

<sup>9</sup> International Trade Union Confederation, p. 7.

government statistics calculate approximately 1091 migrant workers' deaths per year.<sup>10</sup> Given that in general the migrant workers are quite young and undergo a health check before they start working in Qatar, those figures are very high. A lot of workers are said to have died due to cardiac issues. Working long hours in an extreme heat definitely contributes to circulatory and cardiac problems, however, some unscrupulous employers try to cover up workers' deaths as cardiac arrest to avoid paying insurance.<sup>11</sup> Construction workers are not only exposed to the extreme heat and sun, but also to hazardous chemicals, falls on building sites and equipment malfunctions.<sup>12</sup> Under Qatari law autopsies and post-mortems are forbidden unless murder is suspected.<sup>13</sup> The government does not acknowledge any fatalities related to World Cup construction projects.<sup>14</sup>

Qatar has the image of being a terror-funding state. The country has been criticised for sponsoring terrorist groups such as the al-Nusrah Front Syrian rebellions and for supplying arms, logistics, medical aid and financial funds to various other Islamistic groups in the Arab region.<sup>15</sup> Qatar is also one of the main supporters of the ISIS.<sup>16</sup> Qatar is currently suffering from a diplomatic crisis as some other Arab nations such as Saudi-Arabia, the United Arab Emirates, Egypt and Bahrain accused Qatar of supporting Islamist terror groups and consequently cut diplomatic ties with Qatar.<sup>17</sup> One of the main reasons for Qatar as a non-football nation to host the World-Cup must have been the opportunity to polish up its disreputable image as a terror-funding country and to get some positive publicity. However, with regards to the World Cup preparations, Qatar has been criticised for human rights abuses such as forced labour and human trafficking, the slavery-like Kafala system, deplorable living and working conditions, indefinite detentions and discrimination against migrant workers, LGBTI and women.

---

<sup>10</sup> International Trade Union Confederation, p. 25.

<sup>11</sup> International Trade Union Confederation, p. 27.

<sup>12</sup> Human Rights Watch, 2012, p. 66.

<sup>13</sup> International Trade Union Confederation, p. 27.

<sup>14</sup> International Trade Union Confederation, p. 26.

<sup>15</sup> Tal, Samuel-Azran et al., 2016, p. 1104.

<sup>16</sup> Tal, Samuel-Azran et al., 2016, p. 1105.

<sup>17</sup> Wintour, 2017.

## **2.2. Abuses during the migration life cycle**

Forced labour is very common in Qatar. Abuses can occur in all the four phases of the migration life cycle: recruitment, deployment, employment and return. Abuses are the result of not properly enforced laws in Qatar as well as in the countries of origin.<sup>18</sup>

The migration life cycle starts with the recruitment phase when a contracting or subcontracting firm in Qatar wants to hire migrant workers.<sup>19</sup> This often happens through labour brokers in the countries of origin who charge exorbitant recruitment fees and put the migrants already in a vulnerable position before arriving to Qatar. If they have a high debt to pay they feel forced to keep their jobs, even in poor working conditions. Another common abuse is the misinformation when hiring migrants. Recruiting agents deceive workers about the type of job they will perform or promise higher salaries.<sup>20</sup> Migrants often trust the labour brokers, however, their salaries depend upon their ability to find a migrant for the job openings, which is why they tend to provide false information.<sup>21</sup>

The second phase is the deployment phase, which starts once the migrant commits to the job and starts the visa authorization process.<sup>22</sup> Before migrants can move to Qatar, they need a demand letter, which is some kind of employment agreement. In order to get this, recruitment agencies in countries of origin often charge the migrants a fee, even though this is forbidden under the Qatari labour law.<sup>23</sup> To pay those fees, brokers assist the migrants in procuring loans, however, often with high interest rates.<sup>24</sup> Moreover, many migrant workers do not get any written and signed agreements before moving to Qatar and once there, they are forced to sign a contract for a different job or salary, as they need the money to pay back their debts.<sup>25</sup> If migrants are transported to Qatar on the basis of

---

<sup>18</sup> Ganji, 2016, p. 233.

<sup>19</sup> Ganji, 2016, p. 230.

<sup>20</sup> Human Rights Watch, 2012, p. 51.

<sup>21</sup> Ganji, 2016, p. 234.

<sup>22</sup> Ganji, 2016, p. 230.

<sup>23</sup> Ganji, 2016, p. 234.

<sup>24</sup> Ganji, 2016, p. 234.

<sup>25</sup> Human Rights Watch, 2012, p. 51.

deceptive claims and then being exploited for their labour they are very likely victims of human trafficking.<sup>26</sup>

After the deployment phase, the employment phase begins, where migrants often face deplorable working conditions. Some migrants are forced to work 12-hour shifts with an inadequate water-supply in an extreme heat and are often unnecessarily exposed to occupational hazards.<sup>27</sup> Amnesty International interviewed some migrant workers and was told that some of the construction workers were not even given a helmet.<sup>28</sup> Especially problematic is Qatar's Kafala system<sup>29</sup>, which gives the employers a lot of power.

The last phase of the migration cycle is the return phase, which starts upon completion of the work contract. To leave Qatar, migrant workers need to obtain an exit visa.<sup>30</sup> They have to reintegrate economically and socially, where they often face barriers and depending on the country of origin do not get any reintegration support and often end up doing unskilled jobs and then become aspiring migrants again.<sup>31</sup>

## **2.3. Kafala system**

### **2.3.1 How the systems works**

According to the Qatari Law No. 4 of 2009<sup>32</sup>, all migrant workers are subject to the very restrictive Kafala system, which is a sponsorship system that gives the employer (*kafeel*) great control over his employees, which puts them in a very vulnerable position. This law was replaced in December 2016 by Law No. 21 of 2015<sup>33</sup>.

---

<sup>26</sup> Ganji, 2016, p. 235.

<sup>27</sup> Amnesty International, 2013, p. 45.

<sup>28</sup> Amnesty International, 2013, p. 46.

<sup>29</sup> For more information on the Kafala system see chapter 2.3.

<sup>30</sup> Ganji, 2016, p. 232.

<sup>31</sup> Ganji, 2016, p. 232 ff.

<sup>32</sup> Qatar Law No. 4 of 2009 Regulating the Entry, Exit, Residence and Sponsorship of Expatriates, adopted 26 February 2009, entered into force 29 April 2009.

<sup>33</sup> Qatar Law No. 21 of 2015 Regulating the Entry, Exit and Residence of Expatriates, adopted 27 October 2015, entered into force 13 December 2016.

Law No. 4 of 2009 covers the conditions of entry and exit for migrant workers (art. 2-8) and also the residence (art. 9-17). According to article 9, the sponsor, which is the employer, has to complete the residence procedures for the migrants within 90 days after arrival. Upon completion, he is required to return the passport to the sponsored person. However, against article 9, employers often confiscate the migrants passports upon arrival, which restricts their freedom of movement as they are not able to leave Qatar anymore until the employer agrees to give them the passports back.<sup>34</sup> Even though passport confiscations are prohibited, Qatari labour inspectors do not monitor those.<sup>35</sup> In a 2012 survey, out of 722 interviewed migrant workers, only 11% said they were in possession of their passports.<sup>36</sup> Human Rights Watch (HRW) also interviewed several migrant workers and most of them said that their passports were confiscated and that they would not be able to go back to their countries, not even in cases of emergencies.<sup>37</sup> Despite article 9, some employers have not completed the residence visa procedures for their employees, which leaves the migrants under a constant threat of arrest or deportation.<sup>38</sup> Without a valid work permit they cannot send money home and are too afraid to leave the labour camps.<sup>39</sup>

Art. 19-24 regulate that every migrant worker must have a local sponsor that provides employment and supervises the stay in Qatar and also gives them a return ticket after completing the work. According to article 22, migrants cannot change their jobs without their sponsors consent, even when the employer does not pay the wages or does not provide decent working and housing conditions. Basically, the migrant workers are trapped and fully depend on their employers consent. If they quit their jobs without permission, article 11 requires to report them and then they become illegal. This can lead to their detention and deportation.<sup>40</sup> To leave the country, they need to get an exit permit (art. 18). Article 12 allows the migrant to change his employer in case of abuse. However,

---

<sup>34</sup> Human Rights Watch, 2012, p. 71.

<sup>35</sup> Human Rights Watch, 2012, p. 73.

<sup>36</sup> Social & Economic Survey Research Institute, 2012, p. 28.

<sup>37</sup> Human Rights Watch, 2012, p. 73 f.

<sup>38</sup> Human Rights Watch, 2012, p. 74.

<sup>39</sup> Human Rights Watch, 2012, p. 74.

<sup>40</sup> Human Rights Watch, 2012, p. 71.

this is not that simple and barely ever happens as it is first necessary to register a complaint at the labour complaints department, which provides services only in Arabic, a language that not many construction workers speak.<sup>41</sup> The workers who file a complaint risk being expelled from their accommodation and losing their jobs, which leaves them without any source of income.<sup>42</sup> Amnesty International has spoken to a group of migrants that filed a complaint against their employer for having offered them a significant lower salary than agreed in the contracts before moving to Qatar and in response their employer filed charges of “absconding” against them and they got detained and held at the deportation centre.<sup>43</sup> Finally, according to the labour law No. 14 of 2004<sup>44</sup>, migrant workers are not allowed to build trade unions or to engage in strikes.<sup>45</sup>

### **2.3.2 New migrant labour law**

Amnesty International and other international organizations and trade unions long called for a reform of the abusive sponsorship law, especially asking for an abolishment of the exit permit system.<sup>46</sup> The Qatari government said with the replacement law No. 21 the sponsorship system would be abolished and expatriates rights would be more protected.<sup>47</sup> However, does the new law really bring significant changes just because it does not include the word ‘*sponsor*’ anymore?

Clearly, there are certain improvements in the new law but still some very important shortcomings and even some setbacks. Article 8 prohibits the confiscation of passports after the visa procedures have been completed (like in the old law). However, the new law includes an exception: If the expatriate requests in writing that the employer should hold on to the passport, then it is not illegal. This is very problematic and a major setback in my view as this makes it actually legal for employers to confiscate the migrant’s

---

<sup>41</sup> Human Rights Watch, 2012, p. 78.

<sup>42</sup> Human Rights Watch, 2012, p. 78.

<sup>43</sup> Amnesty International, 2016 (b), p. 1.

<sup>44</sup> Qatar Law No. 14 of 2004 issuing the Labour Law, adopted 19 May 2004, entered into force 6 July 2004.

<sup>45</sup> Human Rights Watch, 2017 (a), p. 492.

<sup>46</sup> Amnesty International, 2016 (b), p. 4.

<sup>47</sup> Gulf Times, 2015.

passports. It is very easy to force the employees to sign a written statement that they agree to the confiscation or even to fake a signature. Positive is that the penalty for passport confiscation has been increased and now can be up to 25'000 riyals according to article 39(1) in combination with article 8(3). Nevertheless, it is questionable how often a penalty will be applied since the employer can justify a passport confiscation easily by faking a written permission.

The government calls the new system a contract-based system, rather than sponsorship-based.<sup>48</sup> This becomes clear in article 21 that allows the migrant workers to change jobs before the end of the contract, however, this still requires the approval of the employer and also the Ministry of Labour and Social Affairs. At the end of the contract they can change jobs without the employer's permission if the Ministry agrees. For indefinite contracts the expatriates are free to request a change of jobs at the Ministry after five years. Therefore, if the employer does not agree to a change, the migrants are stuck in their jobs for up to five years. If the workers leave their jobs without permission, it is still considered a criminal offence (art. 16).

Another shortcoming is that workers still need an exit visa to leave Qatar. New is the setting up of an exit permit grievance committee, which consists of officials from the Ministry of Interior, the Ministry of Labour & Social Affairs and some representatives of the National Human Rights Committee.<sup>49</sup> If an employer does not give permission for leaving the country, the migrant worker can appeal to the exit permit grievance committee, which notifies the employer that the employee wants to leave and then gives the employer 72 hours to come up with a valid reason for objection and to present evidence to support this objection. If the employer is unable to do so, then the migrants receive an exit permit.<sup>50</sup> Valid objection reasons are for example fraud or if the migrant worker wants to leave in order to avoid criminal charges.<sup>51</sup> 213 out of the 760 exit requests that were made between 13 December 2016 and 15 February 2017 were denied by the

---

<sup>48</sup> Amnesty International, 2016 (b), p. 9.

<sup>49</sup> Gulf Times, 2016.

<sup>50</sup> Amnesty International, 2016 (b), p. 11.

<sup>51</sup> Amnesty International, 2016 (b), p. 11.

exit permit grievance committee without giving a justification.<sup>52</sup> The setting up of this committee is a major improvement and offers more protection for the expatriates. However, it would have been better to abolish the exit visa completely and to just stop those trying to avoid criminal prosecutions when trying to leave the country. The appeal to the exit permit grievance committee places a burden on the migrants and may not be used much by abused workers who are scared of the consequences of filing such a complaint, especially given the high number of claims that have been rejected. Furthermore, exploitative employers can abuse the system and stop their employees from leaving by filing criminal charges against them or by threatening them to do so.<sup>53</sup>

An advantage of the new law is that workers are not banned from entering Qatar anymore for two years after leaving like it was under article 4 of Law No. 4 of 2009 unless the former sponsor gave permission. It is no longer necessary to have the permission of their former employer in order to get a new job in Qatar again.<sup>54</sup> Nevertheless, the executive regulations of the new law indicate that migrant workers who leave the country before completion of the work contract, are not allowed to return to Qatar before the end of the contract period.<sup>55</sup> This means that depending on the contract they cannot return for up to five years, even in cases of exploitation, which is much worse than the previous two-year-ban.

Considering the major shortcomings of the new law, the government has failed to properly abolish the Kafala system and migrant workers still lack protection. The World Cup 2022 and the international attention that Qatar currently gets would have been great opportunities to change the abusive system and to show that the Qatari government is willing to do meaningful changes. Even though it is not called sponsorship system anymore, the workers still depend a lot on the goodwill of their employers and their freedom of movement is extremely limited.

---

<sup>52</sup> Kuttappan, 2017.

<sup>53</sup> Amnesty International, 2016 (b), p. 11.

<sup>54</sup> Gulf Times, 2015.

<sup>55</sup> Osman, 2016.

## 2.4 Forced labour and human trafficking

In article 2 of the ILO Convention 29<sup>56</sup> forced labour is defined as “*all work or service which is exacted from any person under the menace of a penalty and for which the person has not offered himself or herself voluntarily*”. Therefore, three elements have to be given: work or service, threat of a penalty and involuntariness.

Threat of a penalty can include physical and sexual violence, financial penalties, denunciation to authorities or deportations, loss of rights, dismissal from employment and deprivation of food, accommodation or other necessities.<sup>57</sup> More factors for identifying forced labour are: a lack of consent to work, a restriction to freedom of movement, induced indebtedness, false promises about the type and terms of work, withholding wages and the confiscation of identity documents.<sup>58</sup>

The facts that due to the sponsorship system the migrant workers cannot change employers freely and can only leave Qatar with an exit visa facilitate forced labour. Passport confiscations also restrict the freedom of movement, which makes the migrants find themselves in slavery-like situations. Furthermore, the fact that some workers do not have residence permits, and therefore live under a constant risk of arrest or deportation, makes them also very dependant of the employer and can be used to force them to continue working.

If the migrant workers already arrive in Qatar with debts due to the recruitment fees, they are very vulnerable and not in a position to refuse to work for a lower salary than promised. According to investigations made by Amnesty International, out of 234 interviewed migrants, 228 said that they were promised higher salaries before arriving to Qatar and most of them had their passports confiscated.<sup>59</sup> They feel forced to accept any kind of working conditions as they cannot leave the country anymore. A lot of migrant

---

<sup>56</sup> International Labour Organization, C029 - Convention concerning Forced or Compulsory Labour, adopted 28 June 1930, entered into force 1 May 1932.

<sup>57</sup> Amnesty International, 2013, p. 52.

<sup>58</sup> Amnesty International, 2013, p. 52.

<sup>59</sup> Amnesty International, 2016 (a), p. 5.

workers do not receive their salaries on time or do not get paid at all for several months. If they stop working, then they are threatened that they will never get the money that is owed to them.<sup>60</sup> The non-payment of wages is a form of coercion to force the workers to continue working, even if it is in poor conditions.<sup>61</sup> In the hope to receive the money one day the migrants keep working.<sup>62</sup> Therefore, they do not work voluntarily anymore and it can be considered a form of forced labour. One migrant that was interviewed by Amnesty said that even if they rest for five minutes in an 18-hour shift, then they are already threatened with salary cuts.<sup>63</sup>

The coercive circumstances and the exploitations can even amount to human trafficking in some cases.<sup>64</sup> Human trafficking is defined in the Palermo Protocol<sup>65</sup> as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*”

## **2.5 Deplorable housing conditions**

Most migrant workers live in “labour camps”, which are often maintained by the company itself. HRW spoke to several workers and some of them described the living conditions as cramped, inhumane and unsanitary.<sup>66</sup> According to Qatari regulations, a maximum of

---

<sup>60</sup> Amnesty International, 2013, p. 54.

<sup>61</sup> Amnesty International, 2013, p. 54.

<sup>62</sup> Amnesty International, 2013, p. 54.

<sup>63</sup> Amnesty International, 2013, p. 55.

<sup>64</sup> Human Rights Watch, 2012, p. 100.

<sup>65</sup> United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted 15 November 2000, entered into force 25 December 2003.

<sup>66</sup> Human Rights Watch, 2012, p. 65.

four workers should be accommodated in one room and bunk beds are not allowed.<sup>67</sup> Moreover, a mattress, bed coverings, air-conditioning and a water cooler should be provided.<sup>68</sup> Nevertheless, all the workers that were interviewed by HRW said they slept in bunk beds and some of them in rooms of up to 25 people. Some of them do not sleep on proper mattresses and there have been complaints of mold and broken air-conditioning as well as a lack of potable water.<sup>69</sup>

In 2013, Amnesty visited a labour camp of workers that were contracted by the Indian Trading and Contracting Group (ICT). There was no electricity, a lack of light and no running water. As there was no running water in the toilets either, the whole camp building smelled very bad. ICT had not paid their electricity bills, rubbish pick up service and food delivery services. There were piles of rubbish at the camp that attracted lots of insects. When the food delivery stopped, the workers were left without food since they did not have the money to buy their own food due to not having received any salary payments.<sup>70</sup>

These are only a few examples of the living conditions of migrant workers. Even though the law actually forbids cramped rooms and bunk beds, there is no enforcement on this and a lack of monitoring.

## **2.6 Indefinite detentions**

Based on the sponsorship law, migrants awaiting deportation can be detained for up to 30 days, however, this can be renewed several times. The Human Rights Special Rapporteur on Qatar met migrants that had been detained for a year as they lacked at least one of the three requirements they needed to go back home: their passport, an exit permit and a plane ticket. Migrant workers who leave abusive employers are detained and deported. The deportation centres seemed overcrowded and unsanitary when the

---

<sup>67</sup> Qatar Ministry of Civil Service Affairs and Housing Decree No. 17 of 2005 on Workers' Living Quarters, adopted 25 September 2005, entered into force 29 December 2005.

<sup>68</sup> Human Rights Watch, 2012, p. 65.

<sup>69</sup> Human Rights Watch, 2012, p. 65 f.

<sup>70</sup> For the whole paragraph: Amnesty International, 2013, 60 f.

Special Rapporteur visited them. It was also reported to him that pregnant women did not receive any prenatal care and that mentally ill were not given adequate treatment. Some of the detained migrants did not know why they were there and said there was no way for them to make complains about the conditions in detention.<sup>71</sup>

## **2.7 Discrimination**

In Qatar discrimination of women, LGBTI and migrants is common. Women still do not have the same rights as men, as clearly illustrated by Law No. 22 of 2006<sup>72</sup>, stating that a marriage is only valid if a woman's male guardian concludes the marriage contract. Article 58 mentions the responsibilities of women, which are the household and obeying their husbands. Women are also not allowed to pass on their nationality to their children.<sup>73</sup> Homosexuality is illegal and according to the penal law, sodomy between men can be punished with up to three years in prison.<sup>74</sup>

## **2.8 Qatari governments' responsibilities regarding labour abuses**

To tackle the problem of human trafficking and forced labour, the government ratified the UN Palermo protocol in 2009. Qatar has been a member of the ILO since 1972 and has ratified the ILO forced labour convention<sup>75</sup> as well as the conventions on the elimination of forced labour<sup>76</sup>, the elimination of discrimination in employment and occupation<sup>77</sup> and the abolition of child labour<sup>78</sup>. In March 2017, the ILO decided to give Qatar another eight months to implement new labour reforms to end the abuse of migrant workers. If Qatar does not comply with that, the ILO will start an investigation of forced

---

<sup>71</sup> For the whole paragraph: UNHRC, 2014, p. 13 f.

<sup>72</sup> Qatar Law 22 of 2006 issuing the Family Law, adopted 29 June 2006, entered into force 28 August 2006.

<sup>73</sup> Human Rights Watch, 2017 (a), p. 493.

<sup>74</sup> Qatar Law 11 of 2014 issuing the Penal Code, adopted 10 May 2004, entered into force 15 June 2004.

<sup>75</sup> ILO Convention 29 concerning Forced or Compulsory Labour, adopted 28 June 1930, entered into force 1 May 1932.

<sup>76</sup> ILO Convention 105 on the Abolition of Forced Labour, adopted 25 June 1957, entered into force 17 January 1959.

<sup>77</sup> ILO Convention 111 on Discrimination in Respect of Employment and Occupation, adopted 25 June 1958, entered into force 15 June 1960.

<sup>78</sup> ILO Convention 182 on the Worst Forms of Child Labour, adopted 17 June 1999, entered into force 19 November 2000.

labour violations in November 2017 through a commission of inquiry, which is ILO's highest-level investigative procedure.<sup>79</sup>

Qatar still has not ratified any of the ILO conventions regarding freedom of association. Nevertheless, in the Declaration of Fundamental Principles and Rights at Work<sup>80</sup>, the ILO stresses that even member states who have not ratified the conventions in question, have an obligation to respect, to promote and to realise the principles concerning the fundamental rights, one of which is the freedom of association. Accordingly, as an ILO member state, Qatar has to fulfil this obligation.

Qatar still has not ratified the International Covenant on Civil and Political Rights<sup>81</sup> or the International Covenant on Economic, Social and Cultural Rights<sup>82</sup>, which are part of the International Bill of Human Rights<sup>83</sup>. Qatar acceded to the International Convention on the Elimination of all forms of Racial Discrimination<sup>84</sup>, the Convention on the Elimination of all forms of Discrimination Against Women<sup>85</sup> and the convention Against Torture<sup>86</sup>.

Qatar's labour law sets the maximum working week at 48 hours, with a maximum of eight hours a day, six days a week. This also covers the migrant workers, however, many of

---

<sup>79</sup> International Labour Organization, 2017 (a), p. 1 f.

<sup>80</sup> ILO Declaration of Fundamental Principles and Rights at Work, adopted 18 June 1998.

<sup>81</sup> International Covenant on Civil and Political Rights, adopted 16 December 1966, entered into force 23 March 1976.

<sup>82</sup> International Covenant on Economic, Social and Cultural Rights, adopted 16 December 1966, entered into force 3 January 1976.

<sup>83</sup> The International Bill of Human Rights is made up of the five core human rights treaties of the United Nations that function to advance the fundamental freedoms and to protect the basic human rights of all people. It consists of the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

<sup>84</sup> International Convention on the Elimination of All Forms of Racial Discrimination, adopted 21 December 1965, entered into force 4 January 1969.

<sup>85</sup> Convention on the Elimination of All Forms of Discrimination against Women, adopted 18 December 1979, entered into force 3 September 1981.

<sup>86</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 December 1984, entered into force 26 June 1987.

them work much more than 48 hours a week. In February 2015, Law No. 1 of 2015<sup>87</sup> introduced a wage protection system as a response to the criticism of the non-payment of wages. According to this law, employers have to pay the salaries through direct bank transfers to a Qatari account of the employee at least once per month. Employers, who do not comply with this, can be sent to jail for up to one month or have to pay a fine between 2000 and 6000 Riyals. According to article 14 of Qatar's anti trafficking law<sup>88</sup>, someone who commits human trafficking can be sent to jail for up to seven years and punished with a fine of up to 250'000 Riyals. For aggravated cases, for example when children or women are involved, imprisonment of up to 15 years and a fine of up to 300'000 Riyals are possible (article 15).

The problem is that the laws are not adequately enforced and that there is not enough control to check if the employers really comply with those provisions. Qatar lacks labour inspectors and often they lack language skills and can only communicate in Arabic or English, two languages that a lot of migrants do not speak.<sup>89</sup> Another issue is the accessibility of the labour complaints system. The migrant workers can make a complaint about a violation of the labour law to the Labour Relations Department of the Ministry of Labour, who then tries to mediate with the employers. If a case cannot be resolved by mediation, it will be referred to the Labour Court, however, the processes at the Labour Court are long and the migrants have to pay a fee of 600 riyals (which is equal to a month's salary) in order to access them, which many of them cannot pay since often the reason for the complaint is the non-payment of wages.<sup>90</sup> Furthermore, the website where it is possible to make a labour complaint is only available in English and Arabic, which makes it difficult for the migrants to fill out the complaints form.<sup>91</sup>

---

<sup>87</sup> Qatari Law No. 1 of 2015 amending certain provisions of the Labour Code promulgated by Act No. 14 of 2004, adopted 18 February 2015.

<sup>88</sup> Qatari Law No. 15 of 2011 combating trafficking in human beings, adopted 24 October 2011, entered into force 21 November 2011.

<sup>89</sup> Amnesty International, 2013, p. 110 f.

<sup>90</sup> Amnesty International, 2013, p. 114 ff.

<sup>91</sup> Labour complaint form available here:

[http://www.hukoomi.qa/wps/portal/services/individuallandingpages/individuals%20services/submitlaborcomplaint!/ut/p/a0/04\\_Sj9CPykssy0xPLMnMz0vMAfGjzOI\\_S2cDS0sDNz9fVYNDTyDHT2d\\_HzdDA1CjPULsh0VAZGTuVA!/](http://www.hukoomi.qa/wps/portal/services/individuallandingpages/individuals%20services/submitlaborcomplaint!/ut/p/a0/04_Sj9CPykssy0xPLMnMz0vMAfGjzOI_S2cDS0sDNz9fVYNDTyDHT2d_HzdDA1CjPULsh0VAZGTuVA!/).

With regards to the recruitment fees, even though Qatar's labour law prohibits recruitments agents licensed in Qatar from charging fees, Qatar does nothing to prevent employers from Qatar to work together with recruiting agencies abroad that charge recruitment fees.<sup>92</sup> This makes the prohibition of recruitment fees in Qatar not very effective as agencies in the home countries can still charge recruitment fees and there have been cases where the fees paid outside of Qatar ended up going to Qatari agencies. A 2011 World Bank study proved that 43% of the fees paid to recruitment agencies in Nepal ended up going to recruitment agencies or middlemen in Qatar.<sup>93</sup> Even though it is illegal, some Qatari employers deduct recruitment fees from the workers' salaries.<sup>94</sup> In July 2014, the Ministry of Labour said that recruitment agencies that have violated labour standards three times will be announced in local newspapers.<sup>95</sup>

Qatar has an independent National Human Rights Committee, which is an advisory body that deals with human rights at the national level of authorities and investigates complaints from individuals and groups. It monitors the human rights situation in Qatar and cooperates with other international governmental bodies, for example to train the inspectors of the Ministry of Labour.<sup>96</sup> However, it is not actively asking for an abolishment of the exploitative Kafala system.

## **2.9 The Supreme Committee for Delivery & Legacy**

In 2011, the government established the Supreme Committee for Delivery & Legacy (SC), which is responsible for the delivery of the infrastructure and the planning of the World Cup 2022. It consists of international experts from countries like England, Australia, United States, etc.<sup>97</sup> The SC has committed to ensure the rights of workers on World Cup tournament sites are protected and developed the Workers' Welfare

---

<sup>92</sup> Human Rights Watch, 2012, p. 53.

<sup>93</sup> Endo & Afram, 2011, p. 9.

<sup>94</sup> Human Rights Watch, 2012, p. 53.

<sup>95</sup> Amnesty International, 2014, p. 8.

<sup>96</sup> Qatar National Human Rights Committee, 2016, p. 13.

<sup>97</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

Standards.<sup>98</sup> Those standards are contractually binding for all the companies that work on World Cup sites.<sup>99</sup> The standards include accommodation and project site requirements as well as standards for health and safety, recruitment, work contracts, payment of wages, termination of employment and repatriation. A Workers' Welfare Forum was set up so that migrant workers can raise their issues there.<sup>100</sup> The SC has reviewed progress, regularly published data and responded to reports of abuse.<sup>101</sup>

Monitoring of compliance with the standards is based on a four-tier process. Firstly, the monthly self-audits by the contractors which are then followed by *ad hoc* SC audits to validate the self-audit of the contractors and then also by *ad hoc* external monitor audits by an independent third party and lastly some inspections by the Ministry of Labour & Social Affairs.<sup>102</sup>

However, the monitoring and enforcement of the Workers' Welfare Standards is not sufficient, especially as the focus of the SC is only on the main contractors. This leaves the migrants that are working for small sub-contractors or labour supply companies without protection.<sup>103</sup> As the SC only focuses on workers on tournament sites, the standards do not help the migrants who are working on other construction sites that are only indirectly related to the World Cup (e.g the new roads and airports that are necessary). By the end of February 2017, only around 12'367 migrants were working at World Cup construction sites.<sup>104</sup> This figure is expected to increase to around 36'000 by the end of the year.<sup>105</sup> Another negative point is that the SC relies a lot on self-auditing by companies, which does not seem to be very efficient for detecting human rights abuses.<sup>106</sup>

---

<sup>98</sup> For more information see: Supreme Committee for Delivery & Legacy, 2016.

<sup>99</sup> FIFA, 2017 (b), p. 12.

<sup>100</sup> Supreme Committee for Delivery & Legacy, 2016, p. 40.

<sup>101</sup> Amnesty International, 2016 (a), p. 8.

<sup>102</sup> Supreme Committee for Delivery & Legacy, Workers' Welfare Compliance, <http://www.sc.qa/en/opportunities/workers-welfare/workers-welfare-compliance> (consulted on 20 June 2017).

<sup>103</sup> Amnesty International, 2016 (a), p. 8.

<sup>104</sup> Supreme Committee for Delivery & Legacy, 2017, p. 26.

<sup>105</sup> Impactt, 2017, p. 11.

<sup>106</sup> Amnesty International, 2016 (a), p. 8.

In November 2016, the SC and Building Wood Workers' International (a global trade union) signed a Memorandum of Understanding to conduct joint health and safety inspections at the construction and accommodation sites, to assess the SC's grievance mechanisms and to train staff from the SC and contractors.<sup>107</sup> They will form a joint working group and issue progress reports, which is an important step to ensure workers' health and safety.<sup>108</sup>

Impactt, a British independent ethical trade consultancy, reviewed the SC's Workers' Welfare Standards and assessed compliance of the construction companies with the standards. In its annual external compliance report it came to the conclusion that significant progress has been made. Most companies complied with housing and safety standards but not with giving the workers enough rest and setting up grievance mechanisms. Some migrants even worked up to 18 hours a day. Nevertheless, after pointing out the non-compliance to the corresponding employer, solid progress was made and 78% of the issues were resolved or progress had been made in resolving them, especially in the provision of medical care and transportation, facilities management and end-of service procedures. Further improvements are necessary in the areas of providing workers with residence permits, setting up worker-employer dialogues and the reimbursement of recruitment fees to worker who can provide evidence of payment of such fees.<sup>109</sup>

### **3 Fédération Internationale de Football Association (FIFA)**

FIFA is one of the main actors in this context. In this chapter, I will focus on its structure and general human rights policy.

---

<sup>107</sup> FIFA, 2017 (b), p. 12.

<sup>108</sup> Impactt, 2017, p. 4.

<sup>109</sup> The whole paragraph: Impactt, 2017, p. 38.

### 3.1 Structure

FIFA is made up of 211 national associations that are split up in six regional confederations and can be called the “United Nations of Football”.<sup>110</sup> It was founded with the first FIFA statutes in 1904 in Paris by the football associations of France, Switzerland, Belgium, Denmark, the Netherlands, Spain and Sweden.<sup>111</sup> The first World Cup was held in 1930 in Uruguay.<sup>112</sup> Since 1932, FIFA’s headquarters are in Zurich and it was established as an association under Swiss law. FIFA’s slogan is “For the Game. For the World”. Its mission is to develop the game, touch the world and build a better future.<sup>113</sup> The main objective is the improvement of football in its member associations and the promotion of its unifying, educational, cultural and humanitarian values through development and youth programmes.<sup>114</sup> Another objective is to unite, inspire and touch the world through the organization of international football tournaments.<sup>115</sup> FIFA acknowledges the duty to improve the lives of young people and their communities and to reduce the negative impact of its activities.<sup>116</sup> FIFA combats racism or any kind of discrimination. It promotes friendly relations between everyone involved in the game and obliges them to comply with the statutes, regulations and principles of fair play. FIFA also helps in resolving disputes.<sup>117</sup>

The FIFA consists of the FIFA Congress, the FIFA Council which replaced the FIFA Executive Committee in 2016, the president, the General Secretariat, the FIFA judicial bodies and several committees. The FIFA Congress is the supreme and legislative body

---

<sup>110</sup> FIFA, Associations, <https://www.fifa.com/associations/index.html> (consulted on 3 May 2017).

<sup>111</sup> FIFA, History of FIFA - Foundation, <http://www.fifa.com/about-fifa/who-we-are/history/> (consulted on 3 May 2017).

<sup>112</sup> FIFA, History of FIFA - The first FIFA World Cup™, <http://www.fifa.com/about-fifa/who-we-are/history/first-fifa-world-cup.html> (consulted on 3 May 2017).

<sup>113</sup> FIFA, FIFA Congress, <https://www.fifa.com/about-fifa/fifa-congress/all-you-need-to-know/index.html> (consulted on 3 May 2017).

<sup>114</sup> FIFA, What we stand for, <https://www.fifa.com/about-fifa/who-we-are/explore-fifa.html> (consulted on 3 May 2017).

<sup>115</sup> FIFA, What we stand for, <https://www.fifa.com/about-fifa/who-we-are/explore-fifa.html> (consulted on 3 May 2017).

<sup>116</sup> FIFA, What we stand for, <https://www.fifa.com/about-fifa/who-we-are/explore-fifa.html> (consulted on 3 May 2017).

<sup>117</sup> FIFA, FIFA Congress, <https://www.fifa.com/about-fifa/fifa-congress/all-you-need-to-know/index.html> (consulted on 3 May 2017).

of world football and is made up of one delegate from each national association, which all have an equal vote.<sup>118</sup> The “football parliament” meets once a year and is responsible for electing the FIFA president every four years, approving the annual report, amending the statutes, removing a Council member from office and deciding on the acceptance or exclusion of associations.<sup>119</sup> The Council is the strategic and oversight body that consists of 37 members for a term of four years: one president, eight Vice-Presidents and 28 other members elected by the associations.<sup>120</sup> A minimum of six female representatives is required (one per confederation).<sup>121</sup> The current FIFA president is Gianni Infantino, who replaced Joseph S. Blatter in 2016. The executive, operational and administrative body is the General Secretariat. There are nine standing committees that assist the Council and the General Secretariat in accomplishing their tasks.<sup>122</sup> There are also four independent committees that work completely independently, however, always in the interest of FIFA and in accordance with its statutes and regulations.<sup>123</sup> Three of them, the Appeal, Disciplinary and Ethics Committees, are FIFA’s judicial bodies and are also elected by the Congress for four years.<sup>124</sup>

FIFA usually handles football disputes privately without involving an external court.<sup>125</sup> FIFA can do this because the European Council supports the independence of sports organizations and their right to organise themselves.<sup>126</sup> A labour complaint can be made at the Dispute Resolution Chamber, which has the power to decide on disputes between

---

<sup>118</sup> FIFA, FIFA Congress, <https://www.fifa.com/about-fifa/fifa-congress/all-you-need-to-know/index.html> (consulted on 3 May 2017).

<sup>119</sup> FIFA, FIFA Congress, <https://www.fifa.com/about-fifa/fifa-congress/all-you-need-to-know/index.html> (consulted on 3 May 2017).

<sup>120</sup> FIFA, FIFA Council, <https://www.fifa.com/about-fifa/fifa-council/index.html> (consulted on 4 May 2017).

<sup>121</sup> FIFA, How the FIFA Council works, <https://www.fifa.com/about-fifa/fifa-council/how-the-fifa-council-works.html> (consulted on 4 May 2017).

<sup>122</sup> FIFA, Committees, <https://www.fifa.com/about-fifa/committees/index.html> (consulted on 4 May 2017).

<sup>123</sup> FIFA, Committees, <https://www.fifa.com/about-fifa/committees/index.html> (consulted on 4 May 2017).

<sup>124</sup> FIFA, Committees, <https://www.fifa.com/about-fifa/committees/index.html> (consulted on 4 May 2017).

<sup>125</sup> Youd, 2014, p. 179.

<sup>126</sup> Youd, 2014, p. 179.

players and clubs.<sup>127</sup> The Disciplinary Committee can impose sanctions for the breach of FIFA regulations on members, clubs, officials, players, game agents and players' agents. However, it only has jurisdiction if no other judicial body has jurisdiction for that particular breach.<sup>128</sup> The Ethics Committee investigates possible infringements of the FIFA Code of Ethics.<sup>129</sup> Examples could be cases of bribery or corruption of FIFA officials.<sup>130</sup> It is separated in two chambers: the investigatory chamber and the adjudicatory chamber.<sup>131</sup> The investigatory chamber investigates potential breaches of the Code of Ethics independently and the adjudicatory chamber then reviews those investigations and takes a decision.<sup>132</sup> The Appeal Committee deals with appeals against decisions of the Disciplinary Commission, which the FIFA regulations do not define as final.<sup>133</sup> The Appeal Committees decisions are final and binding, however, they can be appealed to the external court of Arbitration for Sport.<sup>134</sup> Decisions of the Ethics Committee can also be brought to the Appeal Committee if they fulfil the conditions in provision number 80 of the Code of Ethics.<sup>135</sup>

### **3.2 FIFA reforms 2016**

In February 2016 the FIFA 2.0 reform was approved. This included a transformational restructuring to optimise FIFA's operations and build a stronger institution. The reform included a clear separation of commercial and strategic political decision making, greater scrutiny of the integrity of senior officials and an enhanced commitment to the promotion of human rights and women's football. Member associations and confederations have to comply with statutory principles of good governance. FIFA's focus is on four main areas: governance, transparency, accountability and diversity. Moreover, FIFA must address

---

<sup>127</sup> Youd, 2014, p. 180.

<sup>128</sup> FIFA, 2011, p. 44.

<sup>129</sup> FIFA, 2012 (b), p. 23.

<sup>130</sup> FIFA, 2012 (b), p. 19.

<sup>131</sup> FIFA, Independent Ethics Committee, <https://www.fifa.com/about-fifa/committees/committee=1882034/index.html> (consulted on 15 May 2017).

<sup>132</sup> FIFA, 2012 (b), p. 24 f.

<sup>133</sup> FIFA, Independent Ethics Committee, <https://www.fifa.com/about-fifa/committees/committee=1882034/index.html> (consulted on 15 May 2017).

<sup>134</sup> FIFA, Independent Ethics Committee, <https://www.fifa.com/about-fifa/committees/committee=1882034/index.html> (consulted on 15 May 2017).

<sup>135</sup> FIFA, 2012 (b), p. 50 f.

some new issues such as the threat of terrorism, health and wellness, worker's rights and global warming.<sup>136</sup>

The guiding principles of FIFA's new model are accountability, transparency, cooperation and inclusivity. FIFA has set some goals until 2026 to reach the three main goals which are to grow the game, to enhance the football experience and to build a stronger institution.<sup>137</sup> In order to grow the game, FIFA invests in development programmes and wants to include people from all genders, orientations, creeds and ethnicities.<sup>138</sup> The focus is particularly on the inclusion of women.<sup>139</sup> To enhance the football experience it wants to invest in technology, optimise the structure of the World Cups, improve the FIFA ticketing function and communicate transparently and effectively with fans.<sup>140</sup> The most important objective is to build a stronger institution. This involves committing to stronger governance measures, clearly separating the administration management from strategic and political functions, creating a more efficient and sustainable FIFA, maximising community impact, championing human rights and gender equity, establishing new regional offices to provide better oversight in development and fostering greater collaboration with stakeholders.<sup>141</sup> Furthermore, FIFA will reassess the world cup bidding process and recommend changes to ensure an efficient and transparent bidding process in the future.<sup>142</sup> FIFA's administration has also taken steps to address issues regarding salaries and compensation as well as administration expenses in general, which involves forensic and financial audits and the development of transparent budget and accounting processes.<sup>143</sup> The governance reform in May 2016 put the separation between management and political functions into practice. It established the FIFA Council, which replaced the Executive Committee.

---

<sup>136</sup> For the whole paragraph: FIFA, 2016 (c), p. 6 ff.

<sup>137</sup> FIFA, 2016 (c), p. 16.

<sup>138</sup> FIFA, 2016 (c), p. 19.

<sup>139</sup> FIFA, 2016 (c), p. 37.

<sup>140</sup> FIFA, 2016 (c), p. 21 f.

<sup>141</sup> FIFA, 2016 (c), p. 57 ff.

<sup>142</sup> FIFA, 2016 (d).

<sup>143</sup> FIFA, 2016 (d).

Picture: 2016 FIFA Reform: From the Executive Committee to the FIFA Council<sup>144</sup>



### 3.3 Awarding of the World Cups

The awarding of the 2018 World Cup to Russia and 2022 World Cup to Qatar led to a lot of controversy and accusations of corruption. Both countries have a lot of human rights issues and from a human-rights perspective it is not understandable at all why they won the World Cup bids. However, this is not the first time that FIFA has made some questionable decisions. The best example is 1978 when probably the most controversial World Cup took place in Argentina during the military dictatorship where forced disappearances and torture were widespread.

The FIFA rules exclude the confederations whose associations have hosted the two preceding World Cups from bidding for the next World Cup.<sup>145</sup> Consequently, as the 2010 World Cup took place in South Africa and the 2014 World Cup in Brazil, countries from Africa or South America were not allowed to bid in the 2018 bidding process that took

<sup>144</sup> FIFA, A guide to the FIFA reform proposals, <http://www.fifa.com/about-fifa/photos/galleries/y=2016/m=2/gallery=the-reform-process-chronology-2763347.html#2763249> (consulted on 20 June 2017).

<sup>145</sup> Macdonald, 2010.

place in 2010. As all the bids for the 2018 World Cup came from Europe, countries from South America and Europe were not allowed to bid for the 2022 World Cup.<sup>146</sup>

The decision on the host countries was made by the FIFA Executive Committee which consisted of 24 members who all had one vote, except for two of them that got suspended due to corruption.<sup>147</sup> The voters should consider the outcomes of the FIFA delegations fact-finding trip to the bidding countries, where the strengths and weaknesses of each country are analysed.<sup>148</sup> The host country decision is usually made six to eight years in advance of the tournament. However, the 2022 World Cup to Qatar was awarded at the same time as the 2018 World Cup to Russia, which was 12 years before the tournament. This is also a bit controversial as the main focus of the bidders was on the 2018 World Cup and the 2022 World Cup did not get much attention at that time. There have been requests to rerun the bid for the 2022 World Cup due to bribery and corruption during the last bidding process. There are claims that the Qatari former FIFA vice-president Mohammed Bin Hammam distributed more than five million dollars in cash gifts to African officials in order to secure their vote.<sup>149</sup> In June 2017, FIFA published the “Garcia report”, which documents the findings of the corruption investigation of the 2018 and 2022 World Cup awardings.<sup>150</sup>

### **3.4 FIFA’s responsibility beyond football: FIFA’s general human rights policy and due diligence**

In its mission statement, FIFA acknowledges that it has a responsibility beyond football: *“The world is a place rich in natural beauty and cultural diversity, but also one where many are still deprived of their basic rights. FIFA now has an even greater responsibility to reach out and touch the world, using football as a symbol of hope and integration.”*<sup>151</sup>

---

<sup>146</sup> Macdonald, 2010.

<sup>147</sup> Macdonald, 2010.

<sup>148</sup> Macdonald, 2010.

<sup>149</sup> Gibson, 2015 (b).

<sup>150</sup> For more information see: Garcia & Borbély, 2014.

<sup>151</sup> FIFA, Our commitment,

[https://www.fifa.com/mm/document/footballdevelopment/education/55/95/17/fifa\\_brandbroschuere\\_23x23\\_e\\_13324%5B1%5D.pdf](https://www.fifa.com/mm/document/footballdevelopment/education/55/95/17/fifa_brandbroschuere_23x23_e_13324%5B1%5D.pdf) (consulted on 29 May 2017).

According to article 3 of its statutes: “*FIFA is committed to respecting all internationally recognised human rights and shall strive to promote the protection of these rights.*”<sup>152</sup> This new article was approved during an extraordinary FIFA Congress in February 2016.<sup>153</sup> FIFA acknowledges the duty to preserve the inherent dignity and equal rights of every person that is affected by FIFA’s activities.<sup>154</sup> It reviews its policies and processes as well as its organisational and event management systems regularly in order to ensure that human rights risks are appropriately addressed in relation to its activities.<sup>155</sup> There is a continuous engagement with stakeholders to address human rights risks related to its tournaments and programmes.<sup>156</sup> In 1997, FIFA worked with the ILO to create a due diligence programme to combat child labour in the ball-manufacturing industry, which led to contractually binding the licensees for balls and artificial turfs to ensure fair labour practices and to prevent child labour.<sup>157</sup> Moreover, it has a long-standing cooperation with the World Federation of the Sporting Goods Industry, which promotes fair and environmentally friendly working conditions and includes ethical standards regarding working hours, health and safety, environmental responsibility and child labour in its code of conduct.<sup>158</sup> The cooperation’s purpose is the improvement of working conditions and environmental protection as well as the fight against child labour and forced labour.<sup>159</sup>

The FIFA Code of Conduct defines the most important principles and values for behaviour within FIFA as well as with external parties and applies to all members of the FIFA.<sup>160</sup> There are 11 core principles:

1. *Integrity and ethical behaviour*
2. *Respect and dignity*
3. *Zero tolerance of discrimination and harassment*

---

<sup>152</sup> FIFA, 2016 (b), p. 7.

<sup>153</sup> FIFA, 2016 (c), p. 63.

<sup>154</sup> FIFA, 2016 (c), p. 62.

<sup>155</sup> FIFA, 2016 (c), p. 62.

<sup>156</sup> FIFA, 2016 (c), p. 62.

<sup>157</sup> FIFA, 2016 (e), p. 2.

<sup>158</sup> FIFA, 2016 (e), p. 3.

<sup>159</sup> FIFA, 2016 (e), p. 3.

<sup>160</sup> FIFA, 2012 (a), p. 2.

4. *Fair play*
5. *Compliance with laws, rules and regulations*
6. *Avoidance of conflicts of interest*
7. *Transparency and compliance*
8. *Social and environmental responsibility*
9. *Fight against drugs and doping*
10. *Zero tolerance of bribery and corruption*
11. *No betting or manipulation*<sup>161</sup>

In accordance with principle number eight FIFA aims to minimise the negative impacts on the environment of its activities and to contribute to social change and to promote sustainability. FIFA ensures compliance with ethical business practices in terms of child labour, working hours, health and safety requirements and environmental responsibility.<sup>162</sup>

In 1961, FIFA was the first international sporting body that imposed sanctions on South Africa during its apartheid regime, which culminated in South Africa's global sporting and political isolation.<sup>163</sup> FIFA publicly committed to anti-discrimination in the Buenos Aires Resolution in 2001 and launches "Say No to Racism" campaigns from time to time.<sup>164</sup> It has a sustainability program that promotes awareness of human rights and addresses negative impacts, especially focusing on non-discrimination and racism in connection with its tournaments.<sup>165</sup> It recently launched an Anti-Discrimination Monitoring System.<sup>166</sup> Independent observers are present at all the matches that pose a high risk for discriminatory incidents and the observers then report on any incidents so that internal disciplinary sanctions can be imposed.<sup>167</sup> This led to several member associations being fined for homophobic chants by fans.<sup>168</sup>

---

<sup>161</sup> FIFA, 2012 (a), p. 3 f.

<sup>162</sup> FIFA, 2016 (c), p. 62.

<sup>163</sup> Amis, 2013, p. 6.

<sup>164</sup> Amis, 2013, p. 6.

<sup>165</sup> Ruggie, 2016, p. 19.

<sup>166</sup> FIFA, 2015, p. 1.

<sup>167</sup> FIFA, 2017 (b), p. 14.

<sup>168</sup> FIFA, 2016 (a).

FIFA is regularly in touch with all the relevant authorities in the World Cup host countries. This includes discussing human rights issues related to the tournament preparations with important NGOs and political institutions.<sup>169</sup> This can be about the application of ethical standards on child labour, forced labour and working conditions as well as about matters of discrimination or gender equality.<sup>170</sup> FIFA works closely with the World Cup local organising committees and with the local governments to ensure fair working conditions on World Cup construction sites.<sup>171</sup>

FIFA is fully aware of the opportunity they have to improve the working conditions of construction workers in the host countries and created in 2016 the FIFA Human Rights Advisory Board.<sup>172</sup> This board is comprised of eight human rights and labour rights experts on a pro bono basis from the United Nations, trade unions (e.g. Building and Wood Workers' International), civil society and businesses like Adidas or Coca-Cola.<sup>173</sup> Those experts are selected by the FIFA Secretary General for a period of two years, which is renewable.<sup>174</sup> Its function is to guide FIFA on the implementation of its human rights-related responsibilities, which include policy commitments, due diligence processes and processes for remediation for those who have been severely impacted by FIFA's activities.<sup>175</sup> Possible issues could be labour standards, health and safety, property rights, discrimination, security or freedom of expression.<sup>176</sup> The human rights issues should be prioritised by likelihood and severity, not by any commercial interest or by FIFA's influence over the situation.<sup>177</sup> The FIFA General Secretariat considers the recommendations from the Advisory Board in order to implement its human rights commitment of article 3 of the FIFA Statutes.<sup>178</sup> The Board drafts a report bi-annually

---

<sup>169</sup> FIFA, 2016 (c), p. 63.

<sup>170</sup> FIFA, 2016 (c), p. 63.

<sup>171</sup> FIFA, 2016 (c), p. 63.

<sup>172</sup> FIFA, 2016 (c), p. 64.

<sup>173</sup> Business & Human Rights Resource Centre, FIFA Human Rights Advisory Board, 2017, <https://business-humanrights.org/en/fifa-human-rights-advisory-board> (consulted on 18 May 2017).

<sup>174</sup> FIFA, 2016 (f), p. 3.

<sup>175</sup> FIFA, 2016 (f), p. 2.

<sup>176</sup> FIFA, 2016 (f), p. 2.

<sup>177</sup> FIFA, 2016 (f), p. 2.

<sup>178</sup> FIFA, 2016 (f), p. 2.

and one part of the report is reserved for FIFA to describe the progress and challenges regarding the implementation of the recommendations.<sup>179</sup> The Advisory Board is fully independent and had its first meeting in March 2017 where it adopted a set of operating principles to guide its work and guarantee its independence and responsiveness to human rights concerns of stakeholders.<sup>180</sup> It liaises closely with the Human Rights Working Group of the FIFA Governance Committee, which is required to advise and assist the FIFA Council on human rights matters in connection with FIFA's activities.<sup>181</sup> However, responsible for ensuring the day-to-day management of FIFA's human rights work is the Head of the Sustainability & Diversity Department, who reports directly to the Secretary General.<sup>182</sup>

In April 2017, FIFA joined the Mega-Sporting Events Platform for Human Rights, which is an emerging multi-stakeholder coalition of international and intergovernmental organisations, governments, sports governing bodies, athletes, unions, sponsors, broadcasters, and civil society groups whose mission is to ensure through dialogue and joint actions that all actors involved in staging an event fully embrace and operationalise their respective human rights duties and responsibilities throughout the mega sporting event lifecycle.<sup>183</sup> The members of the platform work together to develop methods to managing social risks and human rights impacts that arise from mega sporting events.<sup>184</sup> Joining this platform is an important step to show real commitment to human rights.

Furthermore, in September 2016, FIFA hired a Human Rights Manager that is part of the sustainability team which currently consists of seven employees and coordinates all the human rights work.<sup>185</sup> There are also sustainability teams in Russia and Qatar. FIFA is

---

<sup>179</sup> FIFA, 2016 (f), p. 5.

<sup>180</sup> Business & Human Rights Resource Centre, FIFA Human Rights Advisory Board, 2017, <https://business-humanrights.org/en/fifa-human-rights-advisory-board> (consulted on 18 May 2017).

<sup>181</sup> Business & Human Rights Resource Centre, FIFA Human Rights Advisory Board, 2017, <https://business-humanrights.org/en/fifa-human-rights-advisory-board> (consulted on 18 May 2017).

<sup>182</sup> FIFA, 2017 (c), p. 10.

<sup>183</sup> Institute for Human Rights and Business, 2017.

<sup>184</sup> Institute for Human Rights and Business, 2017.

<sup>185</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

currently reviewing its bidding process with respect to human rights and anti-corruption.<sup>186</sup>

For the World Cup 2018 in Russia, FIFA developed a sustainability strategy together with the local organising committee (LOC), which covers various aspects of human rights.<sup>187</sup> The goals are to contribute to human and social development, to enhance local economic development and to protect the environment.<sup>188</sup> FIFA and the LOC created a Decent Work Monitoring System in collaboration with a Russian institution (Klinsky Institute) that is specialised on labour protection and working conditions.<sup>189</sup> This institution inspects all Russian stadium construction sites on a quarterly basis and reports any inconsistencies to the Russian authorities who have the responsibility to ensure that labour rights on their territory are respected and construction companies are held accountable.<sup>190</sup> However, HRW criticised that the inspections do not include other constructions sites that are related to the World Cup and that FIFA has not been very transparent about the results of those inspections and not mentioned what types of violations occurred, where they took place or how they were remedied.<sup>191</sup> FIFA replied to those criticisms and said it would go beyond what any other sports federation has done to identify and address human rights issues despite not having any direct contracts with the Russian construction companies.<sup>192</sup> Since the start of the monitoring visits in April 2016, the amount of inconsistencies and incompliances with labour standards has been reduced by 72%.<sup>193</sup>

In May 2017, FIFA published its human rights policy. FIFA emphasised its commitment to embed this policy across its activities through on-going due diligence processes, which also includes respecting human rights in the bidding processes, hosting of its events and in relationships with third parties.<sup>194</sup> FIFA is committed to implement the UN Guiding

---

<sup>186</sup> FIFA, 2016 (e), p. 2.

<sup>187</sup> FIFA, 2016 (e), p. 1.

<sup>188</sup> FIFA and the 2018 FIFA World Cup Russia™ Local Organising Committee, 2015, p. 9.

<sup>189</sup> FIFA, 2017 (b), p. 11.

<sup>190</sup> FIFA, 2017 (d).

<sup>191</sup> Human Rights Watch, 2017 (b), p. 1 f.

<sup>192</sup> FIFA, 2017 (d).

<sup>193</sup> FIFA, 2017 (d).

<sup>194</sup> FIFA, 2017 (c), p. 4.

Principles on Business and Human Rights (UNGPs) and its commitment embraces all internationally recognised human rights, including the International Bill of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.<sup>195</sup> In December 2015, FIFA asked John Ruggie, former UN Secretary General’s Special Representative for Business and Human Rights and developer of the UNGPs, to give recommendations on how to implement the UNGPs into its global operations (*see 4.1.1.2*).<sup>196</sup>

In its policy commitment, which is in accordance with UNGP 16, FIFA introduces a four pillar approach for the implementation of its human rights commitment:

1. Commit and embed
2. Identify and address
3. Protect and remedy
4. Engage and communicate<sup>197</sup>

FIFA’s on-going due diligence process includes identifying, addressing, evaluating and communicating the risks of involvement with adverse human rights impacts.<sup>198</sup> FIFA conducts risk assessments where it identifies its most salient risks and implements action plans to address such risks and to track the effectiveness of its measures.<sup>199</sup> FIFA regularly reviews the list of its most salient risks based on consultations with internal and external stakeholders and in March 2017, a provisional list of salient human rights risks was discussed with the Human Rights Advisory Board.<sup>200</sup> FIFA identified 10 salient human rights issues. Based on those risks, FIFA will develop action plans in the second half of 2017 to address any identified gaps.<sup>201</sup>

---

<sup>195</sup> FIFA, 2017 (c), p. 5.

<sup>196</sup> Ruggie, 2016, p. 4.

<sup>197</sup> FIFA, 2017 (c), p. 8 ff.

<sup>198</sup> FIFA, 2017 (c), p. 7.

<sup>199</sup> FIFA, 2017 (c), p. 8.

<sup>200</sup> FIFA, 2017 (b), p. 10.

<sup>201</sup> FIFA, 2017 (b), p. 11.

*Picture: FIFA's 10 salient human rights risks<sup>202</sup>*



Moreover, FIFA encourages the entities tasked with organising FIFA competitions, confederations, member associations, commercial affiliates and entities in its supply chains to also conduct human rights risks assessments.<sup>203</sup> It will use its leverage to prevent or mitigate human rights impacts which are directly linked to its activities and products or services by its business relationships, even if FIFA has not contributed to those impacts.<sup>204</sup> It is also committed to provide remedy for adverse human rights impacts that it has caused or contributed to and seeks to promote and cooperate in access to remedy where it is linked to the impacts through its relationship with third parties.<sup>205</sup>

FIFA also strives to promote and uphold the highest labour standards (especially the principles that are enshrined in the eight core ILO conventions) and seeks to ensure respect for labour standards by its business partners and in activities directly linked to its operations.<sup>206</sup> It also promotes respect for international human rights standards when land

---

<sup>202</sup> FIFA, 2017 (b), p. 10.

<sup>203</sup> FIFA, 2017 (c), p. 8.

<sup>204</sup> FIFA, 2017 (c), p. 5.

<sup>205</sup> FIFA, 2017 (c), p. 7.

<sup>206</sup> FIFA, 2017 (c), p. 6.

acquisitions or resettlements are necessary for its tournaments.<sup>207</sup> FIFA also tries to use its leverage with relevant authorities to ensure that those providing safety and security services at FIFA events receive appropriate training to make sure they perform their duties in line with international standards on security and human rights.<sup>208</sup> FIFA wants to go beyond its responsibility as enshrined in the UNGPs by taking measures to promote the protection of human rights and positively contribute to their enjoyment, especially where FIFA is able to exercise its leverage.<sup>209</sup> In order to communicate transparently about its human rights effort, FIFA will start in 2018 to publish a yearly human rights report that follows guidance from the UNGPs reporting framework.<sup>210</sup> FIFA's priorities for the upcoming months are the enhancement of the protection of players' rights, embedding human rights among its member associations, including human rights in its bidding requirements and implementing respectively developing sustainability strategies for the 2018 and 2022 World Cups.<sup>211</sup>

However, until its recent decision to recognise the UNGPs and to add article 3 to the statutes and to publish a human rights policy, FIFA lacked an explicit human rights commitment.<sup>212</sup> According to the FIFA Human Rights Manager, the year 2011 marked a paradigm change for human rights due to the criticism that FIFA received for awarding the World Cups to Russia and Qatar and also due to the development of the UNGPs, which led to a rethinking at FIFA.<sup>213</sup> Before that, FIFA was not aware of having any responsibility for the construction of the stadiums in host countries, however, now with the human rights policy this has changed.<sup>214</sup> Nevertheless, FIFA still has a long road ahead if they want to fully comply with human rights standards.

---

<sup>207</sup> FIFA, 2017 (c), p. 6.

<sup>208</sup> FIFA, 2017 (c), p. 7.

<sup>209</sup> FIFA, 2017 (c), p. 5.

<sup>210</sup> FIFA, 2017 (b), p. 18.

<sup>211</sup> FIFA, 2017 (b), p. 19.

<sup>212</sup> Ruggie, 2016, p. 19.

<sup>213</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>214</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

#### **4. The relevant legal framework: international and domestic instruments in the field of Business and Human Rights**

As mentioned in the introduction, my focus is on BHR rather than on CSR. One of the differences is that CSR as a private governance commitment depends solely on the voluntary commitment of the corporation and is mainly a code of conduct whereas BHR offers a real framework with the three pillars as described below in the UNGPs. Voluntary commitment of companies alone cannot force unwilling companies to adopt CSR policies or to join multi-stakeholder initiatives and neither can it force companies to comply with their stated CSR commitments.<sup>215</sup> BHR is a response to CSR and focuses more on holding corporations accountable and on access to remedy for victims rather than on a positive recognition of the role a business may play in protecting human rights.<sup>216</sup> BHR does not only focus on the private sector, but also on the states' role in monitoring the company's respect for human rights.<sup>217</sup> It is a closely related but distinct field with expectations that measure a company's actions in the light of internationally recognised human rights concepts and drives companies further away from the solely voluntary and company-driven idea of stakeholder engagement.<sup>218</sup> Moreover, a CSR approach is usually top-down: the company decides on what issues it wants to focus; whereas a BHR approach is bottom-up with the individual at the centre and not the corporation itself.<sup>219</sup>

I will first look at the following international soft law instruments: The UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the ILO Tripartite declaration of principles concerning multinational enterprises and social policy<sup>220</sup> and the UN Global Compact. Due to FIFA having its headquarters in Switzerland, I will then also look at the Swiss National Action Plans and on Swiss hard law.

---

<sup>215</sup> Mares, 2012, p. 11.

<sup>216</sup> Ramasastry, 2015, p. 238.

<sup>217</sup> Ramasastry, 2015, p. 238.

<sup>218</sup> Ramasastry, 2015, p. 238.

<sup>219</sup> Avery, 2016.

<sup>220</sup> ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted November 1977, last amended March 2017.

## **4.1 UN Guiding Principles on Business and Human Rights and other soft law sources**

### **4.1.1 UN Guiding Principles on Business and Human Rights**

#### **4.1.1.1 What are the UN Guiding Principles on Business and Human Rights?**

In June 2011, a milestone in BHR was achieved. The UN Human Rights Council unanimously endorsed the UNGPs on Business and Human Rights, which the then UN Special Representative on human rights and transnational corporations and other business enterprises - Prof. John Ruggie - developed in six years with the support of all stakeholder groups.<sup>221</sup> The UNGPs are a common global platform of normative standards for states, businesses and also for the civil society.<sup>222</sup> Even though they are not legally binding, they elaborate on the implications of existing standards and practices for states and companies and some of the points are covered by international and sometimes also by domestic law.<sup>223</sup> They follow the “Protect, Respect and Remedy Framework” which Ruggie proposed successfully to the UN Human Rights Council in 2008 and lay out the necessary steps for states and businesses to implement this framework.<sup>224</sup> This three-pillar framework consists of:

- The state duty to protect against human rights abuses by third parties
- The corporate responsibility to respect human rights
- Greater access to remedy for victims of business-related abuse<sup>225</sup>

The UNGPs contain 31 different principles. They apply to all states and businesses, regardless of their size, sector, location, ownership or structure.<sup>226</sup>

The first 10 principles are directed at the states and provide preventative measures. The states’ international human rights law obligations require them to respect, protect and

---

<sup>221</sup> Ruggie, 2013, p. xx.

<sup>222</sup> Ruggie, 2013, p. xxii.

<sup>223</sup> OHCHR, 2012, p. 1.

<sup>224</sup> Ruggie, 2013, p. xx.

<sup>225</sup> OHCHR, 2012, p. 1.

<sup>226</sup> UNHRC, 2011, p. 1.

fulfil the human rights of individuals within their territory or under their jurisdiction, which also includes the duty to protect against human rights abuses by companies that are domiciled in their territory or jurisdiction.<sup>227</sup> Therefore, states need to have effective laws and regulations in place to prevent and deal with business-related human rights abuses which those businesses commit in any country and guarantee access to remedy for those whose rights have been abused. They should enforce domestic laws that require companies to respect human rights and also provide effective guidance to businesses on how to respect human rights (UNGP 3). Principles 25 to 28 oblige states to provide effective access to remedy through judicial, administrative, legislative or other means for the victims of business-related human rights abuses. It is not enough to just set up domestic judicial measures. The states also have to take appropriate steps to ensure those measures are effective and to find ways to reduce legal, practical or other barriers to access of remedy (UNGP 26). According to UNGPs 27 and 28, states should also provide and facilitate access to appropriate and effective non-judicial grievance mechanisms as judicial remedy is not always required. Non-judicial grievance mechanisms, state-based or not, should always be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on engagement and dialogue (UNGP 31).

International human rights treaties do not impose direct legal obligations on businesses. That is why legal liability for infringements of human rights standards by businesses is usually only defined in domestic law. Nevertheless, companies can affect human rights positively or negatively as they can affect the human rights of their employees, customers, workers in their supply chains or of communities where they operate.<sup>228</sup> That is why it is important that companies respect human rights and avoid abuses. The eight core ILO conventions and the International Bill of Human Rights are basic reference points for business enterprises to understand what human rights are, how their own activities could affect them and how to prevent adverse impacts.<sup>229</sup> The UNGPs 11 to 24 explain the

---

<sup>227</sup> UNHRC, 2011, p. 3.

<sup>228</sup> OHCHR, 2012, p. 10 f.

<sup>229</sup> OHCHR, 2012, p. 11.

business enterprises' responsibility to protect. This means avoiding infringements of human rights of others and addressing adverse human rights impacts with which they could be involved (UNGP 11). This is a global standard of expected conduct for all the companies, independently of where they operate or the states' willingness to fulfil their own human rights obligations.<sup>230</sup> UNGP 13 requires that businesses do not cause or contribute to any adverse human rights impacts through their own activities and that they address such impacts if they occur. It also requires that they prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships. This even applies if the enterprises have not contributed to those negative impacts. Actions or omissions can be business activities and a business relationship includes any relationship with someone that is directly linked to their business operations or products or services.<sup>231</sup> This means the relationship could be with a business partner, entities in the value chain or any other state or non-state actor.<sup>232</sup> Even though all businesses have to fully and equally respect human rights, the scale and complexity can vary depending on their size, sector, operational context, ownership or structure (UNGP 14). Through engagement with local stakeholders, an enterprise can better understand the context in which it operates.<sup>233</sup> A company's operational context can be important because if a state poorly implements labour laws, then working with suppliers from that country carries a higher risk of becoming involved in labour rights abuses.<sup>234</sup> To comply with their responsibility, the enterprises should have in place a policy commitment, a human rights due diligence process to identify, prevent, mitigate and account for how they are addressing their human rights impacts and processes to provide remedy for the human rights impacts that they caused or contributed to (UNGP 15). UNGP 16 requires that businesses express their commitment through a publicly available statement of policy. UNGP 17 sets the requirements for the human rights due diligence process, which should include an assessment of actual and potential adverse human rights impacts, integrating and acting upon those findings, tracking responses and

---

<sup>230</sup> UNHRC, 2011, p. 13.

<sup>231</sup> UNHRC, 2011, p. 15.

<sup>232</sup> UNHRC, 2011, p. 15.

<sup>233</sup> OHCHR, 2012, p. 21.

<sup>234</sup> OHCHR, 2012, p. 21.

communicating how those impacts are addressed. Human rights due diligence can be included in a broader risk management system and should be initiated as early as possible in the development of a new business activity or relationship.<sup>235</sup> It has to be something that is ongoing as human rights risks may change over time (UNGP 17). The enterprises should identify those areas where the risks of adverse human rights impacts are the most significant.<sup>236</sup> Potential impacts need to be addressed through prevention or mitigation and actual impacts through remediation (UNGP 22). It can be considered complicity if an enterprise contributes to adverse human rights impacts caused by other parties (legal meaning of complicity) or benefits from an abuse committed by another party (non-legal meaning).<sup>237</sup> Human rights due diligence can help businesses to address the risks of legal claims against them by demonstrating that they took every reasonable step to avoid involvement with human rights abuses.<sup>238</sup> For human rights due diligence, the first step is to identify and assess any actual or potential adverse human rights impact with which the enterprise may get involved, either through their own activities or business relationships (UNGP 18). It is important to consult potentially affected stakeholders and to understand their concerns.<sup>239</sup> The findings from the impact assessment should be integrated across all relevant functions and processes (UNGP 19). If an enterprise contributes to an adverse human rights impact it should take the necessary steps to cease the contribution and use its leverage to mitigate any remaining impact.<sup>240</sup> To know if the human rights policies are implemented properly, enterprises should track whether adverse human rights impacts are being addressed (UNGP 20). It is necessary that businesses whose operations pose risks of severe human rights impacts report formally on how they address them (UNGP 21). UNGP 22 requires businesses to provide remediation through legitimate processes where they have caused or contributed to an adverse impact. However, when the enterprise has not caused or contributed to the adverse impact, but the impact is directly linked to its operations, products or services by a business

---

<sup>235</sup> UNHRC, 2011, p. 18.

<sup>236</sup> UNHRC, 2011, p. 18.

<sup>237</sup> UNHRC, 2011, p. 18.

<sup>238</sup> UNHRC, 2011, p. 19.

<sup>239</sup> UNHRC, 2011, p. 20.

<sup>240</sup> UNHRC, 2011, p. 21.

relationship, the enterprise itself is not required to provide remediation.<sup>241</sup> Nevertheless, it has the responsibility to use its leverage to encourage the one that caused the impact to prevent or mitigate its recurrence.<sup>242</sup> Business enterprises should always comply with all applicable laws, respect internationally recognized human rights and treat the risk of causing or contributing to severe abuses as a legal compliance issue wherever they operate (UNGP 23). If it is necessary to prioritise actions, they should first try to prevent and mitigate the most severe impacts (UNGP 24). To provide effective access to remedy, enterprises should establish operational-level grievance mechanisms for individuals and communities who may be adversely impacted (UNGP 29). This has two important functions: Firstly, it provides a channel for those directly impacted by the enterprises' actions to raise concerns, which helps the enterprise in identifying systemic problems and adapting their practices accordingly, and secondly, grievances can be addressed and remediated early and directly by the enterprise.<sup>243</sup>

#### **4.1.1.2 How and to what extent can they be applied to FIFA?**

In April 2016, John Ruggie published some recommendations on how the UNGPs can be implemented by the global sports enterprise FIFA. FIFA was the first global sports organization that recognised the applicability of the UNGPs to help reducing the risk of being involved in human rights abuses.<sup>244</sup> Although FIFA is an association registered in the Commercial Register of the Canton of Zurich<sup>245</sup>, and therefore not a regular business enterprise, the UNGPs still apply to it. This was confirmed in 2015 by the OECD National Contact Point (NCP) of Switzerland<sup>246</sup> in its initial assessment of FIFA when it confirmed the applicability of the OECD Guidelines for Multinational Enterprises for FIFA.<sup>247</sup> For the NCP it is relevant whether the entity has “commercial activities”, independently of its sector of activity or legal form, which is decided on a case by case basis.<sup>248</sup> This was

---

<sup>241</sup> UNHRC, 2011, p. 24.

<sup>242</sup> OHCHR, 2012, p. 18.

<sup>243</sup> UNHRC, 2011, p. 32.

<sup>244</sup> Ruggie, 2016, p. 10.

<sup>245</sup> For more information see: <https://www.shab.ch/shabforms/servlet/Search?EID=7&DOCID=3395449>.

<sup>246</sup> For an explanation of the OECD NCPs see chapter 4.1.2.1.

<sup>247</sup> National Contact Point of Switzerland, 2015, p. 6.

<sup>248</sup> National Contact Point of Switzerland, 2015, p. 6.

affirmed in the NCP’s initial assessment where it says that FIFA conducts significant levels of commercial activities as a global sports association and in particular its involvement in the organisation of the 2022 World Cup and the contractual relationship with its direct counterparties can be considered as commercial activities.<sup>249</sup>

FIFA cannot be held responsible for all the human rights abuses by organizations it works with or host states; however, it is responsible for its own involvement with such risks.<sup>250</sup> FIFA and its local organising committees can be linked to human rights abuses and risks through their networks of contracts and subcontracts for the delivery of projects, especially in the construction sector.<sup>251</sup> FIFA may also find itself linked to supply chain related workplace abuses.<sup>252</sup> Its leverage to address such risks may be limited, nevertheless, the UNGPs show that someone becomes responsible by being linked to the risk, independently of its leverage.<sup>253</sup> It is important that FIFA knows how it can use and increase its leverage to try to reduce the risk of human rights abuses.<sup>254</sup>

According to Ruggie’s recommendations, the UNGPs could apply to FIFA based on the following six categories:<sup>255</sup>

<b>1. Adoption of a clear and coherent human rights policy</b>	
<b>1.1 FIFA should adopt a publicly available human rights policy that applies to its leadership, commercial subsidiaries, staff, its relationship with member</b>	The policy should explain the implications of article 3 of the statutes for the entire organization and business relationships. The development of the policy should involve input from internal and external stakeholders and should explicitly say that FIFA is committed to

<sup>249</sup> National Contact Point of Switzerland, 2015, p. 6.

<sup>250</sup> Ruggie, 2016, p. 20.

<sup>251</sup> Ruggie, 2016, p. 22.

<sup>252</sup> Ruggie, 2016, p. 23.

<sup>253</sup> Ruggie, 2016, p. 20.

<sup>254</sup> Ruggie, 2016, p. 21.

<sup>255</sup> For the following tables: Ruggie, 2016, p. 29 ff.

<p><b>associations and business partners as well as other parties.</b></p>	<p>the internationally recognized human rights standards even when domestic laws provide less protection.</p>
<p><b>1.2 FIFA should align all its Codes with its commitment in article 3 of the statutes (and its human rights policy) to respect all internationally recognized human rights.</b></p>	<p>The Code of Conduct needs to be revised to make it clear that its human rights responsibility is based on its involvement with negative impacts rather than on its sphere of influence. FIFA should also review its Disciplinary Code and Code of Ethics.</p>
<p><b>1.3 FIFA should make sure that its human rights commitment is reflected in the standard statutes for member associations.</b></p>	<p>FIFA should make the member associations understand what FIFA’s human rights commitment means in practice for their own activities.</p>

<p><b>2. Embedding its commitment to respect human rights to make it everyday practice</b></p>	
<p><b>2.1 A member of the top management should be designated with accountability for FIFA’s human rights performance.</b></p>	<p>The primary point of accountability should be someone who reports directly to the Secretary General as he is the chief executive officer</p>
<p><b>2.2 A department should hold day-to-day responsibility for coordinating, supporting and promoting the implementation of the commitment.</b></p>	<p>This department would be driving and monitoring efforts across FIFA.</p>

<p><b>2.3 A cross-functional structure is necessary to deliver on its commitment which involves the departments whose actions most affect human rights risks.</b></p>	<p>Those departments would need to have access to human rights expertise.</p>
<p><b>2.4 FIFA’s governing bodies need to fully consider its human rights commitment in their decision-making.</b></p>	<p>This includes the Council, Congress and the Committees.</p>
<p><b>2.5 The new Governance Committee should include independent individuals with recognized human rights expertise.</b></p>	<p>It should be gender-balanced and incorporate important stakeholder perspectives, for example risks to local communities and workers.</p>
<p><b>2.6 The individuals that play an important role in implementing the human rights standards need to have adequate training, capacity and resources.</b></p>	<p>There should be mandatory compliance trainings for all Committee members that include FIFA’s human rights commitment and the implications of the organization’s activities and events.</p>
<p><b>2.7 Formal structures for regular engagement with key stakeholders have to be established.</b></p>	<p>This should include ongoing dialogue with representatives of trade unions, civil society, academia and other experts. FIFA could encourage its member associations to implement similar models and support the less well-resourced associations in doing this.</p>

<b>3. Identifying and evaluating human rights risks</b>	
<b>3.1 FIFA should include risks to people in its risk assessment systems.</b>	This incorporation should happen on all levels of risk assessment. FIFA should first focus on the areas where risks to people could be the most severe and needs to engage meaningfully with those that could be affected by its activities or business relationships. If direct engagement is not possible, civil society organizations, international trade unions or other human rights experts should be asked for help.
<b>3.2 Human rights should be included for the evaluation of the tournament hosting bids and should be an important factor for the selection.</b>	It is important to evaluate how effectively the bidders intend to address human rights risks connected to a tournament. This does not mean that countries with bad human rights records have to be excluded from the bidding process.

<b>4. Addressing human rights risks</b>	
<b>4.1 FIFA should set explicit human rights requirements for the local organising committees in bidding documents for tournaments and provide guidance.</b>	As FIFA should evaluate the bids based on how they address human rights risks, it should also explain the bidders what it requires because bidders may not be familiar with human rights risks. FIFA should use its leverage with the LOCs and advise them what they should expect

	of their business partners and how to address human rights risks.
<b>4.2 FIFA should reflect human rights commitment in government guarantees for tournaments.</b>	FIFA has to review carefully the exemptions that it seeks from national laws to avoid any human rights harm.
<b>4.3 During the whole tournament cycle, FIFA should work with the LOCs to engage the host governments in efforts to reduce human rights risks associated with tournaments.</b>	Even though FIFA does not have a contractual relationship with the host governments, it should use every opportunity to exercise its leverage to reduce human rights risks.
<b>4.4 FIFA needs to build leverage into supply chain relationships as early as possible to prevent negative human rights impacts.</b>	It is very important to set the right terms in contracts, which means to include provisions that are in line with the internationally recognized human rights.
<b>4.5 FIFA should raise awareness of the member associations' own human rights responsibilities and should help them understand and implement them.</b>	This can be done at the annual member associations' conference and support can be given through its already existing mentoring programme, where FIFA could include human rights.
<b>4.6 If FIFA cannot reduce severe human rights impacts through using its leverage, it should consider ending or suspending the relationship. When this is not possible, it should at least explain</b>	FIFA should use its leverage to the greatest extent possible, especially when the human rights impacts are severe. The option to end the relationship is a very strong leverage and should be clearly communicated to bidders, suppliers,

<b>transparently its efforts to mitigate the impacts.</b>	licensees or other relevant business partners.
---	--

<b>5. Tracking and reporting on the implementation of human rights risk mitigation measures</b>
---

<b>5.1 In its World Cup bidding documents, FIFA should include a requirement for adequate public reporting on human rights risks and their management by LOCs.</b>	As larger tournaments are higher at risk to have negative human rights impacts associated with it, transparency and accountability are particularly important.
<b>5.2 FIFA’s operational teams sent from headquarters and its local staff should be tasked with monitoring the implementation of human rights risk mitigation measures in the context of tournaments.</b>	Teams doing the monitoring require adequate human rights expertise.
<b>5.3 FIFA’s internal capacity to monitor the implementation of human rights provisions in its contracts with suppliers and licensees should be enhanced.</b>	In order to analyse the results, identify trends or patterns and integrate key findings into its decisions, FIFA needs sufficient capacity.
<b>5.4 FIFA should provide more in-depth reporting about how FIFA understands and addresses its human rights risks and impacts.</b>	Its governance and general approach to respecting human rights could be explained in FIFA’s annual activity report. More extensive information

	<p>could be given in FIFA’s sustainability reporting on specific events. FIFA should also consider using the UN Guiding Principles Reporting Framework to strengthen its own human rights reporting and to set clear requirements for reporting by the LOCs.</p>
--	--

<b>6. Enabling access to remedy</b>	
<p><b>6.1 FIFA should require the LOCs to establish effective grievance mechanisms for human-rights related complaints related to the tournament.</b></p>	<p>These mechanisms should be developed and run in collaboration with local experts and representatives of potentially affected stakeholders. They should meet the criteria of UNGP 31.</p>
<p><b>6.2 FIFA should review its existing dispute resolution system for football-related issues to ensure that it does not lead to a lack of access to effective remedy for human rights abuses.</b></p>	<p>FIFA has to make sure that its own dispute resolution bodies have adequate human rights expertise and procedures to address such claims. It should encourage member associations, confederations and the Court of Arbitration for Sport to do the same. This review should involve independent experts.</p>

<p><b>6.3 FIFA should review the expectations it sets of procurement and licensing suppliers as well as member associations regarding their own processes to identify and address human rights complaints. It should also promote and support improvements.</b></p>	<p>To support improvements, FIFA can use existing means like contract provisions, audits of suppliers and its mentoring programme. As a benchmark for the improvement, the effectiveness criteria from UNGP 31 should be used.</p>
---	--

**4.1.2 Other relevant soft law sources**

**4.1.2.1 The OECD Guidelines for Multinational Enterprises**

The OECD Guidelines for Multinational Enterprises – updated in 2011 with a chapter referring to human rights - are recommendations by governments to multinational enterprises. They are non-binding principles and standards for responsible business conduct in a global context, consistent with international laws and standards and they are supported by a so-called implementation mechanism, namely the National Contact Points (NCPs), which are agencies established by adhering governments to promote and implement the guidelines. The NCPs help enterprises, as well as their stakeholders, to take appropriate measures to implement the principles and provide mediation and conciliation services to resolve the issues that arise from the non-compliance with the guidelines. The guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting. The recommendations express the shared values of governments from countries that are home to many of the big multinational enterprises. The aim is that enterprises contribute to economic, environmental and social progress worldwide.<sup>256</sup>

---

<sup>256</sup> For the whole paragraph: OECD, 2011, p. 3.

The guidelines are part of the OECD Declaration on International Investment and Multinational Enterprises, which was first adopted in 1976, but amended several times. They apply to all multinational enterprises from adhering member states. As Switzerland is a member of the OECD, they therefore also apply to FIFA. Adhering governments should encourage the enterprises from that country to observe the guidelines wherever they operate, while they take into account the particular circumstances of the host country.<sup>257</sup> Even if a state fails to enforce relevant domestic laws or to implement its human rights obligations, the enterprise is still required to respect human rights.<sup>258</sup> When domestic laws conflict with internationally recognised human rights, the enterprises should try to find a way to honour them to the fullest extent without violating domestic law.<sup>259</sup>

Multinational enterprises should, within the framework of internationally recognised human rights, the human rights commitments of the countries in which they operate and all other relevant domestic laws:

- “1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*
- 2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.*
- 3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.*
- 4. Have a policy commitment to respect human rights.*
- 5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.*

---

<sup>257</sup> OECD, 2011, p. 17.

<sup>258</sup> OECD, 2011, p. 32.

<sup>259</sup> OECD, 2011, p. 32.

*6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.*"<sup>260</sup>

Anyone can bring an issue to the attention of a NCP if a substantiated case is provided. Complaints at the NCPs must be raised in the country where the alleged breach occurred, however, if this country is not a signatory state of the OECD Guidelines and therefore does not have a NCP, the issue should be raised at the NCP of the country where the enterprise has its headquarters.<sup>261</sup>

So far, two complaints against FIFA have been brought to the attention of the NCP of Switzerland. The first complaint was lodged by the Building and Wood Workers' International (BWI) in 2015 and concerned human rights violations of migrant workers in relation to the construction of World Cup facilities in Qatar (which is not an OECD signatory state).<sup>262</sup> BWI accused FIFA of violating the OECD Guidelines by having awarded the World Cup hosting rights to Qatar in 2010 as at that time it was already well-known that the human rights of migrant workers were being violated in Qatar.<sup>263</sup> It was therefore foreseeable that the level of construction required for the tournament would require the recruitment of much more migrant workers and accordingly also significantly increase the human rights violations.<sup>264</sup> Furthermore, after appointing Qatar as the host state, FIFA did not conduct adequate and ongoing human rights due diligence as required in the OECD guidelines which entered into force in 2011.<sup>265</sup> BWI believes that due to the lack of human rights due diligence FIFA also failed its responsibility to avoid contributing to adverse human rights impacts and to address such impacts if they occur.<sup>266</sup> BWI engaged with FIFA between 2011 and 2014, but in its view little or no progress was made regarding the rights and working conditions of migrant workers in Qatar.<sup>267</sup> BWI

---

<sup>260</sup> OECD, 2011, p. 31.

<sup>261</sup> National Contact Point, 2015, p. 5.

<sup>262</sup> National Contact Point, 2015, p. 1.

<sup>263</sup> National Contact Point, 2015, p. 1.

<sup>264</sup> National Contact Point, 2015, p. 1.

<sup>265</sup> National Contact Point, 2015, p. 1.

<sup>266</sup> National Contact Point, 2015, p. 2.

<sup>267</sup> National Contact Point, 2015, p. 2.

requested the NCP to mediate between them and to identify steps that FIFA should take.<sup>268</sup> Moreover, it wants FIFA to use its leverage with the government of Qatar to improve the labour law, to conduct joint labour inspections and to require from its business partners a human rights policy statement.<sup>269</sup>

The NCP confirmed the applicability of the OECD guidelines for FIFA (*see 4.1.1.2*). Consequently, it offered its good offices to facilitate a dialogue between the two parties with the goal to reach a mutually acceptable outcome.<sup>270</sup> In the six mediation meetings that the two parties held in 2016, they focused on discussing issues that can and should be improved.<sup>271</sup> The following five areas were identified as particularly important:

- 1. Identification and use of FIFA's leverage on relevant actors in Qatar;*
- 2. The Human Rights Policy emanating from the new Art. 3 of the FIFA Statutes;*
- 3. A robust process for monitoring labour conditions;*
- 4. Mechanisms for workers' complaints and grievances;*
- 5. Establishment of an oversight/advisory body<sup>272</sup>*

FIFA accepted its responsibility to mitigate human rights risks by exercising its leverage whenever possible with all the relevant actors in Qatar and to contribute to ensuring adequate and safe working conditions for the stadium construction workers.<sup>273</sup> BWI and FIFA recognized that there is room for improvement to address the migrant workers' issues and agreed to strengthening their collaboration and to reach out to other stakeholders to ensure that working and accommodation conditions are decent and safe.<sup>274</sup> The Swiss NCP will follow up on this issue and meet again with both parties before February 2018.<sup>275</sup>

---

<sup>268</sup> National Contact Point, 2015, p. 2.

<sup>269</sup> National Contact Point, 2015, p. 2.

<sup>270</sup> National Contact Point, 2017, p. 2.

<sup>271</sup> National Contact Point, 2017, p. 2 f.

<sup>272</sup> National Contact Point, 2017, p. 3.

<sup>273</sup> National Contact Point, 2017, p. 3.

<sup>274</sup> National Contact Point, 2017, p. 3.

<sup>275</sup> National Contact Point, 2017, p. 6.

The second case was lodged by Americans for Democracy and Human Rights in Bahrain who accused FIFA of having violated the Guidelines by allowing Sheikh Salman bin Ibrahim Al Khalifa to stand for candidacy in the FIFA presidential election without first carrying out adequate human rights due diligence.<sup>276</sup> However, in this case the NCP denied the applicability of the OECD guidelines as the selection procedure for presidential elections is an internal process and not related to a commercial activity.<sup>277</sup>

#### **4.1.2.2 ILO Tripartite declaration of principles concerning multinational enterprises and social policy (MNE declaration)**

The MNE Declaration is the only ILO instrument that provides direct guidance for enterprises on social policy as well as responsible and sustainable workplace practices. It has existed for almost 40 years and the last amendment was in March 2017. It includes general policies and covers areas such as employment, conditions of work and life, training and industrial relations. The principles build on international labour standards and are addressed to multinational enterprises, governments, as well as employers and workers' organizations of home and host countries. They should observe those principles on a voluntary basis. Under the MNE Declaration considered as multinational enterprises are *enterprises – whether fully or partially state-owned or privately owned – which own or control production, distribution, services or other facilities outside the country in which they are based*. Accordingly, FIFA can also be considered a multinational enterprise. The MNE Declaration also provides guidance on due diligence processes that are consistent with the UNGPs and it is the only global instrument addressing CSR and sustainable business practices that was elaborated together by governments, employers and workers worldwide.<sup>278</sup>

The ILO provides country-level assistance to governments, employers and workers and also set up regional follow-up mechanisms.<sup>279</sup> The ILO Helpdesk for Business on

---

<sup>276</sup> National Contact Point, 2016, p. 1.

<sup>277</sup> National Contact Point, 2016, p. 5.

<sup>278</sup> International Labour Organization, 2017 (b).

<sup>279</sup> International Labour Organization, 2017 (b).

International Labour Standards answers individual questions and also consists of a website where companies, trade unions and others can find information, practical tools and training opportunities to help them put the principles into practice.

#### **4.1.2.3 UN Global Compact**

The UN Global Compact was the first initiative to encourage businesses to adopt socially responsible and sustainable policies and it was initiated by the then UN Secretary General Kofi Annan in 1999.<sup>280</sup> For this purpose, it adopted the following 10 principles:

- 1. Businesses should support and respect the protection of internationally proclaimed human rights; and*
- 2. make sure that they are not complicit in human rights abuses.*
- 3. Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;*
- 4. the elimination of all forms of forced and compulsory labour;*
- 5. the effective abolition of child labour; and*
- 6. the elimination of discrimination in respect of employment and occupation.*
- 7. Businesses should support a precautionary approach to environmental challenges;*
- 8. undertake initiatives to promote greater environmental responsibility; and*
- 9. encourage the development and diffusion of environmentally friendly technologies.*
- 10. Businesses should work against corruption in all its forms, including extortion and bribery.<sup>281</sup>*

It is voluntarily and currently has around 13'000 participants worldwide.<sup>282</sup> FIFA is not participating.

---

<sup>280</sup> Ramasastry, 2015, p. 243.

<sup>281</sup> UN Global Compact, The Ten Principles of the UN Global Compact, <https://www.unglobalcompact.org/what-is-gc/mission/principles> (consulted on 1 June 2017).

<sup>282</sup> UN Global Compact, Our participants, <https://www.unglobalcompact.org/what-is-gc/participants> (consulted on 1 June 2017).

In order to protect the integrity of the initiative and to promote greater public accountability and transparency, the UN Secretary General adopted some integrity measures, which comprise of reporting policies, a logo policy and dialogue facilitation processes.<sup>283</sup> Participants have to communicate their progress to their stakeholders annually and post a copy on the UN Global Compact website.<sup>284</sup> If they fail to do so, then their status is being downgraded from active to non-communicating.<sup>285</sup>

## **4.2 Swiss National Action Plans and hard law**

### **4.2.1 Concerned Swiss National Action Plans (NAPs)**

#### **4.2.1.1 Position Paper on CSR**

In April 2015, the Swiss Federal Council adopted a position paper on corporate social responsibility. The Federal Council understands CSR as a contribution to sustainable development and is convinced that corporate responsibility covers a wide spectrum of areas, such as labour conditions (including health protection), protection of the environment, human rights, prevention of corruption, fair competition and taxation.<sup>286</sup> A consequent implementation of CSR standards can be a big contribution to sustainable development as well as to solving social issues and at the same time it can be positive for the competitiveness of corporations.<sup>287</sup> The Federal Council expects from corporations that they realise their corporate responsibility in Switzerland, as well as in all the other countries where they operate.<sup>288</sup>

To promote CSR the Federal Council set out the following four strategic priorities in its position paper:

---

<sup>283</sup> UN Global Compact, Our Integrity Measures, <https://www.unglobalcompact.org/about/integrity-measures> (consulted on 1 June 2017).

<sup>284</sup> UN Global Compact, Frequently Asked Questions, <https://www.unglobalcompact.org/about/faq> (consulted on 1 June 2017).

<sup>285</sup> UN Global Compact, Frequently Asked Questions, <https://www.unglobalcompact.org/about/faq> (consulted on 1 June 2017).

<sup>286</sup> Swiss Federal Council, 2015, p. 3.

<sup>287</sup> Swiss Federal Council, 2015, p. 3.

<sup>288</sup> Swiss Federal Council, 2015, p. 3.

- Co-developing CSR framework conditions
- Raising awareness among and supporting Swiss companies as they implement CSR
- Promoting CSR in developing countries and transitional economies
- Encouraging transparency<sup>289</sup>

Those priorities are being concretised in a national action plan for 2015-2019, which explains the measures and future activities for implementation.<sup>290</sup> As part of the implementation of the CSR position paper, the government wants to set up a CSR web portal in order to make information on the government's commitment to CSR available to businesses and to serve as a contact point for questions and concerns about Business and Human Rights.<sup>291</sup>

#### **4.2.1.2 National Action Plan on Business & Human Rights**

In fulfilment of postulate 12.3503 “A Ruggie strategy for Switzerland” the Federal Council adopted a NAP for the implementation of the UN Guiding Principles on Business and Human Rights in December 2016.<sup>292</sup> It is complementary to the position paper on CSR and of equal status.<sup>293</sup> The NAP presents 50 policy instruments on how Switzerland will implement the UNGPs.<sup>294</sup> Its main objective is to have a better protection of human rights in the context of international business activities.<sup>295</sup> However, it does not create any new or legally binding measures. To monitor implementation, a multi-stakeholder monitoring group is set up.<sup>296</sup> According to the Federal Council, the NAP should be reviewed and updated every four years as the implementation of the UNGPs is an on-going process which has to adapt to new challenges.<sup>297</sup>

---

<sup>289</sup> Swiss Federal Council, 2015, p. 3.

<sup>290</sup> Swiss Federal Council, 2015, p. 18.

<sup>291</sup> Swiss Federal Council, 2016, p. 17.

<sup>292</sup> Swiss Federal Council, 2016, p. 4.

<sup>293</sup> Swiss Federal Council, 2016, p. 12.

<sup>294</sup> Swiss Federal Council, 2016, p. 4.

<sup>295</sup> Swiss Federal Council, 2016, p. 4.

<sup>296</sup> Swiss Federal Council, 2016, p. 4.

<sup>297</sup> Swiss Federal Council, 2016, p. 9.

The NAP focuses on the state duty to protect and access to remedy, therefore on pillars 1 and 3 of the UNGPs. It does not deal directly with pillar 2 (corporate responsibility), however, a lot of elements of pillar 1 are also crucial for the implementation of pillar 2.<sup>298</sup> The goals of the NAP are to inform what the Federal Council expects of corporations, to provide information and raise awareness, to facilitate cooperation with the corporate sector and to improve the consistency of government action.<sup>299</sup> Swiss legislation does not require businesses to conduct human rights due diligence. For Switzerland to make this a legally binding obligation it would want a broad base of international support due to its fear of losing attractiveness as a business location if they make due diligence mandatory.<sup>300</sup> In order to promote good practice, the Swiss Business and Human Rights champion will be awarded every year.<sup>301</sup> The Federal Council works together with the ILO in a project to ensure that labour rights are implemented by businesses in developing countries.<sup>302</sup>

Regarding the third pillar's provisions, the Federal Council acknowledges the importance of effective domestic judicial mechanisms to punish business enterprises and grant remedy to victims of human rights abuses connected to the enterprise.<sup>303</sup> The Federal Council is currently analysing shortcomings of the civil procedure code and is also working on draft bills which will make it easier for a number of injured parties in low-value and mass claims to bring a class action.<sup>304</sup>

Between 2016 and 2019, the government is working together with Swiss based international sporting associations, sponsors, NGOs, international organizations, other governments and the Institute for Human Rights and Business in order to implement the UNGPs in the context of mega sporting events.<sup>305</sup> The aims are to identify the primary

---

<sup>298</sup> Swiss Federal Council, 2016, p. 9.

<sup>299</sup> Swiss Federal Council, 2016, p. 10.

<sup>300</sup> Swiss Federal Council, 2016, p. 14.

<sup>301</sup> Swiss Federal Council, 2016, p. 18.

<sup>302</sup> Swiss Federal Council, 2016, p. 18.

<sup>303</sup> Swiss Federal Council, 2016, p. 36.

<sup>304</sup> Swiss Federal Council, 2016, p. 37.

<sup>305</sup> Swiss Federal Council, 2016, p. 18.

challenges in respecting and promoting human rights, to promote a learning process, to exchange best practices and to strengthen responsibility.<sup>306</sup> Several pilot projects are being conducted on issues like the integration of human rights due diligence when awarding a mega sporting event, the development of guidelines for host countries and cities, the integration of human rights in the governance of sporting associations and in the value chains of sports-products, the establishment of grievance mechanisms as well as the involvement of especially vulnerable stakeholders.<sup>307</sup>

The Swiss NAP has been criticised by the Swiss Coalition for Corporate Justice as it lacks a detailed baseline assessment, as it is recommended by the UNGPs, so that the NAP is mainly an action plan that reviews government mechanisms that were already in force before.<sup>308</sup> Only 13 of the 50 policy instruments in the NAP are new and it is disappointing that no new legally binding measures were introduced or planned.<sup>309</sup> The Federal Council is being criticised for not having considered in its NAP the outcomes of internal and external consultations regarding potential gaps and necessary measures.<sup>310</sup> Nevertheless, an external analysis of potential gaps in the implementation of the UNGPs is planned for 2020.<sup>311</sup> The monitoring mechanisms are also considered insufficient, especially as a four year period for revision is too long and it is not clear how the implementation of the 50 policy instruments will be evaluated.<sup>312</sup> The NAP does not offer any improvement either regarding access to justice for victims.<sup>313</sup> In conclusion, all in all it can be said that the Swiss NAP is disappointing and Switzerland missed the opportunity to show its commitment to human rights in the business sector.

---

<sup>306</sup> Swiss Federal Council, 2016, p. 18.

<sup>307</sup> Swiss Federal Council, 2016, p. 18.

<sup>308</sup> Swiss Coalition for Corporate Justice, 2016, p. 9.

<sup>309</sup> Swiss Coalition for Corporate Justice, 2016, p. 10.

<sup>310</sup> Swiss Coalition for Corporate Justice, 2016, p. 10.

<sup>311</sup> Swiss Coalition for Corporate Justice, 2016, p. 10.

<sup>312</sup> Swiss Coalition for Corporate Justice, 2016, p. 12.

<sup>313</sup> Swiss Coalition for Corporate Justice, 2016, p. 13.

#### 4.2.2 Hard law for human rights violations by businesses

As mentioned earlier, there is no legally binding obligation for Switzerland based companies to respect human rights wherever they operate. Nevertheless, under certain circumstances a case where an individual believes its human rights have been violated by a Swiss company can be brought before a Swiss court. The courts competence in assessing such a case needs to be assessed individually and with regards to the applicable legal basis.<sup>314</sup> First, it has to be checked if a Swiss court even has jurisdiction for a violation that happened in another country. If jurisdiction is given, it has to be checked which law is applicable and if the company has any liability.<sup>315</sup> If a Swiss company has a foreign subsidiary with independent legal personality, recourse to the Swiss parent company is difficult, even when there is a close economic link.<sup>316</sup> Extraterritorial jurisdiction is only an exception. However, the UNGPs suggest that home countries of companies can take over an important role when the host country's legal system fails.

If a corporation has branches abroad, then those branches and the headquarter build a legal entity together and the corporation is usually also liable for the violations committed by the branches abroad.<sup>317</sup> The jurisdiction is determined by state treaties and if such a treaty does not exist it can be determined by the International Private Law Act<sup>318</sup> or the Lugano Convention<sup>319</sup>, which is applicable when the headquarter is in one of the member parties and at least one international element is given.<sup>320</sup> According to article 2 of the Lugano Convention, usually the courts in the country of the defendant's residence or headquarters are responsible. Action may even be brought in Switzerland against businesses that are based abroad if the damage or loss from a human rights violation is realised or has had a direct impact in Switzerland (article 129 International Private Law Act). Article 3 of the International Private Law Act gives Switzerland also jurisdiction if

---

<sup>314</sup> Swiss Federal Council, 2016, p. 36.

<sup>315</sup> Swiss Federal Council, 2016, p. 37.

<sup>316</sup> Swiss Centre of Expertise in Human Rights, 2013, p. 48.

<sup>317</sup> Swiss Centre of Expertise in Human Rights, 2013, p. 53.

<sup>318</sup> International Private Law Act, adopted 18 December 1987, entered into force 1 January 1989.

<sup>319</sup> Lugano convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, adopted 30 October 2007, entered into force 1 January 2010.

<sup>320</sup> Swiss Centre of Expertise in Human Rights, 2013, p. 53.

proceedings abroad are impossible or unreasonable and the case is sufficiently connected to Switzerland.

There are certain provisions in the Swiss Code of Obligations<sup>321</sup> and the Criminal Code<sup>322</sup> that could be applied to human rights violations of companies. Especially important for access to remedy is the Swiss tort law. According to article 55 of the Code of Obligations, the owner of a company can also be liable for damages of third parties that were caused through unlawful acts of an auxiliary person, that is in a subordinate position to the owner, for example through a contract of employment. However, if the owner proves that he applied due diligence or that the same damage would have occurred even with due diligence, he can be disburdened from its liability. This is also specifically mentioned for corporations in article 722 of the Code of Obligations, where the corporation is liable for the unlawful acts of the board of directors. If a corporation suffers because of involvement with human rights violations the board of directors can be held liable by its shareholders through article 754 of the Code of Obligations. For human rights violations the Criminal Code could also apply. Article 102 of the Criminal Code states that if a company commits a crime or a criminal offense while exercising business and the action cannot be directly associated to a specific person the whole company can be held liable and can be punished with a fine of up to five million Swiss francs. Furthermore, article 182 of the Criminal Code forbids and punishes human trafficking also when being committed by companies.

For the victims of human rights violations in Qatar an option could be to make FIFA liable through tort law, especially through article 55 of the Code of Obligations arguing that FIFA did not apply due diligence when choosing its business partners and signing contracts with them. Another option could be to claim a violation of personality rights. However, chances to be successful are not very high as the recent case *FNV & Nadim Shariful Alam v FIFA* shows. The Federatie Nederlandse Vakvereniging (FNV), a Dutch trade union, filed a lawsuit against FIFA on behalf of a Bangladeshi migrant worker. FNV claimed that the wrongful awarding of the World Cup to Qatar without simultaneously

---

<sup>321</sup> Swiss Code of Obligations, adopted 30 March 1911, entered into force 1 January 1912.

<sup>322</sup> Swiss Criminal Code, adopted 21 December 1937, entered into force 1 January 1942.

demanding minimum human rights and labour rights for World-Cup related migrant workers violated personality rights of the plaintiff 1 (FNV) and its members.<sup>323</sup> FNV also accused FIFA of having failed and still being failing to take responsibility for the fate of the migrant workers by not demanding Qatar to reform its labour system.<sup>324</sup> Furthermore, plaintiff 2 (the Bangladeshi worker) asked for a payment from FIFA for the damages that were caused to him due to the violation of his personality rights.<sup>325</sup> However, in January 2017, the lawsuit was rejected by the Commercial Court of Zurich for formal reasons.<sup>326</sup>

### 4.2.3 The Responsible Business Initiative

In April 2015, the Swiss Coalition for Corporate Justice, which consists of 80 different organizations, launched the Responsible Business Initiative, which requests to amend the Federal Constitution by including a new article. The aim of this initiative is to oblige the companies legally to incorporate respect for human rights and the environment in all their business activities.<sup>327</sup> This means that Swiss companies would also have to conduct mandatory human rights due diligence for their activities abroad and could be held liable in front of Swiss courts for human rights abuses and environmental damages caused abroad by companies under their control.<sup>328</sup> According to the text of the proposed new article 101a paragraph 2a, control can also result through the exercise of power in a business relationship. Nevertheless, if a company can demonstrate that it carried out adequate due diligence and that it took all necessary measures to prevent the violations, it can be exempted from liability.<sup>329</sup>

---

<sup>323</sup> *FNV & Nadim Shariful Alam v FIFA*, rejected by the Commercial Court of Zurich on 6 January 2017, writ of summons, p. 83.

<sup>324</sup> *FNV & Nadim Shariful Alam v FIFA*, rejected by the Commercial Court of Zurich on 6 January 2017, writ of summons, p. 85.

<sup>325</sup> *FNV & Nadim Shariful Alam v FIFA*, rejected by the Commercial Court of Zurich on 6 January 2017, writ of summons, p. 83.

<sup>326</sup> Deutsche Welle, Swiss court rejects lawsuit against FIFA over Qatar World Cup, <http://www.dw.com/en/swiss-court-rejects-lawsuit-against-fifa-over-qatar-world-cup/a-37038148> (consulted on 8 June 2017).

<sup>327</sup> Swiss Coalition for Corporate Justice, The initiative, <http://konzern-initiative.ch/initiativtext/?lang=en> (consulted on 8 June 2017).

<sup>328</sup> Swiss Coalition for Corporate Justice, The initiative, <http://konzern-initiative.ch/initiativtext/?lang=en> (consulted on 8 June 2017).

<sup>329</sup> Swiss Coalition for Corporate Justice, The initiative, <http://konzern-initiative.ch/initiativtext/?lang=en> (consulted on 8 June 2017).

The Swiss population will vote upon this initiative at the earliest in 2018. However, I personally believe that the chances that it will be accepted by a majority are not very high, as the Swiss tend to protect big companies and are worried that a new provision like this could have negative impacts on the Swiss economy and prevent some new companies to set up their headquarters in Switzerland, or could even lead to some companies leaving Switzerland.

## **5. FIFA and working conditions in Qatar: its due diligence strategy and policy**

In this chapter, I will first look at what FIFA has been doing to improve the situation in Qatar and if its actions are in accordance with its BHR responsibility. I will then give recommendations on what actions FIFA could take to mitigate the labour abuses in Qatar. At the end of this chapter, I will look at FIFA's current World Cup bidding process and create a human rights questionnaire for bidders that could be used by FIFA in order to include human rights due diligence in future bidding processes.

### **5.1 What is FIFA doing to improve the situation in Qatar?**

Human rights risks occur when an existing practice, relationship or situation puts the company at risk of involvement in human rights, which can be directly or indirectly through the actions of contractors, partners, government agencies or others with whom the company has business relationships.<sup>330</sup> FIFA may not be directly violating human rights in Qatar, however, could be through its business relationships. There has been a lot of criticism of FIFA for having awarded the World Cup to Qatar despite knowing about the situation for migrant workers there. Some NGOs and trade unions have put some pressure on FIFA to take appropriate action to improve the human rights situation there. In the past, apart from fighting discrimination, FIFA has not exactly been known for promoting human rights. Since the awarding of the World Cup to Qatar in 2010 FIFA has

---

<sup>330</sup> Taylor, Zandvliet & Forouhar, 2009, p. 7.

focused a lot more on human rights than before (*see 3.4*) and the publication of a human rights policy and the public commitment to the UNGPs are important first steps if FIFA wants to be serious about respecting and promoting human rights. However, standing up for human rights means more than just a public policy commitment, concrete actions have to follow. What has FIFA done so far to improve the situation in Qatar?

In the mediation process between FIFA and BWI at the Swiss NCP FIFA agreed to honour the OECD Guidelines to the fullest extent, however, in a way that it does not violate domestic law in Qatar.<sup>331</sup> There are two overlapping issues: the exploitation of migrant workers in Qatar in general and the treatment of migrant workers on World Cup projects. FIFA accepted its responsibility to mitigate risks by exercising leverage with all relevant actors in Qatar to contribute ensuring decent and safe working conditions for the stadium constructions workers.<sup>332</sup> This is a big improvement as FIFA did not admit any responsibility at all for the construction of the World Cup stadiums until 2015. In 2014, FIFA's ex-president Blatter denied any responsibility of FIFA for Qatar workers' welfare.<sup>333</sup> However, his statement was being criticised a lot as it is very controversial and not logical that FIFA cannot interfere at all to improve the working conditions in Qatar, while FIFA was even able to change a law in Brazil in order to sell beer at the stadiums.<sup>334</sup>

FIFA also said in the mediation process that it will use its leverage to facilitate ongoing discussions between the BWI and the SC to seek ways for monitoring working conditions at World Cup related construction sites.<sup>335</sup> BWI and FIFA agreed to collaborate to ensure working and accommodation conditions are decent and safe for the stadium construction workers and that securing human rights compliance of subcontractors is necessary.<sup>336</sup>

---

<sup>331</sup> National Contact Point of Switzerland, 2017, p. 3.

<sup>332</sup> National Contact Point of Switzerland, 2017, p. 3.

<sup>333</sup> For more information: The guardian, Sepp Blatter: Qatar World Cup workers' welfare is not Fifa's responsibility, <https://www.theguardian.com/football/2014/dec/02/sepp-blatter-fifa-responsibility-workers-qatar-world-cup> (consulted on 14 June 2017).

<sup>334</sup> Zeidan & Fauser, 2015, p. 189.

<sup>335</sup> National Contact Point of Switzerland, 2017, p. 4.

<sup>336</sup> National Contact Point of Switzerland, 2017, p. 3.

FIFA also committed to integrate its human rights policy in the SC's Workers' Welfare Standards and Health and Safety manual.<sup>337</sup> FIFA and BWI also agreed that the existing grievance mechanisms for migrant workers have to be improved and reviewed and therefore agreed to soon hold a meeting between FIFA, BWI and the SC to discuss this issue.<sup>338</sup> Although the agreement between FIFA and BWI only covers a few thousand migrant workers that are working at the directly to the World Cup linked construction sites, it seems a best practice that could be applied to the majority of migrant workers in Qatar. Important is that FIFA really takes the promised actions. A report about the progress will have to be sent to the Swiss NCP in November 2017.<sup>339</sup>

FIFA is collaborating closely with the SC to ensure the protection of labour rights and health and safety standards. This collaboration is very crucial and works very well according to FIFA.<sup>340</sup> The SC regularly inspects the World Cup construction sites and FIFA has joined the SC to some of its inspections as an observer.<sup>341</sup> The SC's memorandum of understanding with BWI to conduct joint-inspections shows that the SC is serious about improving the health and safety of the migrants and wants to be transparent about it. The SC team has spent 2200 hours auditing ethical recruitment issues, 1400 hours inspecting accommodations and over 1000 hours inspecting construction sites up to February 2017.<sup>342</sup> When the SC finds that a contractor does not comply persistently with the Workers' Welfare Standards, it can be blacklisted, which has happened to three contractors.<sup>343</sup>

FIFA is very happy with the work that the SC committee does, especially in the areas accommodation and security at construction sites.<sup>344</sup> There have only been two fatalities so far that happened directly at World Cup stadium construction sites.<sup>345</sup> However, as the

---

<sup>337</sup> National Contact Point of Switzerland, 2017, p. 4.

<sup>338</sup> National Contact Point of Switzerland, 2017, p. 5.

<sup>339</sup> National Contact Point of Switzerland, 2017, p. 6.

<sup>340</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>341</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>342</sup> Supreme Committee for Delivery & Legacy, 2017, p. 2.

<sup>343</sup> Supreme Committee for Delivery & Legacy, 2017, p. 2.

<sup>344</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>345</sup> Impactt, 2017, p. 3.

SC's Workers' Welfare Standards mainly benefit the migrants on directly linked World Cup construction sites but the majority of migrant workers work in other construction projects that are only indirectly linked to the World Cup, the FIFA Human Rights Manager acknowledges that still more can be done and that the Welfare Standards should try to be included in other projects as well.<sup>346</sup> Nevertheless, there have also been some positive effects on migrants who do not work on World Cup sites as some of the SC's contracted companies not only have workers on stadium sites but improved the accommodation standards for all their employees.<sup>347</sup> This shows the example of the contractor Nakheel Landscaping that has 140 employees directly working on World Cup projects but moved its 4000 employees to a better accommodation after an SC audit.<sup>348</sup>

FIFA is also aware that the biggest problem is the Kafala system and that more needs to be done to improve the legal situation for migrant workers, especially regarding the recruitment fees and the exit permits.<sup>349</sup> The SC recommends its contractors a list of registered recruitment agencies that do not charge any recruitment fees, however, as there are many recruitment agencies in the workers' countries of origin where recruitment fees are not forbidden, it is very difficult to ensure the non-payment of recruitment fees.<sup>350</sup>

FIFA does not have any own grievance mechanisms in Qatar, nevertheless, there is the possibility for tournament site construction workers to raise complaints at the SC's Workers' Welfare Forum. The SC has improved access to remedy for migrant workers by strengthening the Workers' Welfare Forums that provide a framework for voicing complaints.<sup>351</sup> There is now also a hotline that operates 24/7 for complaints to the SC in various languages (Arabic, English, Hindi, Malayalam, Tagalog and Urdu).<sup>352</sup> However,

---

<sup>346</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>347</sup> Letter from Hassan Al Thawadi, Supreme Committee for Delivery & Legacy, 25 January 2016, in *Amnesty International, 'Qatar: Letters of response – The ugly side of the beautiful game: Exploitation of migrant workers on a Qatar 2022 World Cup site', 30 March 2016.*

<sup>348</sup> Letter from Hassan Al Thawadi, Supreme Committee for Delivery & Legacy, 25 January 2016, in *Amnesty International, 'Qatar: Letters of response – The ugly side of the beautiful game: Exploitation of migrant workers on a Qatar 2022 World Cup site', 30 March 2016.*

<sup>349</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>350</sup> Supreme Committee for Delivery & Legacy, 2017, p. 39.

<sup>351</sup> FIFA, 2017 (b), p. 17.

<sup>352</sup> Supreme Committee for Delivery & Legacy, 2017, p. 20.

there is no possibility to go to a higher instance if the SC does not take the complaint seriously.<sup>353</sup> FIFA is planning to step up its efforts regarding access to remedy by including grievance mechanisms in its Sustainability Strategy for the 2022 World Cup.<sup>354</sup> The sustainability strategy will also include strategies for supply chain, guaranteeing security during the World Cup and freedom of media.<sup>355</sup>

In April 2016, FIFA created an oversight body that is intended to ensure better living and working conditions for migrants working on World Cup projects.<sup>356</sup> To better engage with relevant stakeholders the FIFA Human Rights Advisory Board is in touch with NGOs. To discuss how to best address human rights issues in Qatar, FIFA's top management has met with the authorities in Qatar and other stakeholders like BWI, ITUC, HRW and Amnesty International.<sup>357</sup>

### **5.1.1 Is FIFA putting any pressure on the Qatari government?**

FIFA is regularly in touch with the government. The government knows what FIFA expects and FIFA expressed clear expectations on a political and organisational level right from the beginning and made it even clearer now with the publication of the human rights policy; however, FIFA is not threatening Qatar with taking away the World Cup if they do not comply with labour rights.<sup>358</sup> Human rights were not part of the bidding process and hosting contract yet, therefore, FIFA's leverage is not based on a contractual basis.

### **5.1.2 Has FIFA investigated the human rights violations?**

FIFA itself has not conducted any investigations of human rights violations or accidents in Qatar. Nevertheless, FIFA is monitoring closely with the SC and BWI the situation on stadium construction sites. If an accident happens FIFA asks what happened and what

---

<sup>353</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>354</sup> FIFA, 2017 (b), p. 17.

<sup>355</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>356</sup> Brown, 2017.

<sup>357</sup> Letter from Federico Addiechi, FIFA, 17 March 2016, in *Amnesty International*, 'Qatar: Letters of response – The ugly side of the beautiful game: Exploitation of migrant workers on a Qatar 2022 World Cup site', 30 March 2016.

<sup>358</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

measures will be taken, in other words, FIFA is mainly asking critical questions while the SC is responsible for investigating further what happened.<sup>359</sup> The SC has established an incident investigation procedure that is an effective and consistent methodology that includes incident notification, investigation and reporting across all SC projects.<sup>360</sup>

Regarding other violations like forced labour, investigations have been made by NGOs like HRW or Amnesty International.

---

<sup>359</sup> Phone interview with Andreas Graf, Human Rights Manager, FIFA, 19 June 2017.

<sup>360</sup> Supreme Committee for Delivery & Legacy, 2017, p. 25.

### 5.1.3 Are FIFA's steps in accordance with its BHR responsibility?

Picture: FIFA's self-assessment on the implementation of the UNGPs<sup>361</sup>

Category	Recommendation (summarised by FIFA)	Status*
<b>1. Adopt a clear and coherent human rights policy</b>	1.1 Adopt and make publicly available a human rights policy	4
	1.2 Align Codes with statutory human rights commitment and Human Rights Policy	2
	1.3 Ensure statutory human rights commitment is mirrored in requirements for statutes of Member Associations and Confederations	2
<b>2. Embed respect for human rights</b>	2.1 Designate a member of top management with accountability for human rights performance	4
	2.2 Identify appropriate department to hold day-to-day responsibility for implementation of human rights commitment	4
	2.3 Establish cross-functional structure on human rights	4
	2.4 Ensure that governing bodies take full account of FIFA's human rights commitment	2
	2.5 Elect members of Governance Committee with recognised human rights expertise	2
	2.6 Ensure that staff with significant role in implementing human rights commitment has adequate training, capacity and resources	2
	2.7 Establish formal structures for regular engagement with key stakeholders	2
<b>3. Identify and evaluate human rights risks</b>	3.1 Include risks to people in its systems for identifying and assessing risks associated with its activities and business relationships	2
	3.2 Include human rights within criteria for evaluating bids to host tournaments and make them substantive factor in host selection	3
<b>4. Address Human Rights Risks</b>	4.1 Set explicit human rights requirements for Local Organising Committees in bidding documents and provide guidance on them	3
	4.2 Reflect human rights commitment in government guarantees for FIFA tournaments	3
	4.3 Work with Local Organising Committees to engage host governments on human rights throughout tournament cycles	2
	4.4 Build leverage into supply chain relationships from the earliest stage possible to prevent negative impacts on people	2
	4.5 Use its annual member associations' conferences and mentoring activities to raise awareness of human rights responsibilities	2
	4.6 Consider suspending or terminating relationships where FIFA is unable to reduce severe human rights impacts by using leverage	2
<b>5. Track and report on implementation</b>	5.1 Include requirements for adequate public reporting by LOCs in bidding documents for World Cups	3
	5.2 Task local staff and operational teams sent from headquarters with monitoring implementation of human rights measures	3
	5.3 Enhance internal capacity to monitor the implementation of human rights provisions in contracts with suppliers and licensees	2
	5.4 Provide more in-depth reporting about how it understands and addresses human rights risks and actual impacts	3
<b>6. Enable Access to Remedy</b>	6.1 Require LOCs to establish effective grievance mechanisms with appropriate thresholds for complaints to be escalated to FIFA itself	2
	6.2 Review dispute resolution system for football-related issues to ensure it does not lead to lack of access to effective remedy	2
	6.3 Review expectations of procurement and licensing suppliers and member associations on complaints processes, support improvements	2

\* Categories of implementation status: 4 – implemented; 3 – advanced stages; 2 – ongoing; 1 – implementation not started yet

The previous table refers to FIFA's own assessment on how it has implemented Ruggie's suggestions on how to implement the UNGPs in general. Given that Ruggie has only

<sup>361</sup> FIFA, 2017 (b), p. 21.

given his suggestions about a year ago and that for most of the suggestions it takes time to properly develop and implement them, FIFA is doing quite well, especially in the first two categories. The publication of the human rights policy - where FIFA explicitly commits to all the internationally recognized human rights - and the employment of a Human Rights Manager who reports to the Secretary General are in line with the suggestions. So is also the identification of the Sustainability Department as the responsible department for day-to-day human rights responsibility. Human rights have not been included yet in the FIFA codes, like the Ethics Code or the Code of Conduct, which is something that Ruggie suggested doing. According to the recommendation, 10 salient human rights risks have been identified, and it is thus important that now they are also incorporated and considered in FIFA's daily activities so that they can be mitigated. It is also necessary that staff receives sufficient training and that human rights will be included and taken into consideration in the next World Cup bidding process.

Regarding addressing human rights, Ruggie suggested that FIFA sets clear human rights requirements for the LOC in the bidding documents and provides guidance on them. By the time the World Cup was awarded to Qatar the UNGPs did not exist yet. However, according to the FIFA Human Rights Manager, FIFA made it clear what it expects from the LOC and from Qatar in terms of human rights. Nevertheless, FIFA is not using its leverage like it could and like Ruggie suggested. FIFA is not working enough with the LOC to engage the Qatari government in efforts to reduce human rights risks associated with tournaments. FIFA is engaging a lot with the SC, which was created by the Qatari government, however, in my opinion, FIFA is not using its leverage well enough to improve the situation of all the migrant workers there, instead of only focusing on the ones that are working on direct tournament projects and are covered by the Welfare Standards of the SC. Ruggie's suggestion to suspend or terminate the relationship where FIFA is unable to reduce severe human rights impacts by using its leverage has not been considered by FIFA as FIFA has not even tried to use its leverage by putting any active pressure on the government to abandon the modern slavery-like Kafala system.

Regarding the monitoring and the implementation of human rights risks mitigation measures, the SC seems to be doing quite good and FIFA's creation of a monitoring body

for the working conditions on stadiums is also a good first step, however, as already mentioned, this mainly concerns the migrants that work on direct tournament sites. The majority of the migrants work in other projects that are only indirectly linked to the World Cup and still lack protection. Football fans will stay in hotels, go to restaurants, use public transportation. All these things have to be built for the World Cup but are not considered World Cup construction sites that are covered by the SC's standards. That is why it is disappointing that FIFA has not done much to help the migrant workers in general and that FIFA is not using its leverage with the government to get rid of the Kafala system and to control better whether construction companies comply with labour standards.

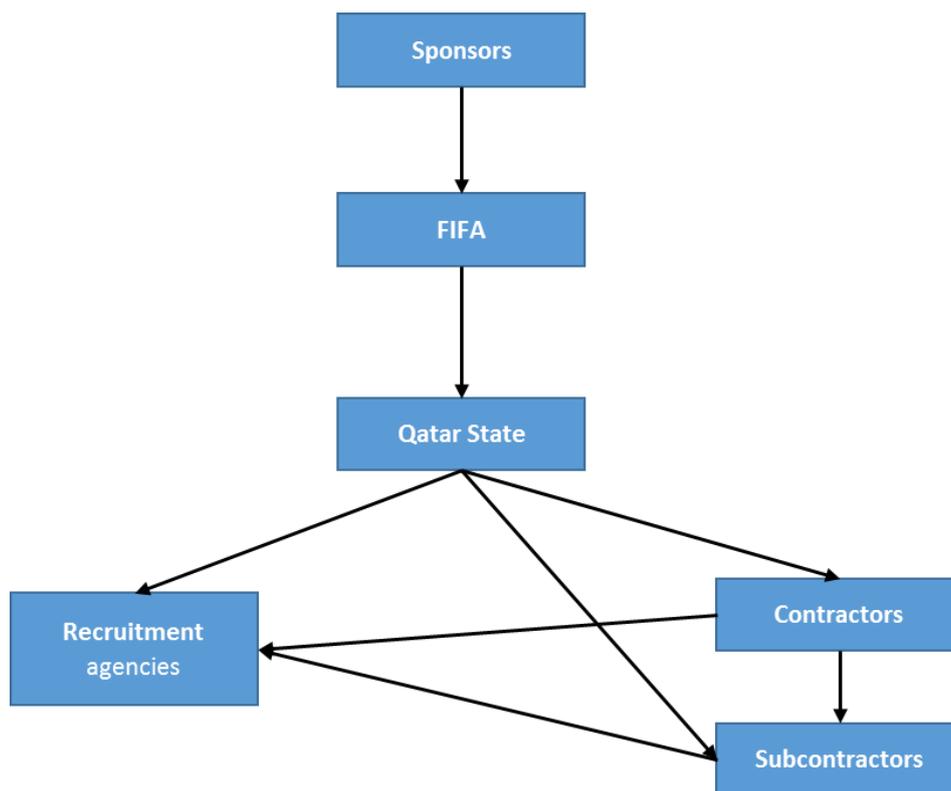
The grievance mechanisms that exist in Qatar are not sufficient. The SC has improved this at least for the migrants on World Cup projects with the Workers' Welfare Forum and the hotline. For all the other migrant workers it is still difficult to raise a complaint against their employer since they may face severe consequences. FIFA is not working enough with the LOC to establish effective grievance mechanisms. This is especially important as the situation in Qatar is very difficult and trade unions are not allowed for migrants and therefore they are left without any protection at all.

All in all, FIFA has definitely become more transparent and accountable, but there is still a lot of work to do to fully comply with its responsibility to respect human rights. What I noticed when talking to the FIFA Human Rights Manager and when looking at FIFA's statements regarding human rights in Qatar is that FIFA always refers to the SC. While the SC has committed to human rights and definitely has improved the situation for some migrants with its Welfare Standards, it seems a bit like FIFA is hiding behind the SC. It is great that FIFA collaborates closely with the SC, however, I believe it is not enough that FIFA transfers almost all its responsibility to the SC. The fact that the UNGPs were published after the contracts with Qatar and that FIFA was not acknowledging any human rights responsibility regarding construction works until a few years ago, make it a challenge to use its leverage to influence the government and to get rid of the exploitative Kafala system. Positive is that FIFA is now trying to include human rights on all levels and that it is working on including human rights in the next bidding process to avoid another human rights disaster like the World Cup in Qatar.

## 5.2 How could FIFA improve the working conditions and ensure that no violations occur under the new labour system?

There are still more than five years to go until the first ball kicks off in winter 2022. In the next five years the amount of migrant workers employed in Qatar will significantly increase, which means that even more migrants will be subject to the exploitative working conditions in Qatar. At the same time, five years are still a lot of time to make a significant change and take actions to end the modern slavery-like situation for migrants in Qatar. The World Cup is a huge opportunity to set a benchmark for the treatment of migrant workers in the Gulf and Asia region.

*Picture: Overview on who can use leverage over whom*



FIFA, as the reason why all those construction projects started, should use its leverage to improve the working conditions for all the exploited migrant workers. Problematic is that FIFA does not have any contracts with construction companies (contractors and subcontractors) or recruitment agencies who are the ones who are committing the human

rights violations. What FIFA has instead is a contract with the state of Qatar for the hosting of the World Cup 2022, which gives it cultural power over Qatar.<sup>362</sup> The power over the contractors, subcontractors and national recruitment agencies lies at the Qatari government. The government has economic power as well as legislative power and could use it by withdrawing the contracts or amending its legislation to change the way migrant workers are treated.<sup>363</sup> FIFA could use its leverage by withdrawing the right to host the tournament. However, as the tournament is already in five years and FIFA has not taken any action the last seven years despite the exploitative situation for migrants, it is highly unlikely that FIFA will play this card. Even though the hosting contract does not include any human rights clause, previous organising association agreements have shown that FIFA has the power to unilaterally decide which requirements a state has to meet and can later amend them.<sup>364</sup> Therefore, if the contract with Qatar is similar, it means that FIFA can easily use its power to impose a binding requirement on Qatar to comply with human rights. As the past has shown (e.g. beer law in Brazil) there is little room for states to negotiate about FIFA's demands. However, the overall power does not lie at FIFA, but at the sponsors as FIFA depends financially on them. The sponsors as the "official partners" could use their economic power by withdrawing their financial support.<sup>365</sup>

One big problem are the recruitment fees that are charged to the migrants. What all the contractors, subcontractors and the government should do is to stop working with recruitment agencies that illegally charge recruitment fees. Since the recruitment agencies depend on companies that take over their recruited migrants, threatening to stop working with them would be very effective. As FIFA is not directly in touch with construction companies what FIFA could do is to put more pressure on the government to control the

---

<sup>362</sup> Millward, 2016, p. 8.

<sup>363</sup> Millward, 2016, p. 8.

<sup>364</sup> See as an example the Organising Association Agreement with South Africa that says in paragraph 3.3.2: "FIFA Requirements may need to be modified by FIFA as a result of technological and other changes. The Organising Association hereby accepts that FIFA is, therefore, entitled to amend, delete or supplement the terms of any FIFA Requirements and to add FIFA requirements at all times at its sole discretion", available: <http://ccs.ukzn.ac.za/files/Fifa%20agreement%20with%20SA%202.pdf>.

<sup>365</sup> Millward, 2016, p. 8.

recruitment agencies and also to be stricter in enforcing the law that prohibits recruitment fees.

Since there is already a lot of pressure from international NGOs like Amnesty International or HRW on big construction companies like Aspire Zone Foundation, Six Construct, Nakheel Landscapes, Eversendai Engineering or MIDMAC, they are more likely to comply with labour standards. Important is the focus on small subcontractors who do not get that much international attention and may not be monitored that often. If the government made the contractors liable for the labour law violations committed by the subcontractors and punished them with high penalties then they would be more careful in selecting their subcontractors and would control them more. Problematic is that with the new labour law not much has changed and it is still very exploitative and therefore the exploitative treatment of migrants is still legal under Qatari law. If FIFA is serious about its human rights commitment, it has to call on the government to stop the Kafala system and to abolish the exit visas so that the employers cannot interfere anymore with the freedom of movement of the migrant workers. Furthermore, it should call for a strict prohibition of passport confiscation without exceptions and for the migrants to be able to change their jobs whenever they want. FIFA should also insist that Qatar allows migrants to join trade unions as they are very important for the migrants to claim their rights. It is important that FIFA engages with the Qatari authorities to raise all those labour issues and that it sends a strong public message that human rights must be respected in all construction projects, not only in the projects that are directly related to the World Cup.

It was already wrong to award the World Cup to Qatar despite knowing about the exploitative Kafala system, however, FIFA should now make the best of the situation and use the World Cup to promote human rights and improve the lives of migrant workers in Qatar. FIFA should have used its leverage already when Qatar was drafting the new labour law, which turned out to be a huge disappointment. If FIFA withdrew the hosting rights Qatar would suffer a huge financial loss since the country has been doing construction works in preparation for the World Cup for the last seven years and also its

reputation would suffer a lot. Therefore, it is very likely that Qatar would prefer to respect human rights rather than to lose the World Cup hosting rights.

The UN Working Group on the issue of human rights and transnational corporations and other business enterprises - in collaboration with the Office of the UN High Commissioner for Human Rights - highlighted at the Asia Regional Forum the importance of grievance mechanisms. It believes it is important to not only look forward but also to look back and secure effective remedies for victims to safeguard the human dignity of everyone involved in mega-sporting events.<sup>366</sup> As the current grievance mechanisms are insufficient, especially because the grievance processes at the Ministry of Labour take very long and lots of migrants are not lodging complaints because of the language barriers and their fear of reprisal, it is necessary that FIFA ensures that all migrants can get access to the SC's grievance mechanisms (not only the ones on World Cup projects) or that FIFA even creates its own grievance mechanism. It could also promote the existing mechanisms so that the migrants are aware that they exist. FIFA could also request or conduct investigations of some labour abuses that occurred on other than stadium construction sites and monitor the outcomes of the grievance mechanisms.

Furthermore, it is also necessary that the construction companies are aware that they may be involved in adverse human rights impacts through their relationships with other parties and therefore act with due diligence. Even reputable construction companies face the risk of forced labour in their supply chains if they do not conduct extensive due diligence on labour supply and recruitment agencies.<sup>367</sup> FIFA could start a campaign in Qatar to raise more awareness of this. Furthermore, it could also do some campaigns about human trafficking and forced labour. It should also call on all Qatari partners to obtain written commitments from their partners, contractors, subcontractors and recruitment agencies that they will comply with Qatari law as well as with international labour law.

---

<sup>366</sup> UNHRC, 2016, p. 19.

<sup>367</sup> Mega-Sporting Events Platform for Human Rights, 2017 (b), p. 9.

### **5.3 FIFA’s due diligence strategy for the World Cup bidding process**

#### **5.3.1 FIFA’s current strategy**

The bidding procedure usually starts by FIFA sending out requests for expression of interest. Subsequently, the member associations allowed to take part in the bidding process based on the rule express their interest in a specific event. FIFA then sends out bidding information that includes the “bidding manual” and supporting documents such as hosting agreements. Interested bidders then participate in a FIFA workshop and interested associations return the bidding agreement confirming compliance with the bid requirements. In accordance with the bidding manual the associations submit their applications which are then evaluated by FIFA to identify selected candidates for approval.<sup>368</sup> .

The bidding process includes inspection visits by FIFA, after which FIFA then makes a recommendation and announces the successful host for the event. The decision is made by a vote from elected representatives from all over the world and is based on an individual assessment of the bids.<sup>369</sup> Potential hosts of the World Cup must demonstrate that they can deliver a successful tournament and that they are able to meet some strict criteria, from stadium and environmental standards to legacy and security.<sup>370</sup> The 2018 and 2022 World Cup Bidding Agreement called for an environmental impact assessment and comprehensive stakeholder outreach, however, there was no specific reference to human rights and no formal social impact assessment or stakeholder consultation on social matters was required either.<sup>371</sup> FIFA only asked for a general explanation of how their bid could contribute to sustainable social and human development as well as tolerance, equality, social integration and improving health standards.<sup>372</sup>

---

<sup>368</sup> For the whole paragraph: FIFA, Bidding Process, <http://www.fifa.com/governance/competition-organisation/bidding-process.html> (consulted on 26 June 2017).

<sup>369</sup> FIFA, Frequently Asked Questions (2. Competitions: E. How are FIFA World Cup host countries selected?), <http://www.fifa.com/faq.html> (consulted on 26 June 2017).

<sup>370</sup> FIFA, Frequently Asked Questions (2. Competitions: E. How are FIFA World Cup host countries selected?), <http://www.fifa.com/faq.html> (consulted on 26 June 2017).

<sup>371</sup> Amis, 2013, p. 20.

<sup>372</sup> Amis, 2013, p. 20.

For the World Cup 2026 the member associations have time until 11 August 2017 to express their interest in hosting the World Cup.<sup>373</sup> The decision of the host will take place on 13 June 2018.<sup>374</sup> FIFA wants to include human rights in the 2026 bidding process, accordingly to the UNGPs. FIFA will require from the bidders and the selected country or countries to make a public commitment to human rights in line with the UNGPs in all aspects of their activities that are related to the hosting and staging of the competition and to provide a human rights concept and strategy, that includes a detailed risk assessment and strategy to address potential adverse human rights impacts.<sup>375</sup> For that purpose, the bidder has to provide an initial assessment and strategy proposal as part of the new bidding process.<sup>376</sup> After selecting the host, its entities tasked with organising the event will have to put an in-depth human rights due diligence process in place.<sup>377</sup>

### **5.3.2 Human rights questionnaire for bidders that FIFA could apply in the future for the World Cup selection process**

Lately, human rights have become more important for mega-sporting events. FIFA is not the only one that plans to include them already in the bidding process. UEFA has recently included human rights, child rights and anti-corruption measures in its bidding process as the first sport governing body.<sup>378</sup> FIFA has not published the requirements for the bidders in terms of human rights yet. The UNGPs suggest that FIFA includes in its bidding documents a requirement for adequate public reporting on human rights risks and their management by the LOCs. If the human rights are already included in the awarding process, then the LOC contractually commits to implementing human rights standards and can be held accountable by FIFA. The bidding requirements together with the host city/country contracts or agreements set the parameters for how mega-sporting events are implemented and managed.<sup>379</sup> This makes it particularly important to already include human rights in the bidding process and to analyse the potential human rights impacts

---

<sup>373</sup> FIFA, 2017 (a).

<sup>374</sup> FIFA, 2017 (a).

<sup>375</sup> FIFA, 2017 (b), p. 13.

<sup>376</sup> FIFA, 2017 (b), p. 13.

<sup>377</sup> FIFA, 2017 (b), p. 13.

<sup>378</sup> Transparency International, 2017.

<sup>379</sup> Mega-Sporting Events Platform for Human Rights, 2017 (a), p. 11.

that could occur during the mega-sporting event lifecycle. Identification and analysis are the foundation for implementing a due diligence approach.<sup>380</sup> The analysis should lead to a conclusion regarding the quality and the scope of the human rights impact as well as measures to mitigate or avoid the adverse impacts.<sup>381</sup>

To find out how effectively bidders intend to address human rights risks connected with a tournament, I suggest that FIFA asks the bidders for a report where they conduct human rights due diligence and answer the below questions.

<b>General human rights situation in the country:</b>
✓ How is the human rights situation in the country in general?
✓ What are the most important human rights issues?
✓ Who are the most vulnerable or likely victims of human rights abuse?
✓ Which international human rights treaties/conventions/declarations has the bidding country ratified?
✓ Has the bidding country ratified the ILO core conventions?
✓ How is the national law protecting human rights?
✓ Does the national law set maximum working hours, minimum wages and rest days?
✓ Are recruitment fees and passport confiscations forbidden?
✓ Is the law effectively enforced?
✓ Are migrant workers treated equally as local workers?

<sup>380</sup> Taylor, Zandvliet & Forouhar, 2009, p. 3.

<sup>381</sup> Taylor, Zandvliet & Forouhar, 2009, p. 4.

✓ Are the freedom of association rights of migrant workers respected?
✓ What human rights monitoring mechanisms are already in place?

<b>Human rights risks in relation to the hosting of the World Cup:</b>
✓ What adverse human rights impacts could the hosting of the World Cup have? Could the hosting of the World Cup increase forced labour or human trafficking?
✓ How were those human rights impacts identified?
✓ How will the human rights impacts be addressed and mitigated?
✓ Will you prioritise actions to address actual and potential adverse impacts to prevent or mitigate the most severe where delayed response would make them irremediable?
✓ How will the mitigation measures be integrated in the existing risk management systems?
✓ How regularly will you conduct a human rights risk assessment?
✓ Will the LOC have a publicly available human rights policy and regularly communicate on its human rights performance?
✓ Will you also encourage your business partners to assess and address actual and potential human rights impacts they caused or contributed to?
✓ How will you ensure that contractors and subcontractors adhere to human rights and labour standards? Will there be a Code of Conduct on labour standards in the contracts? Will you encourage them to have a human rights policy?
✓ How will you monitor compliance with human rights? Will there be inspections of the construction sites and accommodations?

✓ Will you set up an independent body to oversee sustainability and human rights-related issues that are associated with the World Cup? <sup>382</sup>
✓ How will you engage with relevant stakeholders to address the salient human rights issues?
✓ Have you already engaged with some of the potentially affected groups before making the bid?
✓ Will there be a special grievance mechanism for human rights abuses that occur in relation to the construction and hosting of the World Cup? If yes, how will individuals and communities get access to it?
✓ How will you enable effective remedy if people get harmed due to the construction of the World Cup facilities?
✓ Will all the people working on World Cup construction sites be able to join trade unions?
✓ What is the budget allocation for assessing and monitoring human rights?
✓ How will you guarantee that no human rights violations will be committed by security and police forces? Will security and police be trained in accordance with human rights?

The Mega-Sporting Events Platform for Human Rights has identified forced labour and human trafficking as well as security and policing as areas of high priority and risks regarding mega-sporting events.<sup>383</sup> Therefore, it is important that the bidders already propose a way to address those risks in their bid.

---

<sup>382</sup> Amis, 2013, p. 33.

<sup>383</sup> Mega-Sporting Events Platform for Human Rights, 2017 (b), p. 5.

If FIFA gets the bidders to answer all the above questions it can find out if the bidder seriously considered human rights. It is not compelling that the World Cup is only allocated to states where there are barely any human rights issues. Important is that human rights are being taken seriously and that the hosting of the World Cup does not lead to more violations. To host a mega-sporting event like the World Cup could even be a way to improve the labour standards and human rights situation in that country.

## **6. Sponsors' responsibility**

As the World Cup could not take place without the sponsors' financial support, I am focusing in this chapter on what the main sponsors are doing to improve the human rights situation in Qatar and also on what their duties are.

### **6.1 What are the important sponsors doing in relation to FIFA's human rights compliance?**

The FIFA sponsorship system is based on a three-tier system. On the first level there are six to eight partners, on the second level there are six to eight World Cup sponsors and on the third level there are up to 20 regional supporters (maximum four per region).<sup>384</sup> The FIFA partners have the highest level of association with FIFA and all its events. The current FIFA partners are Adidas, Coca-Cola, Wanda Group, Gazprom, Hyundai-Kia Motors, Qatar Airways and Visa.<sup>385</sup> Adidas and Coca-Cola both have a representative at the FIFA Human Rights Advisory Board. Important second-tier sponsors are McDonalds and Budweiser. Qatar Airways is FIFA's newest partner since May 2017 and replaced Emirates who was a FIFA partner until 2014 but decided not to continue the sponsorship due to the FIFA corruption scandal.<sup>386</sup> Sony, who was a major FIFA partner until 2014, decided not to renew its sponsorship contract either and was replaced by Wanda Group.<sup>387</sup> The corruption scandal has made it difficult for FIFA to find new sponsors and important

---

<sup>384</sup> FIFA, FIFA World Cup™ Sponsorship Strategy, <http://www.fifa.com/about-fifa/marketing/sponsorship/index.html> (consulted on 2 July 2017).

<sup>385</sup> FIFA, FIFA Partners, <http://www.fifa.com/about-fifa/marketing/sponsorship/partners/index.html> (consulted on 2 July 2017).

<sup>386</sup> Cornwell & Homewood, 2017.

<sup>387</sup> Homewood, 2016.

sponsors like Visa, McDonalds and Coca-Cola raised their concerns over the bribery and corruption allegations.<sup>388</sup> Visa took the strongest stance and publicly threatened to withdraw its sponsorship if FIFA does not make any changes within its organization.<sup>389</sup> The pressure of the sponsors has been a reason that led to the FIFA reform and Coca-Cola, Adidas and Visa called for human rights being at the heart of it.<sup>390</sup>

Regarding the human rights situation in Qatar, Visa and Coca-Cola have both spoken out against the human rights abuses. Visa urged FIFA to take all necessary actions to work with the relevant authorities to remedy the situation and ensure health and safety for everyone involved.<sup>391</sup> Long-term sponsor Coca-Cola expects FIFA to take the human rights and labour issues seriously and to work toward progress.<sup>392</sup>

Except from Visa none of the main sponsors is going as far as threatening to withdraw its sponsorship if FIFA does not do more to improve the slavery-like working conditions in Qatar. Most of the sponsorship contracts probably have a clause that lets the sponsors withdraw if they can prove that FIFA is behaving unethically or bringing adverse publicity on the sponsor, but given how much money is involved in a sponsorship deal with FIFA, it is highly unlikely that sponsors will withdraw from their contracts. Even though they disapprove the poor treatment of migrant workers in Qatar they are not using their leverage sufficiently to actively demand action from FIFA.

## **6.2 What are their duties regarding the human rights situation in Qatar?**

As FIFA financially depends on the sponsors, they have the economic power to demand change. They could pressure FIFA into putting more pressure on Qatar to abandon the Kafala system. If the sponsors threatened to withdraw their sponsorship due to the treatment of the migrant workers in Qatar, FIFA would be forced to take responsibility for the migrants' welfare and would more actively put pressure on Qatar. As the sponsors

---

<sup>388</sup> Gibson, 2015 (a).

<sup>389</sup> O'Reilly, 2015.

<sup>390</sup> Gibson, 2016.

<sup>391</sup> Visa, 2015.

<sup>392</sup> The Coca-Cola Company, 2015.

are financially supporting FIFA and the World Cup the human rights violations there also become their responsibility. Sponsors could use their economic power by enforcing standards of behaviour on FIFA as part of the sponsorship contracts where they pay a lot of money to have their names associated with the World Cup.<sup>393</sup> As the sponsors have the power to improve the human rights situation in Qatar, they also have responsibility. First and foremost, as some of the main sponsors publicly committed to human rights and to comply with the UNGPs. Adidas, Hyundai-Kia Motors, McDonalds and Coca-Cola have a public human rights policy and Adidas and Coca-Cola even committed to the UNGPs.<sup>394</sup>

Some sponsors have already started to meet their responsibility to respect human rights through internal governance programmes and improvements across their supply chains, nevertheless, the steps taken within their core business activities may not address the issues that could arise by sponsoring a mega-sporting event.<sup>395</sup> Adverse human rights impacts of a mega-sporting event may negatively affect the sponsors as the brand could be seen as the financier of the event and its negative human rights impacts.<sup>396</sup> Sponsorship contracts are often renewed after the World Cup hosting rights have been awarded, which makes it more difficult for the sponsors to leverage the commitments and actions by FIFA or hosts.<sup>397</sup> Sponsors believe that they have the greatest leverage at the point of negotiation of the sponsorship contract, before formalising the relationship, and once the contract is signed, they have less flexibility to make demands.<sup>398</sup> Mega-sporting event sponsors are dealing with a monopolistic rights-seller and compete against a lot of other potential sponsors.<sup>399</sup> Sponsors do not have any leverage on the host countries unless they operate significant business units there.<sup>400</sup> However, I believe if all the FIFA partners together threatened FIFA to withdraw their sponsorship if FIFA does not use its leverage on Qatar to improve migrant workers' rights, then FIFA would be more active as losing

---

<sup>393</sup> Millward, 2016, p. 15.

<sup>394</sup> Amis, 2013, p. 25.

<sup>395</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 15.

<sup>396</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 15.

<sup>397</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 15.

<sup>398</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 26 f.

<sup>399</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 27.

<sup>400</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 27.

so many important partners at once would catapult FIFA in a huge crisis. FIFA would struggle to find new sponsors after a scandal like this.

In line with their human rights commitments, sponsors have to consider what the nature of relationship is between the sponsor and the negative human rights impacts and what steps the sponsor is taking to mitigate or prevent those impacts.<sup>401</sup> If the sponsor is not the direct cause of the negative impact, it has to consider what steps it can take to increase its leverage over the actors that caused the impacts in order to mitigate or prevent it.<sup>402</sup> This point is particularly important for the FIFA sponsors regarding Qatar as they are not the ones that directly caused the adverse impacts but have a certain responsibility through their sponsorship relationship with FIFA as the organiser of the event. Sponsors must, at a minimum, be entirely sure that they have done everything possible to mitigate risks or prevent harm in all its business relationships.<sup>403</sup> They should also think how they can participate in the establishment of effective remedies for the victims of negative impacts.<sup>404</sup>

As the sponsors consider their leverage the biggest before and during the bidding process, it is important that they put pressure on FIFA to fully integrate human rights in the future bidding processes.

## **7. Conclusion**

To conclude, as the UNGPs and the OECD Guidelines apply to FIFA, it definitely has a responsibility to respect human rights and can be held accountable for human rights abuses that it is linked to through its activities. FIFA therefore has an obligation to use its leverage to stop the human rights violations in Qatar. Nevertheless, it takes time to implement all of Ruggie's suggestions, especially, as taking responsibility for human rights is new for FIFA. Given how well-known FIFA is and how much influence a sports

---

<sup>401</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 15.

<sup>402</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 15.

<sup>403</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 27.

<sup>404</sup> Mega-Sporting Events Platform for Human Rights, 2017 (c), p. 15.

governing body like FIFA could have in the whole world, it is important that FIFA keeps getting some guidance on how to fully implement the UNGPs, possibly through hiring more human rights experts or by collaborating closely with NGOs. Precisely, if FIFA stood up for human rights and showed that it does not accept violations by host countries, it could be considered as a ‘best practice’ for others and also influence other mega-sporting events like the Olympics.

In the last two years, FIFA has done a lot to comply with its BHR responsibility. Even though FIFA has not implemented all of Ruggie’s suggestions yet, it has publicly committed to human rights and is not turning a blind eye on the human rights violations in Qatar anymore. The close collaboration with the SC is very crucial and the Workers’ Welfare Standards have improved the lives of World Cup site construction workers. What is important now though is that FIFA uses its leverage to extend this best practice so that all the over two million migrant workers in Qatar can benefit from it, even though FIFA does not have any direct contractual relationship with the construction companies. As FIFA is aware of this opportunity, there is some hope that FIFA will use its leverage in the near future to make the Workers’ Welfare Standards applicable to all the migrant workers there. This is particularly important as in the next five years the amount of migrant workers will significantly increase.

All in all, even though FIFA could still do more to improve the labour issues in Qatar, it can be said that FIFA seems to have learnt from its past failures and is being serious about its human rights commitment. This is shown by the fact that FIFA wants to conduct human rights due diligence already in the next World Cup bidding process by using human rights risks as one of the many criteria for awarding the World Cup. Including human rights in the hosting agreement will definitely make it easier for FIFA to use its leverage when the host countries do not comply with the international human rights standards. If compliance with human rights had already been included in the hosting agreement with Qatar, it would have been much easier for FIFA to take measures to get Qatar to abandon its modern slavery-like Kafala system.

Football is a beautiful game. However, through what is happening in Qatar, football can now also be associated with modern slavery and the deaths of many migrant workers. FIFA still has five years to change that so that the World Cup 2022 will not be seen as a World Cup that was built on the back of modern slaves, but instead as a World Cup that led to more human rights for all the migrants in Qatar. FIFA has the power to demand the abolition of the exploitative Kafala system. Furthermore, FIFA could even use its influence to promote human rights in all its member associations by requiring a commitment to international human rights standards by all of them. One of FIFA's goals is to "build a better future". For a better future, it is crucial that human- and labour rights are being respected and protected. "For the Game. For the World", there are five years left to turn this World Cup into "the World Cup that led to the abolition of modern slavery in Qatar and set a benchmark for the treatment of migrant workers in the Gulf region".

## Bibliography

- Amis, Lucy, *Striving for Excellence: Mega-Sporting Events and Human Rights*, London: Institute for Human Rights and Business, 2013
- Amnesty International, 'The dark side of migration - Spotlight on Qatar's construction sector ahead of the world cup', 18 November 2013, AI-Index: MDE 22/010/2013
- Amnesty International, 'No extra time: How Qatar is still failing on workers' rights ahead of the world cup', 12 November 2014, AI-Index: MDE 22/010/2014
- Amnesty International, 'The ugly side of the beautiful game – Exploitation of migrant workers on a Qatar 2022 world cup site', 31 March 2016, AI-Index: MDE 22/3741/2016 (a)
- Amnesty International, 'New name, old system? Qatar's new employment law and abuse of migrant workers', 12 December 2016, AI-Index: MDE 22/5242/2016 (b)
- Avery, Christopher, 'CSR and human rights', in *corporate citizenship briefing*, 26 September 2006,  
<https://ccbriefing.corporate-citizenship.com/2006/09/26/csr-and-human-rights/>
- Brown, Andy, 'Swiss set cooperation conditions for FIFA and Qatar on worker rights', in *the Sports Integrity Initiative*, 2 May 2017,  
<http://www.sportsintegrityinitiative.com/swiss-set-cooperation-conditions-fifa-qatar-worker-rights/>
- Cornwell, Alexander & Homewood, Brian, 'Qatar Airways signs World Cup sponsorship deal with FIFA', in *Reuters*, 7 May 2017,  
<http://www.reuters.com/article/us-qatar-airways-fifa-idUSKBN1830I3>
- Doha News Team, 'Report: Qatar growing increasingly dependent on expat labor', in *Doha News*, 11 January 2012,  
<https://dohanews.co/report-qatar-growing-increasingly-dependent-on-expat/>
- Endo, Isaku & Afram, Gabi G., *World Bank Study: The Qatar-Nepal Remittance Corridor Enhancing the Impact and Integrity of Remittance Flows by Reducing Inefficiencies in the Migration Process*, Washington DC: The World Bank, 2011
- FIFA, 'FIFA Disciplinary Code', 30 May 2011,  
[http://resources.fifa.com/mm/document/affederation/administration/50/02/75/disc\\_oinhalte.pdf](http://resources.fifa.com/mm/document/affederation/administration/50/02/75/disc_oinhalte.pdf)

- FIFA, 'Code of Conduct', 25 May 2012,  
<http://resources.fifa.com/mm/document/affederation/footballgovernance/01/66/54/32/fifacodeofconduct.pdf> (a)
- FIFA, 'FIFA Code of Ethics', 17 July 2012,  
[http://resources.fifa.com/mm/document/affederation/administration/50/02/82/codeofethics\\_v211015\\_e\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/administration/50/02/82/codeofethics_v211015_e_neutral.pdf) (b)
- FIFA, 'FIFA Anti-Discrimination Monitoring System', May 2015,  
[http://resources.fifa.com/mm/document/afsocial/anti-racism/02/60/42/16/fifaanti-discriminationmonitoringsystem\\_summary\\_may2015\\_neutral.pdf](http://resources.fifa.com/mm/document/afsocial/anti-racism/02/60/42/16/fifaanti-discriminationmonitoringsystem_summary_may2015_neutral.pdf)
- FIFA, 'FIFA sanctions several football associations after discriminatory chants by fans', 13 January 2016,  
<http://www.fifa.com/worldcup/news/y=2016/m=1/news=fifa-sanctions-several-football-associations-after-discriminatory-chan-2755350.html> (a)
- FIFA, 'FIFA STATUTES', 27 April 2016,  
[http://resources.fifa.com/mm/document/affederation/generic/02/78/29/07/fifastatutsweben\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/generic/02/78/29/07/fifastatutsweben_neutral.pdf) (b)
- FIFA, 'FIFA 2.0: THE VISION FOR THE FUTURE', 13 October 2016,  
[http://resources.fifa.com/mm/document/affederation/generic/02/84/35/01/fifa\\_2.0\\_vision\\_e\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/generic/02/84/35/01/fifa_2.0_vision_e_neutral.pdf) (c)
- FIFA, 'FIFA President Infantino unveils "FIFA 2.0: The Vision for the Future"', 13 October 2016,  
<http://www.fifa.com/about-fifa/news/y=2016/m=10/news=fifa-president-infantino-unveils-fifa-2-0-the-vision-for-the-future-2843428.html> (d)
- FIFA, 'Fact Sheet: FIFA's work on Human Rights', November 2016,  
[http://resources.fifa.com/mm/document/affederation/bodies/02/76/71/45/fifabackgroundinfoonhumanrights\\_november2016\\_neutral.pdf#\\_blank](http://resources.fifa.com/mm/document/affederation/bodies/02/76/71/45/fifabackgroundinfoonhumanrights_november2016_neutral.pdf#_blank) (e)
- FIFA, 'HUMAN RIGHTS ADVISORY BOARD TERMS OF REFERENCE', 1 November 2016,  
[http://resources.fifa.com/mm/document/affederation/footballgovernance/02/87/54/89/advisoryboard\\_tor\\_final\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/footballgovernance/02/87/54/89/advisoryboard_tor_final_neutral.pdf) (f)
- FIFA, 'FIFA Congress confirms next steps of the bidding process for the 2026 FIFA World Cup', 11 May 2017,  
<http://www.fifa.com/about-fifa/news/y=2017/m=5/news=fifa-congress-confirms-next-steps-of-the-bidding-process-for-the-2026--2883665.html> (a)

- FIFA, 'FIFA ACTIVITY UPDATE ON HUMAN RIGHTS', 8 June 2017,  
[http://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/33/21/activityupdate\\_humanrights\\_may2017\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/33/21/activityupdate_humanrights_may2017_neutral.pdf) (b)
- FIFA, 'FIFA's Human Rights Policy', 8 June 2017,  
[http://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/33/12/fifashumanrightspolicy\\_neutral.pdf](http://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/33/12/fifashumanrightspolicy_neutral.pdf) (c)
- FIFA, 'FIFA statement on Human Rights Watch report on Russia', 14 June 2017,  
<http://www.fifa.com/sustainability/news/y=2017/m=6/news=fifa-statement-on-human-rights-watch-report-on-russia-2894986.html> (d)
- FIFA and the 2018 FIFA World Cup Russia™ Local Organising Committee, 'Sustainability Strategy 2018 FIFA World Cup™', 23 July 2015,  
[http://resources.fifa.com/mm/document/tournament/competition/02/66/69/50/sustainabilitystrategyfor2018fifaworldcup\\_neutral.pdf](http://resources.fifa.com/mm/document/tournament/competition/02/66/69/50/sustainabilitystrategyfor2018fifaworldcup_neutral.pdf)
- Ganji, Sarath, 'Leveraging the World Cup: Mega Sporting Events, Human Rights Risk, and Worker Welfare Reform in Qatar', pp. 221 – 259 in *Journal on Migration and Human Security*, vol. 4, no. 4, 2016
- Garcia, Michael J. & Borbély, Cornel, 'REPORT ON THE INQUIRY INTO THE 2018/2022 FIFA WORLD CUP™ BIDDING PROCESS', 5 September 2014,  
[https://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/87/97/aus\\_bel\\_ned\\_eng\\_esp\\_por\\_jpn\\_kor\\_qat\\_report\\_neutral.pdf](https://resources.fifa.com/mm/document/affederation/footballgovernance/02/89/87/97/aus_bel_ned_eng_esp_por_jpn_kor_qat_report_neutral.pdf)
- Gibson, Owen, 'Scandal-hit Fifa lose three more major sponsors', in *the guardian*, 23 January 2015 (a)
- Gibson, Owen, '2022 Qatar World Cup vote should be rerun, claims Council of Europe', in *the guardian*, 27 January 2015 (b)
- Gibson, Owen, 'Fifa sponsors want human rights at heart of reform process', in *the guardian*, 5 February 2016
- Gulf Times, 'New law lifts two-year ban on expats re-entry', 1 November 2015
- Gulf Times, 'New expat law awareness campaign proves popular', 1 December 2016
- Homewood, Brian, 'FIFA announces new sponsorship deal, says more on the way', in *Reuters*, 19 March 2016,  
<http://www.reuters.com/article/us-soccer-fifa-sponsor-idUSKCN0WK1R1>
- Human Rights Watch, 'Building a Better World Cup - Protecting Migrant Workers in Qatar Ahead of FIFA 2022', 12 June 2012

- Human Rights Watch, *World Report 2017*, New York: Seven Stories Press, 2017 (a)
- Human Rights Watch, 'Red card: Exploitation of Construction Workers on World Cup Sites in Russia', 14 June 2017 (b)
- Impactt, 'Annual External Compliance Report of the Supreme Committee for Delivery & Legacy's Workers' Welfare Standards: Strong foundations: the journey to improving worker welfare', 5 April 2017,  
<http://d2u1rmkncwog70.cloudfront.net/Vault/VaultOutput?ID=12342&ts=1489683520>
- Institute for Human Rights and Business, 'FIFA Joins Mega-Sporting Events Platform for Human Rights', 25 April 2017,  
<https://www.ihrb.org/news-events/news-events/fifa-joins-mega-sporting-events-platform-for-human-rights>
- International Labour Organization, 'Complaint concerning non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference under article 26 of the ILO Constitution' ILO Doc: GB.329/INS/14(Rev.), 13 March 2017 (a)
- International Labour Organization, 'ILO revises its landmark Declaration on multinational enterprises', 17 March 2017,  
[http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_547615/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_547615/lang--en/index.htm) (b)
- International Trade Union Confederation, 'Frontlines Report 2015 - Qatar: Profit and Loss: Counting the cost of modern day slavery in Qatar: What price is freedom?', 18 December 2015,  
<https://www.ituc-csi.org/frontlines-report-2015-qatar>
- Kuttappan, Rejimon, 'Migrant workers blocked from leaving Qatar despite labor reforms', in *Reuters*, 29 March 2017,  
<http://www.reuters.com/article/us-qatar-migrants-rights-idUSKBN1701N4>
- Macdonald, Ewan, 'World Cup Bidding Process Explained: How The 2018 & 2022 World Cup Hosts Are Chosen', in *GOAL*, 29 November 2010,  
<http://www.goal.com/en/news/3512/20182022-world-cup-host/2010/11/29/2234600/world-cup-bidding-process-explained-how-the-2018-2022-world>
- Mares, Radu, *The UN Guiding Principles on Business and Human Rights - Foundations and Implementation*, Leiden, Boston: Martinus Nijhoff Publishers, 2012

- Mega-Sporting Events Platform for Human Rights, 'Sports Governing Bodies and Human Rights Due Diligence: Sporting Chance White Paper 1.2', 1 January 2017 (a)
- Mega-Sporting Events Platform for Human Rights, 'Human Rights Risk Mitigation in the Sports Context: Sporting Chance White Paper 2.3', 1 January 2017 (b)
- Mega-Sporting Events Platform for Human Rights, 'Sponsors and Human Rights in the Sports Context: Sporting Chance White Paper 3.1', 1 January 2017 (c)
- Millward, Peter, 'World Cup 2022 and Qatar's construction projects: Relational power in networks and relational responsibilities to migrant workers', pp. 1 – 21 in *Current Sociology*, 2016
- National Contact Point of Switzerland, 'Initial Assessment: Specific Instance regarding the Fédération Internationale de Football Association (FIFA) submitted by the Building and Wood Workers' International (BWI)', 13 October 2015
- National Contact Point of Switzerland, 'Initial Assessment: Specific Instance regarding the Fédération Internationale de Football Association (FIFA) submitted by Americans for Democracy and Human Rights in Bahrain', 17 August 2016
- National Contact Point of Switzerland, 'Final Statement: Specific Instance regarding the Fédération Internationale de Football Association (FIFA) submitted by the Building and Wood Workers' International (BWI)', 2 May 2017
- OECD, *Guidelines for Multinational Enterprises*, Paris: OECD Publishing, 2011
- OHCHR, 'The Corporate Responsibility to respect human rights: An interpretive guide' UN Doc HR/PUB/12/02, 2012
- O'Reilly, Lara, 'World Cup sponsor Visa warns FIFA it could jump ship', in *Business Insider*, 28 May 2015, <http://www.businessinsider.com/visa-on-fifa-arrests-2015-5#ixzz3bRmISaLd>
- Osman, Mohammed, 'New residency law to take effect on Dec 13', in *The Peninsula Qatar*, 23 October 2016, <https://www.thepeninsulaqatar.com/article/23/10/2016/New-residency-law-to-take-effect-on-Dec-13>
- Pattison, Pete, 'Revealed: Qatar's World Cup 'slaves'', in *the guardian*, 25 September 2013

- Qatar National Human Rights Committee, *2015 Annual Report of the National Human Rights Committee On the situation of Human Rights in the State of Qatar and the Committee Activities*, Doha: National Human Rights Committee, 2016
- Ramasastry, Anita, ‘Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability’, pp. 237 – 259 in *Journal of Human Rights*, vol. 14, no. 2, 2015
- Ruggie, John, *Just Business: Multinational Corporations and Human Rights*, London: W. W. Norton & Company, 2013
- Ruggie, John, ‘“For the game. For the World” FIFA and Human Rights’, in *Corporate Responsibility Initiative Report*, vol. 68, 2016
- Snoj, Jure, ‘Population of Qatar by nationality’, in *Business in Qatar and beyond magazine*, 7 December 2014,  
<http://www.bq-magazine.com/economy/2013/12/population-qatar-nationality>
- Social & Economic Survey Research Institute of Qatar University, ‘Annual Omnibus Survey: A survey of life in Qatar 2012’, November 2012
- Supreme Committee for Delivery & Legacy, ‘Workers’ Welfare Standards: Edition 2’, February 2016
- Supreme Committee for Delivery & Legacy, ‘Second Annual Workers’ Welfare Progress Report: January 2016 – February 2017’, 22 June 2017
- Swiss Centre of Expertise in Human Rights, *Umsetzung der Menschenrechte in der Schweiz: Eine Bestandesaufnahme im Bereich Menschenrechte und Wirtschaft*, Bern: Editions Weblaw, 2013
- Swiss Coalition for Corporate Justice, ‘National Action Plan on Business and Human Rights Report dated 9. December 2016 on Switzerland’s strategy for the implementation of the UN Guiding Principles on Business and Human Rights in response to the parliamentary postulate 12.3503, Alec von Graffenried, 14. December 2012: Analysis and comments by the Swiss Coalition for Corporate Justice’, 9 December 2016,  
[http://konzern-initiative.ch/wp-content/uploads/2016/12/2061222\\_NAP-Analyse\\_EN\\_defdef.pdf](http://konzern-initiative.ch/wp-content/uploads/2016/12/2061222_NAP-Analyse_EN_defdef.pdf)
- Swiss Federal Council, ‘Gesellschaftliche Verantwortung der Unternehmen: Positionspapier und Aktionsplan des Bundesrates zur Verantwortung der Unternehmen für Gesellschaft und Umwelt’, 1 April 2015

- Swiss Federal Council, 'Report on the Swiss strategy for the implementation of the UN Guiding Principles on Business and Human Rights: Report of the Federal Council in fulfilment of postulate 12.3503, Alec von Graffenried, 14 December 2012', 9 December 2016
- Tal, Samuel-Azran, Moran, Yarchi, Yair, Galily & Ilan, Tamir, 'Promoting Terror or Sport? The Case of Qatar's International Image', pp. 1101 – 1115 in *American Behavioral Scientists*, vol. 60, no. 9, 2016
- Taylor, Mark, Zandvliet, Luc & Forouhar, Mitra, 'Due Diligence for Human Rights: A Risk-Based Approach - Corporate Social Responsibility Initiative Working Paper No. 53', 1 October 2009
- The Coca-Cola Company, 'Coca-Cola Statement on Qatar and FIFA', 20 May 2015, <http://www.coca-colacompany.com/press-center/company-statements/statement-on-fifa-and-human-rights>
- Transparency International Secretariat, 'UEFA INCORPORATES HUMAN RIGHTS & ANTI-CORRUPTION CRITERIA INTO BIDDING REQUIREMENTS', 2 May 2017, [https://www.transparency.org/news/pressrelease/uefa\\_incorporates\\_human\\_rights\\_anti\\_corruption\\_criteria\\_into\\_bidding\\_require](https://www.transparency.org/news/pressrelease/uefa_incorporates_human_rights_anti_corruption_criteria_into_bidding_require)
- UNHRC, "Guiding principles on business and human rights: implementing the United Nations "Protect, Respect and Remedy" framework" UN Doc A/HRC/17/31, 16 June 2011
- UNHRC, 'Report of the Special Rapporteur on the human rights of migrants, François Crépeau' UN Doc A/HRC/26/35/Add.1, 23 April 2014
- UNHRC, 'Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the Asia Forum on Business and Human Rights' UN Doc A/HRC/32/45/Add. 2, 30 May 2016
- Visa, 'Visa Statement on FIFA', 19 May 2015, <http://visacorporate.tumblr.com/post/119372415928/visa-statement-on-fifa>
- Wintour, Patrick, 'Gulf plunged into diplomatic crisis as countries cut ties with Qatar', in *the guardian*, 5 June 2017
- Youd, Kate, 'The Winter's Tale of Corruption: The 2022 FIFA World Cup in Qatar, the Impending Shift to Winter, and Potential Legal Actions against FIFA', pp. 167 – 197 in *Northwestern Journal of International Law & Business*, vol. 35, no. 1, 2014

Zeidan, Obada & Fauser, Simon, 'Corporate governance and corporate social responsibility – the case of FIFA', pp. 183 – 192 in *Problems and Perspectives in Management*, vol. 13, no. 2, 2015

#### **Websites:**

Business & Human Rights Resource Centre, FIFA Human Rights Advisory Board, 2017,  
<https://business-humanrights.org/en/fifa-human-rights-advisory-board> (consulted on 18 May 2017)

Deutsche Welle, Swiss court rejects lawsuit against FIFA over Qatar World Cup,  
<http://www.dw.com/en/swiss-court-rejects-lawsuit-against-fifa-over-qatar-world-cup/a-37038148> (consulted on 8 June 2017)

FIFA, A guide to the FIFA reform proposals,  
<http://www.fifa.com/about-fifa/photos/galleries/y=2016/m=2/gallery=the-reform-process-chronology-2763347.html#2763249> (consulted on 20 June 2017)

FIFA, Associations,  
<https://www.fifa.com/associations/index.html> (consulted on 3 May 2017)

FIFA, Bidding Process,  
<http://www.fifa.com/governance/competition-organisation/bidding-process.html>  
(consulted on 26 June 2017).

FIFA, Committees,  
<https://www.fifa.com/about-fifa/committees/index.html> (consulted on 4 May 2017)

FIFA, FIFA Congress,  
<https://www.fifa.com/about-fifa/fifa-congress/all-you-need-to-know/index.html>  
(consulted on 3 May 2017)

FIFA, FIFA Council,  
<https://www.fifa.com/about-fifa/fifa-council/index.html> (consulted on 4 May 2017)

FIFA, FIFA Partners,  
<http://www.fifa.com/about-fifa/marketing/sponsorship/partners/index.html>  
(consulted on 2 July 2017)

- FIFA, FIFA World Cup™ Sponsorship Strategy,  
<http://www.fifa.com/about-fifa/marketing/sponsorship/index.html> (consulted on 2 July 2017)
- FIFA, Frequently Asked Questions (2. Competitions: E. How are FIFA World Cup host countries selected?),  
<http://www.fifa.com/faq.html> (consulted on 26 June 2017).
- FIFA, History of FIFA - Foundation,  
<http://www.fifa.com/about-fifa/who-we-are/history/> (consulted on 3 May 2017)
- FIFA, History of FIFA - The first FIFA World Cup™,  
<http://www.fifa.com/about-fifa/who-we-are/history/first-fifa-world-cup.html>  
(consulted on 3 May 2017)
- FIFA, How the FIFA Council works,  
<https://www.fifa.com/about-fifa/fifa-council/how-the-fifa-council-works.html>  
(consulted on 4 May 2017)
- FIFA, Independent Ethics Committee,  
<https://www.fifa.com/about-fifa/committees/committee=1882034/index.html>  
(consulted on 15 May 2017)
- FIFA, Our commitment,  
[https://www.fifa.com/mm/document/footballdevelopment/education/55/95/17/fifa\\_brandbroschuere\\_23x23\\_e\\_13324%5B1%5D.pdf](https://www.fifa.com/mm/document/footballdevelopment/education/55/95/17/fifa_brandbroschuere_23x23_e_13324%5B1%5D.pdf) (consulted on 29 May 2017)
- FIFA, What we stand for,  
<https://www.fifa.com/about-fifa/who-we-are/explore-fifa.html> (consulted on 3 May 2017)
- Supreme Committee for Delivery & Legacy, Workers' Welfare Compliance,  
<http://www.sc.qa/en/opportunities/workers-welfare/workers-welfare-compliance>  
(consulted on 20 June 2017)
- Swiss Coalition for Corporate Justice, The initiative,  
<http://konzern-initiative.ch/initiativtext/?lang=en> (consulted on 8 June 2017)
- UN Global Compact, Frequently Asked Questions,  
<https://www.unglobalcompact.org/about/faq> (consulted on 1 June 2017)
- UN Global Compact, Our Integrity Measures,  
<https://www.unglobalcompact.org/about/integrity-measures> (consulted on 1 June 2017)

UN Global Compact, Our Participants,

<https://www.unglobalcompact.org/what-is-gc/participants> (consulted on 1 June 2017)

UN Global Compact, The Ten Principles of the UN Global Compact,

<https://www.unglobalcompact.org/what-is-gc/mission/principles> (consulted on 1 June 2017)

Worldatlas, The Richest Countries In The World,

<http://www.worldatlas.com/articles/the-richest-countries-in-the-world.html>  
(consulted on 25 June 2017)

### **Cases:**

*FNV & Nadim Shariful Alam v FIFA*, rejected by the Commercial Court of Zurich on 6 January 2017, writ of summons,

<https://www.fnv.nl/site/over-de-fnv/fnv-internationaal/1040331/fvnnadimsharifulalamvfifaenglish.pdf>

### **Letters:**

Amnesty International, 'Qatar: Letters of response – The ugly side of the beautiful game: Exploitation of migrant workers on a Qatar 2022 World Cup site', 30 March 2016, AI-Index: MDE 22/3681/2016

## Annex

### Questionnaire for master's thesis: "Qatar 2022, the World Cup of modern slavery – Is FIFA playing fair?"

Name:	Andreas Graf
Function:	FIFA Human Rights Manager
Interview date:	19 June 2017

Questions regarding FIFA's general human rights due diligence
How many human rights lawyers are employed by FIFA?
How many people are in charge of FIFAs human rights due diligence?
How are human rights implemented in FIFA's business activities?
What is FIFAs due diligence strategy? How does FIFA assess human rights impacts?

Questions regarding the World Cup 2022 in Qatar
Was there any human rights risk assessment before awarding the World Cup 2022 to Qatar?
How does FIFA engage with relevant stakeholders to address human rights impacts?
Has FIFA done anything to improve the human rights situation for migrant workers in Qatar and what steps has it taken to avoid more violations in the future?
Is FIFA putting any pressure on the Qatari government to improve the situation?
Has FIFA investigated the human rights violations? If yes, how?
Is FIFA monitoring compliance with human rights standards of World Cup related construction companies?
Is there a FIFA grievance mechanism for World Cup related human rights violations?