

ARTICLE

Special Section: The FIFA World Cup 2022 and the struggle for human rights in Qatar

## “Games–Time Human Rights Due Diligence”: A Case Study of FIFA’s Human Rights Volunteers Program at the FIFA World Cup Qatar 2022

Daniela Heerd<sup>1</sup> 

<sup>1</sup>T.M.C. Asser Instituut, The Hague, Netherlands and Centre for Sport and Human Rights, Geneva, Switzerland  
Email: [d.heerd@asser.nl](mailto:d.heerd@asser.nl)

(Received 06 December 2023; accepted 06 December 2023)

### Abstract

The FIFA World Cup Qatar 2022 received an unprecedented amount of criticism from civil society and human rights organizations for the human rights risks and adverse human rights impacts related to organizing and staging the event. Interestingly, it was the first World Cup that was delivered with a team of human rights volunteers monitoring human rights issues at event venues on match days.<sup>1</sup> Given the novelty of this project, this Article first informs about the FIFA human rights volunteers (HRV) program in general and second, it analyses to what extent it can be considered a concrete and practical example of an organization’s human rights due diligence (HRDD) and remedy efforts. As some of the broader business and human rights literature suggests, there seems to be a lack of practical examples of how corporations implement HRDD, making FIFA’s HRV program an exception worth studying.

**Keywords:** Human rights; human rights volunteers; human rights due diligence; remedy; FIFA World Cup; Centre for Sport and Human Rights; United Nations Guiding Principles for Business and Human Rights

### A. Introduction

The FIFA World Cup Qatar 2022 received an unprecedented amount of criticism from civil society and human rights organizations for the human rights risks and adverse human rights impacts related to staging and delivering the event. In 2010, when the tournament was awarded to Qatar, the criticism from civil society organizations and the media of how the country treats migrant workers that make up about 90% of the population, grew. While in the years leading up to the tournament legislative changes were introduced, and unprecedented human rights due diligence (HRDD) work took place regarding those workers directly related to the tournament and following FIFA’s commitment to the United Nations Guiding Principles for Business and Human Rights (UNGPs) and conducting human rights due diligence in 2017, the exploitation of migrant workers in the country did not stop. Migrant workers continued to face rights abuses such as delayed payment or withholding of wages,

<sup>1</sup>“Human Rights Volunteer Roles to Return for FIFA World Cup Qatar 2022”, FIFA: INSIDE FIFA (June 22, 2022, 10:00 AM), <https://www.fifa.com/social-impact/human-rights/news/human-rights-volunteer-roles-to-return-for-fifa-world-cup-qatar-2022-tm> [hereinafter *HRV Roles*].

inadequate housing, barriers to access to justice, the prohibition of worker's associations under Qatari law, the exploitation by recruitment agencies, and unsafe working conditions that in the worst case led to death.<sup>2</sup>

Interestingly, and almost ironically, the FIFA World Cup Qatar 2022 was the first World Cup that was delivered with a team of human rights volunteers working on the ground to monitor human rights issues at event venues on match days.<sup>3</sup> This program was initiated by FIFA and delivered together with the Centre for Sport and Human Rights (CSHR), a human rights organization for the world of sport.<sup>4</sup> In 2017, FIFA changed its bidding and hosting regulations of World Cups to include human rights requirements and commitment to the UNGPs, applicable for the first time to the 2026 World Cup bidders and hosts. This made the 2022 FIFA World Cup in Qatar the last World Cup to be staged without having such requirements in place. Nevertheless, FIFA introduced the HRV program, arguably to compensate the lack of human rights requirements and human rights due diligence applicable to the tournament.

Acknowledging the novelty and potential significance of this project, this Article attempts to do two things: first, it informs about the FIFA human rights volunteers program in general, explaining what it is, how it worked, and who was involved; and second, it analyses to what extent it can be considered a concrete and practical example of an organization's human rights due diligence and remedy efforts, as outlined in the UNGPs and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (OECD Guidelines). As some of the business and human rights literature suggests, there seems to be a lack of practical examples of how corporations implement HRDD, as many corporations fail to disclose what they are doing or disclose in vague terms only what they are actually doing in that space.<sup>5</sup> This makes FIFA's HRV program an exception worth studying.

The assessment will be conducted based on information gathered through personal experience as team leader of human rights volunteers, statements made by initiators of the program, namely FIFA and CSHR, a recently published report by CSHR on the HRV program,<sup>6</sup> interviews with representatives from FIFA and CSHR, as well as a selection of recently published relevant literature on HRDD and remedy. The first Section introduces the human rights volunteers program and provides information on and examples of how it worked and who was involved. The second Section briefly explains the concepts of—downstream—HRDD and remedy and provides examples of how HRDD and remedy mechanisms have been realized in the mega-sporting event context. The third Section of this paper assesses what role FIFA's HRV program can play for HRDD and remedy. The Conclusion will summarize the main findings of this study and present a number of unanswered questions that should be addressed to ensure more clarity on the role and purpose of the HRV program and enhance the prospects of making use of HRVs also at future mega-sporting events.

## B. About FIFA's Human Rights Volunteers Program

In 2021, at the FIFA Arab Cup in Qatar, the human rights volunteer role was first introduced arguably in response to criticism directed at FIFA for failing to include human rights in their

<sup>2</sup>Amnesty Int'l, *Qatar: Reality Check: The State of Migrant Workers' Rights With Four Years To Go Until the Qatar 2022 World Cup*, AI Index MDE 22/9758/2019 (Feb. 5, 2019), <https://www.amnesty.org/en/documents/mde22/9758/2019/en/>.

<sup>3</sup>See *HRV Roles*, *supra* note 1.

<sup>4</sup>CENTRE FOR SPORT AND HUMAN RIGHTS, <https://www.sporhumanrights.org/about-us/> (last visited May 2023).

<sup>5</sup>Benn F. Hogan & Joanna Reyes, *Downstream Human Rights Due Diligence: Informing Debate Through Insights from Business Practice*, BUS. & HUM. RTS. J. 1, 2–3 (2023).

<sup>6</sup>Ctr. for Sport & Hum. Rts., *Rights Up Close: A Review of the Human Rights Volunteers Programme at the FIFA World Cup Qatar 2022* 42 (2023), <https://www.sporhumanrights.org/media/cncjpv1/rights-up-close-final.pdf> [hereinafter *Rights Up Close*].

activities in Qatar. At that time, twelve locally based volunteers were on the ground during the tournament to do what FIFA called “outreach work.”<sup>7</sup> The volunteers were trained by FIFA’s human rights team, and then tasked with conducting interviews primarily with fans to learn about their experiences during the event and raising awareness on FIFA’s grievance mechanisms that operated for the event. For the Arab Cup, 565 interviews were conducted, and the received information was shared with FIFA’s Human Rights team that then followed up by alerting relevant FIFA departments or host country partners. According to FIFA, this “helped [FIFA] to very concretely improve the protection of people attending the FIFA Arab Cup.”<sup>8</sup>

At the 2022 Qatar World Cup, the program was extended to seventy-eight HRVs, eleven team leaders, two project managers with one from FIFA and one from FIFA’s partner in this project, CSHR, and spread across nine venues, eight stadiums and the FIFA Fan Festival (FFF).<sup>9</sup> Together, they covered sixty-four matches and twenty-nine days at the FFF.<sup>10</sup> The volunteers were recruited from the event’s general pool of volunteers. Everyone that applied to be a volunteer for the Qatar World Cup could indicate their areas of interest and expertise, where one option was the human rights volunteer role. FIFA then shortlisted candidates based on the extent to which those that expressed interest in the role had a background or interest in social work, and did a final selection based on interviews that were conducted. From 150 volunteers that expressed interest, seventy-eight were recruited, the majority of which were Qatari-based volunteers, but a total of thirty-three different nationalities were represented among the HRVs.<sup>11</sup> International volunteers received housing from FIFA and HRVs wore the same outfits as all other volunteers. They worked according to the match schedule meaning that they usually worked every second day.

For CSHR, the involvement in the HRV project was an opportunity to bear witness to this pilot, but also to gain experience and test their understanding of games-time human rights issues during a World Cup. Games-time human rights issues refers to human rights risks and problems that come up during the delivery of an event, such as issues with safety and security, incidents of harassment, or accessibility problems.<sup>12</sup> In addition to the field support during the event, CSHR also supported FIFA with designing and delivering parts of the trainings to HRVs. Other actors as well were providing support, such as the Office of the United Nations High Commissioner for Human Rights (OHCHR), Football Supporters Europe, and the International Lesbian and Gay Association. The project also had the explicit support of the Supreme Committee for Delivery and Legacy in Qatar, the body responsible for the delivery and operations of the Qatar World Cup. The HRV program operated alongside FIFA’s Anti-Discrimination Match Observers,<sup>13</sup> its Grievance Mechanism,<sup>14</sup> and other HRDD initiatives FIFA had put in place for this tournament.<sup>15</sup>

The majority of HRVs had an interest in human rights or relevant practical experience, but only a small fraction had relevant theoretical knowledge or expertise.<sup>16</sup> To ensure a basic level of human rights knowledge for all HRVs, FIFA organized online trainings before the event, and one in-person training session in Qatar right before the start of the tournament. These trainings covered general information on human rights and the basics of international human rights law and provided more detailed information on games-time human rights issues. The session in Qatar

<sup>7</sup>See *HRV Roles*, *supra* note 1.

<sup>8</sup>*Id.*

<sup>9</sup>See *Rights Up Close*, *supra* note 6.

<sup>10</sup>*Id.*

<sup>11</sup>*Id.*

<sup>12</sup>Interview with CSHR (Mar. 18, 2023, online via zoom).

<sup>13</sup>*Anti-Discrimination*, FIFA: ANNUAL REPORT 2021 (2022), <https://publications.fifa.com/en/annual-report-2021/around-fifa/anti-discrimination/>.

<sup>14</sup>*FIFA World Cup Qatar 2022™ Grievance Mechanism*, FIFA: INSIDE FIFA (2022), <https://www.fifa.com/social-impact/human-rights/grievance-mechanism>.

<sup>15</sup>Interview with FIFA (Mar. 15, 2023, online via zoom).

<sup>16</sup>Interview with CSHR, *supra* note 12.

was delivered by OHCHR and again focused on providing a more general understanding of what human rights are. While more detailed information on risks specific to certain matches or venues was missing from the pre-mission trainings, team leaders provided briefings before and after every match on the specific risks that were expected or came up during the match day. These briefings also provided an opportunity for the volunteers to ask questions regarding the human rights issues at stake and test their own understanding of relevant standards. At some points, the different national and ethnic backgrounds of the volunteers were reflected in the way they responded to these briefings, for instance, when non-discrimination of the LGBTQI+ community was at stake, or freedom of speech and right to protest. Cultural differences in particular brought different interpretations of situations and the applicability of certain rights in certain contexts to the table.

The matchday routine for HRVs looked like this: The volunteers would arrive around three hours before the match for their pre-match briefing and a first round around the stadium. They would then take positions in the outer perimeter of the stadium and report, interview and observe from there until the match starts. After kick-off, volunteers would also take their time to screen social media as much as possible and conduct interviews and make observations during halftime. This was usually also the time when volunteers took a break. Just before the end of the match, volunteers would position themselves inside the stadiums to observe and report until most fans have exited. Around one to two hours after the final whistle, a final meeting was held with the team leader for a short debrief after which the volunteers went home.<sup>17</sup> It looked somewhat different for HRVs at the FIFA Fan Festival in terms of the positioning, but the hours covered and briefing moments were the same. HRVs would usually observe and interview in pairs of two. On some match days, this would mean that HRVs observe or do interviews on how fans are entering the venue through security gates; on other days this would mean that HRVs monitor how fans are behaving in congested areas, how the accessibility services are working, or that they would try to get access to fans that had been held by security for protesting to document what happened.

As with the Arab Cup, the primary focus for gathering information was fan experience and observations in and around the stadiums and at the fan festival premises. The main human rights issues that were uncovered by HRVs during the Qatar World Cup were similar to those that came up during the Arab Cup and amounted to assistance services for persons with limited mobility, risks of harassment in congested areas outside stadiums, and privacy in prayer rooms at some stadiums.<sup>18</sup> Additional risks and issues that were identified during the World Cup concerned the engagement with security, discrimination and racial profiling, harassment among workforce and volunteers, right to protest and freedom of speech, and labor rights.<sup>19</sup>

The volunteers recorded and reported these issues through smartphones using an online form, which asked them to specify location, the human rights issue at stake, the type of information received—interview or observation—and the facts of what happened as stated by the person interviewed by the volunteer or what was observed by the volunteer. The reports then went into an online database, which was screened in real-time by the team leader, who then would escalate salient issues based on their level of severity and systemic nature. The issues were escalated through another online portal managed by the FIFA Management Team. The forwarded issues were screened by FIFA's Human Rights Team in real time and categorized in an issue log according to relevance and materiality. Whether and how to react to the issues was assessed on a case-by-case basis, considering what was possible in each case, and other parties involved and responsible. For example, if it concerned an issue that could be solved in the stadium, then the relevant venue manager would get involved. If there was an accessibility issue in a certain stadium, then the relevant accessibility manager for that stadium was

<sup>17</sup>See *Rights Up Close*, *supra* note 6.

<sup>18</sup>*HRV Roles*, *supra* note 1.

<sup>19</sup>See Interview with CSHR, *supra* note 12; Interview with FIFA, *supra* note 15.

contacted and mobilized. If it could not be solved in the stadium, then FIFA and, where needed, other actors like the hosting authorities, security, or the Supreme Committee (SC), became active to address the issue. For labor rights–related reports, the joint Workers’ Welfare team between the SC and FIFA’s local tournament organizing entity FIFA World Cup Qatar 2022 LLC (Q22) got involved. Follow-ups were circled back to the team leaders, who would then brief their team on the measures taken.<sup>20</sup> In high-risk situations, for instance when conflicts between fans, or between fans and security arose, HRVs would communicate with each other through WhatsApp to stay safe and get support in observing and documenting what happened. In those cases where fans required additional support, the HRVs also had access to the team that was operating FIFA’s grievance mechanism on the ground. While closely interrelated, the HRV program and the grievance mechanism were officially two different things, as is explained in more detail below.

HRVs conducted between twenty and thirty interviews per match, a vast majority of those with fans and only a few with workers, other volunteers, or other groups and individuals present.<sup>21</sup> An average of 200 reports were filed per match day, bearing in mind that as the tournament progressed there were fewer matches held each day and volunteers became more experienced and discerning, prioritizing more serious matters after having captured what was working well.<sup>22</sup> Many of the issues reported required FIFA to issue briefings or directives for security. A centralized issue log to record follow-up steps was operated by the FIFA Human Rights Team, through which cases were recorded, including the outcomes in relevant cases. There were daily meetings with FIFA top management to report on the most serious cases and issues and how to respond.<sup>23</sup>

According to FIFA, the HRV program was launched because it acknowledged a gap in the identification of human rights issues on the ground during a tournament due to a lack of information gathering.<sup>24</sup> Indeed, looking at the role that HRVs played, the primary purpose of the program seems to be receiving direct feedback and information for human rights due diligence. In their report, CSHR compares HRVs with election observers and defines their role and tasks under five themes: “be human rights aware,” “monitor,” “signpost human rights resources,” “collect data,” and “share learnings and experiences.”<sup>25</sup> According to CSHR a, the program would also contribute to an increased human rights capacity in the local community and among sports federations and local event hosts.<sup>26</sup> Indeed, capacity building took place through trainings and briefings, but also through peer-learning and CSHR is convinced that the HRV project helped building a “human rights–aware community.”<sup>27</sup> To what extent this community still exists and the individual volunteers apply their gained knowledge beyond the event is not being monitored.

Nevertheless, considering that as a result of this program a group of individuals learned about human rights risks around a Mega Sporting Event (MSE), and taking into account other pre-defined goals and purposes, the HRV pilot at the World Cup can be evaluated as a success. A lot of information was gathered and fed back to FIFA, and a group of around eighty volunteers was trained on human rights in theory and practice. The positive value of the program also shows in the fact that CSHR is promoting the use of HRVs for all future MSEs and built expertise to support

<sup>20</sup>*Rights Up Close*, *supra* note 6, at 44.

<sup>21</sup>*Id.* at 45.

<sup>22</sup>*Rights Up Close: A Review of the First Ever Human Rights Volunteers Program at the FIFA World Cup Qatar 2022*, CTR. FOR SPORT & HUM. RTS. (July 2023) [hereinafter *Rights Up Close*], <https://www.sporhumanrights.org/media/cncjpvml1/rights-up-close-final.pdf>.

<sup>23</sup>Interview with FIFA, *supra* note 15.

<sup>24</sup>*Id.*

<sup>25</sup>*Rights Up Close*, *supra* note 6, at 13.

<sup>26</sup>*Id.*

<sup>27</sup>Interview with CSHR, *supra* note 12.

sport bodies to implement the program.<sup>28</sup> Other factors that underpin this evaluation relate to the real-time measures FIFA took based on the information received. The author's personal evaluation of this is that direct effects and course-corrects were somewhat limited, but nevertheless existing. For example, briefings to security had almost immediate effects, as well as requests for more support for people with limited mobility. Another caveat might be the arguably limited scope of the operation, as FIFA limited it to areas where FIFA had a responsibility for operations affecting the attendees—namely the last mile, stadium, and FIFA Fan Festival precincts.<sup>29</sup> However, risks and incidents in other areas were included in the assessment where they came up in interviews with fans and others, and through firsthand experience of HRVs.<sup>30</sup>

### C. About Remedy and HRDD

In 2017, FIFA adopted a human rights policy through which it also explicitly committed to the UNGPs. A key element is the commitment to the process of human rights due diligence, which essentially is a risk management process for risks and harms affecting people and resulting from an organization's influence, as opposed to risks to the organization.<sup>31</sup> The UNGPs outline this process along four steps: (1) Identifying human rights risks through human rights impact assessment, (2) integrating the findings from the assessment and taking action, (3) monitoring and tracking that action in terms of its effectiveness, and (4) communicating about the action taken and the effects.<sup>32</sup> Committing to human rights standards is crucial in living up to the corporate responsibility to respect human rights. That commitment also forms an initial step in the HRDD process.<sup>33</sup>

Furthermore, the OECD also adds the provision of or cooperation with remediation as a step in their circular model of HRDD.<sup>34</sup> Under international human rights law, the human right to effective remedy is virtually guaranteed under all core international and regional human rights treaties.<sup>35</sup> The UNGPs understand remedy as having substantive and procedural elements. Its substantive elements relate to remedy as outcome, and may include “apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.”<sup>36</sup> Remedy as a process has three parts as described in the UNGPs: The access, going through the procedures, and resulting in the outcome. Regarding the procedures, a range of non-judicial and judicial mechanisms exist on the national, regional, and international level, including both state and non-state-based mechanisms.<sup>37</sup> Examples are national or regional courts, such as the European or Inter-American Court of Human Rights,

<sup>28</sup>Centre and FIFA Partner to Deliver Human Rights Volunteers for FIFA World Cup Qatar 2022, CTR. FOR SPORT & HUM. RTS. (June 30, 2022), <https://sporthumanrights.org/news/centre-and-fifa-partner-to-deliver-human-rights-volunteers-for-fifa-world-cup-qatar-2022> [hereinafter *Centre and FIFA Partner to Deliver HRV*].

<sup>29</sup>*Rights Up Close*, *supra* note 6, at 6.

<sup>30</sup>*Id.* at 20.

<sup>31</sup>Robert McCorquodale, Lise Smit, Stuart Neely & Robin Brooks, *Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises*, 2 BUS. & HUM. RTS. J. 195, 199 (2017).

<sup>32</sup>OHCHR, GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS 17 (2011), [https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) [hereinafter OHCHR GUIDING PRINCIPLES].

<sup>33</sup>See OECD, OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT 21 (2018), <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf> (discussing due diligence and mitigation requirements for adverse impacts in the responsible business conduct framework) [hereinafter OECD DUE DILIGENCE GUIDANCE].

<sup>34</sup>*Id.*

<sup>35</sup>See, e.g., G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 8 (Dec. 10, 1948); International Covenant on Civil and Political Rights art. 2(3), Mar. 23, 1976, 999 U.N.T.S. 171 (providing for the right to remedy).

<sup>36</sup>See OHCHR GUIDING PRINCIPLES, *supra* note 32, at 27.

<sup>37</sup>*Id.*



private arbitration bodies, or state-based mediation procedures like those run by OECD National Contact Points. In fact, remedy mechanisms can originate with companies, industry associations and initiatives, governments, the United Nations, or other international and regional institutions, such as international financial institutions, non-governmental organizations, or sport bodies arguably.<sup>38</sup>

Even though there are obvious links between the two concepts, their primary purposes are going in opposite directions. HRDD is primarily focused on prevention,<sup>39</sup> whereas remedy is, as the name suggests, remedial. One works to prevent harm from happening, the other works to remedy harm once it happened. It could be argued that with effective prevention, remedy becomes redundant, but the reality is that even the best prevention mechanisms will not guarantee that no harm occurs. Moreover, in line with the OECDs model of HRDD it has been argued that HRDD clearly also has remedial elements to it.<sup>40</sup> Arguably, this is particularly the case for “downstream HRDD.” Downstream HRDD refers to HRDD in relation to an organization’s downstream human rights risks, so those risks that relate to the use of products or services, which can have various sources, such as the irresponsible use, unintended effects, or risks stemming from an organization’s business model or sales or marketing strategy.<sup>41</sup> As Hogan and Reyes clarify:

[F]ailing to conduct HRDD downstream may result in significant blind spots, harmful to the human rights of those impacted by the company’s products, services . . . This may lead, if not to legal liability or penalty for regulatory breach, to equally damaging results in respect of a company’s reputation.<sup>42</sup>

This Article defends the position that games-time HRDD, as practiced by FIFA with the HRV program, can be interpreted as downstream HRDD, as in its current form the program looks at human rights risks related to a product of an organization—the tournament—and affecting those that use the product—primarily those that attend as fans, but partially also the workers, the volunteers, and more.

### *I. Remedy and Downstream HRDD in the Context of Mega-Sporting Events*

The increasing relevance of HRDD and remedy also spilled over to the business of MSEs and a few recent attempts at HRDD in the context of MSEs can be highlighted, excluding FIFA’s HRV program for now. Because FIFA changed their bidding regulations for the men’s and women’s football world cup<sup>43</sup> to include human rights criteria, bidders have to submit a human rights strategy as part of their bid, which requires them to conduct HRDD for their event. In 2021, the Australian and New Zealand Human Rights Institutions were asked by FIFA to conduct an independent human rights risk assessment in preparation for the 2023 Women’s World Cup.<sup>44</sup> Similarly, the Union of European Football Associations (UEFA) added human rights

<sup>38</sup>Catherine Coumans, *Alternative Accountability Mechanisms and Mining: The Problems of Effective Impunity, Human Rights, and Agency*, 30 CAN. J. DEV. STUDS. 27, 34 (2011).

<sup>39</sup>Robert McCorquodale & Justine Nolan, *The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses*, 68 NETH. INT’L L. REV. 455, 460 (2021).

<sup>40</sup>*Id.* at 471.

<sup>41</sup>See Hogan & Reyes, *supra* note 5.

<sup>42</sup>*Id.*

<sup>43</sup>FIFA, GUIDE TO THE BIDDING PROCESS FOR THE FIFA WOMEN’S WORLD CUP 2023 5 (2017), <https://digitalhub.fifa.com/m/377f67b4338eca6e/original/gfuxttxiv3s10jvidbn-pdf.pdf>; FIFA, GUIDE TO THE BIDDING PROCESS FOR THE 2026 FIFA WORLD CUP 5 (2017), <https://digitalhub.fifa.com/m/5730ee56c15eeddb/original/hgopypqtviladnm7q90-pdf.pdf>.

<sup>44</sup>FIFA 2023 Women’s World Cup Human Rights Risk Assessment, AUSTL. HUM. RTS. COMM’N (Dec. 22, 2021), <https://humanrights.gov.au/our-work/business-and-human-rights/publications/fifa-2023-womens-world-cup-human-rights-risk>.

requirements to its bidding regulations<sup>45</sup> and the upcoming host of the Euro 2024, Germany, published a human rights declaration for the event, based on a human rights risk analysis.<sup>46</sup> Commonwealth Sport also adapted its bidding and hosting regulations, which required Birmingham 2022 to have a human rights strategy and relevant policies and procedures in place.<sup>47</sup> It is obvious that these efforts focused on HRDD during the bidding and the organization of an MSE and less on delivery and games-time.

Regarding remedy in relation to MSEs, from a procedural perspective, a range of different mechanisms need to be considered. There have been a few cases of human rights issues related to MSEs before national courts, including cases related to the Qatar World Cup. Trade unions, together with a migrant worker who was working in Qatar, unsuccessfully sued FIFA before a Swiss Commercial Court for its responsibility for abuses of migrant worker's rights in Qatar.<sup>48</sup> In another case, the French company Vinci Construction Grands Projets and its Qatari subsidiary QDVC were sued by an NGO for allegations of forced labor, servitude, and concealment, in relation to its World Cup construction projects in Qatar.<sup>49</sup> There also have been cases in relation to other MSEs. In the course of the preparations for the Rio 2016 Olympic Games, residents of Vila Autodromó brought cases against the municipality to seek redress for being forcefully evicted from their homes. In 2016, a federal court in Brazil ruled that Olympic Laws restricting freedom of expression and protests contravene Brazil's constitution.<sup>50</sup>

In addition to national courts, National Contact Points (NCP), the mechanism established by the OECD Guidelines to implement and monitor the Guidelines, have also been dealing with cases related to MSEs, in particular the Swiss NCP. In 2015, Building and Woodworkers International filed a complaint against FIFA at the Swiss NCP arguing that by awarding the World Cup to Qatar, FIFA violated labor and human rights of migrant workers.<sup>51</sup> Interestingly, there also has been a case brought to the UK NCP by Americans for Democracy and Human Rights in Bahrain (ADHRB) against the Formula One Group, arguing that the latter failed to address human rights issues related to the Grand Prix in Bahrain by not disclosing any human rights due diligence practices.<sup>52</sup>

While these are examples of some form of dispute resolution of cases related to sporting events and human rights more broadly, they currently do not present effective remedies in the sense of

<sup>45</sup>UNION OF EUR. FOOTBALL ASS'N, UEFA EURO 2024 TOURNAMENT REQUIREMENTS (2017), [https://www.uefa.com/MultimediaFiles/Download/OfficialDocument/uefaorg/Regulations/02/46/30/61/2463061\\_DOWNLOAD.pdf](https://www.uefa.com/MultimediaFiles/Download/OfficialDocument/uefaorg/Regulations/02/46/30/61/2463061_DOWNLOAD.pdf).

<sup>46</sup>Union of Eur. Football Ass'n, UEFA and DFB unveil human rights declaration for UEFA EURO 2024 (2023), <https://www.uefa.com/insideuefa/news/0287-1974d5e65856-c466fe97f8e1-1000-euro-human-rights-declaration/> (last visited December 5, 2023).

<sup>47</sup>BIRMINGHAM 2022, SOCIAL VALUES CHARTER (2022), <https://resources.cwg-qbr.pulselive.com/qbr-commonwealth-games/document/2022/04/06/15cf89f-7642-47a2-8c6a-3f4092de6e3e/Social-Values-Charter.pdf>.

<sup>48</sup>See Prakken d'Oliviera & Schadenanwaelte, *Case Summary: FNV & Nadim Shariful Alam versus FIFA*, PRAKKEN D'OLIVEIRA (2016), [https://www.prakkenoliveira.nl/images/nieuws/2016/case\\_summary\\_fnv\\_alam\\_vs\\_fifa.pdf](https://www.prakkenoliveira.nl/images/nieuws/2016/case_summary_fnv_alam_vs_fifa.pdf); see also Antoine Duval, *How Qatar's Migrant Workers Became FIFA's Problem: A Transnational Struggle for Responsibility*, 12 TRANSNAT'L LEGAL THEORY (2022) (forthcoming).

<sup>49</sup>*Legal Action Against Vinci in Qatar: Vinci Institutes Defamation Proceedings, Claiming Exorbitant Damages from Sherpa Organisation and Its Employees*, SHERPA (Apr. 16, 2015), <https://www.asso-sherpa.org/legal-action-vinci-qatar-vinci-institutes-defamation-proceedings-claiming-exorbitant-damages-sherpa-organisation-employees>.

<sup>50</sup>Jonathan Watts, *Brazilian Judge Orders Rio 2016 Organisers to Allow Peaceful Protests*, THE GUARDIAN (Aug. 9, 2016, 9:36 AM), <https://www.theguardian.com/sport/2016/aug/09/rio-2016-olympic-controls-freedom-of-speech-brazilian-judge-protests>.

<sup>51</sup>NAT'L CONTACT POINT OF SWITZ., FINAL STATEMENT: SPECIFIC INSTANCE REGARDING THE FÉDÉRATION INTERNATIONALE DE FOOTBALL ASSOCIATION (FIFA) SUBMITTED BY THE BUILDING AND WOOD WORKERS' INTERNATIONAL (BWI) (May 2, 2017), [https://www.business-humanrights.org/documents/4848/Final\\_Statement\\_FIFA\\_BWI.PDF](https://www.business-humanrights.org/documents/4848/Final_Statement_FIFA_BWI.PDF).

<sup>52</sup>UK NAT'L CONTACT POINT FOR OECD GUIDELINES FOR MULTINAT'L ENTERS., FINAL STATEMENT FOLLOWING AGREEMENT REACHED IN COMPLAINT FROM AMERICANS FOR DEMOCRACY AND HUMAN RIGHTS IN BAHRAIN (ADHRB) AGAINST FORMULA ONE GROUP COMPANIES (May 2015), [http://data.parliament.uk/DepositedPapers/Files/DEP2015-0582/2015\\_6\\_30\\_statement\\_URN.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2015-0582/2015_6_30_statement_URN.pdf).



the UNGPs. The same is true for relevant grievance mechanisms at the MSE level, such as London Organising Committee of the Olympic and Paralympic Games' (LOCOG) Complaint and Dispute Resolution Mechanism,<sup>53</sup> which were developed to resolve complaints and disputes related to breaches of the Sustainable Sourcing Code. The organizers of the Tokyo Olympics operated a similar mechanism based on a Sustainable Sourcing Code. These mechanisms have been criticized though for their limited scope, for being ineffective and unusable, and for lack of awareness among the workers regarding the Tokyo mechanism in particular.<sup>54</sup>

A final remark about relevant remedy mechanisms concerns the Court of Arbitration for Sport (CAS), which is a private arbitration body established as “regulator” of the Olympic system for solving sport-related disputes based on arbitration.<sup>55</sup> It enjoys a significant authority among sports bodies and could in theory deal with MSE-related human rights cases because of the recent adoption of human rights provisions in host city contracts and bidding regulations, which at the same time include arbitration clauses with reference to CAS.<sup>56</sup> This possibility is further supported by the fact that CAS arbitration is also included in the constitutional documents of both sports governing bodies.<sup>57</sup> While human rights-related issues concerning athletes and MSEs, such as cases on eligibility regulations, have regularly been heard before CAS, we do not know of any cases that have been filed under these new hosting and bidding regulations.

#### D. Remedy and Downstream HRDD Through Information Gathering and Stakeholder Engagement

Looking at the functional elements and relevant specific features of the HRV program and comparing those with the normative framework surrounding HRDD and remedy reveals that FIFA's HRV program is more a HRDD tool than a remedy mechanism, but arguably not a complete HRDD mechanism as portrayed in the UNGPs or the OECD Guidelines. CSHR describes HRVs main task as “first line of information gathering” through conducting human rights risk assessments through observations and interviews and assisting fans and others with raising complaints and accessing formal grievance mechanisms.<sup>58</sup> According to FIFA, the HRVs helped the organization to know what happens on the ground and also what does not happen, taking into account the effect of measures that were previously taken to prevent risks.<sup>59</sup> Fact is, the UNGPs state that human rights due diligence “should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships” and the FIFA World Cup, both men's and women's tournaments, form an integral part of FIFA's own activities.<sup>60</sup> In addition, Principle 18 of the UNGPs stresses that HRDD is the fundamental process through which companies can better identify, understand and address human rights risks, and by

<sup>53</sup>LONDON ORG. COMM. OF THE OLYMPIC GAMES AND PARALYMPIC GAMES, LOCOG SUSTAINABLE SOURCING CODE (3d ed., July 2011), <https://library.olympics.com/Default/digital-viewer/c-47420> (ebook).

<sup>54</sup>BLDG. & WOOD WORKER'S INT'L, THE DARK SIDE OF THE TOKYO 2020 SUMMER OLYMPICS (2019), <https://www.bwint.org/web/content/cms.media/1542/datas/dark%20side%20report%20lo-res.pdf>.

<sup>55</sup>Johan Lindholm, THE COURT OF ARBITRATION FOR SPORT AND ITS JURISPRUDENCE: AN EMPIRICAL INQUIRY INTO LEX SPORTIVA (2019).

<sup>56</sup>THE OLYMPIC STUDES. CTR., HOST CITY CONTRACT PRINCIPLES GAMES OF THE XXXIV OYMPIAD IN 2028 51.2 (2017), <https://library.olympics.com/Default/digital-viewer/c-171342>.

<sup>57</sup>INT'L OLYMPIC COMM., OLYMPIC CHARTER 61(2) (2021), [https://stillmed.olympics.com/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf?\\_ga=2.194294052.849568790.1698943608-601933994.1698942934](https://stillmed.olympics.com/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf?_ga=2.194294052.849568790.1698943608-601933994.1698942934); FIFA, FIFA STATUTES arts. 11(c), 14(1)(a), 57 (2020), <https://digitalhub.fifa.com/m/4b2bac74655c7c13/original/viz2gmyb5x0pd24qrhrx-pdf.pdf>.

<sup>58</sup>Centre and FIFA Partner to Deliver HRV, *supra* note 28.

<sup>59</sup>Interview with FIFA, *supra* note 15.

<sup>60</sup>See OHCHR GUIDING PRINCIPLES, *supra* note 32.

which companies can track the effectiveness of their responses.<sup>61</sup> CSHR's description of the HRV program shows how it can contribute to achieving the aims of the HRDD process, and while highlighting as well its relevance in facilitating access to remedy:

The HRV concept provides a missing link in this ongoing human rights due diligence matrix, and aims to support event owners and organisers identify and document risks in real-time during the event. It offers a means to capture and take on board stakeholder views, to track performance, and to identify and fill gaps in existing systems. HRV programmes can also support stakeholders in accessing complaints or grievance mechanisms so that those who have experienced or witnessed a wrong or harm can lodge concerns, raise a formal complaint and pursue remedy.<sup>62</sup>

Furthermore, given the nature of HRDD in this context, it could be defined as downstream HRDD given that the World Cup is a product of FIFA, and those attending, as spectators, as workforce, as volunteers, as players and their entourage, can be seen as the users. However, in comparison to more traditional products, an electronic device for instance, downstream HRDD would arguably look different. The use of more traditional products happens in a much more independent way, while FIFA continues to set the rules and intervene in its products—the tournamens—while they are being “used.” Nevertheless, the benefit of analyzing the HRV program as downstream HRDD is that it allows us to evaluate the program in more detail by looking at specific elements that are deemed crucial to downstream HRDD.

For one, it is argued that when it comes to downstream human rights risks there is a higher degree of uncertainty.<sup>63</sup> To address this, both preventive and remedial components play a role for the HRDD process. This is also evident in the HRV project. HRVs covered live or past experiences from fans or other stakeholders that hinted at human rights abuses and, in many cases, human rights issues and abuses that were unfolding in real time. Thus, in the observed and reported cases, the risks could not have been prevented anymore, as it usually already materialized. However, FIFA approached the assessment of these issues with a preventative intention, focusing on structural and frequently arising issues that can be mitigated in the remainder of the event, thereby using this preventative function of HRDD.<sup>64</sup>

Furthermore, with downstream HRDD it is key to acknowledge the local context, as locals are likely to have the greatest understanding of issues and certain dynamics.<sup>65</sup> Making use of Qatari-based HRVs provided that local context and also helped FIFA to build capacity and leave a human rights-aware community behind as part of the legacy of the event. In addition to the local context, it is of course also the specific context of the subject matter, the actual product or service, that matters. According to FIFA, a learning from implementing the project for this World Cup relevant for potential future deployment of HRVs is that the trainings could have been more stadium-specific, and even more concrete regarding the human rights issues that are likely to come up.

Another feature to consider is the concept of leverage, which plays a role in HRDD more generally as it helps to define the different opportunities and responsibilities an organization may have to address potential and actual human rights harms.<sup>66</sup> At the same time, it is relevant for remedy, as the extent to which an organization has leverage can determine if and how the

<sup>61</sup>*Id.* at 19.

<sup>62</sup>See *Rights Up Close*, *supra* note 22.

<sup>63</sup>See Hogan & Reyes, *supra* note 5, at 4.

<sup>64</sup>See Interview with FIFA, *supra* note 15.

<sup>65</sup>See Hogan & Reyes, *supra* note 5, at 5.

<sup>66</sup>OHCHR, THE CORPORATE RESPONSIBILITY TO RESPECT: AN INTERPRETIVE GUIDE 49–52 (2012), [https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2\\_En.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2_En.pdf).

organization is expected to provide remedy or cooperate with remedy mechanisms. Hogan and Reyes establish that leverage is reduced in the downstream context compared with upstream supply chain.<sup>67</sup> The same cannot easily be said for the World Cup as on the one hand FIFA retains a high degree of control during the event. In fact, from the information gathered about the HRV program, it seems that FIFA carefully took its leverage into account when assessing the incoming reports and determining follow-up actions. Closely related to that is prioritization, and as the OECD guidance confirms, “due diligence can involve prioritization.”<sup>68</sup> Once the reports came in, they were prioritized according to their severity and FIFA’s ability to mitigate. On the other hand, the limitations of FIFA’s leverage in this context were also visible, particularly when it was clear that some of the guarantees FIFA had negotiated with the Qatari government before the event, for instance concerning freedom of expression, were not respected.<sup>69</sup>

Finally, one key element of both HRDD in general but also remedy to a different extent is stakeholder engagement. As the OECD Guide clarifies, “due diligence is informed by engagement with stakeholders.”<sup>70</sup> This is exactly what HRVs did, they talked to fans and other people potentially affected by games-time human rights risks.<sup>71</sup>

The above highlights that the HRV program can be a useful mechanism to support games-time HRDD. This also has been confirmed in both interviews conducted. CSHR confirmed that the HRV project was more about HRDD than remedy, as the function of the volunteers was to see, know, and share information related to human rights risks and issues, bear witness where appropriate and escalate serious issues, and “having HRVs on the ground would have made it harder for FIFA to look away or claim they were unaware.”<sup>72</sup> While the program was attached to FIFA’s grievance mechanisms for the Qatar World Cup, which essentially is a revised version of FIFA’s complaint mechanism for human rights defenders and journalists launched in 2018,<sup>73</sup> FIFA stressed that these really were two separate things, with the HRVs being more focused on data intake only. This is in line with how FIFA presents this program online, where it is stated that the main role of HRVs was to “identify human rights violations” through monitoring and interviews, thereby helping FIFA perform “real-time due diligence to make adjustments.”<sup>74</sup>

Although it is safe to say that FIFA’s HRV program is more a HRDD tool than a remedy mechanism, at least two questions remain open. First, if HRVs are indeed a HRDD tool, then FIFA is expected to track and monitor the action it has taken and communicate about it. So far, no information is available from FIFA itself about the human rights issues uncovered by HRVs and how it addressed them. While there are good reasons for not making the issue log publicly available, FIFA also failed to publish an anonymized summary of incidents and actions taken. This is not surprising, as the UN Working Group on the issue of human rights and transnational corporations and other business enterprises established that it is usually the disclosing of assessments—the tracking of and communication about measures—which are significant gaps in the practical implementation of human rights due diligence by organizations.<sup>75</sup> Second, it can be questioned that FIFA, to a certain extent, externalized part of its responsibility to conduct due

<sup>67</sup>See Hogan & Reyes, *supra* note 5, at 6.

<sup>68</sup>See OECD DUE DILIGENCE GUIDANCE, *supra* note 33, at 17.

<sup>69</sup>This is based on field observations and reflections from conversations with FIFA’s civil society partners in Qatar, CSHR and the Fare network.

<sup>70</sup>See OECD DUE DILIGENCE GUIDANCE, *supra* note 33, at 18.

<sup>71</sup>Interview with FIFA, *supra* note 15.

<sup>72</sup>Interview with CSHR, *supra* note 12.

<sup>73</sup>FIFA Launches Complaints Mechanism for Human Rights Defenders and Journalists, FIFA: INSIDE FIFA (May 29, 2018, 10:19 AM), <https://www.fifa.com/en/legal/football-regulatory/media-releases/fifa-launches-complaints-mechanism-for-human-rights-defenders-and-journalists>.

<sup>74</sup>See Interview with CSHR, *supra* note 12; see also HRV Roles, *supra* note 1.

<sup>75</sup>Rep. of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises on its Seventy-Third Session, at para. 46, U.N. Doc. A/73/163 (2018).

diligence and consult stakeholders to unpaid volunteers. This can have advantages and disadvantages. On the one hand, it can limit the risk of conflict of interests and brings much needed independence and expertise to the assessment. On the other hand, volunteers might lack knowledge and expertise to identify issues in the first place and might be less incentivized or motivated due to the unpaid nature of the assignment.

## E. Conclusion

The HRV project is unique in many ways, especially for being the first of its kind and presenting a way to conduct games-time HRDD at MSEs. Civil society and other relevant actors within the sport ecosystem generally welcomed this development, in particular in the context of the highly controversial Qatar World Cup.<sup>76</sup> Overall, it adds to FIFA's efforts in relation to embedding human rights in its policies and practices and presents an interesting case study of HRDD in practice.

However, as this assessment shows, some questions remain unanswered and require more consideration, both from academic research as well as those in charge of implementing this project on the ground, to further develop and enhance the program, in particular if there are plans to deploy it for other MSEs. One of those questions concerns the effect of the measures FIFA took in response to the issues report. The lack of information available makes it difficult to evaluate the effectiveness of not only the different responses but also the project as a whole, and to come up with detailed recommendations for future MSE hosts on how to implement this best. Interestingly, for the 2023 Women's World Cup FIFA decided that the human rights volunteer function will be part of the wider sustainability volunteer role and it is unclear why this merging of functions and roles has been decided and how it worked. Even less information is available in this case. In addition, more general questions that go beyond the scope of this assessment need to be asked about HRVs and volunteers. First and foremost, using 'volunteers' that received minimal training on human rights to do such an important job is questionable to say the least. This, however, can be addressed by sufficient training and education before, and adequate supervision during the event. Secondly, discussions and research on the human rights risks of MSEs—and sports on a day-to-day basis—rarely includes volunteers as a stakeholder group and rights-holders in and of themselves. However, as the Qatar experience has shown, volunteers as well face many human rights risks when they participate in MSEs.

Finally, the importance of the monitoring and communicating elements of HRDD should be stressed again at this point. For the HRV program to be more effective, it is key to ensure monitoring of the effectiveness of the measures taken and to communicate publicly as much as possible about it. Ideally, this also applies to the secondary goal of building human rights capacity. This would require finding out if and how the community of former HRVs based in Qatar use their acquired knowledge beyond the event. Whereas this would entail a more long-term commitment from those running the program to each HRV "cohort," it certainly would help to provide concrete examples and data for how MSEs can actually promote human rights in different regions of the world.

**Acknowledgements.** The author thanks FIFA and CSHR for agreeing to be interviewed for this case study.

**Competing Interests.** The author participated in the HRV programme as team leader.

**Funding Statement.** The author declares no specific funding exists.

<sup>76</sup>This is based on field observations and reflections from conversations with FIFA's civil society partners in Qatar, CSHR and the Fare network.