

## Discuss whether International Law Satisfactorily Protects Human Rights

Human Rights is a vast area of international law that effects all areas of life, and one such area that is affected by Human Rights, perhaps more so now than ever, is football. Many of these Human Rights abuses have been witnessed in Africa, Qatar, and Russia, albeit in very different scenarios. There are many international bodies which have worked to highlight, and improve these situations, such as; Fédération Internationale de Football Association (FIFA), the United Nations (UN), Confederation of African Football (CAF), and African Union (AU). In footballing terms, a main issue in Africa is human Trafficking, where children and adults are trafficked to Europe upon false pretences, and this essay will look how international law protects Human Rights in this area. Human trafficking in football also occurs in the higher levels of the professional game, and the differences in human trafficking will be investigated. There have also been many Human Rights Abuses in connection with Qatar, and Russia, and this essay will look at how football has led to the highlighting of these human rights issues both in connection to football and in the background and what is being done to protect human rights in these areas. Qatar and Russia, use of 'sportwashing' in order to gain international support for their regimes and their actions will also be investigated.

In footballing terms, there are two different forms of Human Trafficking: Human Trafficking *Through* Football, and Human Trafficking *In* Football.<sup>1</sup> Human Trafficking *Through* football is the trafficking of players and minors through the false pretence of opportunities elsewhere and is the type of trafficking that is most prevalent within Africa, mostly within Western Africa States. The legal migration of young African players to Europe has been described as 'neo-colonialist' and 'akin to social and economic rape', however as the one of the least developed footballing economies Africa is reliant upon selling players.<sup>2</sup> The recent success of many African players post migration to Africa, such as Mohammed Salah, Sadio Mané, and Yaya Touré had led to many young players wanting to make it to, and in Europe. It has been reported that over 15,000 players are trafficked into Europe each year, and this number could be higher, this process has been described as a 'modern Slave trade' by the UN.<sup>3</sup> Many of those 15,000 players were pried upon by fake agents who took their life savings and upon arrival in Europe either abandoned, or trafficked them.<sup>4</sup> When abandoned many remain in Europe as illegal immigrants and turn to prostitution for survival.<sup>5</sup>

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<sup>1</sup> J. Esson, E. Drywood, *Challenging popular representations of child trafficking in football*, (Available at: <https://core.ac.uk/download/pdf/288366057.pdf> ) pg 1

<sup>2</sup> P. Darby, G. Akindes, M. Kirwin, *Football Academies and the Migration of African Football Labor to Europe* found in *Journal of Sport and Social Issues Vol 31(2)* (SAGE, New York City, 2007) pg 143  
European Commission, *Study on Sports Agents in the European Union*, (available at: <https://ec.europa.eu/assets/eac/sport/library/studies/study-sports-agents-in-eu.pdf>) pg 26-27

<sup>3</sup> Tifo Football, *Football's African Slave Trade*, (Available at: <https://www.youtube.com/watch?v=Vcf7GVGT96Y>)

J. Esson, E. Drywood, *Challenging popular representations of child trafficking in football*, pg 2

<sup>4</sup> M. Rowe, *Dossier: The human game – tackling football's 'slave trade'*, (Available at: <https://geographical.co.uk/people/development/item/2817-football-trafficking>)

<sup>5</sup> J. Esson, E. Drywood, *Challenging popular representations of child trafficking in football*, pg 6-7

Whilst the UN High Commissioner has called for an investigation into African Football Agents, it is unclear whether International human rights Law is violated, and if so which law.<sup>6</sup> The trafficking may be classified as illegal under the UN Protocol on Human Trafficking if the victim is sold into a form of service upon arrival in Europe, however, as the vast majority of those brought to Europe are abandoned it might only be classified as fraud and international law cannot protect them.<sup>7</sup> Furthermore, whilst most the process does align with the definition of trafficking per the UN Convention against transnational organised Crime and associated protocol to prevent suppress and punish trafficking in persons especially women and children, whether or not the actual abandonment of the child/ player in question happens is what hinges on this crime being classified as a Human Rights Abuse. Additionally, the whole nature of the crime can change from a Human Rights Abuse to a violation of the UN Convention against Transnational Organised Crime Protocol on the Smuggling of Migrants by land sea and air should the child or player knowingly travel on false documentation.<sup>8</sup> The complex nature of international law makes it difficult to know if, what looks like a human rights abuse is a violation of international law, therefore making it difficult for international law to protect the victims. Whilst Article 29 of the African Charter on the Right and Welfare of the Child, which clearly mirrors the United Nations Convention of the Rights of the Child (UNCRC), does clearly outline that a human right abuse has occurred upon the trafficking of the child the complexity of the UN international law makes it hard to uphold and protect the rights of the trafficked.<sup>9</sup>

The UN, and the AU are yet to attempt to put right the issues of fake agents in Africa, clearly feeling it lies within FIFA's jurisdiction due to the presence of 'fake agents', whilst FIFA too feels that it outside of their jurisdiction. FIFA has supported these claims within their four Human Rights Advisory Board reports, as none of them have reported on Human Trafficking, instead focusing on tournament host issues, discrimination in the Middle East, bidding processes, and FIFA's own Human Rights process.<sup>10</sup> The only real movement by any organisation that has tried to protect human rights has been carried by the CAF who have issued an 'Ethical Transfer Charter' which urges clubs to only sign 'ethically sourced' players, however without cooperation between agencies there will continue to be little to no

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<sup>6</sup> Ibid pg 9-10

<sup>7</sup> Ibid pg 9-10

<sup>8</sup> Ibid pg 9-10

<sup>9</sup> African Unity, African Charter on the Right and Welfare of the Child, Article 29 (Available at: [https://www.un.org/en/africa/osaa/pdf/au/afr\\_charter\\_rights\\_welfare\\_child\\_africa\\_1990.pdf](https://www.un.org/en/africa/osaa/pdf/au/afr_charter_rights_welfare_child_africa_1990.pdf))

<sup>10</sup> FIFA Human Rights Advisory Board, *First Report with the Advisory Board's Recommendations and an update by FIFA*, (Available at: [https://www.insidethegames.biz/media/file/87136/fifahumanrightsenweb\\_neutral.pdf](https://www.insidethegames.biz/media/file/87136/fifahumanrightsenweb_neutral.pdf))

FIFA Human Rights Advisory Board, *Second Report by the Advisory Board including the Board's Recommendations and FIFA's Responses*, (Available at: <https://resources.fifa.com/image/upload/fifa-second-human-rights-advisory-board-report.pdf?cloudid=hw134aljrosubxevkwvh>)

FIFA Human Rights Advisory Board, *Third Report by the FIFA Human Rights Advisory Board Including the Board's Recommendations from Oct 2018 – April 2019* (Available at:

<https://resources.fifa.com/image/upload/third-report-by-the-fifa-human-rights-advisory-board.pdf?cloudid=sxdtbmx6wczrmwlk9rcr>)

FIFA Human Rights Advisory Board, *Fourth Report by the FIFA Human Rights Advisory Board Including the Board's Recommendations from May 2019 – December 2019* (Available at:

<https://img.fifa.com/image/upload/pyume2cahuue2szxgjqwq.pdf>)

protecting for these children and young players.<sup>11</sup> International Law does not do a satisfactory job in upholding human rights in this area, and the best way of improving human rights in this area is not greater agency cooperation, or greater investigation and enforcement powers, but instead a focusing on the root of the problem by introducing greater investment into the African Football System to prevent many feeling that a dubious agents is their only chance.<sup>12</sup>

Human Trafficking *In* Football is the trafficking of football players, and minors through the football system. This area of human trafficking has more extensive mechanism to protect minors from exploitation. However, these mechanisms to protect human rights have been implements by organisations, such as FIFA, instead of originating through International Law. The mechanisms that have been introduced are the Regulations of the Status and Transfer of Players (RSTP) and the Transfer Matching System (TMS), these mechanism are guidelines and programs that prevent clubs from committing human rights abuses offenses, such as the illegal transfer, and trafficking of minors.<sup>13</sup> FIFA have previously sanctioned clubs for breaking the minimum transfer age, with clubs such as Barcelona, Real Madrid, Atletico Madrid, and Manchester City receiving penalties from FIFA. <sup>14</sup> For Manchester City's violation they were accused of trafficking then 16 year-old Benjamín Garré from Argentine side Vélez Sarfield in 2016, this was seen as human trafficking as Garré was below the international minimum age for transfers, and was moving between international clubs that were beyond the maximum international transfer distance for minors of 100km.<sup>15</sup> Whilst Manchester City were cleared of any wrongdoing by the Court of Arbitration for Sport (CAS) due to a legal loophole in the Garré case owing to his holding of a Italian passport, they were fined £300,000, and banned for signing academy players for two years following a similar situation in 2017.<sup>16</sup> However, whilst some clubs have been penalised due to violations of RSTP, FIFA's deregulation of the transfer industry has caused more issued, and UN have not intervened to protect the Human Rights in this area. Recently FIFA have lowered the minimum age of transfer, from 12 to 10, and loosened agent regulation. This has led to a greater number of agents who are out financial gain, leading to the increased possibility economic exploitation of players. This has been witnessed in Belgium where young African players have been Trafficked *Through* Football by their agents, these agents financially exploit their young players by getting them contracts at clubs, and taking the majority of the money. <sup>17</sup> This money is stolen from the players via fake contracts, one of which the Footballing and Governmental authorities see that dictates that the player is

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<sup>11</sup> M. Rowe, *Dossier: The human game – tackling football's 'slave trade'*

<sup>12</sup> Ibid

<sup>13</sup> J. Esson, E. Drywood, *Challenging popular representations of child trafficking in football*, pg 17  
FIFA, *Regulations on the Status and Transfer of Players: June 2020 Edition (including COVID-19 temporary amendments) Article 19 – 19Bis* (Available at: <https://resources.fifa.com/image/upload/regulations-on-the-status-and-transfer-of-players-june-2020.pdf?cloudid=ixztobdwje3tn2bztqcp>)

FIFA, *TMS*, (Available at: <https://www.fifa.com/who-we-are/legal/tms/>)

<sup>14</sup> Ibid pg 9-10

<sup>15</sup> J. Esson, E. Drywood, *Challenging popular representations of child trafficking in football*, pg 12

<sup>16</sup> BBC Sport, *Benjamin Garre: Manchester City cleared by Cas over signing of Argentine teenager*, (Available at: <https://www.bbc.co.uk/sport/football/43796474>)

Arbitration CAS 2016/A/4903 Club Atlético Vélez Sarsfield v. The Football Association Ltd., Manchester City FC & Fédération Internationale de Football Association (FIFA), award of 16 April 2018, (Available at: <http://jurisprudence.tas-cas.org/Shared%20Documents/4903.pdf>)

<sup>17</sup> M. Rowe, *Dossier: The human game – tackling football's 'slave trade'*

getting paid, and then another which the player sees, which dictates that they are being given food and lodging in place of money, leaving them in the dark to their exploitation.<sup>18</sup> This is a clear violation of UNCRC Article 32 on the economic exploitation of children.<sup>19</sup> However, there is a thin line between exploitation and the best interest of the child. UNCRC Article 13(1) states that the best interest of the child must be the primary consideration in all matters concerning the child, therefore one may objectively say that if a child is taken from a financially poor club to a better off club on better terms due to their football ability it is in the best interest of the child to move clubs.<sup>20</sup> Furthermore, UNCRC Articles; 13, 14, 15, the African Charter on the Right and the Welfare of the Child Article 4, protect the individual agency of the child.<sup>21</sup> In a sporting context the protection of a child's agency makes it hard to find if Human Rights abuses have occurred, as often a child has voluntarily opted to go for an opportunity, such as moving to Europe, or moving clubs etc. Whilst a child has not used their agency to volunteer to be trafficked, their agency has led to those outcomes, and it is clear that international human rights law has been set up for normal everyday life, they have not been set up to uphold international human rights in an ambitious sporting context. Furthermore, international law that protects human rights in this area is ambiguous, and there are a variety of ways in which a clear human right abuse has occurred, but legally no international human rights law has been broken, instead there has been violation of less significant UN protocols and conventions.

The 2018, and 2022 World Cups, were and are going to be held in Russia and Qatar, and there has been a series of human rights violations levied at both the host nations, including in their individual delivery of the World Cups. Russia has consistently violated International Law when it comes to Human Rights, and much of this mired their World Cup. The US State Department Human Rights Report of 2019 found that Russia has committed a number of Human Rights abuses that seriously violate international law, and the Geneva Convention in both the Crimea, and Chechnya. It was found that Russian armed forces, and other occupying forces had committed a whole host of violations that included: extrajudicial killings (Including of LGBTQ+ People), Sexual violence, suppression of political expression (Political imprisonment, anti-dissent laws, politically motivated killings, restriction of political participation) Curtailing of privacy, Suppression of media and freedom, restriction of religious freedom (Including the banning, torture and abuse of Jehovah's Witnesses) and the illegal Conscriptio of Crimean men into the Russian Army.<sup>22</sup> International Law has failed to protect Russia's victims of Human Rights abuses due to Russia's permanent status on the UN Security Council (UNSC) this gives them the power to veto any condemnation, sanctions or actions against them, and whilst the UN General Assembly have issued Resolutions against Russia in the shape of GA Resolutions 71/205 in 2016 and 68/1262 in 2014, these were

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<sup>18</sup> J. Esson, E. Drywood, *Challenging popular representations of child trafficking in football*, pg 6-7

<sup>19</sup> United Nations, *United Nations Convention of the Rights of the Child, Article 32*, (Available at: <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>) pg 10

<sup>20</sup> Ibid, Article 13(1) pg 5

<sup>21</sup> Ibid, Article 13, 14, 15

African Union, *African Charter on the Right and Welfare of the Child*, Article 4

<sup>22</sup> United States Department of State – Bureau of Democracy, Human Rights and Labour, *Russia 2019 Human Rights Report* (Available at: <https://www.state.gov/wp-content/uploads/2020/03/RUSSIA-2019-HUMAN-RIGHTS-REPORT.pdf>)

Human Rights Watch, *Crimea: Conscriptio Violates International Law*, (Available at: <https://www.hrw.org/news/2019/11/01/crimea-conscriptio-violates-international-law>)

largely ignored by Russia due to the UN's lack of enforcement powers.<sup>23</sup> Furthermore, sanctions against Russia have the effect of 'cutting off one's nose to spite one's face' with sanctions effecting Britain, France, Germany, Italy and many others.<sup>24</sup> This 'cutting off one's nose' was demonstrated in 2015 where costs of sanctions against Russia were said to have cost Europe, in particular Germany, Poland, and the Eastern Block €100 billion.<sup>25</sup> Furthermore, whilst international law failed to protect Human Rights, the sanctions failed as well, as they were issued in response to Russia illegal annexation of the Crimea and acts of aggression against the Ukraine instead of being a response against Russia's human rights violations. Furthermore, international law could do little more to protect human rights after the Russia withdrew from the International Criminal Court (ICC) after it defined Russia as an occupying force in the Crimea.<sup>26</sup>

Russia has also committed Human Rights during the preparation for their World Cup. The Business and Human Rights Resource Centre predicted that Russia committed over 10,000 Human Right abuses in the building of their stadia.<sup>27</sup> With much of these in relation to work conditions, lack of payment and improper conditions. Unsafe work conditions led to a host of injuries and the death of 21 workers, however the lack of contracts and employment documentation made it difficult to make complaints, and if any were made workers were threatened with non-payment.<sup>28</sup> Withholding of payment or non-payment is illegal in Russia, however, even in state funded projects migrant workers were still being exploited.<sup>29</sup> This illegal exploitation of a work force and the denial of rights entrenched in Russia law, is where the Human Right abuse occurs. Russia also; intimidated, arrested, detained and charged any Human Rights Watchers, or Journalists who attempted to report on the abuses that were occurring during the building of the stadia.<sup>30</sup> However, during the 2018 World Cup, Russia attempted a form of 'sportswashing' which is the hosting or owning of sporting clubs and events, usually within football, to soften the external image of the regime through its sporting actions and also to hide behind when international pressure increases. Through this form of 'Sportswashing' Russia was able to somewhat hide their human rights abuses

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<sup>23</sup> S. Chesterman, *Remarks by Simon Chesterman in Proceedings of the Annual Meeting (American Society of International Law) Vol 108. The Effectiveness of International Law* (Cambridge University Press, Cambridge, 2014) pg 38

United Nations General Assembly, *Resolution 71/205*, (Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/455/74/PDF/N1645574.pdf?OpenElement>)

United Nations General Assembly, *Resolution 68/262*, (Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/17/PDF/N1345517.pdf?OpenElement>)

<sup>24</sup> S. Chesterman, *Remarks by Simon Chesterman* pg 38

<sup>25</sup> D. Sharkov, *Russian Sanctions to 'Cost Europe €100Bn'* (Available at: <https://web.archive.org/web/20170602183322/http://europe.newsweek.com/russian-sanctions-could-cost-europe-100-billion-328999>)

<sup>26</sup> S. Walker, O. Bowcott, *Russia withdraws signature from International Criminal Court Statute*, (Available at: <https://www.theguardian.com/world/2016/nov/16/russia-withdraws-signature-from-international-criminal-court-statute>)

<sup>27</sup> Business & Human Rights Resource Centre, *'Russia 2018 FIFA World Cup'* (Available at: <https://business-humanrights.org/en/russia-2018-fifa-world-cup>)

<sup>28</sup> Human Rights Watch, *'Red Card - Exploitation of Construction Workers on World Cup Sites in Russia'* (2017) (Available at: [https://www.hrw.org/sites/default/files/report\\_pdf/russiafifa0617\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/russiafifa0617_web_0.pdf)) pg 2, 27

M. Worden, *Russia's bloody World Cup*, (Available at: <https://www.hrw.org/news/2018/07/13/russias-bloody-world-cup>)

<sup>29</sup> <sup>29</sup> Human Rights Watch, *'Red Card - Exploitation of Construction Workers on World Cup Sites in Russia'* pg 21

<sup>30</sup> Ibid pg 2

behind the event, and the controversy surrounding it. Public attention during the course of the World Cup centred around; high profile games, such as defending champion Spain's loss to Russia in the round of 16, the introduction of Video Assistant Referee (VAR), player nationalism issues, and FIFA's own corruption.<sup>31</sup> Russia's attempt to sportswash could be seen as successful, claiming it was 'public relations triumph' and even FIFA's new President at the time Gianni Infantino ranked it as one of the best World Cups ever.<sup>32</sup> On the other hand, many critics claimed that the World Cup distracted the world from reality.<sup>33</sup> The 2018 FIFA World Cup clearly showed that International law does not satisfactorily protect Human Rights, as Russia was able to somewhat cleanse their image, and host people from all over the world despite having numerous violations of Human Rights before, during and after the event.

Qatar was awarded the 2022 World Cup despite its poor human rights record, and they have kept the right to host despite the continuation of human rights violations. Qatar's violations of international human rights abuses include the criminalisation of homosexuality, and extra-marital relationships, which abuses the human right of freedom of expression.<sup>34</sup> Furthermore, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment found additional evidence of Qatar's Human Rights Abuses, finding that Qatar; practices torture, corporal punishment, the deprivation of peoples of liberty, discriminates against migrant workers, human trafficking, and a lack of independent judges, and a lack of mechanisms that prevent and discourage violence against women.<sup>35</sup> Despite many of these findings coming from UN reports, international human rights law has done nothing to rectify these human rights abuses. Furthermore, Qatar is also a member of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, this gives Qatar the illusion of working to prevent human rights abuses. However: they reject the gender equality provisions, have taken up an opposing differing definition of trade unions to the Covenants, have not ratified the Rome Statute or the privileges of immunity of the ICC, or the agreed terms of Crimes of Aggression or Article 8.<sup>36</sup> Qatar has rejected Gender Equality provisions, the definition of Cruel inhumane, degrading punishments, minimum marriage age, and freedom of religion upon

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<sup>31</sup> Tifo Football, *How did Russia Win the 2018 World Cup Bid?* (Available at:

<https://www.youtube.com/watch?v=RoH-FbG7ygc>)

<sup>32</sup> S. Rosenberg, *Is Russia the real winner of the World Cup?* (Available at: <https://www.bbc.co.uk/news/world-europe-44812175>)

J. Wright, *Infantino proclaims Russia 2018 'the best World Cup ever'* (Available at:

<https://www.goal.com/en/news/world-cup-2018-fifa-president-gianni-infantino-russia-best/h6kts8bsl7m01ex2r0j59qph5>)

<sup>33</sup> N. MacFarquhar, *Putin has a chance to woo the World. Thank Soccer, and Trump.* (Available at:

<https://www.nytimes.com/2018/06/13/world/europe/world-cup-russia-putin.html>)

S. Sukhankin, *The World Cup in Kaliningrad: Potemkin Village or real change?*, (Available at:

[https://ecfr.eu/article/commentary\\_the\\_world\\_cup\\_in\\_kaliningrad\\_potemkin\\_village\\_or\\_real\\_change/](https://ecfr.eu/article/commentary_the_world_cup_in_kaliningrad_potemkin_village_or_real_change/))

M. Worden, *Russia's bloody World Cup*

<sup>34</sup> Human Rights Watch, *Qatar Events 2018*, (Available at: <https://www.hrw.org/world-report/2019/country-chapters/qatar>)

<sup>35</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Conclusions and recommendations of the Committee against Torture, Qatar, U.N. Doc. CAT/C/QAT/CO/2 (2013)*. (Available at: <http://hrlibrary.umn.edu/cat/observations/qatar2013.html>)

<sup>36</sup> Coalition for the International Criminal Court, *Qatar*, (Available at:

<https://www.coalitionfortheicc.org/country/qatar>)

the basis that it contravenes Islamic law, this shows that the International law is powerless to protect human rights, regardless if a nation is part of the ICC, or simply rejects the provisions.<sup>37</sup>

Qatar is currently in the process of building its World Cup Stadiums and infrastructure, which are set to be world class, however the same cannot be said for its treatment of its workers.<sup>38</sup> The majority of workers that Qatar relies upon for building its stadia are migrants, mostly hailing for India, Sri Lanka, Bangladesh, and Nepal. These workers have been victims of many human rights abuses, much of it owing to Qatar's differing interpretation of trade unions, the non-membership of the 2003 International Convention on the protection of the Right of All Migrant Workers and Members of their families, and the acceptance of just 6 of the 189 Article of the international Labour Organisation Convention.<sup>39</sup> The Qatari definition of trade unions forbids foreign workers, and government employees from joining the sole legal trade union, which is under the control of the Government and the Department of Labour.<sup>40</sup> The lack of these provisions means that migrant workers working on the World Cup Stadium have no national or international protection from Human Rights violations. These workers work in horrendous conditions, with little or no breaks or access to water and in heat upwards of 50C, and even after work these migrant workers are subject to further human rights abuses as they live in below standard labour camps.<sup>41</sup> It was reported that due to poor work conditions Nepalese migrant workers were dying at a rate of 1 every 2 days in 2014, furthermore, if Indian, Sri Lankan, and Bangladeshi worker figures were available there would have been more than one worker death per day.<sup>42</sup> One of the major human rights abuses towards those building the stadiums in Qatar is the Qatari sponsor system, Kafala.<sup>43</sup> Kafala makes it difficult for workers to leave employment, as it leads to the confiscation of Passports by employers which seriously compromises worker's right to freedom, further this also violates two of the six ILO Conventions that Qatar is party to Article 29 The Forced Labour Convention and Article 81 The Labour Inspection Convention.<sup>44</sup> The UN has attempted to leave the

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<sup>37</sup> Human Rights Watch, *Qatar Events 2018*

<sup>38</sup> Tifo Football, *Qatar | Why We Should Be Boycotting The 2022 World Cup*, (Available at: <https://www.youtube.com/watch?v=uWd3-Xt-Bmc>)

<sup>39</sup> International Trade Union Confederation, *Labour Rights in Qatar: An ITUC briefing for trade union delegates to the UN Climate Changes talks in Durban*, (Available at: [https://www.world-psi.org/sites/default/files/attachment/news/labour\\_rights\\_in\\_qatar\\_ituc\\_briefing\\_0.pdf](https://www.world-psi.org/sites/default/files/attachment/news/labour_rights_in_qatar_ituc_briefing_0.pdf))

Human Rights Watch, *Qatar Events 2018*

R. Regueiro, *Shared Responsibility and Human Rights Abuse: The 2022 World Cup in Qatar* In *Tilburg Law Review Vol.25(1)* (Available at: <https://tilburglawreview.com/articles/10.5334/tilr.191/#>)

<sup>40</sup> International Trade Union Confederation, *Labour Rights in Qatar: An ITUC briefing for trade union delegates to the UN Climate Changes talks in Durban*

<sup>41</sup> D. Heerd, *Winning at the World Cup: A matter of protecting human rights and sharing responsibilities in Netherlands Quarterly of Human Rights Vol36(2)*, (Available at: <https://journals.sagepub.com/doi/full/10.1177/0924051918771228>)

L. Hosea, *Inside Qatar's Squalid Labour Camps*, (Available at: <http://www.bbc.com/news/world-middle-east-26482775>)

<sup>42</sup> O. Wilson, P. Pattison, *Death toll among Qatar's 2022 World Cup workers revealed*, (Available at:

<https://www.theguardian.com/world/2014/dec/23/qatar-nepal-workers-world-cup-2022-death-toll-doha>)

<sup>43</sup> Tifo Football, *Qatar 2022: What is Kafala?*, (Available at: <https://www.youtube.com/watch?v=2koW6iiiNxc>)

<sup>44</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Conclusions and recommendations of the Committee against Torture, Qatar, U.N. Doc. CAT/C/QAT/CO/2 (2013)*

protection of Human Rights in relation to the World Cup to the UN Guiding Principles on Business and Human Rights which were created by UNGA Resolution 17/4 July 2011.<sup>45</sup> The UNGP states that the State is not responsible for the human right violations of Corporations, but must prevent, investigate and punish, however this has given Qatar the chance to be seen to be doing something, instead of changing practices, the new laws which Qatar has issued have meant to ease the situation, however, they are yet to be implemented, or are ineffective.<sup>46</sup>

Sanctions have been issued against Qatar; however, these sanctions have been levied by its Gulf region rivals, the UAE, Egypt, Saudi Arabia and Bahrain. These sanctions have not been levied in response to Qatar's human rights violations, but instead on political grounds with the Arab block issuing sanctions due to Qatar's alleged links to terrorism and close links with Iran. As Qatar's Gulf rivals have all made similar human right violations themselves, there is no regional political will that would pressurise Qatar to protect human rights, instead the UN had largely left this to their UNGP on Business and Human Rights and FIFA.<sup>47</sup> In response to the UNGP FIFA and World Cup tournaments sponsors have claimed that it was not their job to get involved in the internal political affairs of the host nation, however critics have pointed out that when FIFA and tournament sponsor overturned the alcohol ban in Qatar and created more criminal court in South Africa that were more concerned with enacting laws that granted special privileges that would benefit them than protecting human rights.<sup>48</sup> FIFA's status as a non-state actor means that it is not internationally accountable, or responsible for upholding international human rights laws, and despite the leverage it holds it has shown little interest in upholding and protecting international human rights law, and its actions have been deemed insufficient in dealing with abuses.<sup>49</sup>

Much like Russia, Qatar has also sought to hide its human rights abuses behind 'sportswashing'. Qatari state ownership of French football club Paris St. Germain (PSG) has given them a soft power vehicle in which to cleanse their international image, and it has worked. PSG has become competitive, boasting some of the most expensive and exciting talent in the world of football, winning the league every year except one under Qatari ownership.<sup>50</sup> Whilst there has been some former players and fans claim that they don't relate to the modern PSG there has been no complaints regarding Qatari ownership, demonstrating a lack of interest in the regime's actions from fans, demonstrating that

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J.Liew, *World Cup 2022: Qatar's workers are not workers, they are slaves, and they are building mausoleums, not stadiums*, (Available at: <https://www.independent.co.uk/sport/football/international/world-cup-2022-qatar-s-workers-slaves-building-mausoleums-stadiums-modern-slavery-kafala-a7980816.html>)

R. Regueiro, *Shared Responsibility and Human Rights Abuse: The 2022 World Cup in Qatar*

<sup>45</sup> United Nations General Assembly Human Right Council, *17/4 Human rights and transnational corporations and other business enterprises*, (Available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/144/71/PDF/G1114471.pdf?OpenElement>)

<sup>46</sup> R. Regueiro, *Shared Responsibility and Human Rights Abuse: The 2022 World Cup in Qatar*

<sup>47</sup> United Nations, *Guiding Principles on Business and Human Rights*, (Available at: [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)) pg 12-26

<sup>48</sup> Tifo Football, *Qatar: Why we should be boycotting the 2022 World Cup*, (Available at: <https://www.youtube.com/watch?v=uWd3-Xt-Bmc>)

R. Regueiro, *Shared Responsibility and Human Rights Abuse: The 2022 World Cup in Qatar*

<sup>49</sup> Ibid

<sup>50</sup> S. Kuper, *Simon Kuper on the rise of PSG*, (Available at: <https://www.ft.com/content/b027e684-0238-48ff-acb0-37edd20308fd>)

Qatari sportswashing has been successful as much of the conversation regarding Qatar has been about PSG and not Human rights abuses.<sup>51</sup> Football's reaction to the 2022 World Cup has also allowed Qatar to somewhat hide their human rights abuses. Many of the complaints surrounding the tournament have been centred around the November to December scheduling, internal FIFA corruption charges, and the lack of football culture in Qatar, where fake fans are the main attendants.<sup>52</sup> Clearly international law has been unable to protect Human rights in the case of the 2022 FIFA World Cup, as Qatar has not been forced to change any of its practices through any international instrument. It is clear nothing will be done regarding it, as the UN clearly define it as a regionally and business-related issue, which Qatar and FIFA must fix, and FIFA clearly see it as an issue that they have no jurisdiction over. Therefore, international law does not satisfactorily protect the human rights of migrant workers, and neither do business despite the presence of the UNGP on Business and Human Rights.

To conclude, International law does not satisfactorily protect human rights, especially in footballing terms. International law has failed to protect young players in Africa from human trafficking, and the sheer complexity of the laws that surround the potential crimes make it difficult to decide what crimes have taken place, and if there has actually been an illegal human rights violation. Furthermore, when protecting the rights on minors currently within football, international law offers little protecting, instead allowing a NGOs, such as FIFA, to effectively step in and provide this protection. For international law to need a replacement in a particular area it demonstrates that it offers very little protection of human rights when it comes to human trafficking, inside and outside of a professional sporting system. International law also offers very little human rights protection to people who live in nations which are not party to Human Rights Conventions. This is demonstrated in Russia and Qatar, where citizens and migrant workers are victims of human rights violations. International law and its various protocols and conventions have offered little protection as both nations are have not ratified agreements that would uphold these people's rights, the UN have instead decided to rely on the UNGP, and businesses with interest in the area, and the various mechanism, such as the UNSC, that should protect people have become ineffective. Once again if the UN and international law has to rely upon businesses to protect human rights, then it has failed in its aims. International law does not satisfactorily protect human rights.

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<sup>51</sup> K. Fernandez, *Clément En Matière D'ambiances, J'ai ètè servi*, (Available at: <https://www.sofoot.com/jeremy-clement-en-termes-d-ambiances-j-ai-ete-servi-482671.html>)

<sup>52</sup> Tifo Football, *Qatar's Football War*, (Available at: [https://www.youtube.com/watch?v=ZcuRKJ\\_Fj3Q](https://www.youtube.com/watch?v=ZcuRKJ_Fj3Q))

RTÉ, *Qatar World Cup decision 'a blatant mistake', says FIFA executive Theo Zwanziger*, (Available at: <https://www.rte.ie/sport/soccer/2013/0724/464396-qatar-world-cup-a-mistake-fifa-executive/>)

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