

ARTICLE

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

## Resistance and Reform as Responses to Human Rights Criticism: Relativism at FIFA World Cup Qatar 2022

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### Abstract

The language of human rights is a prominent tool of choice to push for moral principles such as justice, equity, and fairness in the social, economic, and political spheres. Simultaneously, the concept and practice of human rights have attracted critiques. Relativism is one such enduring critique. Relativists advocate due and reasonable consideration towards cultural diversity and specificity of diverse human communities, within the limits allowed by universality of human rights. The relativist critique featured prominently in the debates surrounding Qatar's hosting of the FIFA World Cup 2022. Commentators have spoken about Qatar's scrutiny often moving beyond legitimate human rights criticism, uninformed activism being counterproductive; and the appropriateness of, largely, Western and maximalist ideals of human rights being applied without accounting for local needs and peculiarities. In this Article, I bring together the literature on the relativist critique and the FIFA World Cup Qatar 2022 as a case study, to examine the usefulness and limitation of human rights as a language of critique to achieve meaningful transformative change in sporting contexts. I focus on the debates surrounding the rights of migrant workers and the rights of the LGBTQIA+ community; and argue that while human rights advocacy had a notable impact in relation to FIFA World Cup Qatar 2022, it is a tale full of cautions and lessons.

**Keywords:** Human Rights; Relativism; Universalism; Migrant workers; LGBTQIA+ community; Football; FIFA World Cup 2022; Qatar

### A. Human Rights: Subject of as well as a Means of Critique

The concept and practice of human rights have gained significant prominence in the past century. Human rights language has become the tool of choice to push for moral principles such as justice, equity, and fairness in the social, economic, and political spheres. In fact, historian Samuel Moyn calls human rights the “current last utopia.” He argues that, on the one hand, prior utopian ideologies such as nationalism, communism, or liberalism have not fulfilled their promises of a “free way of life” or “emancipation” from suffering. Human rights, on the other hand, continue to evoke hope and provoke action as “elevated aspirations of social movements and political entities.”<sup>1</sup>

Parallel to this rise in prominence, both the concept and practice of human rights have attracted critiques.<sup>2</sup> These critiques point to a gulf between what human rights claim to do in

<sup>1</sup>SAMUEL MOYN, *THE LAST UTOPIA: HUMAN RIGHTS IN HISTORY 1–10* (2010).

<sup>2</sup>Marie-Bénédicte Dembour, *Critiques*, in *INTERNATIONAL HUMAN RIGHTS LAW* 43 (Daniel Moeckli, Sangeeta Shah & Sandesh Sivakumaran eds., 4th ed. 2022).

theory, and what they are able to achieve in practice. Relativism is one such enduring critique.<sup>3</sup> Relativists argue that moral principles or judgments may not hold true universally across societies, contexts, and cultures. They advocate due and reasonable consideration towards cultural diversity and specificity of diverse human communities, within the limits allowed by universality of human rights.<sup>4</sup>

The relativist critique featured prominently in the debates surrounding Qatar's hosting of the FIFA World Cup 2022—"Qatar 2022", henceforth. In response to the scrutiny of Qatar's human rights record before, during and after the World Cup,<sup>5</sup> there have been several calls to view the record in light of Qatar's distinct culture and beliefs.<sup>6</sup> Commentators have spoken about: (1) Qatar's scrutiny often moving beyond legitimate human rights criticism to display Western prejudices based in islamophobia, racism, and orientalism;<sup>7</sup> (2) uninformed activism being counterproductive;<sup>8</sup> and (3) the appropriateness of, largely, Western and maximalist ideals of human rights being applied globally without accounting for local needs and peculiarities.<sup>9</sup> In this Article, I bring together the literature on the relativist critique and Qatar 2022 as a case study, to examine the usefulness and limitation of human rights as a language of critique to achieve meaningful transformative change in sporting contexts.

In order to explore this question, I divide the Article into four further parts. In Part B, I undertake a brief literature review to look at the evolution of the relativist critique, its various meanings, claims and general characteristics. In Part C, I refer to writings by civil society organizations, stakeholder groups, journalists, academics, policy institutions, and governments. I look at the human rights criticisms and debates surrounding Qatar 2022 and the elements of relativism inherent in them. Given their prominence in popular debates, I focus on the criticism surrounding the rights of migrant workers and the rights of the LGBTQIA+ community. I assess the defense to these criticisms on the touchstone of the general characteristics of relativist critique highlighted in Part B and inquire if the defenses were merely a cloak for the self-interest of those in power or if there were legitimate concerns that demanded departure from a universal notion of human rights.

<sup>3</sup>As I discuss in Part B of this Article, the relativist critique has itself attracted censure as radical relativism could be used to completely disregard human rights obligations. As a response, some scholars prefer terms such as 'particularism', 'pluralism' or 'ethical decentralization' over 'relativism'. Few, if any, serious scholars advocate for radical or extreme relativism. I use 'relativism' due to its popular usage in literature. See FEDERICO LENZERINI, *THE CULTURALIZATION OF HUMAN RIGHTS LAW* 213–44 (2014).

<sup>4</sup>Dembour, *supra* note 2, at 44–45; LENZERINI, *supra* note 3, at 216. I discuss these ideas in more detail in Part B of this Article.

<sup>5</sup>See *Human Rights Reporters' Guide for 2022 FIFA World Cup Qatar*, HUMAN RIGHTS WATCH (Nov. 11, 2022), <https://www.hrw.org/news/2022/11/14/qatar-rights-abuses-stain-fifa-world-cup>.

<sup>6</sup>Kenan Malik, *It Can be Hard to Distinguish the Cultural Claims of Right and Left. Just look at Qatar*, THE GUARDIAN (Nov. 27, 2022), <https://www.theguardian.com/commentisfree/2022/nov/27/it-can-be-hard-to-distinguish-the-cultural-claims-of-right-and-left-just-look-at-qatar>.

<sup>7</sup>Zahra Babar & Neha Vora, *The 2022 World Cup and Migrants' Rights in Qatar: Racialised Labour Hierarchies and the Influence of Racial Capitalism*, 93 THE POL. Q. 498–507 (2022); Vivian Nereim, *Qataris Bristle at What They See as Double Standards Over Their World Cup*, N.Y. TIMES (Nov. 25, 2022), <https://www.nytimes.com/2022/11/25/world/middleeast/qatar-world-cup-criticism.html>; Mera Aladam, *World Cup 2022: 'Orientalist' Depictions of Qatar Condemned Online*, MIDDLE EAST EYE (Nov. 23, 2022), <https://www.middleeasteye.net/news/qatar-world-cup-orientalist-depictions-condemned>.

<sup>8</sup>Cathrin Schaer, *Did LGBTQ Rights Campaigns in Qatar Help or Hinder?*, DW (Dec. 30, 2022), <https://www.dw.com/en/did-lgbtq-rights-campaigns-in-qatar-help-or-hinder/a-64239795>; Jamie Gruffydd-Jones, *Why Human Rights Criticism Often Backfires*, FOREIGN POL'Y (Dec. 2, 2022), <https://foreignpolicy.com/2022/12/02/human-rights-criticism-qatar-china-international-shaming/>.

<sup>9</sup>Alberto Giubilini, *The Football World Cup in Qatar*, PRAC. ETHICS (Nov. 14, 2022), <https://blog.practicaethics.ox.ac.uk/2022/11/the-football-world-cup-in-qatar/>; Eduardo Porter, *Migrant Workers Face Worse Choices Than Building World Cup Stadiums*, BLOOMBERG (Nov. 29, 2022), <https://www.bloomberg.com/opinion/articles/2022-11-29/migrant-workers-face-worse-choices-than-building-world-cup-stadiums#xj4y7vzkg>.

These discussions come together in Part D where I examine the principal question posed in this Article. I argue that while human rights advocacy had a notable impact in relation to Qatar 2022, it is a tale full of cautions and lessons. I conclude in Part E with a brief discussion on what this study tells us about broader debates in relation to sports and human rights and the usefulness of the relativist critique. This study's relevance lies in sport being considered a microcosm of our societies—reproducing the legal, cultural, and political realities of a society, including issues concerning human rights.<sup>10</sup> Organized sport enjoys significant following and public visibility, perhaps only rivalled by cinema and popular culture. As a result, debates in the sporting arena have the potential to shape practices and movements in the wider society. Therefore, it is vital to examine how human rights tools and language were employed during one of the most contentious sporting events in recent times—Qatar 2022—and derive useful lessons for other sporting contexts as well as wider human rights movements.

## B. The Relativist Critique: A Brief Literature Review

At the foundational level, human rights are enjoyed equally and inalienably by all humans, simply because one is a human equal to another human. However, foundational universality may not necessarily mean that human rights are universal in their historical or geographical origin, etymology, moral underpinning, meaning, acceptance, or implementation.<sup>11</sup>

The relativist critique questions the assumption of the universality of human rights. There is a range of views on this question. Some scholars argue that modern human rights emerge from the specific situations, struggles, and experiences of Western societies at a particular period-in-time. The institutional structures and power dynamics emerging from this process privileges those countries and foregrounds their beliefs and issues relevant to them. Consequently, there is an inherent imperialism inbuilt in the concept and practice of human rights.<sup>12</sup> Other scholars present an evolutionary account of human rights which has no boundaries in time or place. In their view, all societies can be said to hold ideas and structures which may be treated as precursors to modern human rights. While there might be local and regional variations in the conceptualization and implementation of human rights, the human rights project does possess a minimum common core which imparts it a universal character.<sup>13</sup> Moreover, cultural practices and beliefs are themselves dynamic, contested, and heterogeneous.<sup>14</sup>

This discussion demonstrates a degree of moderation and convergence in the debate between universalism and relativism. This is important because the call to acknowledge diverse cultures is often mistaken to mean the acceptance of any cultural trait, merely because of its cultural nature.<sup>15</sup> Known as radical relativism, this position could be used by authoritarian actors to completely disregard human rights obligations in the name of relativism and culture. Therefore, most scholars

<sup>10</sup>Jayne Caudwell & Darragh McGee, *From Promotion to Protection: Human Rights and Events, Leisure and Sport*, 37 LEISURE STUD. 1–10 (2018); James Frey & D. Stanley Eitzen, *Sport and Society*, 17 ANN. REV. OF SOCIO. 503–22 (1991).

<sup>11</sup>Dembour, *supra* note 2; LENZERINI, *supra* note 3; WILLIAM TALBOTT, WHICH RIGHTS SHOULD BE UNIVERSAL? (2007); RICHARD WILSON, HUMAN RIGHTS, CULTURE AND CONTEXT: ANTHROPOLOGICAL PERSPECTIVES (1997); JACK DONNELLY, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE (2013).

<sup>12</sup>See Dembour, *supra* note 2, at 44–45; *Statement on Human Rights*, 49 AM. ANTHROPOLOGIST 539–43 (1947); Ratna Kapur, *Human Rights in the 21st Century: Take a Walk on the Dark Side*, 28 SYDNEY L. REV. 665–88 (2006); Susan Marks, *Four Human Rights Myths* (LSE Legal Stud., Working Paper No. 10/2012, 2012), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2150155](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2150155); SALLY ENGLE MERRY, HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE, 36–102 (2006).

<sup>13</sup>See LENZERINI, *supra* note 3, at 213–44; TALBOTT, *supra* note 11; Azadeh Chalabi, *A Rapprochement between the Universality of Human Rights and Cultural Relativism*, SCH. OF L. AND SOC. JUST. BLOG (Dec. 10, 2020), <https://www.liverpool.ac.uk/law-and-social-justice/blog/a-rapprochement-between-the-universality-of-human-rights-and-cultural-relativism/>.

<sup>14</sup>See CULTURE AND RIGHTS: ANTHROPOLOGICAL PERSPECTIVES (Jane K. Cowan, Marie-Bénédicte Dembour & Richard A. Wilson eds., 2001); MERRY, *supra* note 12.

<sup>15</sup>See Dembour, *supra* note 2, at 52–53; LENZERINI, *supra* note 3, at 213–17.

accept that an argument for relativism is not to suggest that all diverse cultural practices and values should be respected and tolerated without a second thought.<sup>16</sup> The general relativist belief is that human rights law and practice should account for local differences while universalists argue that same human rights standards should be available to everyone regardless of cultural, moral, or other differences. The gap between the two schools of thought is much narrower than it appears. At its core, the relativist critique is a call towards humility. It poses the question “what do we know?” as against the arrogance of radical universalists who may often, erroneously, believe that “we know” or “we know best.”<sup>17</sup>

Most scholars argue for a position on a spectrum between the normative idealism of universalism and the unavoidable reality of relativism. For instance, Richard Wilson argues that human rights “are embedded in local normative orders and yet are caught within webs of power and meaning which extend beyond the local,” thus favoring comparatively more relativism.<sup>18</sup> Andrew Nathan’s “tempered universalism” is situated closer to the spectrum’s center. Nathan argues that, while human rights may be rooted in relatively universal values such as dignity and liberty, their implementation must be tempered by local contexts, cultures, politics, and histories.<sup>19</sup> Jack Donnelly speaks about multiple forms of universality and of relativity. He accepts that interpretations of human rights concepts have limited but legitimate variation; and implementation is a matter of considerable local variability. He formulates this idea as “relatively universal” which translates into universal human rights being implemented in different ways at different times and places, reflecting the free choices of free peoples to incorporate essential particularities into universal human rights.<sup>20</sup> In similar terms, Federico Lenzerini shows that the concept, understanding, interpretation, adjudication, and enforcement of human rights are strongly influenced by regional and local cultural variations.<sup>21</sup> These theoretical and doctrinal positions are supported by empirical anthropological observations from Sally Engle Merry who uses anti-gender-violence laws as a case study to show that transnational universal norms can be successful and acceptable in diverse cultural and social settings when they are translated in locally familiar forms, mediated by local organizations, while retaining their radical potential and capacity to challenge violations.<sup>22</sup>

Therefore, relativism encourages us to engage in dialogue and mutual learning across cultural and historical boundaries, to develop a more nuanced and inclusive understanding of human rights. In fact, acceptance of relativity in the form of gradual and progressive implementation, possibility to adopt human rights instruments with qualifications, and local enforcement mechanisms have allowed the human rights project to become firmly established as part of international legal, political, cultural, and socio-economic consensus. In particular, national or regional enforcement means that relativity is built into the extent to which humans enjoy universal rights. Human rights are also relative in that they are not entirely natural or eternal. They are specific human responses to particular threats to human dignity. There is no reason to believe that they will continue to exist or apply without change in the future.<sup>23</sup> Therefore, incorporation of relativist notions and acceptance of diverse realities has helped in consensus building and provided an impetus for human rights in becoming the dominant framework for imagining a

<sup>16</sup>Alison Renteln, *Relativism and the Search for Human Rights*, 90 AM. ANTHROPOLOGIST 56, 64 (1988).

<sup>17</sup>Dembour, *supra* note 2, at 54.

<sup>18</sup>WILSON, *supra* note 11, at 23.

<sup>19</sup>Andrew Nathan, *Universalism: A Particularistic Account*, in NEGOTIATING CULTURE AND HUMAN RIGHTS 349–68 (Lynda S. Bell, Andrew J. Nathan & Ilan Peleg eds., 2001).

<sup>20</sup>DONNELLY, *supra* note 11, at 93–105; Jack Donnelly, *Cultural Relativism and Universal Human Rights*, 6 HUM. RTS. Q. 400–19 (1984); Jack Donnelly, *The Relative Universality of Human Rights*, 29 HUM. RTS. Q. 281–306 (2007).

<sup>21</sup>LENZERINI, *supra* note 3, at 33–212.

<sup>22</sup>MERRY, *supra* note 12, at 103–217.

<sup>23</sup>DONNELLY, *supra* note 11, at 93–105.

world in which all people are treated with dignity and respect. Some general characteristics of the theoretical underpinnings of relativism emerge from this discussion:

First, the presumptive universality of human rights is a myth.<sup>24</sup> Rights' interpretation and enforcement are local which requires sensitivity to contextual practices and local politics. Simultaneously, most human rights are not absolute in nature. They may be legally restricted to promote other rights or a diversity of other legitimate objectives. Again, the assessment in relation to these restrictions is contextual and local.

Second, the call towards respecting diverse practices is not absolute. It does not advocate inaction, indifference, or silence to harmful practices.<sup>25</sup> It merely asks for humility and contextual understanding and application of human rights.

Third, a framework of universal common minimum standards invariably involves concerns about reductionism and loss of diversity. It is important that when specific experiences, practices, and abuses are highlighted to advocate for reforms, situational context is preserved, and care is taken to not lose sight of actual harms and their root causes on the ground.<sup>26</sup>

Fourth, a criticism of specific practices and abuse should not translate into an *en-masse* demonization of the people, culture, country, and region. Human rights can and should be promoted without calling entire people barbaric and without erasing their rich and diverse cultures.<sup>27</sup>

Fifth, whataboutism must be guarded against. Popular and academic discourse must provide space to question selective highlighting of human rights abuses without leading to a situation where counter-opinions are drowned out through accusations of whataboutism. Simultaneously, the discourse should not be a means to detract from the original legitimate criticism.<sup>28</sup>

Sixth, and in conclusion, it is important to ensure that the language of human rights does not become a justification for political, social, economic, or military intervention but is used to push for actual reforms on the ground and enhanced protection for the rights of the people.<sup>29</sup>

### C. Qatar 2022: A Universalist Nightmare, a Relativist Dream, or Neither

In 2010, Qatar won the bid to host the FIFA World Cup 2022. Since then, the human rights situation in the country has attracted amplified global scrutiny. International and domestic civil society organizations, activists, journalists, and various scholars have investigated and reported on the state of human rights in Qatar. Various concerns have been highlighted including in relation to the rights of migrant workers, rights of LGBTQ+ people, rights of women, freedom of expression and assembly, right to protest, and journalistic freedom.<sup>30</sup> I will focus on two issues—rights of migrant workers and rights of LGBTQIA+ people—as these were amongst the most talked about concerns in relation to Qatar 2022. I will use a combined assessment of these concerns and Qatar's response to these criticisms to examine the usefulness and limitation of human rights as a language of critique to achieve meaningful transformative change in sporting contexts.

<sup>24</sup>See Marks, *supra* note 12; Joseph Raz, *Human Rights in the Emerging World Order*, 1 *TRANSNAT'L LEGAL THEORY* 31–47 (2010).

<sup>25</sup>MARK GOODALE, *SURRENDERING TO UTOPIA: AN ANTHROPOLOGY OF HUMAN RIGHTS* 18–39 (2009).

<sup>26</sup>Susan Marks, *Human Rights and Root Causes*, 74 *MOD. L. REV.* 57–78 (2011).

<sup>27</sup>Makau Mutua, *Savages, Victims and Saviours*, 42 *HARV. INT'L L.J.* 201–45 (2001).

<sup>28</sup>See Patryk Labuda, *On Eastern Europe, 'Whataboutism' and 'West(s)plaining': Some Thoughts on International Lawyers' Responses to Ukraine*, *EJIL:TALK!* (Apr. 12, 2022), [https://www.ejiltalk.org/on-eastern-europe-whataboutism-and-west\(s\)plaining-some-thoughts-on-international-lawyers-responses-to-ukraine/](https://www.ejiltalk.org/on-eastern-europe-whataboutism-and-west(s)plaining-some-thoughts-on-international-lawyers-responses-to-ukraine/).

<sup>29</sup>John Tasioulas, *Are Human Rights Essentially Triggers for Intervention?*, 4 *PHIL. COMPASS* 938–50 (2009).

<sup>30</sup>See HUMAN RIGHTS WATCH, *supra* note 5; Cathryn Grothe, *The Long Shadow of Qatar's Human Rights Abuses*, *FREEDOM HOUSE* (Dec. 7, 2022), <https://freedomhouse.org/article/long-shadow-qatars-human-rights-abuses>; Paul MacInnes, *Human Rights Abuses in Qatar 'Persist on Significant Scale', says Amnesty Report*, *THE GUARDIAN* (Oct. 20, 2022), <https://www.theguardian.com/football/2022/oct/20/fifa-world-cup-human-rights-abuses-qatar-amnesty-international/>.

### 1. Rights of Migrant Workers

Qatar's treatment of migrant workers, violations of international labor and human rights law, and its attempt at reforms is well documented. Qatar was not a peculiarity in the wider gulf region when it came to specific exploitative labor practices such as recruitment fees paid by workers, wage theft, nationality based wage discrimination, low standards of health and safety, and requiring an employer's permission to leave the country—the *kafala* system.<sup>31</sup> However, a mixture of factors such as pressure from civil society actors,<sup>32</sup> challenging regional geopolitics,<sup>33</sup> Qatar 2022's spotlight, and Qatar's national development strategy<sup>34</sup> potentially resulted in Qatar being more open than the rest of the gulf nations in engaging with the criticism.

Qatar has instituted a range of reforms including abolition of the *kafala* system, wage monitoring, universal minimum wage, wage guarantees and insurance funds, permitting trade unions and human rights bodies to operate, and a revamped dispute resolution system. Qatar is the first country in the gulf region to have instituted many of these reforms. These reforms have been made possible due to concerted and collaborative efforts of a range of stakeholders including the International Labour Organization (ILO), international and domestic human rights organizations and activists, trade unions, the local World Cup organizing committee, and countless others.<sup>35</sup>

Civil society organizations,<sup>36</sup> the ILO,<sup>37</sup> academic scholars<sup>38</sup> and the wider community acknowledge these reforms. However, recent reporting has shown noteworthy gaps between reforms and on-ground change, with construction firms evading inspections, continued entrenched power imbalances between workers and employers,<sup>39</sup> and systemic worker exploitation even during Qatar 2022.<sup>40</sup> These issues have magnified due to continued resistance towards allowing formal trade unions and participative dispute resolution processes.<sup>41</sup> Admittedly, legal and policy changes can take many years to translate into societal and business practice due to the entrenchment of old practices and power imbalances. The jury is out on whether these reforms are meaningful and long lasting and if the momentum for change will continue beyond the World Cup.<sup>42</sup>

What will the relativists say about this situation? The universal and essentialized language of human rights accords disproportionate focus to formal commitments, documents, and structures.

<sup>31</sup>Vani Saraswathi, *Workers in Qatar Remain Voiceless and Invisible, Despite Reforms and International Furor: Will the Momentum for Change Continue Beyond the World Cup?*, MIGRANT-RIGHTS.ORG (Nov. 3, 2022), <https://www.migrant-rights.org/2022/11/workers-in-qatar-remain-voiceless-and-invisible-despite-reforms-and-international-furor/>.

<sup>32</sup>Antoine Duval, *Spectacular International Labor Law: Ambushing Qatar In the Spotlight of the 2022 FIFA World Cup*, in this Issue (2023).

<sup>33</sup>James Dorsey, *The Qatar World Cup Has Come and Gone, But The Debate Continues*, THE TURBULENT WORLD (Apr. 26, 2023), <https://jamesmdorsey.substack.com/p/the-qatar-world-cup-has-come-and>.

<sup>34</sup>Andrew Spalding, *Mega-Sporting Event Human Rights and Anti-corruption Legacies*, in ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS 186–93 (William Rook & Daniela Heerdt eds., 2023).

<sup>35</sup>Mustafa Qadri & Deepika Thapaliya, *Qatar 2022 – Lessons Learned, Promises Forgotten*, in ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS 459–68 (William Rook & Daniela Heerdt eds., 2023); Duval, *supra* note 32.

<sup>36</sup>*Annual External Compliance Report of the Supreme Committee for Delivery & Legacy's Workers' Welfare Standards*, IMPACTT (Mar. 2023), <https://impacttlimited.com/docs/2023/IMP13-2023-Qatar-Annual-Report-Interactive.pdf>; Saraswathi, *supra* note 31.

<sup>37</sup>*World Cup 2022: What has Changed for Migrant Workers in Qatar?*, ILO (Nov. 2022), <https://www.ilo.org/infostories/en-GB/Stories/Country-Focus/world-cup-qatar>.

<sup>38</sup>Spalding, *supra* note 34.

<sup>39</sup>*How Can We Work Without Wages?*, HUM. RTS. WATCH (Aug. 24, 2020), <https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars>; *Qatar: Predictable and Preventable: Why FIFA and Qatar Should Remedy Abuses Behind the 2022 World Cup*, AMNESTY INT'L (May 19, 2022), <https://www.amnesty.org/en/documents/mde22/5586/2022/en/>; IMPACTT, *supra* note 36.

<sup>40</sup>*After the Final Whistle: Migrant Workers Speak Out on Exploitation During Qatar World Cup 2022*, BHRRC (June 15, 2023), <https://www.business-humanrights.org/en/from-us/briefings/after-the-final-whistle-migrant-workers-speak-out-on-exploitation-during-qatar-world-cup-2022/>.

<sup>41</sup>"We Work Like Robots," EQUIDEM (2022), <https://www.equidem.org/reports/we-work-like-robots>.

<sup>42</sup>Saraswathi, *supra* note 31; Qadri & Thapaliya, *supra* note 35; IMPACTT, *supra* note 36; Duval, *supra* note 32.

Existence of such frameworks is celebrated as a triumph when little changes on the ground. Initial reports from Qatar seem to manifest this phenomenon. While there have been positive legislative and policy changes in relation to worker rights,<sup>43</sup> it seems that it will be a long walk to transformation. The universalist's focus on ensuring formal legal rights can often undermine the contextual and historical reality of a place. Actual harm and their root causes are found on the ground. Formal changes are necessary but are perhaps only the beginning of the process in situations where exploitative practices are entrenched. Human rights advocates focused on Qatar know this. Therefore, they continue to report on violations and seek ground-level changes even when the attention of the world has shifted after Qatar 2022.<sup>44</sup>

Qatar 2022 has also highlighted relativist concerns such as whataboutism and demonization of entire cultures. Qatari authorities, local residents, and some scholars question the nature and medium of criticism directed at Qatar.<sup>45</sup> As Noora Al-Saai says, Western media's reporting on Qatar has often come without context and nuance, with an "orientalist undertone" and with "the centrism of the Western perspective."<sup>46</sup> Attempts to highlight the double-standards or hypocrisy of Western narrative has led to accusations of whataboutism.<sup>47</sup> This has potentially created a chilling effect and restricted the counter-narratives as well as voices of people from the ground.<sup>48</sup> In addition to the legitimate human rights critique, the criticism of Qatar has often been tainted with biased, xenophobic, and Islamophobic comments which demonized the entire country and its people.<sup>49</sup> This state of affairs created a situation which undermined the tireless work of rights advocates and shifted attention from legitimate human rights campaigns. Overzealous reporting of inaccurate facts and narratives also harmed the cause for reforms. For instance, prominent Western media outlets misreported and sensationalized the number of migrant worker deaths in Qatar which allowed the government to counter even the legitimate criticism with accusations of racism.<sup>50</sup> A radical universalist tendency to focus on grand narratives, without accounting for the possibility of counter-narratives and nuanced facts, can often have these consequences.

## II. Rights of LGBTQIA+ Community

Qatar criminalizes same-sex relationships and cultural expression. Members of the LGBTQIA+ community have been forced by the authorities to track other members of the community in exchange for their own safety.<sup>51</sup> While the Emir of Qatar claimed to welcome LGBTQIA+ people

<sup>43</sup>Hassan Al-Thawadi & Mahmoud Qutub, *Qatar and the FIFA World Cup: Reflections on Working to Advance Workers' Welfare and Labour Rights*, in ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS 469–77 (William Rook & Daniela Heerdt eds., 2023).

<sup>44</sup>*Hundreds of World Cup Workers Stage Protest, Remain Unpaid and Destitute*, MIGRANT-RIGHTS.ORG (Feb. 8, 2023), <https://www.migrant-rights.org/2023/02/hundreds-of-world-cup-workers-stage-protest-remain-unpaid-and-destitute/>.

<sup>45</sup>Omar Kamel, *The Qatar World Cup: A Tale of Uncomfortable Contortions*, OPINIOJURIS (Dec. 16, 2022), <https://opiniojuris.org/2022/12/16/the-qatar-world-cup-a-tale-of-uncomfortable-contortions/>.

<sup>46</sup>Noora Al-Saai, *Missing Coverage from the Western Media During the Qatar World Cup*, SOAS Blog (Dec. 13, 2022), <https://www.soas.ac.uk/study/blog/missing-coverage-western-media-during-qatar-world-cup>.

<sup>47</sup>Yoav Dubinsky, *Clashes of Cultures at the FIFA World Cup: Reflections on Soft Power, Nation Building, and Sportswashing in Qatar 2022*, PLACE BRANDING AND PUB. DIPL. 1–14 (2023).

<sup>48</sup>Al-Saai, *supra* note 46.

<sup>49</sup>Khaled Beydoun, *The Western Media's World Cup Coverage Has Put its Anti-Muslim Bias on Full Display*, S.F. CHRON. (Nov. 29, 2022), <https://www.sfchronicle.com/opinion/openforum/article/world-cup-qatar-islamophobia-17618614.php>; Dorsey, *supra* note 33; Aladam, *supra* note 7.

<sup>50</sup>Matt Ford, *World Cup Deaths: How and Why Do Inaccurate Figures Spread?*, DW (Nov. 17, 2022), <https://www.dw.com/en/world-cup-deaths-how-and-why-do-inaccurate-figures-spread/a-63774051>; David Goldblatt, *How to Get on TV*, 44 LONDON REV. OF BOOKS (Nov. 17, 2022); Al-Saai, *supra* note 46; Carl Emilio Lewis, *Provoking Honor: The 2022 Qatar FIFA Men's World Cup and the Potential for Latent Violence Following the Naming and Shaming of States*, in this Issue (2023).

<sup>51</sup>Sean Ingle, *Gay Qataris Physically Abused Then Recruited as Agents, Campaigner Says*, THE GUARDIAN (Nov. 15, 2022), <https://www.theguardian.com/football/2022/nov/15/gay-qataris-physically-abused-then-recruited-as-agents-campaigner-says>.

to Qatar, he demanded that visitors respect the Qatari culture.<sup>52</sup> During Qatar 2022, national football teams that planned to wear the rainbow ‘One Love’ armbands risked sporting sanctions from FIFA and fans were prevented from wearing rainbow shirts.<sup>53</sup> It is undeniable that Qatar is not a welcoming place for the LGBTQIA+ community.

The campaign in relation to the rights of the LGBTQIA+ people in Qatar also brings the relativist critique to life. Calls for equal recognition of the LGBTQIA+ community, boycott as a response to unmet demands, and showing solidarity through armbands are often viewed by queer Qataris as performative activism by the West to the West.<sup>54</sup> Commentators state that these acts reveal a Eurocentric vision of LGBTQIA+ expression which assumes that all members of the community wish to express their identity publicly. For Al-Saai, it ignores the reality that queer Qataris are part of and shaped by the same society in which people prefer to express their sexuality privately.<sup>55</sup> This is not to suggest that queer Qataris may not want to express their gender and sexual identity in public. It is merely to advocate a better understanding of the societal context and for listening to the voices of the community.

It has been reported that Western human rights campaigners did not meaningfully incorporate the voices and wishes of the local LGBTQIA+ community in their campaigns.<sup>56</sup> This may have brought the local community into (unwanted) spotlight and subjected them to negative consequences, including an increase in abuse and gay Qataris being forced to spy on other members of the community.<sup>57</sup> The zeal to achieve equal acceptance for LGBTQIA+ rights, without accounting for local contexts and voices, might have done more harm than good. As the mega-sporting event (MSE)<sup>58</sup> entourage moves on along with the global spotlight, often it is the locals who must live with the consequences. Something similar happened years ago in Russia. In June 2013, Russia banned the distribution of “propaganda of non-traditional sexual relationships” among minors. Homophobic violence and discrimination increased because of this “anti-gay” law.<sup>59</sup> Media coverage due to the Sochi 2014 Winter Olympic and Paralympic games (OPGs) put an enormous spotlight on this issue at that time. However, the games moved on and nothing changed for the LGBTQIA+ Russians.<sup>60</sup>

Like the campaign on worker rights, this campaign also witnessed elements of whataboutism and demonization. While most commentators were focused on the status of LGBTQIA+ rights in Qatar, few took objection to the fact that of the 32 nations that participated in Qatar 2022, only 18 allowed LGBTQIA+ relationships and partnerships.<sup>61</sup> While the host may deserve a special spotlight, there was little, if any attempt to use the World Cup to highlight human rights records of

<sup>52</sup>Qatar’s Emir Welcomes Gay Couples to World Cup but Asks Them to ‘Respect our Culture’, BHRRC (May 23, 2022), <https://www.business-humanrights.org/en/latest-news/qatars-emir-welcomes-gay-couples-to-world-cup-but-asks-them-to-respect-our-culture>.

<sup>53</sup>Mark James, *Time to Focus on Freedom of Expression: Rainbows, Armbands, and FIFA’s Commitment to Human Rights*, ASSER INT’L SPORTS L. BLOG (Nov. 25, 2022), <https://www.asser.nl/SportsLaw/Blog/post/time-to-focus-on-freedom-of-expression-rainbows-armbands-and-fifa-s-commitment-to-human-rights-by-prof-mark-james-manchester-metropolitan-university>.

<sup>54</sup>Anonymous, *I’m a Queer Qatari. Think Twice Before You Come to my Country to Protest the World Cup*, INDEPENDENT (Nov. 7, 2022), <https://www.independent.co.uk/voices/fifa-world-cup-qatar-queer-lgbt-rights-b2219458.html>.

<sup>55</sup>Al-Saai, *supra* note 46.

<sup>56</sup>Dorsey, *supra* note 33; Al-Saai, *supra* note 46.

<sup>57</sup>Will Todman, Commentary, *LGBTQ+ Advocacy in the Middle East Backfires*, CTR. FOR STRATEGIC & INT’L STUD. (Dec. 16, 2022), <https://www.csis.org/analysis/lgbtq-advocacy-middle-east-backfires>; Schaer, *supra* note 8.

<sup>58</sup>See William Rook, Daniela Heerdt & Shubham Jain, *Introduction*, in ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS 1–11 (William Rook & Daniela Heerdt eds., 2023) (defining MSEs).

<sup>59</sup>Uri Friedman, *How Sochi Became the Gay Olympics*, THE ATLANTIC (Jan. 28, 2014), <https://www.theatlantic.com/international/archive/2014/01/how-sochi-became-the-gay-olympics/283398/>.

<sup>60</sup>Graeme Reid, *The Olympics Have Left Sochi, But Don’t Forget LGBTQ Russians*, HUFFINGTON POST (Feb. 8, 2018), <https://www.hrw.org/news/2018/02/08/olympics-have-left-sochi-dont-forget-lgbt-russians>.

<sup>61</sup>Jim Buzinski, *The Outsports Gay-friendly World Cup rankings of all 32 teams*, OUTSPORTS (Nov. 16, 2022), <https://www.outsports.com/2022/11/16/23450474/world-cup-rankings-qatar-outsports-gay-lgbtq-friendly-2022>.



other participating nations in relation to LGBTQIA+ rights. This issue also witnessed Islamophobic comments which demonized the entire country and its people.<sup>62</sup> On the one hand, in stipulating that visitors respect local culture, Qatar wished for a strong form of relativism in the name of culture. On the other hand, the external demand for a Western vision of LGBTQIA+ expression reflected a preference for strong universalism. This contest between the extremes might have made things worse for an already vulnerable and persecuted minority. Ironically, the “we know best” arrogance of the universalists failed to be inclusive of the views and needs of the community while trying to advocate for greater inclusion of the community.

#### D. Human Rights *in and through* Sports

Is human rights advocacy a failed endeavor if it may have contributed to making things worse off in Qatar,<sup>63</sup> even in a small way? Should MSEs not take place in regions or countries with questionable human rights records? We are unlikely to find absolute or universal answers, but we must attempt.

Human rights advocacy in the spotlight of the FIFA World Cup had a big impact in Qatar. The engagement between the civil society organizations, ILO, journalists, Qatari government, and the World Cup organizing committee resulted in an unprecedented level of transparency and openness to international organizations and media. This has played a part in improving the labor rights situation in legislation and on the ground, though the practical implementation remains a work-in-progress.<sup>64</sup> The same may not be said about LGBTQIA+ rights, women’s rights, or press freedom.

Qatar’s experience has important lessons for human rights advocacy in sporting contexts. On the one hand, the progress on labor rights underscores the importance of bringing stakeholders (both duty-bearers and right-holders) together, building coalitions and solidarity movements, and undertaking comprehensive coordinated structural changes.<sup>65</sup> It also highlights the importance of engaging with the local context and empowering local rights-advocates and community groups which are best placed to help with problem identification, solution conceptualizing, and monitoring implementation in the form and language that will serve them the best.<sup>66</sup> On the other hand, as the Qatar LGBTQIA+ case study shows, human rights advocates with all their best intentions may not “know best”. It is imperative that human rights advocates listen to what local people want and what actions or inactions will really help them. This is why the relativist critique is important. It is not about challenging the concept or practice of human rights. It is about correcting the excesses of universalism and the “we know best” arrogance. For human rights advocacy and promotion to be valuable and persuasive, “universal” transnational norms need to be translated into contextually familiar norms and language, without losing their critical sharpness. To be successful, this process requires humility and meaningful engagement with local mediators and institutions who can facilitate translation, adoption, and enforcement of norms.<sup>67</sup>

<sup>62</sup>Dorsey, *supra* note 33.

<sup>63</sup>As is potentially the case with LGBTQIA+ rights in Qatar.

<sup>64</sup>IMPACTT, *supra* note 36; Saraswathi, *supra* note 31.

<sup>65</sup>Andrea Florence & Apoena Mano, *Teaming up to Change the Game: Fostering Civil Society Coalitions Around Mega-sporting Events*, in ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS 356–69 (William Rook & Daniela Heerdt eds., 2023).

<sup>66</sup>Shubham Jain, *Framework for Inclusive Institutional Design and Regulation for Mega-sporting Events*, in ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS 97–107 (William Rook & Daniela Heerdt eds., 2023).

<sup>67</sup>LENZERINI, *supra* note 3, at 33–212; MERRY, *supra* note 12, at 103–217.

Can these challenges be avoided by limiting the hosting of MSEs in Western and high-income countries with (supposedly) better human rights records or countries which have traditionally hosted certain events?<sup>68</sup> Such a system for staging MSEs is unlikely to benefit anyone. Human rights violations and abuse will not cease if we stop highlighting them and asking for reforms. Moreover, there is arguably no country (even in the Western world) that complies with human rights standards universally.

A quick overview of the recent and forthcoming big MSEs is illustrative. Australia and New Zealand, who co-hosted the FIFA Women's World Cup 2023 have questionable human rights practices concerning rights of athletes, workers, First Nations people, asylum seekers, and children and youth offenders.<sup>69</sup> India, a recurring host of cricket events hosted the Cricket Men's World Cup 2023. It faces serious questions about the rights of ethnic and religious minorities.<sup>70</sup> Paris 2024 Summer OPGs face direct concerns over plans for intrusive artificial intelligence surveillance during the games which could adversely affect the right to privacy.<sup>71</sup> There is also a lack of clarity around the participation of hijab-wearing athletes.<sup>72</sup> Civil society groups have sounded alarm about human and labor rights and child labor in relation to the co-hosting of the FIFA Men's World Cup 2026 by the United States.<sup>73</sup> The United States also faces major human rights issues such as restrictions on the right to abortion, racialized gun violence, and legislative assaults on LGBTQIA+ rights.<sup>74</sup> The other 2026 World Cup co-hosts also face multiple challenges.<sup>75</sup> In particular, Mexico faces concerns in relation to press freedom with a string of violent attacks against journalists,<sup>76</sup> and Canada's treatment of its indigenous population is a cause of concern.<sup>77</sup> The Milano-Cortina region in Italy will host the 2026 Winter OPGs. Italy's policy on accepting migrants and refugees is unarguably a grave human rights abuse.<sup>78</sup> Worker rights, which was one of the biggest issues in Qatar, is a global concern with Western companies profiting extensively from exploitative supply chains.<sup>79</sup> The ILO estimates that of the 27.6 million people who find

<sup>68</sup>Suzanne Dowse & Thomas Fletcher, *Sport Mega-events, the 'Non-West' and the Ethics of Event Hosting*, 21 *SPORT IN SOC'Y* 745–61 (2018).

<sup>69</sup>FIFA 2023 Women's World Cup Human Rights Risk, AUSTRALIAN HUMAN RIGHTS COMMISSION & NEW ZEALAND HUMAN RIGHTS COMMISSION (Dec. 2021), <https://digitalhub.fifa.com/m/690bb450ccd5d920/original/FIFA-2023-Women-s-World-Cup-Human-Rights-Risk-Assessment.pdf>; Tracey Holmes, *Australia's Human Rights Record in the Spotlight Ahead of FIFA Women's World Cup Starting in July*, ABC SPORT (Mar. 1, 2023), <https://www.abc.net.au/news/2023-03-02/australia-human-rights-record-highlighted-before-fifa-world-cup/102042868>.

<sup>70</sup>Peter Osborne & Imran Mulla, *Sporting World Must Challenge India Over 2023 Cricket World Cup*, MIDDLE E. EYE (Aug. 2, 2023), <https://www.middleeasteye.net/opinion/india-cricket-world-cup-sporting-world-must-challenge>.

<sup>71</sup>France: Intrusive Olympics Surveillance Technologies Could Usher in a Dystopian Future, AMNESTY INT'L (Mar. 20, 2023), <https://www.amnesty.org/en/latest/news/2023/03/france-intrusive-olympics-surveillance-technologies-could-usher-in-a-dystopian-future/>.

<sup>72</sup>Jain, *supra* note 66.

<sup>73</sup>Michael Sainato, *Largest US Union Federation Presses Fifa on Labor Rights Around 2026 World Cup*, THE GUARDIAN (Apr. 8, 2022), <https://www.theguardian.com/football/2022/apr/08/afl-cio-labor-union-demands-2026-world-cup>; Shawn MacDonald, *Revisiting American Exceptionalism in Light of Child Labor Scandals*, BHRRC (Aug. 11, 2023), <https://www.business-humanrights.org/en/blog/revisiting-american-exceptionalism-in-light-of-child-labor-scandals/>.

<sup>74</sup>Erum Salam, *LGBTQ+ Americans Living in State of Emergency, Human Rights Group Warns*, THE GUARDIAN (June 6, 2023), <https://www.theguardian.com/us-news/2023/jun/06/state-of-emergency-lgbtq-human-rights>.

<sup>75</sup>Steph Yang & Jeff Rueter, *2026 World Cup: The Issues Across the U.S., Mexico and Canada That Could Impact the Tournament*, THE ATHLETIC (Feb. 2, 2023), <https://theathletic.com/4150786/2023/02/02/2026-world-cup-concerns/>.

<sup>76</sup>Mexico: Voices Against Indifference, ARTICLE 19 (Mar. 28, 2023), <https://www.article19.org/resources/mexico-voices-against-indifference/>.

<sup>77</sup>Human Rights in Canada, AMNESTY INT'L (2022), <https://www.amnesty.org/en/location/americas/north-america/canada/report-canada/>.

<sup>78</sup>Hotspot Italy: Abuses of Refugees and Migrants, AMNESTY INT'L (Nov. 3, 2016), <https://www.amnesty.org/en/latest/campaigns/2016/11/hotspot-italy/>.

<sup>79</sup>Chandran Nair, *The Developed World Is Missing the Point About Modern Slavery*, TIME (June 20, 2016), <https://time.com/4374377/slavery-developed-developing-world-index-slave-labor/>.

themselves in situations of forced labor, more than half are based in upper-middle income or high-income countries.<sup>80</sup>

As these challenges facing the Western and/or traditional MSE host nations show, perhaps the only thing that is universal is the risk to human rights. The key question is how and to what extent SGBs and civil society actors will learn from previous MSEs, and use the learnings to highlight human rights risks in future hosts and leverage their hosting of MSEs to advance human rights. Through the MSE award process, SGBs, in consultation with local and international civil society actors and human rights organizations, must commit countries and regions to a baseline minimum standards of human rights with a pathway for rights progression in future.<sup>81</sup> Legitimate differences in regional and local expectations and norms in relation to human rights that require limited deviations from universal human rights standards, primarily in relation to form, interpretation and implementation may be acceptable to ensure a greater overall progressive buy-in.<sup>82</sup>

### E. Human Rights as a Language of Critique: A Tale of Cautions and Lessons

The foregoing discussion shows that human rights as a language of critique to achieve meaningful change in sporting contexts is a useful tool, but with inherent limitations. Qatar is a tale full of cautions and lessons. Human rights provide a powerful framework to advocate for rights locally, based on a globally agreed common minimum standard. However, human rights tools and language must not be regarded as the ultimate panacea or response to all problems everywhere. The modern human rights framework operates through (largely) Western-led and controlled processes and institutions. As a result, indiscriminate usage of this human rights language can be perceived to carry colonial and paternal connotations. Moreover, a disproportionate and narrow focus on formal reforms can often end up as a tick-box exercise, which might be celebrated by the wider world, but changes little on the ground.<sup>83</sup> Therefore, “universal” human rights language requires judicious use, coordination amongst various actors for maximum impact and mediation by cultural translation for successful adoption and enforcement at local level.<sup>84</sup>

It is also important to acknowledge that grave human rights risks exist even in Western, developed, or higher-income countries.<sup>85</sup> Therefore, it is important to scrutinize risks and advocate for addressing abuses everywhere. The universal and relativist notions of human rights offer a useful framework of analysis. The choice between them is a false duality. One cannot exist without the other. To argue for universal human rights, means accepting the response of relativists. As Dembour says, “we must be both at the same time.”<sup>86</sup> The challenge is to push for universalism when needed and accept relativism when possible.

<sup>80</sup>*Global Estimates of Modern Slavery, Forced Labour and Forced Marriage*, ILO (Sep. 2022), [https://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—ipecc/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/wcmsp5/groups/public/—ed_norm/—ipecc/documents/publication/wcms_854733.pdf).

<sup>81</sup>Daniela Heerd, William Rook & Shubham Jain, *Conclusion*, in *ROUTLEDGE HANDBOOK OF MEGA-SPORTING EVENTS AND HUMAN RIGHTS* 478–84 (William Rook & Daniela Heerd eds., 2023).

<sup>82</sup>DONNELLY, *supra* note 11; Jack Donnelly, *Cultural Relativism and Universal Human Rights*, *supra* note 20.

<sup>83</sup>Ingrid Landau, *Human Rights Due Diligence and the Risk of Cosmetic Compliance*, 20(1) MELB. J. OF INT’L L. 221–47 (2019).

<sup>84</sup>MERRY, *supra* note 12, at 134–78.

<sup>85</sup>*The State of the World’s Human Rights 2022/23*, AMNESTY INT’L (Mar. 28, 2023), <https://www.amnesty.org/en/latest/news/2023/03/international-system-unfit-to-deal-with-global-crises-annual-report-2022/>.

<sup>86</sup>Dembour, *supra* note 2, at 55.

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