



Human Rights Risk Mitigation in the Sports Context

Sporting Chance White Paper 2.3
Version 1, January 2017



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Human Trafficking and Forced Labour
Security and Policing

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The Mega-Sporting Events Platform for Human Rights

The Mega-Sporting Events Platform for Human Rights (MSE Platform – www.megasportingevents.org) is an emerging multi-stakeholder coalition of international and intergovernmental organisations, governments, sports governing bodies, athletes, unions, sponsors, broadcasters, and civil society groups. Through dialogue and joint action our mission is to ensure all actors involved in staging an event fully embrace and operationalise their respective human rights duties and responsibilities throughout the MSE lifecycle. Chaired by Mary Robinson, the MSE Platform is facilitated by the Institute for Human Rights and Business (www.ihrb.org).

The Sporting Chance White Papers

This White Paper Series was originally developed to support the Sporting Chance Forum on Mega-Sporting Events and Human Rights, co-convened by the US Department of State, the Swiss Federal Department of Foreign Affairs, and IHRB in Washington D.C. on 13-14 October 2016. Comments were received at and following the Forum, and each White Paper has been updated to reflect those inputs.

A total of 11 White Papers have been produced, clustered into four themes referring to key stakeholder groups (see below). These White Papers aim to present the latest thinking, practice, and debate in relation to key human rights issues involved in the planning, construction, delivery, and legacy of MSEs. Each paper also considers the case for, and potential role of, an independent centre of expertise on MSEs and human rights.

Each White Paper has been published as “Version 1” and the MSE Platform would welcome comments, input, and expressions of support with regard to future iterations or research on each topic.

1. Sports Governing Bodies

- White Paper 1.1 Evaluating Human Rights Risks in the Sports Context
- White Paper 1.2 Sports Governing Bodies and Human Rights Due Diligence
- White Paper 1.3 Corruption and Human Rights in the Sports Context

2. Host Actors

- White Paper 2.1 Host Actors and Human Rights Due Diligence in the Sports Context
- White Paper 2.2 Procurement and Human Rights in the Sports Context
- White Paper 2.3 Human Rights Risk Mitigation in the Sports Context
- White Paper 2.4 Remedy Mechanisms for Human Rights in the Sports Context

3. Sponsors and Broadcasters

- White Paper 3.1 Sponsors and Human Rights in the Sports Context
- White Paper 3.2 Broadcasters and Human Rights in the Sports Context

4. Affected Groups

- White Paper 4.1 Children’s Rights in the Sports Context
- White Paper 4.2 Athletes’ Rights and Mega-Sporting Events

Contents

Executive Summary	5
1. Human Trafficking and Forced Labour	7
1.1 The Risk of Trafficking and Forced Labour	7
1.2 Risk of Trafficking and Forced Labour in Delivering Tokyo 2020	10
1.3 Corporate Liability for Forced Labour and Trafficking	11
<i>Russia</i>	12
<i>Japan</i>	13
<i>South Africa</i>	13
<i>Qatar</i>	13
1.4 Identifying Good Practice	13
1.5 Mitigating Trafficking and Forced Labour Risks	16
2. Security and Policing	19
2.1 The Human Rights Risks Associated with Security and Policing	19
2.2 Mitigating Security and Policing Risks	23
3. Recommendations	25
Appendix 1: BWI Case Studies	26
Supplementary Annexures	32
Annex: Overview of the UN Guiding Principles on Business & Human Rights	33

Executive Summary

Despite commitments from a number of the leading sports governing bodies to include human rights in future bidding processes for events, there is presently no mega-sporting event (MSE) in the pipeline that was awarded hosting status premised on explicit human rights commitments, beyond limited criteria touching on labour standards in the supply chain and broader questions of non-discrimination. The timescale for putting such measures is evolving, but even if and when human rights measures are in place, not all adverse impacts caused by the lifecycle of developing and delivering an event will be preventable. Where there is potential for harm to occur, stakeholders must identify, mitigate and remediate those impacts, as outlined in the UN Guiding Principles on Business and Human Rights and related international standards.

Mitigating human rights risks means identifying salient human rights impacts and taking steps to reduce the adverse effects of those impacts. While the range of human rights risks associated with delivering a major event is broad, the MSE Platform Steering Committee has identified (a) forced labour and human trafficking and (b) security and policing as areas of high priority for stakeholders, and pertinent risks in the context of currently awarded events.¹

Accordingly, this paper is divided into two sections, first focusing on human trafficking and forced labour, and second on security and policing. Several of the issues raised are expanded upon in the appendices and annexes.

The various sections of this paper draw a number of conclusions and propose a series of recommendations, especially with regard to the potential function of an independent centre of expertise on MSEs and human rights.

When addressing trafficking and forced labour risks, compliance with existing laws and mechanisms is often not sufficient to ensure support for effective human rights due diligence, mitigation and remedy. Modern slavery offences including trafficking and forced labour are often transnational crimes that take advantage of weak enforcement or gaps in legislation between jurisdictions. One of the principal risks for an MSE is the exploitation of low-paid migrant workers in the construction sector. On this issue, the contribution to this paper of the BWI proposes that the mechanisms and approaches of trade unions have had some positive outcomes, discussed here in the context of

¹ Currently awarded events include: Commonwealth Youth Games, Bahamas 2017; IAAF World Championships, London 2017; Winter Olympic Games, Pyeongchang 2018; FIFA World Cup, Russia 2018; Commonwealth Games, Gold Coast 2018; Rugby World Cup, Japan 2019; Cricket World Cup, England and Wales 2019; IAAF World Championships, Doha 2019; Olympic Games, Tokyo 2020; Commonwealth Youth Games, Belfast 2021; Winter Olympic Games, Beijing 2022; FIFA World Cup, Qatar 2022; and Commonwealth Games, Durban 2022.

BWI's work in South Africa and Brazil. To strengthen future mitigation strategies BWI propose that:

- Joint site inspections by unions together with games-awarding bodies and local organizing committees should be considered.
- Alternative mechanisms could be pursued to fill governance gaps, build trust and create opportunities for the enjoyment of rights, including:
 - Tripartite agreements between MSE host governments, construction companies and trade unions;
 - collective bargaining at site-level; and,
 - international framework agreements between unions and multinational corporations at a global level.

In addressing security and policing risks, the contribution to this paper of Amnesty International, Brazil proposes that:

- A risk assessment should verify existing patterns of violations, analyse the existing legal framework in relation to use of force and the existing mechanisms of accountability.
- A mitigation plan should be developed immediately after a host is awarded an event and established as far in advance as possible.
- Mitigation and preventative measures should consider:
 - adopting international principles on use of force;
 - establishing and implementing transparency, accountability and oversight mechanisms;
 - training security and police forces in accordance with human rights; and
 - ensuring active participation of civil society groups in the design and oversight of the mitigation plan.

A future independent centre for MSEs and human rights can be envisaged playing a role in developing guidelines for hosts and governing bodies to carry out human rights risk assessments and implementing mitigation plans. The centre could perform a key role in monitoring implementation including by conducting or supervising missions to host countries. The centre could also add value by providing guidance on the recruitment and employment of migrant workers, including the establishment of grievance mechanisms, and convene multi-stakeholder meetings to raise awareness and build capacity to mitigate human rights risks.

Human Trafficking and Forced Labour

1.1 The Risk of Trafficking and Forced Labour²

"Trafficking and the consequent removal of human dignity, rights, respect, freedom and safety are concepts that are almost inconceivable when set against the fun, thrill, celebration and vivacity of a Sports Mega Event. Yet this is now one of the realities organisers and hosts of mega sports events must address as they consider the potential human rights impact of their sporting celebration."

- Carrie Pemberton Ford³

The risks of human trafficking and forced labour can be found almost anywhere in the value chain for MSEs, including supply chains and other key business activities associated with preparing for and staging a major event. This may involve private sector actors such as in the manufacture of apparel and sporting equipment and event associated merchandise, or in the delivery of hospitality and other services during the MSE. A critical area of risk lies in the (government) contracts for construction of new stadia, as well as the development of essential supporting infrastructure or renovation of existing infrastructure. The business activities of corporate sponsors and commercial partners⁴ may also fall under increased scrutiny.

Trafficking in human beings is a human rights violation and a complex lucrative crime. In its 2012 Global Estimate of Forced Labour, the International Labour Organization (ILO) suggests that 20.9 million people are in forced labour situations worldwide and the majority of them, or an estimated 68%, are in a situation of labour exploitation, in a wide array of economic sectors, such as agriculture, apparel, hospitality, manufacturing, mining and the construction industry. Furthermore, the 2014 ILO report, 'Profits and Poverty: The Economics of Forced Labour', found that forced labour in the private economy generates US\$ 150 billion in illegal profits per year.

² Thanks to Ruth Freedom Pojman (OSCE OSR/CTHB) for contributing this section.

³ Carrie Pemberton Ford, "Human Trafficking, Sporting Mega-Events and the London Olympics of 2012" from Chapter 2, "Human Trafficking and Sporting Mega Events" <https://www.amazon.co.uk/Trafficking-Sporting-Mega-Events-London-Olympics-ebook/dp/B0099YMHA4>

⁴ See: <https://www.theguardian.com/business/2012/mar/03/olympic-brands-abuse-scandal>. An investigation found that workers producing sportswear for Olympic sponsors Adidas, Nike and Puma are beaten, verbally abused, underpaid and overworked in Bangladeshi sweatshops.

In September 2015, the UN adopted a comprehensive universal Agenda for Sustainable Development. Governments reaffirmed their commitment to addressing forced labour and human trafficking in the Sustainable Development Goals,⁵ Targets 5.2, 8.7, and 16.2 through immediate and effective measures as an important element of the global development policy.

MSEs involve large-scale construction and infrastructure projects creating a demand for cost-effective labour and materials⁶ to build the stadiums and venues for the events, and the infrastructure upon which access to these venues depends, as well as to produce sporting goods, the apparel for athletes and the branded merchandise marketed for the games.⁷ Unfortunately MSEs also provide the opportunity for labour exploitation from unscrupulous employers. Indeed, forced labour and trafficking have been found in construction and manufacturing ahead of games, and in the hospitality and service sectors during the events.⁸ Finally, the risk of human trafficking of athletes and football players themselves has also been reported.⁹

Over the past eleven years there has been increased concern over trafficking and forced labour abuses related to MSEs. For example, Greece saw a 95% increase in trafficking victims in the months leading up to and including the 2004 Athens Olympics, including for child begging.¹⁰ Tragically, fourteen people died¹¹ and over 1,000 were seriously injured on Olympic construction sites for Athens 2004. In the lead-up to the FIFA World Cup in Germany in 2006, a major anti-trafficking campaign was launched¹² around the risk that women would fall victim to human trafficking for the purposes of sexual exploitation.

The 2014 FIFA World Cup in Brazil had to tackle the problem of sexual exploitation and documented cases of forced labour in construction, and the risk of human trafficking, especially of temporary and migrant workers, leading up to the 2016 Rio Olympics.¹³ Residents in Rio claimed that apartment blocks built by construction firm Cyrela to house journalists in Brazil¹⁴ were built using “labour in conditions analogous to slavery”. Finally, BWI has called for an independent investigation of the deaths of eleven workers in Rio Olympics projects.¹⁵

5 See: <http://www.undp.org/content/undp/en/home/sdgoverview/post-2015-development-agenda.html>

6 See: <http://www.state.gov/j/tip/rls/tiprpt/2014/226646.htm> page 20

7 Organization for Security and Co-operation in Europe (OSCE) Occasional Paper “Ending Exploitation. Ensuring that Businesses Do Not Contribute to Trafficking in Human Beings: Duties of States and the Private Sector”, page 53, at: <http://www.osce.org/secretariat/126305?download=true>

8 While migrant workers are arguably most vulnerable, people can be trafficked within their own country without crossing any border.

9 See: <https://www.hks.harvard.edu/centers/mrcbg/programs/crj/research/reports/report68> page 25 “FIFA has been proactive in establishing rules to combat trafficking through the legal transfer system. But neither the rules nor the available resources extend to cover rogue recruiters and agents, unsanctioned football academies, and the known trafficking routes by which players are sent to clubs on other continents operating within FIFA’s ambit.” See also sources in endnotes 50 and 51, and Alex C. Najarian, “‘The Lost Boys’: FIFA’s Insufficient Efforts to Stop Trafficking of Youth Footballers,” *Sports Lawyers Journal*, 22 (Spring 2015).

10 See: <http://docs.house.gov/meetings/FA/FA16/20140127/101672/HHRG-113-FA16-20140127-SD001.pdf>

11 Engineering News Record, 2012: London Olympics Construction is the safest in recent times. http://enr.construction.com/business_management/safety_health/2012/0730-london-olympics-construction-is-safest-in-recent-times.asp

12 See: https://www.iom.int/sites/default/files/our_work/ICP/IDM/mrs29THBWCG.pdf

13 See: <http://www.megasportingevents.org/pdf/Reporter-Brasil-MSEs-Human-Rights-Risk-Areas.pdf>

14 See: <http://www.rioonwatch.org/?p=30547>

15 See: <http://www.bwint.org/default.asp?index=7083&Language=EN>

Looking ahead, it is important to ensure that forced labour and human trafficking are prevented in the construction of the 2018 FIFA World Cup facilities in Russia, in other areas of preparation, and during the actual event. Some reports indicated that migrant workers were exploited in the construction of stadia and other venues during the 2014 Sochi Winter Olympics, in conditions comparable to modern slavery. More than eight hundred workers employed at Olympic sites reported unpaid wages.¹⁶ Six hundred complaints were filed with the Migration and Law Network regarding various abuses including non-payment or extreme delays in payment and employers failing to provide official contracts and permits to workers.¹⁷ The lack of official documentation of work status, and withholding of documents, led to many workers having an 'irregular' status, leaving them without legal recourse when abuses occurred.¹⁸

As Qatar gears up for the FIFA World Cup 2022, increased media scrutiny has seen the challenges facing migrant workers¹⁹ in the construction sector there become more visible and well catalogued. One of the ILO Indicators of forced labour is the payment of recruitment fees by workers, effectively paying for jobs through networks of middlemen and agents. These fees are often extortionate and require workers from sending countries such as India, Nepal and Bangladesh to take out loans at usurious rates. These debts can amount to bondage and situations of forced labour where workers are vulnerable to further exploitations including underpayment and having to endure unsafe and unhygienic working and living conditions, sometimes with tragic consequences.²⁰ Without extensive due diligence on labour supply and recruitment agencies, even reputable construction companies face the risk of forced labour in their supply chains. There are currently reports on multiple cases of labour exploitation and worker deaths at the building projects in Qatar²¹ where allegations have surfaced about forced labour in the building of the 2022 World Cup stadium.²² Where these risks arise, effective mitigation strategies are needed.

Finally, concerns have been raised leading up to the Tokyo 2020 Olympics.²³ In February 2015 the Tokyo Olympic Organizing Committee informed the OSCE of their concerns over risks of human trafficking for labour exploitation, noting that while the London Olympics had focused on sustainability issues, mainly environmental in nature, the actual issues documented during the games were labour abuses. IHRB and the Caux Round Table Japan have noted this specific human rights risk in their joint submission of comments on the Tokyo 2020 High Level Sustainability Plan.²⁴

16 Human Rights Watch, "Race to the Bottom - Exploitation of Migrant Workers Ahead of Russia's 2014 Winter Olympic Games in Sochi", (Feb 2013), accessed 18/8/14: <http://www.hrw.org/sites/default/files/reports/russia0113UploadWMap.pdf>.

17 Ibid.

18 Human Rights Watch, "Letter to the International Olympic Committee, October 2013", (Oct2013), accessed 31/01/14: <http://www.hrw.org/news/2013/10/20/letter-international-olympic-committee-october-2013>.

19 See: <https://www.theguardian.com/global-development/2014/apr/25/un-qatar-abolish-kafala-migrant-worker-system>

20 See: <http://www.megasportingevents.org/temporary-migrant.html#workers>

21 See: https://www.lexisnexis.com/communities/lexisnexis_biz/b/bizblog/archive/2016/08/10/could-sport-sponsorship-put-your-brand-at-risk.aspx

22 See: <http://www.bbc.com/news/world-middle-east-35931031>

23 See: www.japantimes.co.jp/community/2014/04/09/issues/foreign-workers-fear-exploitation-as-olympic-projects-gather-steam/#.V7mNjo6xGnc

24 See: http://www.ihrb.org/uploads/submissions/2-11-16,_Joint_Submission,_Tokyo_2020_High_Level_Sustainability_Plan.pdf, page 3/4

The temporary nature of MSEs can exacerbate how workers are recruited and treated either by companies or by the company's sub-contractors. Only if the organisers and the government hold companies accountable for their actions and enforce relevant international standards, backed up by penalties for abusive practices, do potential victims stand a chance of being protected. The opportunity for workers being exploited may be in direct proportion to the quality of protections in existing labour laws of the country hosting the event and the extent to which adequate enforcement of labour laws occurs.

At the same time, MSEs attract intense public attention, media spotlight and civil society scrutiny, with both positive and negative consequences for human rights. Greater scrutiny of this kind increases the drive for greater accountability by all stakeholders, but it may also increase the risk of suppression of information, gagging worker voices, intimidating whistle-blowers and stifling freedom of expression. The challenges are immense, but not insurmountable if the right risk mitigation strategies are put in place.

1.2 Risk of Trafficking and Forced Labour in Delivering Tokyo 2020²⁵

Focusing on one particular forthcoming MSE, for Tokyo 2020 there exists a significant risk attached to the recruitment and employment of migrant construction workers as the increase in construction and infrastructure development requires a workforce that Japan is not able to meet domestically. In April 2014 the government of Japan estimated that during fiscal years between 2015 and 2020, 150,000 workers in total would be required to respond to temporary demand for construction.²⁶ A significant proportion of those workers is likely to be employed through Japan's Technical Intern Training Programme (TITP), a scheme that has faced substantial criticism domestically and internationally for effectively operating as a guest-worker programme open to widespread human rights infringements with a high risk of trafficking and forced labour. Despite government of Japan's basic policy of not accepting low-skilled labour, critics argue that TITP is in reality being used to supplement the substantial labour shortage and provide cheap labour.

The TITP is designed as a period of training and employment in occupations with a degree of skill development. However, the Solidarity Network of Migrant Japan, a domestic NGO, reported in 2014 that there are instances of exploitation of unskilled labour, confiscation of passports, low wages, raking off from wages in many forms, enforced savings, unpaid overtime work, intensified restrictions through regulations of "guarantee deposit" and "penalty charges", sexual harassment and sexual violence, arbitrary termination of contracts of those who claim their rights – resulting in their

25 Thanks to Takeshi Hayakawa, Visiting Researcher, IHRB, for contributing to this section. IHRB are in the process of preparing a full report outlining the history and development of the TITP and how the programme operates in practice. This will be available in due course.

26 Nihon-Keizai-Shinbun, 4 April 2014. http://www.nikkei.com/article/DGXNASGCO4003_U4A400C1EAF000/

forced return to their own country without any compensations or even payback of “guarantee deposit.”²⁷ The TITP is also overwhelmingly utilized by small and medium sized companies to access migrant workforce.

In 2010, the Special Rapporteur on Trafficking in Persons, Joy Ngozi Ezelio, raised concern about the confiscation of trainees’ passports, and payment of a “guarantee” before coming to Japan that is only paid back after completing the period.²⁸ In 2011, the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante, reported that the Special Rapporteur heard abuses and some of the situations amounted to “slavery or trafficking.”²⁹

The Japan Federation of Bar Associations argues that, as TITP is not structured to protect technical intern trainees as “workers”, technical intern trainees are restricted in changing their workplace. Under this situation, even if a technical intern trainee has a complaint about the employer, the technical intern cannot move to another employer.

There is a clear risk for companies operating in Japan that workers hired through the TITP face human rights abuses. This risk is also something that becomes relevant to international partners and clients who have duties to report on the risk of trafficking and forced labour in their supply chains (for example under the California Transparency in Supply Chains Act and the UK Modern Slavery Act 2015).

Beyond workers recruited via the TITP there are also concerns that the urgent need to plug the labour shortage for construction workers in the lead up to the 2020 Games may also lead the Japanese authorities and companies to explore shortcuts in recruiting foreign workers. This runs the risk of exposing Japanese companies and the Olympic organisers to risks of employing workers in conditions of forced labour, since in many instances workers recruited from countries like China, Malaysia, Philippines and Vietnam will arrive in conditions of debt-bondage as a result of unscrupulous recruitment practices or poor enforcement of recruitment laws in the sending country.

1.3 Corporate Liability for Forced Labour and Trafficking

Given these wide-ranging risks, companies are increasingly aware of their exposure to, and obligations associated with, modern slavery in their supply chains. The international legal and regulatory landscape tackling forced labour and human trafficking is rooted in international law, but the extent to which companies have liability for modern

27 SMJ’s NGO Report Regarding the Rights of Non-Japanese Nationals, Minorities of Foreign Origins, Migrants, and Refugees in Japan, June 2014. http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JPN/INT_CCPR_CSS_JPN_17462_E.pdf (page 19)

28 See: http://www.ungift.org/doc/knowledgehub/resource-centre/OHCHR_Japan_Trafficking_in_persons_Women_Children_2009_English.pdf (Paragraph 29)

29 See: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/121/27/PDF/G1112127.pdf?OpenElement> (Paragraph 39)

slavery offences, or have obligations to make disclosures, varies widely. This section surveys briefly corporate liability for forced labour and trafficking in four jurisdictions hosting upcoming mega-sporting events: Russia (2018 FIFA World Cup), Japan (Tokyo, 2020 Olympics), South Africa (Durban, 2022 Commonwealth Games) and Qatar (2022 FIFA World Cup). This analysis is based on an extensive report, which also includes analysis of Brazil, UAE, UK and USA.³⁰

There are several international legal protocols, treaties and conventions that provide a global framework for the international effort to curtail human trafficking. These require states to implement national legislation to give effect to the international protocols and the framework they create. The protocols aim to set out a uniform approach to trafficking and to facilitate international cooperation amongst states to tackle the issue of modern day slavery.

The main international legal instruments are:

- The Palermo Protocol, which came into force in 2003. This establishes an agreed and internationally binding definition of human trafficking. Although the Palermo Protocol does not specifically mention corporate liability, the intention is to criminalise any activity which promotes or aids trafficking in any form whatsoever.
- Protocol of 2014 to the Forced Labour Convention 1930 is one of most significant and relevant conventions adopted by the ILO in relation to forced labour and human trafficking for labour exploitation. It requires all state members of the ILO to implement legislation to prevent and suppress forced labour and to sanction the perpetrators of compulsory labour.
- In Europe, the Council of Europe Convention on Action against Trafficking in Human Beings entered into force in 2008 and builds on the Palermo Protocol and seeks to strengthen its protections. The Convention extends to legal persons (including companies) which can be held liable for a criminal offence that is committed for its benefit by a natural person.

These international tools create a framework that individual nations must adhere to in national legislation on human trafficking.

Russia

Russia is a source, transit and destination country for men, women and children for forced labour and human trafficking, making human trafficking within the country a prevalent issue. Russia is party to many international declarations and conventions prohibiting human trafficking and/or forced labour (including the Universal Declaration of Human Rights 1948 and the Forced Labour Convention 1930). At a national level, the Russian Criminal Code prohibits human trafficking and slave labour and offences

³⁰ With thanks to Hogan Lovells for their collaboration in producing the full report, which is précised here. Note that neither the full report or this excerpt constitute legal advice. <https://www.ihrb.org/focus-areas/migrant-workers/corporate-liability-for-forced-labour-and-human-trafficking>

are punishable by imprisonment or compulsory labour. The Russian Constitution and Labour Code also provide for the prohibition of forced labour.

Japan

Japan is a destination, source, and transit country for victims of forced labour and trafficking. Japan has ratified the Forced Labour Convention of 1930, and has acceded to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. However, it is only a signatory to and has not ratified either the Convention against Transnational Organized Crime of 2000 or the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing that Convention. While Japan does not have specific laws dealing with human trafficking or forced labour, a number of legislative instruments aim to curtail such offences. This includes (i) criminal liability for the kidnapping, buying and selling and transportation of a kidnapped, bought or sold person under the Penal Code and (ii) the protection of persons being forced to work against their will under the Labour Standards Act.

South Africa

South Africa has incorporated the minimum standards laid down in the Palermo Protocol, which it has signed and ratified. At a national level, South Africa's Constitution prohibits forced labour and slavery. There are also a number of labour law instruments which aim to protect workers, both children and adults, from abusive practices by employers. The Prevention and Combating of Trafficking in Persons Act which came into force in 2015 is significant in providing a legal framework to combat human trafficking for the purpose of forced labour and prostitution. This Act imposes a duty to report knowledge or suspicion that a person is a victim of trafficking on persons, including corporates, as well as penalising trafficking and ancillary offences.

Qatar

Legislation in Qatar criminalises any direct involvement by companies with human trafficking and forced labour. However, current legislation does not deal with indirect involvement by companies. Notably, legal persons (including companies) are liable for crimes of human trafficking committed by their representatives in their name and for their interests.

1.4 Identifying Good Practice³¹

Both businesses and governments have a legal and moral obligation to prevent human rights abuses, and to ensure that sub-contracted and temporary workers are protected,

31 Thanks to Ruth Freedom Pojman (OSCE OSR/CTHB) for contributing this section

whatever their role in the supply chain.

Good practices already exist in preventing human trafficking for labour exploitation, which could be applied during the preparation of an MSE. One example is the labour inspection actions of the Ministry of Labour and Employment of Brazil, organised in cooperation with governmental partners, employer associations, workers' unions and civil society organizations in the fight against this extreme form of labour exploitation. The Brazilian model, which is based on pro-active field inspections, is efficient at identifying employers who are severely exploiting workers and abusing their fundamental rights and at protecting and compensating victims for the abuse they suffered.

Another example is the UK Gangmasters and Labour Abuse Authority (GLAA) (formerly Gangmasters Licencing Authority)³² which works to prevent human trafficking and to protect vulnerable workers, through a licensing scheme regulating businesses that provide workers to the fresh produce supply chain and horticulture industry, to make sure they meet the employment standards required by law. The GLAA also has the power to investigate and to prosecute actual cases of exploited workers.

The California Transparency in Supply Chains Act 2010 requires businesses operating in California with a value of over US\$ 100 million per year, to disclose information about their efforts to ensure that their supply chains are free from human trafficking, and to provide training to their own staff on this subject. Another example of leading legislation is the UK 2015 Modern Slavery Act's Transparency in Supply Chains provisions, which require commercial organisations in any sector, which supply goods or services, and carry on a business or part of a business in the UK, that has a turnover above £36 million, to produce an annual slavery and human trafficking statement outlining its efforts to prevent forced labour and trafficking in its supply chains.

Another very important approach is to enact measures to regulate public procurement, which can have a huge impact as government purchasing accounts for 12% of GDP on average across OECD countries.³³ The United States Federal Acquisition Regulations (FAR) is an effective mechanism, which prevents government contractors from engaging in severe forms of trafficking in persons during the performance of the contract by requiring that a clause prohibiting trafficking in persons be added to all US government contracts. The FAR builds on the Executive Order 13627 US President Obama signed in 2012 to strengthen protections against trafficking in persons in federal contracts.^{34 35}

32 See: <http://www.gla.gov.uk/who-we-are/what-we-do/>

33 European Commission, "Public Procurement in a Nutshell": <http://ec.europa.eu/trade/policy/accessing-markets/public-procurement/> (last visited March 9, 2016); OECD, GOVERNMENT AT A GLANCE 148 (2011), available at http://www.oecd-ilibrary.org/governance/government-at-a-glance-2011_gov_glance-2011-en.

34 The Executive Order specifies the trafficking-related activities in which Federal contractors, contractor employees, subcontractors and subcontractor employees are prohibited from engaging in, including the use of misleading or fraudulent recruitment practices during the recruitment of employees; charging employees recruitment fees; destroying, concealing, confiscating, or otherwise denying access by an employee to an employee's identity documents, such as passports or drivers; licenses; and (for portions of contracts or subcontracts performed outside the United States), failing to pay transportation costs upon the end of employment, for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a US government contract or subcontract.

35 Another promising practice is the "Europe 2020: A European Strategy for Smart, Sustainable and Inclusive growth", COM (2010) 2020 nal (Apr. 3, 2010) available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PD->

Businesses have also begun to join together in trade associations to adapt voluntary codes of conduct and minimum labour standards in their workplaces and those of their suppliers – prohibiting forced labour and human trafficking. Notable examples include businesses in the sporting goods industry (World Federation of the Sporting Goods Industry, WFSGI)³⁶ and the electronics sector (the Electronic Industry Citizenship Coalition (EICC)).³⁷

In 2016 six global corporations, convened by IHRB, joined together with expert civil society and intergovernmental organisations to create the Leadership Group for Responsible Recruitment, focused on promoting ethical recruitment and combating the exploitation of migrant workers in global supply chains. Leadership Group companies have all committed to prohibit the charging to workers of recruitment fees and adopt the ‘Employer Pays Principle’³⁸ which states “No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer”. The payment of recruitment fees by workers are indicative of forced labour and put workers in a situation where their debts leave them vulnerable to further exploitations. By embedding the Employer Pays Principle into the business relationships, the Leadership Group aims to directly tackle one of the root causes of forced labour.

Specifically in the context of mega-sporting events, several other campaigns and initiatives by civil society and trade unions have responded to the risks of trafficking and forced labour. Terre des Hommes (Tdh) launched the Children Win campaign in February 2014 to ensure that leading sports bodies mitigate risks and enhance opportunities of mega-sporting events on children, both direct and indirect. Tdh has commissioned and collected articles and videos featuring views and opinions of children linked to Mega Sporting Events: FIFA World Cup 2010 in South Africa, FIFA World Cup 2014 and Olympic Games 2016 in Rio.³⁹

The Play Fair campaign at the Athens 2004 Olympics was the first well-publicised campaign calling for Olympic values of ethics and fair play to be applied to the world’s abused and exploited sportswear workers.⁴⁰ Social workers from NGOs such as ARSIS and Tdh identified 150 children during the games, as a part of their intensive detection of trafficked children.⁴¹

F/?uri=CELEX:52010DC2020&from=EN.

36 The members of the WFSGI include brands such as Adidas, Erke, Li-Ning Sporting Good Co. Ltd, Nike Inc., Pentland, Reebok and Shimano. See <http://www.wfsgi.org>.

37 Item A.1 in the EICC Code of Conduct (2012). “Forced, bonded (including debt bonded) or indentured labour, involuntary prison labour, slavery or trafficking of persons shall not to be used. This includes transporting, harbouring, recruiting, transferring or receiving vulnerable persons by means of threat, force, coercion, abduction or fraud for the purposes of exploitation. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment. Workers must not be required to surrender any government-issued identification, passports, or work permits as a condition of employment. Excessive fees are unacceptable and all fees charged to workers must be disclosed.”

38 See: www.employerpays.org

39 <http://www.terredeshommes.org/causes/children-mega-sporting-events/>

40 See: <http://fairolympics.org/>

41 See: http://childhub.org/sites/default/files/library/attachments/a_shared_vision_for_systemic_child_protection.pdf

This was followed by Play Fair 2008, and the Play Fair 2012 Campaign, the UK arm of the global campaign, which called on major brands to end exploitation of workers in their supply chains and influenced the London2012 Games' organisers and international sportswear brands to raise the bar on workers' rights in the run-up to the event, in line with international and UN standards.⁴² The Play Fair Campaign, coordinated by the ITUC, the ITGLWF, the Clean Clothes Campaign and BWI, published the report "Fair Games? Human rights of workers in Olympic 2012 supplier factories" which uncovered a range of abuses and provided evidence to "increase the pressure on the International Olympic Committee (IOC) to act to improve the working conditions in Olympic supply chains in the run up to Rio 2016".⁴³

While many of these measures in the sports-context, and more broadly, have targeted trafficking and forced labour in the supply chains of manufactured goods and the trafficking in children, one area of high prominence that has not received a great deal of legislative focus or generated a response in terms of trade-association initiatives has been in the construction sector. The construction of stadia and supporting infrastructure remains a high-risk area for instances of human trafficking and forced labour in mega-sporting events, and one where the development of good practice and mitigation strategies is paramount.

1.5 Mitigating Trafficking and Forced Labour Risks⁴⁴

One of the principal risks around trafficking and forced labour relates to the recruitment and employment of construction and building workers given the scale of construction work required in a fixed time period, both of venue facilities and host city infrastructure. Construction and building workers are crucial to mega-sports events, especially in the preparatory phase where stadia, lodging facilities and transportation infrastructure are built. Despite being crucial in the preparatory phase, these workers are often treated as merely "temporary", and short-term employment is often used by employers as justification to skirt around international labour standards.

The experiences of Building and Wood Workers' International (BWI) in two mega-sporting events, the 2010 FIFA World Cup in South Africa and the 2014 FIFA World Cup in Brazil, are discussed in detail as case studies in Appendix 1 to this paper, which is referred to throughout as this section, contributed by Ambet Yuson, considers the crosscutting lessons and challenges emanating from these cases and how collective

42 Further information about the Play Fair and Playfair 2012 campaigns are available at www.play-fair.org and www.playfair2012.org.uk Playfair 2012 is launching an online action calling on Adidas, Nike, Next, Pentland (Speedo), New Balance, The North Face, Columbia Sports, Brooks, Saucony, Under Armour and Lululemon Athletica to take action to end the exploitation of workers in their supply chains, and ensure workers' rights are respected in line with internationally-recognised standards and the UN Universal Declaration of Human Rights

43 <http://www.ituc-csi.org/abuses-still-exist-in-olympic?lang=en>

44 Thanks to Ambet Yuson, General Secretary, Building and Wood Workers' International (BWI) for contributing this section. Please see Appendix 1 for more information about BWI's work relating to Mega-Sporting Events, and for detailed case studies on BWI's work around around the 2010 FIFA World Cup in South Africa and the 2014 FIFA World Cup in Brazil.

action and union engagement have the potential to mitigate human rights harms associated with the delivery of sports events. These lessons and conclusions are also applicable in the context of other areas of risk identified above, such as the discussion of the vulnerability of migrant construction workers in Japan outlined in Section 1.2.

The experiences of BWI in Brazil and South Africa point to a number of conclusions:

- Current laws and mechanisms are often not sufficient to ensure support for effective human rights due diligence, mitigation and remedy.
- There are gaps that can be best addressed by individual stakeholders groups and by collective action.
- The mechanisms and approaches of trade unions like BWI have had positive outcomes and have met the expectations of the affected vulnerable groups but said gains have to be sustained.
- There are alternative mechanisms and approaches that could effectively fill the gaps, build trust, and create opportunities for the enjoyment of human rights

In BWI's view, the case studies show that workers cannot fully rely on existing national laws and mechanisms because these are either insufficient or often undermined by particular labour practices (such as those of labour brokers and subcontractors) and corruption. Federations, Local Organising Committees and host governments must, therefore, create mechanisms that will promote compliance with higher international labour standards. During the preparations of the previous two FIFA World Cups, the institutional mechanisms of FIFA around human rights and workers' rights did not exist. There were clauses and programmes around racism and child labour but the broader issue of workers' exploitation and decent work were not formally included.

Thus, trade unions – as institutions of workers' representation – have to engage the chain of actors in preparing a FIFA World Cup. Based on BWI's experience, it took 53 strikes to resolve the problems at the work sites in South Africa and Brazil. These industrial actions could have been avoided if a stronger mechanism were in place to avoid this costly conflict that affected both the workers and employers as well as the preparations itself. One can only speculate the actual monetary cost of these failures to anticipate and resolve conflicts. Trade union actions have to be complemented by leadership from the sports governing bodies, notably FIFA and IOC, which have to create more innovative international mechanisms that can push host countries to comply with international labour standards.

For BWI, the cases show that trade unions in host countries are crucial in the mobilization of workers for the pursuit of their own protection and welfare, but that global partnerships and solidarity -- between local and national unions, global union federations, national and global civil society, solidarity support organizations -- are also key. The cases also make evident the fact that such partnerships and solidarity need to build on and learn from the gains of each and every mega-sports event.

FIFA, the IOC and their peers, meanwhile, have to be more active in these global partnerships. These international sports organizations and their sponsors must commit,

together with the local organizing committees and pertinent companies, and BWI and concerned unions, to the task of promoting workers' rights in mega-sports events. Said organizations must also agree to cooperate in building the necessary grievance mechanisms at the worksite and national levels.

The cases of South Africa and Brazil show that trade union action can and does lead to tangible benefits for the workers in the host countries. They can also contribute, not just to the achievement of workers' demands, but to the strengthening of trade union movements and social movements as well. There is much to be done, however, to ensure that the mechanisms that have worked can be replicated in all mega-sports events. While contexts may vary as the events shift from one host to another, the workers' demands -- and needless to say, the labour standards -- are often the same. There is thus merit to the institutionalization of said mechanisms. Sustaining gains, in fact, means institutionalizing mechanisms that have worked in the past and innovating on previous strategies and actions.

There are alternative mechanisms and approaches that could effectively fill gaps, build trust, and create opportunities for the enjoyment of human rights. BWI's experience in mega-sporting events indicates that there are certain instruments that can be used to push for workers' rights in this context:

- Joint site inspections by unions together with the games-awarding federation (e.g. FIFA) and the Local Organising Committee to monitor health and safety and working conditions in stadiums and other facilities
- Tripartite agreements between government, construction companies and trade unions
- Collective bargaining at the site-level
- International framework agreements with multinational corporations at a global level

It is crucial for BWI that conducting joint inspections and establishing grievance mechanisms, for example, become norms. Joint inspections will not just facilitate dialogue among stakeholders, they will also promote workers' and the wider public's awareness on workers' rights especially on occupational safety and health. Grievance mechanisms, meanwhile, will provide venues for workers to raise concerns and complaints at the worksite level. National unions and global unions like BWI can thus step into the picture only when the local mechanisms prove unsuccessful or insufficient.

BWI's cases in Appendix 1 also reveal that traditional strategies, particularly labour strikes, can be effective. Without the 53 strikes launched in South Africa and Brazil, most likely, the workers' demands would not have been achieved. While strikes evidently bear costs on workers, they remain powerful instruments to be considered when other, less-costly instruments like negotiations fail to deliver. Strikes not only reflect the bargaining power of workers, they can also build said power. In the case of MSEs, where some of the stakeholders may prove recalcitrant in according workers their rights, strikes have proved an effective means of realising rights for workers. The gains of the workers in collective bargaining and even through the strikes has not only created safer workplaces but also brought more food on the table, more money for education and health care, and even more possibilities of recreation to thousands of children and their parents.

Security and Policing

Security is paramount in delivering a successful mega-sporting event, a key component of any bid and a major focus for all stakeholders. Mega-events involve multiple security related components including effective policing, surveillance, crowd control, and venue safety. There is now the increasingly non-negotiable dimension to event security of anti-terrorism measures, which mega-sporting event organizers anywhere in the world will need to prioritise even more than before in light of the attack on the Stade de France in Paris in 2015.

Legitimate and necessary public and private security measures to protect the right to life of all concerned must be carried out in ways that avoid excessive actions which themselves generate human rights abuses. It is also important to recognize that abuses linked to security measures can be subtle and for example take the form of harassment and discrimination against minorities or other vulnerable groups that are incorrectly seen as threats in security terms. Issues such as spectator entry security checks can also be a source of concern if they are too intrusive or fail to properly take account of vulnerable groups such as transgender persons, people with disabilities or those with particular medical needs.

2.1 The Human Rights Risks Associated with Security and Policing⁴⁵

As the risks of human rights violations associated with mega-sporting events have become increasingly evident and put under a global spotlight, little attention has been paid to violations committed by security and policing forces. This is potentially due to timing. The risks of trafficking and forced labour, particularly in the construction context as discussed above are, like forced evictions, more likely to take place years ahead of the sporting event itself, during the construction and infrastructure work. In contrast, human rights violations by security and police forces usually take place in the months ahead of and during the period of the event itself, and therefore may not come to attention of global media or campaign groups in sufficient time.

This section is based squarely on learnings rooted in the experience of Rio de Janeiro's hosting of several mega-sporting events in the past decade, culminating with the recent Olympic Games in 2016. This analysis is based on two detailed reports by

45 Thanks to Renata Neder, Amnesty International Brazil, for contributing this section.

Amnesty International.^{46 47}

The main violations by security and police forces in the context of a mega-sporting event usually include undue restrictions of the rights to freedom of expression and peaceful assembly, repression of protests, arbitrary detentions, unnecessary and excessive use of force during security operations. This is by no means limited to Brazil; during the Vancouver 2010 Winter Olympics and London 2012, civil liberties groups and journalists complained of limits on free speech and assembly imposed by host authorities and event organisers ostensibly to safeguard brand rights.⁴⁸

Rio de Janeiro's experience is important to showcase how major sporting events tend to increase human rights violations that already occur in the host city or country. The city has had both the opportunity and the burden of hosting three major sporting events in a ten-year period: the Pan American Games 2007, the FIFA World Cup 2014 and the Summer Olympics 2016. When Rio de Janeiro presented its candidacy to host the 2016 Olympic Games, a series of pledges were made as part of the legacy of the Games, including generating better security conditions for all people in the city, state and country. The authorities also said that the public security planning had already started with the Pan American Games back in 2007 and the FIFA World Cup in 2014.

In Brazil, the police is managed at state level. However, during major sporting events other security forces like the National Forces of Security (managed by the Ministry of Justice) and the Military (managed by the Ministry of Defence) are deployed to the host cities. In practice, this has resulted in a highly militarized city and direct violations and abuses – including extrajudicial executions – by those security forces.

Rio de Janeiro police force has very high death rates during its operations. In a period of ten years (2006-2015), around 8,000 people were killed during police interventions in the state of Rio de Janeiro, more than 4,700 in the capital alone. In 2015, one in five people killed in the city died as a result from police interventions. Policing operations in Rio de Janeiro are highly militarized and repressive, and are often justified by authorities by a confrontational logic of the so-called "war on drugs", leading to a high number of people being killed, including police officers. Between 2006 and 2015, 228 civil and military police officers were killed while on duty in the State of Rio de Janeiro.⁴⁹

Although the high death toll of police interventions are a historical and structural problem in Rio de Janeiro, there was a clear increase in those numbers in the years when it hosted major sporting events. A simple explanation would be that, if you have an arguably already aggressive police force and you increase the number of police interventions without putting in place preventive measures, you will have an increase

46 Amnesty International "Violence has no place in these games: risks of human rights violations at the Rio 2016 Olympic Games", at: <https://www.amnesty.org/en/documents/amr19/4088/2016/en/>

47 Amnesty International "A legacy of violence: killings by the police and repression of protests at the Rio 2016 Olympics" (2016), available at: <https://www.amnesty.org/en/documents/amr19/4780/2016/en/>

48 See: <https://www.ihrb.org/megasportingevents/resource-view/report-striving-for-excellence-mega-sporting-events-human-rights>

49 Amnesty International "Violence has no place in these games: risks of human rights violations at the Rio 2016 Olympic Games" <https://www.amnesty.org/en/documents/amr19/4088/2016/en/>

in the number of people killed. The year of 2007, year of the Pan American Games, was the one with the highest number in past decade: 1,330 people killed by police in the state of Rio, a significant increase when compared with the previous year. The numbers decreased between 2008 and 2013, but in 2014 – the year when the World Cup was hosted – there was a 39.4% increase in the number of people killed by the police in the state in comparison with the previous year. The months just ahead of the Olympics 2016 also revealed a significant increase: between April and June there were 103% increase in the number of people killed by the police in the city of Rio de Janeiro when in comparison with the same period of 2015. During the two weeks of the Rio 2016 Olympics did not cease: at least nine people were killed by the police in the city of Rio and one police officer was killed on duty.

Police lethal violence does not always affect everybody equally: the primary victims in Brazil have been young black men. Between 2010 and 2013 there were 1,275 people killed by the police in the city of Rio de Janeiro, 99.5% of those were male, 79% were black and 75% were young.⁵⁰

Some specific initiatives adopted by local authorities in Rio have contributed to the decrease in the numbers of people killed by police between 2008 and 2013: the initiatives included setting stricter rules for the investigation of killings by the police, setting specific targets for reducing lethality in police interventions in the strategic planning framework and a community policing initiative called Police Pacification Unit. In the last trimester/quarter of 2015, the Military Police in Rio de Janeiro began implementing the programme to control the use of force with the main objective of reducing the use of firearms and lethal force during police operations and thus, the number of people killed. Despite the positive results during a certain period, these initiatives were not enough to end police killings nor to prevent the number from increasing again with the upcoming major sporting events that would be hosted in the city.

The use of the military and other federal security forces to undertake tasks relating to public safety and policing in the city in the context of major sporting events, especially in favelas, can also result in serious human rights violations. Rio de Janeiro, unfortunately, is also an example of that. In 2007, in the months ahead of the Pan-American Games, there were reports from local human rights organizations and residents of specific favelas of extrajudicial executions, beatings, and theft by security officers during security operations in the city. In June, 1,350 civil and military police officers from Rio de Janeiro and the National Forces of Security engaged in a major police intervention in Complexo do Alemão, a group of favelas, in which at least 19 were people killed. The episode became known as the “Pan-Killings” (Chacina do Pan), in a reference to the major sporting event that was about to be hosted. In April 2014, as part of the security operations for the World Cup, the military were deployed to the Maré Complex favelas to remain there and perform policing duties. However, they didn’t leave after the sport event ended and stayed there for over one year and a number of violations, including shootings by the military, were reported by the residents in the period but no accountability mechanisms were put in place by the authorities.

50 Amnesty International. “You killed my son: homicides by the military police in the city of Rio de Janeiro” <https://www.amnesty.org/en/documents/amr19/2068/2015/en/>

Major sporting events tend to be surrounded by local protests, whether denouncing its negative impacts or just taking the advantage of its visibility to highlight and campaign particular issues, include ones affecting human rights. Freedom of expression and peaceful assembly are human rights well established in international human rights law and should be respected and protected in the context of major sporting events, but they are often unduly restricted and violated. As Brazil prepared to host the 2014 World Cup, hundreds of thousands of protesters took to the streets. Protests started in June 2013 due to the discontent with increased public transport fares, the high public expenditures on the World Cup and insufficient investment in public services, and lasted until the tournament. The mass demonstrations in different cities in 2013 and 2014 were in Amnesty's view repressed by violent and abusive policing. Police used unnecessary and excessive force to disperse largely peaceful protests, used tear gas, fired rubber bullets and used hand held batons against protesters, leaving hundreds injured. Hundreds of people were indiscriminately rounded up and arbitrarily detained, some under laws targeting organized crime, without any indication of involvement in criminal activities.⁵¹

Although protests that happened in the context of Rio 2016 Olympics were significantly smaller, the pattern of repression by police forces was the same. Dozens of protesters have been detained and at least one boy (aged under 18) is facing charges for contempt.

Risks of violations do not come only from security and police interventions. New legislation adopted (or proposed) in the context of major sporting events can also increase the risk of human rights violations, especially the rights to freedom of expression and peaceful assembly. In the run-up to the World Cup 2014, Brazilian Congress members proposed several new laws that – if approved – would restrict and violate those rights. None of them were approved in time for the World Cup, but in March 2016, as part of the preparations for the Olympics, Brazil approved its Anti-terrorism Law (Law number 13.260/2016) - which has been widely criticized by lawyers, academics, human rights organizations and international human rights mechanisms for its broad vague language and for leaving a margin for its arbitrary application towards social protests. In May, the President signed the so-called "General Law of the Olympics" (Law number 13.284/2016) which imposes new restrictions to the rights to freedom of expression and peaceful assembly in many areas of the host city which might be contrary to international law and standards.

As part of the overall restrictions to freedom of expression and social protests, there is an increased risk of threats and attacks to human rights defenders on the ground. Human rights defenders play a key role in protecting human rights and have been particularly crucial in denouncing police abuses and extrajudicial executions. In the months ahead of the Rio 2016 Olympics, human rights defenders in favelas have been harassed, intimidated and threatened by police officers on several occasions.

In Amnesty's view, Brazilian authorities and the sports organizing bodies have not

⁵¹ Amnesty International. "They use a strategy of fear: protecting the right to protest in Brazil" <https://www.amnesty.org/en/documents/AMR19/005/2014/en/>
Amnesty International "Brazil: protests during the World Cup 2014 - final overview" <https://www.amnesty.org/en/documents/AMR19/008/2014/en/>

only failed to deliver the promised Olympic legacy of a safe city for all. They have also failed to guarantee that security forces respected human rights during the three major sporting events hosted in the city.

While learning from Brazilian past experiences is important to implement concrete measures to prevent security and police forces violations in future major sporting events, it is crucial to guarantee that there is accountability for the violations that took place in Rio 2016 Olympic Games. Otherwise, the legacy risks being one of violations and impunity.

2.2 Mitigating Security and Policing Risks⁵²

The human rights violations associated with security and policing in Brazil represent a real risk of potential future adverse impacts caused by mega-sporting events internationally. Considering the case of the Pan American Games 2007, the FIFA World Cup 2014 and the Summer Olympics 2016, we can not only identify prescient risks, but also learn from mitigation steps that were taken or proposed.

Mitigation of violations by security and police forces starts with a thorough human rights risk assessment that should be carried out in the city and / or country proposing to host the sporting event. As in other contexts where businesses consider their human rights impacts, only a thorough risk assessment can inform a clear mitigation plan to address such risks.

The security and police forces violations risk assessment should include:

- Verifying existing patterns or historical violations, including racial profiling;
- Analysis of the existing legal framework in relation to the use of force and firearms, the so called less lethal weapons and policing assemblies;
- Existing mechanisms of accountability and records of actual investigation and prosecution of perpetrators of violations; and,
- Training protocols.

In order to be effective, a mitigation plan to prevent violations by security and police forces in a major sporting event should be developed immediately after a country or city is awarded the right to host the event and should be put in place as far in advance as possible. Structural changes in security and police forces will not be secured overnight. Mitigation and preventive measures include:

52 Thanks to Renata Neder, Amnesty International Brazil, for contributing this section.

- Incorporating into national law the international principles and standards on the use of force, particularly those set out in the United Nations Code of Conduct for Law Enforcement Officials and in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Regulating and adopting clear protocols for the use of the so call less lethal weapons;
- Establishing and implementing transparency, accountability and oversight mechanisms for the security and police forces and operations for the major sporting events;
- Implementing concrete mechanisms for the protections of human rights defenders;
- Training security and police forces on human rights, on the use of force and firearms, on the use of the so called less lethal weapons and on policing assemblies, all in accordance with international human rights law and other international principles and standards on the use of force;
- In the case of private security companies, training should include the International Code of Conduct for private security service providers (ICoC), and such private security companies should be encouraged to join the ICoCA, which foresees independent oversight including certification, monitoring, performance assessment and a process to address complaints;
- Securing resources to guarantee the implementation of the mitigation plan and concrete measures to prevent violations by police and armed forces; and,
- Ensuring active participation of local civil society groups in the design, implementation and oversight of the mitigation plan.

Existing mechanisms have proven ineffective to prevent human rights abuses and violations from happening as a result of hosting major sporting events. Human rights violations risk assessments should be carried out before the bidding processes, human rights safeguards should be included in the host contracts and external and independent oversight and monitoring mechanisms should be put in place.

Recommendations

In considering the possible role and functions of an independent centre on MSEs and human rights, this paper submits the following suggestions. An independent centre could:

- Convene multi-stakeholder meetings to raise awareness and build capacity to mitigate human rights risks
- Play a role in developing guidelines for the host countries and sports governing bodies to carry out human rights risk assessments
- Ensure that the human rights risk assessment leads to a mitigation plan and the implementation of preventive measures
- Provide guidance on the recruitment and employment of migrant workers, and on the establishment of grievance mechanisms accessible by workers
- Perform a key role in monitoring the implementation of a mitigation plan in the preparation of the event, and as part of this monitoring process, carry out missions to the host city or country and specifically interview affected communities
- Make concrete recommendations to all stakeholders to improve the implementation of the mitigation plan
- Work with partners to produce a resource bank of publications and materials such as those appended and annexed to this paper; i.e. the BWI's case studies from South Africa and Brazil, and IHRB's report into corporate liability for forced labour trafficking
- Play a key role in fostering dialogue between affected communities, sports organizing bodies, sponsors and authorities

Appendix 1: BWI Case Studies

Mitigating the Human and Social Costs of Mega-Sporting Events through Global Partnerships and Solidarity – Case Studies from South Africa and Brazil

Ambet Yuson, General Secretary,
Building and Wood Workers' International (BWI)
Geneva, 25 August 2016

BWI and Mega-Sporting Events

The Building and Wood Workers' International (BWI) is a global union federation of free and democratic unions in the construction, building materials, wood, forestry and allied sectors. BWI represents 326 trade unions with 12 million members in 132 countries.

BWI's involvement in mega-sporting events started in 2007 when the organization decided to promote "Fair Games, Fair Play" in the 2010 FIFA World Cup in South Africa. Since then, the BWI and its affiliates has been active in promoting decent work in practically all mega-sports events: the Commonwealth Games 2010 in Delhi, the Euro 2012 in Ukraine and Poland, the Olympics 2012 in London, the World Cup 2014 in Brazil, and the Summer Olympics 2016 in Rio. The BWI is currently actively engaged in the upcoming mega-sports events of the 2018 World Cup in Russia, the 2022 World Cup in Qatar, the 2018 Winter Olympics in Pyeongchang, South Korea, and the 2020 Summer Olympics in Tokyo.

Deaths have been associated with World Cups and Olympics as failure to install health and safety mechanism in worksites have led to multiple fatalities. It is unfortunate that the euphoria of hosting games came at the price of 14 lives in Brazil, 20 fatalities in Ukraine and Poland, around 70 in Sochi, 2 in South Africa and 11 in the recently concluded Rio Olympics. This has to end.

This paper presents BWI's experiences in two mega-sports events: the 2010 FIFA World Cup in South Africa and the 2014 FIFA World Cup in Brazil. In each case study, the context, strategies and outcomes are presented.

The commercial and legal framework of bidding and host documents and mechanisms

for both FIFA World Cups ignored the fact that building workers are part of the whole project and in many cases at the receiving end of abuse and exploitation. This was the very basis why the BWI campaign emphasized that “labour is part of the team”. Unfortunately, the workers team lost 16 of its members in South Africa and Brazil - that is more than 1 football team.

The 2010 FIFA World Cup in South Africa

During the 2007 World Social Forum in Kenya, the BWI, led by the building trade unions in Africa, launched “Fair Games, Fair Play: Decent Work towards and beyond 2010 under the auspices of the alliance between global organizations: BWI , ITUC, South African building unions (namely the National Union of Mineworkers (NUM), Building Construction and Allied Workers Union (BCAWU) and the South African Building Workers’ Organisation (SABAWO)), and, the Labour Research Service (LRS), a South African labour support organization.

All of the abovementioned organizations had to contend with the realities on the ground foremost of which were low wages, lack of safety mechanisms on site, and, labour brokers and subcontractors whose practices undermined the enforcement of labour standards. This labour situation was aggravated by the broader context where the South African government was concerned primarily with revenue generation from the World Cup event as well as utilizing the World Cup to gain international prestige. Moreover, FIFA refused to recognize its role as “employer” to the workers who were preparing the sports facilities.

Because of the labour situation in South Africa, the following were the demands and objectives of the unions: (1) recognition of the right to work, organize and bargain which included having access to the construction sites and construction workers, (2) decent work, (3) living wage, (4) zero accidents, (5) no downward variation for terms of work, (6) quality jobs, (7) improved basic conditions, (8) health and safety awareness and (9) skills development for future employability.

BWI strategies to achieve these objectives were multiple, and, were anchored on four pillars.

The first pillar was “organizing”. At the start of the campaign, it was estimated that 22,000 workers were employed in stadium builds and the initial plan was to focus on workers in the stadiums. The campaign team, however, decided to focus on geographic areas where union capacity already existed and the campaign thus included workers in infrastructure projects such as rail, airport and road development. The work entailed NUM, SABAWU and BCAWU actually going to the sites and recruiting construction workers, both formal, regular workers and contractual or non-standard workers. It also involved advocating for a national ban on labour brokering. The Swiss union UNIA contributed to this advocacy by conducting an exchange visit to South Africa in 2008 and sharing their union experiences on organizing non-standard workers. As a result, BWI-affiliated unions were able to recruit 27,731 workers. More importantly, the organizing efforts paved the way for 70,000 workers to heed the call of BWI to go on a national strike in July 2009.

The second campaign pillar was “research” and this involved mainly examining and publicizing the situation of workers in the various sports facility sites and infrastructure projects and providing input that justified the workers’ demands. Research outputs -- as spearheaded by LRS -- included studies on the ‘strike barometer’, profiles of companies including their projected profits from the games, costs of the World Cup, collective bargaining agreements in the construction sector, labour brokering and subcontracting, government procurement process and other governance-related matters. The research also served as inputs to the National Forum on industry minimum standards and wages and to various collective bargaining negotiations.

The third pillar was “negotiation”. This campaign pillar included capacity building for worker-negotiators through negotiation workshops in March 2008 and May 2009. The workers and unions at the site level negotiated with their respective employers while at the national level, they negotiated with the South African Federation of Civil Engineering Contractors (SAFCEC) to remove the 8% wage increase cap that was agreed upon in 2006 given that inflation rates were higher than expected. When negotiations failed, the unions launched strikes in October 2008 and the negotiations that ensued resulted in a 3% further wage increase.

The first national strike (i.e. beyond the construction sites) was conducted in July 2009 and lasted for a week. All throughout the campaign, the BWI affiliates launched twenty-six (26) strikes and these resulted in tangible gains: 12% wage increase, minimum wage increase from R2,618.78 to R2,933.04, and, a 12-month (instead of 3-year) framework agreement with provisions on bonuses and medical benefits.

The fourth pillar was “campaigning”. This involved negotiations with FIFA, engagements with media, civil society stakeholders in South Africa and international players especially among global unions and international solidarity support organizations.

Because of the stadium strikes starting 2007, FIFA could not ignore the unions even as it insisted that it could not perform the role of the employer or the state and therefore could not be held accountable for labour conditions. Moreover, FIFA could not ignore pressure from BWI, especially its’ European trade unions. In March 2008 in Zurich, FIFA representatives including then-President Joseph Blatter, met with representatives of BWI, BWI South African affiliates and UNIA. The FIFA President promised at least three things: (1) that FIFA would bring the workers’ issues to the South African government and the FIFA Local Organizing Committee, (2) that FIFA would include trade unions in site inspections, and, (3) that FIFA would continue with the social dialogue with unions.

FIFA’s three promises were eventually fulfilled but only to a limited extent. FIFA did draw in the FIFA LOC with the latter joining the unions in both the joint inspection of stadiums and the joint press conference in 2009. The FIFA LOC initially insisted that they were not duly informed by FIFA regarding the organization’s memorandum of agreement with the unions but later cooperated given the pressure exerted by the Swiss trade unions on FIFA officials. The agreement reached by the trade unions with FIFA was an important milestone.

Aside from wage increases and better working conditions, the unions were even able

to negotiate 40,000 tickets for construction workers so that they too could enjoy the games that they helped make possible. Not all of the workers' demands, however, were met and in fact, two workers died despite the campaign. It can be argued though that more workers could have died if the unions were not able to negotiate for safe, improved working conditions. Moreover, the BWI campaign was able to bring the construction workers' issues to the larger society -- to the South African citizens who as taxpayers had to put the bill of infrastructure building and to sports fans everywhere who had to contend with the fact that the mega-sports events was not all 'fun' but also came with costs.

The 2014 FIFA World Cup in Brazil

The BWI Campaign in South Africa was crucial also because it paved the way for the BWI campaign towards the World Cup in Brazil in 2014. Construction trade unions in Brazil knew that the costs of World Cup games far exceeded their (targeted) benefits. South Africa had envisioned income amounting to 900 million USD but made only 513 million USD and in addition, after the games, South Africa has had to pay at least 2 million USD every year to maintain a single stadium. Moreover, the costs (i.e. around 4.4 billion USD) had to be paid by the South African citizens and some -- two workers -- had to pay with their lives.

The South African experience also showed that despite the social costs of the World Cup, FIFA still stood to profit. The international sports association -- which repeatedly insists that they are "mere non-profit sports organizations" and not employers -- gained 3.4 billion USD in profit for hosting the World Cup 2010.

The situation of the 4 million Brazilian construction workers in the various sites of the World Cup 2014, was no different: lack of safety, deaths, low wages, delayed payments, exploitation of migrant workers, violations of numerous labour standards. Because of this, the campaign demands were as follows: (1) a space for dialogue between trade unions, FIFA and the federal government of Brazil, to discuss labor issues related to the World Cup, (2) joint FIFA-trade union inspection of the stadium project sites, (3) implementation of the 2011 National Unity Agenda which the trade unions submitted to the federal government and which included the following items: unified minimum salary; food stamps of US\$168; profit sharing of 2 minimum wages; health care that can be extended to family members; overtime payment of 80% from Monday to Friday, 100% on Saturdays and 150% on Sundays and holidays; guarantee of organization at workplace; additional payment for night work at 50%; 5 days off for every 60 days worked; implementation of better health and working conditions at worksite, and, probationary 30 day contract of employment.

While no panel had been convened to pursue above-mentioned workers' agenda, the demands served as benchmarks for State-level and workplace negotiations which were spearheaded by BWI affiliates CONTICOM-CUT and FENATROCOP. These negotiations contributed to the forging of the historic tripartite agreement entitled "National Commitment to Improve Working Conditions in Construction Sector" which defined new rules on improving working conditions and health and safety at work, and,

recognized collective bargaining as the means to define salary rates, benefits, working hours, transportation, accommodation and food entitlements. The agreement was signed by the trade unions, the major construction employers and the government. The negotiations also led to President Dilma Rousseff's approval of a decree establishing the National Permanent Negotiation Committee that would monitor and evaluate the compliance the terms of the agreement.

To make said negotiations even possible, the BWI affiliates had to put pressure through labour strikes -- a total of 27 strikes throughout the campaign. The strikes were widespread and waged across all of Brazil in the following sites: Castelao stadium in the city of Fortaleza, Amazonas Arena in Manaus, Arena Dunas in the city of Natal, Arena Fonte Nova in Salvador de Bahia, Arena Pernambuco in the city of Recife, Mané Garrincha Stadium in the capital Brasília, and, Maracanã Stadium in Rio de Janeiro. The strikes entailed the participation of 128,750 workers and the loss of 1,197 working hours equivalent to 150 working days. In all the strikes except for two strikes, the workers' demands were largely achieved.

The strikes and negotiations spearheaded by unions were documented by DIESE, a labor-based research institute in Brazil, as commissioned by BWI. According to the DIESE study, aside from the 27 strikes, there were 81 collective bargaining agreements forged by construction workers in 12 World Cup host cities from 2009 to 2013.

The DIESE study also showed that in those 5 years, the following were achieved: the value of base salaries increased from 600 reales to 900 reales (or 196 euros to 294 euros) although in some cases the salary increase even reached 1,400 reales (or 460 euros), food stamps or food products were ensured at an average of 200. reales (or 66 euros), and, overtime pay higher than what is stipulated in the labour law.

The BWI was able to establish dialogue with Odebrecht, the leading construction company in Latin America and the builder of four stadiums for the 2014 World Cup in Brazil. The BWI consolidated its presence in these four stadiums and the local unions were able to negotiate with Odebrecht, based on a framework which included provisions on ILO core standards namely, freedom of association and collective bargaining, no forced labour, no discrimination in employment and no child labour.

The BWI also maximized the campaign to highlight the costs of the World Cup on the larger Brazilian society and not just on Brazil's labour sector. The BWI helped in publicizing the facts that more than R\$ 25 billion were invested for the event, with 28% of the funds going to the construction and renovation of stadiums instead of long-standing infrastructure needs, and, that Brazilian taxpayers shouldered 83.6% of the costs and the private sector only 16.4%. In addition, 250,000 people living in the 12 host cities were displaced to give way to the building of the 2014 World Cup facilities.

The BWI has also been instrumental in exposing FIFA's refusal to be held accountable for the people displaced in Brazil and the 14 workers who died in preparation for the 2014 football championship. It has also pushed the Federal Government of Brazil to ensure that FIFA would abide by labour standards. The government issued a World Cup General Law (No. 12.633/2012) in June 2012 to ensure implementation of agreements between the government and the FIFA during the bidding process. Unfortunately, said agreements were

not made known to the public and therefore, transparency was also a major issue.

Looking ahead

BWI's experience shows that global partnerships and solidarity - between local and national unions, global union federations, national and global civil society, solidarity support organizations - are key. It is also evident that such partnerships and solidarity need to build on and learn from the gains of each and every mega-sporting event.

In mitigating the human and social costs of mega-sporting events, the case studies also reveal that each campaign has to have at least two main messages: one on workers' rights and one on social development given the broader social costs of the mega-sports games. In other words, campaigns must attempt to draw in the larger societies -- to support the workers' demands and to have demands of their own, as citizens and as sports fans.

Currently, other than the campaign for the 2022 World Cup in Qatar, BWI is working on campaigns for the 2018 World Cup in Russia and the 2018 Winter Olympics in South Korea; in both countries unions are allowed but the increase in the number of workers' fatalities is alarming. Recently, BWI, Russian Building Trade Union, FIFA and Russia LOC signed a Memorandum of Understanding for a joint inspection and workers' mechanism to raise issues on working condition and health and safety. The situation in South Korea is alarming and both BWI and IOC are working on a possible mission to the winter Olympics site in Pyeongchang. For the 2020 Summer Olympics in Tokyo, the Tokyo-LOC took a positive step by engaging with BWI, the Japanese Affiliates Council and the national union RENGO in developing its sustainability plan and health and safety program.

In host countries with prohibitive labour laws that do not adhere to international standards, the strategies of trade unions and civil society have to be different. In preparation for World Cup in Qatar in 2022, BWI and ITUC, for example, conducted a high-profile research and released media reports to expose the incidence of "modern slavery" in Qatar as early as 2011. Since all construction workers in Qatar are migrant workers, BWI also started building linkages with trade unions in countries of origin such as India, Nepal and the Philippines as well as with their community groups in Doha. BWI made allies among the embassies of these countries of origin that are keen on putting pressure on Qatar to protect their workers. In addition, BWI found support from other governments such as the United States, United Kingdom and Switzerland in ensuring the rights of migrant workers in Qatar.

The BWI is committed to campaigning for workers' rights in all mega-sports events and to using its resources, including the lessons of previous campaigns, to ensure that games are always "fair". The BWI is also committed to finding ways to protect workers continuously and this is where BWI is making further articulations and actions – that the legacy of any World Cup or Olympics for the working people is decent work before, during and after the event.



Supplementary Annexures

Annex A

Institute for Human Rights and Business, “Corporate Liability for Human Trafficking and Forced Labour”, (Oct. 2016), available at: <https://www.ihrb.org/focus-areas/migrant-workers/corporate-liability-for-forced-labour-and-human-trafficking>

Annex B

Amnesty International, “Violence has no place in these games! Risk of Human Rights Violations at the Rio 2016 Olympic Games” (2016), available at: <https://www.amnesty.org/en/documents/amr19/4088/2016/en/>

Annex C

Amnesty International, “A legacy of violence: killings by the police and repression of protests at the Rio 2016 Olympics” (2016), available at: <https://www.amnesty.org/en/documents/amr19/4780/2016/en/>

Annex: Overview of the UN Guiding Principles on Business & Human Rights

The UN Guiding Principles on Business & Human Rights state that business should “respect” human rights, “avoid infringing on the human rights of others” and “address adverse human rights impacts with which they are involved. This responsibility “exists over and above compliance with national laws and regulations protecting human rights”.¹

Level of involvement and appropriate action

UN Guiding Principles 13 identifies three ways in which a company may be associated with a human rights issue: (1) by causing an adverse human rights impact; (2) by contributing to an adverse impact; or (2) being directly linked² to it. The actions that a company is expected to take will vary depending on which level of involvement applies (UN Guiding Principle 19).

Involvement	Appropriate Action
Causing an adverse human rights impact	A company may “cause” an adverse human rights impact “through their own activities” (UNGP 13). Such companies are expected to try to “avoid” causing that impact and “address such impacts when they occur” (UNGP 13). This requires: <ul style="list-style-type: none"> • “Taking the necessary steps to cease or prevent the impact” (UNGP 19) • “Provide for or cooperate in their remediation through legitimate processes” (UNGP 22)
Contributing to an adverse human rights impact	A company may “contribute to” an adverse human rights impact “through their own activities” (UNGP 13). Such companies are expected to try to “avoid” that contribution and “address such impacts when they occur” (UNGP 13). This requires:

¹ UN Guiding Principle 11, p13.

² The definition of “direct linkage” has proven difficult to apply in practice across a number of industries. The issue is discussed further in the context of the Broadcasting White Paper 3.2.

	<ul style="list-style-type: none"> • “Taking the necessary steps to cease or prevent its contribution” (UNGP 19) • “Using its leverage to mitigate any remaining impact to the greatest extent possible” (UNGP 19) • “Provide for or cooperate in their remediation through legitimate processes” (UNGP 22)
<p>Impacts directly linked to a company’s operations, products, or services by a business relationship</p>	<p>A company’s operations, products, or services may be directly linked to an impact by a business relationship (UNGP 13). Such companies are expected to seek to “prevent or mitigate” the impact, “even if they have not contributed to those impacts” (UNGP 13). This requires:</p> <ul style="list-style-type: none"> • Using or increasing its leverage over the entity at cause to seek to prevent or mitigate the impact (UNGP 19). • Where directly linked, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, “though it may take a role in doing so” (UNGP 22). <p>UNGP 19 commentary explains that this situation “is more complex”. In order to determine the “appropriate action”, companies should consider:</p> <ul style="list-style-type: none"> • “[Its] leverage over the entity concerned”. • “How crucial the relationship is”. • “The severity of the abuse”. • “Whether terminating the relationship ... would have adverse human rights consequences”.

Meeting the Responsibility: Policies and Procedures

UN Guiding Principle 15 states that a company’s responsibility to respect human rights – whether involved through causing, contributing to, or being directly linked to an impact – should be met by having in place policies and processes, including:

- A **policy commitment** to meet their responsibility to respect human rights (elaborated on further in UN Guiding Principle 16);
- A **human rights due diligence** process to identify, prevent, mitigate and account for how they address their impacts on human rights (elaborated on further in UN Guiding Principles 17-21);
- Processes to enable the **remediation** of any adverse human rights impacts they cause or to which they contribute (elaborated on further in UN Guiding Principles 22 and 29-31).