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# The Power and Failure of FIFA to Be a Force for LGBTQ and Human Rights

BY ISAAC GAMBOA / ON NOVEMBER 20, 2022



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The FIFA World Cup began in November, and with it, the attention of an anticipated three billion viewers turned to this year's host nation Qatar.<sup>1</sup> Qatar is the first Middle Eastern country to host the event and has spent billions of dollars to quickly build the infrastructure necessary to host the tournament.<sup>2</sup> But as Qatar worked to improve its infrastructure for the tournament,<sup>3</sup> concerns over the host nation's discriminatory laws against the LGBTQ community caused many to wonder how the strictly religious Arab country could accommodate such a diverse fanbase.

In 2019, Forbes ranked Qatar as the second most dangerous country in the world for gay travelers.<sup>4</sup> Qatar's Penal Code 2004, Article 296 criminalizes leading, instigating, or seducing a male in any way to commit sodomy, or other immoral acts, an offense punishable by up to three years in prison.<sup>5</sup> The law reflects a change from the 1976 version of the penal code which outlawed "sexual acts against nature."<sup>6</sup> While the change in wording does broaden the scope of the law, its effect on criminalizing same sex relationships remains. Reports as recent as October 2022 have claimed arbitrary arrest and abuse of LGBTQ Qataris. Citizens were detained for months without formal charges and subject to constant verbal and physical abuse.<sup>7</sup> Allegations of media censorship surrounding LGBTQ rights have also been thrown at the Qatari government when entire pages of the Qatari edition of The New York Times were left blank that had contained articles related to LGBTQ rights.<sup>8</sup>

Despite pressure from some leaders within the international political and soccer community, Qatari government officials have refused to suspend the law for the duration of The World Cup.<sup>9</sup> The Qatari government responded to questions over the legal safety of LGBTQ travelers to the World Cup by stating, "[w]e believe in mutual respect and so whilst everyone is welcome, what we expect in return is for everyone to respect our culture and traditions."<sup>10</sup> As it became clear that Qatar would not change or suspend their

laws to host the tournament, the United Kingdom's Foreign Secretary James Cleverly asked fans to "be respectful of the host nation," adding that "the UK has incredibly important partners in the Middle East."<sup>11</sup> Mr. Cleverly's comments reveal the complexity of nations cooperating in many areas and attempting to manage massive cultural transfusions during the World Cup. Any effective demands for improving human rights and safety for LGBTQ fans and citizens must come from FIFA itself.

The legal rights of LGBTQ fans and citizens of host nations is not a new problem for FIFA, as they faced similar controversy at the last World Cup in Russia in 2018.<sup>12</sup> This issue and similar ones will likely continue to arise alongside the trend of "sports washing," the strategy of totalitarian regimes using participation in major international sports to cleanse a public perception of a nation while attempting to divert attention from anti-humanitarian actions.<sup>13</sup> Despite the recurring problem of host nation's discriminatory laws, FIFA's strictest anti-discrimination rules, "the statutes," apply only to FIFA members, not countries or outside contractors.<sup>14</sup> While the "ethics code," which applies more broadly to affiliates of FIFA, provides only very narrow limitations on discrimination.<sup>15</sup> FIFA's current discrimination rules create a "noticeable pattern... that the broadest rules apply to the fewest people and narrowest rules apply to the most people."<sup>16</sup> To fully protect fans' and citizens' human rights in host nations, FIFA must expand the anti-discrimination rules already present in their governing structure.<sup>17</sup>

FIFA has a history of applying pressure to host nations to change or accommodate their laws to enable them better to host The World Cup, particularly when corporate sponsors are involved. In 2014, for example, FIFA, on behalf of their sponsor Budweiser, put tremendous pressure on the Brazilian government to suspend laws prohibiting the sale and public consumption of alcohol,<sup>18</sup> so clearly pressuring host nations to adjust their laws for corporate sponsors.<sup>19</sup>

FIFA has also used its power to engineer social change in their host nations, convincing South Africa to open "World Cup Courts" to process criminal dispositions more quickly.<sup>20</sup> FIFA did so in response to fan concern about the high crime rate in South Africa. While the efficacy of the method chosen to increase the perception of safety is questionable, it certainly shows that FIFA has the power to implement legal change in host nations.<sup>21</sup> FIFA has used its power as the organizer of The World Cup to exact accommodations from host nations in the past but has failed to use that power to protect the human rights of LGBTQ fans and citizens of Qatar.

International bodies have recognized the unique power of sports to deliver education about peace, tolerance, and respect to all nations.<sup>22</sup> FIFA had a unique opportunity to fulfill that high calling for the potential of sports in the lead-up to the Qatar World Cup. The tournament's timing aligned with an asserted "human rights trend" in the Gulf,<sup>23</sup> yet FIFA took no steps to use the World Cup as an opportunity to further that trend in Qatar. Despite vocal criticism, FIFA's selection process for host nations includes no conditions regarding human rights protections.<sup>24</sup> If FIFA wishes to have a selection process inclusive of all nations, it should use its tremendous influence within host nations to improve human rights. Doing so would allow the tournament to positively impact the countries it visits, providing a cultural benefit to hosting the World Cup.

*Isaac Gamboa is a second-year law student at Cardozo. As a sports fan and law student, he is interested in studying the ways in which sports influence international relations and domestic policy.*

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  16. *Id.*
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  19. Just before publication of this article, and just two days before the start of the tournament, Qatar announced that they would not permit alcohol to be served inside stadiums. A shocking reversal of their earlier promises to FIFA. At this time, it is unclear whether Qatar always intended on reversing their stance, or if this is a last second change of heart. However, the circumstances show again that FIFA has failed to protect even their corporate sponsors for this World Cup and calls even further into question the vague guarantees the Qataris have provided for the safety of LGBTQ fans. See, Tariq Panja, Ban on Beer is Latest Flash Point in World Cup Culture Clash, *New York Times* <https://www.nytimes.com/2022/11/18/sports/soccer/world-cup-beer-qatar.html#:~:text=Now%20beer%20will%20not%20merely,itself%20on%20the%20global%20stage> [<https://perma.cc/F8BL-25WL>]
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