

“Law Exclusion Zones”: Mega-Events as Sites of Procedural and Substantive Human Rights Violations

Megan Corrarino¹

“Laws and principles are not for the times when there is no temptation: they are for such moments as this, when body and soul rise in mutiny against their rigour; stringent are they; inviolate they shall be. If at my individual convenience I might break them, what would be their worth?”
– Charlotte Brontë, *Jane Eyre* (1847)

INTRODUCTION

In the Rio de Janeiro community of Vila Harmonia, nestled amidst the beachfront high-rises of the city’s growing middle and upper classes and future sites of the 2016 Olympic Games, residents awoke to eviction notices ordering them out of their long-time homes within “zero days.”² At 2014 World Cup sites throughout Brazil, construction workers are being advised that their normal collective bargaining rights have been suspended because of the urgency of the projects.³ Traditional food-sellers in one World Cup host city, Belo Horizonte, were summarily evicted from the stadium-adjacent area where they held the right to work for years,⁴ and where gen-

1. Yale Law School, J.D. 2013. I would thank the many mega-event host city residents and members of the Comitês Populares da Copa who generously shared their time for this Note. Many thanks to Dr. Christopher Gaffney at the Universidade Federal Fluminense in Niterói, Brazil and attendees at the 2013 Association of American Geographers Annual Meeting, who provided invaluable feedback on early drafts; and to the Woodrow Wilson School of Public and International Affairs at Princeton University, which provided funding for the job that laid the groundwork for this Note.

2. Prefeitura da Cidade do Rio de Janeiro, Secretaria Municipal de Conservação e Serviços Públicos, 19o Gerência de Conservação [Rio de Janeiro City Government, Municipal Secretary for Conservation and Public Services, 19th Administration for Conservation], Edital SC/SUBEC/CGC/3aCRC/19aGC no 000271/2010 (2010), available at <http://www.scribd.com/doc/101581426/Notificacao-de-Zero-Dias-da-Prefeitura-do-Rio-Contra-a-Vila-Harmonia>.

3. ARTICULAÇÃO NACIONAL DOS COMITÊS POPULARES DA COPA [NATIONAL NETWORK OF POPULAR COMMITTEES ON THE WORLD CUP, hereinafter NETWORK OF POPULAR COMMITTEES], MEGAEVENTOS E VIOLAÇÕES DE DIREITOS HUMANOS NO BRASIL (2d ed.) 37-41 (2012), available at http://www.portalpopulardacopa.org.br/index.php?option=com_k2&view=item&id=198:do-ssi%C3%AA-nacional-de-viola%C3%A7%C3%B5es-de-direitos-humanos.

4. *Os Sem Estádio* [The Stadium-less], AGÊNCIA PÚBLICA (Sept. 14, 2012),

erations of families have gone for a pre-game *churrasco*.⁵ In another city, Natal, mandatory environmental analyses have been ignored as the city speeds ahead with transportation projects that threaten the environment around the city’s world-famous beach dunes.⁶ These decisions and scores of others have been made behind closed doors, without normal participatory processes. In 2013, the Secretary General of the Fédération Internationale de Football Association (“FIFA”) said, tellingly, “[L]ess democracy is sometimes better for organizing a World Cup.”⁷ With major sporting events approaching, the official narrative seems to go, there simply is not time for the human rights protections enshrined in national and international law.⁸

In Brazil, the upcoming World Cup and Olympics offer a pretext for domestic and international elite interests, supported by international sporting organizations and their sponsors, to fast-track highly profitable projects by circumventing normal participatory processes and human rights protections. In this respect, Brazil’s event preparation processes are not unique—in fact, they are common enough to have been predicted⁹ by regular observers of “mega-events,” or large-scale cultural events of international significance.¹⁰ London’s 2012 Olympic Games, for example, made headlines for their “brand exclusion zones,” in which local businesses were banned from using an artist’s rendering of the Olympic rings, or even an innocuous phrase like “two thousand twelve,” and non-sponsor vendors were pushed out of their usual workplaces.¹¹

Given the enormous amounts of money at stake,¹² the pressures from

<http://www.apublica.org/2012/09/os-sem-estadio/>.

5. Interview with Fidélis Alcântara, Comitê Popular dos Atingidos pela Copa 2014 – BH, in Minas Gerais, Belo Horizonte, Brazil (July 12, 2012).

6. See, e.g., Vinicius Konchinski, *Obra da Copa pode poluir ponto turístico e levar esgoto para praias de Natal* [Construction for the World Cup may pollute tourist site and carry sewage to Natal’s beaches], UOL ESPORTE (Jan. 11, 2012), <http://esporte.uol.com.br/futebol/copa-2014/ultimas-noticias/2012/01/11/sem-estudo-de-impactos-ambientais-obra-da-copa-pode-poluir-ponto-turistico-de-natal.htm>.

7. Soccer: Less Democracy Makes for an Easier World Cup – Valcke, REUTERS (Apr. 24, 2013), <http://www.reuters.com/article/2013/04/24/us-soccer-fifa-idUSBRE93N18F20130424>.

8. See NETWORK OF POPULAR COMMITTEES, *supra* note 3.

9. See, e.g., Julian Cheyne, *Winners and Losers in Rio*, GAMESMONITOR (Oct. 6, 2009), <http://www.gamesmonitor.org.uk/node/864>.

10. MAURICE ROCHE, MEGA-EVENTS AND MODERNITY: OLYMPICS AND EXPOS IN THE GROWTH OF GLOBAL CULTURE 1 (2000).

11. See, e.g., Ira Boudway, *Don’t Mess With the Lord of the Olympic Rings*, BLOOMBERG BUSINESSWEEK (Jun. 14, 2012), <http://www.businessweek.com/articles/2012-06-14/dont-mess-with-the-lord-of-the-olympic-rings>.

12. Mega-events often involve public subsidies, public losses, and private profits. See, e.g., Ferran Brunet, *Análisis del impacto económico de los Juegos Olímpicos* [Analysis of the economic impact of the Olympic Games], in MOSAICO OLÍMPICO 219, 219 (Emilio Fernández Peña, et al. eds., 2011), available at http://ceo.uab.es/2010/docs/C40912_2.pdf. For the 2002 Olympic Games in the United States, for example, the federal government poured \$1.5 billion dollars into the host city of Salt Lake City, Utah, much of which went to “bankrolling subsidies, sweetheart deals, and giveaways for land developers and other well-connected Utahans.” Tim Murphy, *Mitt Romney’s Pork Barrel Olympics*, MOTHER JONES (Jul. 26, 2012), <http://www.motherjones.com/politics/2012/07/mitt-romney-expensive-olympics-federal-funding>.

international organizations and domestic politicians eager to put on a smooth, orderly, and impressive event; and the massive media hype, mega-events—and particularly sporting events—create precisely the sort of perceived “emergency” moments in which rights abuses become more likely, and legal protections are therefore all the more essential. And yet, when the mega-event juggernaut rolls into town, regular laws, rights-balancing considerations, and supposedly inviolable constitutional protections are often forgotten. Using the case study of Brazil, host of the 2014 World Cup and 2016 Rio de Janeiro Olympic Games, this Note argues that mega-events create pretexts for the implementation of “law exclusion zones”—spaces, both physical and metaphorical, in which normal legal processes are jettisoned and new, exceptional legal regimes take their place—and that these regimes often undermine normal human rights protections, allowing a few to profit at the expense of the many.

This paper proceeds in three parts. Part I describes how mega-event boosters use rhetorical strategies and transnational alliances to create a policy environment in which legal exceptionalism is acceptable and even encouraged, and how those special legal regimes undermine accountability and contribute to the exclusion of citizen voices. Part II offers case studies drawn from Brazil to illustrate how fast-track decision-making, citizen exclusion, and other violations of participatory rights create a legal regime in which a host of rights can be violated with impunity. Finally, Part III concludes with some recommendations for strengthening legal protections for human rights during mega-event preparations and implementation.

I. WHEN THE WORLD ARRIVES: HOW ELITE INTERESTS USE MEGA-EVENTS TO REFRAME THE POLITICAL DEBATE

The “law exclusion zones” being carved out in Brazil’s host cities are part of a broader global pattern in which legal exceptionalism is tolerated, and even encouraged, as countries prepare for and host mega-events. Such mega-events range from major international policy conferences to global sporting competitions to commercial exhibitions. While specific policy considerations may differ from one to the other, in the age of globalization, mega-events have become an increasingly important part of statecraft, giving countries opportunities to show off their “world-class” cities and city governments opportunities to negotiate for resources and support from the central government.¹³ British sociologist Maurice Roche, who described mega-events as “some of modern society’s great ‘parades’ and ‘shows,’”¹⁴ defines them as:

. . . large-scale cultural (including commercial and sporting) events which have a dramatic character, mass popular ap-

13. Greg Andranovich, Matthew J. Burbank & Charles H. Heying, *Olympic Cities: Lessons Learned from Mega-Event Politics*, 23 J. URB. AFFAIRS 113, 114 (2001).

14. ROCHE (2000), *supra* note 10, at 1.

peal and international significance. They are typically organized by variable combinations of national governmental and international non-governmental organisations and thus can be said to be important elements in “official” versions of public culture.¹⁵

This Part first describes how mega-events function as sites of legal exceptionalism. It next describes how mega-events, and particularly large-scale sporting events, are marketed to citizens of host cities in three interrelated ways: as a source of civic pride, as an opportunity for economic growth, and as a chance to modernize the host city. It concludes with an overview of how the support and coercive power of the international community can provide an additional advantage for local elites within the domestic debate. It argues that the public promises made to citizens about mega-events are often hollow—the benefits that do accrue are concentrated in the hands of a few well-connected developers, while the promised urban transformation pushes working class citizens even further toward the physical and social margins of their own cities. Crucially, however, those promises, combined with the international community’s support for rapid transformation, provide a policy environment in which rapid and normally unfeasible legislative changes can take place, laying the groundwork for regimes of legal exceptionalism.

A. Mega-Events as Sites of Legal Exceptionalism

Mega-events serve as both literal and figurative sites of legal exceptionalism. For example, the areas around mega-event venues are sometimes designated special legal zones, in which the law of the state is replaced by special legal regimes, as was the case with the London Olympics’ “brand exclusion zones.”¹⁶ In effect, mega-event sites often function as tiny embassies—except that instead of being governed by the law of another state under a reciprocal relationship, as diplomatic law would allow, they are governed (non-reciprocally) by the law of a corporate or intergovernmental entity. They also become figurative sites of legal exceptionalism, fostering a sense that “bigger” concerns about national pride justify laws that differ from what would normally be acceptable. For example, mega-events might be used to justify free speech bans that ordinarily would be questionable,¹⁷ evict or displace people without normal due process protections,¹⁸ fast-track construction deals without full transparency,¹⁹ or authorize the use of brutal

15. *Id.*

16. See, e.g., Boudway, *supra* note 11.

17. *Id.*

18. See, e.g., Solomon J. Greene, *Staged Cities: Mega-events, Slum Clearance, and Global Capital*, 6 YALE HUM. RTS. & DEV. L.J. 161 (2003).

19. See, e.g., James Surowiecki, *Corruption and Construction at the Sochi Olympics*, NEW YORKER (Feb. 10, 2014), available at http://www.newyorker.com/talk/financial/2014/02/10/140210ta_talk_surowiecki.

methods to quickly squash ongoing crime problems.²⁰

The special laws are made possible at least in part because citizens are often shut out of the conversation, leaving civil society groups to—at best—participate in harm-mitigation, rather than constructive discussions about the mega-event legacy that citizens want for their city.²¹ As the following sections discuss, such fast-track lawmaking and authoritarianism are facilitated by rhetoric about civic pride, economic growth, and modernization, as well as transnational elite alliances, and typically advance the commercial interests of a small group of developers and other well-connected host-city elites.

B. Mega-Events and Public Opinion

A landmark Brazilian civil society report on human rights abuses in mega-event planning opened with a quote from Michel, a man whose home and community were razed to make way for Olympics construction projects in the Rio de Janeiro neighborhood of Restringa. Michel lamented:

I feel like such a sucker, because when Brazil won these damn Olympics I was in my car on the Linha Amarela [expressway], honking like a fool. Now I'm paying for it. This is the World Cup? This is the Olympic spirit?²²

Most of us likely empathize with Michel's early enthusiasm for his city's winning bid.²³ The Olympics enjoy enormous global goodwill, and winning a bid can be the source of tremendous municipal and national pride. After Brazil was awarded the 2016 Olympics, then-President Luiz Inácio Lula da Silva said ("tearfully," the press observed):

This is a victory for 19 million [Brazilian] souls, a victory for all of Latin America, a victory for the Olympics. . . . Brazil today won her international citizenship; we broke the last barrier of prejudice.²⁴

A mega-event done well can indeed enhance the global profile and

20. Jens Glüsing, Maik Grosseckathöfer & Horand Knaup, "Shoot Them in the Head": World Cup Hosts Brazil and South Africa Crack Down on Crime, DER SPIEGEL ONLINE INTERNATIONAL (Nov. 6, 2009), <http://www.spiegel.de/international/world/0,1518,659427,00.html>.

21. See, e.g., CENTRE ON HOUSING RIGHTS & EVICTIONS [COHRE], FAIR PLAY FOR HOUSING RIGHTS: MEGA-EVENTS, OLYMPIC GAMES AND HOUSING RIGHTS 78 (2007), available at http://www.cohre.org/sites/default/files/fair_play_for_housing_rights_2007_0.pdf.

22. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 9.

23. In Chicago, for example, which had advanced along with Rio de Janeiro to the final round of candidate cities for the 2016 Olympics, people with "Chicago 2016" signs gathered to await the announcement of the host city and expressed shock and disbelief when their city was not named. Monica Davey, *Ready for an Olympic Party, Chicago Loses Its Date*, N.Y. TIMES (Oct. 3, 2009), available at <http://www.nytimes.com/2009/10/03/sports/03chicago.html>.

24. *Lula exalta vitória do povo brasileiro com a escolha do Rio 2016* [Lula praises victory of the Brazilian people with the choice of Rio 2016], ESTADÃO (Oct. 2, 2009), <http://www.estadao.com.br/noticias/esportes,lula-exalta-vitoria-do-povo-brasileiro-com-a-escolha-do-rio-2016,444826,0.htm>.

prestige of a city.²⁵ But the groundswell of civic pride that accompanies a winning mega-event bid, and particularly a successful Olympics bid, can also produce opportunities to manipulate public opinion. After all, in the face of such popular enthusiasm, few politicians believe it would be a winning proposition to interrupt the celebrations in the streets and say, "Hold up—maybe this isn't such a victory after all."²⁶ Much like "national security" can become a political trump card to enact sweeping changes in domestic law in the aftermath of a major terrorist event,²⁷ "civic pride" and the host city's image can be used to advance what in other circumstances might be highly unpopular laws.²⁸

These efforts are often supported by pro-events media coverage, particularly for sporting events.²⁹ Global athletic events are inherently mass media events,³⁰ and they are highly lucrative for the news organizations with rights to cover them.³¹ As a result, getting media buy-in for mega-events boosterism can be almost effortless and often contributes to the narrative of civic pride that lays the groundwork for public support of substantial legal changes.

C. Mega-Events as Development Projects

In addition to sources of civic and national pride, mega-events are often sold as development projects that will bring resources, jobs, and both short- and long-term economic benefits to the host city.³² Just as citizens might be willing to approve tax breaks for a major corporation that promises jobs, the promise of economic development provides an incentive for allowing special and favorable rules for mega-events and their associated develop-

25. See, e.g., *London 2012: Games garners positive press for London*, BBC (Dec. 31, 2012), <http://www.bbc.co.uk/news/uk-england-london-19157709>.

26. In some potential candidate cities, political leaders have emerged as opponents to proposed mega-events, but this was generally in response to pre-existing domestic political resistance to the proposed event. For example, Richard Lamm, a Colorado legislator who later became governor, emerged as a leading voice against Denver, Colorado's bid for the 1976 Olympics. Voters rejected the city's proposed bid, which the press observed was "really a referendum on spending and growth in Colorado." *Colorado voters reject 1976 Winter Olympics*, ROCKY MOUNTAIN NEWS (Nov. 8, 1972). Crucially, the bid was first put to voters, a step often not taken when cities bid for, or agree to host, mega-events.

27. See, e.g., Thomas P. Crocker, *Overcoming Necessity: Torture and the State of Constitutional Culture*, 61 SMU L. REV. 221, 224 (2008) ("Necessity arguments claim that in particular circumstances officials may undertake exceptional actions to achieve their legitimate goals, such as protecting national security, that would otherwise be prohibited if the normal rule of law governed during normal conditions.").

28. See, e.g., Greene, *supra* note 18, at 165-66.

29. See, e.g., BRAD R. HUMPHREYS & DENNIS R. HOWARD EDs., *THE BUSINESS OF SPORTS* viii (2008) ("... the popular press contains many accounts of large economic benefits that these events generate.").

30. See, e.g., Maurice Roche, *Olympic and Sport Mega-Events as Media Events: Reflections on the Globalisation paradigm*, in *THE GLOBAL NEXUS ENGAGED: SIXTH INTERNATIONAL SYMPOSIUM FOR OLYMPIC RESEARCH* 1 (2002).

31. See, e.g., Callum Murray, *Olympic Games Set to Break \$8bn Revenues Barrier in Four-year Cycle Ending with London 2012*, 26 *SPORTCAL* 6, 7 (2012).

32. See, e.g., ANDREW ZIMBALIST, *INTERNATIONAL HANDBOOK ON THE ECONOMICS OF MEGA SPORTING EVENTS* (2012).

ers.³³ In some respects, the growth promises are accurate; for example, studies suggest that mega-events help host cities gain an influx of resources from the central government relative to non-host cities in the same country, and that this “showcase advantage” may be particularly important in periods of economic recession and resource scarcity.³⁴ But the ultimate balance sheet is not always positive,³⁵ nor are the purported growth strategies always focused on sustained opportunities for income generation. Even when net growth does occur, the balance sheet gains do not always translate into opportunity for the average resident.³⁶

Even domestic interests traditionally aligned with historically disenfranchised communities may rally behind a mega-event in the hope that it will catalyze national and international support to address domestic problems. In South Africa, for example, Archbishop Desmond Tutu and former President Nelson Mandela rallied behind the campaign for the 2010 World Cup, in part because they believed it might shed light on the country’s housing problems and provide a focal point for national unity and reconciliation.³⁷ Yet, in practice, more of the poor were displaced from their homes³⁸ and workplaces³⁹ than were helped, as has happened in countless other countries that have hosted mega-events.⁴⁰ Once organizers transition into the planning and implementation phases, little effort is typically made to ensure that the high rhetoric of economic development is coupled with real opportunities for ordinary residents. “Relying on a logic of ‘trickle-down’ economics, ‘city leaders and event organizers typically claim that mega-events help to address the economic and cultural needs and rights of local citizens, regardless of whether the citizens have actually been consulted about or involved in their production.’”⁴¹ This pattern of front-end promises paired with a lack of back-end accountability allows mega-event boosters to harness popular support during the preparation phase of a mega-event, even as they strategically allocate gains to well-connected interests.⁴²

D. World-Class Cities for Some: Mega-Events and Urban

33. See, e.g., Harry H. Hiller, *Mega-Events, Urban Boosterism and Growth Strategies: An Analysis of the Objectives and Legitimations of the Cape Town 2004 Olympic Bid*, 42 INT’L J. URBAN & REGIONAL RES. 439, 454 (2000).

34. Andranovich, Burbank & Heying, *supra* note 13, at 113-115.

35. See, e.g., Andrew Zimbalist, *Is It Worth It?* 47 FIN. & DEV. 1 (2010), available at <http://www.imf.org/external/pubs/ft/fandd/2010/03/zimbalist.htm>.

36. See, e.g., ZIMBALIST (2012), *supra* note 32 (arguing that mega-events frequently result in “overbuilding” that is mismatched with the city’s long-term needs, and that empirical evidence suggests that tourism and jobs do not actually grow as a result of hosting).

37. Hiller, *supra* note 33, at 452.

38. Greene, *supra* note 18, at 185, n.194.

39. Nora Wintour, *World Class Cities for All Campaign – “This World Cup is not for us poor women,”* in AGENDA: EMPOWERING WOMEN FOR GEND. EQUITY. 97 (2010).

40. See, e.g., Greene, *supra* note 18.

41. *Id.* at 180 (quoting Maurice Roche, *Mega-Events and Urban Policy*, 21 ANNALS OF TOURISM RES. 1, 2 (1994)).

42. See, e.g., Murphy, *supra* note 12.

Transformation

To complement promises of economic growth, particularly in the host cities of middle-income countries like Brazil and South Africa, residents of mega-event host cities are often promised public works projects and policy reforms that will transform and modernize their cities. For example, at the same time that President Lula celebrated Brazil's victory in securing the 2016 Olympics, he noted: "People said it wasn't possible to have the Games because we have poor children, because we have *favelas*. We have to fix all of that, without a doubt. We know that we still have a lot of work ahead of us."⁴³

The message implicit in Lula's pledge was that the state would use the Olympics to motivate progressive social reforms: poor children would be lifted up, and *favelas* integrated into the "official" city and given services. But past experiences in other mega-event host cities suggest that cities often choose another path to presenting a purportedly "modern" face. That path is making poverty—and the poor—invisible. Past mega-events around the world have motivated public officials to tear down slums and informal settlements.⁴⁴ They have been used to justify busing people living in homelessness out of town, far from the places familiar to them.⁴⁵ Similarly, mega-events have displaced small businesspeople who sell their goods in public spaces. For example, in 1992, street vendors in Santo Domingo, Dominican Republic, were pushed to the periphery in advance of the city's massive 500th anniversary celebration of Christopher Columbus, costing many of them their client bases and sources of livelihood.⁴⁶ More recently, street vendors from historic vending sites around South Africa were displaced in advance of the 2010 World Cup.⁴⁷ The pattern is so predictable that StreetNet, an international network of street vendors that began in South Africa, recently launched a global campaign called "World Class Cit-

43. *Lula praises victory*, *supra* note 24.

44. See, e.g., Kris Olds, *Urban Mega-Events, Evictions and Housing Rights: The Canadian Case*, 1 CURRENT ISSUES IN TOURISM 2, 2-3 (1998) (analyzing housing impacts of three Canadian mega-events and noting that evictions "should be viewed as an expected result" of mega-events, with a policy focus on mitigation of the impact, rather than unrealistic total elimination); Sarah E. Hager, *Zimbabwe: Why the United Nations, State, and Non-State Actors Failed to Effectively Regulate Mugabe's Policy of Internal Displacement*, 37 CAL. W. INT'L L.J. 221, 250-51 (2007) ("[B]eautification projects immediately prior to international events are one of the most common justifications for slum clearance programs.' Prior to the IMF and World Bank conference in Bangkok in 1991, Thailand forcibly removed more than 2,000 slum dwellers from the area around the convention center. When the same convention convened in 1976 in Manila, 400 families experienced the same forcible removal to obfuscate the existence of these slum residents. In the five years preceding the 1988 Olympic Games in Seoul, 48,000 buildings that housed 720,000 people were demolished to make way for redevelopment. 'Ninety percent of the 720,000 evictees did not receive replacement housing within the redevelopment site.'" (internal citations omitted)).

45. See, e.g., Jacqueline Kennelly & Paul Watt, *Sanitizing Public Space in Olympic Host Cities: The Spatial Experiences of Marginalized Youth in 2010 Vancouver and 2012 London*, 45 SOCIOLOGY 765, 771 (2011).

46. Greene, *supra* note 18.

47. Wintour, *supra* note 39.

ies for All” in response to the routine mega-event-related evictions of street vendors, who rely on daily work to provide a livelihood for their families.⁴⁸

Many mega-events capture enormous levels of international attention, with host cities naturally eager to put their best foot forward on the international stage. “Mega-events are intended to attract tourist revenues and more important, national and international media recognition for the host city. . . . [M]aking a debut on the world stage requires looking the part.”⁴⁹ But there are competing images of what that means, and the mega-events process reveals divisions within the host city about visions of modernity. Members of the upper-middle class and global cosmopolitan elite might envision their cities taking a great leap forward, into a future of gleaming glass hotels and flyover expressways. Meanwhile, the construction workers who build the future (often while being housed in neighborhoods whose public services would not be out of place in an earlier century⁵⁰) may envision a modern city as one that integrates and recognizes the needs of its working classes.

The elite vision of a modern city without poverty has real and harmful consequences for the modern poor. “Desperate to renew investments and project a positive image, localities attempt to beautify themselves, often displacing hundreds of thousands of residents in the process.”⁵¹ Normal rights-balancing considerations are suspended, and the urban poor are transformed from fellow citizens to a civic blight to be eliminated. Once the urban poor are cast as “less,” they can be excluded from the decision-making processes about the use of urban space, in turn facilitating policy decisions that allow elites to push them farther from the urban core.⁵² This makes efforts to access the decision-making bodies even more difficult, and, through factors like longer commutes to work and greater barriers to accessing public services, forces the poor to bear additional costs of poverty created through deepening socioeconomic segregation. Modernity discourse around mega-events therefore becomes a justification for exclusion of the “unmodern,” and it allows the city to be reshaped in self-fulfilling ways that push both the homes and the political voices of the poor further toward the edges.

48. *Id.*

49. Andranovich, Burbank & Heying, *supra* note 13, at 114.

50. See, e.g., *Photos: Labor in India*, DENVER POST (Mar. 8, 2010), <http://blogs.denverpost.com/captured/2010/03/08/in-focus-labor-in-india/1498/> (illustrating working and living conditions of the largely migrant construction labor force used to build the 2010 Commonwealth Games venues in Delhi, India).

51. Yishai Blank, *Localism in the New Global Legal Order*, 47 HARV. INT'L L.J. 263, 273 (2006).

52. See, e.g., Anne-Marie Broudehoux, *Spectacular Beijing: the Conspicuous Construction of an Olympic Metropolis*, 29 J. URB. AFFAIRS 383, 393 (2007) (“Olympic redevelopment exacerbated preexisting socio-spatial polarization, further disenfranchising Beijing’s new poor while allowing its new rich to expand their control over the urban core.”). For examples of the extra-legal tactics used to evict the poor from their homes, see, e.g., COHRE (2007), *supra* note 21 (use of “eviction squads” and tactics such as disconnecting utilities in order to force people out of their homes in advance of the Beijing Olympics).

E. Transnational Alliances and Global Support for Mega-Events Exceptionalism

While domestic rhetorical strategies described above can facilitate legal exceptionalism in the name of mega-events hosting, another factor is also often at play in shifting the local political debate: the interests of the international community. Mega-events bring to bear the coercive power of the international elite and global organizations, which often have an institutional orientation toward commercial profits (such as FIFA or the International Olympic Committee (“IOC”)) or top-down development (such as the World Bank or International Monetary Fund).⁵³ The arrival of the international community can create pressures in support of legal exceptionalism in three often-overlapping ways.

First, sponsoring institutions may have concrete notions of which laws are necessary predicates to mega-events, and insist on their adoption as a condition of hosting. These laws, typically designed to protect intellectual property or other commercial interests of a sponsoring organization,⁵⁴ are often written by the international organization and adopted by the national or local government where the event is to take place.⁵⁵ They are essentially contracts of adhesion, for in most cases a government must accept them wholesale or forego the opportunity to host the event.

Second, the goals of international organizations are often aligned with those of local elites. One of the attractions of a mega-event is that it may provide a pretext for enacting policies advantageous to local elites while essentially allowing them to wash their hands of the reforms, both because of the apparent coercive power of the international organizations and because the fast-track deal-making may facilitate a period of secretive, behind-closed-doors decision-making.⁵⁶ Furthermore, mega-events allow local elites to assert their power within national politics: “mega-events are often a way in which rich and powerful cities manage to obtain state subsidies, demonstrating what Benvenisti describes as the way in which domestic interest groups use the transnational arena to win over other domestic groups.”⁵⁷

Third, international organizations and the international community as a whole are often eager to see a successful event take place, whether because they believe it will facilitate an important meeting or out of a more general-

53. See, e.g., *World Bank: Uphold Rights*, HUMAN RIGHTS WATCH (Nov. 15, 2012), <http://www.hrw.org/news/2012/11/15/world-bank-uphold-rights>.

54. See, e.g., Jessica Blumert, Note, *Home Games: Legal Issues Concerning the Displacement of Property Owners at the Site of Olympic Venues*, 21 CARDOZO J. INT'L & COMP. L. 153, 180-81 (2012).

55. See, e.g., NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 12-14.

56. See, e.g., COHRE (2007), *supra* note 21, at 198; see also Thomas A. Musil, *The Sleeping Giant: Community Benefit Agreements and Urban Development* 44 URB. LAW. 827, 839-42 (2012) (describing criticisms of municipal revenue-sharing agreements for large-scale facilities constructions in the United States as undemocratic and implemented without normal participatory processes).

57. Blank, *supra* note 51, at 273 n.46 (citing Eyal Benvenisti, *Exit and Voice in the Age of Globalization*, 98 MICH. L. REV. 167, 171-175 (1999)).

ized interest in promoting general global goodwill,⁵⁸ even if it comes at the cost of normal legal protections. As a result, rights violations that would normally spark an uproar from the international community may go under-reported and under-criticized.⁵⁹

The global nature of mega-events thus becomes important in justifying legal exceptionalism from two perspectives. The perceived prestige, international media attention, and transnational alliances can tip local politics in favor of elite interests and provide the support necessary to sanction rapid legal changes. And goodwill fostered by mega-event hosting may mute normal international criticism of those very same legal changes. As the documentation of rights abuses in Part II shows, this international pressure contributes to violations of both domestic and international law. However, as discussed further in Part III, the international character of mega-events and the purported goals of international unity and progress might also be harnessed to create a moral obligation within the international community to address such abuses. International organizations are often immunized from suit in the countries where they work,⁶⁰ typically making direct legal action against the sponsor organizations unfeasible. But just as popular pressure can be mobilized to support legal exceptionalism, so too might it be brought to bear in support of greater rights protection. Just as any analysis of harms must consider the role of the international community, so too should any prescriptions for reform.

II. CASE STUDY: 2014 BRAZIL WORLD CUP AND 2016 RIO DE JANEIRO OLYMPIC GAMES

Brazil will host the 2014 World Cup in twelve cities and the 2016 Summer Olympic Games in Rio de Janeiro. Although Brazilian civil society groups and ordinary citizens were excluded from many of the initial decision-making processes, a robust civil society network has since collected an impressive amount of information on processes, expenditures, and rights violations. Civil society actors from the country's host cities have organized a network of Comitês Populares da Copa (Popular Committees on the World Cup) and, in Rio, Comit  Popular da Copa e das Olimp adas (the Popular Committee on the World Cup and the Olympics),⁶¹ with meetings

58. See, e.g., Roche (2002), *supra* note 30, at 2 ("There are no comparable opportunities for ceremonial and celebratory televisual evocations of 'globality' in conventional international politics around institutions such as the United Nations, which is possibly why the UN has been generally warm and positive in its relationship with the Olympic Movement in recent years.").

59. See, e.g., John Horne, *The Four 'Knowns' of Sports Mega-Events*, 26 LEISURE STUDIES 81, 86 (2007) (arguing that popular enthusiasm for mega-events from politicians, developers, event boosters, and sometimes even scholars leads to willful ignorance about the known and, by this point, largely predictable adverse impacts of mega-events).

60. See generally, e.g., AUGUST REINISCH, CHALLENGING ACTS OF INTERNATIONAL ORGANIZATIONS BEFORE NATIONAL COURTS (2010) (describing obstacles to prevailing on legal claims against international organizations).

61. PORTAL POPULAR DA COPA E DAS OLIMP ADAS, <http://www.portalpopulardacopa.org.br/>

that draw participants from local, national, and international NGOs; academics; and residents of communities affected by mega-events development. The national network of Comitês Populares released a 2012 report documenting various categories of human rights abuses, and they have worked with local communities to document ongoing rights issues associated with mega-events development.⁶² Given that the lack of transparency in host cities often precludes systemic documentation of rights abuses, this extensive documentation therefore makes Brazil an especially valuable case study. It also reflects a broader limitation on generalizing from one country's mega-events experience to others: patterns of mega-events development also interact with country-specific factors. For example, the fact that Brazil has a strong civil society and established democratic institutions suggest that even more pervasive rights violations may be occurring in countries where such documentation and open reporting is more difficult.

Brazil is no stranger to mega-event hosting. To list only a few examples, Rio de Janeiro has hosted two major international environmental conferences⁶³ and the 2007 Pan-American Games.⁶⁴ The southern port city of Porto Alegre has hosted six World Social Forums, beginning with the inaugural event in 2001, and the Amazonian city of Belém has hosted one. In the early-to-mid twentieth century, Brazil hosted numerous international events as part of its state-building program, including its first World Cup in 1950. As in other countries, past mega-events have fundamentally reshaped Brazil's host cities, deepening socio-spatial segregation.⁶⁵ In their bid applications, however, state authorities argued that the 2014 and 2016 events would provide opportunities for all Brazilians to enjoy the fruits of economic growth and infrastructure development.⁶⁶ But citizen voices have been shut out of the conversation from the beginning,⁶⁷ and evidence from the host cities suggests that not only has that exclusion led to a lack of pro-poor development, it has also promoted a legal culture that undermines respect for normal rights protections. Just as physical "exclusion zones" are created around World Cup events to prevent unlicensed commercial activity in and around the host stadiums, this pattern effectively creates "law exclusion zones" in which normal laws, including supposedly inviolable con-

(last visited Mar. 19, 2013).

62. NETWORK OF POPULAR COMMITTEES, *supra* note 3.

63. The city hosted the 1992 United Nations Conference on Environment Development ("Earth Summit"), which resulted in Agenda 21, and the 2012 United Nations Conference on Sustainable Development ("Rio+20"). *About Rio+20*, UNITED NATIONS CONFERENCE ON SUSTAINABLE DEVELOPMENT, <http://www.uncsd2012.org/about.html> (last visited Mar. 23, 2014).

64. Martin Curi, Jorge Knijnik & Gilmar Mascarenhas, *The Pan American Games in Rio de Janeiro 2007: Consequences of a sport mega-event on a BRIC country*, 46 INT'L REV. SOCIOLOGY OF SPORT 140, 140 (2011). For the 2007 event, the city built a temporary wall to separate the venues from some of the nearby slums. *Id.*

65. *See, e.g., id.*; Christopher Gaffney, *Mega-Events and Socio-Spatial Dynamics in Rio de Janeiro, 1919-2016*, 9 J. LAT. AM. GEO. 7, 8 (2010).

66. *See, e.g.,* COMITÉ DE CANDIDATURA RIO 2016, DOSSIÉ DE CANDIDATURA DO RIO DE JANEIRO À SEDE DOS JOGOS

OLÍMPICOS E PARAOLÍMPICOS DE 2016. RIO DE JANEIRO (2009), *available at* <http://www.rio2016.org.br/sumarioexecutivo>.

67. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 54-57.

stitutional and international human rights protections, can be and are ignored. The following section examines processes of citizen exclusion, secrecy, and exceptional lawmaking. The case study then concludes with documentation of patterns of rights abuses stemming from this state of legal exceptionalism.

A. Violations of Participatory Rights: Processes of Exclusion

The lack of public participation in mega-events planning has been widely documented, with respect to both the upcoming events in Brazil⁶⁸ and mega-events in general.⁶⁹ Brazilian civil society organizations have noted that the democratic deficit surrounding mega-events, and the move toward more generalized authoritarianism under the pretext of event planning, is particularly troubling given the country's long and recent history of dictatorship and the relative youth of its democratic institutions.⁷⁰ This section discusses three categories of participatory rights violations: the exclusion of citizen voices from decision-making processes; the lack of publicly available material (and, in some cases, the deliberate dissemination of misinformation); and the creation of systems of extraordinary governance for activities related to the upcoming events.

First, average citizens and civil society groups routinely have been excluded from conversations about mega-events planning or the benefits they hope to secure for their own cities and communities.⁷¹ Members of communities affected by displacements, for example, regularly are barred from discussions about their own fates and informed that they will be evicted only after the decision is already made.⁷² Conversations about the future of the host cities—including urban planning, transportation projects, and other decisions about the long-term legacy of the city—largely happened early and behind closed doors.⁷³ The current focus of urban restructuring problems tends to reflect the problem of competing visions of modernity described in Part I.D, *supra*. For example, city governments invest in rapid-transit projects that displace the urban poor⁷⁴ without providing adequate housing solutions for the very people whose labor supports urban expansion.⁷⁵ And government programs that are designed to facilitate participa-

68. See, e.g., *id.*

69. See, e.g., COHRE (2007), *supra* note 21, at 196-199; Greene, *supra* note 18, at 180-82; Hiller, *supra* note 33, at 452.

70. Thomas Pegram, *Brazil's Upcoming "Mega-Events" Human Rights Legacy*, UNIV. DENV.: HUM. RIGHTS & HUM. WELFARE (2011), <http://www.du.edu/korbel/hrhw/roundtable/2011/panel-c/01-2012/peggram-2011c.html>.

71. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 50-57.

72. *Id.* at 12-14.

73. *Id.* at 54-57.

74. See, e.g., Felicity Clarke, *Transcarioca: Irregularidades e Remoções em Obras Olímpicas* [Transcarioca: Irregularities and Evictions in Olympics Construction], RIOONWATCH (Nov. 21, 2012), <http://rioonwatch.org.br/?p=4018>.

75. See, e.g., NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 63.

tion often appear to be more about optics than hearing citizen voices; a purportedly government-funded program in Bahia, for example, designed to monitor the social legacy of the World Cup development projects, was announced "without a budget or specific projects."⁷⁶

Second, even as taxpayer dollars subsidize World Cup and Olympic Games projects, information about the organizing committees and their expenditures remains difficult to obtain.⁷⁷ Citizens and civil society groups seeking information about the planning processes are often denied it, in violation of Brazilian and international law.⁷⁸ Article 19 of the UNDHR protects the right to "freedom of opinion and expression";⁷⁹ this includes the right to access information necessary to inform one's opinions, particularly with respect to state activity.⁸⁰ In Brazilian law, Article 37 of the Constitution of 1988 requires state agencies to publicize their activities and mandates that dissemination of information "be of an educational, informative, or socially oriented nature."⁸¹ Yet impediments to free speech and free expression are rampant, including restrictions on advertising and publicity,⁸² a lack of information about the government's activities,⁸³ and deliberate misinformation designed to facilitate projects being undertaken outside of the normal legal rules, under the frameworks of legal exceptionalism.⁸⁴ The rights to information and participation are prerequisites to the full enjoyment of all rights; thus, these violations constitute abuses in and of themselves and, as the following section shows, facilitate other human rights abuses.

Third, exceptional governance processes are created to protect and fast-track select interests, often at the expense of other citizens' participatory rights. For example, normal competitive bidding processes are circumvented under the pretext that decisions on mega-events construction must happen quickly in order to keep projects on schedule.⁸⁵ Regular notice-and-comment periods are curtailed. Normal laws are presumed insufficient to protect the special interests of the international organizations and their

76. Karlo Dias, *Bahia cria rede para monitorar legados sociais da Copa* [Bahia creates a network to monitor social legacies of the World Cup], PORTAL 2014 (Dec. 2, 2011), <http://www.portal2014.org.br/noticias/8594/BAHIA+CRIA+REDE+PARA+MONITORAR+LEGADOS+SOCIAIS+DA+COPA.html>.

77. See, e.g., Associated Press, *Romario blasts Rio 2016 organizers*, ESPN.COM (July 5, 2012), http://espn.go.com/olympics/story/_/id/8131967/olympics-2016-romario-blasts-rio-organizing-committee.

78. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 50-65.

79. Universal Declaration of Human Rights, G.A. Res. 217 (111)A, art. 19, U.N. Doc. A/RES/217(111) (Dec. 10, 1948).

80. Human Rights Comm. *Draft General Comment No. 34*, 98th Sess., Mar. 8-27, 2010, ¶¶ 17-19, U.N. Doc. CCPR/C/GC/34/CRP.2 (2010).

81. Constituição Federal de 1988 [Federal Constitution of 1988] art. 37 (Braz.), available at http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm.

82. Eduardo Bresciani, *Entorno das arenas, o novo embate da Lei Geral da Copa 2014* [Around the stadiums, the new weight of the 2014 General Law of the Cup], O ESTADO DE SÃO PAULO (Nov. 14, 2011), <http://m.estadao.com.br/noticias/impresso,entorno-das-arenas-o-novo-embate-da-lei-geral-da-r/copa-2014,798413.htm>.

83. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 50-65.

84. *Id.* at 19-22.

85. See, e.g., *id.* at 59.

sponsors; for example, one proposed new law would create eight new categories of crimes, many of which could easily be prosecuted under normal laws.⁸⁶ The new law would also create fast-track tribunals to expedite prosecution, literally creating a parallel system of justice for the mega-events.⁸⁷

These special legal regimes are made possible through the convergence of, *inter alia*, the public authorities' desire for a fast, orderly, and impressive events preparation process; the power imbalance in favor of the international organizations organizing mega-events; popular support and media hype; and the financial motivations of multi-national corporate sponsors, powerful property developers, and other elite interests. The regular laws, rights-balancing, and space-use arrangements become insufficient when mega-events arrive. As a result, the upcoming mega-events have created opportunities for public authorities and elite interests to swoop in and abolish existing laws or institute new regimes to govern speech, the use of public space, employment, housing, and numerous other facets of life in ways that circumvent the normal decision-making processes and rights protections. These violations of the right to public participation create a general climate of legal exceptionalism and lay the groundwork for the creation of broader "law exclusion zones" to come. The following section discusses a few of the categories of human rights violations that arise as a consequence of the extraordinary legal regimes.

B. Reshaping Cities, Reshaping Rights: Patterns of Substantive Rights Violations

In the years leading up to the 2014 World Cup and 2016 Olympic Games, the climate of legal exceptionalism has allowed—and continues to allow—the systemic violation of rights normally protected under Brazilian law, as well as under the international human rights treaties to which Brazil is a party. In some cases, these rights violations are a direct consequence of a mega-event planning process that discounts the voices of the poor and normal rights-balancing considerations; in other cases, they may be motivated by long-standing goals of urban transformation or property development and simply are facilitated by the legal climate created by the upcoming mega-events. In either case, under the extraordinary legal regimes created to facilitate these events, individuals have experienced violations of numerous rights, including the rights to housing, decent work, and full participation in civic and cultural life.

86. PLS – Projeto de Lei do Senado, No. 728 de 2011 [hereinafter PLS 728/2011], available at http://www.senado.gov.br/atividade/materia/detalhes.asp?p_cod_mate=103652. New categories of crimes include attacking an international delegate and falsifying entries or other documents related to the events. For a procedural history of the bill, see the "Tramitação" tab at the same URL.

87. *Id.*

1. Right to Housing

Maria da Fátima, a long-time resident of the Rio de Janeiro community of Restinga, was at work when she heard that bulldozers were arriving to raze her home. She raced home, arguing that she had not been warned or compensated, and that the demolition was unacceptable and illegal. But her home, like the homes and small business of the 152 other families in the community, was destroyed to make way for the construction of new mega-events venues. Now, two years later, the community continues to fight for any sort of compensation while the displaced families struggle to make ends meet.⁸⁸

The right to housing is protected as part of the adequate standard of living under Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁸⁹ and Article 25 of the UN Declaration of Human Rights (UNDHR),⁹⁰ and the right to adequate housing was further affirmed under General Comment No. 4 of the UN Committee on Economic, Cultural, and Social Rights.⁹¹ In addition, the UN Special Rapporteur on the right to adequate housing has recognized the need to take special measures to protect against the heightened abuses that frequently take place during mega-events.⁹² Brazil also has a strong public and legal policy that allows many otherwise unused lands to be occupied, and sometimes adversely possessed, by people living in poverty.⁹³ The Federal Constitution of 1988 recognizes housing as a fundamental right,⁹⁴ and Brazil’s landmark 2001 City Statute codifies the social use of buildings and land as a public policy goal, creating specific procedures for regularizing title.⁹⁵

Despite the weight of international and national legal authorities in support of housing rights, displacements are perhaps the most pervasive, insidious, and well-documented form of mega-events-related rights violations.⁹⁶ Although the Brazilian government has not kept comprehensive re-

88. Priscila Néri, Witness, Video: *O Legado Somos Nós: A História de Francisca* [We Are the Legacy: The Story of Francisca], YOUTUBE (Dec. 17, 2012),

<http://www.youtube.com/watch?v=02aM4yWyRB4>.

89. International Covenant on Economic, Social and Cultural Rights [ICESCR], Dec. 16, 1966, 993 U.N.T.S. 3. The ICESCR was adopted through the United Nations General Assembly resolution 2200A and entered into force on January 3, 1976.

90. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

91. Comm. on Economic, Social and Cultural Rights, *General Comment No. 4, The right to adequate housing*, Sixth Sess., U.N. Doc. E/1992/23 (1991).

92. Special Rapporteur, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, U.N. Doc. A/HRC/13/20 (2009) (by Raquel Rolnik).

93. Marc R. Poirier, *Brazilian Regularization of Title in Light of Moradia, Compared to the United States Understandings of Homeownership and Homelessness*, 44 U. MIAMI INTER-AM. L. REV. 259, 273-76 (2013).

94. Constituição Federal de 1988 [Federal Constitution of 1988] art. 6 (Braz.), available at http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm.

95. Lei No. 10.257 de 10 de julho de 2001 [Lei No. 10,257 of July 10, 2001], available at http://www.planalto.gov.br/ccivil_03/leis/leis_2001/110257.htm.

96. See *id.*; COHRE (2007), *supra* note 21; Greene, *supra* note 18.

cords on mega-events-related evictions, civil society groups estimate that construction and other activities related to the 2014 World Cup and 2016 Olympic Games will involve the removal of hundreds of thousands of households.⁹⁷ As of February 2014, human rights groups estimated that about 3,000 people had been evicted from Rio de Janeiro alone, with another 200,000 at risk nationwide.⁹⁸ Some communities are targeted because they obstruct places where mega-events venues or transportation projects are planned. For example, members of an indigenous community, occupying an abandoned building that formerly served as Rio de Janeiro's Indigenous Museum near Maracanã Stadium, were evicted—some in handcuffs—to make way for a car park, part of the stadium's \$500 million renovation.⁹⁹ Other communities are at risk because the upcoming mega-events provide a pretext for authorities or developers to target low-income communities that they have long hoped to evict.¹⁰⁰ Given the already substantial urban housing deficit facing the poor in Brazil,¹⁰¹ even people who are compensated—typically at well below market value¹⁰²—may struggle to find new housing. Furthermore, evictions of communities where people have lived for years or even generations, and in which they have invested substantial resources and social capital, are disruptive to the broader social fabric and the stability of residents' lives.¹⁰³

Residents link even some programs ostensibly designed to promote social inclusion to displacement efforts. Brazil's federal and municipal governments have invested heavily in programs designed to address pervasive socioeconomic segregation, particularly in the state of Rio de Janeiro.¹⁰⁴ Perhaps the most famous are the Unidades de Polícia Pacificadora ("UPPs"), or Police Pacification Units, in which specially-trained police officers are dedicated to specific offices in Rio's *favelas*, where they work simultaneously on eliminating drug trafficking and fostering positive relations with the local communities.¹⁰⁵ The programs have had some media suc-

97. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 17-22.

98. Lourdes Garcia-Navarro, *As Brazil Gears Up for Olympics, Some Poor Families Get Moved Out*, NAT'L PUB. RADIO (Feb. 27, 2014), <http://www.npr.org/blogs/parallels/2014/02/27/276514012/as-brazil-gears-up-for-olympics-some-poor-families-get-moved-out>.

99. Alan Taylor, *Brazilian Police Evict Indigenous Squatters from 2014 Stadium Site*, THE ATLANTIC (Apr. 10, 2013), <http://www.theatlantic.com/infocus/2013/04/brazilian-police-evict-indigenous-squatters-from-2014-stadium-site/100491/>; *Rio Police Evict Amazon Natives From World Cup Site*, REUTERS (Mar. 22, 2013), <http://www.reuters.com/article/2013/03/22/us-soccer-brazil-worldcup-eviction-idUSBRE92L0VG20130322>.

100. Interview with Orlando, Association of Residents of Dandara Housing Occupation, in Minas Gerais, Belo Horizonte, Brazil (Jul. 13, 2012).

101. NETWORK OF POPULAR COMMITTEES, *supra* note 3, at 9-10.

102. *Id.* at 30.

103. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, FACT SHEET NO. 25: FORCED EVICTIONS AND HUMAN RIGHTS 5, *available at* <http://www.ohchr.org/Documents/Publications/FactSheet25en.pdf>.

104. See generally Maria Clara Dias & Luis Eslava, *Horizons of Inclusion: Life Between Laws and Developments in Rio de Janeiro*, 44 U. MIAMI INTER-AM. L. REV. 177 (2013) (projecting the effect of future mega-events on the city).

105. *Id.* at 181-82.

cess,¹⁰⁶ but community opinion about the new policing program remains unclear, and is likely divided.¹⁰⁷ Although the initial emphasis of the UPPs was on community integration and relationship-building, those efforts have often given way to more traditional shows of force, including a 2010 police occupation of the Complexo do Alemão, a cluster of *favelas* in the north of the city that was “a true act of war.”¹⁰⁸ As the 2014 World Cup and 2016 Olympic Games approach, the emphasis appears to be shifting ever more to quelling violence at all costs,¹⁰⁹ and some residents argue that the programs advertised to improve quality of life in the *favelas* are actually steps in a process of gentrification designed to displace—directly and indirectly—the long-time residents.¹¹⁰

The lack of community consultation and the secretive and sudden nature of the evictions frequently result in relocation processes that displace residents without respect for their legal rights. Francisca, a head of household whose family was also displaced from the Rio de Janeiro neighborhood of Restinga, explained, “They had to demolish the houses and the shops because they wanted to widen the Avenue of the Americas [a major highway]. . . . And they really did that, and we knew it had to be done, but what we have always questioned was the way they did it. It just wasn’t fair.”¹¹¹ In a press interview, for example, the Secretary of Housing said that Francisca’s family members were given jobs and other compensation when they were displaced, as the law requires.¹¹² But Francisca responded that they were left with nothing: “So that’s wrong, it’s outrageous for them to say that people are being relocated within their rights—not true! They are not; as far as I know, this is not happening.”¹¹³

2. Right to Decent Work

Broadly, mega-events in Brazil have contributed to two categories of violations of the right to decent work: violations of labor and workplace protections, and the displacement of informal workers who rely on public space to provide a livelihood for themselves and their families, often out of

106. See, e.g., Alexei Barrionuevo, *In Rough Slum, Brazil’s Police Try Soft Touch*, N.Y. TIMES (Oct. 10, 2010), available at <http://www.nytimes.com/2010/10/11/world/americas/11brazil.html> (describing the work of Brazil’s “peace police,” with a lead photograph featuring three uniformed policemen playing with children in a *favela* day care).

107. Dias & Eslava, *supra* note 104, at 188-89.

108. *Id.* at 190.

109. See, e.g., *Brazil: Rio de Janeiro Asks for Help to Fight Crime*, N.Y. TIMES (Mar. 21, 2014), available at <http://www.nytimes.com/2014/03/22/world/americas/brazil-rio-de-janeiro-asks-for-help-to-fight-crime.html>.

110. Owen Gibson & Jonathan Watts, *World Cup: Rio favelas being “socially cleansed” in runup to sporting events*, THE GUARDIAN (Dec. 5, 2013), <http://www.theguardian.com/world/2013/dec/05/world-cup-favelas-socially-cleansed-olympics>.

111. Néri, *supra* note 88, at 8:35-8:53.

112. *Id.* at 9:05-9:38.

113. *Id.* at 9:38-9:44.

necessity rather than choice.¹¹⁴

Articles 6-7 of the ICESCR protect the right to work,¹¹⁵ and General Comment No. 18 clarifies that this means the right to *decent* work.¹¹⁶ Conventions from the International Labour Organization guarantee a wide range of labor rights, including fundamental rights of collective bargaining.¹¹⁷ Under the 1988 Brazilian Constitution, the right to work is protected, and the state is obligated to take steps to promote its availability.¹¹⁸ Decent, safe, and healthy working conditions are guaranteed under Brazil's Consolidated Labor Laws (*Consolidação das Leis do Trabalho*).¹¹⁹

With respect to formal workers, the argument that extraordinary measures are necessary to complete promised construction projects in time has been used to justify end-runs around normal workplace protections, including questionable safety standards and laws curtailing the right to engage in protected concerted activities like strikes and labor organizing. Shortly after a construction accident killed two workers at the World Cup stadium site of Itaquerao, in a São Paulo suburb—the third fatal construction accident at one of the country's World Cup stadiums¹²⁰—FIFA warned that Brazil would need to step up the pace of its construction and, according to one article, “threatened to force round-the-clock construction in order to ensure all stadiums were done on time.”¹²¹ And Brazil's track record on construction fatalities is not among the worst; Greece and Beijing saw fourteen and ten construction fatalities, respectively, in their Olympic Games preparations, and, as of February 2014, a shocking 400 Nepalese construction workers had died on 2022 World Cup projects in Qatar.¹²² But rather than strengthening workers' rights in the face of such a human cost, legal changes proposed in advance of the mega-events aim to weaken them.

A law currently pending in Brazil's Senate, for example, PLS 728/11,

114. For a discussion of how vending often functions as a livelihood of last resort, see Kamala Sankaran, *The Human Right to Livelihood: Recognizing the Right to Be Human*, 34 *COMP. LAB. L. & POL'Y J.* 81 (2012).

115. ICESCR, Dec. 16, 1966, 993 U.N.T.S. 3.

116. Comm. on Economic, Social and Cultural Rights, *General Comment No. 18 on the Right to Work (Art. 6 of the ICESCR)*, ¶7, UN ESCOR, 35th Sess., Agenda Item 3, U.N. Doc E/C.12/GC/18 (Nov. 24, 2005).

117. See International Labour Conference, June 1998, ILO Declaration of Fundamental Principles and Rights at Work 2(a), 37 I.L.M. 1237, available at <http://www.ilo.org/public/english/standards/reim/ilc/ilc86/com-dtxt.htm> (describing the freedom of association and collective bargaining protected under ILO Convention Nos. 87 and 98 as fundamental rights binding on all ILO member states).

118. Constituição Federal de 1988 [Federal Constitution of 1988] art. 6-11, 170 (Braz.), available at http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm.

119. Decreto-Lei no. 5.452 de 1 de maio de 1943 [Law Decree No. 5,452 of May 1, 1943], as amended (Braz.), available at http://www.planalto.gov.br/ccivil_03/decreto-lei/del5452.htm.

120. *Two Die in Brazil World Cup Stadium Accident*, BBC NEWS (Nov. 27, 2013), <http://www.bbc.com/news/world-latin-america-25127897>.

121. Tim Newcomb, *Crane Falls at Brazil World Cup Stadium, Killing Two*, POPULAR MECHANICS (Nov. 27, 2013), <http://www.popularmechanics.com/outdoors/sports/news/crane-falls-at-brazil-world-cup-stadium-killing-three-16205941>.

122. Sophie McBain, *400 Nepalese Construction Workers Have Died Since Qatar Won the World Cup Bid*, NEWSTATESMAN (Feb. 17, 2014), <http://www.newstatesman.com/global-issues/2014/02/400-nepalese-construction-workers-have-died-qatar-won-world-cup-bid>.

would restrict the right to strike before and during the upcoming events.¹²³ It would require workers to give 15 days advance notice before a strike, ensure that 70 percent of the workforce was still available, and allow employers to hire replacement workers,¹²⁴ in effect nullifying any power of a strike at all. Normal prohibitions on the use of volunteer labor for for-profit enterprises are being lifted at FIFA's request, and at the expense of Brazilian workers.¹²⁵ As international authorities demand fair play on the field, the normal rules of fair business and labor-market competition in the workplace are suspended.

Just as the upcoming sporting events are being overlaid onto a long-running conflict between informal settlements and property speculators, so too are they affecting informal workers. In Belo Horizonte, for example, displaced vendors reported that at least 150 families suffered hardships as a result of displacement from the historic Mineirão stadium,¹²⁶ even though vendors were an important part of the social and cultural fabric of the city and had long contributed to the enjoyment of other users' space.¹²⁷ Certain changes to the regulation of public space will often be necessary to accommodate the additional people and activities associated with mega-events. But the changes underway in many host cities exclude users of public space themselves from the conversations. These participatory restrictions thus lead not to negotiations about maximizing the social value of, and rights protections in, public space, but to the unilateral imposition of conditions that infringe upon the rights of some of the country's poorest citizens to access a livelihood of last resort for their families.

3. Right to Participate in Civic and Cultural Life

On thirteen out of every fourteen days, Janaina rises at 3:45 in the morning.¹²⁸ She sweeps, puts on her make-up, lays the table with bread and instant chocolate mix for her children, and boards a bus for the two hour journey that takes her from her family's home in a Rio de Janeiro suburb near Nova Iguaçu to the chic Zona Sul neighborhood of Lagoa, where she works as a domestic worker. The bus is full of her friends and neighbors making the daily commute from the suburbs, where the fruits of the country's economic miracle are slow to arrive, to the beachfront neighborhoods where the city's rich live. The Zona Sul is experiencing a major boom, fueled in part by the boost the city expects from the upcoming mega-events.

Janaina recognizes most of the people on the bus and introduces me,

123. PLS 728/2011, *supra* note 86.

124. *Id.*

125. "Lei Geral da Copa," Lei No 12.661 (June 5, 2012), available at <http://www.in.gov.br/imprensa/visualiza/index.jsp?jornal=1&pagina=3&data=06/06/2012>.

126. Interview with Ernani Francisco Pereira, President, Association of Vendors of Mineirão Stadium, in Minas Gerais, Belo Horizonte, Brazil (Jul. 12, 2012).

127. Interview with Fidélis Alcântara, *supra* note 5.

128. At the interviewee's request, the name and several identifying details have been changed.

explaining where they work. Many others also work in rich homes – as cooks, housecleaners, nannies, and caregivers to the elderly. Two are McDonald’s employees (but they explain that they are now angling for jobs at a new Burger King, which is currently in only a few upscale neighborhoods and therefore considered more desirable). Except for one of the teenage McDonald’s employees, a pair of security guards, and a man who works as a household driver, the passengers near us are all women; in another hour, Janaina explains, there will be a wave of construction workers—mostly men—and so she prefers this earlier bus.

We connect to a more central bus, where Janaina points out other people who work in grocery stores, in malls, or as “propaganda girls” who hand out advertising material on the street. The city’s growth has slowed Janaina’s commute; while the city is investing in transportation near the touristic center, her buses now are caught in traffic jams almost daily. The return trip can take upwards of three hours. Her employers have a small room where she and the family’s two other employees can sleep if they wish, and, increasingly, she uses it.¹²⁹

Janaina’s city is changing, and she is bearing the costs. Even as she and her neighbors provide the human capital that sustains the city, they have no voice in what its World Cup and Olympic legacy will be. The new venues that are being built are so far from Janaina’s house that they may as well be in a different city. After a massive taxpayer-funded overhaul of the city’s historic soccer stadium, the venue—up to now, always public—will be run by a private consortium for the next 35 years.¹³⁰ Janaina’s two sons likely will never play in the new soccer facilities. Indeed, as the cost of living in the city skyrockets,¹³¹ she imagines she may never even be able to take them to watch an event there. Her daughter, a diligent student who had hoped to study medicine, has recently been confronted with the harsh reality of educational inequality as she struggles to prepare for university entrance exams. Janaina mentions a plaque she saw on a hotel, reading: “This is a project of the Brazilian Development Bank.” Every government dollar that went to that hotel, she notes, is a dollar that did not go to improving the quality of her daughter’s education.¹³²

The social protests that broke out in Brazil in 2013, initially prompted by a proposed fare hike on São Paulo’s buses, spread to other cities in part because of widespread frustration about public exclusion from the multi-billion dollar national World Cup redevelopment.¹³³ The exclusion of citizen voices from the decision-making processes has distributional consequences that are often deeper and more pervasive than is immediately ap-

129. Interviews with “Janaina,” domestic worker, Rio de Janeiro, Brazil (Jul. 4-7, 2012).

130. *Brazil’s Maracana Stadium “Privatised” Ahead of World Cup*, BBC NEWS (May 9, 2013), <http://www.bbc.com/news/world-latin-america-22476535>.

131. See, e.g., Thiago Jansen, *Invasão estrangeira na favela*, O GLOBO (Nov. 24, 2012), <http://oglobo.globo.com/blogs/prosa/posts/2012/11/24/invasao-estrangeira-na-favela-476302.asp>.

132. Interviews with Janaina, *supra* note 129.

133. H.J., *The Streets Erupt*, THE ECONOMIST (June 18, 2013),

<http://www.economist.com/blogs/americasview/2013/06/protests-brazil>.

parent. Many of the arguments that have erupted over the right to housing, the right to occupy traditional workplaces, and increased police presence in the downtown *favelas* that have crystallized around Brazil's mega-events may "at bottom reflect[] struggles over land use law and policy as well as the social dimensions of those laws and policies."¹³⁴ Tax dollars used to subsidize mega-events projects are dollars not spent elsewhere, creating very real impediments to the realization of social and economic rights like health and education.¹³⁵ New transportation networks will reshape the city, circumscribing job opportunities and imposing new costs on the workers who must travel. The environmental impact of projects, which should normally be considered as an important balancing factor in deciding whether and how to implement such projects, are often ignored.¹³⁶ Civil society groups, particularly in the Northeast, are concerned that a diversion of state security resources toward containing communities afflicted by violence and protecting stadiums is distracting from another security concern: the increase in human trafficking projected to accompany the World Cup.¹³⁷ By removing representative public participation from the decision-making processes surrounding mega-events planning, the interests represented in any rights- and resources-balancing discussions necessarily shift. And mega-events become literal and figurative zones of exclusion, sites where regular laws no longer must be respected. As a result, the long-term legacy of the events risks being one that undermines, rather than enhances, the full realization of human rights in the host cities.

III. CONCLUSION: TOWARD CITIES, SPORT, AND DEVELOPMENT FOR ALL

Any discussion of a more rights-protective mega-events framework must include two steps: (1) what a rights-protective framework looks like, and (2) how it can be implemented and protected during a moment of mega-event exceptionalism.

International legal authorities and civil society observers have already spoken extensively on the "what."¹³⁸ The basic goal is simply a mega-events process that respects normal democratic decision-making processes; holds events planners to the standards of international and national human rights law; includes the voices of affected communities in conversations

134. Colin Crawford, *Order, Progress and Carioca Environments: A Preface to Study Space V*, 44 U. MIAMI INTER-AM. L. REV. 139, 140 (2013).

135. One news report covering the 2013 protests reported that a demonstrator carried a placard reading, "First-world stadiums; third-world schools and hospitals." *The Streets Erupt*, *supra* note 133.

136. Interview with Rosa Pinheiro, Architect/Urban Planner, Comit  Popular da Copa Natal, in Natal, Rio Grande do Norte (Aug. 13, 2012).

137. Interview with Claudia Gazzola, Co-Director, Coletivo Leila Diniz, in Natal, Rio Grande do Norte (Aug. 15, 2012).

138. See, e.g., Special Rapporteur, *supra* note 92; NETWORK OF POPULAR COMMITTEES, *supra* note 3.

about their own fates, and ordinary citizens in conversations about the host city's mega-events legacy; and considers rights as well as profits. In short, the end goal is not greater rights protection during mega-events than during other times, but simply the *same level or respect for rights—an absence of "law exclusion zones."*

The far more challenging question is *how* to preserve respect for normal democratic rules in the moments leading up to mega-events. Such events provide opportunities for local elite interests to reframe domestic political debates in ways that erode rights protections for average citizens. As discussed in Part I, *supra*, the glare of the international spotlight, the excitement about a host city's emergence onto the world stage, and the international community's interest in smooth and orderly event management all combine to tilt the balance of political will toward "order and progress," even as it simultaneously tilts it away from processes of rights balancing and public debate. Mega-events present moments of intense opportunity for certain interest groups, both national and international, and it seems highly unrealistic to simply call upon actors presented with such opportunity to adhere to best practices of democratic decision-making and respect for rights.

In light of three key factors that contribute to legal exceptionalism around mega-events—(1) popular enthusiasm and the global spotlight, (2) transnational alliances of elite interests, and (3) the creation of special legal regimes—the most successful strategies are likely to: (1) use the same international spotlight to frame attention around human rights issues, (2) use transnational civil society alliances to learn from past mega-events experiences, and (3) use existing legal mechanisms to hold governments and international organizations to account, even in moments of mega-event preparation.

Civil society groups have already developed national and transnational networks to share experiences and identify common interests across borders. For example, the Comitês Populares da Copa in Brazil have coordinated civil society actions in advance of mega-events within and across the country, and an international network of street vendors created the World Class Cities for All Campaign in response to workplace evictions in South Africa.¹³⁹ These transnational networks have had some success in elevating the visibility of human rights violations, particularly, in the case of Brazil, housing evictions. Their strategies have included ensuring that rights violations are visible even when the victims are physically displaced from touristic centers¹⁴⁰ and creating national and international networks of affected people to highlight the systemic nature of such violations and learn from past events.¹⁴¹ By turning the international spotlight toward this side of mega-events, civil society groups can appeal to host cities' desire to put their best foot forward by showing that the glare of the world eye will judge not only the height of a city's skyscrapers, but also the plight of their

139. *Id.*

140. See, e.g., Néri, *supra* note 88.

141. See, e.g., Wintour, *supra* note 39.

poor.

But, in the face of a mega-events juggernaut, awareness and local mobilization have their limits. Despite increased international media coverage, for example, evictions in Brazil appear to be going forward. Another piece of the campaign will likely need to be a multi-stage effort to bring rights and rights protections into the international *institutional* conversation about mega-events. There is some precedent for that, particularly if international organizations perceive that there is global support for such a shift. FIFA, for example, has promoted “green stadiums,” and Brazil was required to obtain LEED certification for its stadiums as a condition of hosting the World Cup.¹⁴² Although the project has experienced its own share of criticism,¹⁴³ it also contributes to a more socially-conscious mega-events discourse and reflects the international community’s valorization of environmental objectives. A recent report by the UN Special Rapporteur on the Right to Adequate Housing offers one particularly useful building block for integrating rights protections during mega-events into the international human rights conversation.¹⁴⁴ But past experience suggests that this is likely to be a slow process. One potential model is the growing emphasis on the right to participatory development; international development institutions largely began with a top-down model of development and later adopted some “soft law” principles on participatory development, but those principles have yet to attain the status of customary international law.¹⁴⁵ But the gradual internationalization of rights frameworks into international mega-event sponsoring organizations like FIFA, while not an immediate solution, may be one of the most practical.

In the meantime, while international legal mechanisms for rights protections in mega-events remain underdeveloped, and popular advocacy campaigns do not always go far enough, a third avenue remains: advocating for specific rights in local, national, and sometimes international courts. Combined with popular advocacy and advocacy within international sponsoring organizations, this strategy has the potential to further normalize protection of basic rights during mega-events. When mega-events laws conflict with the national constitution—or, in some cases, international treaties to which a state is party—national courts may still provide some opportunity for redress. Even where litigation may not fully guarantee rights, it is a strategy for bringing the “law exclusion zones” into the realm of legal accountability, and pushing back on the idea of mega-events sites as miniature embassies, exempt from national law.

The characteristics of mega-events make them particularly susceptible to legal exceptionalism. By letting large and powerful institutions operate within, and change, domestic law without the threat of any legal consequences, mega-events risk creating cultures and spaces of impunity that ex-

142. Thomas J. Grant, Jr., Comment: *Green Monsters: Examining the Environmental Impact of Sports Stadiums*, 25 VILL. ENV'T L.J. 149, 167 (2014).

143. *Id.* at 168-73.

144. Rolnik, *supra* note 92.

145. Martin V. Totaro, *Legal Positivism, Constructivism, and International Human Rights Law: The Case for Participatory Development*, 48 VA. J. INT'L L. 719, 737 (2008).

tend beyond the stadiums and into the lives of everyday citizens. The presence of such “law exclusion zones” undermines the legitimacy of *all* law by suggesting that exceptional moments are cause for exceptional laws, and hollowing out rights protections in the moments when they are needed most. In light of the transnational character of most mega-events, the emphasis on legal protections during mega-events will likely need to come from a multiplicity of actors, ranging from grassroots organizers to institutional bodies. An important first step is, in moments of mega-events planning, simply to hold accountable policymakers and institutions that normally espouse respect for rights, but that may be caught up in the enthusiasm and sense of urgency that surround a mega-event. To create meaningful rights protections, both national and international law must extend to those places where the temptation of lawlessness is strongest.