

ARTICLE

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

What Shaming Reveals: Examining Qatar's Response to Being Shamed as the Host of the 2022 FIFA Men's World Cup

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Abstract

This Article considers how the ranking of states, as perpetuated by the international legal order, may play a role in the considerations of those targeted by global naming and shaming campaigns. To do so, it examines Qatar's response to being shamed in the lead up to and during the 2022 FIFA Men's World Cup. Drawing from international relations literature on status and adopting a critical approach to unpack the prevalence of the hierarchal structuring of states in the contemporary international legal order, the Article claims that the practice of shaming, as a human rights enforcement strategy, inevitably pushes target states to question their status within the international legal community. This could, counterproductively, lead to negative outcomes for the rights of the very individuals these campaigns seek to protect. Furthermore, the Article sketches out a theoretical argument for why certain states may consider the enactment of cosmetic legal reforms to be an attractive strategy for countering a global shaming campaign.

Keywords: International legal ordering; Shaming; Status; Hierarchy; Honor

A. Introduction

Qatar was named and shamed almost from the moment it was awarded the right to host the 2022 FIFA Men's World Cup ("World Cup"). Particular attention was drawn to the mistreatment of migrant workers within the state, and to violations of various international obligations. Human Rights Watch ("HRW"), for instance, reported "pervasive employer exploitation and abuse of workers in Qatar's construction industry . . ." ¹ and signaled that there was a serious risk of human rights abuses occurring during the building of the tournament's infrastructure. ² Many were therefore relieved to hear that Qatar introduced several legislative reforms in the lead up to the tournament to address various concerns over its domestic labor laws. ³ Of particular note were

¹Human Rights Watch, *Building a Better World Cup: Protecting Migrant Workers in Qatar Ahead of FIFA 2022*, 1 (2012), https://www.hrw.org/sites/default/files/reports/qatar0612webwcover_0.pdf.

²See *id.*; see also Amnesty Int'l, *No Extra Time: How Qatar is Still Failing on Workers' Rights Ahead of the World Cup*, AI Index MDE 22/010/2014 (Nov. 12, 2014), <https://www.amnesty.org/en/documents/mde22/010/2014/en/>.

³For a concise outline of the various labor reforms enacted and reactions by civil society organizations, see Antoine Duval, *The Spectacle of International Labor Law: Ambush Counter-Marketing In the Spotlight of Qatar's 2022 FIFA World Cup*, in this issue.

the reforms dismantling key aspects of the *kafala* system,⁴ which promised workers a right to change jobs without the need for approval from their employer,⁵ and expatriate workers the right to exit the country without the need for their employer's permission.⁶ These labor reforms seemed to provide a success story for the practice of "naming and shaming." After all, as Qadri highlights, Qatar's labor laws did not receive particular international scrutiny until the nation was awarded the opportunity to host the World Cup and seem to have been reformed in response to the global criticism levied against Qatar upon receiving the right to host the tournament.⁷ Yet, recent reports question whether Qatar's labor reforms were only cosmetic, implemented to quell the global criticism the Gulf state was facing,⁸ thus raising novel support for those who doubt the effectiveness of "naming and shaming" as a human rights enforcement strategy.

In this context, the present Article draws from international relations scholarship and critical legal studies to explore what Qatar's response to being shamed, both in the lead up to and during the World Cup, may reveal about the practice of "naming and shaming," and the structure of the contemporary international legal order. In particular, by considering the role "status" considerations play in world affairs, and how they may be provoked by shaming as a human rights enforcement strategy, the Article considers whether the possibility that Qatar would enact disingenuous legislative reforms, as a response to being shamed, could have been predicted. The core argument is that international human rights defenders ought to appreciate how shaming pushes target states to question their status within the international legal community, and that this could, counterproductively, lead to negative outcomes for the very individuals "naming and shaming" campaigns seek to protect. Furthermore, whilst arguing for the need to account for status as a factor within a relational account of shaming, this Article also highlights key similarities between our socially stratified international legal order and salient features of certain "honor systems."⁹ From this, a theory is sketched out as to why small states, like Qatar, may consider not ceding to the demands of human rights shamers, despite the practical risks not doing so may raise for them.¹⁰ In so doing, this Article thus contributes to the existing literature that questions the effectiveness of naming and shaming as a human rights enforcement strategy.¹¹

⁴See Int'l Lab. Org., *Labor Reforms in the State of Qatar: Coming Together Around a Shared Vision* (Oct. 31, 2022), https://www.ilo.org/wcmsp5/groups/public/—arabstates/—ro-beirut/—ilo-qatar/documents/publication/wcms_859843.pdf.

⁵For reference, see Law No. 18 of 2020 (amending certain provisions of Qatar Labor Law No. 14 of 2004) and No. 19 of 2020 (amending certain provisions of Qatar Labor Law No. 21 of 2015 related to organizing the entry and exit of expatriates and their residence).

⁶For reference, see Law No. 13 of 2018 (amending certain provisions of Qatar Labor Law No. 21 of 2015 in relation to organizing the entry and exit of expatriates and their residence).

⁷See Mustafa Qadri, *Qatar Labor Reforms Ahead of the FIFA 2022 World Cup*, 7 BUS. & HUM. RTS. J. 319 (2022).

⁸See *Qatar: Six Months Post-World Cup, Migrant Workers Suffer FIFA/Qatari Authorities Paid No Compensation, Silent on Wage Theft*, HUMAN RIGHTS WATCH (June 16, 2023, 10:30 AM), <https://www.hrw.org/news/2023/06/16/qatar-six-months-post-world-cup-migrant-workers-suffer> (exploring how Michael Page, deputy Middle East Director at HRW, argues that Qatar's claims as to the effectiveness of their existing systems and policies to protect migrant workers are misleading and "shamelessly used to deflect criticism when the international spotlight was on Qatar"); see also *Three Years Since Sweeping Reforms, Workers in Qatar Face Evermore Innovative Obstacle*, MIGRANT-RIGHTS.ORG: EDITORIAL (Aug. 30, 2023) <https://www.migrant-rights.org/2023/08/three-years-since-sweeping-reforms-workers-in-qatar-face-evermore-innovative-obstacles/>; cf. Bus. & Hum. Rts. Res. Ctr., *After the Final Whistle: Migrant Workers Speak Out on Exploitation During Qatar World Cup 2022* (2023), https://media.business-humanrights.org/media/documents/2023_World_Cup_report.pdf.

⁹See ORIT KAMIR, *BETRAYING DIGNITY: THE TOXIC SEDUCTION OF SOCIAL MEDIA, SHAMING, AND RADICALIZATION* (2019) (discussing the links between law, human rights, and the concept of honor).

¹⁰See JONATHAN RENSHON, *FIGHTING FOR STATUS: HIERARCHY AND CONFLICT IN WORLD POLITICS* (2017) (arguing how not to conflate status and honor as interchangeable concepts).

¹¹See generally Emilie M. Hafner-Burton, *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem*, 62 INT'L ORG. 689 (2008); see also Matthew Krain, *J'accuse! Does Naming and Shaming Perpetrators Reduce the Severity of Genocides or Politicides?*, 56 INT'L STUDS. Q. 574, 576 (2012); cf. Jacqueline H.R. DeMeritt & Courtenay R. Conrad, *Repression Substitution: Shifting Human Rights Violations in Response to UN Naming and Shaming*, 21 CIV. WARS 128, 143 (2019).

B. The Practice of “Naming and Shaming” as an Enforcement Strategy

“Naming and shaming” is an enforcement strategy often adopted by those seeking to promote a target state’s compliance with their international obligations.¹² In essence, employers of the strategy express “*moral criticism*” intended to induce a change in some state behavior without reliance on formal, legal processes.”¹³ At the core of this practice is the knowledge that being shamed publicly for violating one’s international legal obligations can lead to significant consequences for states.¹⁴ For example, states may, as a result of being shamed, be excluded from multilateral regimes and so the benefits membership could provide, or even targeted with sanctions.¹⁵ Accordingly, those who employ “naming and shaming” as a strategy bet on the likelihood that states would rather take action and comply with their international obligations, than continue being shamed.¹⁶

Compliance, however, is certainly not the only option available. Terman, for instance, highlights how states may respond to shaming campaigns by engaging in acts of “deflection,” and/or “defiance.”¹⁷ Thus, whilst shaming can lead to a decrease in violations in some contexts,¹⁸ it may fail to induce change in others. Shaming may even contribute to an increase in human rights violations within target states,¹⁹ or hybrid responses, where “the shaming of one physical integrity violation is jointly associated with *decreases* in that violation and *increases* in other violations of human rights.”²⁰ Furthermore, as Terman advances, one must acknowledge the relational nature of the practice of shaming, and how “[a]s a form of social sanctioning, shaming occurs in and through preexisting relationships, particularly the relationship between shamer and target.”²¹ Accordingly, how a state is likely to respond will depend on the particular state and context in question. Ultimately, there is no guarantee as to how a state targeted by a shaming campaign will respond. Nevertheless, examining how states have responded in the past can provide us with valuable insights as to the range of possibilities that “naming and shaming” campaigns ought to account for.

Qatar’s responses to the shaming campaign it was subjected to, both in the lead up to and during the World Cup, certainly highlight the complex social contingencies at play when seeking

¹²See ROCHELLE TERMAN, *THE GEOPOLITICS OF SHAMING: WHEN HUMAN RIGHTS PRESSURE WORKS—AND WHEN IT BACKFIRES* (2023) (arguing that naming and shaming need not always have norm compliance as a primary aim).

¹³Saira Mohamed, *Shame in the Security Council*, 90 WASH. U. L. REV. 1191, 1200 (2013) (emphasis added); See Solène Guggisberg, *Transparency in the activities of the Food and Agriculture Organization for sustainable fisheries*, 136 MARINE POLICY 1 (2022) (For an example of how shaming can be incorporated as a practice in the institutional workings of a specialized agency of the UN.)

¹⁴Krain, *supra* note 11, at 576.

¹⁵Elad Peled, *Should States have a Legal Right to Reputation? Applying the Rationales of Defamation Law to the International Arena*, 35 BROOK. J. INT’L L. 107, 121–26 (2010); see also Mohamed, *supra* note 13, at 1200; cf. Yuan Zhou, Chshia Kiyani, & Charles Crabtree, *New Evidence that Naming and Shaming Influences State Human Rights Practices*, 22 J. OF HUM. RTS. 1, 2 (2022).

¹⁶Eric B. Rasmusen & Richard A. Posner, *Creating and Enforcing Norms, with Special Reference to Sanctions*, John M. Olin Program (Coase-Sandor Inst. for L. & Econs., Working Paper No. 96, 371, 2000), https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1146&context=law_and_economics.

¹⁷To expand on the concept that these responses are not mutually exclusive, but rather an adaption of Adler-Nissen’s scheme—stigma recognition, stigma rejection and counter-stigmatization as developed in Rebecca Adler-Nissen, *Stigma Management in International Relations: Transgressive Identities, Norms and Order in International Society*, 68 INT’L ORG. 143, 143 (2014); see TERMAN, *supra* note 12, at 48–49.

¹⁸See Jacqueline H.R. DeMeritt, *International Organizations and Government Killings: Does Naming and Shaming Save Lives?*, 38 INT’L INTERACTIONS 597 (2012); see also Cullen S. Hendrix & Wendy H. Wong, *When is the Pen Truly Mighty? Regime Type and the Efficacy of Naming and Shaming in Curbing Human Rights Abuses*, 43 BRIT. J. P. SCI. 651 (2013).

¹⁹See Hafner-Burton, *supra* note 11; see also Zhou, Kiyani, & Crabtree’s argument for appreciating how “. . . the impact of naming and shaming on human rights practices varies depending on the type of actor engaging in this strategy.” in Zhou et al., *supra* note 15, at 452.

²⁰DeMeritt & Conrad, *supra* note 11, at 143.

²¹TERMAN, *supra* note 12, at 6.

to predict how a state will respond to shaming. Consider, for instance, how in a 2014 CNN Interview, H.H. Sheikh Tamim bin Hamad Al Thani, Emir and head of state of Qatar,²² recognized that the concerns over the labor situation in Qatar were legitimate, seemingly signaling the state's intention to comply with the demands of its shamers as a response.²³ As the Emir seemed to concede: "Talking about labor and the problems we have in Qatar. Yes, it is true. We had problems. We are solving the problems. We are enforcing the laws. It is not acceptable . . ." ²⁴ However, it is also significant to note that when pressed by Amanpour to confirm that Qatar would not stand idle whilst workers were placed under conditions of slave labor, the Emir responded with:

No, we changed those laws . . . [A]ll the media is concentrating on Qatar due to the World Cup and due to the role of Qatar, and many things, and we accept that. But I want them to show what is Qatar as well. If we have problems, I do not mind them talking about problems. But also they need to talk about other things, about those laws that we did.²⁵

The Emir's call here for the media to talk "about those laws"²⁶ is a curious one. It hints at the use of legal reform as textual rhetoric in "counter-counter marketing," as Duval advances,²⁷ but also arguably betrays that what could be interpreted as an internalization of human right norms, granting them "prescriptive status,"²⁸ may be more accurately described as a high-cost "tactical concession."²⁹ After all, the call was not for the media to come and see for themselves how Qatar would not stand idle, but to talk about the formal reformation of laws. However, it is of course possible for a state's domestic laws to comply with their international obligations on paper but disappoint in practice. In fact, this is precisely the critique that was raised in respect to the labor reforms enacted by Qatar during a meeting of the UN Committee on Economic, Social and Cultural Rights in October 2023. In that meeting, committee expert and member of the country taskforce, Nadir Adilov, invited Qatar's delegation to "clarify why despite the labor reforms the system of kafala sponsorship employment remains in practice."³⁰ In response, Qatar's delegation highlighted several legal and institutional amendments, as well as developments of considerable relevance.³¹ In addition, the delegation provided evidence that Qatar is acting to implement these laws, such as data from Qatar's Ministry of Labor that shows that "the percentage of workers that

²²CONSTITUTION OF 2003 [CONST.], art. 8 (Qatar).

²³See TERMAN, *supra* note 12, at 13, at 48–49 ("Whereby representatives affirm the legitimacy of relevant norms, acknowledge their failure to adhere to those norms, and acquiesce to the shamer's demands.").

²⁴CNN, Full Interview by Christiane Amanpour with Emir of Qatar, Tamim bin Hamad Al Athani, 16:06–16:16 (Sept. 25, 2014) (transcript by author), <https://edition.cnn.com/videos/world/2014/09/25/intv-amanpour-qatar-emir-tamim-bin-hamad-al-thani-full.cnn>.

²⁵*Id.* 16:55–17:34.

²⁶*Id.*

²⁷See Duval, *supra* note 3.

²⁸See Thomas Risse, *Introduction and Overview*, in *THE PERSISTENT POWER OF HUMAN RIGHTS: FROM COMMITMENT TO COMPLIANCE* 3–25 (Christian Reus-Smit & Nicholas J. Wheeler eds., 2013).

²⁹See Thomas Risse & Kathryn Sikkink, *The Socialization of International Human Rights Norms Into Domestic Practices: Introduction*, in *THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE* 3–28 (Thomas Risse, Stephen C. Ropp, & Kathryn Sikkink eds., 1999) (I refer here to "high-cost" tactical concession, since, domestic legislative reform is thought to be a feature that signals the arrival of the phase of "prescriptive status" within the spiral model of human rights change. Examples of tactical concessions, according to the model, can include low-cost state actions, such as the release of prisoners, or signing—not ratifying—international human rights treaties); see also Beth Simmons, *From Ratification to Compliance: Quantitative Evidence on the Spiral Model*, in *THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE* (Thomas Risse, Stephen C. Ropp, & Kathryn Sikkink eds., 1999).

³⁰U.N. ECOSOC, 74th Sess., 42nd mtg. at 1:51:25–1:51:35, Webcast (Oct. 2, 2023), <https://webtv.un.org/en/asset/k12/k12h9rn2ca>; See U.N. ECOSOC, 74th Sess., 42nd mtg., U.N. Doc. E/C.12/2023/SR.42 (Oct. 12, 2023) (For the Summary Record of the meeting).

³¹See U.N. ECOSOC, 74th Sess., 42nd mtg. at 57–70, U.N. Doc. E/C.12/2023/SR.42 (Oct. 12, 2023).

were able to move from one employer to another over the past three years was 35% out of the migrant workers in Qatar . . . which is a two-fold increase on the previous report.”³² However, much like the Emir’s response almost a decade prior, primary focus seems to once more have been placed on talking about the laws that were enacted, instead of responding directly to the core of Adilov’s question.³³

Of course, Qatar’s labor reforms provide important legislative steps for protecting labor rights in the state, as well as an important, arguably final step on the road to compliance—or rule-consistent behavior.³⁴ Yet, critics will likely continue to wonder whether Qatar may have enacted cosmetic labor reforms to silence the shaming, knowing that the global spotlight on its domestic affairs would inevitably fade when the World Cup concluded. Host states of mega sporting events (“MSE”) will not be oblivious to the fact that there will be a drastic rise in the attention paid to its domestic activities due to their hosting the MSE, but that this will wane soon after its final event. Consider, for instance, how it has been claimed that the Argentinian junta increased “daily repression in host cities both right before and right after the [1978] World Cup.”³⁵ Time, and further empirical research, may later reveal whether Qatar’s labor reforms were indeed instances of “tactical concession”. Nevertheless, in the following sections, I argue that accounting for “status” as a factor in international relations may explain why it is certainly plausible that a “small state,” like Qatar, may consider engaging in what has been interpreted here to be a particularly risky form of “tactical concession”.

C. International Legal Ordering and the Question of Status

Qatar’s Emir once claimed that the World Cup was a major occasion “for enhancing the country’s global status . . .”³⁶ Such claims will hardly come as a surprise to political scientists and their field, where there is considerable agreement that an international actor’s status—that is, their “standing, or rank, in a status community”³⁷—matters in international relations.³⁸ However, talk of “status” invites awkward memories for the international lawyer. The idea of ranking states is antithetical to the doctrinal insistence on sovereign equality in the juridical sense, and is a practice more often associated with the international legal order’s past, not its present.³⁹ For instance, the ranking of states was a practice particularly familiar to international jurists of the nineteenth century, wherein a shift from naturalism to positivism was accompanied by descriptions of international law as the law of a European “family of nations.”⁴⁰

Yet, international lawyers cannot deny that the contemporary international legal order either is or operates within a status community. A topic of regular discussion both within and outside of the discipline, is how the United Nation’s ideal of sovereign equality, arguably represented in the General Assembly, is contradicted by the exclusive reservation of special powers for the five

³²U.N. ECOSOC, 74th Sess., 42nd mtg., Webcast, *supra* note 30 at 2:16:10-2:16:34.

³³*Id.* at 2:12:43 - 2:25:23.

³⁴*See* Risse, *supra* note 28.

³⁵Adam Scharpf, Christian Gläsel, & Pearce Edwards, *International Sports Events and Repression in Autocracies: Evidence from the 1978 FIFA World Cup*, 117 AM. POL. SCI. REV. 909, 920 (2022).

³⁶Sheikh Tamim bin Hamad Al Thani, The Emir’s Speech at the Opening of the 50th Advisory Council Session (Oct. 26, 2021), <https://www.shura.qa/en/Pages/General-Secretary/Amir-Speeches/50th-Session-Opening>.

³⁷RENSHON, *supra* note 10, at 4.

³⁸*Id.* at 3.

³⁹*See* GERRY J. SIMPSON, GREAT POWERS AND OUTLAW STATES: UNEQUAL SOVEREIGNS IN THE INTERNATIONAL LEGAL ORDER 25 (2004). *See also* MICHAEL HARDT & ANTONIO NEGRI, EMPIRE (2001); ARNULF B. LORCA, MESTIZO INTERNATIONAL LAW: A GLOBAL INTELLECTUAL HISTORY 1842–1933 (2016) (exploring how it is well known in the discipline that inequality formed the baseline of the nascent international legal order, with the self-assigned “civilized” status of colonial powers being built upon the devaluation of the “other” as barbarous).

⁴⁰LORCA, *supra* note 39, at 45–46. *See also* MARTTI KOSKENNIEMI, THE GENTLE CIVILIZER OF NATIONS: THE RISE AND FALL OF INTERNATIONAL LAW 1870–1960 (2001).

permanent members of its Security Council (UNSC). This inevitably creates a hierarchy of states within the international organization.⁴¹ Adding to this, there are those who point to how the UN system reproduces the civilizing mission of old by linking the egalitarian deontological framework of the UN Charter—sovereign equality—to a particular teleological blueprint—the promotion of human rights.⁴² Mutua, for instance, has convincingly argued that whilst the human rights corpus is certainly there to suppress the evil tendency of states against their peoples, it is nevertheless well suited to assist in the evaluation of states.⁴³ The rubric? “The ‘good’ state controls its demonic proclivities by cleansing itself with, and internalizing, human rights. The ‘evil’ state, on the other hand, expresses itself through an illiberal, anti-democratic, or other authoritarian culture.”⁴⁴

Brannagan and Reiche signaled the contemporary resonance of Mutua’s argument for analyzing the shaming of Qatar. According to them:

[T]he consistent reporting of [Qatar’s] . . . human rights abuses comes to potentially cement the state in the minds of certain audiences as a ‘bad’ and self-centred actor, who, through its lack of care for the well-being and safety of others, exhibits what is widely considered to be ‘inappropriate behaviour’, thus distancing itself from the ‘club’ of ‘responsible’ states—the majority of whom make up the international governmental organizations that Qatar seeks support and protection from.⁴⁵

Importantly, distancing oneself from “the club” of responsible states can mushroom into a state being outcasted by the international community.⁴⁶ Small states, in particular, recognize that a negative public appraisal can lead to a loss of status at the international level, and that this can present risks to state security and, taken to its extreme, sovereign independence.⁴⁷ Qatar is no exception.⁴⁸

Though known globally for its considerable wealth and pursuit of “soft power,”⁴⁹ Qatar identifies itself as a small state,⁵⁰ fully aware of the role the international legal order plays in its security.⁵¹ This was acknowledged in a recent speech by the incumbent prime minister and minister of foreign affairs, H.E. Sheikh Mohammed bin Abdulrahman Al Thani, who stated: “[i]f

⁴¹SIMPSON, *supra* note 39, at 67–70, 192–93; see also IAN CLARK, *HEGEMONY IN INTERNATIONAL SOCIETY* (2011).

⁴²See EDWARD KEENE, *BEYOND THE ANARCHICAL SOCIETY: GROTIUS, COLONIALISM AND ORDER IN WORLD POLITICS* 139, 144 (2002).

⁴³See Makau W. Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT’L L. J. 201, 202 (2001).

⁴⁴*Id.* at 202–03.

⁴⁵PAUL M. BRANNAGAN & DANYEL REICHE, *QATAR AND THE 2022 FIFA WORLD CUP: POLITICS, CONTROVERSY AND CHANGE* 49–60 (2022); see also Krain, *supra* note 11, at 576.

⁴⁶Oona A. Hathaway & Scott J. Shapiro, *Outcasting: Enforcement in Domestic and International Law*, 121 YALE L. J. 252 (2011).

⁴⁷See Ntina Tzouvala, *TWAIL and the “Unwilling or Unable” Doctrine: Continuities and Ruptures*, 109 AJIL UNBOUND 266 (2015) (considering the violent forms this can take in the forms of humanitarian intervention and through legal doctrines such as the “unwilling or unable” doctrine).

⁴⁸See James M. Dorsey, *How Qatar is its Own Worst Enemy*, 32 INT’L J. HIST. SPORT 422, 426 (2015).

⁴⁹See BRANNAGAN & REICHE, *supra* note 45, at 49–60; see also Joseph S. Nye, Jr., *Public Diplomacy and Soft Power*, 616 ANNALS AM. ACADEMY POL. & SOC. SCI. 94 (2008) (denoting soft power as “the ability to affect others to obtain the outcomes one wants through attraction rather than coercion or payment”).

⁵⁰Sheikh Mohammed bin Abdulrahman Al Thani, Prime Minister of Qatar, IISS Raffles Lecture: Small States: Strategies for Success in a Competitive World (Aug. 25, 2023), <https://www.iiss.org/events/2023/08/small-states-strategies-for-success-in-a-competitive-world/>.

⁵¹See Text of Treaty between His Majesty’s Government and Sheikh Abdullah-bin-Jassim-bin-Thani of al-Qatar, art. IV, U.K.-Qatar, Nov. 3, 1916, QATAR DIGIT. LIBR. https://www.qdl.qa/en/archive/81055/vdc_100023626988.0x000002 (noting that through the ratification of a protection treaty in 1916 with the British Government, Sheikh Abdullah-bin-Jassim-bin-Thani of al-Qatar once signed away Qatar’s right to have external relations with “any other Power without the consent of the High British Government,” thus experiencing a key loss in its capacity as a sovereign state, and so arguably a key blow to its status, before becoming fully independent in 1971); see also BRANNAGAN & REICHE, *supra* note 45, at 20–28.

we will lose the protection of the rule based world order, then the biggest loser will be the small countries, not the big ones.”⁵² A relational approach to understanding the practice of shaming must thus account for where both the shamer and target state are placed within the socially stratified international legal community; both from their own perspective, as well as that of the international community broadly speaking. From this standpoint, direct defiance of global shaming campaigns and increases in human rights violations would seem to make little sense from the perspective of a small state, like Qatar, that has a vested interest in the security which can be provided by the international legal order and its institutional mechanisms. Rather, the more measured approach of retaining favor within and protection from the international legal order, would be a public showing in the belief and desire to remain a member of the international legal community, as can be achieved by enacting domestic legislative changes that attest to one honoring their international legal obligations.

To leave it at that, however, would be to ignore how predicting state responses to shaming campaigns becomes especially problematic when a state shows signs of what Friedrich labels “status anxiety”—“when an actor feels deprived of the status it feels entitled to.”⁵³ As Terman persuasively argues, the dynamic of inclusion and exclusion within the international community becomes particularly complicated when foreign condemnation of domestic human rights compliance reveals how international human rights norms can be used as “technologies of stigma and status denial.”⁵⁴ States are not monolithic actors, despite the international legal discipline’s tendency to anthropomorphize states as such. Leaders must account for the political support of their domestic audience and consider that “[w]hen audiences associate human rights pressure with domination, politicians cannot acquiesce to such pressure without being perceived as kowtowing to the enemy.”⁵⁵ This applies both to the audience at home and allies abroad that may influence state decision making. Qatar’s Emir seemed to acknowledge this all too well when responding to questions surrounding the criticism Qatar received for hosting the World Cup.

Consider the choice of phrasing when the Emir stated the following: “I think that we have the right as Muslim countries and Arab countries to host such a big event like that . . . [A]nd people don’t want to accept, don’t want to realize, that a small country, Arab, Muslim country, can host a big event like that.”⁵⁶ For the Emir, it was clear that there are those that view small, Arab and Muslim states as somehow less capable than their larger, non-Arab, non-Muslim peers. Reference to the international community was not made as such, but it is not entirely out of the question that the community at large was the target when the Emir referenced “people.” However, by contesting this depiction of small, Arab and Muslim states, and poignantly employing the language of rights, the Emir, I argue, provided nuance to his later comments about how the World Cup would enhance Qatar’s “global status . . .”⁵⁷ Specifically, I argue that by employing the language of rights, and defending the claim that states like Qatar ought not be deprived of their “equal” status as members of the international community, the Emir’s comments showed that for states, considerations of status need not only be interpreted within the framework of a zero-sum game of “status seeking” in international relations.⁵⁸ Instead, the language of rights invites us to consider how the act of shaming itself exposes the contours of the egalitarian myth of the international legal order, and why states may decide to call its bluff.

⁵²Al Thani, *supra* note 50, at 59:01.

⁵³See Jörg Friedrichs, *An Intercultural Theory of International Relations: How Self-Worth Underlies Politics Among Nations*, 8 INT’L THEORY 63, 66 (2016).

⁵⁴TERMAN, *supra* note 12, at 13; see also Ayşe Zarakol, *What Made the Modern World Hang Together: Socialization or Stigmatization?*, 6 INT’L THEORY 311 (2014).

⁵⁵TERMAN, *supra* note 12, at 59.

⁵⁶See Full Interview by Christiane Amanpour, *supra* note 24, at 15:34–15:59.

⁵⁷Al Thani, *supra* note 36.

⁵⁸See William C. Wohlforth, Benjamin de Carvalho, Halvard Leira, & Iver B. Neumann, *Moral Authority and Status in International Relations: Good States and the Social Dimension of Status Seeking*, 44 REV. INT’L STUDS. 526, 542 (2017).

D. An International Honor System?

Let us take stock of the argument so far. It has been argued that those who name and shame count on the possibility that their action may in some way negatively affect target states by devaluing them in the eyes of the global public. But by relying on the power of open moral criticism to influence behavioral change within a domestic state, shaming cannot but push target states, and their populations, to consider where they stand—their status—within the moral community that is called to witness its non-compliance with communal norms. That is, by being forced to adopt the position of the global audience to evaluate what potential consequences may follow from being shamed, target states are inevitably invited to assess whether they are a “good” state or a “bad” state, at the top of the social hierarchy or at the bottom. The theory I wish to raise here is that, by being invited to partake in their own status assessment, target states are confronted with a normative framework that seems to co-exist, and arguably mutually supports the international legal order, one that seems to share salient features usually found in “honor systems.”

Consider, for instance, how all honor systems, whether informally or in a written code,⁵⁹ communicate norms for regulating the behavior of their addressees.⁶⁰ These norms do not need to be enacted or enforced according to the modern state conception of law.⁶¹ Far from it. Honor systems can, and often do, prescribe norms that conflict with those of the legal system its members may be subject to.⁶² What is particularly interesting for the purpose of the argument raised here, is how most honor systems are normative frameworks within which individuals and groups are ranked upon a gradating scale. The most honorable—excellence, “good”—at one end, and the least honorable—the shameful, outcast, or “bad”—at the other.⁶³ How this is regulated can differ. For instance, some honor systems offer rubrics for how members may rise and fall in the ranks, motivating status seeking and the pursuit of honorable deeds.⁶⁴ Others fix the rank of certain categories or individuals, differentiating the rules applicable to each, from birth.⁶⁵

Whilst I am not suggesting that the international legal order may be reducible to an honor system *tout court*, it is interesting to note how several of the features that have been highlighted so far about the relationship between shaming as a human rights strategy, and states’ status in our socially stratified international legal community, do suggest the existence of such a system. Consider, for instance, a key recurring feature of honor systems—the ranking of members, and ascription of value upon those members in accordance with a normative framework—and how this seems to mirror our earlier description of an international legal hierarchy, as identifiable within the UN, and an ever-present practice of evaluating states based on their commitment to the normative content of international human rights.

Of course, one cannot claim that the international legal order reflects a dynamic honor system that sees privileges—honor—being assigned and revoked depending on how a state is assessed in accordance with a relevant normative rubric of the system—human rights compliance. That this is so is made clear should we draw our attention back to the fixed institutional structuring of the

⁵⁹See JOHN L. WILSON, *THE CODE OF HONOR; OR RULES FOR THE GOVERNMENT IN PRINCIPALS AND SECONDS IN DUELLING* (James Phinney ed., 1858).

⁶⁰See ROBERT L. OPRISKO, *HONOR: A PHENOMENOLOGY* 6–7 (2012).

⁶¹See Richard Posner, *Social Norms and the Law: An Economic Approach*, 87 AM. ECON. REV. 365 (1997); see also Hathaway & Shapiro, *supra* note 46 (challenging the enforcement model of the modern state conception of law in light of international legal enforcement).

⁶²See Julian Pitt-Rivers, *Honor and Social Status*, in *HONOR AND SHAME: THE VALUES OF MEDITERRANEAN SOCIETY* 29 (J. G. Peristiany ed., 1966).

⁶³OPRISKO, *supra* note 60, at 5.

⁶⁴*Id.*

⁶⁵See Vani Kant Borooh, *Caste and Regional Influences on the Practice of ‘Untouchability’ in India*, 48 DEV. AND CHANGE 746 (2017); UWE KISCHEL, *COMPARATIVE LAW* 772–73 (2019); KWAME ANTHONY APPIAH, *THE HONOR CODE: HOW MORAL REVOLUTIONS HAPPEN* (2010) (See Boorah and Kischel for reference to the Hindu caste system and its inequalities, as but one example, and Appiah for various narratives of inequalities dictated by honor codes around the world.)

UNSC, and how it offers a powerful example of how no amount of scoring high or low on the human rights rubric can lead a state to rise or fall on the status ladder of the international legal hierarchy that holds the permanent five members of the UNSC at its pinnacle.⁶⁶ To provide but two recent examples that speak to this, consider the continuing shaming targeted at the Russian Federation for its full-scale invasion of Ukraine in 2022, or at the United States of America for vetoing a UNSC resolution which “would have called for ‘humanitarian pauses’ to deliver lifesaving aid to millions in Gaza”⁶⁷ amidst the ongoing Israel-Gaza crisis. A demotion in terms of status within the UN system in the form of replacing both Russia and the US as permanent members of the UNSC for behavior which, according to the humanitarian rubric of the UN institution itself, ought to be considered shameful, has not yet occurred, and remains unlikely to occur in the future. Instead, accounting for the relational dimension of the practice of shaming as a human rights enforcement strategy, what is revealed is how, much like honor systems that fix the privileged social status and privileges of certain categories of individuals from birth to the detriment of those categorized as less honorable or outcasts, the international legal order seems to perpetuate a static social ordering where no matter how well a state “behaves” in accordance with the international human rights rubric, it will be unlikely that it will benefit from an enhancement of status—within—the international legal community. Hence, states that are low in the international legal hierarchy—or as Dabhade bluntly phrases it, “rule-takers” not “rule-makers”⁶⁸—must swallow the pill of sharing formal, juridical equality if they wish to benefit from membership in the international legal community, fearing the consequences shame and a lowering of their status may bring, whilst bearing the hypocrisy of the shameless.⁶⁹

Taking an “honor” perspective to shaming as a human rights enforcement strategy, and returning to our case-study, a picture begins to form supporting a plausible strategy where Qatar may have sought to play both sides of the coin in order to navigate the socially stratified international legal community before which it was being shamed. Initially enacting labor reforms that would distract global criticism and temporarily avert the relational costs that may come as a consequence of being shamed. But once the spotlight moved on, revealing the insincerity of said reforms through their weak enforcement, thus signaling to its domestic public and elites that it will not kowtow to an order atop of which sit states whose behavior has historically flouted the very normative rubric for evaluating their value within the international community. Of course, this is a purely theoretical proposition. However, should the concerns surrounding the enforcement of Qatar’s labor reforms not be addressed, then shamers may wish to consider this theory’s potential for explaining why target states may be motivated to enact cosmetic legal reform, buoyed by the hypocritical normative dynamics of the international legal order that the practice of shaming itself betrays. Doing so, perhaps, may lead to developments in the practice that may seek to assuage this potentiality.

E. Conclusion

The Article considered how Qatar, like all states, must account for status considerations at play in an internationally stratified legal order, especially when considering how to respond to being a target of global “naming and shaming”. Building from this, a theory was sketched out that seeks to provide an explanation as to why cosmetic legislative reforms ought to be accounted for as a

⁶⁶See Manish S. Dabhade, *India’s Rise in the Global Nuclear Governance Architecture: Principles, Exceptions and Contradictions*, in *INDIA AND GLOBAL GOVERNANCE: A RISING POWER AND ITS DISCONTENTS* 50–67 (Harsh V. Pant ed., 2022).

⁶⁷*Israel-Gaza Crisis: US Vetoes Security Council Resolution*, UN: UN NEWS (Oct. 18, 2023), <https://news.un.org/en/story/2023/10/1142507>.

⁶⁸Dabhade, *supra* note 66, at 57.

⁶⁹See Ayşe Zarakol, *Sovereign Equality as Misrecognition*, 44 *REV. INT’L STUD.* 848 (2018) (providing an insightful exploration of this dynamic in light of the principle of sovereign equality).

strategy that small states, like Qatar, may consider taking in the future. Further empirical and doctrinal research needs to be conducted to refine the theory and analytical framework sketched out herein and test its practical utility.

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