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A LONG-AWAITED REBOOT: THE FIFA SCANDAL AND ITS REPERCUSSIONS FOR FOOTBALL'S GOVERNING BODY

MATTHEW B. DICENSO*

Abstract: On May 21, 2015, Swiss authorities raided the annual congressional meeting of the Fédération Internationale de Football Association, ultimately arresting seven FIFA executives on charges of corruption. The product of a three-year Federal Bureau of Investigation case, the Swiss raid and accompanying Department of Justice indictment was the first step in addressing what authorities describe as enduring and systemic corruption within football's governing body. In addition to casting a shadow over the world's most beloved sport, the FIFA scandal highlighted the international organization's lack of accountability and, most notably, its dire need for change. Although the February 2016 reform package addressed many of FIFA's problems, more must be done to ensure that history does not repeat itself.

INTRODUCTION

*Marco Tardelli's goal and electric celebration in the 69th minute. Croatia's stunning defeat of Germany in '98. Pele's six goals and Brazil's first ever championship in '58. The battle of East and West Germany in '74. Diego Armando Maradona's magical goal against England in '86.*¹

For the average American, these words likely have little meaning or sentimental value.² That is because a mere six percent of Americans list football as their favorite sport.³ For the rest of the world, however, these historic dates represent only a few of the most iconic moments in football's biggest spectacle—the World Cup.⁴

Unfortunately for football fans, while the sport itself undoubtedly boasts a storied and celebrated history, its governing body, the Fédération

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¹ Nate Kahn, *50 Best Moments in World Cup History*, BLEACHER REPORT (Dec. 26, 2011), <http://bleacherreport.com/articles/998092-50-best-moments-in-world-cup-history> [https://perma.cc/942R-25BL].

² See Ian Bremmer, *These Are the 5 Facts That Explain the FIFA Scandal*, TIME (June 4, 2015), <http://time.com/3910054/fifa-scandal-sepp-blatter/> [https://perma.cc/8FSB-3L95].

³ *Id.*

⁴ See Kahn, *supra* note 1.

Internationale de Football Association (FIFA), has a history of its own—a history of corruption.⁵ A three-year case by the Federal Bureau of Investigation (FBI) culminated in May 2015 when Swiss authorities arrested top FIFA officers at the behest of U.S. officials.⁶ According to former Attorney General Loretta Lynch, the U.S. indictment alleges “rampant, systemic and deep-rooted” corruption spanning “at least two generations of soccer officials.”⁷ Specifically, the indictment states that FIFA officials rigged bids for the World Cup and accepted bribes in exchange for marketing and broadcast contracts.⁸

Because football is a global sport, the FIFA scandal has the potential to ignite a geopolitical fire.⁹ In response to the arrests of FIFA officials in May, Russia, the host of the 2018 World Cup, accused the United States of illegally exercising extraterritorial jurisdiction.¹⁰ A statement by the Russian Foreign Ministry called on the United States to “stop attempts to make justice far beyond its borders” and to comply with international legal procedure.¹¹

In addition to impacting foreign relations, the FIFA scandal could have tremendous financial implications.¹² The FIFA World Cup, a tournament held every four years, is consistently the most-watched sporting event in the world, surpassing even the Olympics in viewers.¹³ In fact, the 1998 World Cup had an astounding cumulative audience of 37 billion people.¹⁴ Unsurprisingly, the World Cup generates huge sums of money for both FIFA and the host country.¹⁵ Although the payoff of the World Cup can be substantial, hosting the event is a massive, and sometimes risky, investment for which-

⁵ See Ishaan Tharoor, *How FIFA Became the World's Most Powerful and Loathed Sports Organization*, WASH. POST (May 27, 2015), <https://www.washingtonpost.com/news/worldviews/wp/2015/05/27/how-fifa-became-the-worlds-most-powerful-and-loathed-sports-organization/> [http://perma.cc/98AK-EURW].

⁶ See Owen Gibson & Damien Gayle, *Fifa Officials Arrested on Corruption Charges as World Cup Inquiry Launched*, THE GUARDIAN (May 27, 2015), <http://www.theguardian.com/football/2015/may/27/several-top-fifa-officials-arrested> [http://perma.cc/8UTB-59YE].

⁷ *Id.* (quoting Loretta Lynch).

⁸ Rebecca R. Ruiz, Matt Apuzzo & Sam Borden, *FIFA Corruption: Top Officials Arrested in Pre-Dawn Raid at Zurich Hotel*, N.Y. TIMES (Dec. 3, 2015), <http://www.nytimes.com/2015/12/03/sports/fifa-scandal-arrests-in-switzerland.html> [http://perma.cc/7C84-REMY].

⁹ See Bremmer, *supra* note 2.

¹⁰ See *Russia Accuses US of Illegal Overreach with Fifa Corruption Indictments*, THE GUARDIAN (May 27, 2015), <http://www.theguardian.com/football/2015/may/27/russia-accuses-us-overreaching-fifa-corruption-indictments> [http://perma.cc/LA8Q-L83P].

¹¹ *Id.*

¹² See Bremmer, *supra* note 2.

¹³ *Fifa Corruption Crisis: Key Questions Answered*, BBC NEWS (Dec. 21, 2015), <http://www.bbc.com/news/world-europe-32897066> [http://perma.cc/KSQ5-6RR6]; Tharoor, *supra* note 5.

¹⁴ Tharoor, *supra* note 5.

¹⁵ See Bremmer, *supra* note 2; *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

ever country secures the bid.¹⁶ For example, although host South Africa spent \$4.6 billion in preparations, the 2010 World Cup brought in just \$500 million.¹⁷ Qatar, host of the 2022 World Cup, is expected to spend nearly \$200 billion over twelve years preparing its infrastructure.¹⁸ Charges of rigged bidding for the tournament could have serious consequences for nations like Russia and Qatar, even potentially placing their significant investments at risk.¹⁹

Part I of this Note provides background on the formation, organization, and structure of FIFA. It also outlines the turbulent history of the organization's leaders and discusses the charges of corruption brought against top officials. Part II discusses the legal basis for American jurisdiction and outlines why jurisdiction is justifiable. Part III situates FIFA within the sphere of international law and suggests mechanisms to improve the accountability of the organization and its members.

I. BACKGROUND

In the early hours of May 27, 2015, Swiss authorities quietly entered the Baur Au Lac hotel in Zurich, Switzerland, the site of FIFA's annual congressional meeting.²⁰ When all was said and done, seven FIFA executives were arrested on charges of corruption.²¹ The initial Department of Justice (DOJ) indictment, which stemmed from an FBI case, named fourteen people, including current and former football officials and sports-marketing executives.²² The U.S.-led corruption case expanded in December 2015, when federal prosecutors announced charges against sixteen additional FIFA officials, two of whom were arrested by Swiss authorities that same day.²³ These subsequent charges cited further instances of alleged bribes and kickbacks, including payments linked to past tournaments and future World Cup qualifiers.²⁴

¹⁶ See Bremmer, *supra* note 2.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See *id.*

²⁰ See Matt Apuzzo, Stephanie Clifford & William K. Rashbaum, *FIFA Officials Arrested on Corruption Charges; Blatter Isn't Among Them*, N.Y. TIMES (May 26, 2015), <http://www.nytimes.com/2015/05/27/sports/soccer/fifa-officials-face-corruption-charges-in-us.html> [<http://perma.cc/3WX-B2WJ>]; Gibson & Gayle, *supra* note 6.

²¹ *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

²² *Id.*; Apuzzo et al., *supra* note 20.

²³ Evan Perez & Shimon Prokuecz, *U.S. Charges 16 FIFA Officials in Widening Probe*, CNN (Dec. 3, 2015), <http://edition.cnn.com/2015/12/03/sport/fifa-corruption-charges-justice-department/> [<http://perma.cc/P3XD-7PZB>].

²⁴ Aruna Viswanatha, Joshua Robinson & John Revill, *U.S. Indicts 16 New Suspects in FIFA Corruption Case*, WALL ST. J. (Dec. 3, 2015, 7:25 PM), <http://www.wsj.com/articles/authorities-making-new-fifa-arrests-in-switzerland-1449123950> [<http://perma.cc/QW8F-4C6H>].

Although it may be difficult to imagine otherwise, FIFA was not always the multi-billion dollar household name that it is today.²⁵ Football's governing body was founded in 1904 by Frenchmen whose goal was to create an umbrella organization that could unite the sport's numerous national entities.²⁶ The organization's principal mission was to support football's global development and arrange international matches.²⁷ The World Cup—FIFA's crown jewel—debuted in 1930 and was hosted by Uruguay.²⁸ In stark contrast to the modern World Cup, the first tournament was invitation only and limited in size.²⁹ In fact, as *Washington Post* journalist Ishaan Tharoor describes, FIFA “was initially a European club and slowly expanded to other corners of the globe.”³⁰ Nearly ninety years later, the World Cup is now the most-watched sporting event in the world and brings in billions of dollars in revenue.³¹ Alongside the growth of its main event, FIFA itself has grown drastically, now resembling an organization akin to the United Nations.³²

Technically a nonprofit, and therefore paying little in taxes, FIFA is currently made up of 211 member-nations.³³ These 211 members are organized into six confederations: the Asian Football Conference; the Confederation of African Football; the Confederation of North, Central American, and Caribbean Association Football (CONCACAF); the South American Football Association (CONMEBOL); the Oceania Football Conference; and the Union of European Football Associations (UEFA).³⁴ In order to address

²⁵ See Tharoor, *supra* note 5.

²⁶ *Id.*; see *History of FIFA—Foundation*, FIFA, <http://www.fifa.com/about-fifa/who-we-are/history/index.html> [<http://perma.cc/74JG-TEGA>]. Robert Guérin and André Espir of France played a critical role in structuring the umbrella organization that would eventually become FIFA. See *History of FIFA—Foundation*, *supra*.

²⁷ Tharoor, *supra* note 5.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

³² Tharoor, *supra* note 5.

³³ Carl Bialik, *How FIFA's Structure Lends Itself to Corruption*, FIFETHIRTYEIGHT (May 27, 2015, 6:43 PM), <http://fivethirtyeight.com/features/how-fifas-structure-lends-itself-to-corruption/> [<http://perma.cc/Y5TP-9CGM>]; Tharoor, *supra* note 5; *Associations*, FIFA, <http://www.fifa.com/associations/> [<http://perma.cc/3KTW-7EFG>]. FIFA does not pay any tax on World Cup revenue in Switzerland due to its non-profit status. Kelly Phillips Erb, *World Cup Mania: Figuring Out FIFA, Soccer & Tax*, FORBES (June 16, 2014, 12:23 PM), <http://www.forbes.com/sites/kellyphillipserb/2014/06/16/world-cup-mania-figuring-out-fifa-soccer-tax/#79379b171b18> [<http://perma.cc/7NRX-WMVX>]. Additionally, FIFA is able to acquire favorable tax exemptions from World Cup hosts. See Ian Pollock, *World Cup: To Tax or Not to Tax?*, BBC NEWS (May 11, 2010), <http://www.bbc.com/news/10091277> [<http://perma.cc/D7F3-Q8XZ>].

³⁴ *Map of the World with the Six FIFA Confederations*, CHARTSBIN, <http://chartsbin.com/view/owq> [<http://perma.cc/8JR3-AQ3A>]. The six confederations essentially align with the continents: the Asian Football Conference in Asia, the Confederation of African Football in Africa, the

problems brought to light by the recent corruption scandal, the FIFA Congress approved an extensive reform package in February 2016, substantially altering the historical structure of the international organization.³⁵ Although its headquarters will remain in Zurich, Switzerland, FIFA is now run by a president, as well as a Congress, a FIFA Council, a General Secretariat and several committees.³⁶ Holding the highest office, FIFA's president is elected every four years by the member associations of the Congress.³⁷ The president sits as a member of the FIFA Council and holds the tiebreaking vote.³⁸ FIFA's supreme body, the Congress, is made up of delegates from the 211 member-nations and is tasked with approving the annual report and electing the president.³⁹ The Congress holds the power to amend the organization's statutes if necessary.⁴⁰ The FIFA Council, a body composed of thirty-six members and the FIFA President, is responsible for crafting the strategic direction of FIFA.⁴¹ Because the FIFA Council was designed to replace the Executive Committee, which was formerly the primary decision-making body of FIFA in the intervals between congressional meetings, members of the now-extinct Executive Committee will serve on the Council until the end of their existing terms.⁴² While the FIFA Council is in charge of setting the overall strategy, the General Secretariat is entrusted with overseeing the actions necessary to implement that strategy.⁴³

Within FIFA's system, each of the 211 members of the Congress is bestowed with equal voting power.⁴⁴ That is, regardless of population size or

Confederation of North, Central American, and Caribbean Association Football (CONCACAF) in North and Central America and the Caribbean, the Confederación Sudamericana de Fútbol in South America, the Oceania Football Conference in New Zealand and the Pacific islands, and the Union of European Football Associations in Europe. *Associations*, *supra* note 33.

³⁵ See *The Reform Process*, FIFA, <http://www.fifa.com/governance/how-fifa-works/the-reform-process.html> [https://perma.cc/25VX-K267].

³⁶ *How FIFA Works*, FIFA, <http://www.fifa.com/governance/how-fifa-works/> [http://perma.cc/P5AD-KG3T]; *The Reform Process*, *supra* note 35; *Who We Are*, FIFA, <http://www.fifa.com/about-fifa/who-we-are/index.html> [http://perma.cc/9SZH-QX4Y].

³⁷ *How FIFA Works*, *supra* note 36.

³⁸ *Id.*

³⁹ Brittney Balsler, *The Structure and Policies of FIFA*, SOCCER POL. BLOG (2013), <http://sites.duke.edu/wcwp/tournament-guides/world-cup-2014/fifa-institutional-politics/the-structure-and-policies-of-fifa/> [http://perma.cc/RK47-DUAC]; see *Associations*, *supra* note 33.

⁴⁰ Balsler, *supra* note 39.

⁴¹ *How the FIFA Council Works*, FIFA, <http://www.fifa.com/about-fifa/fifa-council/how-the-fifa-council-works.html#2842992> [https://perma.cc/9CD9-XJHS]; *The Reform Process*, *supra* note 35.

⁴² Balsler, *supra* note 39; *The Reform Process*, *supra* note 35; *Statutory Reforms FAQ—Extraordinary FIFA Congress*, FIFA (Jan. 27, 2016), http://resources.fifa.com/mm/document/affederation/bodies/02/74/76/54/reformsfaq_en_neutral.pdf [https://perma.cc/KBH3-XKZW].

⁴³ *The Reform Process*, *supra* note 35.

⁴⁴ Bialik, *supra* note 33; *Associations*, *supra* note 33; *How FIFA Works*, *supra* note 36.

football prowess, each member is entitled to an equal voice.⁴⁵ Further, voting within FIFA is secret, making accountability nearly impossible.⁴⁶ In 2011, FIFA changed its rules in favor of a “one member, one vote” system to select World Cup hosts.⁴⁷ Prior to this change, however, the now-dissolved Executive Committee decided the World Cup host.⁴⁸ In 2010, the Committee chose Russia to host the Cup in 2018, and, controversially, Qatar to host the Cup in 2022.⁴⁹ Critics of Qatar have pointed to perceived problems including the country’s average summer temperatures of 105 degrees, strict no-alcohol policy, and less than stellar record of worker rights and safety.⁵⁰ In fact, Switzerland announced its own separate criminal investigation into the awarding of the 2018 and 2022 World Cups to Russia and Qatar, respectively.⁵¹ In order to ward off concerns that arose from the Executive Committee’s 2010 decision, the FIFA Council recently agreed on a new four-phase bidding process for the 2026 World Cup.⁵² This process, consisting of a yearlong consultation period followed by three years of “bid preparation” and “bid evaluation,” will effectively postpone the vote until 2020.⁵³

In addition to the FIFA Council, another important body within FIFA is the Ethics Committee.⁵⁴ This independent unit, which predates the February 2016 reforms, serves as a watchdog for the global football community and

⁴⁵ Bialik, *supra* note 33.

⁴⁶ David Goldblatt, *How FIFA’s Fouls May Revive the Beautiful Game*, BLOOMBERG VIEW (June 3, 2011, 12:01 AM), <http://www.bloombergview.com/articles/2011-06-03/how-fifa-s-fouls-may-revive-the-beautiful-game-david-goldblatt> [<http://perma.cc/PT8S-A4GG>].

⁴⁷ Bialik, *supra* note 33.

⁴⁸ *Id.*

⁴⁹ Bialik, *supra* note 33; see Tony Manfred, *14 Reasons Why the Qatar World Cup Is Going to Be a Disaster*, BUS. INSIDER (Apr. 21, 2014, 1:43 PM), <http://www.businessinsider.com/qatar-world-cup-problems-2014-4> [<http://perma.cc/G7NA-W7KB>].

⁵⁰ Bialik, *supra* note 33; Bremmer, *supra* note 2. Investigations conducted by the *Guardian* revealed serious human rights concerns regarding the treatment of migrant workers developing the infrastructure for the 2022 World Cup in Qatar. See Pete Pattison, *Revealed: Qatar’s World Cup ‘Slaves,’* THE GUARDIAN (Sept. 25, 2013, 12:46 PM), <https://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves> [<http://perma.cc/XQ5L-EMVK>]. The investigations brought to light a wide array of abuses, including high death rates of workers, forced labor, withholding of payment, and confiscation of passports. *Id.* According to the investigation, migrant workers were dying at a rate of almost one a day during the summer of 2013, likely a result of extreme heat and deprivation of drinking water. See *id.* Among other things, Qatar’s strict anti-gay laws and dearth of any World Cup-ready stadiums have sparked additional controversy. Manfred, *supra* note 49.

⁵¹ Bialik, *supra* note 33.

⁵² *2026 World Cup Hosting Vote Postponed Three Years Until 2020*, ESPN FC (May 10, 2016), <http://www.espnfc.us/blog/fifa/243/post/2868917/2026-world-cup-hosting-vote-postponed-three-years-until-2020> [<https://perma.cc/2RXC-MFNFJ>].

⁵³ *2026 World Cup Hosting Vote Postponed Three Years Until 2020*, *supra* note 52; *FIFA Council Agrees on Four-phase Bidding Process for 2026 FIFA World Cup*, FIFA (May 10, 2016), <http://www.fifa.com/about-fifa/news/y=2016/m=5/news=fifa-council-agrees-on-four-phase-bidding-process-for-2026-fifa-world--2790472.html> [<https://perma.cc/2JWD-M2M9>].

⁵⁴ See *How FIFA Works*, *supra* note 36.

aims to combat proscribed activities including illegal betting and bribery.⁵⁵ On December 21, 2015, amidst the U.S. charges and Swiss arrests, the Ethics Committee announced that FIFA president Sepp Blatter would be banned from all football-related activities for eight years.⁵⁶ Michel Platini, president of the UEFA, was also handed an eight-year ban.⁵⁷ These sanctions were in response to Blatter's alleged payment of millions of dollars to Platini.⁵⁸

Unfortunately for FIFA and football fans, what the FIFA Ethics Committee views as an "abusive execution" by Blatter and Platini appears to be just one instance among a disturbing trend of executive abuse.⁵⁹ The three-year FBI investigation was originally launched in response to the bidding process for the 2018 and 2022 World Cups, but was eventually expanded to encompass FIFA dealings spanning two decades.⁶⁰ U.S. authorities have charged more than a dozen high-ranking FIFA executives with racketeering, wire fraud, and money laundering.⁶¹ According to Charles Blazer, cooperating witness and former CONCACAF general secretary, these corrupt dealings include accepting bribes in exchange for the 2010 South African World Cup bid, as well as distributing broadcasting rights to major tournaments in exchange for cash.⁶² The list of executives allegedly involved is fraught with football juggernauts, ranging from FIFA's vice president to leaders of football powerhouses like Brazil.⁶³ While the U.S. investigation focuses primarily on past corruption, the FBI and Swiss authorities are committed to delving deeper into the bidding process behind the Russia and Qatar World Cups.⁶⁴

In June 2016, Swiss authorities commenced a second raid, this time at FIFA's headquarters in Zurich.⁶⁵ The search resulted in the seizure of data and

⁵⁵ *Id.*; *Independent Ethics Committee*, FIFA, <http://www.fifa.com/about-fifa/committees/committee=1882034/index.html> [<https://perma.cc/RTM9-GB4G>].

⁵⁶ Justin W. Moyer, *Soccer Czar Sepp Blatter Banned from FIFA for 8 Years*, WASH. POST (Dec. 21, 2015), <https://www.washingtonpost.com/news/morning-mix/wp/2015/12/21/former-soccer-czar-sepp-blatter-banned-from-fifa-for-8-years/> [<http://perma.cc/D2A6-6JMR>].

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *See Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13. Former CONCACAF general secretary and cooperating witness Charles Blazer revealed that bribes were accepted in connection with both a Moroccan bid for the 1998 World Cup and broadcasting rights to the CONCACAF Gold Cup in 1996, 1998, 2000, 2002, and 2003. *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *See id.* Brazil—a five-time champion—is the only country that has participated in every World Cup. *Fifa World Cup*, FIFA, <http://www.fifa.com/aboutfifa/worldcup/>.

⁶⁴ *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

⁶⁵ *Fifa Headquarters Raided: Swiss Investigators Seize Documents and Electronic Data in Criminal Probe*, INDEPENDENT (June 3, 2016), <http://www.independent.co.uk/sport/football/news->

physical documents that authorities hope will both confirm past findings and lead to new information.⁶⁶ In addition to the investigations carried out by the DOJ, FBI, and Swiss authorities, global law firm Quinn Emanuel Urquhart & Sullivan, LLP—hired by FIFA after the May and December arrests—launched an internal review of football’s governing body.⁶⁷ The resulting report, released in June 2016, highlighted even more instances of corruption.⁶⁸ According to the internal investigation, a trio of FIFA’s former top executives—Sepp Blatter, Jérôme Valcke, and Markus Kattner—took part in a “coordinated effort” to supplement their incomes by raising their salaries, taking bonuses, and modifying the termination clauses of their contracts with FIFA.⁶⁹ To make matters worse, Gianni Infantino, FIFA’s newly elected president, is facing allegations that he interfered with FIFA’s independent auditor and ordered the deletion of recordings of a FIFA Council meeting.⁷⁰

II. DISCUSSION

*It looks very strange They are accused of corruption—who is? International officials . . . it’s got nothing to do with the USA. Those officials are not US citizens. If something happened it was not in the US and it’s nothing to do with them It’s another clear attempt by the USA to spread its jurisdiction to other states.*⁷¹

Because Russia was chosen to host the 2018 World Cup, Russian President Vladimir Putin’s criticism of the United States should be viewed warily.⁷² All things considered, President Putin, and Russia as a whole, have a significant stake in the outcome of the U.S.-led investigation.⁷³ Biased as they may be, however, Putin’s comments raise a valid concern.⁷⁴ After all,

and-comment/fifa-headquarters-raided-swiss-investigators-seize-documents-regarding-world-cup-bidding-scandal-a7063776.html [https://perma.cc/EG67-37L8]; see *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

⁶⁶ *Fifa Headquarters Raided*, *supra* note 65.

⁶⁷ Sam Borden & Andrew Das, *Sepp Blatter and Deputies Arranged Huge Payouts After Indictments, FIFA Says*, N.Y. TIMES (June 3, 2016), http://www.nytimes.com/2016/06/04/sports/soccer/fifa-corruption-sepp-blatter-jerome-valcke.html?_r=0 [https://perma.cc/CD6N-A3U7].

⁶⁸ *See id.*

⁶⁹ *Id.*

⁷⁰ *Id.*; *Report: Gianni Infantino Could Face Suspension Over Council Recordings*, SPORTS ILLUSTRATED (June 2, 2016), <http://www.si.com/planet-futbol/2016/06/02/gianni-infantino-fifa-president-suspension-recording-scandal> [https://perma.cc/22CC-XQUS].

⁷¹ Robert Cryer, *FIFA and the Internationalisation of Criminal Justice*, OUPBLOG (May 29, 2015) (alterations in original) (quoting Vladimir Putin), <http://blog.oup.com/2015/05/fifa-and-the-internationalisation-of-criminal-justice/> [https://perma.cc/7AEA-RY9L].

⁷² *See id.*

⁷³ *See Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

⁷⁴ *See Cryer*, *supra* note 71.

FIFA is a Swiss entity.⁷⁵ Moreover, the allegations of corruption involve mostly foreign nationals and their conduct relating to events outside of the United States.⁷⁶ Based on these facts, has the United States overstepped its boundaries?⁷⁷ Is the DOJ indictment indeed an illegal exercise of extraterritorial jurisdiction?⁷⁸

A. The Legality of U.S. Jurisdiction

The legality of the action taken by the United States is based in the fundamental concept of jurisdiction.⁷⁹ Jurisdiction is divided into three distinct categories: jurisdiction to prescribe, jurisdiction to adjudicate, and jurisdiction to enforce.⁸⁰ Jurisdiction to prescribe encompasses the ability of a country to make its law applicable to persons, conduct, and relations, whereas jurisdiction to adjudicate describes the ability to subject persons to the court and administrative process.⁸¹ Jurisdiction to enforce is defined as the ability to compel compliance, and punish noncompliance, with a country's laws.⁸²

In this instance of investigation and charges, jurisdiction to prescribe is the applicable legal standard.⁸³ In the sphere of international law, there are several recognized and agreed upon bases for asserting prescriptive jurisdiction.⁸⁴ The five bases of prescriptive jurisdiction are the protective princi-

⁷⁵ See *Who We Are*, *supra* note 36.

⁷⁶ See Cecily Rose, *The FIFA Corruption Scandal from the Perspective of Public International Law*, ASIL INSIGHTS (Oct. 23, 2015), <https://www.asil.org/insights/volume/19/issue/23/fifa-corruption-scandal-perspective-public-international-law> [<https://perma.cc/ES2W-7BBS>].

⁷⁷ See Cryer, *supra* note 71.

⁷⁸ See *id.*

⁷⁹ See Am. Soc'y of Int'l Law, *Jurisdictional, Preliminary, and Procedural Concerns*, BENCH BOOK ON INT'L LAW (Diane Marie Amann ed., 2014), <https://www.asil.org/sites/default/files/benchbook/jurisdiction.pdf> [<https://perma.cc/9MSU-YRD4>].

⁸⁰ See RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 401 (AM. LAW INST. 1987); Am. Soc'y of Int'l Law, *supra* note 79.

⁸¹ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 401(a), (b) (AM. LAW INST. 1987) (“[J]urisdiction to prescribe, *i.e.*, to make its law applicable to the activities, relations, or status of persons, or the interests of persons in things, whether by legislation, by executive act or order, by administrative rule or regulation, or by determination of a court . . . [J]urisdiction to adjudicate, *i.e.*, to subject persons or things to the process of its courts or administrative tribunals, whether in civil or in criminal proceedings, whether or not the state is a party to the proceedings . . .”); Am. Soc'y of Int'l Law, *supra* note 79.

⁸² RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 401(c) (AM. LAW INST. 1987) (“[J]urisdiction to enforce, *i.e.*, to induce or compel compliance or to punish noncompliance with its laws or regulations, whether through the courts or by use of executive, administrative, police, or other nonjudicial action.”); Am. Soc'y of Int'l Law, *supra* note 79.

⁸³ Rose, *supra* note 76.

⁸⁴ Roger O'Keefe, *Universal Jurisdiction: Clarifying the Basic Concept*, 2 J. INT'L CRIM. JUST. 735, 738–40 (2004); Am. Soc'y of Int'l Law, *supra* note 79.

ple, active personality, passive personality, universality, and territoriality.⁸⁵ Under the protective principle, jurisdiction may be exercised if the conduct at bar falls within a certain class of offenses aimed at a state's security or interests, including but not limited to espionage and conspiracies to violate immigration laws.⁸⁶ Active personality is based on the idea that a state should be able to regulate the conduct of its own nationals regardless of location.⁸⁷ Thus, as the name suggests, the relevant jurisdictional inquiry is the nationality of the actor or defendant.⁸⁸ Jurisdiction supported by passive personality also hinges on who in particular is involved in the conduct.⁸⁹ While active personality depends on the nationality of the defendant, passive personality is based on the nationality of the person subject to the conduct.⁹⁰ The penultimate basis of jurisdiction, universality, is crime-specific.⁹¹ Encapsulating the idea that some crimes, such as slavery, genocide, and torture, are so reprehensible to the international community as a whole, the principle of universality allows prosecution of such offenders by any state.⁹²

The final element of prescriptive jurisdiction is the principle of territoriality.⁹³ Perhaps the most universally accepted basis of jurisdiction, the territoriality principle allows a state to exercise jurisdiction over conduct that takes place within its borders.⁹⁴ Additionally, territoriality typically encompasses what is known as the effects doctrine.⁹⁵ This principle allows a state to assert jurisdiction on an actor whose outside conduct has actual or intended effects within the state.⁹⁶ It is this basis of jurisdiction that provides an answer to the concerns addressed by President Putin and the Russian Foreign Ministry.⁹⁷ The United States, based on the widely recognized principle of territoriality, is well within its rights to exercise jurisdiction over the

⁸⁵ O'Keefe, *supra* note 84, at 738–40; Am. Soc'y of Int'l Law, *supra* note 79.

⁸⁶ O'Keefe, *supra* note 84, at 739; Am. Soc'y of Int'l Law, *supra* note 79.

⁸⁷ Am. Soc'y of Int'l Law, *supra* note 79.

⁸⁸ *Id.*

⁸⁹ *Id.*; O'Keefe, *supra* note 84, at 739.

⁹⁰ Am. Soc'y of Int'l Law, *supra* note 79.

⁹¹ *Id.*; O'Keefe, *supra* note 84, at 739–40.

⁹² Am. Soc'y of Int'l Law, *supra* note 79.

⁹³ *Id.*

⁹⁴ *Id.*; RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 402 (1)(a) & cmt. c (AM. LAW INST. 1987); Hannah L. Buxbaum, *Territory, Territoriality, and the Resolution of Jurisdictional Conflict*, 57 AM. J. COMP. L. 631, 636 (2009); O'Keefe, *supra* note 84, at 739–40.

⁹⁵ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 402 cmt. d (AM. LAW INST. 1987); Buxbaum, *supra* note 94; Am. Soc'y of Int'l Law, *supra* note 79.

⁹⁶ RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 402 cmt. d (AM. LAW INST. 1987); Buxbaum, *supra* note 94.

⁹⁷ See Cryer, *supra* note 71.

conduct of FIFA officials.⁹⁸ The key to the exercise of jurisdiction by the United States in this case is the role played by American banks.⁹⁹

The DOJ indictment demonstrates that U.S. authorities are focusing solely on conduct that took place within national borders.¹⁰⁰ According to the indictment, the FIFA officials and sports marketing executives who have been charged relied on the U.S. financial system to perpetuate their schemes.¹⁰¹ Acting as part of a conspiracy, FIFA officials made use of U.S. financial institutions and wire services.¹⁰² The conspirators' reliance on the U.S. financial system "was significant and sustained and was one of the central methods and means through which they promoted and concealed their schemes."¹⁰³ Specifically, the indictment alleges that FIFA used U.S. branches of foreign banks to wire billions of dollars from accounts at Swiss banks into beneficiary accounts at U.S. banks.¹⁰⁴ CONCACAF and CONMEBOL, two of FIFA's six confederations, allegedly conducted business at Florida and New York branches of major U.S. and Swiss banks.¹⁰⁵ The indictment also describes similar conduct involving personal accounts of FIFA executives at California branches of major U.S. and Swiss financial institutions.¹⁰⁶ In addition to the use of U.S. financial institutions and wire facilities, the conspirators depended on the overall stability of the U.S. financial system and utilized access to private equity markets.¹⁰⁷ The role of U.S. banks in facilitating the exchange of bribes and kickbacks therefore provides the basis for the exercise of jurisdiction and subsequent prosecution of FIFA officials in the United States.¹⁰⁸

⁹⁸ See RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 402 (1)(a) & cmt. c (AM. LAW INST. 1987); Stuart H. Deming, *Misunderstood: The FIFA Scandal and the Extraterritorial Reach of US Law*, OUPBLOG (June 2, 2015), <http://blog.oup.com/2015/06/fifa-scandal-extraterritorial-reach-of-us-law/> [<https://perma.cc/3Z7Q-LJQ3>]; Rose, *supra* note 76.

⁹⁹ See Rose, *supra* note 76.

¹⁰⁰ See *id.*

¹⁰¹ See Indictment at 39–40, *United States v. Webb*, No. 15 CR 0252 (E.D.N.Y. May 20, 2015), <https://www.justice.gov/opa/file/450211/download> [<https://perma.cc/LU8Y-QK46>].

¹⁰² See *id.* at 41.

¹⁰³ *Id.* at 40.

¹⁰⁴ See *id.*

¹⁰⁵ See *id.*; Balsler, *supra* note 39.

¹⁰⁶ See Indictment, *supra* note 101, at 41.

¹⁰⁷ See *id.*

¹⁰⁸ Rose, *supra* note 76.

B. Beyond International Law

While international law certainly supports the United States' actions, domestic law is also applicable.¹⁰⁹ In addition to U.S. prosecutors' reliance on domestic financial institutions, another aspect of the indictment is worth noting.¹¹⁰ Although significant portions of the allegations focus on the acceptance of bribes for lucrative broadcasting rights, the charge of bribery is noticeably absent from the DOJ's indictment.¹¹¹ Rather than poor craftsmanship on the part of the prosecutors, this absence is explained by the scope of federal law currently in place.¹¹² Although classified as a crime in other countries, federal law does not presently criminalize the type of bribery committed by those indicted.¹¹³ If the football officials charged were public officials, their crimes would be punishable under the Foreign Corrupt Practices Act (FCPA), which covers bribery of both foreign and domestic public officials.¹¹⁴ But, because FIFA and its confederations are private entities, the alleged bribery between football officials and marketing executives is classified as private-to-private bribery and is therefore outside the bounds of the FCPA.¹¹⁵ State law, rather than federal law, currently governs commercial bribery or bribery limited to the private sector.¹¹⁶

In place of bribery, the DOJ indictment charges FIFA officials with forty-seven counts of criminal behavior including racketeering conspiracy, wire fraud conspiracy, wire fraud, money laundering conspiracy, money laundering, aiding and assisting in the preparation of false and fraudulent tax returns, and obstruction of justice.¹¹⁷ These allegations arise under the Racketeer Influenced and Corrupt Organizations Act (RICO).¹¹⁸ In order to proceed under RICO, the DOJ alleges that, due to decades of systemic corruption, FIFA has transformed from a sports federation into a criminal enterprise.¹¹⁹ Devised to combat and prevent criminal organizations from infiltrating legitimate businesses, RICO essentially requires proof of two ele-

¹⁰⁹ See Anthony J. Colangelo, *Yes, the U.S. Prosecution of FIFA Is Legal*, DALL. NEWS (June 4, 2015), <http://www.dallasnews.com/opinion/latest-columns/20150604-anthony-j.-colangelo-yes-the-u.s.-prosecution-of-fifa-is-legal.ece> [<https://perma.cc/EJ26-3JM4>].

¹¹⁰ See Indictment, *supra* note 101, at 113–51; Rose, *supra* note 76.

¹¹¹ Indictment, *supra* note 101, at 113–51.

¹¹² See Rose, *supra* note 76.

¹¹³ See *id.*

¹¹⁴ See *id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ See Indictment, *supra* note 101, at 113–51.

¹¹⁸ Noah Feldman, *U.S. Treats FIFA Like the Mafia*, BLOOMBERG VIEW (May 27, 2015, 12:06 PM), <https://www.bloomberg.com/view/articles/2015-05-27/u-s-treats-fifa-like-the-mafia> [<https://perma.cc/5GMD-AAFZ>]; see Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961–1968 (2012).

¹¹⁹ Feldman, *supra* note 118.

ments: first, that a defendant was a part of a criminal organization or enterprise and second, that a defendant committed two predicate criminal acts, which include bribery, wire fraud, and money laundering.¹²⁰ If this burden of proof is met, the defendant is guilty of racketeering and is eligible for stricter sentencing as well as seizure of assets.¹²¹

The involvement of U.S. banks, in addition to providing bases for the territoriality principle and certain predicate crimes required by RICO, also activates the Foreign Commerce Clause of the U.S. Constitution.¹²² Article I provides Congress with the power to “regulate Commerce with foreign Nations.”¹²³ This power is not absolute.¹²⁴ It would not, for instance, reach corruption that is unrelated or unconnected to the United States.¹²⁵ Again, the crucial link is the use of U.S. banks, wire services, and avenues of U.S. commerce.¹²⁶ Specifically, the use of U.S. financial institutions qualifies the alleged corruption as involving both foreign nations and the United States, which satisfies the text of the Constitution.¹²⁷

On a larger scale, the indictment of FIFA officials from across the globe appears to be just one application of a “growing body of law that allows the United States to prosecute foreign citizens.”¹²⁸ This emerging trend stems from terrorism cases and actions taken in 2004 to broaden the use of extraterritorial jurisdiction to combat terrorism.¹²⁹ With regard to these cases, broader laws, the diffusion of terrorist organizations, and less reliance on military detention has “led the United States to bring more foreigners onto its soil, some with only a tenuous link to the United States.”¹³⁰ The federal prosecutor credited with working tirelessly to expand this international scope is former Attorney General and Brooklyn U.S. Attorney Loretta Lynch.¹³¹ Although it remains unclear how government prosecutions will change under recently-confirmed Attorney General Jeff Sessions, Lynch’s

¹²⁰ 18 U.S.C. §§ 1961(1), (4)–(5), 1962; Rose, *supra* note 76; see Feldman, *supra* note 118.

¹²¹ Feldman, *supra* note 118.

¹²² See *id.*; Am. Soc’y of Int’l Law, *supra* note 79.

¹²³ U.S. CONST. art. I, § 8, cl. 3.

¹²⁴ See Anthony J. Colangelo, *The Foreign Commerce Clause*, 96 VA. L. REV. 949, 970–83 (2010); Colangelo, *Yes, the U.S. Prosecution of FIFA Is Legal*, *supra* note 109.

¹²⁵ See Colangelo, *The Foreign Commerce Clause*, *supra* note 124, at 970; Colangelo, *Yes, the U.S. Prosecution of FIFA Is Legal*, *supra* note 109.

¹²⁶ See Colangelo, *Yes, the U.S. Prosecution of FIFA Is Legal*, *supra* note 109.

¹²⁷ See *id.*

¹²⁸ See Stephanie Clifford, *Growing Body of Law Allows Prosecution of Foreign Citizens on U.S. Soil*, N.Y. TIMES (June 9, 2015), http://www.nytimes.com/2015/06/10/nyregion/growing-body-of-law-allows-prosecution-of-foreign-citizens-on-us-soil.html?_r=0 [<https://perma.cc/3X9L-5F66>].

¹²⁹ See *id.* (discussing federal terrorism prosecutions involving conduct outside the United States); Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108–458, 118 Stat. 3638.

¹³⁰ Clifford, *supra* note 128; see 118 Stat. 3638.

¹³¹ See Clifford, *supra* note 128.

involvement in the FIFA scandal could signal a shift towards aggressive pursuit of overseas cases at the DOJ.¹³²

III. ANALYSIS

*FIFA's mission is develop football everywhere and for all, to touch the world through its inspiring tournaments and to build a better future through the power of the game.*¹³³

Although its brief and lighthearted mission statement might suggest otherwise, the power of FIFA extends far beyond mere inspiration.¹³⁴ The sport of football is a significant player in the global economy, as evidenced by the impact of football-related decisions on the world of big business.¹³⁵ Countries that are chosen to host the FIFA World Cup spend billions investing in development of their domestic infrastructure.¹³⁶ The lucrative broadcasting rights for the World Cup and other tournaments are fiercely contended for, with executives resorting to bribes to acquire them.¹³⁷ Considering its ability to substantially stir economic waters, the legal status of FIFA as a nonprofit association might seem surprising.¹³⁸ Perhaps even more surprising is the fact that FIFA generated almost \$6 billion for itself in the last four years.¹³⁹ As a major economic player with ties to nearly every part of the world, achieving accountability within the organization and among its leaders is critical for FIFA.¹⁴⁰ A combination of legislative adjustments in Switzerland, active prosecution by U.S. authorities, and internal reform may prove to be a winning formula for lasting change.¹⁴¹

¹³² See *id.*; Eric Lichtblau, *Jeff Sessions, as Attorney General, Could Overhaul Department He's Skewered*, N.Y. TIMES (Nov. 18, 2016), <http://www.nytimes.com/2016/11/19/us/politics/jeff-sessions-donald-trump-attorney-general.html> [<https://perma.cc/AN8S-KVEW>].

¹³³ *About FIFA*, FIFA, <http://www.fifa.com/about-fifa/index.html> [<https://perma.cc/Y9KY-KZ6P>].

¹³⁴ See *id.*; Roger Pielke Jr., *How Can FIFA Be Held Accountable?*, 16 SPORT MGMT. REV. 255, 258 (2013).

¹³⁵ See Pielke, *supra* note 134, at 258.

¹³⁶ See Bremmer, *supra* note 2.

¹³⁷ See Ruiz et al., *supra* note 8.

¹³⁸ See Pielke, *supra* note 134, at 258.

¹³⁹ Bremmer, *supra* note 2.

¹⁴⁰ See Pielke, *supra* note 134, at 258; *Associations*, *supra* note 33.

¹⁴¹ See Indictment, *supra* note 101, at 39–40; Simon Bradley, *'Lex FIFA' Gets Thumbs Up*, SWI (Sept. 10, 2015, 6:58 PM), http://www.swissinfo.ch/eng/lex-fifa_u2018lex-fifa-u2019-gets-the-thumbs-up-/41654166 [<https://perma.cc/Q75M-RABB>]; Owen Gibson, *Fifa's Existence at Risk if Reforms Are Rejected, Warns Issa Hayatou*, THE GUARDIAN (Feb. 25, 2016, 4:30 PM), <http://www.theguardian.com/football/2016/feb/25/fifa-reforms-issa-hayatou> [<https://perma.cc/98B2-S5T4>].

A. *The Legal Status of Football's Governing Body*

Headquartered in Zurich, FIFA is one of many international sporting institutions organized under Swiss law.¹⁴² With dozens of international and European organizations calling the country home, Switzerland has become a hub of international sports federations.¹⁴³ Like many non-governmental organizations in Switzerland, FIFA is structured as a nonprofit association.¹⁴⁴ Governed generally by Articles 60 through 79 of the Swiss Civil Code, nonprofit associations—although their name might suggest otherwise—are not prohibited from generating profit.¹⁴⁵ These associations *are* prohibited, however, from distributing any profits to members.¹⁴⁶ Any revenue generated must be used in furtherance of the association's nonprofit aim or mission.¹⁴⁷ Moreover, Swiss law classifies these types of associations as bodies in their own right.¹⁴⁸ Associations like FIFA, therefore, are legally allowed to employ a staff and execute agreements.¹⁴⁹ Additionally, Swiss law requires FIFA and other associations to abide by certain formalities.¹⁵⁰ For example, associations are required to file articles of association and establish voting rights.¹⁵¹ Significantly, the Swiss Civil Code explicitly states that “[a]ssociations with a political, religious, scientific, cultural, charitable, social or other non-commercial purpose acquire legal personality as soon as their intention to exist as a corporate body is apparent from their articles of association.”¹⁵²

FIFA's structure as an association under Swiss law is not without its benefits.¹⁵³ This legal status allows FIFA to avoid practices that regular businesses must abide by.¹⁵⁴ For example, FIFA is not required to publish its

¹⁴² See Helena Bachmann, *Lax Swiss Laws Led to Less Scrutiny of FIFA*, USA TODAY (May 28, 2015, 8:10 AM), <http://www.usatoday.com/story/sports/soccer/2015/05/27/switzerland-fifa-corruption-investigation/28021111/> [<https://perma.cc/4VDB-MQS4>]; *Who We Are*, *supra* note 36.

¹⁴³ See Bachmann, *supra* note 142; Rebecca R. Ruiz, *Swiss City Is “the Silicon Valley of Sports,”* N.Y. TIMES (Apr. 22, 2016), http://www.nytimes.com/2016/04/23/sports/olympics/switzerland-global-sports-capital-seeks-new-recruits.html?_r=0 [<https://perma.cc/9CAW-TB2S>]. Switzerland is also home to the International Olympic Committee, the International Hockey Federation, the Judo Federation, and the World Bowling Federation. Ruiz, *supra*.

¹⁴⁴ See Erb, *supra* note 33; *Practical Guide for NGOs*, MANDAT INT'L, <http://www.mandint.org/en/guide-ngos#13> [<https://perma.cc/78YX-9M6W>].

¹⁴⁵ See *Practical Guide for NGOs*, *supra* note 144.

¹⁴⁶ See *id.*

¹⁴⁷ See *id.*

¹⁴⁸ See *id.*

¹⁴⁹ See *id.*

¹⁵⁰ See SCHWEIZERISCHES ZIVILGESETZBUCH [ZGB], CODE CIVIL [CC], CODICE CIVILE [CC] [CIVIL CODE] Dec. 10, 1907, SR 210, arts. 60–79 (Switz.).

¹⁵¹ See *id.*

¹⁵² *Id.* art. 60.

¹⁵³ See Bachmann, *supra* note 142.

¹⁵⁴ See *id.*

financial accounts, enjoys exemption from domestic anti-corruption laws, and is given substantial freedom to administer its own affairs.¹⁵⁵ Additionally, FIFA does not pay taxes in Switzerland on the substantial revenue it generates from its quadrennial World Cup.¹⁵⁶ To provide some perspective, the 2010 World Cup in South Africa was responsible for nearly ninety percent of FIFA's total revenue during that particular financial cycle.¹⁵⁷ In dollars, that translates to roughly \$3.5 billion—tax free.¹⁵⁸ Moreover, FIFA manages to acquire very favorable tax concessions from each World Cup host country.¹⁵⁹ In the words of a FIFA spokesman, “Any host country requires a comprehensive tax exemption to be given to FIFA and further parties involved in the hosting and staging of an event.”¹⁶⁰

Although FIFA generally requires the details of a country's bid document to remain confidential, Holland and Belgium published their joint bid for the 2018 and 2022 World Cups publicly.¹⁶¹ The bid, published on the official website of the Dutch government, provides a tax exemption encompassing all revenue generated by FIFA and its subsidiaries.¹⁶² Perhaps unsurprisingly, this setup has drawn extensive criticism.¹⁶³ With huge sums of taxpayer money used to prepare for the World Cup, and FIFA bringing in billions in untaxed profits, the scales seem far from balanced.¹⁶⁴ In fact, scholars have noted a “degree of suspicion in the minds of many people of global organisations who extract extensive concessions from the host government.”¹⁶⁵

In addition to being classified as a nonprofit and enjoying an extremely favorable tax status, FIFA is also categorically a non-governmental organi-

¹⁵⁵ *Id.*

¹⁵⁶ See Erb, *supra* note 33; Tharoor, *supra* note 5.

¹⁵⁷ See Erb, *supra* note 33.

¹⁵⁸ See *id.*

¹⁵⁹ See Pollock, *supra* note 33.

¹⁶⁰ *Id.*

¹⁶¹ See *id.*

¹⁶² *Id.* The joint bid, published on the official website of the Dutch government, characterized FIFA's taxation status as follows:

The exemption stated in this section shall encompass all revenues, profits, income, expenses, costs, investments and any and all kind of payments, in cash or otherwise, including through (i) the delivery of goods or services, (ii) accounting credits, (iii) other deliveries, (iv) applications, or (v) remittances, made by or to FIFA and/or FIFA subsidiaries.

Id.; Letter from the Netherlands to Joseph S. Blatter, FIFA President (Apr. 26, 2010), <https://zoek.officielebekendmakingen.nl/blg-63037.pdf> [<https://perma.cc/V6CH-JLRU>].

¹⁶³ See Erb, *supra* note 33; Pollock, *supra* note 33.

¹⁶⁴ See Erb, *supra* note 33; Pollock, *supra* note 33.

¹⁶⁵ See Pollock, *supra* note 33.

zation.¹⁶⁶ This status essentially means that, with the exception of Switzerland, no domestic governments have the power to subject FIFA to formal state authority.¹⁶⁷ Therefore, notwithstanding FIFA's omnipresence around the globe, domestic governments have very few, if any, tools at their disposal regarding accountability of the organization.¹⁶⁸ Despite wielding this albeit-limited power, Switzerland has stuck to its neutral roots and taken a laissez-faire approach regarding FIFA.¹⁶⁹ Inaction on behalf of Swiss authorities, coupled with the relative flexibility of Switzerland's association law, has arguably paved the way for FIFA to slip into corruption.¹⁷⁰ With deep pockets, unparalleled bargaining power, and little oversight, it is unsurprising that FIFA officials have pushed the boundaries of legality.¹⁷¹

B. A Structure That Fosters Corruption?

Scholars have suggested that FIFA officials have been able to evade repercussions because football has historically been perceived as separate from politics.¹⁷² These scholars contend, however, that major events like the World Cup should be considered a matter of politics and public debate because they provide a rare chance for humanity to act as a global community.¹⁷³ Taking into account the organization's significant power in the economic sphere, as well as football's unifying nature, one would expect FIFA to operate transparently and democratically.¹⁷⁴

Unfortunately, in light of the recent U.S. indictments, these expectations seem to reflect idealistic sentiment rather than reality.¹⁷⁵ Continued investigation, some suggest, could reveal that football's structural framework itself is the problem.¹⁷⁶ FIFA's current structure favors its smaller, more easily corruptible member-states, placing these countries in a dispro-

¹⁶⁶ See Pielke, *supra* note 134, at 257–58; *supra* text accompanying notes 156, 159.

¹⁶⁷ Pielke, *supra* note 134, at 257.

¹⁶⁸ See Pielke, *supra* note 134, at 257; *Map of the World with the Six FIFA Confederations*, *supra* note 34.

¹⁶⁹ See Bachmann, *supra* note 142.

¹⁷⁰ See *id.*

¹⁷¹ See *id.*; Pielke, *supra* note 134, at 257; Pollock, *supra* note 33.

¹⁷² See Pielke, *supra* note 134, at 256, 258; Goldblatt, *supra* note 46.

¹⁷³ See Pielke, *supra* note 134, at 258; Goldblatt, *supra* note 46.

¹⁷⁴ See Pielke, *supra* note 134, at 258; Goldblatt, *supra* note 46.

¹⁷⁵ See Indictment, *supra* note 101, at 39–40.

¹⁷⁶ See Bialik, *supra* note 33; Samuel Chi, *Democracy Is at Root of FIFA's Corruption*, POST-GAME (May 28, 2015), <http://www.thepostgame.com/blog/daily-take/201505/fifa-corruption-probe-sepp-blatter-justice-department-fbi> [<https://perma.cc/R53B-RBKN>]; Jonathan Mahler, *Sepp Blatter: In Charge, but Left Unscathed*, N.Y. TIMES (May 27, 2015), http://www.nytimes.com/2015/05/28/sports/soccer/sepp-blatter-in-charge-but-left-unscathed.html?_r=0 [<https://perma.cc/58PX-7YMB>].

portionately powerful position.¹⁷⁷ Currently, FIFA implements a “one member, one vote” system in its Congress.¹⁷⁸ Much like the U.S. Senate, this system, which grants the smallest member-states as much voting power as the largest member-states, is intended to maintain fairness and equal protection.¹⁷⁹ It must be noted, however, that the analogy to the legislative branch is imperfect.¹⁸⁰ Unlike the U.S. system, there is no body comparable to the House of Representatives within FIFA.¹⁸¹ Without population-based representation, the outcome of FIFA’s structure is imbalanced democracy.¹⁸² To illustrate this concept, although China’s population is 250,000 times the size of Montserrat’s, both countries are equipped with equal voting power under FIFA’s current system.¹⁸³

For FIFA, promoting democracy while avoiding abuse has proved to be a difficult balancing act.¹⁸⁴ The issue is twofold: the concentration of power within smaller member-states and the effects of funding.¹⁸⁵ First, football power within smaller countries naturally rests in the hands of a select few.¹⁸⁶ The smaller the group in which power is vested, the more susceptible a country’s votes are to corruption and bribery.¹⁸⁷ The U.S. indictment lends credence to this theory.¹⁸⁸ Jeffrey Webb, for instance, is one of the many FIFA officials indicted.¹⁸⁹ Webb is the president of the football association in the Cayman Islands, a nation with a population of less than 60,000.¹⁹⁰ Second, even legitimate funding from FIFA has the potential to influence the votes of smaller member-states.¹⁹¹ Not only does a relatively small amount of funding go a long way in smaller nations, but money that is

¹⁷⁷ See Bialik, *supra* note 33; Chi, *supra* note 176; Mahler, *supra* note 176.

¹⁷⁸ See Bialik, *supra* note 33.

¹⁷⁹ See *id.*; *Senate Legislative Process*, UNITED STATES SENATE, http://www.senate.gov/legislative/common/briefing/Senate_legislative_process.htm [<https://perma.cc/5KWC-ZPRV>].

¹⁸⁰ See Bialik, *supra* note 33; *The House Explained—Representatives*, UNITED STATES HOUSE OF REPRESENTATIVES, <http://www.house.gov/content/learn/> [<https://perma.cc/XF39-CJHB>]; *Senate Legislative Process*, *supra* note 179.

¹⁸¹ See Bialik, *supra* note 33; *The House Explained—Representatives*, *supra* note 180.

¹⁸² See Bialik, *supra* note 33; Chi, *supra* note 176; Mahler, *supra* note 176.

¹⁸³ Bialik, *supra* note 33.

¹⁸⁴ See *id.*; Chi, *supra* note 176; Mahler, *supra* note 176.

¹⁸⁵ See Bialik, *supra* note 33; Mahler, *supra* note 176.

¹⁸⁶ See Bialik, *supra* note 33; Mahler, *supra* note 176.

¹⁸⁷ See Bialik, *supra* note 33; Mahler, *supra* note 176.

¹⁸⁸ See *Indictment*, *supra* note 101, at 39–40; Bialik, *supra* note 33.

¹⁸⁹ See *Indictment*, *supra* note 101, at 39–40; Bialik, *supra* note 33.

¹⁹⁰ See Bialik, *supra* note 33.

¹⁹¹ See *id.*; Graham Dunbar, *Warner Claims \$6M FIFA Gift Was to Back Blatter*, YAHOO! NEWS (Apr. 26, 2013), <https://www.yahoo.com/news/warner-claims-6m-fifa-gift-155650112.html?ref=gs> [<https://perma.cc/9MLL-3YEE>]; Mahler, *supra* note 176. In 1998, FIFA allegedly gifted \$6 million toward a training center in Trinidad in exchange for CONCACAF votes in the presidential election that year. Dunbar, *supra*.

earmarked for development projects can easily be allocated elsewhere, including the pockets of football officials.¹⁹²

C. Efforts Aimed at Accountability

Examining FIFA's turbulent history logically raises the question of how the international organization can be held accountable.¹⁹³ With allegations of FIFA's corruption now spanning decades, the body of scholarly discourse regarding a proper remedy continues to grow.¹⁹⁴ Despite deep-rooted and enduring accusations of misconduct, FIFA has, until very recently, made few changes.¹⁹⁵ For example, the organization's former president, Sepp Blatter, enjoyed a long tenure amidst these allegations.¹⁹⁶ Scholars have set forth a laundry list of factors that make greater accountability especially challenging.¹⁹⁷ In particular, FIFA's structure and organization make it immune to various accountability mechanisms.¹⁹⁸ Although FIFA's most recent reform effort has somewhat curbed the power of the president, the organization has historically lacked hierarchical accountability.¹⁹⁹ Supervisory accountability is limited by FIFA's statutes, which discourage oversight from national governments by allowing FIFA to suspend national football associations for any

¹⁹² See Bialik, *supra* note 33; Chi, *supra* note 176. Funding for development projects is not the only source of money allegedly lining the pockets of football officials. Claire Phipps, *Fifa's Jack Warner Accused of Diverting Funds Intended for Haiti Earthquake Victims*, THE GUARDIAN (June 9, 2015, 2:55 AM), <https://www.theguardian.com/football/2015/jun/09/fifa-jack-warner-accused-funds-haiti-earthquake-victims> [<https://perma.cc/BZ9H-QTNA>]. In June 2015, allegations surfaced that former FIFA vice president Jack Warner had diverted donations made by FIFA and the Korean Football Association that were intended to aid victims of the 2010 earthquake in Haiti. *Id.* It is alleged that the money was diverted to accounts controlled by Warner for his "personal use." *Id.*

¹⁹³ See Pielke, *supra* note 134, at 260.

¹⁹⁴ See, e.g., *id.* at 260–63; *Transparency International: Fifa Member Federations Are Too Secretive*, THE GUARDIAN (Nov. 19, 2015, 4:50 AM), <https://www.theguardian.com/football/2015/nov/19/transparency-international-fifa-secretive> [<https://perma.cc/8GEH-YW84>]; Mark Pieth, *Governing FIFA: Concept Paper and Report*, BASEL INST. ON GOVERNANCE 35–36 (Sept. 19, 2011), <http://www.fifa.com/mm/document/affederation/footballgovernance/01/54/99/69/fifagutachten-en.pdf> [<https://perma.cc/AG25-6BCP>].

¹⁹⁵ See Pielke, *supra* note 134, at 260; Alexandra Wrage, *FIFA's Rotten Reform Record*, FORBES (Apr. 23, 2013, 10:11 AM), <http://www.forbes.com/sites/alexandrawrage/2013/04/23/fifas-reform-record/#3e7eb62f7545> [<https://perma.cc/JUL8-4NDE>].

¹⁹⁶ See Moyer, *supra* note 56.

¹⁹⁷ See Pielke, *supra* note 134, at 260–63; *Transparency International: Fifa Member Federations Are Too Secretive*, *supra* note 194; Pieth, *supra* note 194, at 5–6.

¹⁹⁸ See Pielke, *supra* note 134, at 260–63, 265. Scholars have identified a framework of seven accountability mechanisms that play a role in international law: hierarchical accountability, supervisory accountability, fiscal accountability, market accountability, public reputational accountability, peer accountability, and legal accountability. Ruth W. Grant & Robert O. Keohane, *Accountability and Abuses of Power in World Politics*, 99 AM. POL. SCI. REV. 29, 35–37 (2005).

¹⁹⁹ See Grant & Keohane, *supra* note 198, at 36; Pielke, *supra* note 134, at 260; *The Reform Process*, *supra* note 35.

interference.²⁰⁰ Moreover, due to the fact that FIFA is not required under Swiss law to publish its financial accounts, fiscal accountability is nearly impossible.²⁰¹ Market accountability, or the impact of financial backers and consumers on decision-making, has proven to be ineffective as well.²⁰² Although FIFA is affiliated with corporate giants like Coca-Cola, McDonald's, Visa, and Adidas, none seem willing to do more than issue public-friendly statements of concern.²⁰³ Additionally, the immense global popularity of football makes public reputational accountability unlikely, as fans "care about what happens on the pitch, and not in the smoky back rooms of football governance."²⁰⁴

D. A Formula for Lasting Change

1. Enhanced Swiss Legislation

In the end, the best mechanism for holding FIFA responsible is legal accountability.²⁰⁵ The respective investigations launched by the United States and Switzerland are undoubtedly steps in the right direction.²⁰⁶ In fact, recent actions taken by Swiss lawmakers suggest the country's historically hands-off approach to FIFA may be a thing of the past.²⁰⁷ Approved by the Swiss Parliament in September 2015, a new law, aptly named "Lex FIFA" or "the FIFA law," enhances existing corruption laws by making the offer or acceptance of a bribe an automatic criminal offense.²⁰⁸ The punishment is a maximum three-year jail sentence and the new law gives Swiss

²⁰⁰ Pielke, *supra* note 134, at 260; *see* Grant & Keohane, *supra* note 198, at 36.

²⁰¹ *See* Grant & Keohane, *supra* note 198, at 36; Pielke, *supra* note 134, at 261; Bachmann, *supra* note 142.

²⁰² *See* Grant & Keohane, *supra* note 198, at 37; Pielke, *supra* note 134, at 259, 262.

²⁰³ *See* Pielke, *supra* note 134, at 262; Sean Gregory, *Major FIFA Sponsors Don't Want to Talk About Qatar, Either*, TIME (May 29, 2015, 4:51 PM), <http://time.com/3900357/fifa-sponsors-coke-visa-adidas/> [<https://perma.cc/AUU8-ADZN>].

²⁰⁴ *See* Pielke, *supra* note 134, at 263.

²⁰⁵ *See* Grant & Keohane, *supra* note 198, at 36–37; Pielke, *supra* note 134, at 259, 262–63. Legal accountability is the "requirement that international bodies and their employees must abide by the laws of relevant jurisdictions in which those laws are applicable." Pielke, *supra* note 134, at 259.

²⁰⁶ *See* Pielke, *supra* note 134, at 262; *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

²⁰⁷ *See* Bachmann, *supra* note 142; Bradley, *supra* note 141. In an interview with the Swiss Broadcasting Corporation, Swiss legislator Roland Büchel expressed his opinion that Switzerland should have addressed allegations of corruption within FIFA long ago. *See* Bachmann, *supra* note 142.

²⁰⁸ *See* Bradley, *supra* note 141; Joshua Franklin & Hugh Lawson, *Swiss Lawmakers Pave Way for 'Lex FIFA' Anti-corruption Law*, REUTERS (Sept. 11, 2015, 6:39 AM), <http://www.reuters.com/article/us-soccer-fifa-swiss-lawmaking-idUSKCN0RB13720150911> [<https://perma.cc/F2FN-NGQT>]. Although very closely associated with FIFA, the Lex FIFA legislation applies to all sporting bodies based in Switzerland. *See* Franklin & Lawson, *supra*.

authorities the power to sanction sports federations specifically.²⁰⁹ Roland Büchel, a Swiss legislator and notoriously fierce critic of FIFA, is optimistic about the efficacy of Lex FIFA, characterizing the law as “strong enough to sanction corruption in sports federations like FIFA in the future.”²¹⁰ Prior to the enactment of this new law, Swiss investigations into private corruption could only be initiated if an individual within the organization filed a complaint.²¹¹

The most recent change to Swiss law builds upon a set of legal measures designed to improve overall supervision of sports federations.²¹² A law passed by the Swiss parliament in December 2014 increased the level of scrutiny that can be applied to the bank accounts of sports officials.²¹³ The leaders of sports organizations, including FIFA’s president, are now classified as “politically exposed persons” subject to corruption investigations.²¹⁴ Although scholars agree that the recent Swiss legislation is an important progression, most contend that more is needed, namely increasing the resources of the Swiss Federal Prosecutor’s Office, establishing laws that protect whistleblowers, and reworking Swiss association law.²¹⁵

2. U.S. Prosecution Through RICO and Anti-Bribery Legislation

While Switzerland is the most logical place for a shift towards more oversight to take its roots, other countries where FIFA has a presence should follow suit.²¹⁶ In addition to prosecution of FIFA officials under RICO, implementation of anti-bribery legislation could bolster U.S. efforts and establish more effective avenues to tackle corruption in the future.²¹⁷ Scholars suggest that the passage of a federal law criminalizing commercial, or private-to-private bribery could “further enhance the ability of prosecutors to target this type of conduct, particularly if Congress gave the law an extraterritorial scope.”²¹⁸ From a public reputation standpoint, charging FIFA officials with bribery would likely draw more social contempt than a charge of wire fraud.²¹⁹ Additionally, the United States and other countries where

²⁰⁹ Bradley, *supra* note 141.

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² *See id.*

²¹³ *See New Swiss Law Allows More Scrutiny of Fifa and IOC Finances*, THE GUARDIAN (Dec. 12, 2014), <http://www.theguardian.com/football/2014/dec/12/swiss-law-fifa-ioc-finances-scrutiny-sports-governing-bodies> [<https://perma.cc/C46W-DVW5>].

²¹⁴ *Id.*

²¹⁵ *See* Bradley, *supra* note 141.

²¹⁶ *See* Rose, *supra* note 76; *Who We Are*, *supra* note 36.

²¹⁷ *See* Rose, *supra* note 76.

²¹⁸ *Id.*

²¹⁹ *See id.*

FIFA has a presence could enact legislation restricting or even prohibiting domestic corporations from providing financial support to FIFA.²²⁰ Threatened use of this tactic proved effective in combating a corruption scandal within the International Olympic Committee (IOC) in the late 1990s and could provide countries other than Switzerland with some degree of governmental authority over FIFA.²²¹

3. Internal Reform

The ongoing American and Swiss investigations have already accomplished a great deal.²²² After all, it is one thing to implement legislation to regulate powerful international organizations like FIFA, but it is quite another to actively attack corruption and pursue criminal charges.²²³ While the DOJ investigation has set its sights on the historical corruption of FIFA, FBI and Swiss authorities plan to delve deeper into the bidding process behind the Russia and Qatar World Cups.²²⁴ Although this application of pressure by the U.S. and Swiss governments will increase the legal accountability of FIFA, the organization itself ultimately possesses the power to bring about the most substantial change.²²⁵ Prior to the approval of reform measures in February 2016, FIFA had utterly failed in this regard.²²⁶ A reform process undertaken by FIFA in 2013 appeared on its face to be a genuine attempt to implement change, but in reality did “little more than polish the veneer on an outdated men’s club.”²²⁷ Similar to efforts employed by the IOC, an Independent Governance Committee (IGC) was established by FIFA.²²⁸ In the end, however, FIFA rejected the Committee’s nominations for key executive positions within the organization.²²⁹ Propositions by the IGC to add independent members to FIFA’s Executive Committee and establish a back-

²²⁰ See Pielke, *supra* note 134, at 263–64.

²²¹ See *id.*

²²² See *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13; Perez & Prokupecz, *supra* note 23.

²²³ See *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13; *New Swiss Law Allows More Scrutiny of Fifa and IOC Finances*, *supra* note 213.

²²⁴ *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

²²⁵ See Pielke *supra* note 134, at 259, 261; Bradley, *supra*, note 141 (“[T]he responsibility for cleaning up sports federations lies with the organisations themselves, not the authorities.”); *Fifa Corruption Crisis: Key Questions Answered*, *supra* note 13.

²²⁶ *The Reform Process*, *supra* note 35; see Wrage, *supra* note 195.

²²⁷ See *id.*

²²⁸ See *id.*; Pielke, *supra* note 134, at 263 (discussing IOC’s establishment of a commission tasked with recommending reforms following its corruption scandal).

²²⁹ Thomas Barrabi, *FIFA Corruption Reform, Independent Oversight Committee Unlikely Despite Sponsor Criticism*, INT’L BUS. TIMES (July 24, 2015, 3:35 PM), <http://www.ibtimes.com/fifa-corruption-reform-independent-oversight-committee-unlikely-despite-sponsor-2024030> [<https://perma.cc/G825-KYM9>]; Wrage, *supra* note 195.

ground review process for new candidates for senior positions were also shot down.²³⁰ Complete rejection of other IGC recommendations, including disclosure of compensation and term limits for key FIFA positions, suggests that, at the time, FIFA was more interested in the good publicity that a reform effort might bring rather than the actual reform itself.²³¹

Critics initially characterized FIFA's most recent reform effort as more of the same.²³² The reform committee, which was convened in September 2015, was criticized for its membership of "football and Olympic insiders and officials, all of whom have an implicit conflict of interest through their roles as well as a vested interest in maintaining as much of the status quo as they can get away with."²³³ Nevertheless, despite the committee's makeup, it produced a number of substantial and thoughtful recommendations.²³⁴ These measures, approved by the FIFA Congress in February 2016, were incorporated into a revised version of the FIFA Statutes.²³⁵ First and foremost, the reforms established the FIFA Council as a replacement for the Executive Committee.²³⁶ The tandem of the newly formed Council, which will serve as a supervisory, strategic body, and the General Secretariat, which will function in a managerial, executive role, is meant to ensure a true separation of powers.²³⁷ Under this new structure, the president will hold less power and will act in a more ambassadorial capacity.²³⁸ Significantly, the Council will include a minimum of six female representatives—at least one for each confederation.²³⁹ In addition, candidates for the FIFA Council will undergo "comprehensive eligibility and integrity checks conducted by an independent FIFA Review Committee."²⁴⁰ The reforms also institute term limits for the FIFA President and FIFA Council members—the

²³⁰ See Wrage, *supra* note 195.

²³¹ See *id.*

²³² See Simon Evans, *FIFA Starts New Reform Process, but Critics Don't See Big Changes*, REUTERS (Sept. 1, 2015, 8:21 PM), <http://uk.reuters.com/article/uk-soccer-fifa-reforms-idUKKCN0R14I220150901> [<https://perma.cc/TWQ2-3HJM>].

²³³ See *id.* (internal quotation marks omitted) (quoting Jaime Fuller).

²³⁴ See Gibson, *supra* note 141.

²³⁵ *The Reform Process*, *supra* note 35.

²³⁶ *Id.*

²³⁷ *Id.*; *Statutory Reforms FAQ—Extraordinary FIFA Congress*, *supra* note 42 at 1–2.

²³⁸ Steven Goff, *Gianni Infantino Is Elected President of FIFA, Pledges to 'Rebuild a New Era'*, WASH. POST (Feb. 26, 2016), https://www.washingtonpost.com/news/soccer-insider/wp/2016/02/26/gianni-infantino-elected-fifa-president/?utm_term=.70cdce09b94a [<https://perma.cc/K7H9-6FVT>]; *The Reform Process*, *supra* note 35.

²³⁹ *Fifa Reforms Passed: Salary Disclosure, Limit on President's Term, Women's Football*, BBC (Feb. 26, 2016), <http://www.bbc.com/sport/football/35667595> [<https://perma.cc/GND2-JHXD>] [hereinafter *Fifa Reforms Passed*]; *The Reform Process*, *supra* note 35.

²⁴⁰ *The Reform Process*, *supra* note 35.

maximum incumbency is now twelve years or three terms of four years.²⁴¹ Other notable changes include annual disclosure of salaries of key executives and a “commitment to human rights to be enshrined in the FIFA Statutes.”²⁴²

Now that these substantial reforms have been implemented—the changes came into effect sixty days after adoption—FIFA’s focus must shift towards meaningful enforcement.²⁴³ Additionally, although the reform package is a sign of significant progress for football’s governing body, FIFA would benefit from a change to its current voting process.²⁴⁴ FIFA’s current “one member, one vote” system fosters imbalanced democracy by favoring its smaller, more easily corruptible member-states.²⁴⁵ Imposing a population-based voting right could correct this imbalance and ensure that smaller countries are no longer disproportionately favored.²⁴⁶ While more can always be done, internal changes at FIFA—combined with enhanced Swiss law and active U.S. prosecution—mark a meaningful step forward on what will likely be a long road toward renewing the trust and respect of the global football community.²⁴⁷

CONCLUSION

The recent FIFA scandal is yet another black mark on the governing body of the world’s most beloved sport. As the investigations launched by U.S. and Swiss authorities seek to hold responsible those executives involved, it has never been clearer that FIFA as an organization is in dire need of reform. Although FIFA’s unique orientation within the sphere of international law and its favorable legal status under Swiss law make matters more complicated, accountability of the organization is not implausible. Domestically, recent Swiss legislation has armed authorities with more teeth, putting law enforcement on the offensive. In addition to U.S. prosecution under RICO, implementation of federal anti-bribery legislation would enhance the ability of prosecutors to combat future corruption. In the end, however, FIFA alone has the greatest power to shape its future. Along with continued application of pressure by Switzerland and the United States, meaningful

²⁴¹ *Id.*; *Fifa Reforms Passed*, *supra* note 239. Sepp Blatter, FIFA’s former president, was elected to a fifth term before resigning in the midst of corruption allegations. *Fifa Reforms Passed*, *supra* note 239.

²⁴² *The Reform Process*, *supra* note 35.

²⁴³ *Id.*; *Statutory Reforms FAQ—Extraordinary FIFA Congress*, *supra* note 42 at 1.

²⁴⁴ See Bialik, *supra* note 33; Chi, *supra* note 176; Mahler, *supra* note 176.

²⁴⁵ See Bialik, *supra* note 33; Chi, *supra* note 176; Mahler, *supra* note 176.

²⁴⁶ See Bialik, *supra* note 33; Chi, *supra* note 176; Mahler, *supra* note 176.

²⁴⁷ See Indictment, *supra* note 101, at 113–51; Bradley, *supra* note 141; *The Reform Process*, *supra* note 35; Nate Scott, *FIFA Overwhelmingly Passes Massive Reform Package*, USA TODAY (Feb. 26, 2016, 11:35 AM), <http://www.usatoday.com/story/sports/soccer/2016/02/26/fifa-reform-election-extraordinary-congress/80974106/> [<https://perma.cc/FS55-LCVD>].

enforcement of the recently adopted reform package—and additional reforms going forward—may be enough to set FIFA on the right track. Although FIFA's future is shrouded in uncertainty, one thing is clear: football fans certainly deserve better.

