Kicking Away Responsibility: FIFA's Role in Response to Migrant Worker Abuses in Qatar's 2022 World Cup

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KICKING AWAY RESPONSIBILITY:
FIFA’S ROLE IN RESPONSE TO MIGRANT WORKER ABUSES IN QATAR’S 2022 WORLD CUP

“We know the image that will be shown of Qatar when organising the World Cup. When you live there, you see how inhumanly the workers are treated. This is killing thousands of workers. That’s why I protest against the 2022 World Cup in Qatar . . . . ‘How can we play in a stadium that is build [sic] with blood . . . ?’”

I. INTRODUCTION

For the first time in soccer history, the World Cup is coming to the Middle East. Qatar, a small country at the heart of the Persian Gulf, has been elected to host the 2022 World Cup. The Gulf nation worked hard to sway the votes; Qatar’s inspired bid even defeated the United States, which was far behind as a second-runner. Although Qatar’s election continues to generate controversy, the soccer governing body Fédération Internationale de Football Association (FIFA) has defended and supported the legitimacy of Qatar’s winning bid. The Qatari Emirate has ambitious plans in


2. See England Miss Out to Russia in 2018 World Cup Vote, BBC News (Dec. 2, 2010), http://news.bbc.co.uk/sport2/hi/football/9250585.stm (announcing that Qatar was chosen to host 2022 World Cup).

3. See Russia and Qatar to Host 2018 and 2022 FIFA World Cups, Respectively, FIFA.COM (Dec. 2, 2010), http://www.fifa.com/worldcup/russia2018/organisation/media/newsid=1344971/ (explaining that 22 members of FIFA Executive Committee were entitled to vote and Qatar won absolute majority vote for 2022).

4. See Grant Wahl, As Concerns Continue to Build, Will a Qatar World Cup Really Happen?, SPORTS ILLUSTRATED (Aug. 1, 2014), http://www.si.com/soccer/planet-futbol/2014/08/01/qatar-world-cup-corruption-heat-rights-concerns (reporting that Qatar beat U.S. 14 to 8 in last round of votes, despite high-profile advocates such as former U.S. President Bill Clinton, and noting that Hassan Al-Thawadi, head of World Cup organizing committee, compares Qatar’s vision to “Steve Jobs’s in the tech industry and to Detroit’s at the dawn of the automobile age”).

preparation for the World Cup, such as building a brand new city in its desert and championing unparalleled solar technology to cool stadiums for players and fans. The Gulf nation seeks to alleviate critics’ concern for its hot summer weather almost as much as the nation plans to shine in its cutting-edge modernity. Practically speaking, hosting the World Cup will be quite a feat for a country of less than two million, the majority of which are non-Qataris. In order to host in 2022, Qatar will rely on the labor of approximately one million foreign laborers to build the stadiums and infrastructure necessary to hold the World Cup.

As Qatar rapidly develops, the bulk of Qatar’s economy rests on the shoulders of foreign construction workers and domestic servants. Private release of long-awaited report examining allegations that Qatar bribed FIFA Executive Committee members). See generally Paul Rhys, Blatter Reaches out to Arabia, ALJAZEERA (Apr. 24, 2010 19:09 GMT), http://www.aljazeera.com/sport/2010/04/201042484010305993.html (quoting FIFA President Sepp Blatter: “The Arabic world deserves a World Cup. They have 22 countries and have not had any opportunity to organise the tournament.”). See also Qatar 2022: Sepp Blatter Says Corruption Claims Are Racist, BBC News (June 9, 2014, 17:22 GMT), http://www.bbc.com/sport/0/football/27762435 (reporting that FIFA president Sepp Blatter called allegations that Qatar won vote through corruption discriminatory and racist). For an overview of the context and investigation of the bribery allegations surrounding Qatar’s election, see infra notes 152-155 and accompanying text.

6. See Suzy Strutner, Qatar’s New World Cup City Is A Modern Marvel, HUFFINGTON POST (Aug. 25, 2014, 7:00 AM), http://www.huffingtonpost.com/2014/08/25/qatars-new-world-cup-city_n_5698138.html (explaining that plans for new fourteen-square-mile city include upscale mall, zoo, canal, waterfalls, and two world-class golf courses); see also Sarah Marsh, Qatar Races to Develop Solar-powered Cooling for World Cup, REUTERS (Apr. 18, 2013, 4:06 PM), http://uk.reuters.com/article/2013/04/18/uk-soccer-world-qatar-idUKBRE99F0PC20130418 (discussing Qatar’s promise to hold carbon-neutral World Cup based on ongoing research and development of solar-powered cooling technology for its anticipated twelve new stadiums).

7. See Karen Kaplan, Scientific Proof that a Summer World Cup in Doha Is Too Hot – for Fans, L.A. TIMES (Aug. 23, 2014, 7:30 AM), http://www.latimes.com/science/sciencover/lasy-sci-n-world-cup-doha-qatar-weather-20140822-story.html (reporting that team of German researchers advise Qatar to hold World Cup at night or during winter); see also Wahl, supra note 4 (“The Qataris saw [the span of twelve years before the World Cup] as a chance to propose futuristic projects that they would have time to complete, including new transportation networks and new stadiums, some of which would be broken down afterward and sent to developing nations.”).

8. See Mona Chalabi, Qatar’s Migrants: How Have They Changed the Country?, THE GUARDIAN (Sept. 26, 2013, 7:34 AM), http://www.theguardian.com/news/ datablog/2013/sep/26/qatar-migrants-how-changed-the-country (analyzing data that there are three times more men than women because 70% of population and 94% of workforce are constituted by migrant workers, who are predominantly male).

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vants.10 Yet, the Qatari government seeks ways to decrease its dependence on foreign labor.11 The Gulf nation has created policies aimed at curbing migrants’ assimilation into the general Qatari population and has encouraged Qatari nationals to increase their contribution to the work force.12 In line with this Qatari-centric policy, labor laws in the country grant substantial control to Qatari employers, dubbed kafeel, over their foreign employees.13

Most recently, the global soccer community witnessed the alarming effects of these labor laws with the case of French soccer player, Zahir Belounis.14 After becoming captain of Qatari team El Jaish, Belounis’s contract was abruptly terminated, leaving him without pay.15 Belounis brought legal action against his former team for unpaid wages and, in retaliation, El Jaish denied his exit visa.16 Since El Jaish originally sponsored Belounis’s visa as a foreign worker, Belounis relied on El Jaish to issue him an exit perm-

10. See Chalabi, supra note 8 (examining migrant worker population in Qatar’s labor force).
12. See id. at 15-37 (setting goals for Qatar’s government, such as promoting marriage and procreation among Qataris, reducing gender disparity among non-Qataris by recruiting more female workers, and encouraging balanced distribution of Qatari workers across sectors).
13. See Morin, supra note 9 (“[A] worker cannot change jobs, leave the country, get a driver’s license, rent a home or open a checking account without the permission of his or her employer-sponsor, or kafeel. And a kafeel also can withdraw sponsorship at almost any time and send the employee home.”).
16. See Kim Willsher, Zahir Belounis: ‘I Need a Man Who’s Mad Enough to Give Me a Chance’, THE GUARDIAN (Dec. 10, 2013, 11:12 EST), http://www.theguardian.com/football/2013/dec/10/zahir-belounis-interview-english-club (explaining that Belounis sued El Jaish directors, which includes top members of Qatari government, for breach of five-year contract after club terminated his employment prematurely and El Jaish refused to grant him exit visa until international outcry on his case).
mit.17 Under the employer sponsorship system of kafala, Belounis could not leave the country without his (former) employer’s consent and was left without income for over two years.18 Belounis’s case brought to the spotlight a common problem for the non-Qatari workers who make up a majority in Qatar.19 While professional athletes are not immune to Qatari labor rights infringement, the majority of migrant workers do not have access to the legal and financial resources available to the former El Jaish captain to obtain relief.20 For the most part, the Qatari legal system appears to work hand-in-hand with employers in restricting workers’ right to due process.21

17. See Simons, supra note 15 (explaining that El Jaish, owned by Qatari government, required Belounis to waive his suit before issuing exit visa).


19. See Belounis, supra note 14 (warning “if Qatar does not scrap its exit visa system, then there will be hundreds, maybe thousands, of people trapped [in Qatar]”). See also James Montague, Abrupt End to Player’s Misery in Qatar, N.Y. TIMES (Nov. 29, 2013), http://www.nytimes.com/2013/11/30/sports/soccer/zahir-belounis-recounts-race-to-the-airport-in-qatar.html?_r=0 (“In response [to the public relations crisis following Belounis’s case], the Qatar 2022 Supreme Committee has published a so-called workers’ charter, which it says will guarantee tough minimum standards on all World Cup construction projects. FIFA’s president, Sepp Blatter, has raised the issue of workers’ rights with Qatar’s new emir, and he recently called reports of abuses there unacceptable.”).

20. See Morin, supra note 9 (reporting that most migrant workers begin their careers in Qatar in debt, since they find work through recruiting agencies, which charge near $1000 fees that workers borrow and must work nearly six months to pay back before making any profit on their salaries). See also Louise Colcombet & Geoffroy Tomasovitch, Français retenus au Qatar: deux Juges vont enquêter [French Retained in Qatar: Two Judges Will Investigate], LE PARISIEN (Aug. 28, 2014, 6:49 AM) (Fr.), http://www.leparisien.fr/faits-divers/video-francais-retenus-au-qatar-deux-juges-ont-enquete-28-08-2014-4092925.php (announcing Belounis instigated lawsuit along with two other French expatriates who were denied exit visas against their former Qatari employers). Nevertheless, Belounis and other players caught in legal limbo were actively discouraged from seeking FIFA’s help to positively influence the Qatari authorities. See Qatar Threatens to Use Powerful Hold over FIFA to Delay French-Moroccan Footballer’s Case, INT’L TRADE UNION CONFEDERATION [hereinafter ITUC] (May 29, 2013), http://www.ituc-csi.org/qatar-threatens-to-use-powerful (quoting soccer player Ouaddou, who, like Belounis, was denied exit after he sued his Qatari club, facing intimidation tactics from Qatar and inaction from FIFA).

21. See World Report 2014: Qatar, HUMAN RIGHTS WATCH [hereinafter HRW], http://www.hrw.org/world-report/2014/country-chapters/qatar (last visited Sept. 28, 2014) (stating that even when employers deny employees’ right to exit, Interior Ministry can also impose travel bans on citizens facing civil or criminal claims in Qatari court). For examples of difficulties migrant workers face in seeking relief in Qatari courts, see ITUC infra note 27, at 13, discussing experience of a migrant worker who spent two years pursuing a damages case in Qatari labor court while, for support, he relied entirely on charity of friends.
Although FIFA echoed the international support of Belounis in his case, the soccer organization’s statements with respect to World Cup workers’ rights abuses are largely out of tune with the rest of the globe. On the international stage, the treatment of migrant workers has sparked outrage, with organizations such as Amnesty International calling on FIFA to take responsibility. The Guardian, the leading newspaper that broke the migrant workers’ story, compared the migrant workers’ treatment and living conditions to slavery and trafficking. Reporters have condemned the high rate of fatalities linked with poor working conditions. A Nepalese organization, whose nationals form one sixth of the vast migrant population in Qatar, have reported 185 Nepalese deaths while building World Cup infrastructure in 2013 alone. At that rate, an estimated 4,000 migrant workers will die before the launch of Qatar’s World Cup in 2022.

22. See Owen Gibson, Qatar Grants Exit Visa to Stranded French Footballer, THE GUARDIAN (Nov. 27, 2013, 5:59 EST), http://www.theguardian.com/football/2013/nov/27/zahir-belounis-french-footballer-qatar-exit-visa (quoting Blatter as saying that “fair working conditions” must be introduced quickly in Qatar, though Qatar will host an “amazing World Cup” and was “on the right track” with regard to workers’ rights, when later faced with detailed reports of abuses called situation “unacceptable” and insisted “fair working conditions with a lasting effect must be introduced quickly in Qatar;” shortly afterwards, Blatter blamed European media for “attacking” Qatar over the issue and claimed the focus on workers’ rights was “not fair”).

23. Dave Jamieson, Migrant Workers In World Cup Host Qatar ’Enslaved,’ Living In Squalor: Report, HUFFINGTON POST (Mar. 21, 2014 4:28 PM), http://www.huffingtonpost.com/2014/03/21/qatar-migrant-workers_n_5009105.html (reporting that “[a]n Amnesty representative said FIFA . . . was ‘involved’ in the mess ‘whether it likes it or not.’”).


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Even for an event of the size of the World Cup, this death toll is alarmingly high; comparatively, Brazil saw a death toll of eight workers shortly before the start of the 2014 World Cup. Following British media reports, British politicians also demanded FIFA take action against workers’ deplorable pay and work conditions in Qatar. FIFPro, the largest union of soccer players in the world, released a statement urging FIFA to closely inspect work sites following allegations of labor violations in preparation for the World Cup. Officials in Qatar echoed the outrage stirred by media reports and promised thorough investigation and improvement, expressing shock at the deplorable conditions for migrant workers.

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28. See Adriana Gomez Licon, Eighth Worker Dies During World Cup Stadium Construction In Brazil, Associated Press, May 8, 2014, available at http://www.huffingtonpost.com/2014/05/08/world-cup-brazil-worker-dies_n_5290760.html. That is not to say that working conditions were substantially better in Brazil, as worksite injuries increased by nearly 6,000 in one World Cup city alone. See, e.g., Ida Karlsson, World Cup Workers Struggle for Basic Rights, Al Jazeera (July 3, 2014, 10:52 AM), http://www.aljazeera.com/humanrights/2014/07/world-cup-workers-struggle-basic-rights-2014738261599591.html (“In Sao Paulo, the number of workplace accidents in the construction industry rose from 1,386 in 2012 to 7,135 in 2013.”). But see Tales Azzoni, Former Labor Slaves, Prisoners Build WCup Venues, Associated Press, Feb. 22, 2012, available at http://news.yahoo.com/former-labor-slaves-prisoners-build-14127374.html (reporting that Brazil government used World Cup as re-entry option for former prisoners and labor slaves).

29. See Robert Booth, FIFA: We Will Monitor Qatar’s Treatment of Migrant World Cup Workers Closely, The Guardian (July 30, 2014, 2:16 PM), http://www.theguardian.com/global-development/2014/jul/30/fifa-monitor-qatar-treatment-migrant-world-cup-workers-closely (quoting Nick Raynsford, Labour Party’s former construction minister as making following statement: “Given the amount of money being spent on preparations for the World Cup in Qatar it is utterly deplorable that no one is taking responsibility for the gross exploitation of the workforce including shockingly low pay. . . . It is simply not good enough for Fifa or international architects working on these projects to wash their hands and say it is not our problem”). See also Agencies, Qatar World Cup: Stadium Builders Working in ‘Sub-human’ Conditions, Telegraph (Apr. 6, 2014, 12:36 PM), http://www.telegraph.co.uk/sport/football/10748171/Qatar-World-Cup-Stadium-builders-working-in-sub-human-conditions.html (quoting English Labour Party Politician Jim Murphy calling on FIFA to act in the face of “sub-human” conditions faced by migrant workers).


31. See Qatar Hits Back at 2022 Slavery Claims, ESPN (Sept. 26, 2013), http://www.espn.co.uk/football/sport/story/241827.html#IdwgF30cjXB7iE6.99 (reporting Qatar 2022 Supreme Committee was “appalled” by Guardian reports and will investigate newspaper’s allegations).
In a sense, the reports only reawakened Qatar to its failed commitment to prioritize the health and safety of its workers.\(^{32}\)

Given the nascent but devastating impact of the World Cup on non-Qatari migrant workers, this Comment discusses FIFA’s role vis-à-vis workers’ claims of abusive employment conditions in Qatar.\(^{33}\)

In response to the political outcry against the human rights violations there, FIFA stated that it will closely monitor the working conditions in Qatar.\(^{34}\) At the same time, FIFA President Sepp Blatter has spoken optimistically about the Qatari government’s disposition to use the World Cup as an opportunity to achieve social change.\(^{35}\)

In addition to evoking the humanitarian urgency to assign responsibility, critics turn to FIFA because of its stated mission to “build a better future for all through football.”\(^{36}\)

Given the nature of this systemic legal problem, the nature of Qatar’s obligation to the workers’ needs to be defined.\(^{37}\) Further, it is still to be determined whether critics of Qatar’s current situation are right to assume that FIFA can have a lasting impact on Qatar’s labor laws, and that FIFA is able to tangibly improve labor conditions for migrant workers.\(^{38}\)

\(^{32}\) See Wahl, supra note 4 (quoting Al-Thawadi as noting “[t]he safety, security and dignity of every migrant worker—of every person that delivers this World Cup—are put at the forefront”). For a discussion of Qatar’s initiatives to tackle the problem of migrant worker abuse, see infra notes 76-77 and 81-82 and accompanying text.

\(^{33}\) Admittedly, the labor concerns are not the only legal issues FIFA has faced since Qatar won its bid to host the World Cup. See Andy Brown, 2022 World Cup Qatar: A Convenient Leak?, WORLD SPORTS LAW REPORT (June 3, 2014), http://www.e-comlaw.com/sportslawblog/template_permalink.asp?id=569 (noting that FIFA may face “a potential player strike or potential heatstroke deaths. If it reschedules the tournament, it faces potential action from European football leagues due to revenues lost. In either case, it faces a potential political backlash over worker conditions, which could involve sponsors, TV companies and supporters boycotting the tournament”).

\(^{34}\) See Booth, supra note 29 (reporting FIFA’s commitment following revelations that workers were paid as little as 45p [approximately $0.72] per hour for working up to thirty days a month).

\(^{35}\) See FIFA President Meets Emir of Qatar Sheikh Tamim bin Hamad Al Thani, FIFA.COM (July 23, 2014), http://www.fifa.com/aboutfifa/organisation/president/news/newsid=2407712/index.html (quoting Blatter as stating the following: “It was great to see [Emir Sheikh Tamim bin Hamad Al Thani’s] and Qatar’s commitment to use the 2022 FIFA World Cup to achieve positive social change and to promote the host country and region. Qatar takes its responsibility as hosts seriously.”).


\(^{37}\) See infra notes 102 and 104 and accompanying text for a discussion of Qatar’s obligation under international law to improve workers’ conditions.

\(^{38}\) See FIFPro, supra note 30 (“FIFPro assumes that adherence to FIFA’s principles and international labour standards are conditions on which Qatar was awarded the extraordinary privilege of hosting football’s greatest event. FIFA has
Lastly, there is a moral foundation to support FIFA’s responsibility to take action, but FIFA may also have legal ground to enforce Qatar’s adherence to its mission, particularly given the development of FIFA’s judicial bodies.39

Part II addresses the commitment entailed in hosting a FIFA World Cup.40 As the world governing organization of soccer, FIFA heavily regulates the host nation both prior to and during the tournament.31 This Part first takes a closer look at the allegations of workers’ rights abuse and evaluates Qatar’s response.42 Qatar’s obligations under the Conventions of the International Labour Organisation also play a central role in the analysis of enforcement mechanisms available to increase protections for migrant workers.43 Part II closes with a brief overview of other actors, in addition to FIFA and Qatar, who have rejected responsibility for the crisis at hand.44 Part III discusses potential measures to improve labor conditions in Qatar’s World Cup construction projects and prevent future violations.45 It explores some of the measures that FIFA has taken in relation to labor rights improvements in host countries and in soccer ball production.46 In addition, this Part reviews the judicial infrastructure FIFA used to address allegations of bribery in previously acted to ensure international labour standards are respected when it worked with the International Labour Organisation in the fight against child labour in the manufacture of footballs. A similar initiative is urgently needed in Qatar.”). For a discussion of FIFA’s collaboration with the International Labour Organisation on the issue of soccer ball child labor, see infra notes 116-120 and accompanying text.


40. See infra notes 51-55 and accompanying text (explaining challenge of hosting World Cup).

41. See infra notes 54-62 and accompanying text (analyzing burden of FIFA requirements on host country and local population).

42. See infra notes 63-94 and accompanying text (explaining migrant workers’ claims, NGO advocacy, measures taken by Qatar to address claims, and NGO discontent with Qatari measures).

43. See infra notes 95-109 and accompanying text (discussing extent that ILO Conventions and Qatar’s membership in ILO is binding and efforts to hold Qatar accountable under ILO Constitution).

44. See infra notes 110-120 and accompanying text (narrowing down actors who may intervene on behalf of workers or be held accountable).

45. See infra notes 139-148 and accompanying text (discussing ways that FIFA can play stronger role enforcing labor rights and providing judicial review).

46. See infra notes 123-127 and accompanying text (discussing soccer ball industry). For a discussion of FIFA’s role in supporting labor protections in Brazil and South Africa, see sources cited infra notes 128-131 and accompanying text.
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relation to Qatar’s election as the 2022 World Cup host city. Specifically, Part III examines the strengths and shortcoming of this infrastructure to provide judicial review of a host country’s failure to meet a predetermined labor rights threshold. Finally, Part III recommends improvement of FIFA’s internal due process, especially in light of FIFA’s relative immunity.

II. LABOR RIGHTS GO TO EXTRA TIME: ASSESSMENT OF WORKERS’ SITUATION AND MEASURES TAKEN TO ADDRESS LABOR CONDITIONS IN QATAR’S WORLD CUP CONSTRUCTION

“We have plenty of time concerning Qatar but it is 2022, it is in nine years.”

A. Hosting the World Cup Is Not a Grassroots Issue

The World Cup is the most followed sports event in the world. Even Qatar, which is one of the richest countries in the world, stands to benefit from the economic rush of tourists, media outlets, and world-class athletes that every World Cup attracts. Hosting the World Cup has been a substantial boost in public relations, even for nations undergoing significant human rights challenges.

47. For a discussion of judicial infrastructure deployed by FIFA and appellate review of Court of Arbitration for Sport, see sources cited infra notes 152-166 and accompanying text.

48. For a review of the judicial critiques surfacing from FIFA’s prosecution and investigation, see infra notes 173-174 and accompanying text. See also SOCIAL RESPONSIBILITY: INTERNATIONAL CO-OPERATION, FIFA, http://www.fifa.com/about/fifa/socialresponsibility/internationalcooperation.html (last visited Sept. 30, 2014) (announcing FIFA’s commitment to work with NGOs and to achieve social change).

49. See Brown, supra note 33 (noting that FIFA will likely face considerable backlash, including potentially action from clubs if it reschedules World Cup). But see McCauley, infra note 179 (reporting that clubs will likely request monetary accommodation to reschedule tournament). For a discussion of FIFA’s own liability in connection to a recall of the 2022 votes, see infra 175-179 notes and accompanying text.


International sports events have a significant impact on the social and economic landscape of the host country, prompting the criticism of human rights focused non-governmental organizations (NGOs). Host nations often use the World Cup as an opportunity to push for greater structural improvements and economic expansion. However, on a local level, the excitement of the World Cup can quickly cool off in the face of abrupt change, the alienation of low-income laborers and inhabitants, and an aggressive inflation.

Popularity does not immunize the World Cup from heavy criticism, especially as FIFA pushes host countries to make drastic structural changes that can damage the host country’s economic capacity. FIFA standards can also push a government to divert public funds for the exceptional event, at the expense of local needs.

53. See Tim Vickery, *Legacy of South Africa’s World Cup will Take Many Years to Measure*, SPORTS ILLUSTRATED (Mar. 26, 2010), http://www.si.com/more-sports/2010/05/26/worldcup-hosting (referring to Argentina, during its infamous military dictatorship, benefitting from public relations campaign of hosting 1978 World Cup); *Dave Zirin, Brazil’s Dance with the Devil: The World Cup, The Olympics, and the Fight for Democracy* 130 (Haymarket 2014) (revisiting history of brokered victories during World Cup by dictatorships hosting World Cup).

54. See generally Bill Wilson, *Fifa World Cup ‘Hits the Poorest Hardest’*, BBC NEWS, (Sept. 7, 2014, 19:00 ET), http://www.bbc.com/news/business-28881952 (estimating burden of Brazil World Cup on public budget between 6.5 and 9.8 Euros, 170,000 lost their homes due to renovations and construction of World Cup infrastructure, and 75,000 children were evicted from homes for 2014 World Cup and 2016 Olympics construction). See also *Tom Phillips, Rio World Cup Demolitions Leave Favela Families Trapped in Ghost Town*, THE GUARDIAN (Jan. 26, 2011, 10:57 EDT), http://www.theguardian.com/world/2011/apr/26/favela-ghost-town-rio-worldcup (relating destruction of Brazilian community of Favela do Metrô, where home demolitions to create World Cup infrastructure evicted hundreds of families).

55. See *Zirin, supra* note 53, at 170 (speaking of World Cup as Trojan horse for policies that would otherwise be unacceptable due to strain on local population, workers, and resources); see also *Wahl, supra* note 4 (quoting Al-Thawadi “[w]e were in the process of significant infrastructure development, and it just made sense to try to host a major event such as the World Cup because you have a blank slate, so the infrastructure can be developed to satisfy the needs and requirements of the World Cup”).

56. See *Zirin, supra* note 53, at 205-11 (covering widespread protests against massive spending of government resources on World Cup instead of addressing local need).

57. See Andrew Kennis, *Brazil, Defeat and the High Cost of Hosting FIFA’s World Cup*, CIP AMERICAS (July 14, 2014), http://www.cipamericas.org/archives/12551 (recounting that FIFA’s requirement that Brazil build twelve stadiums was excessive, too rushed, and caused great frustration among locals requesting more investment into Brazilian public infrastructures). See also Anna Haslinsky, *The Almighty FIFA and Brazil’s Great Concessions*, MOORAD SPORTS L.J. BLOG (July 28, 2014), http://lawweb2009.law.villanova.edu/sportslaw/?p=2637 (discussing pressure on Brazil to comply with FIFA demands in hosting World Cup).
needs and demands.\textsuperscript{58} The pressure to create the infrastructure of the magnitude of the World Cup is costly across the board, despite the vast disparities in local resources across host countries.\textsuperscript{59} Although FIFA understands its imprint on the host nation’s landscape as a positive addition, locals often experience FIFA requirements as extraneous impositions that have little to no regard for the effect on their community.\textsuperscript{60} In fact, many citizens would vote against hosting a major event like the World Cup, if afforded the choice.\textsuperscript{61} If the World Cup continues to be a fertile source of development, its fruit is only ripe at the grasstops of the country’s economic ladder.\textsuperscript{62}

B. An International Wave of Disapproval: Migrant Workers’ Status in Qatar

Migrant workers in Qatar consistently complain that they do not receive the salary they are promised and sometimes do not receive any compensation for their work.\textsuperscript{63} Employers are generally

\textsuperscript{58} See Kennis, supra note 57 (quoting Brazilian NGO director regarding protests against Brazil’s government use of funds to build FIFA-standard stadiums while raising public transportation costs: “The Brazilian people were demanding to get public benefits out of the event. They said they wanted FIFA-standard schools to be built for Brazilian children, just like the stadiums.”).

\textsuperscript{59} See Zirin, supra note 53, at 147-72 (analyzing similarities of Greece, Canada, South Africa, Russia, China, and United Kingdom in struggling to meet demands of FIFA and International Olympics Committee); Ryan Gauthier, \textit{Improving the Bidding Process for International Sporting Events}, \textit{1-2 Int’l Sports L.J.} 3, 3 (2011) (Neth.), available at http://www.asser.nl/upload/documents/20131023T040405-ISLJ_2011_1-2.pdf (comparing estimated $5.4 billion spent by South Africa for 2010 World Cup, which equals to approximately 1.72% of its gross domestic product (GDP), with 3% of South African GDP normally spent on agricultural industry).

\textsuperscript{60} See FIFA, \textit{Football Stadiums; Technical Recommendations and Requirements} (2004), available at http://www.fifa.com/mm/document/tournament/competition/football_stadiums_technical_recommendations_and_requirements_en_8211.pdf (enumerating local benefits of new stadium, such as construction jobs, tourism, use of stadiums for local recreational programs, or increased community pride, all of which are meant to enhance locals’ quality of life).

\textsuperscript{61} See \textit{A Chance For a Legitimate 2022 World Cup Host Selection}, \textit{Int’l Sports L.} (June 12, 2014), http://blog.eur.nl/esl/pil/2014/06/12/chance-legitimate-2022-world-cup-host-selection/ (“Referenda in the past year in Switzerland, Germany, and Poland, have seen citizens vote against hosting the 2022 Winter Olympic Games.”).

\textsuperscript{62} See Zirin, supra note 53, at 170 (quoting Jules Boykoff referring to World Cup’s impact on host countries as “trickle up economics”).

\textsuperscript{63} See Human Rights Watch, \textit{Building a Better World Cup} 3 (June 12, 2012) [hereinafter HRW Report], available at http://www.hrw.org/reports/2012/06/12/building-better-world-cup-0 (reporting that workers’ top complaint centers on different forms of wage theft, including not receiving payment for months, receiving unsustainable salary that does not match contractual agreement, and arbitrary wage deductions).
responsible for providing migrant workers with housing conditions that meet standards set by local regulations. In reality, the government does not closely monitor employers’ compliance with those regulations. After working long hours in extreme heat, migrant construction workers typically live in close quarters and are required to use unsanitary bathrooms. Many workers see their passports withheld during their employment, in trafficking-like practices. Because they often lose proof of legal status in the country, migrants working without a passport or workers who fled abusive conditions are continuously vulnerable. Finally, workers often find themselves trapped in an exploitative system, because they have to pay back very high recruiting fees, further reducing their chances of return to their home country, as well as any prospect of profit.

The plight of migrant workers under the kafala system is far from unique to Qatar, and echoes throughout other nations in the United Arab Emirates. Arguably, Qatar’s situation demands par-
ticular attention, because it hosts more migrants than the rest of the world.\textsuperscript{71} The United Nations issued a Special Rapporteur Report urging Qatar not only to reform working conditions for the World Cup labor force, but also to make sweeping changes to its labor laws in compliance with international human rights standards.\textsuperscript{72} Since the beginning of construction, workers have faced unprecedented hostility from Qatari authorities.\textsuperscript{73} The pattern of labor complaints in the region also shows that exploitation and abuse are reinforced through the legal system instead of challenged by that system.\textsuperscript{74} The Qatari judicial system traditionally has not been a resource for migrant workers who seek to hold their employers accountable.\textsuperscript{75}

are scarcely enforced). “[T]he UAE’s progress on workers’ rights is a fictional narrative. . . . The reality is that despite years of criticism and an increased awareness of the problem, the UAE has successfully resists calls for substantive change to its labour system.” See id. at 28.


\textsuperscript{73} See Marc Bisson, ITUC Blasts Qatar on World Cup Human Rights, World Football Insider (Sept. 4, 2014), http://www.worldfootballinsider.com/story.aspx?id=37247 (quoting ITUC president as stating that “[h]undreds of migrant workers, many of them women, are languishing in Doha’s detention centres simply for running away from abusive and violent employers. Foreign journalists have been detained for trying to report the truth, and state repression is actually increasing”).

\textsuperscript{74} See McGeehan, supra note 70, at 38 (concluding that exploitation of migrant workers is direct result of laws and does not occur in spite of labor laws).

On its face, Qatar takes a proactive approach to address human trafficking and labor violations, and its Ministry of Labour has the legal authority to inspect and monitor worksites. However, the reality for most migrants does not reflect this approach, as illustrated by the long-standing exploitation of domestic workers. On a practical level, existing laws are not enforced and there is little to no incentive for Qatari nationals to push for reforming a system of which they are largely the beneficiaries. The nation’s constitution continues to protect opportunities for the powerful minority of Qatari citizens. The lack of enforcement also fosters poor accountability among the workers’ employers, who do not have to scrutinize the labor practices on their construction sites.

Under international pressure, Qatar’s Supreme Committee, responsible for the 2022 World Cup, revisited its labor laws and presented reform standards to address the existing issues. The
Supreme Committee allocated resources to respond to the urgency of the migrant laborers’ situation, such as a hotline where people could report abuses. However, NGO critics have little hope that these standards will address the scale and depth of the problems on the ground. Qatar’s apparent respect for labor and human rights does not extend to the allocation of needed resources to apply anti-trafficking measures. Although the abuse of workers in the domestic sphere is more prone to lack of enforcement, migrant workers across sectors face deception about the salary and work hours they are promised, extreme working conditions that include long hours, and an extreme disadvantage in the unfair sponsorship system of kafala. Since its inception, the kafala system was meant to enhance Qatari lives, rather than those of migrants. International NGOs have recognized that it is no coincidence that kafala is the legal framework that enables slave-like working conditions.

Additionally, Qatar tasked an international law firm to investigate the claims of migrant worker abuse following viral media accounts. The firm issued a report that recommended phasing out

82 See ITUC, supra note 27, at 19 (announcing that standards provide for hotline for worker complaints). But see id. (noting that Committee’s hotline has been complete failure and did not work when ITUC called it).

83 See McGeehan, supra note 81 (“The new standards don’t ensure a worker’s rights to change employers, leave the country, or bargain collectively for better pay and conditions . . . . the standards will impact only a small fraction of migrant workers . . . . Qatar’s labor system needs a major overhaul, not a minor makeover.”).

84 See ITUC, supra note 27, at 28 (citing U.S. Department of State as reporting that “[d]espite the passage of the new anti-trafficking law in 2011 and existing laws that could be used to punish trafficking offenders, the government did not report any clear efforts to investigate, prosecute, or punish trafficking offenses during the reporting period.”).

85 See Al REPORT, supra note 68, at 6 (summarizing abuse faced by migrants).

86 See Morin, supra note 9 (“Developed in the late 1950s in sparsely populated Persian Gulf states that needed workers for their oil and gas industries, the [kafala] system has expanded to the point where there are nearly five foreign workers for each Qatari citizen.”).


the use of the kafala system, which was no longer an “appropriate tool” to regulate migration.\textsuperscript{89} Following this report, Qatar has promised to reform its labor laws, including its controversial exit visa system.\textsuperscript{90} While applauding this apparent opposition to the controversial law, NGOs express two important concerns: first, on what comes next, and second, on the firm’s gradual approach.\textsuperscript{91} Although Qatar invited NGO observers to investigate concerns, the firm’s report and media coverage have not resulted in substantial reform or betterment of migrant workers’ conditions.\textsuperscript{92} It is also relevant to note that the Gulf nation’s investigation is not equivalent to plain transparency.\textsuperscript{93} Frustrated that Qatar does not substantiate its promises for reform, the ITUC has rejected Qatar’s claim of improvements and continued concern regarding the status of migrant workers.\textsuperscript{94}

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\item 89. See DLA Piper, \textit{supra} note 68, at 44 (confirming based on review that kafala is no longer appropriate regulatory tool, due to “potential detrimental effect”); \textit{see also id.} at 9 (recommending phasing out of exit visa system because too prone to abuse).
\item 90. \textit{See Ian Black, Qatar Promises to Reform Labour Laws After Outcry Over ‘World Cup Slaves’, THE GUARDIAN, http://www.theguardian.com/world/2014/may/14/qatar-reform-labour-laws-outcry-world-cup-slaves} (quoting Colonel Abdullah Saqr al-Mohannadi, human rights director of the Qatari interior ministry: “We are going to abolish the kafala system and it will move to the legislative institutions”).
\item 91. \textit{See McGeehan, \textit{supra} note 81 (noting that despite firm’s recommendations, Qatari government has not specified action steps following report’s findings and criticizes report for not sanctioning immediate abolition of kafala). Human Rights Watch also alleges that kafala is a blatant violation of international law on the right to depart from a country. \textit{Id.}}
\item 93. Recently, Qatar arrested two British researchers investigating allegations of labor violations. \textit{See World Cup ‘Slaves’ Scandal: Qatar Holds 2 UK Rights Researchers Over ‘Emigration Violations’, RT (Sept. 7, 2014, 15:01), http://rt.com/news/185780-qatar-world-cup-workers/} (quoting Qatari government statement that arrests were “consistent with principles of human rights enshrined in the constitution” and that researchers are “being interrogated” and detained following their investigation of “violations” of emigration laws). This was not the first time that Qatari authorities arrested foreigners visiting for the purpose of investigating workers’ human rights abuses. \textit{See German Filmmaker Imprisoned for Exposing Dire Qatar World Cup Worker Conditions, RT (Oct. 16, 2013, 17:03), http://rt.com/news/qatar-german-cup-workers-265/} (reporting that German filmmaker was arrested in Qatar and confiscated equipment after he interviewed migrant workers from Nepalese embassy).
\item 94. \textit{See ITUC, \textit{supra} note 27, at 16-20 (recounting disappointment after Qatar released two charters promising reform and claimed cooperation with ITUC while stalling to make needed systemic changes, e.g., end of kafala system, implement}
C. Bend it Like Qatar: The Impact of International Labour Organization Conventions

Qatar is a member of the International Labour Organization (ILO), whose purpose is to enhance labor conditions for workers around the world. Although the ILO preceded the United Nations (UN), it became a specialized agency of the UN in 1946. Under its Constitution, the ILO included provisions allowing it to institute legal proceedings against its member states. The ILO also has a supervisory system that monitors the implementations of various conventions member governments ratify. Conventions cover a wide range of labor issues faced by workers around the world, including minimum wage issues, forced labor, limitations on hours of work, protections for migrant workers, and collective bargaining rights. Qatar has ratified several ILO Conventions since 1976. However, Qatar has not substantially incorporated the Convention’s principles into its legislative mandates.

minimum wage and effective grievance system, and grant foreign workers collective bargaining rights).


100. See Ratifications for Qatar, ILO: INT’L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103429 (last visited Sept. 6, 2014) (listing Qatar’s ratification of 6 conventions, namely the Forced Labour Convention, the Abolition of Forced Labor Convention, Discrimination, the Minimum Age Convention, Worst Forms of Child Labour Convention, and Labour Inspection Convention). Although there are 71 conventions that Qatar has not ratified, including those addressing minimum wage and collective bargaining, Qatar’s ratification of ILO Conventions on forced labor and labor inspections are particularly relevant in the instant case. See id.

In September 2012, the International Trade Union Confederation (ITUC) launched a formal complaint against Qatar to the ILO to curb the ongoing death toll and workers’ rights abuse in Qatar.102 Qatar was called in to respond to allegations that it did not implement ILO Conventions, including ones that it did not ratify, because of its obligation as a member of the ILO.103 One year later, Qatar responded by calling the complaint “malicious” and political, suspecting a covert goal to “undermine the reputation of the State as it prepares to host the World Cup.”104 The ILO adjudicated the ITUC complaint by providing recommendations and condemned Qatar’s failure to pass substantive labor reform to address the pressing needs of migrant workers.105

If Qatar fails to follow the ILO’s recommendations, the ILO may establish a “Commission of Inquiry.”106 Even when such Commission is established, their investigation is presented in the form of

Chapter/Article%5B@Number=19%5D (last visited Sept. 6, 2014) (“each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action”).


103. See Article 19 Conventions and Recommendations supra note 101. See also Dustin Williamson, Comment, Part of the Team: Building Closer Relationships Between MLB Teams and Independent Agents in the Dominican Republic Through an MLB Code of Conduct, 2 N.Y.U. J. INT’L PROP. & ENT. L. 369, 388 (2013) (“Whether or not a country has ratified the conventions underlying the fundamental rights, they ‘have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions.’” (citing ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, ¶ 2, ILO (adopted June 18, 1998 (Annex revised June 15, 2010)), available at http://ilo.org/declaration/thedeclaration/textdeclaration/lang—en/index.htm)).

104. See Int’l Labour Office, supra note 102, at 228 (transcribing Qatari government’s response to ITUC complaint).

105. See id. at 237 (urging and requesting Qatar to “initiate without delay a labour reform . . . based on the principles [of freedom of association]”).

instructions to the country in violation.\textsuperscript{107} Although the ILO provides heightened scrutiny with increased disrespect of its recommendations, there is no clear penalty that nations incur by violating the ILO Constitution or failing to enforce Conventions.\textsuperscript{108} Absent an enforcement mechanism on the part of the ILO and the international community, Qatar’s violation of ILO convention does not have tangible consequences in international law.\textsuperscript{109}

D. Dropping the Ball on Workers’ Rights

Regardless of the host nation’s location, the soccer world’s governing body is rooted in the center of Western Europe and subject to Swiss law.\textsuperscript{110} The migrant workers crisis is therefore propitious to generate a European response, with European politicians joining the media in condemning migrant workers’ conditions.\textsuperscript{111} However, there is little hope that European lawmakers will intervene to hold the Gulf nation accountable, either through sanctions or the exertion of significant diplomatic pressure.\textsuperscript{112} European countries’


\textsuperscript{109}. See id. at 2202, 2207 (explaining that ILO relies on techniques such as persuasion, publicity, shame, or diplomacy for lack of real enforcement powers).

\textsuperscript{110}. See The Organization, FIFA, http://www.fifa.com/aboutfifa/organisation/ (last visited Sept. 6, 2014) (explaining that FIFA falls under Swiss jurisdiction since its founding in 1904).

\textsuperscript{111}. See Booth, supra note 29 (quoting British Labour Party representative on Qatar and architectural firms’ refusal to take responsibility). FIFA Executive Committee member Theo Zwanziger has also explicitly called on Europe to get more involved, suggesting that European politicians can have a strong influence on the Qatari Emir, who has close ties with Europe. See Mirjam Gehrke, Zwanziger: Politicians ‘Need to get Involved’ in Qatar, DW (Feb. 15, 2014), http://www.dw.de/zwanziger-politicians-need-to-get-involved-in-qatar/a-17435601 (reporting Theo Zwanziger as stating the following: “[FIFA] expect[s] involvement from politicians. European countries and the EU can’t just stand on the sidelines and let FIFA carry all the responsibility.”).

\textsuperscript{112}. See Mirjam Gehrke, FIFA: Stripping Qatar of 2022 World Cup ‘Counterproductive’, DW (Feb. 13, 2014), http://www.dw.de/fifa-stripping-qatar-of-2022-world-cup-counterproductive/a-17428662 (explaining that although European Commission on Human Rights support change in Qatar’s legal system, no sanctions or measures are on the table due to stagnant political situation). See also Groszkathöfer, supra note 14 (noting that Belouis had 20-minute conversation with French Presi-
economic interests too often come into conflict with the interests of promoting human rights.\textsuperscript{113}

Further, European courts traditionally do not exercise oversight over international sports organizations.\textsuperscript{114} In the absence of government oversight, plaintiffs often turn to the organization’s own judicial process because they do not have standing to pursue claims in external courts.\textsuperscript{115} Calls to create an independent labor court to address claims outside of host countries and international sports organizations have been mostly ignored.\textsuperscript{116}

This inaction is particularly problematic since migrant workers in Qatar often cannot pursue claims against their private employers.\textsuperscript{117} Different parties associated with the construction projects have also denied liability with respect to migrant workers’ conditions.\textsuperscript{118} Meanwhile, the accelerating rise in land price can aggra-

\textsuperscript{113} See The Alarming Situation of Human Rights in Qatar, EIIIR: EUR. INST. FOR INT’L. L. \& INT’L. RL. (June 12, 2014), http://www.eiilir.eu/global/human-rights/item/339-the-alarming-situation-of-human-rights-in-qatar (“For countries such as France which have traditionally pointed out the importance of respect of civil rights, the economic interests have overshadowed the concern for Human Rights. Qatar has invested billions of dollars in the Republic, but France failed to apply pressure on Qatar to abide by international regulations.”).

\textsuperscript{114} See Alexander Wynn, Red Card Racism: Using the Court of Arbitration For Sport (CAS) to Prevent and Punish Racist Conduct Perpetrated by Fans Attending European Soccer Games, 13 CARDOZO J. CONFLICT RESOL. 313, 331 (2011) (“Case law from the European Court of Justice . . . reflects the E.U.’s and European Commission’s policy of allowing sports organizations to govern their own affairs.”).

\textsuperscript{115} See James A. R. Nafziger, International Sports Law: A Replay of Characteristics and Trends, 86 AM. J. INT’L L. 489, 509 (1992) (“Courts . . . have traditionally denied standing to plaintiffs or otherwise dismissed actions on grounds of admissibility. Typically the results and quite often the court’s explicit rationale have involved deference to sports organizations to apply their own principles and rules or those of national federations.”).

\textsuperscript{116} See ITUC, supra note 27, at 19 (offering as solution creation of courts to provide effective platform for workers’ complaints).

\textsuperscript{117} See id. at 13 (relating experience of migrant worker who brought case in Qatari labor court for two years for damages, during which worker had to rely on charity of friends to support himself because both of expense of litigation and inability to work).

\textsuperscript{118} See Joanna Walters, Zaha Hadid Suing New York Review of Books over Qatar Criticism, THE GUARDIAN (Aug. 24, 2014), http://www.theguardian.com/artanddesign/2014/aug/25/zaha-hadid-suing-qatar-article-2022-world-cup (reporting that architect who designed World Cup stadiums for Qatar 2022 is suing New York Review of Books for defamation because of comments that associated her with workers’ crisis, although architects “have nothing to do with the workers”). CH2M HILL, the US company appointed to deliver construction for the 2022 World Cup, has also denied liability for allegations of labor rights violations. See Jeff MacGregor, Human Rights Issue Raised in Qatar, ESPN (Oct. 1, 2013, 6:35 PM), http://espn.go.com/espn/story/_/id/9753901/human-rights-concerns-raised-qatar-world-cup (providing html link to PDF of correspondence between ESPN and
vate the financial pressure on development projects and
collection companies and damage workers’ chances to receive
fair compensation.119 Other than the Qatari government, the only
remaining actor able and expected to take responsibility is FIFA.120

III. TURNING TO FIFA TO TACKLE RESPONSIBILITY

“If FIFA demand Qatar abolish kafala and respect fundamental
international rights, it will happen.”121

A. From Soccer Balls to World Cup Stadiums: Getting to Labor
Issues before the Final Whistle

Although the 2022 World Cup bolstered a conversation over
migrant laborers’ rights due to Qatar’s unique demographics, this is
not the first time that FIFA was prompted to take action on local
labor issues.122 In the past, FIFA has taken an active stance against
child labor in the production of soccer balls.123 In that context,
similar to the labor issues in Qatar, media outlets acted as a catalyst
for reform and awareness.124 In addition to monetary contribu-
tions, FIFA translated its commitment to avoiding child labor into a

CH2M HILL and announcing that CH2M HILL has no “input into the terms and
conditions of employment of a contractor’s labor force on this project.”). Mr.
MacGregor discusses his email correspondence with CH2M HILL as well as the
company’s response to articles by The Guardian and provides that a PDF docu-
ment copy of that correspondence may be found at the following web address:

119. See Ebrahim Omar, Qatar Land Prices Rise Significantly: Experts, EURASIA
REVIEW (Apr. 19, 2014), http://www.eurasiareview.com/19042014-qatar-land-
prices-rise-significantly/ (estimating cost of land to have increased by 500% since
2010, in part due to World Cup 2022 construction projects).

120. See ITUC, supra note 27, passim (calling FIFA to demand that Qatar abol-

121. See ITUC, supra note 27, at 5.

122. Although FIFA’s position on labor rights was most covered in the cam-
paign against child labor for soccer balls in the 1990s, there are also recent ex-
pamples of the organization’s continued involvement with the ILO and construction
workers’ rights. See sources cited infra notes 128-132 and accompanying text (ex-
amining of FIFA’s direct involvement with labor unions in Brazil and South Af-
rica’s World Cups in 2010 and 2014).

123. See SOCIAL RESPONSIBILITY, FIFA, http://www.fifa.com/aboutfifa/
socialresponsibility/news/newsid=102476/ (last visited Sept. 6, 2014) (noting that
FIFA worked in collaboration with the ILO, trade unions, and NGOs to combat
child labor in the “Elimination of Child Labour in the Soccer Ball Industry” pro-
gram); see also ILO, From Stitching to Playing: Sialkot Ten Years After, ILO: INT’L LA-
BOUR ORG. (July 7, 2006), http://www.ilo.org/global/about-the-ilo/newsroom/
features/WCMS_071247/lang—en/index.htm (reporting that ILO and FIFA or-
ganized soccer matches for former child laborers in Pakistan).

124. See INT’L LABOR RIGHTS FORUM [hereinafter ILRF], MISSED THE GOAL FOR
WORKERS: THE REALITY OF SOCCER BALL STITCHERS IN PAKISTAN, INDIA, CHINA AND
THAILAND 2 (June 7, 2010), available at https://archive.cleanclothes.org/re-
statute governing the organization. In fact, FIFA’s commitment to improve labor conditions in the soccer ball industry went beyond consideration of child labor alone, breaking new ground for collective bargaining rights and workers’ safety. Ultimately, FIFA’s proposition was selectively adopted, with a narrow focus on curbing child labor; but the outcome remains a fruitful locus of collaboration between FIFA and the ILO on labor issues.

FIFA also had a productive experience working with trade unions in anticipation of the South African World Cup in 2010. With the help of international trade unions such as the Building & Woodworkers International (BWI), South African trade unions managed to get FIFA on board with significant commitments for labor standards in construction sites for the 2010 World Cup. After numerous strikes, local union members and BWI met with FIFA, and FIFA promised to take the workers’ demands to the South African government, ultimately resulting in numerous inspections from union representatives to ensure continued attention to workers’ sources/recommended/missed-the-goal-for-workers (contextualizing reform of child labor practices as response to media frenzy and public outrage).


126. See ILRF, supra note 124, at 4-5 (discussing FIFA’s collaboration with ILO to produce Code of Labor Practice prohibiting use of child labor, guaranteed collective bargaining rights, stressed fair and safe working conditions).

127. See id. (noting that World Federation of Sporting Goods Industries rejected FIFA code and adopted new code in 1997, which only focused on child labor). As a result of this narrow focus, consumers who buy balls that bear a seal guaranteeing that the ball was not produced by child labor may also indirectly support other nefarious labor practices. See id. at 26 (suggesting child-labor-free balls may also be produced through workers receiving poverty wages and which are inhibited from forming trade unions).


129. See Edie Cottle & Mauricio Rombaldi, Lessons from South Africa’s FIFA World Cup, Brazil and Its Legacy for Labour 8-9, available at http://www.global-labour-university.org/fileadmin/Summer_School_2014/EddieCottleCOTTLETIMBook2013FINAL.pdf (relating South African and international unions’ successful trade union campaign leading up to 2010 World Cup, despite FIFA’s lack of support). Although FIFA was initially reluctant to grant unions inspections of construction sites, it ultimately released a statement to support the unions. See id. at 9 (quoting Vasco Pedrina & Joachim Metz, The Trade Union Legacy of the 2010 World Cup: International Solidarity Revitalised, in South Africa’s World Cup: A Legacy for Whom? 201 (Eddie Cottle, ed., 2011)).
conditions.\textsuperscript{130} BWI’s success in lobbying FIFA to have an impact on the workers’ lives created a momentum where workers’ rights will continue to be at the forefront of future World Cup organizing.\textsuperscript{131} Effectively, workers had better protections in the following World Cup in Brazil, where collective bargaining allowed wage increases and improved health and safety conditions.\textsuperscript{132}

Unlike South Africa or Brazil, no local union in Qatar has pressured FIFA to implement protections for migrant workers because Qatari law prohibits them from organizing.\textsuperscript{133} As a result, FIFA is taking no responsibility for labor violations in Qatar, even in the face of strong criticism of the human rights standards that are failing to be met in Qatar.\textsuperscript{134} Despite the gravity of the allegations, even major NGOs shy away from requesting FIFA to use similar direct measures as in recent World Cups to address the workers’ demands and conditions.\textsuperscript{135} Conversely, FIFA resists allegations that it


\textsuperscript{131} See id. at 20 (concluding that South Africa’s model can serve as precedent to “extract firmer commitments” from FIFA). See also HRW Report, supra note 63, at 34 (explaining launch of “decent work” campaign by trade unions in October 2007, promoting stronger labor rights).

\textsuperscript{132} See HRW Report, supra note 63, at 7 (contrasting inherent obstacle in Qatari law and local laws in South Africa and Brazil that enabled construction workers to organize and make successful demands); see also Building & Wood Workers Int’l, South Africa Hands Over Decent Work Campaign to Brazil (May 27, 2010), http://www.bwint.org/default.asp?Index=2748&Language=EN (announcing that Brazilian trade union will continue Campaign for Decent Work initiated in South Africa).

\textsuperscript{133} See ITUC, Countries at Risk: 2013 Report on Violations of Trade Union Rights 72 (2013), available at http://www.ituc-csi.org/IMG/pdf/survey_fa_2013_eng_final.pdf (explaining that non-Qatars do not have right to unionize, excluding over 90% of the workforce from right to organize). Even if migrant workers were allowed to organize, the ITUC reports that they would need to be part of companies that employ a minimum of one hundred Qatari workers. Id. However, that is not to say that South African workers’ rights to organize do not face significant challenges. In the same year as the World Cup, the ITUC reported that South African trade unions’ protesters were at times faced with live bullets from the authorities. See Press Release, Difficult to Be a Trade Unionist in Africa, ITUC (June 1, 2011), http://www.ituc-csi.org/press-release-difficult-to-be-a-trade-unionist-in-africa (announcing that Brazilian trade union will continue Campaign for Decent Work initiated in South Africa).

\textsuperscript{134} See EIIJIR, supra note 76 (“European Parliament called FIFA to pay attention to the situation. The President of FIFA Joseph S. Blatter told [sic] that FIFA will pay attention to the situation in Qatar. . . . FIFA stressed that it is Qatar who is responsible together with companies who employs [sic] workers”).

\textsuperscript{135} HRW Report, supra note 63, at 91-92. The HRW Report outlined the following bulleted list of recommendations for FIFA:

To FIFA
claims confuse its marginal role in the scandal with the Qatari legislative power. 136 Unlike many NGOs, the ITUC challenges FIFA to use its role in the controversy as an opportunity to inject change into Qatar’s entire labor laws. 137 The ITUC even asked FIFA to de-

- Call upon Qatari partners organizing the World Cup to obtain written commitments from developers, partners, contractors, subcontractors and their affiliates involved in the construction of World Cup facilities and supporting infrastructure that they will engage in socially responsible recruitment and employment practices, in accordance with the protections of international labor laws, as detailed in the recommendations to contractors, below;
- In particular, follow up on the commitment by the Supreme Committee for Qatar 2022 to incorporate contractual provisions guaranteeing respect for international labor standards, and encourage that such provisions be comprehensive, enforceable and in line with internationally recognized labor rights;
- Consistent with FIFA’s public commitment to engage with Qatari authorities on labor rights matters, formally raise with the Qatari government key workers’ issues, including recruitment fees that workers pay and inadequate implementation of laws meant to prohibit workers from being charged such fees, restrictions that ban or effectively prohibit workers from free association, collective bargaining, and strikes, and Sponsorship Law provisions that keep workers from changing jobs or leaving the country without their employer’s permission. Seek concrete commitments for legal reform on these issues;
- Request immediate and full disclosure of labor disputes, workplace injuries, and deaths on construction sites for venues of the 2022 World Cup;
- Seek independent verification that all workers employed to construct venues for the 2022 World Cup have not been the victims of wage exploitation and other abuses;
- Make public the guarantees and protections sought and obtained to protect the rights of workers in Qatar, to reassure the Qatari and international public that the World Cup 2022 will not be tainted by the currently prevalent practices of migrant worker abuse;
- Finance a public awareness campaign using mainstream media to raise consciousness about trafficking and labor exploitation, and to educate companies, countries, and football fans to these issues.

Id.


137. See International Unions Set Conditions on Qatar World Cup, ITUC (May 19, 2014), http://www.ituc-csi.org/international-unions-set (demanding that Qatar allow freedom of association and collective bargaining, minimum wage for all workers, introduce grievance procedures, work with responsible international recruitment agencies).
mand that Qatar end the kafala system as a condition to its hosting privileges in 2022.138

Arguably, FIFA already stepped beyond its role as a soccer governing body by articulating a plethora of invasive demands for host countries—including the constitution of ad hoc courts to police World Cup games.139 For an international sporting event of the magnitude of the World Cup, lasting imprints on a host country’s legal system are not out of the question.140 The latest World Cup in Brazil showed that FIFA can successfully demand legal changes to the host country’s body of laws.141 Prior to the 2014 World Cup, FIFA amended Brazilian federal law to allow the sale and consumption of alcohol in stadiums, assigning all civil liability that may ensue to Brazil.142 As evidenced in Brazil, special labor regulations

138. See ITUC, supra note 27, at 5 (“Qatar must change. FIFA can make a difference by making the abolishment of kafala and the respect of international rights a condition of Qatar hosting the World Cup in 2022. If FIFA demand Qatar abolish kafala and respect fundamental international rights, it will happen.”).

139. See Rob Hughes, Swift and Severe Justice at World Cup Courts, N.Y. TIMES (June 20, 2010), http://www.nytimes.com/2010/06/21/sports/soccer/21iht-wc-soccer.html?pagewanted=all&_r=0 (reporting that FIFA took over 56 courts in South Africa’s 2010 World Cup to relieve sponsors from concerns about high crime rates in host country). In South Africa, the government paid the price of the unprecedented judicial changes that FIFA required, in order to boost security at World Cup games. See Mike Pesca, South Africa’s World Cup Court: Sudden Justice, NPR (June 22, 2010, 3:00 PM), http://www.npr.org/templates/story/story.php?storyId=128012634 (noting that South African government paid $6 million to create FIFA’s ad hoc courts). Interestingly, FIFA or its ad hoc South African courts did not seek to address demands of workers alleging abusive wages and working conditions, reverting back to local authorities’ discretion. See id. (“[W]orkers claimed that they were offered 126 to 190 rand [approximately $11-17] for shifts up to 15 hours, and that on night games they had no transport to get home and slept in bus shelters or police stations in freezing conditions. FIFA disclaimed responsibility for the problems and welcomed a police takeover of the security role.”).

140. See Matthew J. Mitten & Hayden Opie, Sports Law: Implications for the Development of International, Comparative, and National Law and Global Dispute Resolution, 85 Tul. L. Rev. 269, 315, 317 (2010) (“[T]he rules and commercial arrangements of international and Olympic sports possess a unique capacity to spread legal norms worldwide because of the growing importance of international sports competition. . . . As major international sporting events move around the globe, they often leave a legacy of intellectual property reform and related legal developments, which may be specific to the event or sports organization or perhaps have wider relevance.” (citations omitted) (footnotes omitted)).

141. See Daniel De Saulles, How FIFA Is Changing Brazil’s Constitution for the World Cup, LAWYER 2b (June 7, 2014), http://2b.thelawyer.com/home/insight/how-fifa-is-changing-brazils-constitution-for-the-world-cup/3020589.article (explaining that FIFA alleviated concern of major sponsor Budweiser by changing Brazil’s ban on alcohol in stadiums).

142. See id. (explaining that “Brazilian Federal Statute n.10.671 of 2003 . . . prohibit[ed] the entry and sale of alcoholic beverages inside stadiums during football matches . . . . [but] Law 12.663/2012 – the ‘World Cup Law’ – which came into effect in June 2012, [was] [ ] amended . . . . opening the way for sale of
are also not outside of the scope of conditions that FIFA may impose on a host country. FIFA’s “World Cup Law” in Brazil did not reflect a progressive take on workers’ rights from the FIFA leadership. Consistent with some of the government guarantees FIFA has imposed on host countries, the “World Cup Law” would have ushered in a relaxation of labor protections, were it not for the Brazilian President’s direct veto.

In the context of these judicial and legislative changes, the ITUC’s demand that FIFA require Qatar to change its labor laws appears less impractical. Responding to the media outcry around Qatar’s labor violations, FIFA agreed to add labor concerns
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as criteria in future bidding rules. However, this announcement fails to address the ongoing allegations of abusive and poor working conditions; therefore, the ITUC has also launched a campaign to relocate the World Cup to a host nation with more favorable labor laws.

B. Can FIFA Give Qatar the Red Card?

Despite Qatar’s public relations efforts, it continues to face multifaceted opposition to its hosting bid beyond its heat, corruption, and labor exploitation. Given FIFA and Qatar’s slow, if not stagnant, progress on the issue, a relocation would short-circuit Qatar’s costly construction projects and avoid rising workers’ fatalities. It is understandable that the ITUC and other NGOs lose

147. See Statement from Jérôme Valcke on Labour Rights in Qatar, FIFA.COM (Nov. 17, 2011), http://www.fifa.com/worldcup/qatar2022/news/newsid=1544425/index.html (adding: “As the world governing body of the most popular sport we have a responsibility that goes beyond the development of football and the organisation of our competitions. FIFA upholds the respect for human rights and the application of international norms of behaviour as a principle and part of all our activities.”). See also HRW REPORT, supra note 63, at 10 (remarking that FIFA’s pledge to add labor-related criteria to future bids is aligned with own corporate social responsibility policy). Blatter has also confirmed that human rights criteria will feature more importantly in the next World Cup host selection. See Qatar World Cup 2022: Fifa President Sepp Blatter’s Human Rights Vow, THE INDEPENDENT (Jan. 31, 2015), http://www.independent.co.uk/sport/football/news-and-comment/qatar-world-cup-2022-fifa-president-sepp-blatter-s-human-rights-vow-10016003.html (quoting Blatter that 2022 Qatar selection was “wrong”).

148. See Re-Run the Vote: No World Cup Without Workers’ Rights, ITUC, http://www.rerunthevote.org/ (last visited Sept. 5, 2014) (“FIFA and Qatar have both pledged reform, but their record is full of broken promises. Save lives, restore the game’s integrity and the trust of fans: tell FIFA to choose a World Cup venue where workers’ rights are respected.”).

149. See Nick Miller, 6 Reasons Why the World Cup Should Be Taken Away from Qatar, BLEACHER REPORT (Feb. 18, 2014), http://bleacherreport.com/articles/1964708-six-reasons-why-the-world-cup-should-be-taken-away-from-qatar (citing reasons such as prohibition on homosexuality and lack of soccer infrastructure or potential to foster grassroots soccer in Qatar as compelling reasons to relocate World Cup); see also Godfrey Byaruhanga, Qatar UN Review: Crucial Reforms Needed to Protect Women and Migrant Workers, AMNESTY INTERNATIONAL (May 7, 2014), https://www.amnesty.org/en/articles/news/2014/05/qatar-un-review-crucial-reforms-needed-protect-women-and-migrant-workers/ (reporting ongoing issues of women’s rights, including criminalization of sex outside of marriage and inadequate response to domestic violence, as well as restricted freedom of expression). Many have also demanded that FIFA relocate the World Cup over concerns for Qatar’s geopolitical choices in the Middle East. See James Dorsey, Israel Mobilizes to Deprive Qatar of the World Cup, HUFFINGTON POST (Sept. 22, 2014, 11:57 PM), http://www.huffingtonpost.com/james-dorsey/israel-mobilizes-to-deprive-b_q865708.html (referencing Israeli campaign to relocate World Cup, due to Qatar’s support for Hamas and Muslim Brotherhood).

150. See ITUC, supra note 27, at 6 (predicting that Qatar will spend $140 billion for World Cup construction projects).
patience; Qatar has deferred to economic liberty of contract between employer and employee instead of implementing systemic change on key issues including minimum wage regulations. Practically, allegations of bribery and the challenges for players and fans created by the Gulf nation’s arid climate pose a greater danger for the preservation of the Gulf nation’s hosting privileges. While neither of those two critical angles have incorporated migrant labor rights, they have pushed FIFA to provide more ethical and legal oversight, which could prove useful to increase labor accountability.

FIFA recently produced a report on the proceedings that led to Qatar’s election, partly to clear what has already been a major taint on its reputation. Currently, members of the FIFA leadership
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have called for the report’s public release to restore the public’s faith in the world governing organization. 154 Keeping this report private may reinforce the perception that FIFA is not committed to transparency in its own governance. 155 Internally, FIFA has adopted a fluid and changing structure to hold its members accountable, raising concerns that it cannot provide sufficient oversight over actions of its members. 156 At the same time, FIFA has taken significant steps to convey a zero-tolerance policy, even prosecuting Mohamed bin Hammam, a member of its Executive Committee, and banning him for life from all soccer-related activity because of his involvement with bribery. 157 Bin Hammam was charged with bribery as a violation of FIFA’s Code of Ethics because

154. Michael Garcia, the head of the FIFA Ethics Committee and special appointee to investigate allegations of corruption in the bidding process, notably called for the report to be released to promote transparency and reform. See Matthew Futterman, FIFA Investigator Wants Report Made Public, WALL ST. J. (Sept. 24, 2014, 8:50 PM), http://www.wsj.com/articles/fifa-investigator-wants-report-made-public-1411573427. See also Fifa: Michel Platini Breaks Ranks Over Report into Alleged Corruption, BBC NEWS (Sept. 25, 2014, 6:26 PM), http://www.bbc.com/sport/0/football/29337509 (noting that Platini, president of the Union of European Football Associations and member of the FIFA Executive Committee, joined Garcia in calling for release of investigative report). The Qatari government has also expressed interest in the release. See id. (“The main findings should also be fully disclosed to the general public.”). Ultimately, the report was not released and Garcia clashed with the Ethics Committee’s handling of the report, calling some of its findings misrepresentations of the report. See Fifa Investigator Garcia Steps Down, ALJAZEERA (17 Dec 2014, 16:07 GMT), http://www.aljazeera.com/sport/football/2014/12/garcia-resigns-from-fifa-ethics-committee-2014121715461523651561.html (releasing statement by Garcia where he explains why he appealed Ethics Committee’s findings to Appeal Committee, which ultimately rejected his appeal).


156. See Kevin Carpenter, Fifa Ethics Committee’s Legal Role in the Investigation into the World Cup Voting Allegations, LAWINSPORT BLOGS (June 5, 2014), http://www.lawinsport.com/blog/kevin-carpenter/item/fifa-ethics-committee-s-legal-role-in-the-investigation-into-the-world-cup-voting-allegations?highlight=WyYxYXRheiksInFhdGFyJ3MjLCIlcWFoYXhXQ== (noting concern that recently created Ethics Committee was not sufficiently independent from FIFA to provide oversight).

157. See Bin Hammam v. FIFA, CAS 2011/A/2625 (July 19, 2012), paras. 15-23, available at http://www.tas-cas.org/fileadmin/user_upload/Award20262520_FINAL_internet.pdf (stating that Qatari official and former FIFA Executive Committee member was found guilty of bribery by FIFA Ethics Committee and upheld by Appeal Committee, resulting in lifetime ban against engaging in any soccer-related activity). The Court of Arbitration for Sport (CAS) subsequently reversed the lifetime ban. See id. para. 207 (annulling decision of Appeal Committee). The Bin Hammam case was particularly famous because bin Hammam bribed members of Caribbean soccer officials during his campaign to become FIFA President.
he allegedly distributed up to $40,000 in cash to high soccer officials while running for FIFA presidency.\textsuperscript{158}

The scandal surrounding bin Hammam’s actions quickly spilled over to the Executive Committee’s decision on Qatar, bin Hammam’s country of origin, as host of the World Cup.\textsuperscript{159} This crisis put significant pressure on FIFA to expose individuals who participated in bribery and punish them promptly, partly to reinforce the prominence of its Code of Ethics and the legitimacy of its World Cup elections.\textsuperscript{160} However, \textit{Bin Hammam} shows that FIFA has yet to streamline its disciplinary procedures, even when institutional transparency is in controversy.\textsuperscript{161} Specifically, FIFA’s Ethics Committee’s decision and the Appeal Committee’s affirmation of the finding that bin Hamman bribed FIFA officials provides shaky precedent for a comprehensive and thorough investigation into bribery allegations.\textsuperscript{162} FIFA did not present sufficient evidence to prove, even by a lower standard of “comfortable satisfaction,” required by the Court of Arbitration for Sport (CAS) that bin Hamman was the source of the cash payments made.\textsuperscript{163} In its review, the CAS determined that FIFA stopped short of investigating its Executive Committee member Jack Warner, who may have furnished

\begin{itemize}
\item \textsuperscript{158} See \textit{Bin Hammam}, supra note 157, paras. 12-15 (explaining that bribes at issue consist in $40,000 cash gifts offered to Caribbean Football Union members and violate FIFA Code of Ethics, FIFA Disciplinary Code, and FIFA Statutes).
\item \textsuperscript{159} See Mohamed bin Hammam Accused of ‘Buying World Cup’ for Qatar, 4 News (June 1, 2014), http://www.channel4.com/news/world-cup-2022-qatar-mohamed-bin-hammam-sepp-blatter (reporting revelations that bin Hammam used slush funds to support Qatar’s bid). \textit{Bin Hammam} is not the only bribery case that sheds doubt on Qatar’s election. See Amos Adamu v. FIFA, CAS 2011/A/2426 (Feb. 24, 2012), available at http://www.tas-cas.org/fileadmin/user_upload/Award20242620_FINAL_.pdf (dismissing appeal of former FIFA member who was caught by reporters posing as journalists quoting price for his vote because FIFA Ethics Committee properly sanctioned him). In \textit{Adamu}, a former member of the FIFA Executive Committee challenged FIFA’s finding of bribery allegations, a lifetime ban on all soccer-related activities, and a fine. \textit{Id. at 3}.
\item \textsuperscript{160} For internal and external pressure on FIFA to expose extent of bribery and clear its name, see sources cited supra notes 154-157 and accompanying text.
\item \textsuperscript{161} See \textit{Bin Hammam}, supra note 157, para. 88 (noting bin Hammam’s due process complaint that FIFA Executive Committee, chaired by his former rival Blatter, appointed members of Appeal and Ethics Committees reviewing his allegations).
\item \textsuperscript{162} For a discussion of CAS’s major problem with FIFA proceedings, see infra note 164 and accompanying text.
\item \textsuperscript{163} See \textit{Bin Hammam}, supra note 157, para. 98 (noting that FIFA Ethics and Appeal Committees applied strict standard of beyond reasonable doubt, while CAS standard of proof is comfortable satisfaction that evidence establishes guilt). See also id. para. 203 (holding that majority of panel unable to conclude to its comfortable satisfaction that allegations against bin Hammam are true).
\end{itemize}
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the key link between bin Hammam and the payments.164 This shortcoming was fatal to FIFA’s prosecution and undermined the Ethics Committee’s findings.165 Even though CAS suggested FIFA could resubmit its allegations with new evidence, FIFA failed to take advantage of this opportunity, creating further doubt that FIFA intended to thoroughly investigate internal corruption.166

There is little incentive for FIFA to improve its own investigative procedures substantially, since allegations of bribery do not put FIFA itself at risk; only the bidding nations and their representatives may face disciplinary actions in the event of FIFA violations, ranging from sanctions to endangering their hosting privileges.167 Although the Ethics Committee and its Adjudicatory Chamber are in charge of reviewing the report on Qatar’s election, the decision to relocate the World Cup is only within the scope of the Executive Committee, whose members favored Qatar’s bid.168 As a host nation, Qatar is subject to FIFA’s Code of Ethics and must turn to internal due process to contest a withdrawal of its hosting privileges.169

Qatar’s acceptance to host the World Cup was contingent


165. See Bin Hammam, supra note 157, paras. 207-08 (annulling FIFA Appeals’ Committee decision and lifetime ban, while not making finding of innocence).


167. See Payne, supra note 5 (noting that Adjudicatory Chamber may impose sanctions on bid candidates and other officials connected to FIFA, perhaps prompting change in hosting decision).

168. See Dan Roan, Russia 2018 & Qatar 2022 Fifa World Cups: No Ruling until Spring, BBC News (Sept. 19, 2014, 1:55 PM), http://www.bbc.com/sport/0/football/29275666 (quoting Eckert that Adjudicatory Committee will refrain from making recommendations on who should host World Cup because decision belongs to Executive Committee). See also FIFA EXECUTIVE BODIES, FIFA, http://www.fifa.com/aboutfifa/organisation/bodies/excoandemergency/ (last visited Sept. 25, 2014) (“The Executive Committee shall decide the place and dates of the final competitions of FIFA tournaments.”). Sunil Gulati, the president of U.S. Soccer and U.S. representative on the Executive Committee, has also advocated for the release of the report. See Borden, supra note 155.

on forbearance of its right to sue FIFA in an ordinary court of law.\textsuperscript{170} Therefore, its display of disciplinary measures notwithstanding, FIFA does not fear direct repercussions of a potential recall from Qatar’s end, especially since the Ethics Committee demonstrated a strict policy when it comes to corruption charges.\textsuperscript{171} However, the Ethics Committee’s decision, even if appealed internally, is still subject to an appeal before CAS.\textsuperscript{172} CAS looks less leniently at internal procedural defects and the Ethics Committee’s dependence on the Executive Committee to take action.\textsuperscript{173} The Bin Hammam case shows that CAS demands higher standards of not only appellants accused of bribery, but FIFA itself.\textsuperscript{174}

Finally, FIFA has considered another avenue to recall the vote on Qatar that is unrelated to either bribery or labor all bidding countries agree to be bound by FIFA Code of Ethics, which like the rest of FIFA is bound by Swiss law).

\textsuperscript{170} See id. (clarifying that any dispute is subject to the jurisdiction of Appeals Committee of FIFA’s Ethics Committee, which is special arbitration body and not court of law); see also FIFA STATUTES § 68, FIFA (2012), available at http://www.fifa.com/mm/document/AFFederation/Generic/02/41/81/55/FIFASTATuten2014_E_Neutral.pdf (prohibiting recourse to “ordinary courts of law” and binding members to recognize CAS as binding and independent judicial authority).

\textsuperscript{171} See Bose, supra note 169 (noting that Qatar signed away rights to pursue legal action against FIFA when it proposed bid to host). The Bin Hammam and Adamu cases continue to have a domino effect in the FIFA leadership, with the Ethics Committee punishing others involved in the bribery incidents. See Fifa Suspends Mongolian FA President for ‘Soliciting and Accepting’ Bribes, PRESS ASSOCIATION (Oct. 15, 2014, 7:22 AM), available at http://www.theguardian.com/football/2014/oct/15/fifa-suspend-mongolian-fa-president-bribes (reporting that head of Asian soccer, Ganbold Buyannemekh, was banned from soccer-related activities for five years for taking bribes from bin Hammam).

\textsuperscript{172} See FIFA CODE OF ETHICS § 81, FIFA (2012), available at http://www.fifa.com/mm/document/affederation/administration/50/02/82/codeofethics2012e.pdf (noting that decisions from FIFA Appeal Committee are final unless appeal filed with CAS).

\textsuperscript{173} See Bin Hammam, supra note 157, para. 194 (questioning basis of Ethics and Appeal Committees’ conclusion that bin Hammam met all elements of bribery, including being source of cash gifts, because FIFA “constructed [charges] entirely on circumstantial evidence” and presumed motive of bin Hammam). The CAS panel also responded to bin Hammam’s contentions that FIFA Committees did not provide him with due process. See id. paras. 129-131 (noting that CAS’ de novo review of merits cures infringements of due process within sports organization’s internal disciplinary proceedings).

\textsuperscript{174} See Bin Hammam, supra note 157, para. 208 (concluding that FIFA’s new ethics committees set up to investigate and adjudicate bribery allegations would need to provide new evidence to re-open bin Hammam’s case); see also Jamie Rainbow, CAS Bin Hammam Judgment Opens can of Worms for FIFA, WORLD SOCCER (July 19, 2012), http://www.worldsoccer.com/columnists/keir-radhedge/cas-bin-hammam-judgment-opens-can-of-worms-for-fifa (noting that FIFA expresses concern following CAS’s decision and handed over all evidence to new Ethics Committee for review).
FIFA’s Role in Qatar’s Migrant Worker Abuse

Because of Qatar’s extreme heat, FIFA is concerned that it may be held liable for health injuries. To be clear, this concern is limited to the projected arrival of tourists and players in 2022—for heat has been an ongoing source of mortality for migrant workers. Already in Brazil, FIFA began anticipating weather-related health issues, which would be substantially more present in Qatar. To mitigate the costly administrative difficulties that would follow a recall, FIFA is also considering rescheduling the tournament to the Qatari winter. At the time of this Comment, FIFA has not made a definitive decision to relocate the 2022 World Cup and continues to resist categorical rejections of Qatar’s hosting rights.

In sum, FIFA has taken overt steps to improve its transparency with respect to allegations of bribery. Although there is room for much improvement, FIFA has created a legal infrastructure to pro-
vide oversight over its own gathering of evidence.182 The Bin Hammam decision also showed the critical role that CAS plays in highlighting FIFA’s shortcomings.183 FIFA’s statements over Qatari climate also show that it can take more extreme measures when its own liability is on the line.184 Prompting FIFA to reflect further on its own vulnerability may push the organization to take stronger measures against abusive labor practices.185

C. Recommendations: Ex Ante and Post Facto Measures

On a preventative level, the cases of Brazil and South Africa demonstrate that FIFA can play an active role in reinforcing labor protections for workers by setting clear expectations from the start that it will collaborate with local and international unions.186 FIFA’s positive collaboration with the ILO on the soccer ball industry also shows that FIFA can be a catalyst to enforce existing ILO conventions and promote labor law reform when the image of soccer is at stake.187 The contractual requirements that come with the FIFA seal on soccer balls is transferrable to the governmental guarantees that host countries must comply with, once they become the vehicle of the World Cup as a FIFA product.188 The bidding agreements are a powerful tool that FIFA has used to implement adjustments to a country’s existing laws and judicial infrastructure.189

182. See sources cited infra notes 157-167 (reviewing findings of guilt for bribery allegations against two former members of executive committee by FIFA disciplinary committees).
183. For a discussion of some of challenges to FIFA’s adjudicatory and investigatory proceedings that surfaced following the CAS decision, see supra notes 173-174 and accompanying text.
184. See Qatar adamantly will host 2022 World Cup despite doubts, supra note 176 (revealing statement by Jawwani on need to move World Cup away from Qatari climate).
185. See sources cited supra note 136 (outlining FIFA’s denial of responsibility vis-à-vis migrant worker complaints).
186. See sources cited supra notes 128-132 and accompanying text (reviewing extent of FIFA’s collaboration with local and international unions in South Africa and Brazil to implement labor inspections and collective bargaining rights for construction workers).
187. See sources cited supra notes 102-109 and accompanying text (reviewing inadequacies of ILO procedures to hold members accountable).
189. See UK Government Guarantee, supra note 143, at 2 (“All Government Guarantees are legally and constitutionally valid and enforceable . . . and the Government . . . irrevocably waives any right of immunity of the United Kingdom and its assets . . . . The Government will adopt all measures and enact all necessary laws,
Historically, FIFA has not used its requirements as positive tools of change.\(^{190}\) However, implementing labor rights guarantees falls squarely within its stated goals and aligns with its past support for ILO conventions and local trade unions.\(^{191}\) The potential penalty of losing the World Cup is significant enough to motivate countries to abide by FIFA standards, however stringent.\(^{192}\)

On a post facto level, FIFA has the judicial capacity to hold Qatar accountable when it fails to implement required labor protections.\(^{193}\) The prosecutions of FIFA’s own members accused of bribery showcased a new era for FIFA’s Ethics Committee.\(^{194}\) The investigation and prosecution of Mohamed bin Hammam particularly demonstrates that FIFA can exert resources to clear transparency concerns and impose significant sanctions.\(^{195}\) The bribery proceedings also reveal that FIFA has room for improvement and that CAS can hold FIFA to higher standards.\(^{196}\)

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\(^{190}\) See sources cited supra notes 52-62 and accompanying text (discussing impact of FIFA requirements on host countries’ local economy and population).

\(^{191}\) See Mission & Statutes, supra note 36 (referencing FIFA’s goal to improve society through soccer). For a discussion of FIFA’s collaboration with the ILO and local trade unions during the South African and Brazilian World Cups, see supra notes 122-132 and accompanying text.

\(^{192}\) See sources cited supra notes 36 and 60 (outlining FIFA’s stated mission and corporate responsibility goals and speaking of building better world through soccer and commitment to social improvement). For a discussion of the lengths taken by host countries to conform to FIFA requirements, see supra notes 54-62 and accompanying text.

\(^{193}\) See sources cited supra notes 76-80 and accompanying text (discussing inefficiency of existing laws and measures in Qatar without enforcement mechanism).

\(^{194}\) For a review of the measures FIFA has taken to address bribery allegations, see supra notes 157-158.

\(^{195}\) For a review of the measures FIFA has taken to address bribery allegations, see supra notes 157-158.

\(^{196}\) See Lorenzo Casini, The Making of a Lex Sportiva by the Court of Arbitration for Sport, in LEX SPORTIVA: WHAT IS SPORTS LAW? 149, 161 (Robert C. R. Siekmann ed., 2012) (highlighting that CAS’ appellate procedure effects normative harmonization of sports law). For the most part, decisions issued by CAS are binding on the parties and not subject to judicial review. See Mitten & Opie, supra note 140, at 288 (explaining that CAS awards are binding and subject to limited judicial review by Swiss Federal Tribunal because “CAS is sufficiently independent and impartial for its awards to have the same force and effect as judgments rendered by sovereign courts” (citation omitted)); see also FIFA Statutes 68 (prohibiting recourse to “ordinary courts of law” and binding members to recognize CAS as binding and independent judicial authority). Practically, CAS recognizes appeal to SFT, but rarely has SFT overturned CAS decision. See Samuel Morris, Comment, FIFA World Cup 2022: Why the United States Cannot Successfully Challenge FIFA Awarding the Cup to Qatar and How the Qatar Controversy Shows FIFA Needs Large-Scale Changes, 42 CAL. W.
IV. Conclusion

FIFA is in a unique position to ensure that the World Cup will not be played in stadiums built with the blood of construction workers.\(^{197}\) Five years since it controversially won the 2022 World Cup, Qatar has not exhibited signs that it will reform its laws to provide migrant workers with basic labor rights, such as the rights to organize, to recover wages that they were promised and did not receive, or to leave abusive working conditions without losing legal status.\(^{198}\) Qatar’s ratification of the ILO has not kept the country tangibly in line with international labor laws.\(^{199}\) In fact, Qatar faces such pressure to deliver on its promises and FIFA’s requirements that it may face greater temptation to cut corners where it faces the least resistance, since migrant workers lack the resources and facilities to access justice on their employers’ abusive practices.\(^{200}\) Despite its stated goal to have a positive social impact through soccer, FIFA’s track record in host countries suggests a propensity to seek profit regardless of the price on local communities.\(^{201}\)

However, the migrant workers crisis intersects with a number of factors that should prompt FIFA to change its usual course of business.\(^{202}\) First, the soccer ball industry saw FIFA collaborate with the ILO at the cutting edge of labor rights, not just seeking to avert

\(^{197}\) For a discussion of the conditions of migrant laborers’ life and work in Qatar, see sources cited supra notes 63-75 and accompanying text.

\(^{198}\) See supra note 68 (explaining how dissenting migrant workers can spiral into undocumented status due to employers’ practices).

\(^{199}\) For a discussion of Qatar’s obligations under the ILO and the ITUC’s complaint against Qatar, see sources cited supra notes 93-105 and accompanying text.

\(^{200}\) See sources cited supra notes 73-75 and accompanying text (discussing pressure and challenges World Cup host countries encounter and explaining migrant workers’ difficulties in accessing Qatari courts of law).

\(^{201}\) See supra notes 53-62 and accompanying text (reviewing historical and recent critiques of FIFA World Cup’s impact on host country).

\(^{202}\) The migrant laborers’ crisis echoes labor concerns that FIFA has recently faced in Qatar in particular. See Andrew Warshaw, Moroccan Ouaddou wins FIFA Case as Qatar SC Ordered to Pay Wages, INSIDE WORLD FOOTBALL (Feb. 13, 2014, 12:23 PM), http://www.insideworldfootball.com/fifa/14117-moroccan-ouaddou-wins-fifa-case-as-qatar-sc-ordered-to-pay-wages (explaining that FIFA Dispute Resolution Chamber ruled in favor of Abdes Ouaddou and ordered Qatari club to pay him back owed salary); Firdose Moonda, Ouaddou’s Victory Against Qatar SC Sends a Message to Clubs, ESPN FC BLOGS (Feb. 13, 2014), http://www.espnfc.com/blog/footballafrica/80/post/1853242/ouaddou’s-victory-against-qatar-sc-sends-a-message-to-clubs (explaining that Ouaddou received resolution from FIFA sixteen months after filing, including damages of six months of unpaid salary, while Belounis filed in Qatari court). For a discussion of Belounis’s wage theft accusations, see sources cited supra notes 14-19 and accompanying text.
child labor but also demanding large-scale labor rights requirements.\textsuperscript{203} Second, Qatar’s bid follows two recent World Cups where trade unions successfully rallied FIFA’s support to implement labor rights protections for construction workers.\textsuperscript{204} In addition, Qatar’s bid comes in the midst of a public relations crisis for FIFA, which strives to address significant challenges to its declared transparency and accountability system.\textsuperscript{205} FIFA is being strongly pressured to reconsider Qatar’s bid due to bribery allegations and concerns that it will be held liable for weather-related health problems.\textsuperscript{206}

These threats to Qatar’s bid carry a twofold lesson for adopting \textit{post facto} measures to avert more labor-related criticism in future World Cups. First, FIFA must fine-tune its judicial procedures, especially since complaints often cannot be brought in ordinary courts of law.\textsuperscript{207} The \textit{Bin Hammam} decision distinguishes CAS for its ability to lead FIFA and other international sports organizations into a new era of judicial review.\textsuperscript{208} Once FIFA’s procedure is streamlined, it could provide a powerful tool to hold host countries accountable for implementing basic labor rights guarantees.\textsuperscript{209} Second, FIFA’s concern over weather-related lawsuits highlights a key factor for its refusal to directly engage the migrant workers’ complaints.\textsuperscript{210} Absent a threat of liability, FIFA is reluctant to re-

\textsuperscript{203} For a discussion of the extent of FIFA’s collaboration with the ILO in response to rampant child labor practices in soccer ball industry, see supra notes 122-127 and accompanying text.

\textsuperscript{204} See supra notes 128-132 and accompanying text (examining momentum international and local trade unions created following 2010 South Africa and 2014 Brazil World Cup).

\textsuperscript{205} See supra note 153 for an analysis of pressure on FIFA to clear taint from bribery cases.

\textsuperscript{206} See supra notes 150-185 for an extended analysis of the risks posed by bribery accusations and heat concerns.

\textsuperscript{207} See Bose, supra note 170 (explaining that host countries are bound to follow internal arbitration procedure).

\textsuperscript{208} See Ian Blackshaw, \textit{ADR and Sport: Settling Disputes Through the Court of Arbitration for Sport, the FIFA Dispute Resolution Chamber, And the WIPO Arbitration & Mediation Center}, 24 MARQ. SPORTS L. REV. 1, 31 (2013) (noting that CAS was hailed at its inception by IOC President as Supreme Court for sports and has become “a stature that inspires confidence and respect”). For a discussion of the pressure that FIFA faces internally to accurately investigate bribery allegations, see sources cited supra notes 152-153 and accompanying text. But see ITUC, supra note 116 (demanding establishment of independent labor court to provide better oversight on sports organizations).

\textsuperscript{209} For a sampling of the binding language of government guarantees on host countries, see supra notes 143 and 189.

\textsuperscript{210} See sources cited supra notes 175-180 and accompanying text for FIFA’s concerns that weather in Qatar would result in its own liability.
consider Qatar’s bid and continues to kick away responsibility, even at the expense of rising fatalities on its World Cup sites.\textsuperscript{211}

V. ADDENDUM

On May 27, 2015, the U.S. Department of Justice (DOJ) announced the indictment of fourteen top FIFA officials over corruption charges.\textsuperscript{212} Gathered over a twenty-four-year investigation, these charges include racketeering, wire fraud, and money laundering.\textsuperscript{213} Given FIFA’s internal measures regarding corruption, this news hardly comes as a surprise.\textsuperscript{214} However, the indictment and the twenty-four year criminal investigation that support it mark an powerful blow to FIFA’s structure, revealing deep-rooted cover-ups, bribes, and kickbacks.\textsuperscript{215} In particular, FIFA’s prior dismissal of the ethical charges against Jack Warner—and its failure to heed to CAS’s advice to pursue the matter further—appear more suspect

\textsuperscript{211} For an estimate of fatalities resulting from 2022 World Cup construction, see supra notes 26-27 and accompanying text. Two French architects recently proposed a memorial to commemorate each migrant worker’s death by piling one stone for each death in a conical spiral, thereby providing a mourning site for migrants’ families at the heart of the World Cup’s location. See Ishaan Tharoor, The Tragic Plan for a Monument to Qatar’s Dead World Cup Workers, Wash. Post (Dec. 8, 2014), http://www.washingtonpost.com/blogs/worldviews/wp/2014/12/08/the-tragic-plan-for-a-monument-to-qatars-dead-world-cup-workers/ (reporting that, while unlikely to be built, the memorial could surpass Qatari high rises given projected fatality rate).

\textsuperscript{212} Press Release, U.S. Department of Justice, Nine FIFA Officials and Five Corporate Execs. Indicted for Racketeering Conspiracy and Corruption (May 27, 2015), available at http://www.justice.gov/opa/pr/nine-fifa-officials-and-five-corporate-executives-indicted-racketeering-conspiracy-and (announcing indictment of two FIFA Vice Presidents, Current and Former Presidents of the Confederation of North, Central American and Caribbean Association Football (CONCACAF)). The DOJ also announced that Swiss authorities arrested seven FIFA officials within hours of the DOJ’s announcement and reported the guilty pleas of four individual defendants and two corporate defendants. Id.

\textsuperscript{213} See id. (reporting that investigation revealed over $150 million in bribes and kickbacks and defendants face maximum twenty years of imprisonment).

\textsuperscript{214} See supra notes 153-174 and accompanying text for an account of the FIFA Ethics Committee’s different initiatives to address corruption among the leadership.

\textsuperscript{215} See Matt Apuzzo et al., 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 (quoting law enforcement official that charges “seemed to permeate every element of the federation”); see also Stephanie Clifford & Matt Apuzzo, After Indicting 14 Soccer Officials, U.S. Vows to End Graft in FIFA, N.Y. Times (May 27, 2015), http://www.nytimes.com/2015/05/28/sports/soccer/fifa-officials-arrested-on-corruption-charges-blatter- isnt-among-them.html (reporting that schemes included "using fake consulting contracts to funnel illegal payments; sending money through associates working in banking or currency dealing; creating shell companies in tax havens; hiding foreign bank accounts; using safe deposit boxes; and "bulk cash smuggling.")
now that DOJ named Warner as one of its indicted officials.\(^\text{216}\) DOJ’s indictment is a peculiar reminder of former prosecutor Michael Garcia’s protest resignation after FIFA’s Ethics Committee failed to heed to his request for transparency.\(^\text{217}\) Despite this legal storm, it is unclear how much structural change FIFA will implement.\(^\text{218}\) Meanwhile, media outlets have begun dissecting FIFA’s opulence under a magnifying glass, widening the gap between FIFA and its popular support.\(^\text{219}\)

At first glance, the indictment appears as “just another white collar crime story”; the plight of migrant workers does not feature in the forefront of this international scandal.\(^\text{220}\) However, Qatar’s

\(^{216}\) See supra notes 164 (explaining that FIFA cleared Jack Warner with “presumption of innocence”).

\(^{217}\) See Al JAZEERA supra note 154 (reporting that Garcia, who created report on corruption for FIFA and called for its public disclosure, appealed Ethics Committee’s findings and ultimately resigned in protest of FIFA’s lack of accountability).


\(^{219}\) See, e.g., Zac Lee Rigg, Meet Chuck Blazer, the Former FIFA Bigwig Whose Cats had a Trump Tower apartment, FUSION.NET (May 27, 2015, 2:14 PM), http://fusion.net/story/140185/who-is-chuck-blazer-former-fifa-executive/ (reporting that FIFA official Chuck Blazer, who already pleaded guilty to similar charges when DOJ announced new indictments, rented Trump Tower apartment for his cats). Although FIFA is a non-profit organization, it holds over $1.4 billion gained over world cups, television rights, and marketing deals. See Arnd Wiegmann, FIFA has $1.4 Billion Cash Pile to Fall Back on, REUTERS (Mar. 21, 2014, 1:06 PM) http://www.reuters.com/article/2014/03/21/us-soccer-fifa-finances-idUSBREA2K1GO20140321 (naming lucrative sponsors for FIFA despite scandals and noting surplus of $74 million after Brazil World Cup).

winning bid has come under renewed scrutiny.\textsuperscript{221} Even Blatter recognizes that the controversial bid may have acted as a catalyst for the indictments.\textsuperscript{222} Advocates have taken the corruption scandal to draw attention to the migrants’ alarming death rates.\textsuperscript{223} Unrelated to bribes or kickbacks, Qatar’s “other” transparency problem continues to evade accountability under either FIFA’s judicial system or international prosecution.\textsuperscript{224} The only tangible change to migrants’ treatment is added months of labor.\textsuperscript{225} Indeed, FIFA has officially moved the 2022 tournament to the winter to address concerns of extreme heat, although this rescheduling has not eased any pressure on migrant workers’ daily conditions.\textsuperscript{226}

\textsuperscript{*} J.D. Candidate, 2016, Villanova School of Law; M.A., DePaul University, 2010; B.A., Bryn Mawr College, 2006. I am grateful to the Moorad Sports Law Journal editorial board and staff writers for their thorough feedback. I dedicate this comment to my parents and two brothers for grounding me in our shared story.