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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 . . . ?'"¹

I. INTRODUCTION

For the first time in soccer history, the World Cup is coming to the Middle East.² Qatar, a small country at the heart of the Persian Gulf, has been elected to host the 2022 World Cup.³ 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.⁴ 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.⁵ The Qatari Emirate has ambitious plans in

1. See *Ouaddou Wins Lawsuit Against Qatari Club*, FIFPRO (Feb. 12, 2014), <http://www.fifpro.org/en/news/ouaddou-wins-principle-lawsuit-against-qatari-club?highlight=WyJxYXRhciIsInFhdGFyJ3MiLCIncWF0YXInIl0=> (quoting soccer player Abdes Ouaddou's interview with Geremi Njitap after Ouaddou's legal victory against Qatari team, which withheld his pay and denied him exit visa).

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). See also *FIFA WORLD CUP FINAL*, FIFA, <http://www.fifa.com/tournaments/archive/worldcup/> (last visited Sept. 7, 2014) (showing history of previous World Cups where no Middle Eastern country ever hosted or won tournament).

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").

5. See Marissa Payne, *FIFA Report on Allegedly Corrupt World Cup Bidding Process Submitted, But You'll Probably Never See it*, WASH. POST (Sept. 5, 2014), <http://www.washingtonpost.com/blogs/early-lead/wp/2014/09/05/fifa-report-on-allegedly-corrupt-world-cup-bidding-process-submitted-but-youll-probably-never-see-it/> (an-

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.⁶ 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.⁷ 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.⁸ 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.⁹

As Qatar rapidly develops, the bulk of Qatar's economy rests on the shoulders of foreign construction workers and domestic ser-

nouncing 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/2010/04/2010424184010305993.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-idUKBRE93H0PC20130418> (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/sciencenow/la-sci-sn-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).

9. See Richard Morin, *Indentured Servitude in the Persian Gulf*, N.Y. TIMES (Apr. 12, 2013), http://www.nytimes.com/2013/04/14/sunday-review/indentured-servitude-in-the-persian-gulf.html?pagewanted=1&_r=2&hpw& ("Perhaps a million foreign workers are expected to arrive in the next few years to help build nine new stadiums and \$20 billion in roads needed by 2022.").

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 per-

10. See Chalabi, *supra* note 8 (examining migrant worker population in Qatar's labor force).

11. See THE STATE OF QATAR'S POPULATION POLICY, THE PERMANENT POPULATION COMMITTEE 9 (Oct. 2009), available at http://www.gsdp.gov.qa/portal/page/portal/ppc/PPC_home/ppc_news/ppc_files_upload/The%20State%20of%20Qatar%20Population%20Policy.pdf (assigning Permanent Population Committee to formulate Qatar's "Population Policy" to be reached by 2030, incorporating quantitative and qualitative analysis).

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.").

14. See Zahir Belounis, *Zahir Belounis: 'The System in Qatar Is Killing Me. Please Speak up'*, THE GUARDIAN (Nov. 14, 2013, 11:19 AM), <http://www.theguardian.com/football/2013/nov/14/zahir-belounis-letter-zinedine-zidane-pep-guardiola-qatar> (pleading Qatar World Cup 2022 ambassadors and former star international players Zinedine Zidane and Pep Guardiola for help leaving Qatar because he has been living "nightmare" for nearly two years due to kafala exit visa system).

15. See Stefan Simons, *Belounis Returns: Footballer Escapes Qatar at Heavy Price*, SPIEGEL ONLINE INT'L (Nov. 29, 2013, 1:29 PM), <http://www.spiegel.de/international/europe/trapped-french-footballer-belounis-escapes-qatar-at-heavy-price-a-936330.html> (relating story of Belounis's transfer to Qatar to play for El Jaish, followed by early termination of contract and interruption of wages).

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).

18. See Maik Grosseckthöfer, *Trapped in Qatar: Footballers Describe Nightmarish Treatment*, SPIEGEL ONLINE INT'L (Oct. 11, 2013, 11:45 AM), <http://www.spiegel.de/international/world/foreign-footballers-describe-poor-treatment-in-qatar-a-926920.html> (reporting that Belounis had not been paid monthly salary of \$6,692 for twenty-seven months without explanation).

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-vont-enqueter-28-08-2014-4092325.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.²² On the international stage, the treatment of migrant workers has sparked outrage, with organizations such as Amnesty International calling on FIFA to take responsibility.²³ The Guardian, the leading newspaper that broke the migrant workers' story, compared the migrant workers' treatment and living conditions to slavery and trafficking.²⁴ Reporters have condemned the high rate of fatalities linked with poor working conditions.²⁵ 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.²⁶ At that rate, an estimated 4,000 migrant workers will die before the launch of Qatar's World Cup in 2022.²⁷

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.'").

24. See Pete Pattison, *Revealed: Qatar's World Cup 'Slaves'*, THE GUARDIAN (Sept. 25, 2013 12:46 EDT), <http://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves> (reporting investigation reveals evidence of forced labor, salaries held up for months to prevent workers from fleeing, confiscation of passports and refusal to issue identification, denied access to drinking water in desert heat, and pattern of Nepalese workers seeking refuge in their embassy to escape abusive work conditions).

25. See Pete Pattison, *Qatar: The Migrant Workers Forced to Work for No Pay in World Cup Host Country - Video*, THE GUARDIAN (Sept. 25, 2013 11:41 EDT), <http://www.theguardian.com/global-development/video/2013/sep/25/qatar-migrant-workers-world-cup-host-video> ("Each month dozens of young Nepalese migrant workers are returning home in coffins.").

26. See Owen Gibson & Pete Pattison, *Qatar World Cup: 185 Nepalese Died in 2013 - Official Records*, THE GUARDIAN (Jan. 24, 2014 12:00 EST), <http://www.theguardian.com/world/2014/jan/24/qatar-2022-world-cup-185-nepalese-workers-died-2013> (reporting numbers of deaths gathered by Nepalese organization working with families of dead workers and verified by The Guardian show a minimum of 185 Nepalese workers passed in 2013, thirty-six of those after original report by The Guardian sparking global outcry).

27. See ITUC, THE CASE AGAINST QATAR HOST OF FIFA 2022 WORLD CUP 14 (Mar. 2014), available at http://www.ituc-csi.org/IMG/pdf/the_case_against_qatar

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.²⁸ Following British media reports, British politicians also demanded FIFA take action against workers' deplorable pay and work conditions in Qatar.²⁹ 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.³⁰ 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.³¹

_en_web170314.pdf (citation omitted) (estimating that 4,000 workers would die before Qatar World Cup, based on current mortality rate reported by Indian and Nepalese embassies and forecast increase in workers).

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 7,133 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-141727374.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).

30. See *Qatar Must Uphold Football's Universal Standards*, FIFPRO (Sept. 27, 2013), <http://www.fifpro.org/en/news/qatar-must-uphold-football-s-universal-standards?highlight=WjYxYXRhcilInFhdGFyJ3MiLCIncWF0YXInII0=> (expressing concern at "deeply alarm[ing]" reports of migrant workers' exploitation during World Cup construction).

31. See *Qatar Hits Back at 2022 Slavery Claims*, ESPN (Sept. 26, 2013), <http://www.espn.co.uk/football/sport/story/241827.html#1dwgF30cJXB7iiE6.99> (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.").

36. See *MISSION & STATUTES*, FIFA, <http://www.fifa.com/aboutfifa/organisation/mission.html> (last visited Sep. 7, 2014) (naming third pillar of FIFA's mission to care about society and environment).

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.⁴¹ 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.

39. See Robert Booth & Pete Pattison, *Qatar World Cup Stadium Workers Earn as Little as 45p an Hour*, THE GUARDIAN (July 29, 2014, 9:34 EDT), <http://www.theguardian.com/global-development/2014/jul/29/qatar-world-cup-stadium-workers-earn-45p-hour> ("The pay rate appears to be in breach of the tournament organisers' own worker welfare rules and comes despite the Gulf kingdom spending £134bn [\$215.52 billion] on infrastructure ahead of the competition.").

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.

relation to Qatar's election as the 2022 World Cup host city.⁴⁷ 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.⁴⁸ Finally, Part III recommends improvement of FIFA's internal due process, especially in light of FIFA's relative immunity.⁴⁹

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."*⁵⁰

A. Hosting the World Cup Is Not a Grassroots Issue

The World Cup is the most followed sports event in the world.⁵¹ 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.⁵² Hosting the World Cup has been a substantial boost in public relations, even for nations undergoing significant human rights chal-

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.

50. See Owen Gibson, *World Cup 2022: Football Cannot Ignore Qatar Worker Deaths, Says Sepp Blatter*, THE GUARDIAN (Oct. 4, 2013, 12:27 PM), <http://www.theguardian.com/football/2013/oct/04/world-cup-2022-fifa-sepp-blatter-qatar-worker-deaths> (quoting FIFA president Sepp Blatter).

51. See Alice Philipson, *World Cup 2014: BBC Pulls in Four Times as Many Viewers as ITV*, THE TELEGRAPH (July 14, 2014, 4:12 BST), <http://www.telegraph.co.uk/sport/football/world-cup/10966372/World-Cup-2014-BBC-pulls-in-four-times-as-many-viewers-as-ITV.html> ("A record-breaking global audience of around one billion tuned in to see Germany beat Argentina 1-0.")

52. See Beth Greenfield, *The World's Richest Countries*, FORBES (Feb. 22, 2012, 6:38 PM), <http://www.forbes.com/sites/bethgreenfield/2012/02/22/the-worlds-richest-countries/> (declaring Qatar world's richest country per capita in 2012 due to prolific oil and natural gas reserves).

lenges.⁵³ 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).⁵⁴ Host nations often use the World Cup as an opportunity to push for greater structural improvements and economic expansion.⁵⁵ 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.⁵⁶

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.⁵⁷ FIFA standards can also push a government to divert public funds for the exceptional event, at the expense of local

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-world-cup> (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.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.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.⁶⁰ In fact, many citizens would vote against hosting a major event like the World Cup, if afforded the choice.⁶¹ If the World Cup continues to be a fertile source of development, its fruit is only ripe at the grassstops of the country's economic ladder.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.⁶³ Employers are generally

58. See Kennis, *supra* note 57 (quoting Brazilian NGO director regarding protests against Brazilian'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.").

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, *Improving the Bidding Process for International Sporting Events*, 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).

60. See FIFA, 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).

61. See *A Chance For a Legitimate 2022 World Cup Host Selection*, 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.").

62. See ZIRIN, *supra* note 53, at 170 (quoting Jules Boykoff referring to World Cup's impact on host countries as "trickle up economics").

63. See HUMAN RIGHTS WATCH, 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.⁶⁴ In reality, the government does not closely monitor employers' compliance with those regulations.⁶⁵ After working long hours in extreme heat, migrant construction workers typically live in close quarters and are required to use unsanitary bathrooms.⁶⁶ Many workers see their passports withheld during their employment, in trafficking-like practices.⁶⁷ 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.⁶⁸ 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.⁶⁹

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.⁷⁰ Arguably, Qatar's situation demands par-

64. See *id.* at 3-4 (reporting that regulations require companies not to house more than four workers in one room, not to use bunk beds, and provide air conditioning and potable water).

65. See ITUC, *supra* note 27, at 17 (remarking that Qatar's Supreme Committee inspected living conditions of workers working on Al Wakrah stadium only after ITUC exposed that average of ten or more workers sleep in rooms under bleachers and in unhygienic facilities).

66. See *Worker Deaths Cast Shadow Over Qatar World Cup*, SPIEGEL ONLINE INT'L (Oct. 1, 2013, 3:51 PM), <http://www.spiegel.de/international/world/migrant-workers-dying-in-qatar-ahead-of-2022-world-cup-a-925397.html> (recounting stories of Nepalese workers living and dying in slavery-like conditions in Qatar's World Cup construction sites).

67. See ITUC, *supra* note 27, at 21 (explaining that even in construction projects contracted out for U.S. universities, workers' passports were withheld due to widespread practice of forced labor).

68. See AMNESTY INTERNATIONAL, *THE DARK SIDE OF MIGRATION: SPOTLIGHT ON QATAR'S CONSTRUCTION SECTOR AHEAD OF THE WORLD CUP 103-104* (2013) [hereinafter *AI REPORT*], available at <http://www.amnestyusa.org/research/reports/the-dark-side-of-migration-spotlight-on-qatar-s-construction-sector-ahead-of-the-world-cup> (reporting that employers routinely do not return passports to migrants after obtaining residency permits and hand passports in to Ministry of Interior when worker complaining that employer breached employment contract); DLA PIPER, *MIGRANT LABOUR IN THE CONSTRUCTION SECTOR IN THE STATE OF QATAR 45-46* (Apr. 2014), available at <http://www.engineersagainstopoverty.org/documentdownload.axd?documentresourceid=58> (reviewing allegation that workers who actively "abscond" become undocumented residents in Qatar, pushing them to turn to black market for employment).

69. See Morin, *supra* note 20 (outlining average debt of workers).

70. See Nicholas McGeehan, *Transnational Crime or State Exploitation? The Trafficking of Migrant Workers to the United Arab Emirates*, 26(1) J. IMMIG., ASYLUM & NATIONALITY L. [J.I.A.N.L.] 27, 29 (2012) (Eng.) (describing common predicament of migrant workers in UAE to include breach of contract by recruiting agencies and culture of impunity among employers, since existing laws to protect workers

ticular attention, because it hosts more migrants than the rest of the world.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.⁷² Since the beginning of construction,⁷³ workers have faced unprecedented hostility from Qatari authorities.⁷⁴ 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.⁷⁵ The Qatari judicial system traditionally has not been a resource for migrant workers who seek to hold their employers accountable.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 resisted calls for substantive change to its labour system.” See *id.* at 28.

71. See Dovelyn Rannveig Agunias, *Top 10 of 2013 – Issue #10: Qatar’s Treatment of Migrant Workers s Under the Spotlight Ahead of 2022 FIFA World Cup*, MIGRATION POL’Y INSTIT. (Dec. 10, 2013), <http://www.migrationpolicy.org/article/issue-no-10-qatars-treatment-migrant-workers-under-spotlight-ahead-2022-fifa-world-cup> (describing Qatar’s labor force as largely dominated by migrant workers, making Qatar “the world’s highest ratio of immigrants to citizens”); see also AI REPORT, *supra* note 68, at 5 (noting that Qatar largely owes growth of nearly twenty new people per hour to recruitment of migrant labor).

72. See Report of the Special Rapporteur on the Human Rights of Migrants, Addendum – Mission to Qatar, *26th Session of the Human Rights Council*, U.N. General Assembly, U.N. Doc. A/HRC/26/35/Add.1 16 (Apr. 23, 2014) (by François Crépeau) [hereinafter Special Rapporteur Addendum], available at http://www.ohchr.org/Documents/Issues/SRMigrants/A-HRC-26-35-Add1_en.pdf (acknowledging pledge of reform and workers’ charter created by Qatari Supreme Committee but demanding extension and implementation of new principles to all construction workers).

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”).

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).

75. See Sam Badger, et al., *Kingdom of Slaves in the Persian Gulf*, THE NATION (Sept. 16, 2014, 11:07 AM), <http://www.thenation.com/blog/181626/kingdom-slaves-persian-gulf#> (citing *Foreign Domestic Workers in Qatar: Shocking Cases of Deception, Forced Labour, Violence*, AMNESTY INT’L (Apr. 23, 2014), <http://www.amnesty.org/en/news/foreign-domestic-workers-qatar-shocking-cases-deception-forced-labour-violence-2014-04-23>) (reporting that Qatari employers who physically or sexually abuse domestic workers rarely face prosecution or conviction on their crimes). For a discussion of the systemic obstacles construction workers face to obtain protection under Qatari law, see *infra* notes 81-87 and accompanying text.

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.⁷⁶ However, the reality for most migrants does not reflect this approach, as illustrated by the long-standing exploitation of domestic workers.⁷⁷ 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.⁷⁸ The nation's constitution continues to protect opportunities for the powerful minority of Qatari citizens.⁷⁹ 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.⁸⁰

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.⁸¹ The

76. See EUR. INST. FOR INT'L L. AND INT'L REL. [EILIR], 2022 WORLD CUP: CORRUPTION AND HUMAN RIGHTS (June 17, 2014), available at <http://www.eilir.eu/global/human-rights/item/340-2022-world-cup-corruption-and-human-rights> (reporting that in 2010 Qatar launched Arab Initiative for Building National Capacities for Combating Human Trafficking and that it promotes concrete efforts to protect labor rights, including providing inspections of labor situation).

77. See 'My Sleep Is My Break': Exploitation of Migrant Domestic Workers in Qatar, AMNESTY INT'L 24 (2014), available at <http://www.amnesty.org/en/library/asset/MDE22/004/2014/en/7b7121b8-37c1-4e49-b1a1-2d8a005450a3/mde220042014en.pdf> 24 (explaining that although Qatar ratified the International Labor Organization's Convention 189 in 2011, no specific law substantiates domestic workers' rights, leaving little to no oversight over private employers' abuse).

78. See Morin, *supra* note 9 ("Some 95 percent of Qatari families employ a housemaid; more than half have two or more. A recent survey by the research institute found that nearly 9 in 10 Qataris did not want to see the kafala system weakened; if anything, 30 percent said they wanted to see employers' prerogatives strengthened."). See also David Mednicoff, *National Security and the Legal Status of Migrant Workers: Dispatches from the Arabian Gulf*, 33 W. NEW ENG. L. REV. 121, 130 (2011) (noting that demographic imbalance between local and migrant population has fostered xenophobic perceptions of workers as national security and identity threat).

79. See GIVING GLOBALIZATION A HUMAN FACE, 2008, ILO 6 n.24 (2012), http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_174846.pdf (naming Qatar as nation where constitution only guarantees opportunities for citizens).

80. See Michelle Chen, *Qatar Launches Into 2022 World Cup on Backs of Abused Migrants*, HUFFINGTON POST (Jan. 28, 2013, 12:58 PM), http://www.huffingtonpost.com/michelle-chen/qatar-launches-into-2022-_b_2556016.html ("Labor rights advocates fear these abuses will only escalate during the lead-up to the World Cup in the contracted projects of multinational firms. Major construction firms, for example, could benefit from the use of subcontractors that can distance big-name developers from unscrupulous practices on the ground.").

81. See Montague, *supra* note 19 (referencing Qatar Supreme Committee's creation of worker charter); Nicholas McGeehan, *Dispatches: Qatar's Labor Reforms Fall Short*, HUMAN RIGHTS WATCH (Feb. 11, 2014), <http://www.hrw.org/news/2014/02/11/dispatches-qatar-s-labor-reforms-fall-short> (announcing release of Su-

Supreme Committee allocated resources to respond to the urgency of the migrant laborers' situation, such as a hotline where people could report abuses.⁸² However, NGO critics have little hope that these standards will address the scale and depth of the problems on the ground.⁸³ Qatar's apparent respect for labor and human rights does not extend to the allocation of needed resources to apply anti-trafficking measures.⁸⁴ 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.⁸⁵ Since its inception, the kafala system was meant to enhance Qatari lives, rather than those of migrants.⁸⁶ International NGOs have recognized that it is no coincidence that kafala is the legal framework that enables slave-like working conditions.⁸⁷

Additionally, Qatar tasked an international law firm to investigate the claims of migrant worker abuse following viral media accounts.⁸⁸ The firm issued a report that recommended phasing out

preme Committee's fifty-page "Workers' Welfare Standards," where committee "outlines how it intends to ensure the basic rights of foreign migrant workers involved in select projects related to the construction of stadiums and associated infrastructure").

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 AI 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.").

87. See AI REPORT, *supra* note 68, at 54 ("[T]he so-called visa [kafala] system . . . in certain countries in the Middle East may be conducive to the exaction of forced labour." (quoting INTERNATIONAL LABOUR EXPERT COMMITTEE, *101st Session, 2012: General Survey on the Fundamental Conventions Concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization* (2008), available at http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_174846.pdf)).

88. See Nicholas McGeehan, *Qatar Report on Migrant Workers Criticizes Treatment of Workers*, HUMAN RIGHTS WATCH (May 14, 2014), <http://www.hrw.org/print/news/2014/05/14/qatar-report-migrant-workers-criticizes-treatment-workers> (an-

the use of the kafala system, which was no longer an “appropriate tool” to regulate migration.⁸⁹ Following this report, Qatar has promised to reform its labor laws, including its controversial exit visa system.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.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.⁹² It is also relevant to note that the Gulf nation’s investigation is not equivalent to plain transparency.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.⁹⁴

nouncing that Qatar appointed DLA Piper to examine the claims brought up by the Guardian [*see* Patisson, *supra* notes 24-25] and subsequent media outlets).

89. *See* DLA PIPER, *supra* note 68, at 44 (confirming based on review that kafala is no longer appropriate regulatory tool, due to “potential detrimental effect”); *see also id.* at 9 (recommending phasing out of exit visa system because too prone to abuse).

90. *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”).

91. *See* McGeehan, *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. *Id.*

92. *See id.* (acknowledging that rest of United Arab Emirates and Saudi Arabia refuse to let in human rights groups to investigate similar allegations). *See also The Middle East’s Migrant Workers: Forget about Rights*, THE ECONOMIST, Aug. 10, 2013, available at <http://www.economist.com/node/21583291/> (outlining pervasive use of kafala in Saudi Arabia and UAE).

93. Recently, Qatar arrested two British researchers investigating allegations of labor violations. *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. *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).

94. *See* ITUC, *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.⁹⁵ Although the ILO preceded the United Nations (UN), it became a specialized agency of the UN in 1946.⁹⁶ Under its Constitution, the ILO included provisions allowing it to institute legal proceedings against its member states.⁹⁷ The ILO also has a supervisory system that monitors the implementations of various conventions member governments ratify.⁹⁸ 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.⁹⁹ Qatar has ratified several ILO Conventions since 1976.¹⁰⁰ However, Qatar has not substantially incorporated the Convention's principles into its legislative mandates.¹⁰¹

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

95. See *Mission and Objectives*, ILO: INT'L LABOUR ORG. (last visited Sept. 5, 2014), <http://www.ilo.org/global/about-the-ilo/history/lang—en/index.htm> (explaining that ILO seeks to enhance opportunities and protections for “decent employment and income” around the world). See also HRW Report, *supra* note 63, at 91-92 (noting that Qatar is ILO member since 1972).

96. See *Origins and History*, ILO: INT'L LABOUR ORG., <http://www.ilo.org/global/about-the-ilo/history/lang—en/index.htm> (last visited Sept. 29, 2014) (explaining origins of ILO).

97. See Constitution, Article 39, ILO: INT'L LABOUR ORG. (last visited Sept. 29, 2014), http://www.ilo.org/dyn/normlex/en/?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO#A39 (explaining legal status of organization).

98. See *ILO Supervisory System/Mechanism*, ILO: INT'L LABOUR ORG., <http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/ilo-supervisory-system-mechanism/lang—en/index.htm> (last visited Sept. 29, 2014) (explaining that first member states who do not implement conventions are encouraged to do so through dialogue and technical assistance, followed by special procedures such as legal proceedings).

99. See *Conventions*, ILO: INT'L LABOUR ORG., <http://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:12000:0::NO::> (last visited Sept. 29, 2014) (listing ILO Conventions).

100. See *Ratifications for Qatar*, ILO: INT'L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/?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.*

101. See Article 19 Conventions and Recommendations, ILO CONSTITUTION, http://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:55:0::55:P55_TYPE_P55_LANG,P55_DOCUMENT,P55_NODE:KEY,en,ILOC,/Document/Chapters/

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").

102. See INT'L LABOUR OFFICE, 371ST REPORTS OF THE COMMITTEE ON FREEDOM OF ASSOCIATION 225, (Mar. 13-27, 2014), available at http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_239692.pdf (alleging restrictions on workers rights, collective bargaining, strikes, and excessive Qatari control of trade union activities).

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. INTELL. 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]").

106. See *Complaints*, ILO: INT'L LABOUR ORG., <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang—en/index.htm> (last visited Sept. 29, 2014) (explaining that ILO established eleven Commissions of Inquiry for any member "accused of committing persistent and serious violations and has repeatedly refused to address them").

instructions to the country in violation.¹⁰⁷ Although the ILO provides heightened scrutiny with increase disrespect of its recommendations, there is no clear penalty that nations incur by violating the ILO Constitution or failing to enforce Conventions.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.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.¹¹⁰ The migrant workers crisis is therefore propitious to generate a European response, with European politicians joining the media in condemning migrant workers' conditions.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.¹¹² European countries'

107. See *id.* (noting that Commission of Inquiry in Myanmar found "widespread and systematic" forced labor); REPORT OF THE COMMISSION OF INQUIRY TO EXAMINE THE OBSERVANCE BY MYANMAR OF THE FORCED LABOUR CONVENTION, 1930 (No. 29), ILO, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEX_PUB:50012:0::NO::P50012_COMPLAINT_PROCEDURE_ID,P50012_LANG_CODE:2508280,en (last visited Sept. 29, 2014) (making investigatory finding of forced labor in Myanmar).

108. See Developments in the Law—Jobs and Borders: *Legal Tools for Altering Labor Conditions Abroad*, 118 HARV. L. REV. 2208 (2005) (noting that without enforcement mechanism, there is little incentive for countries to implement measures).

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).

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).

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.").

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 Grosseckathöfer, *supra* note 14 (noting that Belounis had 20-minute conversation with French Presi-

economic interests too often come into conflict with the interests of promoting human rights.¹¹³

Further, European courts traditionally do not exercise oversight over international sports organizations.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.¹¹⁵ Calls to create an independent labor court to address claims outside of host countries and international sports organizations have been mostly ignored.¹¹⁶

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

dent François Hollande who promised to help stranded soccer player but President did not improve Belounis's situation).

113. See *The Alarming Situation of Human Rights in Qatar*, EILIR: EUR. INST. FOR INT'L L. & INT'L REL. (June 12, 2014), <http://www.eilir.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.").

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.").

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.").

116. See ITUC, *supra* note 27, at 19 (offering as solution creation of courts to provide effective platform for workers' complaints).

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).

118. See Joanna Walters, *Zaha Hadid Suing New York Review of Books over Qatar Criticism*, THE GUARDIAN (Aug. 24, 2014), <http://www.theguardian.com/artand-design/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 construction 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 contributions, 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 document copy of that correspondence may be found at the following web address: <http://a.espn.com/pdf/2013/1001/email.pdf>. See *id.*

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 abolish kafala).

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

122. Although FIFA's position on labor rights was most covered in the campaign against child labor for soccer balls in the 1990s, there are also recent examples of the organization's continued involvement with the ILO and construction workers' rights. See sources cited *infra* notes 128-132 and accompanying text (examining of FIFA's direct involvement with labor unions in Brazil and South Africa'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" program); see also ILO, *From Stitching to Playing: Sialkot Ten Years After*, ILO: INT'L LABOUR 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 organized 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.¹²⁵ 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.¹²⁶ 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.¹²⁷

FIFA also had a productive experience working with trade unions in anticipation of the South African World Cup in 2010.¹²⁸ 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.¹²⁹ 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).

125. See David M. Trubek, Jim Mosher & Jeffrey S. Rothstein, *Transnationalism in the Regulation of Labor Relations: International Regimes and Transnational Advocacy Networks*, 25 L. & SOC. INQUIRY 1187, 1198 (2000) (noting FIFA's ban on child labor and requirement of "fair wages" and respect for workers' rights to join unions in soccer ball industry). FIFA's move even put pressure on U.S. apparel manufacturers to follow suit. *Id.*

126. See ILRF, *supra* note 124, at 4-5 (discussing FIFA's collaboration with ILO to produce Code of Labor Practice prohibited 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).

128. See *FIFA President Blatter Sides with South African Stadium Builders*, ASSOCIATED PRESS, Mar. 11, 2008, available at http://usatoday30.usatoday.com/sports/soccer/2008-03-11-3456248718_x.htm (reporting that Blatter made several visits to stadium construction sites before South African World Cup and supported unions' claims to fair treatment).

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/EddieCottleCETIMbook2013FINAL.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 Merz, *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.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.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.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.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.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.¹³⁵ Conversely, FIFA resists allegations that it

130. See BUILDING & WOOD WORKERS INT'L AND LABOUR RESEARCH SERVICE [hereinafter BWI], FAIR GAMES, FAIR PLAY: EVALUATION OF THE BUILDING & WOOD WORKERS INTERNATIONAL CAMPAIGN FOR DECENT WORK TOWARDS AND BEYOND 2010 19 (2007), available at <http://www.bwint.org/pdfs/bwi%20external%20report%20final%20small.pdf> (noting that FIFA ultimately held its promise to inspect sites with union leaders).

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).

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).

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_ra_2013_eng_final.pdf (explaining that non-Qataris 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?lang=en>.

134. See EIILIR, *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").

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-

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- 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.

136. See Ian Traynor, *Fifa Says There Is Little it Can Do about Labour Conditions in Qatar*, THE GUARDIAN (Feb. 13, 2014, 11:33 EST), <http://www.theguardian.com/world/2014/feb/13/fifa-labour-conditions-qatar-world-cup> (quoting member of FIFA executive Theo Zwanzinger "[t]his feudal system existed [in Qatar] before the World Cup What do you expect of a football organisation? Fifa is not the lawmaker in Qatar"); see also AP Worldstream, *supra* note 128 (quoting Blatter regarding South African union workers' claims: "FIFA is not the employer or the builder responsible for constructing the stadiums").

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-wsoccer.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://12b.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.¹⁴³ FIFA's "World Cup Law" in Brazil did not reflect a progressive take on workers' rights from the FIFA leadership.¹⁴⁴ 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.¹⁴⁵

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.¹⁴⁶ Responding to the media outcry around Qatar's labor violations, FIFA agreed to add labor concerns

alcohol at World Cup matches in Brazil. . . . [However,] Brazil will assume civil liability on behalf of FIFA and its representatives for any losses or damages . . . unless incidents or accidents were as a result of an act or omission by FIFA or the victims themselves.").

143. See *It Truly Was a Time to Make Friends: Review by the Federal Government on the 2006 FIFA World Cup*, FEDERAL MINISTRY OF THE INTERIOR (Aug. 2006) (Ger.), available at <http://wm2006.deutschland.de/EN/Content/SharedDocs/Downloads/world-cup-review,property=publicationFile.pdf> ("During the application process for hosting the World Cup, the Federal Government had already supported the German Football Association . . . by issuing to FIFA . . . so-called government guarantees (concerning, for example, security, visa procedures, labour regulations, customs and tax law, infrastructure) without which it would not have been possible to host a major event of this kind"). The labor regulations guarantees required by FIFA mostly concern the issuance of work permits for FIFA-affiliated staff as well as the temporary suspension of labor laws that may slow down the completion of said staff's duties with respect to the competitions or events. See Government Guarantees-2018, No. 2 ('Guarantee') Work Permits [UK Government Guarantee] 19 (Dec. 14, 2009) (U.K.), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220991/foi_worldcup_govt_guarantee220211.pdf (transcribing British government's 2018 FIFA bidding agreement with FIFA); see also Government Guarantee No. 2 ('Guarantee') Work Permits, TRANSPARENCY IN SPORT (last visited Oct. 18, 2014), available at [http://www.transparencyinsport.org/The_documents_that_FIFA_does_not_want_fans_to_read/PDF-documents/\(2\)Work-permits.pdf](http://www.transparencyinsport.org/The_documents_that_FIFA_does_not_want_fans_to_read/PDF-documents/(2)Work-permits.pdf) (exposing template bidding agreement released by the Netherlands, requiring host country to suspend existing labor legislation "such as limitations on working hours or the use of non-trade union labour").

144. See William H. Byrnes IV, Patricie Barricelli, *Contentious Issues of the Brazilian World Cup Law*, LEXISNEXIS LEGAL NEWSROOM INT'L L. (July 30, 2013, 4:39 PM), <http://www.lexisnexis.com/legalnewsroom/international-law/b/international-law-blog/archive/2013/07/30/contentious-issues-of-the-brazilian-world-cup-law.aspx> (noting that Brazil's president Dilma Rousseff exercised veto on sections of FIFA's law that included a relaxation of "volunteerism" rules, which put in danger labor law requirements and invited wage violations).

145. See *id.* For a discussion of the labor requirements inscribed in government guarantees, see *supra* note 143 and accompanying text.

146. Compare *supra* note 138 for the ITUC's demand that FIFA take hands-on approach and require labor law reform, with *supra* note 135 for HRW's more modest recommendations.

as criteria in future bidding rules.¹⁴⁷ 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.¹⁴⁸

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.¹⁴⁹ Given FIFA and Qatar's slow, if not stagnant, progress on the issue, a re-location would short-circuit Qatar's costly construction projects and avoid rising workers' fatalities.¹⁵⁰ 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=1544426/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-blatters-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-depri_b_5865708.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.¹⁵¹ 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.¹⁵² 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.¹⁵³ Currently, members of the FIFA leadership

151. See HUMAN RIGHTS COMMISSION, ADDENDUM - MISSION TO QATAR: COMMENTS BY THE STATE ON THE REPORT OF THE SPECIAL RAPPORTEUR 6 (June 6, 2014), available at <http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/AnnualReports.aspx> (responding to Special Rapporteur Addendum, *supra* note 72).

152. See Paul Crompton, *Experts: FIFA Will Have to Act if Qatar Ethics Report Proves Damning*, AL ARABIYA (Sept. 10, 2014, 4:25 PM), <http://english.alarabiya.net/en/sports/2014/09/09/The-continuing-saga-of-Qatar-s-World-Cup-woes.html> ("FIFA may have no choice but to take action against Qatar if a recently concluded investigation indicates foul play in the country's bid."). However, FIFA has not guaranteed that the report's finding will result in recalling Qatar's hosting rights. See Payne, *supra* note 5 ("Blatter has long insinuated, though, that only he and his executive committee — and not FIFA ethics judge Joachim Eckert or the Adjudicatory Chamber — could change the hosting decision . . . so even if widespread, reprehensible violations were found in the report, it would not necessarily mean the tournament would be stripped from [Qatar].").

153. See Reuters, *FIFA Corruption Judge Doubts 'If Football and Ethics Can Fit Together'*, EUROSPOORT (Sept. 16, 2014, 6:39 PM), http://au.eurosport.com/football/world-cup/2014/judge-eckert-warns-fifa-following-garcia-investigation_sto4403130/story.shtml (citing statement by German head of Adjudicatory Chamber of FIFA Ethics Commission Hans-Joachim Eckert that report on alleged corruption surrounding votes won by Russia and Qatar made him question ethical character of proceedings and football). See also Payne, *supra* note 5 (explaining that report on bribery likely does not contain groundbreaking revelations given existing evidence of corruption). In general, sports organizations face a higher amount of scrutiny when corrupt or illegal conduct is at stake because professional sport is already in the media spotlight. See Ivan Waddington et al., *CSR in Sport: Who Benefits?*, in ROUTLEDGE HANDBOOK OF SPORT AND CORPORATE SOCIAL RESPONSIBILITY 35, 49 (Juan Luis Paramio-Salcines et al., 2013) (speaking to unique feature of sport organizations in corporate social responsibility scandals (quoting K. Babiak & R. Wolfe, *Determinants of Corporate Social Responsibility in Professional Sport: Internal and External Factors*, 23(6) J. SPORT MGMT 717, 722-23 (2009))). In addition to pressure from within and from the media, FIFA sponsors have also warned that the bribery scandal can threaten their partnerships with the organization. See Owen Gibson, *Qatar World Cup Sponsors Warn Fifa of Damage from Corruption Allegations*, THE GUARDIAN (June 8, 2014, 5:47 PM), <http://www.theguardian.com/football/2014/jun/08/fifa-sponsors-play-hard-ball-over-world-cup-corruption-allegations> (quoting World Cup sponsors, who collectively contribute \$1.5 billion to the international tournament, calling on FIFA to thoroughly investigate bribery allegations and conform to "mission and ideals" of World Cup).

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-20141217154613521561.html> (releasing statement by Garcia where he explains why he appealed Ethics Committee's findings to Appeal Committee, which ultimately rejected his appeal).

155. See Sam Borden, *U.S. Soccer Chief Wants Inquiry on World Cup Sites to Be Public*, N.Y. TIMES (Sept. 24, 2014), <http://www.nytimes.com/2014/09/25/sports/soccer/us-soccer-president-says-he-will-press-for-release-of-secret-fifa-report.html> (quoting Sunil Gulati, president of US soccer and member of FIFA Executive Committee, lobbying for release of redacted report to address "institutional syndrome" of lack of transparency in FIFA).

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=WyjxYXRhcisInFhdGFYj3MiLCIncWF0YXliXQ==> (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.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.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.¹⁶⁰ However, *Bin Hammam* shows that FIFA has yet to streamline its disciplinary procedures, even when institutional transparency is in controversy.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.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 Hammam was the source of the cash payments made.¹⁶³ In its review, the CAS determined that FIFA stopped short of investigating its Executive Committee member Jack Warner, who may have furnished

158. See *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).

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). *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 *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. *Id.* at 3.

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.

161. See *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).

162. For a discussion of CAS's major problem with FIFA proceedings, see *infra* note 164 and accompanying text.

163. See *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).

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

164. See Robert Hughes, *Bin Hammam Is Latest FIFA Official to Go, but Cloud Remains*, N.Y. TIMES (July 24, 2011), http://www.nytimes.com/2011/07/25/sports/soccer/25iht-soccer25.html?_r=0 (reporting that Jack Warner resigned with "presumption of innocence," in apparent contradiction with FIFA zero tolerance policy). See also *Bin Hammam*, *supra* note 157, para. 202 (noting that FIFA Ethics Committee "disabled" itself from thorough investigation of bin Hammam's charges by terminating proceedings against Warner upon his resignation and that Blatter declined to answer [CAS panel's] questions on the subject).

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

166. See *FIFA Close Mohamed Bin Hammam Bribery Case over Lack of Evidence*, PRESS ASSOCIATION, Dec. 13, 2012, available at <http://www.theguardian.com/football/2012/dec/13/fifa-close-bin-hammam-bribery-case> (reporting that Garcia did not uncover new evidence beyond evidence presented at CAS proceeding during comprehensive investigation).

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.

169. See Mihir Bose, *World Cup 2022 Special Report: No Legal Action for Qatar If Fifa Strips Country of Tournament*, THE INDEPENDENT (June 8, 2014), <http://www.independent.co.uk/sport/football/international/world-cup-2022-special-report-no-legal-action-for-qatar-if-fifa-strips-country-of-tournament-9507194.html> (noting that

on forbearance of its right to sue FIFA in an ordinary court of law.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.¹⁷¹ However, the Ethics Committee's decision, even if appealed internally, is still subject to an appeal before CAS.¹⁷² CAS looks less leniently at internal procedural defects and the Ethics Committee's dependence on the Executive Committee to take action.¹⁷³ The *Bin Hammam* case shows that CAS demands higher standards of not only appellants accused of bribery, but FIFA itself.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).

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).

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).

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).

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).

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*, WORLDSOCCER (July 19, 2012), <http://www.worldsoccer.com/columnists/keir-radnedge/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).

rights.¹⁷⁵ Because of Qatar's extreme heat, FIFA is concerned that it may be held liable for health injuries.¹⁷⁶ 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.¹⁷⁷ Already in Brazil, FIFA began anticipating weather-related health issues, which would be substantially more present in Qatar.¹⁷⁸ To mitigate the costly administrative difficulties that would follow a recall, FIFA is also considering rescheduling the tournament to the Qatari winter.¹⁷⁹ 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.¹⁸⁰

In sum, FIFA has taken overt steps to improve its transparency with respect to allegations of bribery.¹⁸¹ Although there is room for much improvement, FIFA has created a legal infrastructure to pro-

175. See *Blatter Says Qatar World Cup a Mistake*, ALJAZEERA (May 17, 2014, 11:41 AM), <http://www.aljazeera.com/news/middleeast/2014/05/fifa-president-says-qatar-world-cup-mistake-20145167735612359.html> (quoting Blatter that awarding World Cup to Qatar was mistake due to extreme weather).

176. See *Qatar Adamant it Will Host 2022 World Cup Despite Doubts*, REUTERS (Sept. 22, 3:46 PM), <http://www.reuters.com/article/2014/09/22/us-soccer-qatar-fifa-zwanziger-idUSKCN0HH1C820140922> (quoting FIFA Executive Committee member Theo Zwanziger who thinks 2022 World Cup needs new host due to potential investigations of life-threatening weather-related injuries, which Executive Committee members do not “want to answer for”).

177. See HRW REPORT, *supra* note 63, at 66-69 (reporting that migrant workers often work in extreme heat, causing even young adults to die of cardiac arrests).

178. See Kaplan, *supra* note 7 (noting that concerns over heat in World Cup already apparent during U.S./Portugal game in Brazil 2014 World Cup where players took water break due to heat and humidity).

179. This solution may still be costly and administratively challenging for FIFA. See Kevin McCauley, *Clubs Want lots of Money to Agree to Winter 2022 World Cup in Qatar*, SB NATION (Oct. 14, 2014, 11:25 AM), <http://www.sbnation.com/soccer/2014/10/14/6974653/world-cup-2022-qatar-karl-heinz-rummenigge> (reporting that European soccer clubs would ask FIFA to bear the costs of rescheduling their tournaments if Qatar 2022 World Cup is moved to wintertime).

180. See Borden, *supra* note 155 (following news of Zwanziger's statement with FIFA's response that Zwanziger was not speaking in official capacity, only his personal opinion). Moving the World Cup to the winter seems increasingly plausible. See Grant Wahl, *Insider Notes: Qatar set for Winter World Cup, MLS CBA Update, More*, SPORTS ILLUSTRATED (Feb. 18, 2015), <http://www.si.com/planet-futbol/2015/02/18/world-cup-2022-qatar-winter-mls-cba-fifa-womens-club> (expecting FIFA Executive Committee to confirm rumors in March 2015). With respect to a serious reconsideration of the Qatari bid, a significant development was the resignation of Michael Garcia, who denounced the lack of transparency and accountability that permeates FIFA, even at the level of the Appeals Committee. See ALJAZEERA, *supra* note 154 (announcing resignation from FIFA Ethics Committee after his appeal was rejected).

181. For measures taken by FIFA to address bribery allegations, see sources cited *supra* notes 157-167 and accompanying text.

vide oversight over its own gathering of evidence.¹⁸² The *Bin Hamam* 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 Adamant it Will Host 2022 World Cup Despite Doubts*, *supra* note 176 (revealing statement by Zwanziger 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).

188. See BRAND MANAGEMENT, FIFA BRAND EVOLUTION, FIFA (Dec. 2013), available at http://www.fifa.com/mm/document/affederation/marketing/58/25/93/fcm-history_161213_final_neutral.pdf (explaining that new FIFA logo marks evolution of corporate identity into "commitment to transparency and accountability to the world").

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

ordinances or regulations . . . which may be required in order to ensure full compliance with the present Government Declaration and all Government Guarantees.”).

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. See sources cited *supra* notes 157-158 (discussing two bribery cases connected to Qatar's bid).

195. For a review of the measures FIFA has taken to address bribery allegations, see *supra* notes 152-157.

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

INT'L L.J. 541, 559-61 (2012) (discussing rare circumstances where SFT overturns CAS decision).

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 95-105 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/football-africa/80/post/1853242/ouaddou-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.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.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.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.²⁰⁶

These threats to Qatar's bid carry a twofold lesson for adopting *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.²⁰⁷ The *Bin Hammam* decision distinguishes CAS for its ability to lead FIFA and other international sports organizations into a new era of judicial review.²⁰⁸ Once FIFA's procedure is streamlined, it could provide a powerful tool to hold host countries accountable for implementing basic labor rights guarantees.²⁰⁹ Second, FIFA's concern over weather-related lawsuits highlights a key factor for its refusal to directly engage the migrant workers' complaints.²¹⁰ Absent a threat of liability, FIFA is reluctant to re-

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.

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).

205. See *supra* note 153 for an analysis of pressure on FIFA to clear taint from bribery cases.

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

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

208. See Ian Blackshaw, *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).

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

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.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.²¹² Gathered over a twenty-four-year investigation, these charges include racketeering, wire fraud, and money laundering.²¹³ Given FIFA's internal measures regarding corruption, this news hardly comes as a surprise.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.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

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).

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.*

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

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.

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.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.²¹⁷ Despite this legal storm, it is unclear how much structural change FIFA will implement.²¹⁸

Meanwhile, media outlets have begun dissecting FIFA's opulence under a magnifying glass, widening the gap between FIFA and its popular support.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.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).

218. At first, Blatter refused calls to resign, and won a controversial reelection as president of FIFA merely two days after DOJ's announcement. See *Fifa Corruption Crisis: Sepp Blatter Downplays US Indictment*, BBC NEWS (May 30, 2015) <http://www.bbc.com/news/world-europe-32941740> (reporting that Sepp Blatter dismissed "hate" campaign against FIFA at press conference after winning reelection); see also Associated Press, *Sepp Blatter Blasts Loretta Lynch Over FIFA Corruption Case*, N.Y. POST (May 30, 2015), <http://nypost.com/2015/05/30/sepp-blatter-blasts-loretta-lynch-over-fifa-corruption-case/> (reporting comments from Blatter who suggested U.S. preference for his rival at election, while Russia hinted at political motive given U.S.'s loss of hosting bid). Blatter also dodged responsibility for deep-seated corruption within organization. See AP, *Blatter Says Scandal Caused by Russia, Qatar World Cup Decisions*, FOX SOCCER (May 29, 2015, 5:51 AM), <http://www.foxsports.com/soccer/story/blatter-says-scandal-caused-by-russia-and-qatar-world-cup-decisions-052915> (quoting Blatter: "We cannot constantly supervise everyone in football. . . you cannot ask everyone to behave ethically."). But see *Remarks by FIFA President Blatter*, FIFA.COM (June 2, 2015) (announcing Blatter's intended resignation and need for "profound overhaul," including formation of "Extraordinary Congress" to elect next president).

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).

220. See Christopher Ingraham, *The Human Toll of FIFA's Corruption*, WASH. POST (May 27, 2015), <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/05/27/a-body-count-in-qatar-illustrates-the-consequences-of-fifa-corruption/> (discussing spiked U.S. interest in soccer where FIFA's indictment reveals over \$150 million scandal).

winning bid has come under renewed scrutiny.²²¹ Even Blatter recognizes that the controversial bid may have acted as a catalyst for the indictments.²²² Advocates have taken the corruption scandal to draw attention to the migrants' alarming death rates.²²³ Unrelated to bribes or kickbacks, Qatar's "other" transparency problem continues to evade accountability under either FIFA's judicial system or international prosecution.²²⁴ The only tangible change to migrants' treatment is added months of labor.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.²²⁶

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221. See Dashiell Bennett & Joe Weisenthal, *Here's How Big of a Deal the World Cup Is to Qatar*, BLOOMBERG BUS. (May 28, 2015, 9:09 AM), <http://www.bloomberg.com/news/articles/2015-05-28/here-s-how-big-of-a-deal-the-world-cup-is-to-qatar> (noting renewed calls for revote over 2022 bid and speculating that if DOJ extends charges to Blatter there will be considerable momentum to relocate World Cup away from Qatar).

222. See AP, *supra* note 218 (quoting Blatter that "we would not have these problems today" if Russia and Qatar did not win 2018 and 2022 bids).

223. See Ingraham, *supra* note 220 (graphically comparing death toll of migrants who died building Qatari stadiums with construction deaths in prior world cups).

224. See *supra* Part III for analysis of FIFA's failure to hold Qatar accountable for labor violations; see also James Dorsey, *ILO Victory Boosts Qatari Hopes of Defeating Efforts to Deprive It of World Cup*, HUFFINGTON POST (June 1, 2015, 4:30 AM) http://www.huffingtonpost.com/james-dorsey/ilo-victory-boosts-qatari_b_6990690.html (reporting ILO's decision to postpone investigation into violations of Forced Labour and Labour Inspection Convention for another six months, while ITUC suggests that Qatar effectively bought itself more time, causing even more deaths over summertime).

225. See *FIFA Executive Committee Confirms November/December Event Period for Qatar 2022*, FIFA.COM (Mar. 19, 2015), <http://www.fifa.com/worldcup/news/y=2015/m=3/news=fifa-executive-committee-confirms-november-december-event-period-for-q-2567789.html> (setting final match on December 18, 2022)

226. In the aftermath of a devastating earthquake in Nepal, Qatar has denied leave to Nepalese workers seeking to return to their loved ones or to attend relatives' funerals. See Vivek Chaudhary, *Qatar Refuses to Let Nepalese Workers Return to Attend Funerals After Quake*, THE GUARDIAN (May 23, 2015, 19:05 EDT), <http://www.theguardian.com/world/2015/may/24/qatar-denies-nepalese-world-cup-workers-leave-after-earthquakes> (relaying news from Nepalese minister, calling on FIFA to act).

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