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How FIFA Used the Principle of Autonomy of Sport to Shield Corruption in the Sepp Blatter Era

PROFESSOR J. GORDON HYLTON[†]

INTRODUCTION

The “corruption crisis” that rocked the world of international soccer in 2015 raised numerous questions about the motives of the high ranking officials who have run the Federation Internationale de Football Association (FIFA) over the past three decades.¹ This has

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¹ *The FIFA Investigation Explained*, N.Y. TIMES (Dec. 3, 2015), <https://www.nytimes.com/2015/12/04/sports/soccer/fifa-investigation.html?ribbon-ad-idx=5&rref=sports/soccer&module=ArrowsNav&contentCollection=Soccer&action=swipe®ion=FixedRight&pgtype=article&r=0>; *FIFA Corruption Crisis: Key Questions Answered*, BBC NEWS (Dec. 15, 2015), <http://www.bbc.com/news/world-europe-32897066>. FIFA is the international governing body for the sport of soccer/football - consistent with the practice in the United States, this essay refers to the sport as “soccer,” rather than as “football,” as the sport is known in most of the world. FIFA sponsors the World Cup, the world’s most popular sporting event, and oversees the activities of six regional confederations which together include 211 national organizations, usually referred to as “associations” or “federations.” FIFA’s mission, according to its webpage, is to “develop football everywhere and for all, to touch the world through its inspiring tournaments and to build a better future through the power of the game.” *About FIFA*, FIFA.COM, <http://www.fifa.com/about-fifa/index.html> (last visited Apr. 6, 2017).

The ultimate policy making agency within FIFA is the Congress, which meets once or twice each year and is composed of one representative from each member association. Between sessions of the Congress, the primary decision-making body is the Council (previously known as the Executive Committee). It consists of the President, eight Vice-Presidents, twenty-four regular members, and the Secretary General. It also meets twice each year. Matters that must be resolved when neither the Congress nor the Council are in session, are handled by the

been especially true in regard to long-time FIFA leader Joseph “Sepp” Blatter, who served as Secretary-General of the organization from 1981 to 1998 and as President from June of 1998 until October 2015, when he was removed from office.² Both Blatter and his predecessor as president, Brazilian Joao Havelange, have now been implicated in significant acts of corruption, as had been widely rumored for many years.³ One of the signature policies of FIFA during the Blatter era was the aggressive enforcement of what is usually referred to as the “non-intervention” or “non-interference” policy. Under this policy, the national associations that make up FIFA are required to operate without any “third-party” interference, including governmental regulation of their decisions.⁴ This article examines FIFA’s use of the non-intervention policy during the Blatter era, arguing that in many

Bureau of the Council (previously known as the Emergency Committee) which is composed of the president and one representative from each of the six regional confederations. The day-to-day operations of FIFA are handled by the President and the Secretary General. *See Who We Are*, FIFA.COM, <http://www.fifa.com/about-fifa/who-we-are/index.html> (last visited Apr. 6, 2017).

² For basic biographical facts for Blatter *see Profile: Sepp Blatter*, THE SCOTSMAN (Nov. 20, 2011), <http://www.scotsman.com/news/opinion/profile-sepp-blatter-1-1975599>. For the events surrounding his removal as president of FIFA, *see* Sam Borden, *FIFA President Sepp Blatter and Other Top Officials Suspended, Deepening FIFA’s Turmoil*, N.Y. TIMES (Oct. 8, 2015), https://www.nytimes.com/2015/10/09/sports/soccer/sepp-blatter-michel-platinijerome-valcke-fifa-suspended.html?_r=0 and *The Rise and Fall of Sepp Blatter*, N.Y. TIMES (Dec. 21, 2015), https://www.nytimes.com/interactive/2015/05/27/sports/soccer/sepp-blatter-fifa-timeline.html?_r=0.

Blatter was banned from any form of participation in FIFA for eight years, but a FIFA appeals board reduced the penalty to six years. Rachel Axon, *Sepp Blatter Loses Appeal of Six Year FIFA Ban*, USA TODAY (Dec. 5, 2015), <http://www.usatoday.com/story/sports/soccer/2016/12/05/sepp-blatter-fifa-ban-cas/94989062/>. Blatter’s effort to have his ouster overturned by the Court of Arbitration for Sport was unsuccessful. *Sepp Blatter: Former FIFA President’s Six-Year Ban Upheld after Appeal to CAS*, BBC SPORT (Dec. 5, 2016), <http://www.bbc.com/sport/football/38205918>.

³ Havelange served as president of FIFA from 1974 to 1998 and as Honorary FIFA President until 2013 when he was forced to resign (at age 97) after the FIFA Ethics Committee determined that he had taken bribes on numerous occasions as FIFA President. Two years earlier, he had resigned his position on the International Olympic Committee because of a similar ethics investigation. He died in August 2016, at age 100. *Joao Havelange Obituary*, THE GUARDIAN (Aug. 16, 2006), <https://www.theguardian.com/football/2016/aug/16/joao-havelange-obituary>. For Blatter and rumors of his links to corruption, *see supra* text accompanying note 2.

⁴ The six regional confederations are AFC (Asia), CAF (Africa), CONCACAF (North America and Caribbean), CONMEBOL (South America), OFC (Oceania) and UEFA (Europe). *FIFA: Who We Are*, FIFA.COM, <http://www.fifa.com/about-fifa/who-we-are/index.html> (last visited Apr. 6, 2017). Most national federations represent individual countries, although a few, like the Faroes Islands, come from areas that are not fully independent. For historical reasons, England, Wales, Scotland, and Northern Ireland each have a separate association.

instances the principle was used to protect FIFA rather than improve public enjoyment of sport.

I. FIFA'S NON-INTERVENTION PRINCIPLE

From the early 1990's onward, FIFA promptly responded to third-party, governmental interventions by suspending or threatening to suspend the affected national federation until the interference stopped and any changes brought about by it were reversed.⁵ Because suspension meant that the affected federation could not participate in any international soccer matches, including the popular FIFA World Cup and the Confederation Cups, few governments have had the will to stand up to FIFA and risk the political consequences of disappointing the soccer fans among their constituents.⁶ On top of that, a suspended team also lost the opportunity to share in FIFA revenues which are not insubstantial and have been liberally distributed.⁷ Over the past three decades, the popularity of international soccer has skyrocketed, and as a result FIFA's coffers have been filled to the brim with income from live matches, broadcasting contracts, and licensing deals.⁸ According to FIFA, over 70% of its annual revenues, which exceeded \$2.1 billion in 2014, are redistributed to the federations through direct grants and development programs.⁹ For many smaller federations, these FIFA transfers constitute a large portion of their annual revenues.¹⁰

⁵ For an example of such an action, *see* Letter from Fatma Samoura, Secretary General, FIFA, to the Members of FIFA (Mar. 17, 2017), http://resources.fifa.com/mm/document/affederation/administration/02/87/68/52/circularno.1577-suspensionofthemalianfootballfederationasof17march2017anduntilfurthernotice_neutral.pdf.

⁶ FIFA, FIFA STATUTES art. 16 (Apr. 2016), http://resources.fifa.com/mm/document/affederation/generic/02/78/29/07/fifastatutsweben_neutral.pdf, 14–15.

⁷ Peter Berlin, *The FIFA Story: Money, Corruption, and Soccer*, (Apr. 27, 2016, 11:11 AM), WORLD POLICY BLOG, <http://www.worldpolicy.org/blog/2016/04/27/fifa-story-money-corruption-and-soccer>.

⁸ FIFA, FINANCIAL AND GOVERNANCE REPORT 2015 (May 13, 2016), http://resources.fifa.com/mm/document/affederation/administration/02/77/08/71/gb15_fifa_web_en_neutral.pdf at 16.

⁹*Id.*; FIFA *Expenditure*, FIFA.COM, <http://www.fifa.com/governance/finances/expenditure.html> (last visited Apr. 6, 2017).

¹⁰ *Governance: Finances*, FIFA.COM, <http://www.fifa.com/governance/finances/> (last visited Apr. 6, 2017). For FIFA's revenues in 2014 and earlier, see Isabelle Frazier, *FIFA's Finances – Where Does All the Money Come From?*, THE TELEGRAPH (May 29, 2015), <http://www.telegraph.co.uk/sport/football/fifa/11635985/Fifas-finances-where-does-all-the->

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Given this, suspension from FIFA could have catastrophic consequences for both the national soccer federation and its country's government. Not surprisingly, the public corruption prosecutions since 2015 have revealed a persistent pattern. FIFA officials from all levels of the organization are accused of siphoning funds distributed to the national federations and the confederations, but when national governments investigating their federations face the prospect of suspension, the investigation abruptly ends.¹¹ What is just now coming to light, moreover, is the existence of a set of arrangements in which Blatter and others in the FIFA leadership maintained their power by both awarding financial grants to national federations, especially those located in Africa, Asia, and the Caribbean, and, by overlooking incidents of mismanagement and corruption.¹² In exchange, the federations who benefitted from this largesse supported Haverlange and then Blatter in the FIFA Congress and on FIFA committees.¹³ To prevent public exposure of this system, the FIFA leadership protected its supporters by threatening to suspend their federations any time governmental agents or legislatures got too close to their daily operations.¹⁴ Thus, the non-intervention principle became linked to the protection of a network of corruption inside FIFA itself.¹⁵

The effect of this system did not go unnoticed. Although he does not explore the question of FIFA's motivation, in his study of the development of African soccer in the late twentieth century,

money-come-from.html.

¹¹ See *FIFA Corruption Crisis: A Complete List of High-Ranked Officials Who were Banned, Fined or Suspended*, REUTERS NEWS SERV. (Feb. 25, 2016), <https://www.sportskeeda.com/football/fifa-corruption-crisis-complete-list-all-banned-fined-suspended-officials.e>

¹² For an example of such a grant in the Caribbean see Alex Duff, *FIFA Grants Seen Wasted as Blatter Roadshow Arrives in Caribbean*, BLOOMBERG NEWS (Oct. 21, 2013, 6:12 AM), <https://www.bloomberg.com/news/articles/2013-10-21/fifa-grants-seen-wasted-as-blatter-roadshow-arrives-in-caribbean>.

¹³ Andy Dabilis, *Blatter's FIFA: Growth, Scandals*, THE NAT'L HERALD (June 3, 2015) <https://www.thenationalherald.com/87124/blatters-fifa-growth-scandals/>.

¹⁴ Brian Oliver, *Free-for-all and corruption in African football shames Fifa*, THE GUARDIAN (Oct. 24, 2010, 4:00 AM), <https://www.theguardian.com/football/2010/oct/24/corruption-african-football-fifa>.

¹⁵ For an attempt to specifically delineate how this network operated in the final years of Blatter's presidency, see *Sepp Blatter: How the Machiavellian Master of FIFA Power Politics Fell*, THE GUARDIAN (Dec. 18, 2015), <https://www.theguardian.com/football/2015/dec/21/sepp-blatter-fifa-power-politics>. For evidence of its success in buttressing the power within FIFA of Blatter and his predecessor, see TRANSPARENCY INTERNATIONAL, GLOBAL CORRUPTION REPORT: SPORT 157–68 (2016).

Zimbabwean sociologist Manase Kudzai Chiweshe has concluded that “FIFA’s standing statutes of non-interference have often meant corrupt leaders [of African sporting organizations] continuing in their positions for decades,” and that “the major obstacles facing all countries from combating corruption in football are FIFA’s statutes of non-interference.”¹⁶ Moreover, while there are legitimate arguments that the sports industry and the public both benefit from the absence of direct governmental involvement in sport, belief in such a principle does not really explain the pattern of action by FIFA in the Blatter era. If FIFA had been truly committed to a principal of national association autonomy, then it would have attempted to eliminate government involvement wherever it occurred. However, during Blatter’s years as president, FIFA voiced no objections to the clearly high level of state involvement with the national soccer programs in Russia and China and in the still communist countries like North Korea and Cuba.¹⁷ Tellingly, the vast majority of countries that have been threatened with sanctions for violations of the “non-intervention” principal since the early 1990’s have been located in Africa, Asia, the Caribbean, and Eastern Europe, where economic resources are less abundant, but also where the sports/soccer systems are not completely under state control as they are in North Korea and Cuba.¹⁸ Developing nations present more opportunities for government involvement in sport (as well as more opportunities for corruption), but they are also much more susceptible to intimidation by FIFA.¹⁹ There is no question that Blatter

¹⁶ Manase Kudzai Chiweshe, *The Problem with African Football: Corruption and the (Under)development of the Game on the Continent*, AFR. SPORTS L. & BUS. BULL. 27–33 (Feb. 2014) http://www.africansportslawjournal.com/Bulletin_2_2014_Kudzai.pdf.

¹⁷ For the involvement of the government in sport in China, see MING LI, ERIC MACINTOSH, & GONZALO BRAVO, *INTERNATIONAL SPORT MANAGEMENT*, 199–218 (2011); for Russia, see OLGA RYMKEVICH, *SPORTS LAW IN RUSSIA* (2016); for the Democratic Republic of Korea, see Udo Merkel, *The Politics of Sport and Identity in North Korea*, in *SPORT AND NATIONALISM IN ASIA: POWER, POLITICS AND IDENTITY* 104–118 (Fan Hong & Lu Zhouxiang, eds., 2015); for Cuba, see Jere Longman, *Under Fidel Castro, Sports Symbolized Cuba’s Strength and Vulnerability*, N.Y. TIMES (Nov. 27, 2016), <https://www.nytimes.com/2016/11/27/sports/under-fidel-castro-sport-symbolized-cubas-strength-and-vulnerability.html>. In regards to FIFA’s hands-off policy toward Russia, it did not hurt that Russian President/Prime Minister Vladimir Putin was one of Blatter’s most vocal supporters. Near the end of Blatter’s career Putin publicly proclaimed that Blatter’s work with FIFA was worthy of a Nobel Peace Prize. Jethro Mullen, *Sepp Blatter Deserves Nobel Prize for FIFA Work, Russia’s Vladimir Putin Says*, CNN (July 28, 2015), <http://edition.cnn.com/2015/07/28/football/vladimir-putin-sepp-blatter-fifa-nobel-prize/>.

¹⁸ Matthew Kenyon, *Why Africa Backs Sepp Blatter*, BBC NEWS (May 29, 2015), <http://www.bbc.com/news/world-africa-32928984>.

¹⁹ See *id.*

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and his predecessor exploited this situation to maintain their positions of power within FIFA.²⁰

Although FIFA had regularly suspended member associations for being subject to outside interference for the previous quarter century, it is somewhat surprising that until 2009, the FIFA Statutes only indirectly referred to the duty of federations to avoid third-party interference.²¹ As late as 2008, references in the FIFA Statutes consisted only of requirements that the election or appointment of office-holders be conducted under rules that guarantee “the complete independence of the election or appointment,” and that they had an obligation to make decisions independently of any external entity.²² However, in 2009, the FIFA Statutes were revised to make the nature of this offense much more explicit.²³ For example, new Articles 13 and 17, combined with the enforcement implications of Article 14, clearly identified the prohibition and authorized FIFA to respond aggressively.²⁴ Article 13.1 listed the obligations of membership which include the obligation “to manage their affairs independently and ensure that their own affairs are not influenced by any third-parties,”²⁵ while Article 13.3 authorized sanctions “even if the third-party influence was not the fault of the Member concerned.”²⁶ Article 17.1 reiterated the same principle: “Each member shall manage its affairs independently and with no influence from third-parties,” and the remaining sections of the article elaborate on that point.²⁷ Although

²⁰ *See id.*

²¹ *See* FIFA, *supra* note 6, at art. 17.1.

²² *See e.g.*, FIFA Standard Statutes (2004), Art. 10.3(g); FIFA Statutes (2008), Art. 17.1. Also included was a clause that required member federations to adopt rules prohibiting athletes and officials from bringing lawsuits against FIFA, the federation, or member clubs in national courts unless such recourse was specifically permitted by FIFA Statutes. *Id.* at art. 64.2.

²³ *See* FIFA, FIFA STATUTES (2009) https://resources.fifa.com/mm/document/affederation/generic/01/24/fifastatuten2009_e.pdf.

²⁴ *Id.*

²⁵ *Id.* at art. 13.1(g).

²⁶ *Id.* at art. 13.3.

²⁷ *Id.* at Article 17. In its entirety, Article 17 provided:

Independence of Members and their Bodies.

1. Each Member shall manage its affairs independently and with no influence from third parties.
2. A Member’s bodies shall be either elected or appointed in that Association. A Member’s statutes shall provide for a procedure that guarantees the complete independence of the election or appointment.
3. Any Member’s bodies that have not been elected or appointed in compliance with the provisions of par. 2, even on an interim basis, shall not be recognized by FIFA.

no Article specifically equates “third-parties” with national governments, FIFA has long insisted that protection of its members from state influence was one of its primary purposes.²⁸ Additionally, Article 14.1, while vesting the ultimate authority to expel or suspend in the FIFA Congress, authorized the Executive Committee to act immediately to correct a problem, subject only to later review by the Congress.²⁹ Thus, not only did the FIFA leadership have the authority under its own rules to intervene in disputes between a federation and its government, it had the power to act quickly.³⁰ Finally, Article 68.3, like its predecessor provisions, prohibited lawsuits in national courts.³¹ Instead, challenges to federation or FIFA actions could be brought only to FIFA-approved arbitration panels or, in certain cases, to the Court of Arbitration for Sport in Lausanne, Switzerland.³²

The 2009 changes remained in force until 2016, when as part of the substantial revision of the FIFA Statutes following the 2015 corruption scandal, a new Article 19 was adopted which scaled back the ability of FIFA to suspend federations because of governmental violations of the non-intervention policy.³³ Under the new provision, third-party and governmental involvement in the affairs of the soccer federations are prohibited only when the influence or involvement is *undue*.³⁴ New Article 14 (former Article 13) defining the obligations of members also specifically limits the requirement of independent action to the standard defined in Article 19.³⁵

II. HOW FIFA DISCOVERED THE VALUE OF THE NON-INTERVENTION PRINCIPLE IN THE BLATTER ERA

Preserving their autonomy and avoiding direct regulation by state and national governments has always been a priority of private

4. Decisions passed by bodies that have not been elected or appointed in compliance with par. 2 shall not be recognized by FIFA.

Id.

²⁸ See *infra* note 52.

²⁹ FIFA, *supra* note 23.

³⁰ *Id.* Provisions for suspension and expulsion of members are contained in FIFA, FIFA STATUTES (2015), Articles 14 and 15. Article 14.3 specific provides that suspended federations cannot enjoy any of the benefits of membership. *Id.*

³¹ *Id.* at art. 68.

³² *Id.*

³³ FIFA, FIFA STATUTES (2016), Article 19.

³⁴ *Id.* The statute does not, however, attempt to define the term “undue.”

³⁵ *Id.* at article 14.

sporting institutions, such as FIFA. The self-contained sports leagues of North America (including the National Football League, the National Basketball Association, the National Hockey League, and the various major and minor league baseball leagues), the national sports federations around the world modeled on Britain's Football Association, the international sports federations, and the International Olympic Committee have all sought to preserve their independence from state control and to a large extent from state regulation, although all are happy to receive state subsidies, especially in the form of new playing facilities.³⁶ However, there is very little evidence that FIFA was particularly concerned with the issue of strict federation autonomy between the time of its founding in 1904 and the early 1990's; so long as member federations complied with their obligations to the organization, little attention was paid to the question of state involvement in sport at the national level.³⁷

Moreover, given the presence of federations in its ranks from fascist, communist, and totalitarian states during much of its history, it is difficult to see how FIFA could have demanded a non-interference boundary between national governments and their soccer federations, even had it wanted to do so.³⁸ Only after the fall of the Soviet Union in 1991 did such an enforcement policy become even credible.³⁹ In fact, in its early history, a more important concern had to do with FIFA improperly intervening in the operation of its member federations.⁴⁰ Such considerations appear to have retarded the early growth of FIFA,

³⁶ The private character of sports organization has been accepted as the norm in the United States that there is relatively little scholarly writing on the so-called "autonomy principle" in the United States. For the North America situation generally, see Nathaniel Grow, *Regulating Professional Sports Leagues*, 72 WASH. & LEE L. REV. 573 (2015). The subject has received more attention in Europe. See, e.g., Jean-Loup Chappelet, *Autonomy of Sport in Europe* (Council of Europe Publ'g 2010), and the sources cited therein.

³⁷ For the early history of FIFA, see ALAN TOMLINSON, *FIFA (FEDERATION INTERNATIONALE DE FOOTBALL ASSOCIATION): THE MEN, THE MYTHS AND THE MONEY* 12-70 (2014).

³⁸ The relationship between totalitarian states and sports is a much studied topic. See, for example, James Riordan, *SPORT IN SOVIET SOCIETY* (1977); James Riordan, *The Impact of Communism on Sport*, 32 HIST. SOC. RES. 110 (2007); SIMON MARTIN, *FOOTBALL AND FASCISM: THE NATIONAL GAME UNDER MUSSOLINI* (2004); DAVID CLAY LARGE, *NAZI GAMES: OLYMPICS OF 1936* (2007); and for the nation state and sport in the 1930's more generally, BARBARA J. KEYES, *GLOBALIZING SPORT: NATIONAL RIVALRY AND INTERNATIONAL COMMUNITY IN THE 1930'S* (2006).

³⁹ *Fall of the Soviet Union*, HISTORYCHANNEL.COM, <http://www.history.com/topics/cold-war/fall-of-soviet-union>.

⁴⁰ *History of FIFA—Founding*, FIFA.COM, <http://www.fifa.com/about-fifa/who-we-are/history/index.html> (last visited Apr. 6, 2017).

which went from seven members in 1904 to just twenty members in 1920.⁴¹ Concern over FIFA interference prompted the four British Football Associations to withdraw from the organization in 1920, and while they all rejoined in 1924, all withdrew again in 1928, and did not return to the ranks of FIFA until after the Second World War.⁴²

Even after the collapse of fascism in the 1970's and European Communism in the late 1980's and early 1990's the issue of sports federation autonomy and freedom from government interference did not really arise within FIFA until the mid-1990's.⁴³ A study of the history of state involvement in world soccer published in 1996 assumed what was historically undeniable—FIFA had always looked the other way in regard to extensive state involvement in the national football federations.⁴⁴ Although *The Times* of London noted in 1987 that FIFA itself was noticeably trying “to resist all outside political interferences by such organizations as the UN, the EEC, UNESCO and the Supreme Council for Sport in Africa,” the observation made no reference to FIFA trying to draw sharp lines between its national federations and their national governments.⁴⁵

Suspensions of entire federations, as opposed to individual players, were also quite rare before the 1990's; only a handful of such suspensions were forthcoming between 1960 and 1990.⁴⁶ For example, in 1960, the Australian Soccer Football Association was fined and suspended for violating FIFA player transfer rules which required a player's new club to compensate his old one for his

⁴¹ Peter J. Beck, *British Football and FIFA, 1928-46: Going to War or Peaceful Coexistence?*, 18th Annual Conference, (Aug. 19, 1999), <http://www.fifa.com/development/news/y=1999/m=8/news=british-society-sports-history-71171.html>; see also *History of FIFA—Founding*, FIFA.COM, <http://www.fifa.com/about-fifa/who-we-are/history/index.html> (last visited Apr. 6, 2017).

⁴² Beck, *supra* note 41. Then as now, Great Britain was treated as four countries for purposes of international soccer competition with associations in England, Scotland, Wales, and Ireland. Today, both the Irish Republic and Northern Ireland have their own federations.

⁴³ JEAN-LOUP CHAPPELET, AUTONOMY OF SPORT IN EUROPE 7 (Apr. 2010), <http://www.coe.int/t/DG4/EPAS/resources/6720-0-ID8704-Autonomy%20of%20sport%20assemble.pdf>.

⁴⁴ VIC DUKE & LIZ CROLLEY, FOOTBALL, NATIONALITY AND THE STATE (1996) (indicating that state involvement in the affairs of domestic football was close to the norm for world soccer as late as the 1970's and early 1980's).

⁴⁵ David Miller, *Football: United States may be hosts for 1994*, THE LONDON TIMES (Mar. 21, 1987).

⁴⁶ See *infra* notes 48–54.

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services.⁴⁷ Three years later, FIFA suspended the Federations of Puerto Rico and the Dominican Republic for non-payment of dues, but then reinstated them once the payments were forthcoming.⁴⁸ Later in the decade, South Africa (1964) and Rhodesia (1970), were both suspended but only because of their white supremacist racial policies and not because of any other illegalities in the operation of their programs.⁴⁹ More than a decade later in 1981, the United States-based North American Soccer League faced suspension because of unauthorized rule changes pertaining to off-sides penalties and in game substitutions, but rather than challenge the suspension it abandoned the rule changes.⁵⁰ In 1986, the Uruguay Football Association was fined and threatened with suspension because of repeated acts of “unsportsmanlike behavior on the part of its national team, but it apparently dropped its controversial activities to avoid a punishment more severe than censure.”⁵¹ Two years later, in April 1988, the Mexican Federation of Association Football was suspended for two years for covertly allowing four over-age players to play on its FIFA youth championship team.⁵² A more serious episode occurred the following year when Chile was suspended from both the 1990 and 1994 World Cup competitions because its goaltender faked a serious injury that required the stoppage of a World Cup qualifying match with Brazil in which Chile was losing, one to zero.⁵³ None of these actions involved allegations of improper interference by third-parties, governmental or otherwise.⁵⁴

However, in 1992, FIFA began to take a more aggressive approach and one that involved policing the internal affairs of its

⁴⁷ *Psst All Summer*, SYDNEY MORNING HERALD (Dec. 15, 2013), <http://www.smh.com.au/sport/pssst-all-summer-20131214-2ze3z.html>, (citing ROY HAY & BILL MURRAY, A HISTORY OF FOOTBALL IN AUSTRALIA (2014)). Rather than pay the fine, the ASFA folded, but a revived association was readmitted to FIFA in 1963, following the payment of the fine. *Id.*

⁴⁸ *Soccer Leagues Lag in Dues, Suspended*, WASH. POST, Aug. 22, 1963, at F1.

⁴⁹ *Briefs: Soccer*, CHI. TRIB., July 4, 1992, at A3 (reinstatement of South Africa by FIFA); *Football Congress Blasts Rhodesia*, CHI. DAILY DEFENDER, June 25, 1979, at 38.

⁵⁰ *FIFA Suspension Faced by NASL*, THE TORONTO GLOBE & MAIL, Mar. 4, 1981; *NASL Yields on 2 Rules*, CHI. TRIB., Mar. 29, 1981, at C1. One of the traditional goals of FIFA was the standardization of playing rules across the world.

⁵¹ Grahame L. Jones, *Uruguayan Team, Fined, Censured*, L.A. TIMES, June 15, 1986, at C17.

⁵² *FIFA Lifts Mexican Punishment*, XINHUA GEN. OVERSEAS NEWS SERVICE, Nov. 4, 1989. At the request of other Latin American federations, the punishment was later reduced to one year.

⁵³ *FIFA Bans Chile from World Cup for Rojas's Deceit*, THE TIMES, Dec. 9, 1989.

⁵⁴ See *supra* notes 48–53.

federations. In March of that year, it threatened to suspend the Brazilian Football Federation in a complicated case that directly involved the family of FIFA president Joao Haverlange.⁵⁵ This matter did not involve issues of direct governmental attempts to influence the federation, but it did involve a soccer team going to court to sue the federation, which was specifically prohibited by FIFA rules.⁵⁶ The previous July in 1991, Brazilian federation president Ricardo Teixeira, Haverlange's son-in-law, had engineered his early re-election.⁵⁷ Believing that the election had not been proper, the Flamengo soccer club, the recently crowned champions of Campeonato Brasileiro Serie A (the top Brazilian league), challenged the legitimacy of Teixeira's reelection in a Brazilian court.⁵⁸ While the Brazilian federation took no immediate action, FIFA banned Flamengo from future competitions.⁵⁹ Flamengo, undeterred, filed suit against FIFA in a Swiss court. At that point, FIFA threatened to suspend the Brazilian federation if it did not take immediate steps to ban Flamengo.⁶⁰ In response, the Brazilian federation did suspend Flamengo, which in turn withdrew both its lawsuits.⁶¹ In the end, Teixeira remained in power for years to come.⁶² If nothing else, the Brazilian episode demonstrated that FIFA could use the threat of suspension to force a non-cooperating federation, even one in a large, important country like Brazil, to realign its internal policies with international organization's wishes.

Somewhat ironically, later that year FIFA also suspended the Yugoslavian federation, not for acts of misconduct in the world of soccer, but because of alleged atrocities committed by Serbia during the Balkan War.⁶³ Rather than FIFA complaining about governmental

⁵⁵ Jamie Rainbow, *Ricardo Teixeira: how 25 years of absolute power came to an end*, WORLD SOCCER (Jan 16, 2014), <http://www.worldsoccer.com/columnists/keir-radnedge/ricardo-teixeira-how-25-years-of-absolute-power-came-to-an-end-344414>.

⁵⁶ *Id.*

⁵⁷ *Flamengo banned from international football*, AGENCE FRANCE PRESSE (Oct. 30, 1991).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Hurtful Rifts Give Bucello a Daunting Job*, SYDNEY MORNING HERALD (Mar. 20, 1992) (discussing the Brazilian situation).

⁶¹ *Id.*

⁶² *Soccer*, COURIER MAIL (Brisbane), Mar. 21, 1992 (discussing resolution of Brazilian situation).

⁶³ Patrick Strickland, *Palestinian soccer players tell FIFA Israel violates their 'basic rights'*, AL JAZEERA AM. (May 20, 2015), <http://america.aljazeera.com/articles/2015/5/20/palestinians-campaign-for-israels->

threat's to the autonomy of sport, a group of Yugoslav athletes and sports officials denounced the international soccer authority for invading the autonomy and independence of sport in Yugoslavia for what it felt were purely political reasons.⁶⁴ However, it would be in nearby Greece that FIFA would first make direct use of the non-intervention rules. In 1993, FIFA was approached by the Greek Football Federation (EPO) for assistance in its struggle with the Greek government.⁶⁵ Although the federation and the government had traditionally cooperated on sporting matters, a series of match-fixing incidents in the late 1980's and early 1990's prompted the Greek Parliament to consider legislation that would have given the government a role in the selection of referees and an ability to make appointments to the sports disciplinary courts operated by the EPO that were supposedly dealing with the scandal.⁶⁶ Such a transfer of power to the government was emphatically opposed by the Greek federation.⁶⁷

Not surprisingly, the EPO, many of whose leaders had been

suspension-from-fifa.html.

⁶⁴ *Yugoslav Athletes Plea to Drop Sports Sanctions*, UNITED PRESS INT'L, June 3, 1992, available at the Lexis News database.

⁶⁵ The Greek-FIFA conflict of 1993 episode recounted in this and the following two paragraphs appears to have gone virtually unreported in the English language press. A search of the news sources in the Lexis News database, the New York Times, the Chicago Tribune, the Washington Post, and the Los Angeles Times revealed no stories about this conflict. The facts recounted here and in the following paragraph are taken from the following secondary sources, which are based on Greek language primary sources: Henk Erik Meier & Borja Garcia, *Protecting Private Transnational Authority against Public Intervention: FIFA's Power Over National Governments*, 93 PUB. ADMIN. 890 (2015); Borja Garcia & Henk Erik Meier, *Keeping Private Governance Private: Is FIFA Blackmailing National Governments?*, Paper presented at the 8th Sport and EU Annual Conference, Istanbul, Turkey, June 27-28, 2010, http://www.sportandeu.com/wp-content/uploads/2013/06/Keeping-private-governance-private_submitted-for-sportandeuconference.pdf; **Dimitri Panagiotopoulos & Ioannis Mourniakis**, *Suspension of Governing Bodies: Analysis*, 4 WORLD SPORT L. REP. 8,6 (2006); Dimitri Panagiotopoulos & Ioannis Mourniakis, *Verbandsautonomie und staatliche Regulierung – Der Konflikt zwischen FIFA und Griechischem Fußballbund* [Autonomy and state regulation - The conflict between the Greek Football Federation and FIFA], SPORT UND RECHT [SPORT & THE L.] 190–92 (2006).

⁶⁶ Ian Ross, *Swansea Dismiss Manager*, THE TIMES, Mar. 6, 1990 (reporting a number of different stories including one about the Greek match-fixing scandal). Ironically, the events that triggered the 1993 clash started in March 1990, when Greek referee Constantin Dimitriadis reported to FIFA Secretary-General Sepp Blatter that he had evidence of attempted bribery and match fixing at the highest levels of Greek football.

⁶⁷ For background see Christos Anagnostopoulos, *The Battlefield of Greek Football: Organizing Top-Tier Football in Greece*, in ORGANISATION AND GOVERNANCE OF TOP FOOTBALL ACROSS EUROPE: AN INSTITUTIONAL PERSPECTIVE 209–23, especially 209–13 (Hallgeir Gammelsaeter & Benoit Senaux, eds., 2011).

rumored to be involved in the alleged wrongdoing, opposed the proposed legislation. When it became clear that the legislation would likely pass, the EPO leaders contacted FIFA directly and requested that it “suspend” the EPO from future competitions in order to put pressure on the Greek government to abandon the proposed changes.⁶⁸ As requested, FIFA threatened to suspend the EPO if the proposed statute went into effect, a decision which would have prevented Greece from participating in international matches, including the 1994 World Cup.⁶⁹ Although Greece had traditionally been one of the doormats of European soccer, the Greek national team playing in the 1993 preliminaries was quite strong, and by early May, it had qualified for the World Cup’s final round for the first time ever.⁷⁰ A suspension would have dashed the hopes of Greek soccer fans, and fearing the possibility of a popular reprisal, the Greek government withdrew the proposed legislation.⁷¹

Less successful was an effort later the same year in which FIFA attempted to reverse a decision of the Paraguayan government to cancel the final four weeks of its premier professional soccer league’s 1993-94 season. Citing endless corruption and violence at games, Paraguay announced in December that the remaining games of the Paraguayan Football League were being cancelled.⁷² It also instructed the directors of the league to elect a 1993 champion to represent the country in the following year’s Copa Libertadores, the annual Latin American professional championship.⁷³ Terminating a league season early was contrary to FIFA guidelines, and the FIFA Executive Committee announced that it would protest the decision and would undertake an investigation of the matter.⁷⁴ In this case, there is no

⁶⁸ In the future, embattled association officials, such as EPO, seeking support from FIFA would become a predictable feature of FIFA clashes with national governments.

⁶⁹ See Anagnostopoulos, *supra* note 67.

⁷⁰ See Phil Hersh, *3 European Doormats Rise Up for Finals*, CHI. TRIB., May 8, 1993, at A6.

⁷¹ For the withdrawal of the legislation, *see supra* note 67. The Greek team travelled to the United States for the 1994 World Cup, but there it was quickly eliminated by three consecutive losses to Argentina, Bulgaria, and Nigeria. The Greek team went scoreless in all three games. See FIFA, *1994 FIFA World Cup USA*, FIFA.COM, <http://www.fifa.com/worldcup/archive/usa1994/groups/index.html>.

⁷² *Vote decides Paraguay Title*, THE INDEP. (Dec. 31, 1993).

⁷³ The Copa Libertadores was a competition of independent professional teams. *Bienvenidos a la Copa Libertadores 2017*, COPALIBERTADORES.COM, <http://www.copalibertadores.com/> (last visited May 14, 2017).

⁷⁴ *Vote Decides Paraguay Title*, *supra* note 72; *Paraguay Elect Champions*, IRISH TIMES, Dec. 31, 1993; Ian Broadly, *Ajax Back Their Loyal Fans*, THE HERALD, Jan. 17, 1994 (discussing the FIFA investigation’s lack of impact).

evidence that FIFA's intervention in any way altered the decision of the Paraguayan government.⁷⁵ Of course, unlike the case in Greece earlier in the year, FIFA had not threatened to suspend the Paraguayan Football Federation, probably because of government's intervention applied only to the internal operation of the country's top professional league, and thus did not directly affect FIFA's primary area of operation. In any event, by mid-January it was clear that the FIFA investigation was going to have little effect.⁷⁶

The following year, FIFA did apply the Greek approach in a situation involving African soccer power Cameroon. On March 30, 1994, shortly before the Cameroonian national team, known as the "Indomitable Lions," left for the United States and the 2014 World Cup, the Cameroon Football Federation's (FECAFOOT) central committee fired its president, Pascal Owona.⁷⁷ Owona was accused by his colleagues of mismanagement, and the federation's General Secretary Maha Daher was elevated to the presidential post.⁷⁸ However, Cameroonian Prime Minister Simon Achidi Achu, apparently at the behest of President Paul Biva, vetoed the dismissal of Owona and ordered Minister of Sports Bernard Massou II to remove all members of the central committee responsible for Owona's discharge.⁷⁹ However, on April 3, before Massou could act, FIFA Secretary General Blatter informed FECAFOOT that it recognized Daher, not Owona, as the head of the Cameroonian organization.⁸⁰ In addition, he stated that if the government of Cameroon persisted in its efforts on behalf of Owona, FIFA would have no choice but to suspend the Lions from all FIFA activities, including the 1994 World Cup.⁸¹ Blatter also let it be known that FIFA was prepared to substitute the

⁷⁵ *Vote decides Paraguay title*, *supra* note 72.

⁷⁶ See generally, Ian Broadley, *Ajax back their loyal fans*, THE HERALD, Jan. 17, 1994, at 6. The Scottish journalist did not appear to take FIFA's investigation very seriously, observing, "FIFA has launched an inquiry but that will solve little where football has now gone out of bounds once too often." *Id.*

⁷⁷ Etienne Tasse, *Cameroon-Sport/Politics: Scoring Government Goals With Football*, INTER PRESS SERV. (Mar. 15, 1995), <http://www.ipsnews.net/1995/03/cameroon-sport-politics-scoring-government-goals-with-football/>.

⁷⁸ This account is based upon the following sources: *Id.*; Christopher Clarey, *World Cup '94: Cameroon Tries to Raise a Dream While All Else is Collapsing*, N.Y. TIMES (May 15, 1994), <http://www.nytimes.com/1994/05/15/sports/world-cup-94-cameroon-tries-to-raise-a-dream-while-all-else-is-collapsing.html?pagewanted=all>.

⁷⁹ *Cameroon-Sport: Indomitable Lions Face World Cup Disqualification*, IPS-INTER PRESS SERV., May 7, 1994.

⁸⁰ *FIFA drops threat against Cameroon*, Xinhua News Agency, May 7, 1994.

⁸¹ *Id.*

national team of Zimbabwe, a team that Cameroon had earlier eliminated, in upcoming World Cup play.⁸²

Rather than risk what the *Inter Press Service* described as “a potentially disastrous eventuality,” Prime Minister Achu and President Paul Biya backed down and acknowledged the election of Daher.⁸³ Moreover, before the FIFA intervention, Biya had apparently planned to turn Cameroonian soccer over to a newly created government body established by presidential decree the previous year, but Blatter’s warning seems to have led to Biya abandoning that plan.⁸⁴ As it had done the year before with Greece, FIFA forced a change in a government plans by threatening to deny the country the opportunity to participate in international soccer.⁸⁵

Two additional cases in 1996 confirmed that FIFA had adopted a new policy in regard to internal intervention. In Algeria, the government took admittedly extreme steps to express its outrage at the recent failures of its national team. After making the World Cup finals in 1982 and 1986, the Algerian national team stumbled during the next two World Cup cycles, and when it was eliminated from the 1998 World Cup by Kenya in June of 1996, Algeria’s Minister of Youth and Sport, former national team player Mouldi Aisaoui, decided to revamp the country’s international program.⁸⁶ Not only did he dissolve the Algerian Football Federation (FAF), he also suspended all of the FAF senior officials for five years.⁸⁷ For good measure, he also fired Ali Fergani, the national team’s coach, and forbade him for working in Algerian soccer for the remainder of his life.⁸⁸ Apparently Aisaoui intended for the Ministry of Sport to take over the role of the federation, a position that was unacceptable to FIFA, especially at a time when most of the government-run soccer federations in former

⁸² See generally *id.*

⁸³ Etienne Tasse, *Cameroon-Sport/Politics: Scoring Government Goals With Football*, INTER PRESS SERV. (Mar. 15, 1995), <http://www.ipsnews.net/1995/03/cameroon-sport-politics-scoring-government-goals-with-football/>.

⁸⁴ See *id.*

⁸⁵ *Id.*

⁸⁶ For the elimination by Kenya, see *Algeria national football team 'A' international record: 1996*, 11v11, <http://www.11v11.com/teams/algeria/tab/matches/season/1996/> (last visited April 5, 2017).

⁸⁷ *Algerian football body to be reinstated to beat FIFA sanctions*, DEUTSCHE PRESSE-AGENTUR (Aug. 28, 1996).

⁸⁸ *Id.*

communist countries had been freed from state control.⁸⁹ Rather than recognize the Ministry's control of Algerian soccer, FIFA ordered Algeria to hold elections for a new FAF by the end of August or risk suspension.⁹⁰ Although Algeria, unlike Greece and Cameroon, would not have lost a World Cup slot had it persisted in its resistance to FIFA, it also had no desire to be cast in the role of an international soccer "outlaw," especially as it tried to rebuild its once vaunted national team.⁹¹ Consequently, the government abandoned its plans to take over Algerian soccer and instead scheduled new federation elections prior to the date ordered by FIFA.⁹²

Another opportunity for FIFA to threaten a national government came in late November 1996, when the Albanian Secretary of State for Education and Sport, Marjeta Pronjari-Zace, abruptly removed Eduard Dervishi, the secretary general of the Albanian Football Federation (AFF), from office, and dissolved the AFF's executive committee.⁹³ Although the act may have been politically motivated - the Secretary and Dervishi were members of different political parties - Pronjari-Zace claimed that her action was in response to Dervishi's incompetence and his failure to hold a scheduled election for a new executive council.⁹⁴ However, the delayed election cited by Pronjari-Zace had already been the subject of negotiations between FIFA, the European Football Association (UEFA), the Albanian Football Association and the Albanian government, and an agreement to delay the election had been reached on October 29, reportedly with the consent of all, including Pronjari-Zace.⁹⁵

FIFA responded to Pronjari-Zace's actions on November 27, 1996, by banning Albania indefinitely from World Cup play, even though it was in the middle of the preliminary rounds for the 1998 World Cup and was only a little more than two weeks away from a scheduled qualifying match with Northern Ireland.⁹⁶ Asserting that it

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *See generally id.*

⁹² *Algerian football body to be reinstated to beat FIFA sanctions*, DEUTSCHE PRESSE-AGENTUR (Aug. 28, 1996).

⁹³ Alex Standish, *Albania hauled into line*, THE EUROPEAN (Dec. 5, 1996).

⁹⁴ *Id.*

⁹⁵ *FIFA Suspends Albania*, ASSOCIATED PRESS INT'L (Nov. 27, 1996).

⁹⁶ *FIFA Suspends Football Association of Albania*, FIFA (Nov. 27 1996), <http://www.fifa.com/about-fifa/news/y=1996/m=11/news=fifa-suspends-football-association-albania-70146.html>.

“considered that these decisions violated FIFA’s statutory provisions as well as the agreement proposed by a FIFA/UEFA delegation and agreed upon by State Secretary for Sports, Marjeta [Pronjari-]Zace, in Tirana on October 29,” FIFA removed Albania from the FIFA Congress and imposed a December 7, 1996, deadline for the reappointment of Dervishi and the members of the executive council.⁹⁷ FIFA also noted that failure to meet the ten-day deadline could mean that Albania would be barred from participating in both the 1998 and 2002 World Cup competitions, regardless of what steps it might subsequently take.⁹⁸

Even though Pronjari-Zace and her colleagues at the sports ministry appeared ready to resist the FIFA threats, other members of the Albanian government reacted differently.⁹⁹ As had been the case with Greece, Cameroon, and Algeria, the prospect of a disappointed public led the Albanian government to accept the FIFA demands, and as early as November 29 (just two days after FIFA’s ultimatum), newspapers were reporting that Albania planned to do what was necessary to return to FIFA’s good graces.¹⁰⁰ The following day, the Albanian Council of Ministers announced that the dismissals of Dervishi and the members of the executive council would be vacated, and all would immediately be returned to their old positions.¹⁰¹ In addition, Albanian Prime Minister Aleksander Meksi offered a number of public pronouncements affirming his country’s desire to play a role in international soccer and to comply with the FIFA statutes.¹⁰² On December 4, the Albanian Football Federation was officially reinstated as a member of FIFA, and on December 14, the national team played its scheduled game against Northern Ireland (which it lost, two to zero).¹⁰³ FIFA officials were apparently so confident at this point that Albania would capitulate following its ultimatum that FIFA told the director of the Irish Football Association, the federation for Northern

⁹⁷ The quote from the FIFA communique is from *Football*, AGENCE FR. PRESSE – ENG. (Nov. 27, 1996).

⁹⁸ *Albania banned from international football competition*, DEUTSCHE PRESSE-AGENTUR (Nov. 27, 1996).

⁹⁹ *FIFA ban a grave blow to Albanian football, official says*, DEUTSCHE PRESSE-AGENTUR (Nov. 28, 1996).

¹⁰⁰ See Peter Byrne, *Quinn’s recovery from knee surgery ahead of schedule*, THE IRISH TIMES (Nov. 29, 1996).

¹⁰¹ *Albanian government withdraws sacking of football officials*, DEUTSCHE PRESSE-AGENTUR (Nov. 30, 1996).

¹⁰² Raymond Travers, *Dowie puts Albanians in their place*, SCOT. ON SUNDAY (Dec. 15, 1996).

¹⁰³ “*Albania back in*,” DAILY TELEGRAPH (Dec. 4, 1996).

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Ireland which was hosting the game, that it should not worry about having to cancel the game and should instead, “carry on as normal.”¹⁰⁴

The episodes involving Greece, Cameroon, Algeria, and Albania, all economically weak, vulnerable nations, established that FIFA leadership could “blackmail” certain countries when it believed that government action was contrary to its interests. Beginning in 1997, the power was exercised with increased frequency, and by 2000, the number of cases in which FIFA had intervened on behalf of member associations facing some element of loss of control to government agencies had increased from four to thirteen, as additional actions were initiated against Namibia, Poland, Zambia, Hungary, Cameroon (again), Benin, Guinea, Tanzania, and Brazil.¹⁰⁵ In every case but one, Guinea, where the suspension lasted two year, the challenged government quickly complied with FIFA’s demands.¹⁰⁶

By 2000, the legitimacy of FIFA’s aggressive enforcement of the non-intervention policy also seemed to have been widely accepted by the sporting public. In an August 2000 story reporting that the Sierra Leone legislature had called the Secretary General of the Sierra Leone Football Association to appear before it to explain the national team’s poor performance in recent games against Nigeria and Ghana, the *Africa News* observed, “[i]t is unusual for football association officials to face parliament because the World Governing Body, FIFA, is against political interference in soccer.”¹⁰⁷ Although the practice of aggressively enforcing the non-intervention policy was less than a

¹⁰⁴ Alex Toner, *It’s On!; Northern Ireland Given All Clear to Play Albania in Belfast*, DAILY MIRROR (Dec. 4, 1996).

¹⁰⁵ Conrad Argula, *FIFA Threatens to Suspend Namibia*, AFR. NEWS (June 26, 1998) (Namibia); Dominic O’Reilly, *Power Struggle Brings World Ban*, THE EUR. (Aug. 3, 1998) (Poland); Alfred Mulula Lusaka, *Football Dispute May Lead to Suspension*, IPS-INTER PRESS SERV. (Sept. 4, 1998) (Zambia); *Greenland Presses for Recognition Around the World*, THE INDEP. (Sept. 28, 1999) (Hungary); *Soccer Sunday*, AFR. NEWS (Jan. 10, 1999) (Cameroon); *Poland’s New Soccer President Calls for Reforms*, ASSOC. PRESS INT’L, (June 29, 1999) (Poland); Norbert N. Ouendji, *Joseph-Antoine Bell Denounces FIFA’s Interference*, AFR. NEWS (Oct. 29, 1999) (Cameroon); *Cameroon Suspended Indefinitely by FIFA*, AFR. NEWS (Dec. 25, 1999) (Cameroon); *FIFA Ban on Benin Lifted*, AGENCE FR. PRESSE – ENG. (Apr. 1, 2000) (Benin); *FIFA and Tanzania on Collision Course*, AGENCE FR. PRESSE – ENG. (Tanzania); Fajah Barrie, *Sierra Leone: Alimu Bah faces Parliament Monday*, AFR. NEWS (Aug. 11, 2000) (Sierra Leone); *Brazil Could Face World Cup Ban*, THE SCOTSMAN (Oct. 30, 2000) (Brazil); *Brazil Faces World Cup Ban*, SHANGHAI STAR (Oct. 31, 2000) (Brazil).

¹⁰⁶ See *supra* note 105.

¹⁰⁷ Fajah Barrie, *Sierra Leone: Alimu Bah faces Parliament Monday*, Afr. News (Aug. 11, 2000).

decade old, it had clearly become part of the culture of international soccer and there is very little evidence of criticism of FIFA for taking this step.

It was also clear by 2000 that the merits of the concerns that had prompted a government to intervene in soccer matters were irrelevant to FIFA. The official position was that governmental removal of a corrupt federation official outside of the rules of the federation was just as much a threat to the autonomy of soccer as the removal on purely political grounds of an official who had acted honestly and in the public interest. The same month that the above mentioned story appeared in the *Africa News*, Blatter warned the Brazilian legislature that if it continued with its announced investigation into corruption in soccer in Brazil, it risked the possibility of a suspension from international play, regardless of what the investigation revealed.¹⁰⁸ As Slovenian sports law scholar Tine Misic later observed, in the years of Blatter's involvement with FIFA the organization "developed a zero-tolerance policy for any governmental interference regarding the affairs of its Members, thus arguably safeguarding their independence."¹⁰⁹

Why Blatter's assertion of private power at the expense of public interest did not produce greater criticism in the 1990's and early 2000's is a puzzling question. Fortunately, for FIFA, the organization's assertion of the non-intervention principle in the 1990's came simultaneously with an important public debate concerning the proper role of sport within the governance structure of the European Union. The dominant view in that debate was that sport in a democratic society should be allowed to operate under private rather than governmental control.¹¹⁰ This view was embraced in a number of European Union documents adopted at the end of the twentieth century. For example, the *Treaty of Amsterdam's* 1997 Declaration on Sport emphasized the social significance of sport but said little about the need for governmental regulation.¹¹¹ Moreover, the *Helsinki Report on Sport*,

¹⁰⁸ *Brazil Faces World Cup Ban*, SHANGHAI STAR (Oct. 31, 2000).

¹⁰⁹ Tine Misic, *Policing the (in)dependence of National Federations through the Prism of FIFA Statutes*, ASSER INT'L SPORTS L. BLOG (July 10, 2015), <http://www.asser.nl/SportsLaw/Blog/post/policing-the-in-dependence-of-national-federations-through-the-prism-of-the-fifa-statutes-by-tine-misic>.

¹¹⁰ The collapse of the socialist model of sport in the decade was undoubtedly an important development influencing this line of thought. See, e.g., *supra* note 17 and accompanying text.

¹¹¹ Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing

drafted for the European Commission in 1999, was prepared “with a view to safeguarding current sports structures and maintaining the social function of sport within the Community framework.”¹¹² The *Helsinki Report on Sport* also emphasized the importance of the principle of subsidiarity (local control) and the autonomy of sporting organizations.¹¹³ Although the *Nice Declaration of Sport* (2000) recognized that the responsibility for administering sport was to be divided between sporting organizations and nation states, it also recognized that it was the task of the sports federations to organize, promote, and police their particular sports.¹¹⁴ Consequently, FIFA’s aggressive embrace of the non-intervention principle in the 1990’s probably seemed consonant with the general movement toward the embrace of the idea that autonomy of the private sports industry was generally a good idea.¹¹⁵

After 2000, FIFA became, if anything, even more openly committed to the non-interference principle. A study of FIFA disciplinary actions between 2003 and 2013 by sports policy scholars Henk Erik Meier and Borja Garcia reports that in that eleven year period, FIFA issued twenty-four suspensions for improper governmental involvements, and in six other cases it would have suspended the national federation had the governments not quickly dropped their “objectionable” actions.¹¹⁶ Only one suspension, Brunei, lasted more than one year, and a substantial majority lasted less than two months, presumably because the “problem” was quickly corrected.¹¹⁷ Even where no formal action was taken, one could see the impact of FIFA’s policies. In 2011, in spite of a warning from FIFA, Venezuela adopted a new Law of Sport sponsored by President

the European Communities and Certain Related Acts art. 29, Oct. 2, 1997, 11997D OJC 340.

¹¹² REPORT FROM THE COMMISSION TO THE EUROPEAN COUNCIL: THE HELSINKI REPORT ON SPORT, COMM’N OF THE EUR. COMMUNITIES (Oct. 12, 1999).

¹¹³ *Id.* at § 4.2.

¹¹⁴ EUR. COUNCIL, CONCLUSIONS OF THE PRESIDENT: ANNEX IV – DECLARATION ON THE SPECIFIC CHARACTERISTICS OF SPORT AND ITS SOCIAL FUNCTION IN EUROPE, OF WHICH ACCOUNT SHOULD BE TAKEN IN IMPLEMENTING COMMON POLICIES (2000).

¹¹⁵ Robert Siekman, *The Specificity of Sport: Sporting Exceptions in EU Law*, ASSER INT’L SPORTS L. CTR. (2012), http://www.pravst.unist.hr/dokumenti/zbornik/2012106/zb201204_697.pdf. For the larger question of whether the sports industry is entitled to a certain level of autonomy and freedom from government regulation. *See, e.g.*, JEAN-LOUP CHAPPELET, AUTONOMY OF SPORT IN EUROPE 11–12 (Council of Eur. Pub. 2010) (discussing the history of the embrace of autonomy principles by the International Olympic Committee).

¹¹⁶ Meier & Garcia, *supra* note 65, at 895-97.

¹¹⁷ *Id.* at 896–897.

Hugo Chavez that created a Sports Justice Commission with the statutory authority to hear complaints against the Venezuelan Football Federation (VFF) and other sporting organizations in ways that clearly would violate the FIFA Statutes.¹¹⁸ Although Venezuela refused to modify its statute in face of FIFA's threats to suspend the VFF if the law passed, to date the law has not been invoked against the VFF, and there has been no evidence of state efforts to control the national federation.¹¹⁹

Furthermore, beginning in 2000, FIFA adopted a policy of requiring federations in nations that had violated the non-intervention policy to accept FIFA-appointed "normalization committees" who would run the country's soccer program until FIFA determined that it was "safe" for the national football association to retake control of the sport.¹²⁰ In 2004, FIFA announced publically that it was stepping up "vigilance against government interference" and that its Associations Committee would devote special efforts to enforcing the anti-intervention rules.¹²¹ In a September 27, 2004, media announcement, FIFA specifically named thirteen countries that gave the committee cause for concern.¹²² The next year, a FIFA task force was charged with investigating a number of contemporary problems, including the problem of government interference.¹²³ At the same time, FIFA also formally requested that countries with laws inconsistent with federation control of the sport of soccer - specifically Poland, Greece,

¹¹⁸ Diego Ore, *Soccer-Venezuela courts controversy with sports law*, REUTERS (Aug 2, 2011), <http://www.reuters.com/article/soccer-latam-venezuela-fifa-idUSLDE77200220110803>.

¹¹⁹ *Pitching in*, THE ECONOMIST (Mar. 17, 2012), <http://www.economist.com/node/21550302> (discussing the impact of the new Sports Law, no mention is made of its application to soccer or the VFF).

¹²⁰ Salaam, *FIFA suspends Tanzania*, AGENCE FR. PRESSE (Oct. 27, 2000). The appointment of a normalisation committee is currently authorized for "exceptional circumstances." FIFA, *supra* note 6, at art. 7.2.

¹²¹ *FIFA steps up vigilance against government interference*, FIFA (Sep. 27, 2004), <http://www.fifa.com/live-scores/news/y=2004/m=9/news=fifa-steps-vigilance-against-government-interference-94282.html>.

¹²² *Id.* The thirteen country federations were, in the order of mention, Greece, Niger, Ethiopia, Gabon, Guatemala, Malawi, Tanzania, Zimbabwe, Barbuda, Burundi, Iraq, Kenya, and Puerto Rico. *Id.*

¹²³ *See generally, FIFA Task Force to tackle current football problems*, FIFA MEDIA RELEASE (Sep. 10, 2005), <http://www.fifa.com/about-fifa/news/y=2005/m=9/news=fifa-task-force-tackle-current-football-problems-100056.html>. The provisions authorizing the appointment of a normalization committee required consultation with the appropriate confederation and were inserted in the FIFA Statutes as Article 7.2. The provision was retained in the 2016 revision of the statutes as Article 8.2. FIFA, *supra* note 6, at art. 8.2.

and Portugal - replace those laws by the middle of July 2006.¹²⁴ In 2008, another media release announced that the Associations Committee was continuing to actively monitor federation-government interactions.¹²⁵ Also, as mentioned previously, the FIFA Statutes were rewritten at the end of the decade to more clearly state that independence from government influence was a mandatory requirement for FIFA members.¹²⁶

In 2014 and 2015, the final two years of Blatter's tenure, FIFA suspended or threatened to suspend the soccer federations of Gambia (2014), Nigeria (2014), the Maldives (2014), Indonesia (2015), Kuwait (2015), Guatemala (2015), and Indonesia (2015).¹²⁷ In three of these cases (Gambia, Maldives, and Guatemala) the investigated country was required to accept a normalisation committee, and in Guatemala the term of its normalisation committee was extended into a second year.¹²⁸ All of the listed federations were suspended or threatened with suspension exclusively because of governmental interference, except

¹²⁴ *FIFA Task Force to tackle current football problems*, *supra* note 123.

¹²⁵ See generally, *Strong deference of the independence of football associations*, FIFA MEDIA RELEASE (Feb. 06, 2008), <http://www.fifa.com/about-fifa/news/y=2008/m=2/news=strong-defence-the-independence-football-associations-685487.html>.

¹²⁶ It was at this time that Articles 13, 14, and 17, were enacted in their expanded form. See FIFA, *supra* note 23.

¹²⁷ *Normalisation Committee appointed for Gambia Football Federation*, FIFA.COM (July 10, 2014), <http://www.fifa.com/governance/news/y=2014/m=7/news=normalisation-committee-appointed-for-gambia-football-federation-2403244.html>; *FIFA Emergency Committee sets 8 September deadline for NFF*, FIFA.COM (Sept. 03, 2014), <http://www.fifa.com/governance/news/y=2014/m=9/news=fifa-emergency-committee-sets-8-september-deadline-for-nff-2435742.html>; *Suspension of the Kuwait Football Association*, FIFA.COM (Oct. 16, 2015), <http://www.fifa.com/governance/news/y=2015/m=10/news=suspension-of-the-kuwait-football-association-2717726.html>; *Suspension of the Guatemala Football Association*, FIFA MEDIA RELEASE (Oct. 28, 2016), <http://www.fifa.com/governance/news/y=2016/m=10/news=suspension-of-the-guatemala-football-association-2847078.html>; *Normalisation committee appointed for the Football Association of Maldives*, FIFA.COM (Dec. 02, 2014), <http://www.fifa.com/governance/news/y=2014/m=12/news=normalisation-committee-appointed-for-the-football-association-of-mald-2486998.html>; *Indonesia disqualified from 2018 FIFA World Cup Russia and AFC Asian Cup 2019 qualifies*, FIFA.COM (June 03, 2015), <http://www.fifa.com/worldcup/news/y=2015/m=6/news=indonesia-disqualified-from-2018-fifa-world-cup-russia-and-afc-asian-c-2617809.html>; *Fifa ends Indonesia's suspension from football after almost a year*, BBC (May 14, 2016), <http://www.bbc.com/sport/football/36292992>; *FIFA Fails to Lift Kuwait Suspension – Al-Maayouf Faults Personal Agendas*, ARAB TIMES (May 14, 2016), <http://www.arabtimesonline.com/news/fifa-fails-lift-kuwait-suspension-al-maayouf-faults-politics-personal-agendas/>.

¹²⁸ See *supra* note 127.

for Gambia, which was also accused of using overage players in international youth competitions.¹²⁹

In every case, but that of Kuwait and Guatemala, the national government accused of third-party interference acknowledged the legitimacy of new Articles 13 and 17 and terminated the complained of intervention.¹³⁰ In most cases, the capitulation was quite quick. Guatemala also initially capitulated, accepting a normalisation committee in December 2015.¹³¹ However, when FIFA decided to extend the committee for another ten months in September 2016, because of the alleged failure to cooperate on the part of Guatemalan officials, Guatemala balked, and FIFA formally suspended the Guatemalan Football Federation.¹³² Additionally, when the Kuwaiti government refused to cooperate with FIFA the Kuwaiti Football Association was indefinitely suspended.¹³³

Throughout Blatter's tenure, federations subject to FIFA-imposed sanctions had the right under the FIFA Statutes to challenge these penalties in the Court of Arbitration for Sport in Lausanne, Switzerland.¹³⁴ However, FIFA's tactics were so effective that no federation did so until 2014, when an ousted president of the Nigerian Football Federation (NFF) challenged the legality of FIFA's conduct.¹³⁵ At the beginning of July, 2014, shortly after the elimination of Nigeria by France in that year's World Cup, the leadership of the NFF was enjoined by a Nigerian court from continuing to operate the federation.¹³⁶ In addition, a government representative was appointed to manage the federation's affairs until the court had time to rule on the legality of past actions by the previous

¹²⁹ *Normalisation Committee appointed for Gambia Football Federation*, *supra* note 127.

¹³⁰ *See supra* note 127.

¹³¹ *Suspension of the Guatemala Football Association*, FIFA MEDIA RELEASE (Oct. 28, 2016), <http://www.fifa.com/governance/news/y=2016/m=10/news=suspension-of-the-guatemala-football-association-2847078.html>.

¹³² *Id.*

¹³³ *Football Shorts*, SUN. TIMES (Nov. 20, 2016). According to the *Times*, FIFA also contemplated filing a lawsuit against Kuwait, although where and what grounds was not revealed. *Id.* As of March 1, 2017, Guatemala and Kuwait remain on the FIFA suspended list.

¹³⁴ FIFA, FIFA DISCIPLINARY CODE (2017).

¹³⁵ Samm Audu, *CAS Reject Giwa Group Appeal to Restrain FIFA*, AFRICAN FOOTBALL (Sept. 10, 2014), <http://africanfootball.com/news/457517/CAS-reject-Giwa-group-appeal-to-restrain-FIFA>.

¹³⁶ *Nigerian Football Federation v. FIFA*, CAS 2014/A/3744.

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NFF leadership.¹³⁷ Citing improper governmental intervention, FIFA suspended the NFF on July 9, and, true to form, the Nigerian government capitulated and restored to office the old leadership on July 16.¹³⁸ Then, on August 26, 2014, an election for president of the NFF was won by a professional soccer club owner named Chris Giwa.¹³⁹ Believing Giwa's election to be the result of continuing improper influence on the part of the Nigerian government FIFA again threatened to suspend the NFF from international play, unless another election was held.¹⁴⁰ The NFF again capitulated, and another election was held the following month, this time resulting in the election of a candidate acceptable to FIFA.¹⁴¹

At this point, Giwa filed a suit against FIFA in the CAS, claiming to be the actual president of the NFF.¹⁴² On May 15, 2015, in the case of *Nigerian Football Federation v. FIFA*,¹⁴³ a three-man, all European arbitral panel accepted the legitimacy of the FIFA non-intervention rules and the way in which they were used to limit governmental involvement with soccer federations. Although the panel emphasized the very narrow scope of its ruling, holding only that FIFA had correctly applied its own rule in refusing to accept Giwa's election in 2014, the fact was that FIFA had again prevailed.¹⁴⁴ If there had been any concern that the CAS panel might pry into the ways in which FIFA applied the non-intervention principle, those concerns proved unfounded. Ironically, this "vindication" of Blatter's policies by the CAS arbitrators came just twelve days before seven FIFA officials were arrested on corruption charges in Zurich, Switzerland.¹⁴⁵ The Zurich arrests set in motion a set of events that quickly culminated in Blatter's suspension from the FIFA presidency on October 8, 2015,

¹³⁷ *Id.* at 3.

¹³⁸ *Id.* at 4.

¹³⁹ *Id.* at 7–8.

¹⁴⁰ *Id.* at 20.

¹⁴¹ *Id.*

¹⁴² *FIFA Emergency Committee suspends Nigeria Football Federation*, FIFA.COM (July 9, 2014), <http://www.fifa.com/governance/news/y=2014/m=7/news=keep-pending-fifa-emergency-committee-suspends-nigeria-football-federa-2402265.html>; *Nigeria's Ban from FIFA Lifted after the Reinstatement of Officials*, GUARDIAN (July 18, 2014), <https://www.theguardian.com/football/2014/jul/18/nigeria-reinstated-fifa-ban>.

¹⁴³ *Nigerian Football Federation v. FIFA*, CAS 2014/A/3744.

¹⁴⁴ *Id.*

¹⁴⁵ *FIFA Officials Arrested on Corruption Charges as World Cup Inquiry Launched*, GUARDIAN (May 27, 2015), <https://www.theguardian.com/football/2015/may/27/several-top-fifa-officials-arrested>.

less than five months after the CAS decision.¹⁴⁶

CONCLUSION

Whether or not the departure of Blatter and several of his colleagues from the upper ranks of the FIFA leadership marks an end to the era of FIFA interventions into national federation affairs remains to be seen.¹⁴⁷ In all likelihood, it will continue in some form, as not every application of the non-intervention principle by FIFA since the early 1990's was simply a matter of Blatter and his allies trying to protect a crony from prosecution or removal from office. Future investigations will identify which of the more than fifty interventions during Blatter's presidency were based on legitimate concerns. No doubt, there may be some circumstances in which governmental intervention into the internal affairs of a national soccer federation may be unjustified. In fact, governmental conduct that is completely arbitrary or corrupt should be resisted by private sports organizations. However, if the non-intervention principle is retained, it should be held in reserve for such cases, where, to use the language of new Article 19, the intervention is "undue" or completely unreasonable.¹⁴⁸

During the Havelange-Blatter era, FIFA officials clearly used the non-intervention principle to provide a prophylactic shield around its internal affairs. One can hope that in the future the new FIFA leadership will be less trigger-happy in imposing suspensions and normalization committees, especially in cases where the goal of

¹⁴⁶ Sam Borden, *FIFA President Sepp Blatter and Other Top Officials Suspended, Deepening FIFA's Turmoil*, N.Y. TIMES (Oct. 8, 2015), https://www.nytimes.com/2015/10/09/sports/soccer/sepp-blatter-michel-platini-jerome-valcke-fifa-suspended.html?_r=0.

¹⁴⁷ There are already some indications that it may not. After Blatter's resignation, the suspension of Indonesia, which involved the institution of a financial solvency based-licensing requirement for professional teams, was not revoked until Indonesia abandoned the requirement in May 2016. *FIFA Ends Indonesia's Suspension from Football after Almost a Year*, BBC SPORT FOOTBALL (May 14, 2016), <http://www.bbc.com/sport/football/36292992>. Moreover, in the spring of 2016, FIFA forced Greece to reinstate the Greek Cup (which had been suspended by the Greek government over issues of match fixing and fan violence) and to accept a normalization committee to avoid suspension from FIFA. See Graham Wood, *Greece given 10 Days to Reverse Cup Cancellation or Face FIFA Suspension*, REUTERS SPORTS NEWS (Apr. 5, 2016), <http://uk.reuters.com/article/uk-soccer-greece-idUKKCN0X221L>; *Agreement between Greece, FIFA to Avoid Suspension of Greek Clubs*, AGENCIA EFE (May 12, 2016), <http://www.efe.com/efe/english/sports/agreement-between-greece-fifa-to-avoid-suspension-of-greek-clubs/50000266-2894504>;

¹⁴⁸ FIFA, *supra* note 6 art. 19.

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government involvement is simply to remove corrupt officials or to improve public enjoyment of sport.