

How Can FIFA be Held Accountable?

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Abstract. The Fédération Internationale de Football Association, or FIFA, is a non-governmental organization located in Switzerland that is responsible for overseeing the quadrennial World Cup football (soccer) competition in addition to its jurisdiction over other various international competitions and aspects of international football. The organization, long accused of corruption, has in recent years been increasingly criticized by observers and stakeholders for its lack of transparency and accountability. In 2011 FIFA initiated a governance reform process which will come to a close in May, 2013. This paper draws on literature in the field of international relations to ask and answer the question: how can FIFA be held accountable? The paper's review finds that the answer to this question is "not easily." The experience in reforming the International Olympic Committee (IOC) more than a decade ago provides one model for how reform might occur in FIFA. However, any effective reform will require the successful and simultaneous application of multiple mechanisms of accountability. The FIFA case study has broader implications for understanding mechanisms of accountability more generally, especially as related to international non-governmental organizations.

Keywords: Accountability; governance; non-governmental organizations; international sports associations

1. Introduction: What is the Problem?

In an inauspicious coincidence, May 31, 2011 was the 100th anniversary of the launch of the Titanic and it was also the date on which Joseph "Sepp" Blatter the much-criticized president of FIFA (the Fédération Internationale de Football Association, "association football" is generally known simply as "football" and in some places, as "soccer" and in this paper both terms are used.), announced that he would see the organization through the latest charges of corruption that had been leveled against it, declaring, "I am the captain, we will weather the storm together" (Hughes, 2011a). Less than one year later, Blatter continued the metaphor, declaring that the storm had subsided, "we are back in the harbor...and are heading to calm, clearer waters" (Collett, 2012). In October, 2012 Blatter announced that the reform process would come to a close at the May, 2013 FIFA Congress (FIFA, 2012a).

Despite Blatter's reassurances a storm of controversies continued to surround FIFA, which since 1904 has been the international non-governmental, non-profit organization responsible for the governance of global football. The controversies included allegations of corruption such as bribery in the selection process for the 2018 and 2022 World Cup venues (chosen as Russia and Qatar), allegations of payoffs for votes in advance of the 2011 FIFA presidential election -- complete with a sordid story of bribes delivered in brown paper bags (Kelso, 2011). In addition, FIFA's reform process has received broad criticism, including from the chair of the committee FIFA established to oversee the process Mark Pieth of the University of Basel (Alvad and Bang, 2012).

Accountability of FIFA matters for the governance of the sport, the business of football and to the larger issue of the accountability of international organizations. Sport generally, and football specifically, brings together people and nations in a manner arguably not seen in any other area of global society. While football itself is not inherently "big business" in economic terms, increasingly football has implications

for big business, particularly in the consequences of the periodic decisions associated with hosting the World Cup, which is often tied to large programs of government investment in infrastructure, television rights and sponsorship deals. The governance of FIFA is also a case study in the governance of international organizations, which includes a large class of governmental and non-governmental organizations that justify their legitimacy in terms of serving broadly shared interests. Effective governance of such institutions is thus a matter of common interest (Pieth, 2011).

This paper asks and seeks to answer what seems to be a straightforward question, how can FIFA be held accountable? I answer this question by drawing on the broader academic literature on the governance of international organizations from the problem oriented perspective of the policy sciences. Specifically, I use “seven mechanisms of accountability in world politics” (Grant and Keohane, 2005; Jordan and van Tuijl, 2006) to structure an appraisal of alternative ways in which FIFA might be held accountable.

To be clear, this paper has no ambition of advancing academic theories of accountability or international organizations, it is a focused policy appraisal of FIFA which draws upon such scholarship. Data on FIFA used in the appraisal, a notoriously secretive organization, comes from publicly available documents and media reports. The paper begins with short discussions of accountability and international organizations, FIFA and international football and the current crisis surrounding FIFA. The paper concludes its survey of mechanisms of accountability with a discussion of the prospects for holding FIFA accountable in practice, drawing on the precedent of the reform of the International Olympic Committee.

While there are numerous and powerful mechanisms through which FIFA might be held accountable, such mechanisms are indirect and difficult to implement. Direct accountability of FIFA appears unlikely. Holding FIFA to account will require a degree of leadership in international sports governance that has only been hinted at to date.

2. Accountability and International Organizations

Accountability is a central feature of global governance and has increasingly come to be viewed as an issue much broader than nation states working together to include non-governmental organizations and multinational corporations (Keohane, 2006). Keohane (2006) explains:

Governance can be defined as the making and implementation of rules, and the exercise of power, within a given domain of activity. “Global governance” refers to rule-making and power-exercise at a global scale, but not necessarily by entities authorized by general agreement to act. Global governance can be exercised by states, religious organizations, and business corporations, as well as by intergovernmental and nongovernmental organizations. Since there is no global government, global governance involves strategic interactions among entities that are not arranged in formal hierarchies.

According to Grant and Keohane (2005) accountability,

implies that some actors have the right to hold other actors to a set of standards, to judge whether they have fulfilled their responsibilities in light of those standards, and to impose sanctions if they determine that those responsibilities have not been met.

Stiglitz (2003) offers a similar definition:

Accountability requires that: (1) people are given certain objectives; (2) there is a reliable way of assessing whether they have met those objectives; and (3) consequences exist for both the case in

which they have done what they were supposed to do and the case in which they have not done so.

Enforcing accountability is particularly challenging in the context of global politics exercised through international organizations because governmental and non-governmental organizations around the world practice a very wide range of incompatible systems of domestic governance, making it exceedingly difficult to reach agreement on formal and informal norms, standards, responsibilities and sanctions associated with decision making.

Challenges of accountability in international organizations are commonplace. For instance, in 2011 the International Monetary Fund found itself in a crisis situation when its president, Dominique Strauss-Kahn was arrested in New York after allegedly sexually assaulting a hotel maid. The criminal charges were eventually dropped (a civil suit was settled), but nonetheless event brought to light the different standards of behavior that IMF senior officials were held to as compared to staff at other international organizations. IMF officials had less stringent rules and requirements related to sexual harassment than other organizations (Bandel, 2011). The scandal and its consequences brought broader issues of accountability of the IMF to the fore.

For instance, speaking to the debate over replacing Strauss-Kahn, Pravin Gordhan, South Africa's Finance Minister, complained,

It's a great pity that we preach and talk about democracy and transparency and accountability and good governance but when we are put to the test of practising this principle in the important process of choosing the IMF managing director, we forget them and look for backroom deals. . . Africa is lectured all the time on being accountable but those who lecture to us find it difficult to practise what they preach (Hazelhurst, 2011).

At stake is power, influence and a large amount of money for an institution that is increasingly called upon to play a role in various financial crises around the world. For the IMF it took the bizarre events in that Manhattan hotel room to re-invigorate a long-simmering debate over the leadership of the organization and the standards it's staff were expected to meet.

Not all issues of accountability involve such high stakes international politics. In late 2009 and early 2010 the Intergovernmental Panel on Climate Change – an international organization under the United Nations that assesses the science of climate -- was accused of having a number of errors in its widely influential global assessment reports. The IPCC and especially its director, Rajendra Pachauri, at first vigorously denied the allegations, which led to greater media scrutiny of not just the reports but also the mechanisms of accountability in the organization, including attention to the it's lack of conflict of interest policies. The various allegations led to an authoritative review conducted by the InterAcademy Council, an international body comprised of national science academies, which recommended major reforms to the IPCC that went well beyond the issues associated with the various errors in the report (IAC, 2010). The degree to which the IPCC will implement the proposed reforms still remains unclear two years after the IAC report was issued (Beck, 2012).

The academic literature on the accountability of international organizations is vast and the body of relevant experience seems to grow almost daily. However, while FIFA has been the subject of investigative reporting and exposés, it is far less frequently the subject of academic study than organizations such as the IMF, World Bank and even the relatively obscure IPCC. Only the Olympic movement seems to garner sustained academic attention (see, e.g., Chappelet, 2011; Chappelet and Kübler-Mabbott, 2008). For instance, a Google Scholar search of "FIFA" and "accountability" returns 2% of the hits as does a similar search of "IMF" and "accountability" and 10% of the results of a search of

“Olympics” and “accountability”(Notable scholarship on FIFA includes Yallop (1999) and Sugden and Tomlinson (1998)). One reason for the lack of a comparatively well-developed academic literature on FIFA is that, unlike the examples provided above, FIFA is a non-governmental organization, meaning that domestic governments have no immediate formal authority or control over its practices (with the exception of Switzerland, discussed below). FIFA has few obvious peer organizations of similar stature and global significance, with the exception of the International Olympic Committee, which is responsible for overseeing the Olympic Games. The growing literature on NGOs and their accountability provides a resource for a more systematic inquiry into FIFA practices, which in turn provides insight to the practical applicability of international relations theory and practice to holding international organizations accountable.

3. FIFA and International Football

FIFA, in 2013, is comprised of 209 member associations that are organized into 6 regional confederations. FIFA is related to but distinct from the International Football Association Board, which has responsibility for the rules of the game as played on the pitch. Most of the member associations are sovereign nations, though many are not, such as Wales and the Faroe Islands. FIFA is governed by a 24 member executive committee that is comprised of the president, 8 vice-presidents (one from each confederation except UEFA, which gets two, and one elected by the four British Associations), and 15 members (AFC- 3, CONMEBOL-2, UEFA-5, CAF-3, CONCACAF-2 – see Table 1) (FIFA, 2010).

FIFA has established goals for both the substantive outcomes that it seeks to achieve as well as the practices through which it seeks to achieve those aims. The objectives of FIFA are as follows (FIFA, 2010):

- (a) to improve the game of football constantly and promote it globally in the light of its unifying, educational, cultural and humanitarian values, particularly through youth and development programmes;
- (b) to organise its own international competitions;
- (c) to draw up regulations and provisions and ensure their enforcement;
- (d) to control every type of Association Football by taking appropriate steps to prevent infringements of the Statutes, regulations or decisions of FIFA or of the Laws of the Game;
- (e) to prevent all methods or practices which might jeopardise the integrity of matches or competitions or give rise to abuse of Association Football.

	Member Associations	President (as of December, 2012)	2014 World Cup Spots	Major Competitions
Asian Football Confederation (AFC)	46	Jilong Zhang	4.5	AFC Champions League AFC President’s Cup AFC Cup
Confédération Africaine de Football (CAF)	54	Issa Hayatou	5	CAF Champions League CAF Confederation Cup CAF Super Cup Africa Cup of Nations
Confederation of North, Central American and Caribbean Association Football (CONCACAF)	35	Jeffrey Webb	3.5	CONCACAF Gold Cup CONCACAF Champions League

Confederación Sudamericana de Fútbol (CONMEBOL)	10	Nicolas Leoz	4.5	Copa Libertadores Copa Sudamericana Copa América
Oceania Football Confederation (OFC)	11	David Chung	0.5	OFC Champions League OFC Nations Cup
Union des Associations Européennes de Football (UEFA)	53	Michel Platini	13	Champions League Europa League European Championships

Table 1. An overview of the member confederations of FIFA.

FIFA has also established a code of ethics to govern its actions. A revised code has been proposed to be developed as part of the ongoing FIFA reform process. The code covers issues such as conflicts of interest, political bias, bribery, gifts, discrimination, confidentiality and gambling (FIFA, 2009a). For instance, FIFA says that its officials may neither give nor receive bribes: “Officials may not accept bribes; in other words, any gifts or other advantages that are offered, promised or sent to them to incite breach of duty or dishonest conduct for the benefit of a third party shall be refused (FIFA, 2009a).” Gifts are prohibited as well, and cash is singled out: “Accepting gifts of cash in any amount or form is prohibited (FIFA, 2009a).” The Code of Ethics is governed by an internal FIFA committee, which has as part of its reform process two independent chairs, one who leads investigations and the other who lead adjudication. In 2012, these chairs were Michael Garcia and Hans-Joachim Eckert.

FIFA’s governing documents that detail its substantive and procedural aims provide a basis for evaluating the degree to which FIFA is performing as it has represented itself to the broader community. The various allegations of corruption that have surfaced in recent years suggest that FIFA may not have held itself to its own self-professed standards and those of the broader international community. The repeated failures of those seeking to enforce FIFA’s conformance to its own standards is why FIFA has faced a crisis of accountability. That there is a crisis of accountability is not controversial. FIFA announced an “Independent Good Governance” committee in October, 2011 to propose reforms “to improve FIFA’s governance and transparency (FIFA, 2011a).”

4. The Current Crisis in International Football

A first question that might be asked is, So what? Why does governance of international football actually matter?

First, sport matters -- especially international football. Soccer has come to represent a global sport that connects the world in a unique manner. FIFA’s 209 member associations give it a larger membership than the International Olympic Committee. The World Cup, the quadrennial international soccer competition, is watched by hundreds of millions of people, with an estimated 700 million tuning in for the 2010 Spain-Netherlands final (Roxborough and Jones, 2010). The 2010 US-Ghana match was watched by as many Americans as the average audience for the previous year’s baseball World Series (Sandomir, 2010). Mark Pieth, the chair of the FIFA “Independence Good Governance” committee was commissioned by FIFA in 2011 to prepare a scoping report on the organization’s governance. In it he argued, “FIFA encompasses a wide spectrum of stakeholders ranging from its Member Associations to players, referees, player agents, clubs, marketing professionals, the fan community and the public at large. If this general interest does not imply legal accountability to the general public, FIFA owes it to its reputation to act as a quasi-public body” (Pieth, 2011). Pieth’s view is broadly accepted in the sense that it has gone unchallenged – no one, not least FIFA, has argued that FIFA should *not* be accountable.

Second, while football itself is arguably not big business in terms of its finances, as a part of the overall economy (Szymanski and Kuper, 2009), football-related decisions increasingly have implications for big business. Foremost among these businesses are the development consequences associated with the awarding of a World Cup. For instance, as part of its winning bid for the 2022 World Cup, Qatar promised to invest more than \$10 billion in local infrastructure investments (Galani, 2011). The television rights for broadcasting the World Cup now fetch billions of dollars. As Pieth (2011) argues, “FIFA – even though by law still a non-profit association – is in fact a potent corporate entity. This calls for a sequence of particular governance measures developed in the corporate world.”

Third, the legitimacy of FIFA is a case of a much larger issue in the accountability of international organizations (cf. Chappelet, 2011). FIFA is a non-governmental organization, which in various sectors have come to grow in their importance in global governance. The case of FIFA thus has broader relevance to a larger class of organizations and their accountability to their publics.

Ultimately, the problem posed by the governance of FIFA is that the organization is not perceived to be accountable to those who are affected by its decisions, a group that has grown enormously with the growth of global football and today includes most nations of the world, their citizens and an influential set of business interests. These commercial interests include advertisers and others associated with the game of football but also companies involved with the multi-tens-of-billions-of-dollar domestic infrastructure projects associated with hosting the World Cup. Arguably, FIFA today has as large, if not larger, a constituency as the Olympic Games (cf. Chappelet, 2011).

International football and FIFA in particular are no strangers to allegations of corruption. Indeed, allegations of corruption in FIFA are every bit as regular as the World Cup. Several books (and countless media reports) have been written which include allegations of foul play by FIFA (e.g., see Darby, 2002; Jennings, 2006; Sugden and Tomlinson, 1998; Yallop, 1999).

Sepp Blatter’s leadership of FIFA began in 1998 when he was elected to the presidency following a contentious leadership contest with UEFA President Lennart Johansson, who had run on a platform of “to reform FIFA based on principles of democracy and transparency (WSC, 1998).” Allegations of corruption date to that time and even before. The current crisis involves allegations that surfaced in the context of the competition for the awarding of the 2018 and 2022 World Cups. British media revealed extensive evidence of corruption in the contest prior to the vote and after FIFA spurned the English bid for 2012, the English Football Association revealed further information before parliament (The Guardian, 2011).

5. FIFA’s Current Crisis

Additional allegations of corruption surfaced during the FIFA presidential election in the spring of 2011, when Mohamed Bin Hammam, a Qatari and head of the AFC, was accused of bribery with the case sent to the FIFA ethics committee for adjunction (BBC, 2011). Bin Hammam was suspended by FIFA in July, 2011 and vowed to pursue the case in an effort to clear his name. Bin Hammam subsequently withdrew from the presidential race, leaving Blatter to run unopposed. The prosecution of Bin Hammam by FIFA continues as of this writing, and he has received a provisional ban from participating in any future FIFA activities. His case is the first to be taken up under the reformed FIFA Ethics Committee.

A consequence of these various revelations was the suspension of several members of FIFA’s executive committee, prompting a crisis in CONCACAF where related allegations of corruption surfaced (Reuters, 2011). The English FA sought to organize a protest against the vote, suggesting that it be delayed while FIFA investigated and got its house in order. The motion was rejected by FIFA, securing only 17 votes in support, far short of the 156 votes needed under FIFA rules (Sky Sports, 2011). In addition to Bin

Hammam, Jack Warner of CONCACAF was also suspended from participating in FIFA activities, and he subsequently brought forward further allegations of corruption in FIFA throughout Sepp Blatter's tenure.

The 2011 FIFA election set the stage for Sepp Blatter to issue his proclamation asserting his role as the captain of the ship and assuring everyone that FIFA would reform in the face of its criticism. FIFA officials moved quickly to try to mend rifts within the organization and especially within CONCACAF. The resolution of the various claims of corruption remained uncertain and unfulfilled, with new allegations continuing to surface well into 2012 (e.g., see the exhaustive investigative reporting of Lasana Liburd [2012]).

6. Mechanisms of Accountability in World Politics in the Context of World Football

Upon reading the brief recounting of the previous section one might come to the conclusion that the proper response to the question posed in the title of this paper is, "No, FIFA cannot be held accountable." Gideon Rachman (2011), foreign correspondent for the *Financial Times*, observed upon Sepp Blatter's 2011 reelection as FIFA president that, "the idea that FIFA is deeply corrupt has been openly discussed for at least a decade. And yet Blatter has sailed on regardless." Almost a decade ago Alan Tomlinson penned a similar lament, "Reforming FIFA might be an idealistic dream, a hopeless impracticality mired in the messy dynamics of global business and international politics (WSC, 2002)." Such concerns about the lack of accountability of international organizations are not unique in this context and have a rich history, including concerns about organizations ranging from the United Nations to the International Olympic Committee.

Grant and Keohane (2005, p. 35) provide a useful and comprehensive framework for the evaluation of accountability in international politics. They identify "seven discrete accountability mechanisms that actually operate in world politics on the basis of which improved practices of accountability could be built." These seven mechanisms are described briefly below:

Hierarchical accountability refers to the power that superiors have over subordinates within an organization. For instance, a secretary general, president or director typically has the authority to hire and fire employees.

Supervisory accountability refers to relationships between organizations. For instance, World Bank decisions are subject to approval by member states.

Fiscal accountability refers to mechanisms of control over funding. The United Nations depends upon contributions from member states to support its activities.

Legal accountability refers to the requirement that international bodies and their employees must abide by the laws of relevant jurisdictions in which those laws are applicable. For instance, 25 international organizations associated with the UN are formally located in Switzerland, as well as about 250 other international organizations, and thus subject to Swiss law (Swiss FDFA, 2009; for background see Gunter, 1976).

Market accountability refers to influence that is exercised by investors or consumers through market mechanisms. For instance, when athletes find themselves subject to scandals that call into question their ethics, such occurred when the extra-marital activities of Tiger Woods became public, sponsors have often decided to terminate their contracts.

Peer accountability refers to the evaluation of organizations by their peer institutions. For instance, a number of governmental and non-governmental organizations created a "dolphin-safe"

label for tuna fish to put pressure on companies, governments and international organizations to harvest tuna using environmentally responsible methods.

Public reputational accountability refers to the reputation of an organization among “superiors, supervisory boards, courts, fiscal watchdogs, markets and peers” and this is related to each of the other six forms of accountability listed above.

The remainder of this section evaluates FIFA in the context of each of the seven mechanisms of accountability with a focus on the prospects for each mechanism to be used to hold FIFA accountable.

6.1 Hierarchical accountability

FIFA’s governance structure is such that its president and executive committee have no need or requirement to report to any higher authority. There is no board of directors or equivalent to whom the president must report. The president is accountable only to the FIFA Congress, which he leads (FIFA, 2010).

In the face of the intense criticism surrounding his 2011 reelection as FIFA President Sepp Blatter announced that he was forming a committee to advise FIFA on reforms. The first names released included Henry Kissinger, the 88-year old grand statesman of international politics, Dutch soccer legend Johan Cruyff and former opera singer Plácido Domingo. Blatter explained:

These gentlemen are more or less adviser. They are not experts, but advisers. What they should be also is a kind of council of wisdom which my executive committee would not like because they think they are the council of wisdom” (Hughes, 2011b).

Following this announcement, the New York Times commented, “if it sounds as though Blatter is making it up on air as he goes along, that is probably because that is exactly what is happening.” (Hughes, 2011b).

FIFA later changed course, and appointed Mark Pieth, a corruption expert and professor from the University of Basel, to chair what it called the “Independent Governance Committee” (IGC). However, a Swiss newspaper revealed that prior to being appointed as committee chair Pieth had been paid \$128,000 and \$5,000 per day by FIFA to prepare a scoping document (Pieth, 2011) on FIFA reform (Tanda, 2011). This information, undisclosed by FIFA or Pieth, led a representative from Transparency International to resign from the new committee and sever ties with FIFA. A further analysis shows that 6 of the 12 members of the FIFA committee have direct financial ties to FIFA, and 4 others may have ties (absent disclosure it is impossible to judge) (Pielke, 2011). (FIFA’s own proposed definition of “independence” supports this analysis (see Pielke, 2012a)). The fact that FIFA lacks effective mechanisms of accountability has hampered and likely damaged the credibility of the very committee empanelled to restore that credibility.

In May, 2012 the IGC issued a report with proposed reforms, which centered on the creation of a new investigative body that would cleanly separate investigation from sanction (FIFA, 2012). This recommendation was adopted by FIFA at its 2012 Congress. The recommendations offered by the IGC were dramatically scaled back from those proposed by Pieth in his “scoping paper” prepared for FIFA less than one year before (for a detailed comparison, see Pielke (2012b)). Pieth called upon FIFA to not “pick cherries” in adopting reforms, to which Blatter replied: “Even if Professor Pieth says we shall cherry pick, we cannot take the whole tree. It’s impossible to take the tree and have all the cherries down” (Panja, 2012). While the reform effort has led to some changes, they are relatively minor as compared to those called for by Pieth (2011).

It is not an exaggeration to conclude that, in both design and in practice, FIFA has no formal hierarchical mechanisms under which the president and executive committee can be held accountable. The scope and pace of any reform effort will be dictated by what is deemed acceptable by the FIFA leadership (cf. Alvad and Bang, 2012).

6.2 Supervisory accountability

FIFA members are football associations associated with countries or sub-national regions. In some instances, football associations are only loosely connected to their domestic national governments (such as in the United States), unlike other international organizations such as international banking or UN agencies for which national governments have a direct supervisory role. But in other cases, football governance at the national level is tightly related to governments, especially in so-called developing countries where mechanisms of accountability may be less well established.

The supervisory authority of member associations is further weakened by the requirement in the FIFA statutes for super-majorities in procedural votes. For instance, a decision to suspend or expel a member association, to alter the agenda of a FIFA Congress or to amend FIFA statutes each requires a vote of three-quarters of member associations. Further, many important decisions are reserved to the FIFA Executive Committee out of public sight (FIFA, 2009a; FIFA, 2010).

FIFA statutes create a disincentive for national governments to exercise any supervision of FIFA, as they allow the organization to suspend national football associations for “government interference” a loosely defined term. For instance, when in 2011 the government of Belize sought to hold its national football association accountable under domestic laws, FIFA suspended Belize from World Cup qualifying (Belize was later reinstated after complying with FIFA’s demands, see Aljazeera, 2011). Similarly, FIFA demanded that the Brazilian government pass a suite of laws demanded by FIFA to protect their revenue in anticipation of the 2014 World Cup, under penalty of losing the Cup (Blount, 2011). FIFA’s president, Sepp Blatter met one-on-one with Brazil’s President Dilma Rousseff, much like a head of state. FIFA’s control over football, coupled with football’s popularity, provides a strong disincentive for national governments to unilaterally seek to exercise supervisory accountability over FIFA, because FIFA can levy sanctions that cast the national government in a bad light. Indeed, Mark Pieth explained of FIFA leadership, “They see themselves more as a government than as a multinational corporation” (Bradley, 2012).

In short, FIFA lies almost entirely outside the reach of any form of supervisory accountability. Its members are typically weak associations with little influence in domestic governments. In any case, domestic governments have no formal mechanism to directly sanction FIFA for any cause. The only exception is the Swiss government under whose laws FIFA is incorporated. Experience to date suggests that such direct legal supervision necessarily focuses on very narrow issues of Swiss law, and even then, little actual supervision of FIFA has been exercised.

6.3 Fiscal accountability

A wide range of allegations of FIFA financial mismanagement have been levied which inevitably are followed calls for reform. Such claims and calls, however, are far from new (Ewing et al., 2002). Despite releasing an annual financial report and being audited under Swiss law, many of FIFA’s fiscal decisions are out of sight (FIFA, 2011b). Even the salaries of its president and executive committee are not public information. FIFA has a finance committee, which in 2011 had two of its six members suspended under allegations of financial corruption (FIFA, 2011c).

FIFA's finances matter because the organization disburses funds to member organizations in the form of a base allocation supplemented by development funding (in football terms the disbursements are not large, however in developing country contexts the sums are often considerable) (FIFA, 2009b). In 2011 the annual base allocation to the (then) 208 member associations totaled over \$50 million (Broom, 2011) and had committed to allocate an additional \$160 million per year to member associations on a discretionary basis (Ghana Business News, 2011; Kenya Football, 2006). Following the 2010 World Cup in South Africa FIFA distributed an additional \$115 million to member associations and \$30 million to the football confederations, as a result of its healthy balance of \$1.28 billion in reserves (Quandzie, 2011).

In 2010 FIFA reported compensation for its "key personnel" (Executive Committee, Finance Committee and FIFA management) of \$34.5 million, representing an increase of almost 11.5 million – almost 50% -- over 2009 (FIFA, 2011b). Using employee numbers from the FIFA website this works out to an average compensation of about \$1 million per person (FIFA, 2011d). (The Executive Committee has 24 members and FIFA describes its management to include 10 officials).

The use of FIFA funds by associations and confederations is far from transparent. The Guardian reports that in parts of Africa, FIFA allocations to member associations are made using cash, and suggests that corruption is both the intention and the result (Scott, 2011). Such allegations against FIFA go without investigation or resolution. A further result is that the aims of the FIFA development program in poor countries may be implemented with great inefficiencies, if at all. A former FIFA official explains, "If you look at the projects that have been made as a result of these payments, it is often questionable that they have cost that much money" (Scott, 2011). In late 2011, former FIFA official Jack Warner alleged that Sepp Blatter had sold him the lucrative television rights to World Cup competitions for \$1 in exchange for his support of Blatter's president bid (Matthews, 2011).

Despite issuing an annual financial statement, FIFA's fiscal accounting remains obscure. Even after repeated allegations of financial improprieties, there are few means of compelling greater transparency.

6.4 Legal accountability

FIFA has found itself subject to legal proceedings in several jurisdictions over many years. For instance, in 2002 FIFA's Sepp Blatter, then running for his second term as president, was accused of a litany of transgressions by the FIFA general secretary, Michel Zen-Ruffinen (The Economist, 2002). The accusations included claims of improper payments using FIFA funds, including a large payment to a former referee; the writing off of a \$9 million loan to a football confederation headed by a Blatter ally, Jack Warner; and the loss of over \$100 million in the collapse of FIFA's main marketing partner, ISL (Information, Sports and Leisure, now defunct, which was founded by a former head of Adidas who aided Blatter's ascendancy to the FIFA presidency in 1998) (WSC, 1998). These allegations led 11 members of FIFA's 24-member executive committee to file a complaint against Blatter in Swiss courts, the jurisdiction under which FIFA is incorporated. Swiss prosecutors dropped the case for a lack of evidence in support of the claims (Ledson, 2002). The reformed FIFA Ethics Committee has to date not opened any investigation of Blatter, despite calls to do so.

Also in Switzerland, FIFA has been embroiled in a long-running dispute over the fallout of the collapse of International Sports and Leisure. The dispute has centered on bribes or kickbacks for contracts (which were apparently not illegal in Switzerland until 2006) that were a routine part of business between ISL and FIFA (Andersen, 2010). When ISL collapsed, FIFA sued in Swiss court to get monies that they believed were owed.

Even though FIFA eventually dropped the case, Swiss prosecutors maintained their interest with a focus on FIFA rather than ISL. FIFA eventually settled with the Swiss government to end further investigations,

promising to pay the Swiss government in exchange for keeping details of the investigation secret (BBC, 2010). In November, 2010, ahead of the FIFA decision on hosts of the 2018 and 2022, a British television program on the BBC, *Panorama*, named names in FIFA associated with the bribes, alleging that over \$100 million in bribes were given by ISL (BBC, 2010). The full public release of the Swiss court documents remains (as of this writing) tied up in legal proceedings (Bandel, 2011). FIFA, in late 2011, dropped its objections to the release of the documents and some materials were released in fall of 2012, revealing kickbacks received by FIFA officials (Cutler, 2012).

FIFA has also been threatened with court action by a group of European football clubs, as the European Court of Justice has ruled on several occasions that, as an economic activity, football (and other sporting activities) are subject to European law. For instance, in 2006 a lawsuit was brought by Sporting Charleroi, a Belgian club (with the support of 18 of the largest clubs across Europe), against FIFA over compensation to clubs for their players who become injured in international (FIFA) competition (EurActiv, 2006). The lawsuit was ultimately settled out of court, and the threat that it presented to FIFA under European law clearly compelled FIFA to act in the clubs' interests. FIFA generally seeks to avoid such conflicts by forbidding the organizations that fall under its governance from suing the organization, but this prohibition carries no formal weight outside of FIFA.

Legal accountability offers the most significant opportunity for stakeholders in international football to hold FIFA accountable, as it is grounded in governance processes broader than FIFA itself and where mechanisms of accountability are well established. However, for all jurisdictions except the Swiss, such legal accountability will necessarily be indirect as other jurisdictions have no direct formal authority over FIFA (cf. Council of Europe, 2012). Swiss authorities have historically been less than enthusiastic in their oversight of FIFA. However, a report released by the Swiss Federal Council in fall of 2012 may signal a change in perspective among Swiss authorities. A press release accompanying the report stated, "the issue of whether members of national and international sport associations based in Switzerland should be made subject to the Swiss criminal law on corruption must be examined" (Federal Office of Sports, 2012). FIFA's directive against "political interference" in the organization by the governments of member associations, even though it carries no legal standing in these states, is taken quite seriously by decision makers and stands as an obstacle to legal accountability (Kuper and Blitz, 2011).

In the context of legal authority, Professor Stephen Weatherill (2005) of Oxford provides a useful warning – which can be interpreted from the perspectives those who would challenge FIFA and FIFA itself: "it is intimidatingly difficult to challenge powerful sports bodies, individuals have ... and so has the [European] Commission, and it is not at all the case that sports structures which have endured for a great many years can confidently predict a long life into the future." I will return to the issue of indirect legal accountability in the discussion below.

6.5 Market accountability

FIFA has six corporate sponsors for the 2014 World Cup in Brazil (which it calls "partners"): Adidas, Coca-Cola, Visa, McDonald's, Emirates, Budweiser and Castrol. More than other organizations these businesses have a direct stake in FIFA's performance, reputation and standing. For instance, in 2010 World Cup ball and jersey revenue for Adidas topped \$2 billion (Zekaria, 2011), out of about \$17 billion in total revenue (Adidas, 2011). So it was not surprising that several of these corporations expressed public concern with the various allegations of corruption in FIFA.

The Wall Street Journal reported in May, 2011 on statements issued by three of these companies (Zekaria, 2011):

Adidas, whose partnership with FIFA stretches back 30 years, was the first to break ranks. “The negative tenor of the public debate around FIFA at the moment is neither good for football nor for FIFA and its partners,” the German sportswear company said in a statement.

Coca-Cola was not far behind. A spokesman for the soft drinks giant said: “The current allegations being raised are distressing and bad for the sport. We have every expectation that FIFA will resolve this situation in an expedient and thorough manner.”

Visa is another important sponsor to call for reform: “The current situation is clearly not good for the game and we ask that FIFA take all necessary steps to resolve the concerns that have been raised,” a spokesman said Tuesday.

A fourth sponsor, Emirates airlines, expressed that it was "disappointed with the issues that are currently surrounding the administration of the sport" (Homewood, 2011)." In November, 2012 Emirates expressed disappointment with the FIFA reform activities (Harris, 2012).

Such statements are generally widely viewed as little more than public posturing by these businesses, rather than expressions of their commitment to reform. One sports marketing expert commented, “Based on history, one would not expect the sponsors to do much more than issue statements in favor of ethical behavior and opposed to unethical behavior” (Baertlain, 2011). Experience shows that even under very difficult circumstances, ranging from the demotion of Italy soccer club Juventus for match fixing to the censuring of Tiger Woods and Lance Armstrong by sponsors, there will always be corporate sponsors willing to support highly successful athletes and organizations. That history also shows that legal accountability tends to focus the attention of those in corporate boardrooms, as the case of the International Olympic Committee (discussed below) indicates.

6.6 Peer accountability

With only one exception, FIFA does not have any direct peer organizations. That exception is the International Olympic Committee which also has non-governmental status, incorporation in Switzerland and global significance. More generally, FIFA has countless peers in the NGO world, but very few of these organizations have any interest in football. Among those few with such interest in FIFA is an organization called Play the Game, which is an effort established by the Danish Institute for Sport Studies, established by the Danish Ministry of Culture (Playthegame.org, 2011). Play the Game, and fellow travelers in the field of investigative journalism including Andrew Jennings and Jens Weinreich, are unique in producing in their sustained attention to the governance of FIFA. More broadly, Transparency International, an international NGO headquartered in Berlin and focused on battling corruption, has periodically focused its attention on FIFA calling for wholesale reform of the organization (Schenk, 2011). In 2011, FIFA embraced the call for reform by Transparency International, but, as noted above, the relationship was short lived.

In short, FIFA has only one direct peer organization and there is no evidence to suggest that FIFA has any degree of accountability to the IOC or any other non-governmental organization, even those that have directly called for institutional reform.

6.7 Public reputational accountability

In June, 2011 shortly after Sepp Blatter had been re-elected as FIFA president, UK Prime Minister David Cameron declared that FIFA’s reputation was at an “all-time low (Kelso, 2011).” However, even if such a claim could be empirically validated, what it might actually signify is unclear. The governance of international football is an obscure topic, even among football fans. As an Italian journalist explained,

“Football politics only interest people who are interested in football politics, and there are not many of them” (Hytner, 2011).

FIFA has essentially no direct accountability to its public. Despite the steady stream of allegations of corruption, there has been little or no public demands for reform. Most people care about what happens on the pitch, and not in the smoky back rooms of football governance. With FIFA’s name appearing on the World Cup competitions and a globally popular video game, there appears to be little reason to expect that its public reputation will be anything other than a minor factor in any future reforms.

7. A Precedent? The International Olympic Committee Response to Scandals in the Late 1990s

The Olympic bribery scandal that emerged in the fall of 1998 led to comprehensive reforms of the International Olympic Committee and the similarities and differences between that experience and the current crisis in international football provides the most relevant precedent for understanding how reform of FIFA might occur. The IOC scandal involved university scholarships provided by the Salt Lake Organizing Committee which was seeking to bring the 2002 winter games to Salt Lake City (Mallon (2000), cf. Chappelet (2011) and Pound (2011)). The university scholarships were but the first domino to fall in a series of revelations involving the SLOC but also other bid efforts, including Nagano and Sydney, that included favors granted to sway votes, including medical care, cosmetic surgery, jobs, and bribes. A Swiss member of the IOC suggested that as many as 7% of IOC members had taken bribes from potential host cities.

As a result, a number of investigative committees were put together by the IOC and SLOC, which by early 1999 had documented extensive instances of corrupt practices in efforts by bidding cities to influence the IOC. The most significant investigative effort, due to its broader focus on the IOC and its stature, was put together by the US Olympic Committee and headed by former Senator George Mitchell, while the FBI opened an investigation to ascertain if relevant US corruption laws had been violated. The IOC set up its own commission (IOC, 1999) to recommend reforms, and included a number of prominent outsiders on the committee, including former US diplomat Henry Kissinger.

An important motivator for change occurred in April, 1999 when Congressman Henry Waxman (D-CA) introduced legislation under the US Foreign Corrupt Practices Act that would make it illegal for US corporations to contribute to the IOC unless it adopted the reforms recommended by the Mitchell Commission. Olympic sponsors were already engaged in the issue and were a significant motivating force behind the creation of the IOC 2000 reform committee. Congressman Waxman (1999) explained his aims in a press release:

The bill I have introduced today would prohibit American corporations from providing any financial support to the IOC until the IOC adopts the Mitchell commission reforms.

I regret that this legislation has to be introduced. I had hoped that the IOC would adopt the necessary reforms on its own accord. It is apparent, however, that the IOC is reluctant to take strong and immediate action. Perhaps, the only thing that will get the IOC's attention is if American corporate money is cut off.

Currently, the IOC derives a substantial portion of its operating revenues from American corporations: NBC has paid \$3.5 billion for the television rights for the next five Olympic Games; and nine American corporations each pay \$10 million a year for the right to be an official Olympic sponsor. Quite simply, the IOC could not operate without American corporate money.

The US Congress followed up with a number of hearings on the IOC and opened an investigation into the practices employed to win the 1996 Atlanta games, uncovering numerous instances of corrupt practices.

By December, 2000 the IOC had adopted all of the reforms that had been recommended by the IOC 2000 committee. The reforms were viewed skeptically by members of the US Congress, but received the support of former Senator Mitchell. The reform efforts have been generally viewed as successful, if partial (Chappelet, 2011).

How was it that the IOC was held accountable and significant reforms were introduced?

Of the seven mechanisms of accountability, the interactions of legal and fiscal accountability were arguably the most important. The fact that the scandal erupted in the United States meant that the US Congress had the authority to sanction the sponsors of the IOC under US anti-corruption legislation. For members of the US Congress the issue was a political winner as the victims of the scandal were the notion of fairness that is emblematic of the Olympics and the bad guys were (often) bribe-seeking foreigners. The spectacle of members of the US Congress dressing down foreign IOC members made for excellent political theater.

Political theater sometimes coincides with policy reform. The threat posed by Congressman Waxman to Olympic sponsors was potentially enormously costly if put into practice. Thus, the legal authority exercised by the US Congress over the IOC was indirect, but very real. This authority facilitated the exercise of other forms of accountability, in particular fiscal accountability and public reputational accountability. Fiscal accountability was exercised through the various investigative committees that were established, and particularly the Mitchell Commission and the IOC 2000. The investigations provided a steady stream of juicy new revelations that kept the story fresh in the media and reinforced the efforts by members of the US Congress to secure some political gain from the issue. Supervisory and peer accountability appear to have played considerably lesser roles.

Ultimately, these various factors led to the exercise of hierarchical accountability as the IOC had little choice than to accept the reforms that had been brought to it by the IOC 2000 committee.

What lessons does the IOC experience provide for reform of FIFA?

The first is that the absence of direct mechanisms of accountability does not mean that accountability is not possible. Because FIFA, like the IOC, operates in countries around the world, with its members and sponsors subject to the laws of those participating nations, FIFA has a significant exposure to relevant national legislation. The exposure is not direct, as it would be under Swiss law where FIFA is incorporated, but indirect, in this case the exposure of FIFA's sponsors to relevant legal accountability in jurisdictions where they operate. Because FIFA's sponsors are multi-national corporations, such indirect exposure is vast.

The invocation of US anti-corruption legislation was arguably a central factor that motivated reform of the IOC. There is no formal obstacle to a similar strategy being employed in the case of international football. However, it might be difficult to imagine a US member of Congress getting too excited about corruption in FIFA or even CONCACAF, given the relatively low stature of soccer in the United States. Yet, at the same time, the issue of corruption in FIFA and its relation to corporate sponsors who do business in the US has all of the same elements of compelling political theater that were present in the case of the IOC. It is not inconceivable that at some point in the future a member of the US Congress might see some political advantage in taking on FIFA, as a low-risk, high-visibility issue.

In the UK, by contrast, there is no lack of attention or visibility to football. The UK media and politicians have been the most outspoken voices calling for reform of FIFA. Damian Collins, UK MP, is perhaps the most prominent (see, e.g., Collins, 2011). But the UK has historically lacked legislation comparable to the US anti-corruption laws, making it extremely difficult to invoke domestic laws as a basis for holding FIFA indirectly accountable. However, this has changed with the implementation of the UK Bribery Act of 2010 in July, 2011 (Summers, 2011). The Act is not retrospective, so the act is irrelevant to all of the allegations levied at FIFA prior to its implementation.

Future FIFA actions may however fall under the provisions of the Act. Given the attention paid to FIFA by the English Football Association, the UK parliament and prime minister, it is possible that in the future, the Bribery Act may be considered a mechanism for holding FIFA accountable. The calls for change in the governance of FIFA coming from the English FA, the oldest and most prestigious football association in the world with a privileged role in the game's governance, are not without irony, as by putting that privileged position at risk by calling for governance reform the English FA has the most to lose in a restructured, more accountable FIFA.

8. Conclusion

Nobel Prize winner and former chief economist of the World Bank Joseph Stiglitz (2003) observed that, "changing a large organization entails redefining both its mission and culture and is not easy to achieve." Securing change is all the more difficult when a large organization sits largely free from formal mechanisms of accountability. FIFA is one such organization. In some respects it can hardly be called "large" as it directly employs only a few hundred employees. Yet at the same time its membership includes people from almost every corner of the world and has an impact on the lives of billions of people.

The review presented in this paper indicates that with only a few exceptions FIFA sits free from the formal mechanisms of accountability that are employed to hold international organizations to accountability to their own stated goals. Speaking in October, 2012 of the FIFA reform effort that he has led, Mark Pieth offered a similar view, "Let's admit that at this very point in time, self regulation is the only realistic option we have, in the case of FIFA certainly, and we also have to admit that it is a very difficult transition" (Alvad and Bang, 2012). The exceptions are FIFA's formal accountability to Swiss law under its articles of incorporation and FIFA's accountability to its sponsors, who benefit significantly from their relationship. However, to date neither the Swiss government nor FIFA sponsors have shown much ability or interest in shaping the governance of FIFA in a direction of reform.

FIFA demonstrated time and again that it has essentially no hierarchical, supervisory, peer or public reputational accountability, and minimal fiscal accountability. This means that efforts to reform FIFA from within or as a consequence of pressure from governments, the public, the media or watchdog organizations are unlikely to result directly in any significant change. However, media attention in particular has the potential to keep FIFA reform on the public and political agenda and in the process confer some degree of perceived benefit to politicians who decide to take up FIFA reform as a cause. The revelation of new and titillating scandals would sustain such attention; in their absence, attention is likely to wane.

If FIFA is to reform further in the aftermath of its two-year reform effort begun in 2011, then it appears likely that it will result from the exercise of legal accountability in an indirect manner. Because FIFA itself does not fall under the most relevant jurisdictions for the policing of corruption, such accountability would necessarily have to be applied indirectly by national or international (such as the European Union or European Council) governments, perhaps through oversight of FIFA or its member organizations or

confederations. Another route to such legal accountability would be through regulation and enforcement of relevant national legislation on FIFA's marketing partners.

The reform of the International Olympic Committee provides a relevant precedent, and indicates the importance of multiple mechanisms of accountability working in harmony to secure institutional change. Arguably, effecting change in such a manner requires leadership to a degree beyond that which would be necessary under a more formal, direct set of accountability mechanisms. International football has to date not seen such leadership. An alternative of course may be reform through the attrition of generational change in leadership and perspective.

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