

World Cup 2022: From FIFA to Terrorism

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The Fédération Internationale de Football Association (FIFA) is the international governing body of the most popular sport on the planet – soccer. The most recent FIFA World Cup took place in twelve cities throughout Brazil in 2014 and by end there were over one billion viewers in attendance through FIFA’s Global Stadium – their social, online, and mobile hub.¹ In all, FIFA grossed over two billion dollars from the World Cup, while Brazil was expected to receive approximately seven billion dollars in tax revenue as a result of investments in the Tournament on top of the payments from FIFA.² Recently, FIFA chose Qatar to host the 2022 World Cup, and this decision has given rise to a great deal of debate and controversy among the world’s soccer-playing elite.³

Not only was the selection of Qatar controversial because it is a country with harsh weather, a notable lack of soccer history, various human-rights issues, the first Arab nation to ever host, and because of the allegations surrounding the selection process; but mainly because of its alleged ties to foreign terrorist organizations (FTO), like HAMAS, which loom over the Qatari soccer leadership.⁴ Qatar is a small country on the Persian Gulf without a material soccer pedigree. It is a country ripe with social issues surrounding the treatment of immigrant workers as slaves and a less than desirable desert-like

¹ *The 2014 FIFA World Cup in Numbers*, FIFA (Sep. 24, 2014), http://resources.fifa.com/mm/document/tournament/competition/02/44/29/89/fifaworldcupinnumbers_120714_v7_eng_neutral.pdf. See also, *About FIFA*, FIFA.COM, http://www.fifa.com/about-fifa/who-we-are/explore-fifa.html?intcmp=fifacom_hp_module_corporate. (last visited Mar. 3, 2016).

² *Id.*

³ *Russia and Qatar to host 2018 and 2022 FIFA World Cups, respectively*, FIFA.COM, (Dec. 2, 2010), <http://www.fifa.com/worldcup/news/y=2010/m=12/news=russia-and-qatar-host-2018-and-2022-fifa-world-cups-respectively-1344971.html>.

⁴ Owen Gibson, *World Cup 2022: the when, why and what of a winter Qatar tournament*, GUARDIAN (Feb. 24, 2015, 6:35 AM EST), <http://www.theguardian.com/football/blog/2015/feb/24/world-cup-2022-winter-qatar-fifa-task-force-temperature>. See also Paul M. Brannagan and Jonathan Grix, *Qatar’s Soft Power Gamble: The FIFA World Cup 2022*, (Jan. 18, 2014), <http://www.e-ir.info/2014/01/18/qatars-soft-power-gamble-the-fifa-world-cup-2022/>.

climate for hosting the World Cup.⁵ The most serious issue with Qatar is its close working-relationship with known FTO, the Ḥarakat al-Muqāwamah al-ʿIslāmiyyah Islamic Resistance Movement (HAMAS), which has been on the designated FTO list since October 8, 1997.⁶ Similarly, HAMAS also appears on a list of proscribed terrorist organizations produced by the European Union.⁷ It is illegal in the United States to provide material support to terrorists and it is in direct violation of the UK’s Terrorism Act to do so as well: “The act of being a member of, supporting such a group . . . is sufficient to be prosecuted for a terrorist offense.”⁸ HAMAS, “a radical Islamic fundamentalist organization that has stated that its highest priority is a Jihad (holy war) for the liberation of Palestine ...” is a Sunni-Islamic organization based in Palestine, but spread throughout the Middle East – including Qatar.⁹ HAMAS is a designated terrorist organization in the United States, Canada, Israel, Egypt, Japan, and the entire European Union, but not Qatar.¹⁰

This paper examines Qatar and its on-going relationships with HAMAS and other FTOs, both economically and socially, past and present. In particular, in light of recent developments involving FIFA’s bribery scandal, this paper aims to demonstrate that by granting Qatar the opportunity to host the 2022 World Cup, FIFA is providing material aid and support to FTOs – which is illegal in both the United States and the European Union. It examines from a legal aspect the law on providing material support to terrorists and offers a possible solution to this problem.¹¹ In *Holder v. Humanitarian Law*

⁵ *Id.*

⁶ FOREIGN TERRORIST ORGANIZATIONS, <http://www.state.gov/j/ct/rls/other/des/123085.htm> (last visited Nov. 30, 2015) [hereinafter *List*]. See also OFFICIAL JOURNAL OF THE EUROPEAN UNION, COUNCIL DECISION (CFSP) 2015/1334, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D1334&qid=1440691334018&from=EN> (last updated July 31, 2015).

⁷ *Id.*

⁸ Terrorism Act 2000, ch. 11, §§ 12, schs. 1–15 (U.K.).

⁹ ANTHONY H. CORDESMAN, PEACE AND WAR: THE ARAB-ISRAELI MILITARY BALANCE ENTERS THE 21ST CENTURY 243 (2002).

¹⁰ *Profile: Hamas Palestinian movement*, BBC NEWS (July 11, 2014), <http://www.bbc.com/news/world-middle-east-13331522>.

¹¹ Randolph N. Jonakait, *Double Due Process Denial: The Crime of Providing Material Support or Resources to Designated Foreign Terrorist Organizations*, A., 48 N.Y.L. SCH. L. REV. 125, 125 (2003) (“The Anti-Terrorist and

Project, the Supreme Court of the United States declared that it was within the federal government's power to prohibit providing material support to known FTOs.¹² This was a landmark decision in that it was the first and only time that the Supreme Court passed a restriction on first amendment free speech— emphasizing the importance of the United States' fight against terrorism.

FIFA's mission throughout its existence has been to improve and promote soccer globally, organize international competition, and to safeguard the integrity of the game.¹³ Despite President Sepp Blatter's best intentions, an investigation conducted by U.S. and Swiss authorities revealed on May 21, 2015, that nine high-ranking FIFA officials had allegedly been involved with "rampant, systematic and deep-rooted" corruption.¹⁴ They were subsequently indicted on forty-seven counts of racketeering, wire fraud, and money laundering.¹⁵ In all, these investigations uncovered over \$150,000,000 of bribes and kickbacks involved in soccer-related deals dating as far back as 1991.¹⁶ Blatter was "found guilty of infringing FIFA's ethics code in connection with the bidding process for the 2018 and 2022 World Cups,"¹⁷ during which Vice President Michael Platini voted for Qatar.¹⁸ Since then, FIFA banned Blatter and Platini from soccer for six years.¹⁹

Effective Death Penalty Act, passed in 1996, criminalized the act of providing material support or resources to foreign terrorist organizations.")

¹² *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705 (2010).

¹³ FIFA, *supra* note 1.

¹⁴ Damien Gayle, *US indicts Fifa officials with 'rampant, systemic and deep-rooted' corruption*, GUARDIAN, (May 27, 2015), <http://www.theguardian.com/football/2015/may/27/us-indicts-fifa-officials-rampant-systemic-deep-rooted-corruption>.

¹⁵ *Id.*

¹⁶ Tim Witcher, *Chung to sue "liar and hypocrite" FIFA chief Blatter*, YAHOO!.COM, (Oct. 6, 2015), <http://sports.yahoo.com/news/chung-says-start-embezzlement-case-against-fifas-blatter-100345486--sow.html>.

¹⁷ Sam Borden, *Sepp Blatter and Other Top Officials Are Suspended, Deepening FIFA's Turmoil*, N.Y. TIMES (Oct. 8, 2015), http://www.nytimes.com/2015/10/09/sports/soccer/sepp-blatter-michel-platini-jerome-valcke-fifa-suspended.html?_r=0.

¹⁸ Witcher, *supra* note 16.

¹⁹ Rob Harris, *FIFA reduces bans for Blatter, Platini from 8 to 6 years*, ASSOCIATED PRESS (Feb. 24, 2016), <http://news.yahoo.com/fifa-reduces-suspensions-blatter-platini-6-years-175125969--spt.html>.

The President of the Qatari Football Association is Hamad bin Khalifa Al Thani – a sunni Muslim and former Emir of Qatar.²⁰ He maintains close ties with HAMAS even after he passed the Emir seat to his son, Tamim bin Hamad Al Thani.²¹ Also part of the royal ruling family in Qatar, Hamad’s nephew, Abdullah bin Nasser bin Khalifa Al Thani, serves as the Prime Minister of Qatar and Chairman of the 2022 FIFA World Cup Supreme Committee for Delivery and Legacy.²² In a speech in 2009, Hamad, the former Emir of Qatar and current President of the Qatari Football Association instructed his people to “[P]rotect [Hamas] and make their jihad operations easier to carry out.”²³ The United States’ government has a “legitimate interest in [preventing] the spread of international terrorism . . .” like the types encouraged by Hamad.²⁴ This restriction is not one that limits people’s beliefs or ideals, rather it places limits on people’s aiding of the actual terrorism itself by prohibiting the issuance of material support to these types of organizations.²⁵

Although there are many technical definitions for terrorism, the federal criminal code’s is most relevant to this issue:

[V]iolent acts or acts dangerous to human life that are a violation of the criminal laws [and] appear to be intended: (i) to intimidate or coerce a civilian population (ii) to influence the policy of a government by intimidation or coercion; or (iii) to influence the policy of a government by mass destruction, assassination, or kidnapping.²⁶

²⁰ QFA: BOARD OF DIRECTORS, <http://www.qfa.com.qa/board-of-directors/> (last visited Nov. 29, 2015).

²¹ Laura Smith-Spark, *Qatar emir transfers power to son in historic transition*, CNN (June 26, 2013, 11:07 AM EST), <http://www.cnn.com/2013/06/25/world/meast/qatar-power-change/>.

²² *Supreme Committee For Delivery & Legacy Holds 5th Executive Meeting*, QATARI FOOTBALL ASSOCIATION (Feb. 14, 2015), <http://www.qfa.com.qa/supreme-committee-for-delivery-legacy-holds-5th-executive-meeting/>.

²³ David Schenker, *FIFA Has a Terrorism Problem*, TIMES OF ISRAEL (Jan. 23, 2014), <file:///C:/Users/Brantley%20Adams/Downloads/fifa-has-a-terrorism-problem.pdf>.

²⁴ WAYNE McCORMICK, LEGAL RESPONSES TO TERRORISM 2 (2d ed. 2008) at 113.

²⁵ *Id.* See also, <http://beta.foreignassistance.gov/>.

²⁶ *Id.* See also 18 U.S.C. § 2332b.

As of 2015, there are fifty-nine names of FTOs on the Department of State's published list that includes all known and designated terrorist groups around the world that meet the requirements.²⁷ The court in *Humanitarian Law Project v. Reno* listed these requirements through the application of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). This Act authorizes the Secretary of State of the U.S. to designate an organization as a FTO if, "[t]he organization is a foreign organization; [it] engages in terrorist activities; and the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States."²⁸ AEDPA prohibits "the act of giving material support to those on the designated list" because "[T]here is no constitutional right to facilitate terrorism by giving terrorists . . . resources" with which to perform terrorism.²⁹

Past attacks have not only prompted heightened security and anti-terrorism action in the United States, but also in Europe.³⁰ The Terrorism Act of 2000 passed in the United Kingdom also forbids providing material support to known terrorists:

A person commits an offense if he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and he knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.³¹

Terrorism is a relevant and growing concern around the world. Countries all over are taking extra precautions to limit it.

In *Holder v. Humanitarian Law Project*, the Supreme Court of the United States held that it defied federal law to consciously provide "material support or resources to a foreign terrorist organization."³² In *Kadi v. Council and Commission*, a case decided by the European Court of Justice, the U.N. Security Council sanctioned Yassin Abdullah Kadi and Al Barakaat International Foundation by

²⁷ List, *supra* note 6.

²⁸ McCORMICK, *supra* note 24 at 111. See also *Humanitarian Law Project v. Reno*, 205 F.3d 1130 (9th Cir. 2000).

²⁹ McCORMICK, *supra* note 24, at 112.

³⁰ Terrorism Act 2000, ch. 11, §§ 1–131, schs. 1–15 (U.K.).

³¹ Terrorism Act 2000, ch. 17 (U.K.).

³² *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705 (2010).

freezing their funds for violating a regulation of the Council of the European Union by associating with known terrorist Osama bin Laden and his terrorist group, Al Qaeda.³³ It is illegal in both the United States and Europe to provide material support to terrorist organizations like the ones Qatar so shamelessly supports.

In order to be guilty of providing material support to a terrorist organization, Section 2339B of the U.S. Code requires that the party in question have knowledge that the organization's designation as a FTO by the Secretary of State or that the donor had knowledge of the unlawful activities for which the organization intended to use the donation.³⁴ Both the United States and the European Union publically produce lists to identify these groups.³⁵ Because Qatar so openly provided material support for these FTOs, it is reasonable to believe that FIFA had knowledge of Qatar's actions prior to accepting a bribe and selecting Qatar as the host for the 2022 World Cup. The law criminalized this activity because "the threat of harm outweighs the social utility of the . . . conduct."³⁶ Therefore, because FIFA is accepting bribes and supporting Qatar by illegally granting them the right to host the 2022 FIFA World Cup amid admittedly factual reports of illegal conduct, the deal violates and poses a direct threat the law and security of the United States and EU.

Qatar is a perpetual contributor to terrorism throughout the World. For example, since Qatar's selection in 2010, Ex-Emir Hamad and his son, Tamim, the current Emir, have not been shy about Qatar's on-going relationships with HAMAS and other U.S. designated FTOs.³⁷ In direct violation with *Holder* and *Kadi*, Qatar funded and provided material support to the Hamas-run Gaza Strip in order to launch a

³³ Joined Cases C-402 & C-415/05 P, *Kadi, Al Barakaat Int'l Found. v. Council*, [2008] E.C.R. I-6351.

³⁴ McCORMICK, *supra* note 24, at 117.

³⁵ List, *supra* note 6.

³⁶ McCormick, *supra* note 24, at 92.

³⁷ Andrew Hammond, *Qatar's Leadership Transition: Like Father, Like Son*, 95 EUR. COUNCIL FOREIGN AFFAIRS 1, 3 (2014).

\$254,000,000 reconstruction project to strengthen the area’s defense and attack forces.³⁸ Qatar and its government have also “[P]rovided loans, hand-outs, and promises of massive investment to . . . the Hamas-run government in Gaza”³⁹ In February of 2015, *The Wall Street Journal* reported that the United States confirmed Qatar supplied HAMAS, Al Qaeda, and the Islamic State⁴⁰ with hundreds of millions of dollars in aid.⁴¹ As its past indicates, Qatar is more than willing to use their money to fund causes it believes in, no matter the legality.

The U.S. has a legitimate interest in protecting itself from terrorists’ threats and actions.⁴² In order to do so, the U.S. can take legal action against those posing a threat. In *United States v. Yunis*, under the “universal principle” theory of international law, “[S]tates may prescribe and prosecute ‘certain offenses recognized by the community of nations as of universal concern, such as piracy, slave trade . . . and perhaps certain acts of terrorism’ absent any special connection between the state and the offense.”⁴³ In addition, according to the same case, “[A] state may punish non-nationals for crimes committed against its nationals outside of its territory, at least where the state has a particularly strong interest in the crime.”⁴⁴ Section 402 of the Foreign Relations Law of the United States states that:

[A] state has jurisdiction to prescribe law with respect to . . . conduct outside its territory that has or is intended to have substantial effect within its territory; the activities, interests, status, or relations of its nationals outside as well as within its territories; and certain conduct outside its territories directed against the security of the state or against a limited class of other state interests.⁴⁵

³⁸ *Qatar’s Emir crosses into Hamas-run Gaza on landmark visit*, AL ARABIYA NEWS (Oct. 23, 2012), <https://english.alarabiya.net/articles/2012/10/23/245464.html>.

³⁹ *Id.*

⁴⁰ Jay Solomon & Nour Malas, *Qatar’s Ties to Militants Strain Alliance*, WALL ST. J. (Feb. 23, 2015), <http://www.wsj.com/articles/qatars-ties-to-militants-strain-alliance-1424748601>.

⁴¹ Lori Plotkin Boghardt, *Qatar Is a U.S. Ally. They Also Knowingly Abet Terrorism. What’s Going On?*, NEW REPUBLIC (Oct. 6, 2014), <http://www.newrepublic.com/article/119705/why-does-qatar-support-known-terrorists>.

⁴² Sahar Aziz, *Laws on Providing Material Support to Terrorist Organizations: The Erosion of Constitutional Rights or a Legitimate Tool for Preventing Terrorism*, 9 TEX. J. C.L. & C.R. 45, 27 (2003).

⁴³ McCORMICK, *supra* note 24, at 27. See also Restatement (Third) of the Foreign Relations Law of the United States §§ 404, 423 (1987). See also *United States v. Yunis*, 288 U.S. App. D.C. 129; 924 F.2d 1086 (D.C. Cir. 1991).

⁴⁴ *Id.*

⁴⁵ McCORMICK, *supra* note 24, at 33. See also Restatement (3rd) of Foreign Relations of the United States § 402.

Even without any special relationship to Qatar or FIFA on the part of the U.S., the fact that FIFA and Qatar are perpetrating terrorism poses a threat to U.S. nationals outside of the U.S. while the U.S. has a particularly strong interest in protecting itself from terrorism. Therefore, the U.S. has jurisdiction to prescribe law. The court in *United States v. Yousef* granted the exercise of extraterritorial jurisdiction was justified because the crimes it aims to prevent have a “substantial, direct, and foreseeable effect” on the United States and its interests as international law would require.⁴⁶

The U.S. is planning to provide \$33,729,168,000.00 in Foreign Aid in 2016 to countries all over the world; however, none of the money is allocated to Qatar.⁴⁷ FIFA’s mission throughout its existence has been to improve and promote soccer globally, organize international competition, and to safeguard the integrity of the game;⁴⁸ but failed with their decision to accept a bribe and grant Qatar the host country evidenced by Blatter’s expulsion.⁴⁹ Through the World Cup, FIFA is supplying Qatar, a country funding HAMAS and other FTOs, with billions of dollars and extensive media coverage. Qatar has proven unapologetic in their continued support of terrorist activity world-wide. Not only is it bad policy to host the largest international soccer tournament in the world in a country with so many social and humanitarian issues, but it is also illegal.⁵⁰ The United States has reason to be concerned with a beneficiary of so many terrorist plots hosting a tournament in which it plans to participate. FIFA should hold Qatar accountable, not reward it. The U.S. has a legitimate interest in preventing terrorist activities on its soil, its people, and its allies. With so many other viable options to host the World Cup, it should not be Qatar.

⁴⁶ McCORMICK, *supra* note 24, at 48. *See also* United States v. Yousef, 927 F. Supp. 673 (S.D.N.Y. 1996).

⁴⁷ Foreign Assistance, *supra* note 25.

⁴⁸ FIFA, *supra* note 1.

⁴⁹ Harris, *supra* note 19.

⁵⁰ Holder, *supra* note 32.

These issues could be resolved and all participating parties could avoid liability by simply choosing a different venue for the Tournament.⁵¹ Not only should FIFA take the World Cup host away from Qatar, but according to FIFA's Executive Committee, it could.⁵² If FIFA were to void its contract with Qatar, it would need substantial proof of corruption in order for the decision to be valid. The way in which Qatar received its grant to host, through the bribes accepted by Blatter and his team, would suffice as ample proof – proof which FIFA has already admitted to be true.⁵³ Since the Qatari World Cup is not scheduled until the end of 2022, there is ample time for a hearing.⁵⁴ A tournament of this magnitude, of this much importance to human beings all over the world, legally cannot, and should not be hosted in Qatar.

⁵¹ Chris Korman, *You can't take FIFA change seriously until 2022 World Cup is moved from Qatar*, USA TODAY (June 3, 2015), <http://ftw.usatoday.com/2015/06/qatar-world-cup-fifa-corruption>.

⁵² XIII FIFA Statute § 85 (2015). "Unforeseen Contingencies and Force Majeure".

⁵³ Harris, *supra* note 19.

⁵⁴ *Id.*