

RIGHTS OUT: LEVELING FORMULA ONE'S HUMAN RIGHTS COMMITMENTS WITH ITS EXPANSION IN THE GULF STATES

I. INTRODUCTION

With speeds exceeding 200 mph, drivers who experience more g-forces than astronauts, and a globe-trotting calendar of races, Formula One (Formula One or F1) draws in millions of fans around the world.¹ While historically less popular compared to other sports in the United States, Formula One recently gained many American fans.² This increased popularity is occurring at the same time Formula One and its governing body, the Fédération Internationale de l'Automobile (FIA), are making public commitments to human rights and equality.³ With popularity

1. See Dave Banks, *10 Geeky Reasons You Should Be Watching Formula One*, WIRED (July 19, 2011, 7:30 AM), <https://www.wired.com/2011/07/10-geeky-reasons-you-should-be-watching-formula-one/> (describing speed and forces experienced by drivers while racing). Formula One (Formula One or F1) cars regularly reach around 200 mph during grand prix. *Id.* While astronauts experience roughly three times the earth's gravity during launches, Formula One drivers can experience lateral g-forces that are five times the earth's gravity when they are braking or cornering. *Id.* Formula One captivates audiences with regularly over 500 million viewers every season. *Id.*

2. See Jason Abbruzzese, *Drive to thrive: Netflix's docuseries a boost for Formula 1*, NBC NEWS (June 22, 2021, 3:26 PM), <https://www.nbcnews.com/tech/tech-news/netflix-f1-espn-boost-tv-ratings-espn-rcna1237> (noting increase in American viewership of Formula One after release of "Drive to Survive" docuseries). NASCAR traditionally had more popularity in the United States, while Formula One is the most popular in Europe and Asia. *Id.* Many Americans, however are being drawn to Formula One after being exposed to the sport on Netflix's "Drive to Survive" docuseries. *Id.* In fact, ESPN viewership of the 2021 World Championship increased fifty percent from the 2020 figures. *Id.*

3. See *Formula 1 launches #WeRaceAsOne initiative to fight challenges of COVID-19 and global inequality*, F1 (June 22, 2020), <https://www.formula1.com/en/latest/article.formula-1-launches-we-race-as-one-initiative.3s2AhNDApNDzrCoQDc1RY8.html> (announcing recognition and support of fight against racism and inequality). Formula 1 officially announced the #WeRaceAsOne hashtag and campaign against racism and inequality in 2020. *Id.* Formula 1 noted this campaign would not be a short-term effort, but it would be an ongoing and long-term attempt to address these issues. *Id.* See also *Statement of Commitment to Respect for Human Rights*, F1, <https://www.formula1.com/en/toolbar/statement-of-commitment-to-respect-for-human-rights.html> (last visited May 10, 2022) (outlining commitment to human rights). In addition to its commitment to support human rights in its own activities, Formula 1 also announced its intent to "understand and monitor" the effect its own activities have on human rights. *Id.* This commitment includes an intent to analyze the human rights impacts of its "business relationships, including but not limited to our suppliers and promoters . . ." *Id.* See also *Formula 1's #WeRaceAsOne initiative to continue in 2021 with three new areas of focus*,

growing, Formula One is adding additional races to the calendar, including some in the Gulf States.⁴ This investment in the Gulf States was met with criticism stemming from poor human rights records attributed to the host countries.⁵ This criticism echoes similar concerns surrounding the Fédération Internationale de Football Association (FIFA) and the International Olympic Committee (IOC) and their organization of events around the world.⁶

F1 (Feb. 10, 2021), <https://www.formula1.com/en/latest/article.formula-1s-weraceasone-initiative-to-continue-in-2021-with-three-new-areas.5MXuJzisUBuzDR1LHWk5Xk.html> (extending #WeRaceAsOne initiative into 2021). Included in the announcement is a commitment to “establish and deliver programmes that leave a positive and lasting community impact.” *Id.*

4. *See F1 adds Saudi Arabian Grand Prix night race to 2021 calendar*, F1 (Nov. 5, 2020), <https://www.formula1.com/en/latest/article.f1-adds-saudi-arabian-grand-prix-night-race-to-2021-calendar.49pVgTPyYV0KBjR0wtqUCN.html> (announcing addition of Saudi Arabian Grand Prix to annual calendar). The race will take place in Jeddah, the second largest city in Saudi Arabia. *Id.* The race is part of a “long-term partnership between Formula 1 and the Saudi Automobile and Motorcycle Federation (SAMF)....” *Id.* *See also* Philip Horton, *Bahrain, Saudi Arabia Poised to Host 2022 Formula 1 Season-Opening Doubleheader*, AUTOWEEK (July 26, 2021), <https://www.autoweek.com/racing/formula-1/a37134327/bahrain-saudi-arabia-poised-to-host-2022-formula-1-season-opening-doubleheader/> (describing potential 2022 schedule and noting number of races in Persian Gulf). The race in Saudi Arabia will add to the current races in the Persian Gulf in Bahrain and Abu Dhabi. *Id.* While the current announcement is for a street circuit in Jeddah, the goal is to host the race in a sporting complex outside Qiddya that is currently under construction. *Id.*

5. *See Saudi Arabia: Formula 1 Deal Despite Abuses*, HUMAN RIGHTS WATCH (Nov. 8, 2020, 12:00 PM), <https://www.hrw.org/news/2020/11/08/saudi-arabia-formula-1-deal-despite-abuses> (comparing Formula 1’s human rights commitments with human rights record of Saudi Arabia). Critics of the Saudi Arabian Grand Prix believe it is an attempt to distract from the poor human rights record in the country, including the oppression of women and persecution of journalists. *Id.* The Saudi Arabian government has recently invested in other sporting events, which observers believe is an attempt to downplay these human rights abuses. *Id.* *See also* Amanda Davies & Sana Noor Haq, *Saudi Arabia to host maiden F1 Grand Prix, but human rights abuses overshadow country’s global sporting ambitions*, CNN (Sept. 7, 2021, 4:32 AM), <https://www.cnn.com/2021/09/07/motorsport/f1-saudi-arabian-gp-sportswashing-spt-intl/index.html> (explaining phenomenon of “sportswashing” and relation to Formula 1). People describe “sportswashing” as a term used to describe “corrupt or autocratic regimes” that invest in sporting events to better their image on the world stage. *Id.* Saudi Arabia’s ten-year deal to host a Formula One race is part of roughly 1.5 billion USD in recent “sportswashing” investments. *Id.*

6. *See* Kamxi Sambari & Priyanka Prasanth, *FIFA 2022- A Sea of Human Rights Violations*, OPINIOJURIS (July 16, 2021), <https://opiniojuris.org/2021/07/16/fifa-2022-a-sea-of-human-rights-violations/> (summarizing human rights violations surrounding preparations for World Cup in Qatar). An estimated 6,500 migrant workers have lost their lives in Qatar over the past 10 years, with little explanation. *Id.* The hosting rights awarded to Qatar for the 2022 World Cup caused an increase in demand for cheap labor in the country. *Id.* The primary concern is the Kafala system of work sponsorship, which

This Note will compare the criticism Formula One and the FIA's face, then explore the possible legal and institutional remedies that exist to address this criticism.⁷ Part II will provide the historical context of the Formula One and the FIA and the emergence of "sports-washing" on the international stage.⁸ Part III will describe the internal structure of the FIA, the Kafala work sponsorship system, and the criticism facing the FIA.⁹ Part IV will analyze the steps Formula One and the FIA could take to address their criticism, as well as potential legal avenues that exist to hold their organizations accountable.¹⁰ Lastly, Part V will conclude that the FIA and Formula One will likely face continued criticism and potential legal claims, unless they take action to stand by their human rights commitments.¹¹

is used in most countries on the Arabian Peninsula. *Id.* See also Stephen Wade, *IOC sponsors facing heat of Beijing Olympics, human rights*, AP NEWS (July 28, 2021, 5:40 AM), <https://apnews.com/article/2020-tokyo-olympics-entertainment-sports-beijing-winter-olympics-933d582871f3d5b1bf040925e0c97205> (describing criticism International Olympic Committee received over 2022 Winter Olympics). The International Olympic Committee (IOC) was criticized for going forward with plans for the 2022 Winter Olympics in Beijing because of reports of genocide in China's western province of Xinjiang. *Id.* Concerns over the alleged genocide of Uyghurs in China led to a U.S. Congressional hearing on the issue, which included questioning companies sponsoring the Olympic Games. *Id.* These reports led activist groups to call for a boycott of the 2022 Winter Games. *Id.* See also Graham Dunbar, *Human rights experts debate risks and gains for FIFA, IOC*, AP NEWS (Nov. 21, 2019, 5:00 PM), <https://apnews.com/article/046b3f543d1b4dfb92c3f34993ea0a46> (relaying concerns expressed to United Nations during Centre for Sports and Human Rights conference). Fédération Internationale de Football Association (FIFA) was criticized for announcing China as the 2021 Club World Cup host, with some noting the organization had an obligation to conduct a human rights audit of a potential host country. *Id.* The potential human rights violations that can occur when staging large sporting events include: "Forced evictions without compensation, migrant construction workers dying preventable deaths, activists arrested, internet access shut down" and much more. *Id.*

7. See *infra* Parts II-V (outlining criticism against organizations while suggesting reasons and methodology for their reform).

8. See *infra* Part II (describing advent, development, and worldwide visibility of Formula One since its inception in 1904).

9. See *infra* Part III (detailing controversial global expansion of Formula One and efforts to confront human rights violations).

10. See *infra* Part IV (proposing alternatives routes for mitigating sportswashing and promoting human rights).

11. See *infra* Part V (predicting headwinds for Formula One and FIA without action).

II. HISTORY

A. *Early Years of Formula One and the Formation of the FIA*

While Formula One held its inaugural championship race in 1950, the FIA traces its roots back to 1904.¹² The founding of the FIA at the turn of the century coincided with the establishment of other international sporting bodies like FIFA and the IOC.¹³ The FIA functions as an International Sports Federation, is officially recognized by the IOC, and is committed to the advancement of the goals in the Olympic Charter.¹⁴ The commitments to human

12. See Martin Williamson, *A timeline of Formula One*, ESPN, <http://en.espn.co.uk/f1/motorsport/story/3836.html> (last visited Oct. 13, 2021) (highlighting key points in Formula One history). The Fédération Internationale de l'Automobile (FIA) was formed as a non-profit in 1904 to organize motoring clubs and early racing enthusiasts. *Id.* The first Formula One grand prix occurred thirty-six years later in Silverstone, UK. *Id.* See also *Organisation*, FIA, <https://www.fia.com/organisation> (last visited Oct. 13, 2021) (stating original goals of FIA). The FIA initially formed as a coalition of twelve motoring clubs from around the world. *Id.* This initial organization was called the Association Internationale des Automobile Clubs Reconnus, but later became the FIA. *Id.* From its founding, “the FIA’s initial aim was to bring coherent governance and safety to motor sport.” *Id.* The FIA has grown to now encompass multiple racing championships, including endurance racing and rally, and offers regulatory and judicial assistance to racing events. *Id.* The FIA also runs campaigns to reduce fatalities on civilian roadways. *Id.* See also Martin Williamson, *A brief history of Formula One*, ESPN, <http://en.espn.co.uk/f1/motorsport/story/3831.html> (last visited Oct. 13, 2021) (describing origins of Formula One racing). Formula One emerged from the growing popularity of racing in Europe after the turn of the century. *Id.* While World War II put the plans for a world championship on hold, the plans went forward shortly after the end of the war in 1950. *Id.*

13. See *FIFA – Soccer’s World Governing Body*, U.S. SOCCER, <https://www.ussoccer.com/history/organizational-structure/fifa> (last visited Oct. 13, 2021) (describing establishment of FIFA in 1904). FIFA was initially established to continue the growth of football after an increase in international games at the turn of the century. *Id.* FIFA also aimed to “foster friendly relations among National Associations, Confederations, and their officials and players, by promoting the organization of football matches at all levels, and to control every type of association football by taking steps as shall be deemed necessary or advisable.” *Id.* See also *The International Olympic Committee (IOC)*, PARIS 2024, <https://www.paris2024.org/en/the-international-olympic-committee/> (last visited Oct. 13, 2021) (explaining origins of IOC). The IOC was formed in 1894 as the “supreme authority of the Olympic movement.” *Id.* The IOC functions as an international nonprofit and is dependent on commercial investors to continue to organize the Olympic Games. *Id.*

14. See *International Sports Federations*, INT’L OLYMPIC COMM., <https://olympics.com/ioc/international-federations> (last visited Oct. 13, 2021) (describing role of International Sports Federations). The IOC can officially recognize an International Sports Federation if their governing regulations and conduct align with those set out in the Olympic Charter. *Id.* A recognized International Sports Federation must also encourage the development of athletes and participants, and “monitor the everyday administration of their sports and guarantee the regular organisation of competitions as well

rights and equality seen in the Olympic Charter are also present in the FIA statutes.¹⁵

As Formula One continued into the later part of the 20th century, there was a conflict between the two FIA subordinate organizations that were governing Formula One at the time: the Fédération Internationale du Sport Automobile (FISA) and the Formula One Constructors Association (FOCA).¹⁶ This conflict

as respect for the rules of fair play.” *Id.* See also *Recognition of the FIA by the IOC*, FIA (Jan. 11, 2012), <https://www.fia.com/news/recognition-fia-ioc> (announcing FIA’s official recognition by IOC). When announcing IOC’s recognition of the FIA, the IOC president at the time, Jacques Rogge, noted that “[t]he FIA strongly shares the Olympic sporting values as expressed by the IOC and aimed at developing a better understanding between communities worldwide.” *Id.* Rogge added that the FIA affirmed its commitment to “contribute to the achievement of the goals set out in the Olympic Charter, particularly in relation to the ongoing development of Olympic values and Olympic education.” *Id.* See generally International Olympic Committee, Olympic Charter, (July 17, 2020), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf> [hereinafter IOC, Olympic Charter] (describing fundamental principles of IOC). The IOC has the goal of “the harmonious development of humankind, with a view to promoting a peaceful society concerned with the preservation of human dignity.” *Id.* at 11. The Olympic Charter goes on to state that “the enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status.” *Id.* at 12.

15. See IOC, Olympic Charter, *supra* note 14, at 11-12 (stating commitments to human rights and equality). See also FIA, *FIA Statutes* (Jan. 1, 2021), https://www.fia.com/sites/default/files/2021_fia_statutes_fr-en.pdf (declaring commitment to human rights).

The FIA shall promote the protection of human rights and human dignity, and refrain from manifesting discrimination on account of race, skin colour, gender, sexual orientation, ethnic or social origin, language, religion, philosophical or political opinion, family situation or disability in the course of its activities and from taking any action in this respect. The FIA will focus on underrepresented groups in order to achieve a more balanced representation of gender and race and to create a more diverse and inclusive culture.

Id. at art. 1.2. The FIA also holds consultative status with the United Nations. *Id.* at art. 1.1.

16. See *Jean-Marie Balestre*, FIA, <https://www.fia.com/profile/jean-marie-balestre> (last visited Oct. 13, 2021) (describing structure of FISA). In the early 1980s, the Fédération Internationale du Sport Automobile (FISA) governed Formula One racing as a commission of the FIA. *Id.* See also Sam Tomlinson, *Flashback: How the FISA-FOCA War Shaped the F1 of Today*, GRANDPRIX 247 (Feb. 2, 2020), <https://www.grandprix247.com/2020/02/02/flashback-how-the-fisa-foca-war-shaped-the-f1-of-today/> (explaining implications of FISA and Formular One Constructors Association dispute). FISA governed the allocation of prize money and represented the three largest teams in the sport at the time. *Id.* The Formula One Constructors Association (FOCA), on the other hand, represented racing teams that lacked direct factory backing and acted like a trade union in negotiations with FISA. *Id.* Under the direction of FOCA’s then president,

was resolved with the signing of the 1981 Concorde Agreement, which led to a restructuring of leadership in the FIA.¹⁷ Continued efforts in the 1990s by Formula One and the FIA to monetize and control the sport, however, led to pushback from the European Union, resulting in a separation of the commercial rights to Formula One from the FIA.¹⁸ This separation led to the present ownership of Formula One by Liberty Media.¹⁹

Bernie Ecclestone, a new open-wheeled racing organization was formed, called the World Federation of Motorsport, in an attempt to undermine FISA's control of Formula One. *Id.* While the World Federation of Motorsport was ultimately unsuccessful, a driver strike and boycott of several races occurred, which was spurred on by FOCA's issues with FISA's governance of the sport. *Id.*

17. See Lawrence Barretto, *ANALYSIS: What the new Concorde Agreement means for Formula 1*, F1 (Aug. 19, 2020), <https://www.formula1.com/en/latest/article.analysis-what-the-new-concorde-agreement-means-for-formula-1.1Z97Z6vRwIDTHVhGbSS510.html> (recounting 1981 Concorde Agreement). The initial Concorde Agreement, signed in 1981, is named after its place of signing on the Place de la Concorde in Paris, France. *Id.* Barretto explains that the Concorde Agreement is “a contract between Formula 1, governing body the FIA and the teams which wish to compete in the F1 World Championship.” *Id.* The Concorde Agreement's provisions address “how F1's television revenues and prize money will be distributed . . .” *Id.* See also Tomlinson, *supra* note 16 (explaining settlement of FISA-FOCA dispute by Concorde Agreement). The 1981 Concorde Agreement resolved the FISA-FOCA dispute by creating a structured pay system that all teams agreed upon. *Id.* The fixed period of the contract and predictable payouts for participation made Formula One more appealing to lower budget teams. *Id.* The 1981 Concorde Agreement ultimately led to Max Mosley becoming president of the FIA and Bernie Ecclestone becoming the chief executive of Formula One. *Id.*

18. See European Commission Press Release IP/99/434, Commission opens formal proceedings into Formula One and other international racing series (June 30, 1999), available at https://ec.europa.eu/commission/presscorner/detail/en/IP_99_434 (outlining European Commission's inquiry into Formula One and FIA). The European Commission criticized the FIA for preventing driver participation in motorsport events not sanctioned by the FIA. *Id.* The European Commission also found that the FIA abused its power by introducing rules in 1995 which claimed television rights to any events that the FIA sanctioned. *Id.* Television rights are vital to organizers and promoters of motorsport events because of the strong reliance on sponsorship funding. *Id.* A German television production company, AETV, filed a formal complaint with the European Commission regarding the FIA's restriction of broadcasting rights. *Id.* See also European Commission Press Release IP/01/1523, Commission closes its investigation into Formula One and other four-wheel motor sports (Oct. 30, 2001), available at https://ec.europa.eu/commission/presscorner/detail/en/IP_01_1523 (explaining conclusion of European Commission's investigation of FIA). The European Commission was satisfied with changes the FIA made to its broadcasting rights. *Id.* Specifically, the FIA's relinquished its commercial rights to Formula One for a fixed period of 100 years. *Id.*

19. See Christian Sylt, *Revealed: How Liberty Media Bought Formula One For \$301 Million*, FORBES (Aug. 15, 2017, 7:18 AM), <https://www.forbes.com/sites/csylt/2017/08/15/revealed-how-liberty-media-bought-formula-one-for-301-million/?sh=6b23b967f2a1> (explaining purchase of Formula One by Liberty Media). When Liberty Media purchased Formula One, it had an estimated value of 8 billion USD. *Id.* Formula One's owner at the time, Delta Topco, had a net debt value of roughly 3.4 billion USD. *Id.*

B. Formula One in the Middle East

In 2004, Formula One made its debut in the Middle East with the Bahrain Grand Prix.²⁰ Formula One added another race in the Middle East to the calendar in 2009 when it announced the Abu Dhabi Grand Prix.²¹ More recently, Formula One announced the Saudi Arabian Grand Prix and a long-term sponsorship deal with Saudi Aramco.²²

In 2011, social unrest in the Middle East raised logistical issues with that year's Bahrain Grand Prix, resulting in its

By structuring the deal around this debt, Liberty Media was able to minimize the lump payment it needed to make in the acquisition. *Id.* See also Tim Bowler, *Liberty Media: Who are Formula 1's new owners?*, BBC (Sept. 8, 2016), <https://www.bbc.com/news/business-37307339> (describing Liberty Media). Liberty Media is a company based in the United States with large stakes in sports and entertainment, including the Atlanta Braves. *Id.*

20. See *Bahrain Grand Prix - Preview*, FIA (Apr. 18, 2012), <https://web.archive.org/web/20120423015835/http://www.fia.com/en-GB/mediacentre/pressreleases/f1-releases/2012/Pages/f1-preview-bhn.aspx> (describing first Bahrain Grand Prix). The Bahrain International Circuit in Sakhir held its first race in 2004. *Id.* This race was notably the first Formula One race in the Middle East. *Id.*

21. See *Abu Dhabi to stage F1 grand prix*, CNN (Feb. 3, 2007, 12:00 PM), <https://www.cnn.com/2007/SPORT/02/03/motor.abudhabi/> (announcing partnership between F1 and UAE). Formula One announced it would hold a Grand Prix in Abu Dhabi starting in 2009 at the Yas Island circuit. *Id.*

22. See *F1 adds Saudi Arabian Grand Prix night race to 2021 calendar*, F1 (Nov. 5, 2020), <https://www.formula1.com/en/latest/article.f1-adds-saudi-arabian-grand-prix-night-race-to-2021-calendar.49pVgTPyYV0KBJrOwtqUCN.html> (announcing Saudi Arabian Grand Prix). Formula One announced that the inaugural Saudi Arabian Grand Prix will be held in Saudi Arabia's second largest city, Jeddah, and is the first in a long-term commitment. *Id.* CEO of Formula One, Chase Carey, said, "Saudi Arabia is a country that is rapidly becoming a hub for sports and entertainment with many major events taking place there in recent years and we are very pleased that Formula 1 will be racing there from next season." *Id.* See also *Everything you need to know about F1's new race in Saudi Arabia*, F1 (Nov. 5, 2020), <https://www.formula1.com/en/latest/article.everything-you-need-to-know-about-f1s-new-race-in-saudi-arabia.6aetpPHHw73sKnbsXwSIKA.html> (elaborating on announcement of Saudi Arabian Grand Prix). While the inaugural Saudi Arabian Grand Prix will run on a street circuit in Jeddah, Formula One announced there are plans in place to construct a permanent racing circuit. *Id.* See also *Formula 1 announces long-term global partnership with Aramco*, F1 (Mar. 10, 2020), <https://www.formula1.com/en/latest/article.formula-1-announces-long-term-global-partnership-with-aramco.6GwAyvFOyBtqkyHwdXj0NA.html> (announcing sponsorship deal with Saudi Aramco). Formula One writes that Saudi Aramco's global partnership deal includes trackside branding at many events as well as media coverage to promote its investments in transportation technology and sustainable fuels. *Id.* See also Tom Chitty, *What is Saudi Aramco?*, CNBC (Aug. 10, 2018, 10:19 AM), <https://www.cnbc.com/2018/08/10/what-is-saudi-aramco.html> (summarizing history and ownership of Saudi Aramco). Saudi Aramco is owned by the Saudi Arabian government and is the largest oil company in the world. *Id.*

postponement.²³ The 2011 Bahrain Grand Prix was ultimately cancelled as a result of the unrest in the country.²⁴ When Formula One went forward with the subsequent 2012 Bahrain Grand Prix, violent protests occurred in direct response to the event.²⁵ Since

23. See CNN Wire Staff, *Bahrain's F1 race rescheduled for October*, CNN (June 3, 2011, 5:25 PM), <http://edition.cnn.com/2011/SPORT/motorsport/06/03/bahrain.grand.prix/index.html> (explaining postponement of 2011 Bahrain Grand Prix). The 2011 Bahrain Grand Prix, initially scheduled for March 13, 2011, was cancelled due to civil unrest in the country. *Id.* The March 2011 race was cancelled because of a government ordered state of emergency, which saw suppression of political activists and journalists following the Arab Spring. *Id.* The government lifted the state of emergency, however, restriction on political action and street protests continued. *Id.* Formula One decided to reschedule the 2011 Bahrain Grand Prix in October of that year. *Id.* The president of the Bahrain Center for Human Rights, Nabeel Rajab, noted, “[t]hat F1 took this decision without thinking about the human rights in this country, this shows to many organizations that their interests have more value to them than humanity.” *Id.* See also Reuters Staff, *Timeline: The 2011 uprising in Bahrain and what's happened since*, REUTERS (Feb. 16, 2011, 8:46 AM), <https://www.reuters.com/article/us-bahrain-uprising-timeline/timeline-the-2011-uprising-in-bahrain-and-whats-happened-since-idUSKBN2AG1K6> (outlining pro-democracy uprising in Bahrain). Anti-government protests began in Bahrain in February 2011, during which multiple protestors were killed in clashes with police. *Id.* As clashes intensified, Bahrain's government received aid from neighboring Gulf States, including 1,000 troops sent by Saudi Arabia. *Id.* The government also declared martial law and imposed a curfew in some areas of the country. *Id.*

24. See *Bahrain Grand Prix cut from 2011 F1 calendar*, BBC (June 15, 2011), <https://www.bbc.com/sport/formula1/13718417#:~:text=The%20race%2C%20originally%20scheduled%20for,and%20rescheduled%20for%2030%20October> (reporting cancellation of 2011 Bahrain Grand Prix). While the Bahrain Grand Prix was tentatively rescheduled to October, Formula One teams objected to the event. *Id.* The decision to cancel the race followed from human rights organizations and a petition to boycott the event which received half a million signatures. *Id.*

25. See John Lubbock & Nabeel Rajab, *Bahrain has Failed to Grasp Reform – So Why is the Grand Prix Going Ahead?*, GUARDIAN (Jan. 30, 2012, 11:12 AM), <https://www.theguardian.com/commentisfree/2012/jan/30/bahrain-grand-prix> (questioning Formula One's decision to go forward with 2012 Bahrain Grand Prix). While Formula One representatives noted an improvement in the conditions and commitments to human rights in Bahrain since the cancelled 2011 Grand Prix, advocates in the country argued that human rights abuses continued. *Id.* Human rights advocates noted that the U.S. government issued a travel warning to Bahrain and that the credit rating agency Standard & Poor noted, “the dynamics of Bahrain's internal political conflict remain unchanged, with entrenched polarisation indicating prolonged tensions.” *Id.* See also Alan Baldwin, *UPDATE 2 – Bahrain Grand Prix security tight, protestor found dead*, REUTERS (Apr. 21, 2012, 4:09 AM), <https://www.reuters.com/article/bahrain-grandprix/update-2-bahrain-grand-prix-security-tight-protester-found-dead-idINL5E8FL00D20120421> (reporting death of protestor on eve of 2012 Bahrain Grand Prix). A Bahraini protestor who was protesting the 2012 Bahrain Grand Prix was found dead after reportedly being beaten by police. *Id.* Security lined the highway to the Bahrain International Circuit and barbed wire was installed on some portions of the roadway. *Id.* Baldwin noted that the 2012 Bahrain Grand Prix, “cost Bahrain an estimated \$40 million to stage, drawn more than 100,000 visitors and generated more than \$500 million in spending.” *Id.* Public condemnation of the event continued, prompting a hacker group to bring down

2012, human rights advocates have continued to criticize Formula One's presence in Bahrain on account of the ongoing human rights abuses in the country.²⁶

C. "Sport-washing" in the Middle East

Formula One's increasing presence in the Middle East follows a trend of "sport-washing" in the region.²⁷ While the term

the Formula One website in the lead up of the event to show support for the human rights protestors in Bahrain. *Id.*

26. See *Bahrain: Formula 1 Ignores Rights Commitments*, HUM. RTS. WATCH (Mar. 22, 2019, 2:00 AM), <https://www.hrw.org/news/2019/03/22/bahrain-formula-1-ignores-rights-commitments#> (criticizing Formula One's continued presence in Bahrain). Human rights advocates have called upon Formula One and the FIA to adopt a more robust human rights policy which could encourage action in host countries like Bahrain. *Id.* Human Rights Watch specifically suggested that participants in Formula One write to the heads of Formula One and FIA to encourage the adoption of a new human rights commitment. *Id.* Human Rights Watch noted the 2017 arrest of activist Najah Yusuf, who was jailed for making critical statements about the Bahrain Grand Prix online. *Id.* While in jail, Yusuf stated that she was forced to sign a confession and was allegedly subjected to "physical abuse, sexual assault, and psychological torture." *Id.* Yusuf was later sentenced to three years in prison for her online conduct. *Id.* The reports of Yusuf's jailing and arrest promoted sixteen human rights groups to send a letter to Formula One, requesting that it uphold its commitments to human rights. *Id.* See also Letter from Bahrain Institute for Rights and Democracy et al. to Sacha Woodward Hill (Feb. 6, 2019), available at https://www.hrw.org/sites/default/files/supporting_resources/joint_letter_formula1_hr_campaign.pdf (raising concerns over alleged treatment of Najah Yusuf). The letter cites the evidence used in Yusuf's prosecution violated her right to freedom of expression. *Id.* Specifically, Yusuf posted her opposition to the Bahrain Grand Prix on social media, and accused the government of using "the races to whitewash its human rights violations . . ." *Id.* The letter also notes that Yusuf raised her alleged abuse to Bahrain's national oversight organizations that investigate human rights violations, but no action was taken, and the Bahraini government believes Yusuf received due process. *Id.* This letter was addressed to Sacha Woodward Hill, the General Counsel of Formula One Group. *Id.* See also Letter from Sacha Woodward Hill to Human Rights Watch et al. (Mar. 4, 2019), available at https://www.hrw.org/sites/default/files/supporting_resources/response_formula1_yusuf_bahrain_charges_0.pdf (responding to letter from human rights organizations). Formula One reaffirmed its commitments to human rights and stated that it "sought assurances that no punitive measures would be taken against Ms. Yousif in retaliation to any expression of peaceful opposition to the event and that no punitive measures will be taken against any other activists for publishing similar comments or pictures in peaceable opposition to the event." *Id.* The letter also notes that Formula One was assured by the Bahraini government that mere criticism of the Bahrain Grand Prix would not result in persecution. *Id.*

27. See Pierre Sagnier, *Sportswashing: The Gulf Countries' Strategy to Mask Abysmal Human Rights Records*, FAIR PLANET (July 26, 2021), <https://www.fairplanet.org/story/sportswashing-the-gulf-countries%E2%80%99-strategy-to-mask-abysmal-human-rights-records/> (describing strategy of sportswashing in Gulf States). Sagnier describes the human rights community's consensus is that the Gulf States have pursued hosting major sporting events in the interest of sportswashing. *Id.* Among the

“sport-washing” is relatively new and lacks an official definition, it generally refers to the use of large-scale sporting events to distract from a country or regime’s poor human rights record or other areas of criticism.²⁸ While the term may be recent, the phenomenon’s roots can be traced to the early twentieth century.²⁹ Generally, sportswashing can be a beneficial practice for governments attempting to distract from criticism.³⁰

examples of sportswashing are the United Arab Emirates’ ownership of Manchester United and the hosting of the Abu Dhabi Grand Prix, Qatar’s hosting of the 2022 FIFA World Cup, and Bahrain Grand Prix. *Id.* See also Minky Worden, *Saudi Arabia’s Strategy to ‘Sportswash’ Abuses*, HUM. RTS. WATCH (Dec. 6, 2019, 12:41 PM), <https://www.hrw.org/news/2019/12/06/saudi-arabias-strategy-sportswash-abuses> (highlighting Saudi Arabia’s hosting of sporting events after increased criticism over human rights record). In December 2019, Saudi Arabia hosted a world title boxing match and was also set to host the Dakar Rally. *Id.* These events followed increased global criticism of Saudi Arabia’s human rights record, particularly following the murder of Jamal Khashoggi. *Id.*

28. See Simon Chadwick, *Sport-Washing, soft power and scrubbing the stains*, ASIA & THE PAC. POL’Y SOC’Y (Aug. 24, 2018), <https://www.policyforum.net/sport-washing-soft-power-and-scrubbing-the-stains/> (defining and contextualizing sportswashing). While Chadwick writes that the definition of “sport-washing” is “not entirely clear” he gives several definitions for the term. *Id.* Chadwick gives the definition that “sport-washing is identified as being employed by authoritarian regimes that use mega-sports events to reboot their reputations and distract audiences from their horrific human-rights records.” *Id.* Chadwick also suggests that “sport-washing” is when “sporting events are used to sideline critical views of a government and serve to launder its image and reputation.” *Id.* It should be noted that, while offering definitions for the term, Chadwick suggests restraint when applying the term to a specific country. *Id.* Chadwick points out that, some countries that the United States and United Kingdom generally regard as having poor human rights records, like Azerbaijan and Kazakhstan, have themselves accused the United States and United Kingdom of “sport-washing.” *Id.*

29. See Martyn Simpson, *What is sportswashing? Definition of the sports term, LIV Golf series and Newcastle United ownership*, NAT’L WORLDWIDE (Oct. 11, 2021, 11:29 AM), <https://www.nationalworld.com/sport/football/what-is-sportswashing-definition-of-the-sports-term-amid-newcastle-united-takeover-3414209> (explaining origins of sportswashing). Notable instances of sportswashing include the 1934 World Cup in Italy while under the rule of Mussolini and the 1936 Olympic Games in Nazi Germany. *Id.* The 1974 title boxing match between George Foreman and Muhammad Ali, dubbed “The Rumble in Jungle” and held in Zaire was also considered an early instance of sportswashing. *Id.*

30. See Jules Boykoff, Keynote Address at the Connecticut Journal of International Law Symposium: The Political History and the Human Rights Thicket (2019), in 35 CONN. J. INT’L L. 1, at 11 [hereinafter *The Political History and the Human Rights Thicket*] (explaining sportswashing benefits). Boykoff writes that large, international sporting events can make authoritarians “[appear] important and even beloved on the world stage and [engage] in conspicuous grin-and-grip photo-ops designed to boost their credibility.” *Id.* at 11-12. See also Jules Boykoff, *Russia’s 2018 World Cup run is over, but Putin – and dictators everywhere – are still big winners at mega-sports events*, NBC NEWS (July 10, 2018, 6:09 AM), <https://www.nbcnews.com/think/opinion/>

Human Rights advocates claim that Formula One races in the Middle East are part of sportswashing campaigns by governments in the region.³¹ The Bahrain Grand Prix has long been cited as a sportswashing event.³² The Abu Dhabi Grand Prix in the UAE is also criticized for sportswashing given the UAE's crack-down on dissidents.³³

III. FACTS

A. *Criticism of Formula One's Growing Commitments in the Gulf States*

Formula One recently increased its commitments in the Gulf States with the addition of the Saudi Arabian Grand Prix and the Qatar Grand Prix.³⁴ The addition of these races means the 2021

russia-s-2018-world-cup-run-over-putin-dictators-everywhere-nca890056 (emphasizing how authoritarians, like Putin, appear charismatic).

31. See *Bahrain: Formula 1 Ignores Rights Commitments*, HUM. RTS. WATCH (Mar. 22, 2019, 2:00 AM), <https://www.hrw.org/news/2019/03/22/bahrain-formula-1-ignores-rights-commitments> (criticizing Formula One for enabling Bahrain's sportswashing attempts). See also *UAE: call on Grand Prix drivers and fans to tweet support for jailed student Matthew Hedges*, AMNESTY INT'L UK (Nov. 23, 2018, 4:54 PM), <https://www.amnesty.org.uk/press-releases/uae-call-grand-prix-drivers-and-fans-tweet-support-jailed-student-matthew-hedges> (noting FIA's use of Bahrain Grand Prix as sportswashing event).

32. See HUM. RTS. WATCH, *supra* note 31 (leveling human rights abuses in Bahrain with hosting of Formula One Grand Prix). The global initiatives director at Human Rights Watch, Mink Worder, was quoted saying, "Formula organizers should not look the other way while Bahrain uses the publicity and grandeur of the races while stepping up repression against people who oppose holding the race in Bahrain." *Id.* These comments followed consistent protest of the Bahrain Grand Prix over the years. *Id.*

33. See AMNESTY INT'L UK, *supra* note 31 (noting UAE targeting of human rights advocates in Formula One host nation). Amnesty International UK director, Kate Allen, stated that, "the UAE clearly sees the Abu Dhabi Grand Prix as part and parcel of the country's glitzy, modern image." *Id.* Allen added, "[w]e can't allow the UAE to use the Grand Prix for yet more sportswashing." *Id.*

34. See *F1 adds Saudi Arabian Grand Prix night race to 2021 calendar*, *supra* note 4 (announcing addition of Saudi Arabian Grand Prix to 2021 Calendar). The president of the Saudi Automobile and Motorcycle Federation stated, "I firmly believe the Saudi Arabian Grand Prix will be the biggest sports event in our country's history and has the potential to change lives, perceptions and reach new audiences and communities like never before." *Id.* See also Amanda Davies & Sana Noor Haq, *supra* note 5 (discussing details of Saudi Arabia Grand Prix announcement). Saudi Arabia committed to a ten-year deal to host the Grand Prix, in a deal valued at 650 million USD. *Id.* See also *Qatar to join F1 calendar in 2021, as country signs additional 10-year deal from 2023*, F1 (Sept. 30, 2021), <https://www.formula1.com/en/latest/article.breaking-qatar-to-join-f1-calendar-in-2021-as-country-signs-additional-10.50lbiJcZfoo6udNWZMDAn6.html> (announcing addition of Qatari Grand Prix to 2021 Calendar). Qatar will host its first Formula One Grand Prix at the Losail International Circuit in 2021. *Id.* Qatar

season will end with three consecutive races held in the Gulf.³⁵ These additions followed a title sponsorship contract between Saudi Arabia's state-owned oil company, Aramco, and Formula One.³⁶

The announcement of more races in the Middle East was met with opposition from human rights organizations and activists.³⁷

and Formula One also agreed to a 10-year deal for Qatar to host additional grand prix beginning in 2023. *Id.*

35. See *Qatar to join F1 calendar in 2021, as country signs additional 10-year deal from 2023*, *supra* note 34 (noting 2021 season will end with three races in Middle East). Formula One noted in its announcement of the Qatar Grand Prix that it will “create a three-part Middle Eastern ending to the 2021 season, with the race in Qatar followed up by the first ever Saudi Arabian Grand Prix on December 3-5, with the season rounded off by the Abu Dhabi Grand Prix on December 10-12.” See also Adam Cooper, *Can F1 justify having four races in the Middle East?* MOTORSPORT (Oct. 6, 2021, 3:01 PM), <https://us.motorsport.com/f1/news/can-f1-justify-having-four-races-in-the-middle-east/6680349/> (discussing reaction to four races in Middle East on 2021 calendar). Cooper notes that holding multiple races in the Middle East departs from former F1 owner, Bernie Ecclestone's, initial desire to hold only one Middle Eastern race in Bahrain. *Id.* While Ecclestone departed from this plan somewhat with the addition of the Abu Dhabi Grand Prix beginning in 2009, Formula One's purchase by Liberty Media spurred new interest “to find new venues and create lucrative ‘Liberty-owned’ events” in the region. *Id.* While there are concerns that an abundance of races in the Middle East will compromise the security of longer running races on Formula One's calendar, Cooper points out that the long-term deals Liberty Media signed with Saudi Arabia and Qatar offered financial security to the sport during the uncertainty that came along with the COVID-19 pandemic. *Id.*

36. See *Formula 1 announces long-term global partnership with Aramco*, F1 (Mar. 10, 2020), <https://www.formula1.com/en/latest/article.formula-1-announces-long-term-global-partnership-with-aramco.6GwAyvFOyBtqkyHwdXj0NA.html> (announcing title partnership with Aramco). The long-term deal makes Aramco one of Formula One's six global partners, “alongside DHL, Emirates, Heineken, Pirelli and Rolex.” *Id.* The deal “include[d] trackside branding for Aramco ‘at most races’” *Id.* See also Chitty, *supra* note 22 (describing formation and history of Aramco). Aramco is the largest oil company in the world and is owned by the Saudi Arabian government. *Id.* Following the formation of Organization of the Petroleum Exporting Countries (OPEC), Saudi Arabia began nationalizing its oil industries and fully purchased Aramco in the 1980s. *Id.*

37. See Cooper, *supra* note 36 (noting accusations of sportswashing from human rights activists). See also *Saudi Arabia: Formula 1 Deal Despite Abuses*, HUM. RTS. WATCH (Nov. 8, 2020, 12:00 PM), <https://www.hrw.org/news/2020/11/08/saudi-arabia-formula-1-deal-despite-abuses> (criticizing addition of Saudi Arabia Grand Prix to Formula One calendar). Human Rights Watch criticized Formula One for not addressing Saudi Arabia's human rights abuses, such as the imprisonment of women's driving advocates. *Id.* Human Rights Watch noted that Formula One has made its own commitments to human rights, which it seemed to ignore with its announcement of the Saudi Arabian contract. *Id.* See also Andrew Benson, *Qatar F1 race will be held in November along with 10-year deal*, BBC SPORT (Sept. 30, 2021), <https://www.bbc.com/sport/formula1/58748178> (describing concerns of human rights organizations). Amnesty International expressed its concern with Qatar's human rights record, calling it “extremely troubling,” and requested that F1 “insist that all contracts pertaining to

This spurred criticism on social media, with some fans of Formula One using the hashtag “#RightsOutAndAwayWeGo,” inspired by the Formula One commentator, David Croft’s, signature line at the beginning of a race.³⁸ Some drivers, most notably, renowned Formula One driver, Sebastian Vettel, also criticized the Middle Eastern expansion.³⁹

It should be noted that many other countries which host Formula One races have similarly been accused of human rights abuses and engaging in sportswashing.⁴⁰ The United States has

this race contain stringent labor standards across all supply chains.” *Id.* Formula One responded by stating “[w]e take our responsibilities on rights very seriously and set high ethical standards for counterparties and those in our supply chain, which are enshrined in contracts, and we pay close attention to their adherence.” *Id.*

38. See Gavin Andrews, “*It’s lights out and away we go*” – How did David Croft come up with this iconic intro to F1 races? Is it original?, SPORT IT NOW, <https://sportitnow.com/f1-lights-out-away-we-go-david-croft-origin/> (last visited Aug 29, 2023) (noting F1 commentator’s signature line). See also #RightsOutAndAwayWeGo, TWITTER, https://twitter.com/search?q=%23rightsoutandawaywego%20&src=typed_query&f=top (last visited Nov. 14, 2021) (showing search results for hashtag on Twitter). See also Alasdair Russell, *It’s Rights Out, and Away We Go...*, ENRG SPORT (Sept. 30, 2021), <https://enrg-sport.com/its-rights-out-and-away-we-go/> (criticizing Formula One’s announcement of Qatar Grand Prix).

39. See Andrew Reid, “*Too Big to Neglect*: Sebastian Vettel’s stunning swipe at F1, YAHOO SPORTS AUSTRALIA (Oct. 18, 2021), <https://au.sports.yahoo.com/formula-one-f-1-veteran-sebastian-vettel-criticises-schedule-sport-bosses-025315469.html> (summarizing Sebastian Vettel’s comments on Qatar Grand Prix announcement). Vettel “questioned the morality behind some of F1’s moves and said certain global issues were ‘too big to neglect.’” *Id.* Vettel suggested that Formula One’s organizers question their own morals, and said, “I think we all agree that – and this doesn’t matter where you come from – it’s only fair to treat people equally.” *Id.*

40. See Boykoff, *supra* note 30 (discussing accusations of human rights abuses in Los Angeles). The homelessness problem in the United States, specifically in Los Angeles, CA, is criticized as a humanitarian crisis. *Id.* With Los Angeles set to host the 2028 Olympic Games, some argue this is a form of sportswashing. *Id.* See also *Ferguson v. Dolphins*, No. 20-24483, 2021 U.S. Dist. LEXIS 126001, at *1-*5 (S.D. Fla. July 6, 2021) (summarizing claims of plaintiff against class defendants, including Formula One). Formula One and its owners, Liberty Media, were sued along with Miami Dolphins, Ltd. *Id.* at *1. The plaintiffs, residents of the community near the Miami Dolphins stadium, sued Formula One for alleged discrimination in the planning and location of the Miami Grand Prix. *Id.* at *2-*5. See also *China: World must use Winter Olympics to demand human rights improvements*, AMNESTY INT’L, (Jan. 14, 2022), <https://www.amnesty.org/en/latest/news/2022/01/china-world-must-use-winter-olympics-to-demand-human-rights-improvements/> (calling for human rights improvements in China during Winter Olympics). Amnesty International called on the IOC to disclose its processes for ensuring human rights commitments are met in China during the 2022 Winter Olympics. *Id.* See also Max Witynski, *China’s human rights violations raise ‘unprecedented’ conflict for Olympic movement, scholar says*, UCHICAGO NEWS (Feb. 3, 2022), <https://news.uchicago.edu/story/2022-olympics-beijing-china-human-rights-violations-uyghurs-xinjiang-diplomatic-boycotts> (questioning IOC’s commitment to human rights if China’s actions go unchallenged); César Jiménez-Martínez & Michael Skey, *How repressive states and*

been criticized for its treatment of the homeless population in Los Angeles ahead of the Summer Olympic Games in 2028.⁴¹ China's human rights record, specifically its treatment of the Uyghur population in Xinjiang province, came into question during the recent 2022 Winter Olympics.⁴² Russia's invasion of Ukraine led

governments use 'sportswashing' to remove stains on their reputation, THE CONVERSATION (July 25, 2018, 11:15 AM), <https://theconversation.com/how-repressive-states-and-governments-use-sportswashing-to-remove-stains-on-their-reputation-100395> (describing Russia's use of sportswashing). See also Giles Richards, 'I will not go': Vettel calls on F1 to scrap Russian GP after Ukraine Invasion, GUARDIAN (Feb. 24, 2022, 12:35 AM), <https://www.theguardian.com/sport/2022/feb/24/f1-russian-grand-prix-remains-on-calendar-despite-invasion-of-ukraine> (describing F1 participants' opposition to Russian GP following invasion of Ukraine). Some drivers and team principals of Formula One teams suggested boycotting the Russian Grand Prix after Russia's invasion of Ukraine. *Id.* See also U.S. DEP'T OF STATE, AZERBAIJAN 2020 HUM. RTS. REPORT (2020), at 14, 24 (summarizing criticism of human rights record in Azerbaijan). Among the criticisms of Azerbaijan's human rights record are the practices of arbitrary arrests and the suppression of free speech and the press. *Id.* See also *Brazil: Events of 2020*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2021/country-chapters/brazil> (last visited Mar. 18, 2022) (summarizing human rights record of Brazil). Among the criticism of Brazil's human rights record is high rates of police killings, lagging legislation in the area of sex and gender rights, and limitations on freedom of expression. *Id.*

41. See *The Political History and the Human Rights Thicket*, *supra* note 30, at 12 (categorizing homelessness problem in Los Angeles human rights crisis). Boykoff suggests that the hosting of the 2028 Olympics in Los Angeles amounts to a case of sportswashing, in light of the city's severe homeless problem, which he calls a "full-throttle humanitarian crisis in plain sight." *Id.*

UN Rapporteur on extreme poverty Philip Alston said, compared Skid Row to 'a refugee camp.' However, he noted, 'According to a 2017 report by several homelessness advocacy groups, the availability of toilets here is worse than in a UN-run Syrian refugee camp.' Skid Row is certainly policed like a refugee camp; in 2018 one in three use-of-force incidents by the LAPD was carried out against houseless people.

Id. Boykoff also noted that the Mayor of Los Angeles, Eric Garcetti, promised that the Olympics could be used to "scour away LA's homelessness crisis" and that the city was expected to "net north of a billion dollars" from the Olympics, despite there being no approved budget for the games at the time. *Id.*

42. See *China: World must use Winter Olympics to demand human rights improvements*, *supra* note 40 (criticizing China's human rights record in light of Winter Olympic Games). Amnesty International's China Researcher, Alkan Akad, stated that the "Beijing Winter Olympics must not be allowed to pass as a mere sportswashing opportunity for the Chinese authorities, and the international community must not become complicit in a propaganda exercise." *Id.* See also Witynski, *supra* note 40 (criticizing China's human rights record and IOC response ahead of Winter Olympics). China threatened to punish any athlete competing in the winter Olympics who spoke out against the ongoing human rights abuses in the host country. *Id.* Professor John MacAloon commented on the situation in China by stating, "[i]f the IOC simply ignores what's happening in Xinjiang, then for many people, while it does its duty in providing a Games for the athletes, the IOC is effectively resigning from leadership of the Olympic movement, a social movement enshrining common humanity, human dignity, and human rights."

to strong criticism from the international community, including Formula One, and the eventual cancellation of all future Russian Grand Prix.⁴³ Formula One's recent expansion and commitments

Id. See also "Like We Were Enemies in a War": China's Mass Internment, torture and Persecution of Muslims in Xinjiang, AMNESTY INT'L (2021), at 7 (summarizing report on Uyghur persecution in Xinjiang). Beginning in 2017,

under the guise of a campaign against 'terrorism', the government of China has carried out massive and systematic abuses against Muslims living in the Xinjiang Uyghur Autonomous Region (Xinjiang). Far from a legitimate response to the purported terrorist threat, the government's campaign evinces a clear intent to target parts of Xinjiang's population collectively on the basis of religion and ethnicity and to use severe violence and intimidation to root out Islamic religious beliefs and Turkic Muslim ethno-cultural practices. The government aims to replace these beliefs and practices with secular state-sanctioned views and behaviours, and, ultimately, to forcibly assimilate members of these ethnic groups into a homogenous Chinese nation possessing a unified language, culture, and unwavering loyalty to the Chinese Communist Party (CCP).

Id.

43. See Richards, *supra* note 40 (summarizing opposition to Russian Grand Prix following invasion of Ukraine). Driver Sebastian Vettel was most vocal in his opposition with going forward with the Russian Grand Prix after Russia's invasion of Ukraine. *Id.* Vettel remarked, "[m]y own opinion is I should not go, I will not go . . . I think it's wrong to race in that country. I am sorry for people, innocent people who are losing their lives, getting killed for stupid reasons under a very strange and mad leadership." *Id.* Other drivers and team principals also condemned the invasion of Ukraine and questioned how Formula One could go forward with the race in 2022. *Id.* See also *Formula 1 statement on the Russian Grand Prix*, F1 (Feb. 25, 2022), <https://www.formula1.com/en/latest/article.formula-1-statement-on-the-russian-grand-prix.4S39V28GpAH5ESb8LksW0J.html> (issuing statement regarding 2022 Russian Grand Prix). Formula One stated that:

[t]he FIA Formula 1 World Championship visits countries all over the world with a positive vision to unite people, bringing nations together. We are watching the developments in Ukraine with sadness and shock and hope for a swift and peaceful resolution to the present situation. On Thursday evening Formula 1, the FIA, and the teams discussed the position of our sport, and the conclusion is, including the view of all relevant stakeholders, that it is impossible to hold the Russian Grand Prix in the current circumstances.

Id. See also *Formula 1 terminates contract with Russian Grand Prix promoter*, F1 (Mar. 3, 2022), <https://www.formula1.com/en/latest/article.formula-1-terminates-contract-with-russian-grand-prix-promoter.5geFNbONEePwRCSQj25Xg3.html> (announcing termination of contract for Russian Grand Prix). Russia will no longer host a Grand Prix in the future. *Id.* See also *FIA Announces World Motor Sport Council Decisions in Relation to the Situation in Ukraine*, FIA (Mar. 1, 2022), <https://www.fia.com/news/fia-announces-world-motor-sport-council-decisions-relation-situation-ukraine> (announcing ban of all FIA sanctioned competitions in Russia and Belarus). See also Charlie Bradley, *F1 praised for cancelling Russian Grand Prix while FIFA torn apart for 'shameful response'*, EXPRESS (Mar. 1, 2022, 12:06 AM), <https://www.express.co.uk/sport/f1-autosport/1573695/f1-news-russian-grand-prix-cancelled-fifa-nikita-mazepin-sebastian-vettel-spt> (describing Formula One's response to Russian invasion of Ukraine).

in Saudi Arabia, the United Arab Emirates, Qatar, and Bahrain raise human rights concerns relevant to all of the Gulf States.⁴⁴

B. Human Rights in the Gulf States

A large concern of human rights advocates is the working conditions for migrants in the Gulf States, many of which use the Kafala work sponsorship system.⁴⁵ The four Gulf State nations

44. See *F1 adds Saudi Arabian Grand Prix night race to 2021 calendar*, *supra* note 4 (announcing addition of Saudi Arabian Grand Prix to 2021 Calendar); *Qatar to join F1 calendar in 2021, as country signs additional 10-year deal from 2023*, *supra* note 34 (announcing 10 year deal to host race in Qatar); *Formula 1 renews Abu Dhabi Grand Prix contract until 2030*, F1 (Dec. 9, 2021), <https://www.formula1.com/en/latest/article.formula-1-renews-abu-dhabi-grand-prix-contract-until-2030.4oNR96dTUunnErAirurFd.html#:~:text=Ahead%20of%20this%20weekend's%20season,on%20the%20calendar%20until%202030> (announcing contract extension for Abu Dhabi Grand Prix until 2030); *Formula 1 to race in Bahrain until 2036 after contract extension*, F1 (Feb. 11, 2022), <https://www.formula1.com/en/latest/article.formula-1-to-race-in-bahrain-until-2036-after-contract-extension.58M0iU77Mms2joX23SYiP2.html> (announcing contract extension for Bahrain Grand Prix until 2036); Brendan O'Hara et al., Letter to Mohammed Ben Sulayem, FIA President (Mar. 16, 2022), available at https://birdbh.org/wp-content/uploads/2022/03/Letter-to-FIA_Gulf-Human-Rights.pdf (criticizing Formula One and FIA's response to human rights abuses in Gulf States); *Ahead of Bahrain Grand Prix 90 lawmakers slam F1 & FIA for 'actively facilitating sportswashing' of Gulf human rights abuses*, BAHRAIN INST. FOR RTS. & DEMOCRACY (Mar. 16, 2022), <https://birdbh.org/2022/03/ahead-of-bahrain-grand-prix-90-lawmakers-slam-fl-fia-for-actively-facilitating-sportswashing-of-gulf-human-rights-abuses/> (providing context for letter sent to FIA).

45. See Anthony Hardwood, *Amnesty International hits out at use of migrant workers to build £5.9bn Formula 1 complex in the middle of the Saudi Arabian desert*, DAILY MAIL (Aug. 22, 2019, 4:27 PM), <https://www.dailymail.co.uk/news/article-7384791/Amnesty-International-criticises-use-migrant-workers-build-5-9bn-Formula-1-complex.html> (describing concerns for migrant workers constructing Formula One complex in Saudi Arabia). Saudi Arabia is currently constructing a new Formula One track near Riyadh, which is set to be the longest such track in the world. *Id.* Amnesty International called on Formula One and Liberty Media to create assurances for the protection of migrant workers hired to take part in the project. *Id.* This concern stems from high rates of construction accidents in Saudi Arabia. *Id.* See also Kali Robinson, *What is the Kafala System?*, COUNCIL ON FOREIGN REL. (Nov. 18, 2022, 12:21 PM), <https://www.cfr.org/backgroundunder/what-kafala-system> (describing Kafala work system). Robinson writes, “[t]he kafala, or sponsorship, system defines the relationship between foreign workers and their local sponsor, or kafeel, which is usually their employer. It is found in the Gulf Cooperation Council (GCC) countries—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates—as well as Jordan and Lebanon.” *Id.* Under the Kafala system, migrant workers are generally exempt from the country's labor standards, and the employment sponsors hold the power to renew an individual's employment visa. *Id.* Because workers' residency visas are dependent on their employment, their work sponsors can direct not only their employment, but also their ability to move freely in the country. *Id.* Robinson adds,

which host Formula One races, United Arab Emirates, Bahrain, Saudi Arabia, and Qatar, are all members of the Gulf Cooperation Council (GCC), which encourages member countries to share similar Kafala work sponsorship systems.⁴⁶ The plight of migrant workers in Qatar, which hosted the 2022 World Cup, have garnered the most attention from human rights advocates.⁴⁷ The dire conditions the Kafala system has created for migrant workers in the Gulf States, particularly Saudi Arabia and Qatar, led

[i]n most situations, workers need their sponsor's permission to transfer jobs, end employment, and enter or exit the host country. Leaving the workplace without permission is an offense that results in the termination of the worker's legal status and potentially imprisonment or deportation, even if the worker is fleeing abuse. Workers have little recourse in the face of exploitation, and many experts argue that the system facilitates modern slavery.

Id. As a result of this system, migrant workers are subject to restrictions because “[e]mployers regularly confiscate passports, visas, and phones, and confine domestic workers to their homes. Nondomestic workers often live in overcrowded dorms,” which have become especially dangerous during the coronavirus pandemic. *Id.* Migrant workers are also subject to forced labor resulting from “deception or coercion by recruiters when enlisting workers can amount to forced labor. Contract substitution is a common tactic in which workers unwittingly accept poor wages and working conditions by signing multiple contracts, some in languages they don’t understand.” *Id.* The Kafala system arguably creates the largest imbalance of power between employers and workers of any system in the world. *Id.*

46. See Charter of the Co-operation Council for the Arab States of the Gulf, May 25, 1982, 1288 U.N.T.S. 152 (establishing GCC). The GCC is comprised of “The State of United Arab Emirates, State of Bahrain, Kingdom of Saudi Arabia, Sultanate of Oman, State of Qatar, [and] State of Kuwait.” *Id.* at 152. The GCC is headquartered in Riyadh, Saudi Arabia. *Id.* Member countries of the GCC share the goal of creating “similar regulations” in various areas, including “[e]conomic and financial affairs” and “[c]ommerce, customs, and communications . . .” *Id.* at 153. See also M. Hazem Shayah & Zehou Sun, *Employment in the Gulf Cooperation Council (GCC) Countries – Current Issues and Future Trends*, 196 *ADVANCES IN SOC. SCI., EDUC. & HUM. RSCH.* 412, 412-14 (2019) (explaining shared labor standards among GCC states). “The GCC countries share similar demographic and labor force characteristics: fast growing population, heavy reliance on expatriates, low levels of private sector employment for nationals, low participation of women in the workforce and wide spreading unemployment among citizens.” *Id.* at 412.

47. See Amnesty Int’l, *Reality Check: Migrant Workers Rights With Four Years to Qatar 2022 World Cup*, AI Index MDE 22/9758/2019, 5-15 (Feb. 5, 2019) (summarizing working conditions of migrant workers in Qatar). Workers in Qatar are frequently denied their wages and have limited options for resolving disputes. *Id.* at 11-12. See also Hiba Zayadin, *Migrant Workers and the Qatar World Cup*, *HUM. RTS. WATCH* (Aug. 2, 2021, 9:30 AM), <https://www.hrw.org/news/2021/08/02/migrant-workers-and-qatar-world-cup> (detailing conditions for migrant workers in Qatar). There are roughly 2 million migrant workers in Qatar, making up approximately 95% of the workforce in the country. *Id.* The lack of workplace safety standards has led to the deaths of many migrant workers in Qatar, many because of a lack of adequate regulations limiting how much heat workers can be exposed to in the workplace. *Id.*

the International Labor Organization (ILO) to propose reforms to the Kafala system, with the Qatari government implementing a number of the proposals.⁴⁸ Even with these implementations, human rights advocates are still concerned for the safety of workers under the Kafala system.⁴⁹

Another area of concern in the Gulf States is the Saudi-led coalition of forces taking part in the conflict in Yemen.⁵⁰ In 2015,

48. See Int'l Lab. Org. [ILO], *Reform of the Kafala (Sponsorship) System*, Responding to Emerging and Critical Issues, Issue 1 Pol. Brief No. 2, 7-8 (2012) (proposing reforms to Kafala system). The ILO's proposed changes to the Kafala system included: a change to a visa system rather than work sponsorship; freedom of movement within the country where a migrant works; ability to change employers without losing sponsorship or visa status; and the introduction of a monitoring system along with enforcement of the new policies. *Id.* The ILO was also adamant that migrant workers should be involved in the process of reform. *Id.* See also, Int'l Lab. Org., *Dismantling the kafala system and introducing a minimum wage mark new era for Qatar labour market* (Aug. 30, 2020), https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_754391/lang-en/index.htm (explaining positives of recent reforms to Kafala system in Qatar). New laws in Qatar now allow migrant workers to change employers before the end of a work contract without seeking permission from their current employer. *Id.* The recent laws also provide a higher minimum wage, as well as more protections from abrupt termination. *Id.* See also Jonathan Wilson, *Legal action filed against FIFA over treatment of Qatar migrant workers*, *GUARDIAN* (Dec. 8, 2016, 6:07 AM), <https://www.theguardian.com/football/2016/dec/08/legal-action-filed-against-fifa-over-treatment-of-qatar-migrant-workers-world-cup-2022#:~:text=Legal%20action%20filed%20against%20Fifa%20over%20treatment%20of%20Qatar%20migrant%20workers,-This%20article%20is&text=A%20legal%20action%20against%20Fifa,filed%20with%20a%20Swiss%20court> (describing legal claim brought against FIFA). See also, Neil Hodge, *Dutch trade union brings legal action against FIFA*, *COMPLIANCE WEEK* (Nov. 1, 2016, 5:00 AM), <https://www.complianceweek.com/dutch-trade-union-brings-legal-action-against-fifa/2887.article> (detailing Netherlands Trade Union Confederation reasoning for filing claim). See also, *FIFA lawsuit (re migrant workers, Qatar)*, *BUS. & HUM. RTS. RES. CTR.*, <https://www.business-humanrights.org/en/latest-news/fifa-lawsuit-re-migrant-workers-qatar/> (last updated Feb. 13, 2017) (timelining claim in Swiss court).

49. See Zayadin, *supra* note 47 (explaining concerns after Qatar's reformation of Kafala system). Even after Qatar's reformation of its employment laws, "migrant workers remain vulnerable to abuse and exploitation. Inadequate implementation and oversight of current legal provisions mean they rarely translate to worker protections in practice, and employers can pick and choose what protections to offer with relative impunity." *Id.* Zayadin notes that wage abuse is still ongoing in Qatar, despite the country's commitments to a more uniform minimum wage. *Id.* Zayadin adds, "[u]ntil Qatar dismantles the kafala system in its entirety and allows migrant workers to join trade unions and advocate for their own rights, workers are likely to continue to suffer abuses and exploitation. While some reforms have been introduced, key elements that facilitate abuse remain." *Id.*

50. See *Yemen: Events of 2019*, *HUM. RTS. WATCH*, <https://www.hrw.org/world-report/2020/country-chapters/yemen#:~:text=Since%20March%202015%2C%20Saudi%20Arabia,year%2C%20these%20alliances%20have%20fractured> (last visited Mar. 18, 2022) (describing human rights concerns in Yemen). See also Dr. Ghassan Shabaneh, *Operation Decisive Storm: Objectives and Hurdles*, *AL JAZEERA CTR. FOR STUD.*,

in an attempt to prevent regional destabilization, the GCC launched a war against the Houthis in Yemen.⁵¹ Regardless of the GCC's intent, there were concerns from the onset that the conflict could lead to a humanitarian crisis.⁵² Unfortunately, the GCC operation in Yemen is ongoing and has grown into one of the largest humanitarian crises in the world.⁵³

C. *Formula One's Commitments to Human Rights and an Internal Court Structure*

Much of the criticism of Formula One's continued expansion into the Middle East stems from Formula One's public commitment to human rights.⁵⁴ Amid the global calls for racial equity

(Apr. 12, 2015), <https://studies.aljazeera.net/en/reports/2015/04/2015412115549719521.html> (explaining Operation Decisive Strike).

51. See Shabaneh, *supra* note 50 (describing origins and intent of GCC operation in Yemen). The GCC engagement in Yemen, named "Operation Decisive Storm," is being carried out by all GCC states, except Oman. *Id.* The GCC concerns included not only the economic stability of the region, but also an interest in preventing a surge in refugees and a humanitarian crisis, as was seen in nearby Syria and Iraq. *Id.*

52. See *id.* (noting challenges of GCC operation in Yemen). There were many challenges regarding the GCC operation in Yemen, including,

[o]ne of the gravest challenges could be the prolonging of the war. If Operation Decisive Storm lasts longer than anticipated, this might cause many hurdles for the coalition in the long run. Extending the war could cause many civilian deaths; it could destroy the infrastructure of one of the poorest countries in the Arab World, increasing the sectarian tensions, complicating any reconciliation efforts among all the parties, and gradually shifting global sympathy from the coalition to the Houthis and their supporters on the ground.

Id. Shabaneh goes on to note that Yemen is "in dire need of economic aid and development in all its sectors." *Id.*

53. See *Yemen: Events of 2019*, *supra* note 50 (explaining humanitarian crisis in Yemen). Watch groups have observed "at least 90 apparently unlawful Saudi-led coalition airstrikes, including deadly attacks on Yemeni fishing boats that have killed dozens and appeared to be deliberate attacks on civilians and civilian objects in violation of the laws of war." *Id.* "The coalition has bombed hospitals, school buses, markets, mosques, farms, bridges, factories, and detention centers." *Id.* "The UN Group of Eminent Experts on Yemen found that UAE and UAE-backed forces practiced arbitrary detention and torture, including sexual violence, in detention facilities they controlled." *Id.*

54. See *Saudi Arabia: Formula 1 Deal Despite Abuses*, *supra* note 5 (criticizing Formula One for not upholding its own human rights commitments). Worden stated, "[t]here is no evidence that Formula One or the sport's governing body, the FIA, has followed its own human rights policies in making its Saudi Arabia plans." *Id.* See also *Statement of Commitment to Respect for Human Rights*, *supra* note 3 (outlining commitments to human rights). Formula One states it is "committed to respecting

during the summer of 2020, Formula One announced the “#WeRaceAsOne Initiative” to promote racial and social equity both within its sport and in the world as a whole.⁵⁵ The events of 2020 and Formula One’s initiatives led driver Lewis Hamilton to create a commission to investigate diversity in motorsports.⁵⁶

Formula One’s commitments to human rights goes beyond its announcements from summer 2020; they are included in the FIA’s own statutes.⁵⁷ Further, the FIA’s Ethics Committee

internationally recognized human rights in its operations globally.” *Id.* Formula One made a commitment to investigate the “potential human rights impacts” of their conduct. *Id.*

55. See *Formula 1 Launches #WeRaceAsOne initiative to fight challenges of COVID-19 and global inequity*, *supra* note 3 (announcing #WeRaceAsOne initiative). Formula One committed to “tak[ing] a stand against racism.” *Id.* Formula One also established a task force to “listen to people from across the paddock, including the drivers, as well as externals and make conclusions on the actions required to improve the diversity and opportunity in Formula 1 at all levels.” *Id.* This announcement came in conjunction with Formula One’s governing body, the FIA, also making a commitment to equality. *Id.* See also *FIA #PurposeDriven Movement*, FIA (June 22, 2020), <https://www.fia.com/news/fia-purposedriven-movement> (announcing #PurposeDriven Pledge). As part of the pledge, the FIA stated it will “[c]ommit to fight systemic racism and prejudice and ensure equality of opportunity to succeed.” *Id.*

56. See Dr. Rhys Morgan & Yohanes Scarlett, *Accelerating Change: Improving Representation of Black People in UK Motorsport*, THE HAMILTON COMM’N, 7-8, 158-59 (2021), <https://www.sheffield.gov.uk/sites/default/files/2022-08/the-hamilton-commission-accelerating-change-improving-the-representation-of-black-people-in-uk-motorsport.pdf> (explaining purpose and findings of Hamilton Commission). As the only black driver in Formula One, Lewis Hamilton created the Hamilton Commission to increase diversity among the staff of Formula One, its teams, and the wider motorsport industry as a whole. *Id.* at 7-8. The report urges motorsport teams and the companies critical to their supply chains to increase diversity among their recruits. *Id.* at 158-59. The report also suggested that more encouragement for underrepresented demographics to take part in STEM programs in early education is crucial to increasing diversity in Formula One in the long run. *Id.*

57. See FIA, *supra* note 15, at art. 1 ¶ 2 (stating commitment to human rights). The FIA statutes state:

[t]he FIA shall promote the protection of human rights and human dignity, and refrain from manifesting discrimination on account of race, skin colour, gender, sexual orientation, ethnic or social origin, language, religion, philosophical or political opinion, family situation or disability in the course of its activities and from taking any action in this respect. The FIA will focus on underrepresented groups in order to achieve a more balanced representation of gender and race and to create a more diverse and inclusive culture.

Id. The FIA also commits to “respect the highest standards of governance, transparency, and democracy, including anti-corruption functions and procedures.” *Id.* at art. 1 ¶ 3.

prohibits discrimination by its members, participants, and partners.⁵⁸ The FIA court system allows claims to be brought for violations of FIA statutes and the code of ethics.⁵⁹

58. See FIA Code of Ethics pmbl., art. 1, ¶ 1-2 (establishing ethical obligations and defining scope). The FIA Code of Ethics apply to:

[t]he FIA and each of its Members, the FIA Administration (employees), the officials and delegates appointed by the FIA within its Championships, the FIA consultants and any persons or organisation belonging in any official capacity whatsoever to the FIA or to one of its Members (the “FIA Parties”), as well as *the promoters, partners, suppliers and any other FIA contracting party*

Id. at pmbl. (emphasis added). The FIA also commits to “safeguarding the dignity of the individual” and states that “[t]here shall be no discrimination between participants to the FIA activities on the basis of race, skin colour, gender, sexual orientation, ethnic or social origin, language, religion, philosophical or political opinion, family situation or disability.” *Id.* at art. 1, ¶ 1-2.

59. See FIA Judicial and Disciplinary Rules, art. 1-5 (describing FIA court system and jurisdiction). The FIA has both an International Tribunal and an International Statute or ethical code. *Id.* at art. 5.2.2. The International Tribunal may also exclude a party from future FIA sanctioned events. *Id.* See also *How the International Tribunal Works*, FIA (June 6, 2013), <https://www.fia.com/news/how-international-tribunal-works> (describing how cases move through International Tribunal). See also *Reform of the Kafala (Sponsorship) System*, *supra* note 42, at 3 (suggesting reforms to Kafala work sponsorship program). Some Gulf States have already taken steps to reform their work sponsorship programs. *Id.* Beginning in 2009, Bahrain reduced restrictions on migrant workers’ ability to travel in and out of the country. *Id.* Bahrain also granted migrant workers the right to change employers without written consent of their current employer. *Id.* In 2011, Kuwait indicated that it would abolish the Kafala system all together. *Id.* Similarly, Saudi Arabia’s Ministry of Labor recently drafted legislation that would allow for recruiting agencies to become work sponsors, rather than employers alone. *Id.* See also *Dismantling the Kafala System and Introducing a Minimum Wage Mark New Era for Qatar Labour Market*, *supra* note 42 (explaining Qatari reforms to Kafala system). Qatar’s reforms, which granted more freedom of movement for migrant workers and a higher minimum wage, were undertaken as part of Qatar’s “National Vision 2030.” *Id.* This program is intended to transition Qatar to a “more skilled and productive workforce.” *Id.* The Qatari reforms to the Kafala system stand to improve the living conditions of roughly “400,000 workers in the private sector,” and Qatar is also putting safeguards in place to ensure compliance with these new standards. *Id.* The ILO noted praise for Qatar’s reforms from international figures in the labor field. *Id.* See also FIA Judicial and Disciplinary Rules, art. 4, ¶ 1 (detailing FIA court system and jurisdiction). The FIA courts may investigate conduct either at its own volition or at the request of an interested party. *Id.* at art. 4.1. The International Tribunal has broad jurisdiction over anyone involved in FIA events or conduct, including officials and organizers of FIA sanctioned events, competitors, and even as broad as “persons having access to premises hosting any event that is subject to the regulations and decisions of the FIA” *Id.* at art. 5.1. Among the infringements which can be investigated by the FIA are the FIA Statutes and Regulations and the FIA Code of Ethics. *Id.* at art. 5.2.1(a). The International Tribunal may directly impose fines and sanctions on any party found to be in violation of an FIA statute or ethical code. *Id.* at art. 5.2.2. The International Tribunal may also exclude a party from future FIA sanctioned events. *Id.* See also *How the International Tribunal Works*, FIA (June 6, 2013), <https://www.fia.com/news/how-international-tribunal-works>

IV. ANALYSIS

A. *Further Reform of Workplace Standards and Employment Systems*

One potential pathway to righting the imbalance between Formula One's human rights commitments and its growing presence in the Gulf States would be further reform of the Kafala work sponsorship system.⁶⁰ Recent reform efforts, while progressive on their face, did little to expand the rights of migrant workers, or were reversed via subsequent legislation.⁶¹ More expansive reforms, like those encouraged by the ILO and passed by Qatar in 2020, could have a more lasting effect.⁶² The Director-General of the ILO, Guy Ryder, noted that the Qatari reforms to the Kafala system represent "what can be achieved when government, workers and employers work together with the ILO to promote decent work for all."⁶³

fia.com/news/how-international-tribunal-works (describing how cases move through International Tribunal).

60. *See Reform of the Kafala (Sponsorship) System*, *supra* note 48, at 1 (suggesting reforms to Kafala work sponsorship program). Some Gulf States have already taken steps to reform their work sponsorship programs. *Id.* at 3. Beginning in 2009, Bahrain reduced restrictions on migrant workers' ability to travel in and out of the country. *Id.* Bahrain also granted migrant workers the right to change employers without written consent of their current employer. *Id.* In 2011, Kuwait indicated that it would abolish the Kafala system all together. *Id.* Similarly, Saudi Arabia's Ministry of Labor recently drafted legislation that would allow for recruiting agencies to become work sponsors, rather than employers alone. *Id.*

61. *See id.* at 3 (describing shortcomings of Kafala system reform). Bahrain's 2009 reforms to the Kafala system were intended worker's rights to move freely and "leave abusive and exploitative workplaces." *Id.* These reforms, however, were quickly undermined in 2011, when recruitment lobbyists successfully advocated for legislation which introduced a one-year period in which new migrant workers could not legally change employers. *Id.* While Kuwait announced it would abolish the Kafala system, it only changed restrictions on changing work sponsors, but even those changes excluded migrant domestic workers. *Id.* Kuwait also announced a self-sponsorship system, but the ILO pointed out this system only applied to migrant workers with university degrees and was in effect, discriminatory. *Id.* The ILO also noted concerns with Saudi Arabia's proposed expansion of work sponsorship to recruitment agencies, who the ILO believes could also engage in "abusive and exploitative practices." *Id.*

62. *See Dismantling the Kafala System and Introducing a Minimum Wage Mark New Era for Qatar Labour Market*, *supra* note 48 (explaining Qatari reforms to Kafala system). Qatar's reforms, which granted more freedom of movement for migrant workers and a higher minimum wage, were undertaken as part of Qatar's "National Vision 2030." *Id.* This program is intended to transition Qatar to a "more productive and skilled workforce." *Id.*

63. *See id.* (noting significance of Qatari reforms). The Qatari reforms to the Kafala system stand to improve the living conditions of roughly "400,000 workers in the private sector," and Qatar is also putting safeguards in place to ensure compliance with

The ILO has called for the outright abolishment of the Kafala system but also outlined a series of reforms for all GCC states should the Kafala system remain.⁶⁴ Chief among these suggested reforms are the removal of employer sponsorship requirements and the ability for employees to terminate employment at will.⁶⁵ Just as the Qatari government and international labor organization have done, the FIA and Formula One could work with the ILO to develop best practices when making or extending contracts with host nations.⁶⁶

these new standards. *Id.* The ILO noted praise for Qatar's reforms from international figures in the labor field:

Sharan Burrow, General Secretary of the International Trade Union Confederation (ITUC) said, "This is very good news for migrant workers in Qatar. The leadership shown by Qatar in dismantling the kafala system and introducing a minimum wage is long-awaited news for all workers. The ITUC stands ready to support the Government of Qatar in the implementation of this historic move, to ensure all workers are aware of the new rules and benefit from them. Other countries in the region should follow Qatar's example." Roberto Suárez Santos Secretary-General of the International Organisation of Employers (IOE) said, "These reforms will make a major contribution to the efficiency and productivity of the Qatar labour market. IOE stands ready to support the Qatar Chamber of Commerce and Industry and the Government in supporting employers during this transition. Our congratulations to Qatar and its Chamber of Commerce!"

Id. The ILO added that this success was the result of cooperation with "employers' and workers' organizations to support the adoption and enhancement of law, policies and procedures relating to labour market mobility and the new minimum wage in Qatar." *Id.*

64. *See Reform of the Kafala (Sponsorship) System, supra* note 48, at 7-8 (outlining possible reforms to Kafala system). The ILO notes that abolishment of the Kafala system would be best, but that, "[t]he power enjoyed by the sponsor and recruitment agencies under the Kafala system and their ability to make lucrative profits out of it makes it likely they will resist attempts at reform." *Id.* at 7.

65. *See id.* at 7-8 (listing specific suggestions for reforming Kafala system). Along with at-will employment, the ILO also suggests that migrant workers be able to keep possession of their passports while working in one of the Gulf States. *Id.* Strict prevention of employers taking possession of passports, working documents, and mobile phones would also serve to better the lives of migrant workers. *Id.* Broader transparency and the establishment of a monitoring system would prevent any circumvention of newly established protections for workers. *Id.* The ILO also promotes implementing labor standards that apply to all working classes within the Gulf States. *Id.*

66. *See Dismantling the Kafala System and Introducing a Minimum Wage Mark New Era for Qatar Labour Market, supra* note 48 (describing ILO cooperation with multiple organizations to pass reforms).

B. Potential Litigation in Court Systems

Formula One was recently sued for alleged discrimination and rights violations in the United States.⁶⁷ Residents of Miami Gardens, Florida, who share their neighborhood with the Miami Dolphins' Hard Rock Stadium, sued Formula One after signing a deal to hold a grand prix in the area around the stadium.⁶⁸ While

67. See *Ferguson*, 2021 U.S. Dist. LEXIS 126001, at *2-*4 (summarizing claims of plaintiff against class defendants, including Formula One). Formula One and its owners, Liberty Media, were sued along with Miami Dolphins, Ltd. *Id.* at *1. The plaintiffs, residents of the community near the Miami Dolphins stadium, sued Formula One for alleged discrimination in the planning and location of the Miami Grand Prix. *Id.* at *2-*5.

68. See *id.* at *2-*9 (describing history of claim against Miami Dolphins and Formula One). The plaintiffs alleged a history of discrimination in Miami-Dade County, which saw segregation of races resulting in a concentration of primarily black residents in what is now Miami Gardens. *Id.* at *4. The plaintiffs noted the systemic disadvantages they have faced, including “overcrowding; poverty; high unemployment; substandard levels of municipal services . . . and discriminatory, violent, and oppressive policing.” *Id.* at *4-*5. Liberty Media and Formula One were originally planning to hold a grand prix in downtown Miami. *Id.* at *5-*6. Residents of downtown Miami, however, protested the proposed ten year deal, citing concerns over “anticipated excessive noise, damage to their health and hearing, and threats to the quiet enjoyment and values of their homes that would all accompany the event.” *Id.* at *6-*7. The ongoing protests from residents of downtown Miami led Formula One to eventually back out of the proposed deal. *Id.* In 2019, however, Formula One and Miami Dolphins, Ltd. began negotiations to hold a race in the area around Hard Rock Stadium in Miami Gardens. *Id.* at *7-*8. Miami Garden residents protested the proposed race in their hometown, citing many of the same concerns raised by residents of downtown Miami. *Id.* *9-*11. The county commissioner cited a report on the health hazards associated with a Formula One race:

[t]he report noted a 2013 study which stated that the noise level on a Formula One track could reach 140 decibels—comparable to the noise of a jet engine on takeoff. Noise at such a level is enough to pose immediate danger to hearing. The report also remarked that tires of race cars shred into tiny, invisible particles over the course of a race, producing poisonous dust. Noting traffic issues, the report observed that residents near the stadium could face difficulty accessing emergency services and connecting to major roadways and highways during the three weeks leading up to the races.

Id. at *9. During a hearing on the proposed grand prix, residents also noted the demographic differences between the two venues of downtown Miami and Miami Gardens. *Id.* In fact,

[o]ver 200 Miami Gardens residents attended, condemning the race plans and maintaining they were being discriminated against and treated differently as compared to more affluent communities in the County that have lower populations of racial minorities: according to the 2010 United States Census, only 72% of the population of downtown Miami is Black, while, in contrast, 73% of Miami Gardens' population is Black.

Id. at *9-*10. Despite these concerns, Formula One and Miami Dolphins, Ltd. reached agreement to hold an annual grand prix at Hard Rock Stadium. *Id.* at *11.

the lawsuit was ultimately unsuccessful, it stands as precedent for Formula One facing legal action on behalf of a disadvantaged population who claimed their quality of life suffered because of Formula One's activity in their area.⁶⁹

A potential claim against Formula One of the FIA could mirror a claim brought by the Netherlands Trade Union Confederation against FIFA in Swiss court.⁷⁰ While that case was eventually dismissed, it set a precedent for suing an international sporting organization based on an independent nation's laws.⁷¹ Similar claims could be brought in France or the United States, the

69. *See id.* at *38-*40 (dismissing all counts against defendants). The Judge dismissed all claims brought by the plaintiffs for failure to state a claim. *Id.* at *38-*39. Regardless, the Judge felt the need to express their personal opinion on the issue, outside of the legal analysis:

The Court sympathizes with the Plaintiffs' deep frustration with having an event of this magnitude, and all its attendant negative impacts on their quality of life, foisted upon them when their community has so thoroughly and vehemently opposed it. The Court is also acutely aware of the context in which this arises, where another community's campaign against the spectacle's taking place in their backyard was successful. The Court is, further, not unmindful of the long history of marginalization this community has suffered and continues to suffer, as alleged in the complaint. But it is not within the Court's purview to make a decision based on the wisdom, or even fairness, of the Defendants' decisions and plans.

Id. at *38.

70. *See Wilson, supra* note 48 (describing legal claim brought against FIFA). The Netherlands Trade Union Confederation brought a claim in Swiss commercial court against FIFA on behalf of a migrant worker from Bangladesh. *Id.* The claim alleged that FIFA did not effectively demand that Qatar "[observe] fundamental human and labour rights of migrant construction workers" *Id.* *See also* Hodge, *supra* note 48 (detailing Netherlands Trade Union Confederation reasoning for filing claim). The claim was filed in Swiss court because FIFA is headquartered in Switzerland. *Id.* The complaint noted that "FIFA has violated applicable legal standards under Swiss law protecting migrant workers from forced labour and other forms of exploitation." *Id.* An attorney representing the Netherlands Trade Union Confederation, Liesbeth Zegveld, noted, "[w]e have to bring the case initially in Switzerland, because the defendant is based there. If we could bring the case in the Netherlands we would stand more chance of success. That is why we are looking at pursuing FIFA in other jurisdictions as well." *Id.*

71. *See FIFA lawsuit (re migrant workers, Qatar), supra* note 48 (timelining claim in Swiss court). The Swiss court dismissed claims 1 and 2 brought against FIFA because they were too ambiguous, and claim 3 because the Swiss court did not have jurisdiction. *Id.* Notably, the court ruled that claim 1 "[did] not specify the Qatari authorities to which FIFA should turn in order to redress the humanitarian conditions of migrant workers" *Id.* *See also* Hodge, *supra* note 48 (explaining unprecedented nature of case). The author notes that "the move to take direct legal action against FIFA for labour abuses committed by contractors working on behalf of the host football association is unprecedented, but well within the realm of legal possibility." *Id.*

countries in which the FIA and Formula One Group are headquartered, respectively.⁷²

C. Hypothetical Claim in FIA Court System

Formula One and the FIA could theoretically face a claim within FIA's court system.⁷³ Under the FIA's judicial rules, a claim can be brought by any "interested party."⁷⁴ This claim would initially be heard in the FIA International Tribunal.⁷⁵ The International Tribunal holds broad jurisdiction over individuals and organizations with interests in an FIA sanctioned event.⁷⁶ The organizations who own venues and facilities used for Formula One races in the Gulf States fall under the jurisdiction of the International Tribunal.⁷⁷

Violations of the FIA Code of Ethics are among the listed infringements the International Tribunal may rule on.⁷⁸ The FIA's Code of Ethics explicitly notes individual dignity as a "fundamental requirement," and explicitly bans "discrimination between participants"⁷⁹ The Kafala work sponsorship system deprives

72. See *Organisation*, *supra* note 12 (listing FIA's headquarter locations). The FIA has its main office in Paris, France. *Id.* The FIA also has an office in Geneva, Switzerland. *Id.* See also *Contact*, LIBERTY MEDIA, <https://www.libertymedia.com/contact> (last visited Jan. 30, 2022) (listing headquarters of Liberty Media). Liberty Media, the parent company of Formula One Group, is headquartered in Englewood, Colorado. *Id.*

73. See generally FIA Judicial and Disciplinary Rules, *supra* note 59 (outlining rules of FIA internal court system).

74. See *id.* at art. 7.1 (describing how to bring claims before FIA courts). Under FIA procedure, "[t]he prosecuting body may, either at its own initiative or at the request of any interested party, conduct an inquiry into any actions or conduct of a person under the jurisdiction of the FIA and suspected of having committed one of the offences set out in Article 8.2." *Id.*

75. See *id.* at art. 8 (describing role of International Tribunal). The International Tribunal (IT) is the first level court of the FIA judicial system. *Id.* Importantly, "[w]ithout prejudice to the powers of the Stewards . . . the IT constitutes the first level of jurisdiction of the FIA, in particular for infringements and offences referred to in Article 8.2 and alleged to have been committed by the persons referred to in Article 8.1" *Id.*

76. See *id.* at art. 8.1 (listing all individuals and organizations under jurisdiction of IT). The IT's jurisdiction extends to all FIA members and representatives. *Id.* at art. 8.1(a)-(b). This jurisdiction also extends to "persons having access to premises hosting any event that is subject to the regulations and decisions of the FIA." *Id.* at art. 8.1(f). The jurisdiction extends further still, to any "employees, representatives, agents and service providers of the persons listed above, irrespective of any liability of those who employ them or are represented by them, and of the possibility of prosecuting those persons or bodies." *Id.* at 8.1(g).

77. See *id.* (expounding jurisdiction of IT on organizations).

78. See *id.* at art. 8.2.1(a) (listing types of infringements IT may hear).

79. See FIA Code of Ethics, *supra* note 58 (listing prohibited conduct under policy).

workers of their independence and dignity.⁸⁰ The ILO has also noted the discriminatory effect of some aspects of the Kafala system.⁸¹ If an interested party chose to bring a claim for violations of the Code of Ethics, the FIA prosecuting body could choose to bring the claim to the International Tribunal, who would make a ruling subject to the FIA Judicial and Disciplinary Rules.⁸²

80. See Robinson, *supra* note 45 (describing difficulties migrant workers faced under Kafala system). The Kafala migrant system is comparable to a form of modern slavery, and intentionally strips workers of their autonomy by restricting their movement, preventing workers from communicating, and forcing workers to become indebted to their own employers. *Id.* Employers often encourage workers to sign employment contracts with unfavorable pay and conditions, sometimes using contracts in languages the migrants do not understand to coerce them into signing. *Id.* The Kafala system also frequently enhances the unfair treatment of workers based on their race. *Id.* Qatar specifically sees higher rates of discrimination towards “darker-skinned African and South Asian workers.” *Id.* Women also experience higher rates of discrimination and abuse among populations of migrant workers in Kafala systems. *Id.*

81. See *Reform of the Kafala (Sponsorship) System*, *supra* note 48, at 5 (noting discriminatory nature of Kafala migrant system).

82. See *How the International Tribunal Works*, *supra* note 59 (explaining how International Tribunal functions). The International Tribunal is “made up of 12 members, who are recommended by the FIA Judicial Appointment Committee and then elected by the FIA General Assembly.” *Id.* For the structure of “each individual case, the President of the IT appoints a judging panel, made up of a minimum of three members, from among the members of the IT. One of them is appointed as President of the Hearing.” *Id.* The FIA sets out the instances under which the International Tribunal may be held:

[t]he President of the FIA, acting as the FIA prosecuting body, may conduct an inquiry into any actions or conduct of a person under the jurisdiction of the FIA and suspected of having committed one of the offences set out in the Judicial and Disciplinary Rules of the FIA (Article 8.2). Following the inquiry, the President of the FIA may draw up an inquiry report and decide to close the case or to bring the matter before the IT to make a decision in compliance with the FIA Judicial and Disciplinary Rules.

Id. The FIA also describes how proceedings through the International Tribunal take place:

[t]he IT hearing is held by the judging panel and presided over by the President of the Hearing. The President of the FIA, acting as the FIA prosecuting body, will be present, or represented by any person of its choice, to present its observations. The President of the Hearing will invite the Parties to set out their arguments, and the IT may hear witnesses, knowledgeable parties, experts and third parties. The Parties have the right to question these witnesses on their statements. Independently of the main parties to the case, the IT may hear, as a third party, any competitor in a major FIA Championship (including the FIA Formula One World Championship) who so requests and who could be directly and significantly affected by the decision to be taken. It is the responsibility of any such party to send the IT a written request to be heard. At any point during the hearing, the IT may decide, after

D. Appropriate Actions Reveal Double Standards

While the FIA and Formula One have received much criticism for their continued expansion into the Gulf States, they were praised for their response to the Russian invasion of Ukraine.⁸³ Formula One not only canceled the 2022 Russian Grand Prix but also indefinitely canceled all future races in Russia, and the FIA will no longer be holding any events in the country.⁸⁴ This prompt response, however, invited criticism from lawmakers in Europe, who questioned why Formula One and the FIA are silent on the human rights abuses in the Gulf States.⁸⁵

The European lawmakers' letter highlights a double standard in Formula One's approach to human rights, as the response

hearing the Parties but before making a final decision, to request further information or to postpone proceedings to a later hearing. The IT will deliberate in camera to reach its decision, without the presence of the FIA President, the prosecuted person or any other party. The IT may nevertheless decide to re-open the hearing at any point in its deliberation, for instance if it becomes aware of any new fact. In this case, the Parties shall be informed by a new notification for the further hearing.

Id.

83. See Bradley, *supra* note 43 (praising Formula One's decision to cancel Russian Grand Prix). Formula One cancelled the Russian Grand Prix, and the Haas team removed the branding of their main sponsor, Uralkali, a Russian company partly owned by the oligarch Dmitry Mazepin. *Id.* Formula One's decision to cancel the Russian Grand Prix was praised when compared to FIFA's initial response to the invasion of Ukraine, which was to allow the Russian national team to play under a neutral name and not on Russian soil. *Id.* MP Damiam Green called FIFA's response "feeble" and compared it to the IOC's response to the Russian doping scandal, which allowed Russian athletes to compete under for the "Russian Olympic Committee." *Id.*

84. See *Formula 1 terminates contract with Russian Grand Prix promoter*, *supra* note 43 (canceling all future races in Russia). See also *FIA Announces World Motor Sport Council Decisions in Relation to the Situation in Ukraine*, *supra* note 43 (banning FIA-sanctioned motorsports in Russia). The FIA is not allowing any "international/zone competition to take place in Russia or Belarus, until further notice." *Id.* The FIA also banned any national symbols or flags for Russia or Belarus at any competitions, and Russian or Belarusian drivers may not compete under their nationality. *Id.* The FIA president also condemned the Russian invasion of Ukraine. *Id.*

85. See *Ahead of Bahrain Grand Prix 90 lawmakers slam FI & FIA for 'actively facilitating sportswashing' of Gulf human rights abuses*, *supra* note 44 (summarizing lawmakers' letter to FIA). A group of 90 politicians wrote to the president of the FIA, Mohammed Ben Sulaym, accusing the FIA and Formula One of ignoring human rights abuses in the Gulf States. *Id.* The letter was sent shortly before the 2022 season opener in Bahrain, with the following race in Saudi Arabia. *Id.* The letter included members of the UK, EU, Spanish, Belgian, French, Irish, Italian, and German parliaments. *Id.* See also O'Hara et al., *supra* note 44 (addressing FIA president over human rights concerns). The lawmakers applauded Formula One's response to Russia's invasion of Ukraine but noted the lack of response for human rights abuses and atrocities in the Gulf States. *Id.*

to the invasion of Ukraine, was prompt despite ongoing human rights violations in the Gulf States.⁸⁶ Formula One ignored the ongoing human rights abuses that its organizers and participants viewed firsthand in Bahrain but extended its contract in the country.⁸⁷ Formula One's response to the Russian invasion of Ukraine is evidence that the continued expansion into the Gulf States represents a willful silence on the abuses in that region.⁸⁸

V. CONCLUSION

Since Formula One and the FIA have made public commitments to human rights in recent years, they have a duty to uphold those commitments.⁸⁹ Formula One's expansion into the Gulf States, however, creates an undeniable conflict with the goal of equity, decency, and peace.⁹⁰ While legal claims against Formula One have so far been unsuccessful, more avenues of change exist, and Formula One will continue to receive criticism if it does not work to reconcile its human rights commitments with its actions.⁹¹

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86. See O'Hara et al., *supra* note 44 (noting Formula One's actions create double standard). Lawmakers noted the horrible status of the Saudi Coalition invasion of Yemen and the numbers of civilians killed. *Id.* "The coalition has committed war crimes during their campaign in Yemen over the past seven years and contributed to what the United Nations has termed 'the world's worst humanitarian crisis.' This year alone, in a single airstrike the Saudi-led coalition killed at least 100 people." *Id.* The lawmakers also noted the ongoing imprisonment of political dissidents in Bahrain. *Id.*

87. See Lubbock & Rajab, *supra* note 25 (describing human rights abuses in Bahrain). Employees of the Bahrain International Circuit were removed by police because they were Shia. *Id.* See also Baldwin, *supra* note 25 (describing death of protestor on eve of Bahrain Grand Prix); *Formula 1 to race in Bahrain until 2036 after contract extension*, *supra* note 44 (announcing contract extension in Bahrain).

88. See *FIA Announces World Motor Sport Council Decisions in Relation to the Situation in Ukraine*, *supra* note 43 (banning FIA sanctioned motorsports in Russia). See also O'Hara et al., *supra* note 44 (noting human rights abuses in Gulf States). European lawmakers raised fears that Formula One and the FIA are "actively facilitating sportswashing in Gulf countries . . ." *Id.*

89. See *supra* Part II (describing Formula One and FIA's commitments to human rights).

90. See *supra* Part III (explaining criticism Formula One has received related to its expansion into Gulf States).

91. See *supra* Part IV (analyzing potential claims against Formula One, potential reforms, Kafala system reforms, and validity of criticism).