

COMMENTS

Hooligans and Barras Bravas: The Fight To Stem the Evolution of Small Time Neighborhood Soccer Rivalries to Large Scale Organized Crime

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I. INTRODUCTION

For generations, all across the globe, attending sporting events has been a tradition that has served as a unifying force within families, communities, and even nations. Gustavo Grabia¹ illustrated this point in a recent lecture given in Vicente Lopez, Argentina.² Gustavo's father was not a terribly affectionate parent but he was a fan of the soccer³ team Club Ferro Carril Oeste (Ferro).⁴ By the transitive property Gustavo also became a fan of Ferro, and when he was a child, the one hardwired connection Gustavo had with his father was going to the games together.⁵ Gustavo's father would take him all across Argentina to watch Ferro play.⁶ It did not matter where they were playing or how far it was; if Ferro were playing in Cordoba, Santa Fe, or Misiones, they would get in the car and drive the length of the country to see them play at the stadium.⁷ Gustavo said in his lecture that he cannot remember better times than those he had with his father as they were driving across the country en route to the stadiums; no better lunches than when they would stop at roadside eateries while they discussed their hopes for the day's games; and no greater moment than when his father hugged him after Ferro won their first championship in 1982.⁸ Over time these trips grew from being just Gustavo and his father to including friends of the family, and other members of their social sphere who all found the joy and value of this bonding mechanism.⁹ To Gustavo, and to millions of others like

1. Gustavo Grabia is an Argentine journalist who serves as the editor of the sports newspaper *Olé* and is the preeminent authority on the phenomenon of violence in Argentine soccer. See *Gustavo Grabia*, ANFIBIA, <http://www.revistaanfibia.com/autor/gustavo-grabia/> (last visited Nov. 4, 2016).

2. Gustavo Grabia, *Violencia Brava*, TEDX RÍO DE LA PLATA (Oct. 10, 2014), <http://www.tedxriodelaplata.org/videos/violencia-brava> [hereinafter *Violencia Brava*].

3. For the purposes of this Comment, I will refer to the game as "soccer" in spite of the more prevalent "football" because squabbling about nomenclature is a futile endeavor.

4. Ferro is a soccer team from the Buenos Aires neighborhood of Caballito founded in 1904 by employees of the Buenos Aires Western Railway. See *Historia*, CLUB FERRO CARRIL OESTE, <http://www.ferrocarriloeste.org.ar/> (last visited Nov. 4, 2016).

5. *Violencia Brava*, *supra* note 2.

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

him, soccer is more than a game, it is a sort of umbilical cord that created a profound attachment and sense of camaraderie with their fathers, mothers, and among communities as a whole.¹⁰

Going to the game as family is an idea that in recent years has all but disappeared in Argentina, as in much of Latin America. For many soccer fans in Argentina, it ended in the mid-1990s. Take for example April 30, 1994. Club Atlético River Plate (River)¹¹ was playing their crosstown archrivals Club Atlético Boca Juniors (Boca)¹² in Boca's stadium, La Bombonera, in which River Plate won 2-0.¹³ The mood in the stands was tense, but as usual, the fans of each team had their own entrances and exits from the stadium and were supposed to be directed by police toward those designated exits that would get them to their cars and back to their homes. Just outside the stadium, however, a group of sixty disgruntled Boca fans ran to an unpatrolled area where they had hidden duffel bags filled with guns and ambushed an unsuspecting group of River fans that were walking to their truck, parked a few blocks from La Bombonera.¹⁴ The Boca fans fired twenty to thirty shots at the rival fans, killing two, Walter Vallejos and Angel Delgado, and seriously injuring another three.¹⁵ This type of event became so common to the point that many ordinary people decided that it was no longer safe and altogether stopped going.¹⁶

Argentina and the United Kingdom have the oldest professional soccer leagues in their respective continents¹⁷ and share a nearly identical

10. *Id.*

11. Club Atlético River Plate is an Argentine soccer club based in the Buenos Aires neighborhood of Nuñez founded in 1901. See *Historia*, CLUB ATLÉTICO RIVER PLATE, <http://www.cariverplate.com.ar/historia> (last visited Nov. 4, 2016).

12. Club Atlético Boca Juniors is arguably the most popular soccer team in Argentina and one of the most well-known teams worldwide. It is based in the Buenos Aires neighborhood of La Boca and has had a deadly (literally) rivalry with River for over 100 years. See *Historia*, CLUB ATLÉTICO BOCA JUNIORS, <http://www.bocajuniors.com.ar/el-club/historia> (last visited Nov. 4, 2016); for a brief history of the rivalry see generally Pablo Lisotto, *El Historial del Superclásico, Década por Década: ¿Quién Sacó Más Diferencia?*, LA NACIÓN (Sept. 13, 2015), <http://canchallena.lanacion.com.ar/1827345-el-historial-del-superclasico-decada-por-decada-quien-saco-mas-diferencia>.

13. *La Trágica Emboscada del 30 de Abril del 94*, CLARÍN DIGITAL (Mar. 14, 1997), <http://edant.clarin.com/diario/1997/03/14/e-04702d.htm>.

14. *Id.*

15. *Id.*

16. *Violencia Brava*, *supra* note 2.

17. English professional soccer was founded in 1888, and Argentine professional soccer was founded in 1891. See Miguel Ángel Borroso, *Se Cumplen 125 Años de la Liga de Fútbol Inglesa, la Más Antigua del Mundo*, ABC (Apr. 17, 2013), <http://www.abc.es/deportes/futbol/20130416/abci-aniversarios-futboleros-britanicos-201304151914.html>; see also *Historia*, ASOCIACIÓN DEL FÚTBOL ARGENTINO, <http://www.afa.org.ar/institucional/historia.php> (last visited Nov. 4, 2016) [hereinafter ASOCIACIÓN DEL FÚTBOL ARGENTINO].

history in terms of how the sport developed. In both cases, the professional leagues developed from an amateur neighborhood-based competition to a full-scale national and international organization worth millions, upon millions of dollars. In both countries, as in much of the rest of Europe and South America, soccer is a product of the working class.¹⁸ Factory workers, railroad workers, or other working class people throughout the city would band together and form amateur teams and challenge each other to see which team was the best in the neighborhood.¹⁹ These amateur teams would eventually formalize the competition and create a national soccer association and institute a professional soccer league.²⁰ As the leagues developed, rivalries between local teams intensified, and as an extension of those rivalries, supporter groups became increasingly more violent towards each other as a show of loyalty to their team.²¹ Early violence in soccer was usually spontaneous and related to poor outcomes in the games.²² Starting in the 1960s, there was a shift away from spontaneous violence towards more organized, orchestrated attacks.²³

This is where the history of Argentine and U.K. soccer begins to diverge. Looking first to the United Kingdom, this type of organized and targeted violence is dubbed “hooliganism” and is perpetrated by “firms”—organized, but unofficial groups of working class youths (hooligans) that use the soccer team to create a unifying identity that get together and fight with firms that support rival teams.²⁴ Each firm will

18. ASOCIACIÓN DEL FÚTBOL ARGENTINO, *supra* note 17.

19. Ariel Hessayon, *The History of English Soccer, from Violent Peasants to Multi-Million Dollar Megastars*, WEEK (June 23, 2014), <http://theweek.com/articles/446170/history-english-soccer-from-violent-peasants-multimillion-dollar-megastars>; ASOCIACIÓN DEL FÚTBOL ARGENTINO, *supra* note 17. This is also a large part of the root of the seriousness of these rivalries. The teams were not geographically distant and the games between them would be for the pride of the community. It created a very strong connection to the neighborhood and fermented these vicious rivalries. To this day, most rivalries in Argentine soccer are still within individual cities and between teams that are just a couple neighborhoods apart from each other. The city of Buenos Aires has 36 stadiums that can hold 10,000 people or more. Each stadium belongs to a different team. Each team has its own rivalry or rivalries within the city. Alejandro Rebossio, *Buenos Aires, la Ciudad con Más Campos de Fútbol del Mundo*, EL PAÍS (Aug. 17, 2015), http://deportes.elpais.com/deportes/2015/08/17/actualidad/1439826746_040027.html.

20. Hessayon, *supra* note 19; ASOCIACIÓN DEL FÚTBOL ARGENTINO, *supra* note 17.

21. Tiffanie Wen, *A Sociological History of Soccer Violence*, ATLANTIC (July 14, 2014), <http://www.theatlantic.com/health/archive/2014/07/a-sociological-history-of-soccer-violence/374396/>.

22. *Id.*

23. *Id.*

24. Alexei Barrionuevo & Charles Newberry, *In Argentina, Violence Is Part of the Soccer Culture*, N.Y. TIMES (Nov. 26, 2011), http://www.nytimes.com/2011/11/27/sports/soccer/in-argentina-violence-is-part-of-the-soccer-culture.html?_r=2; Sean Ingle & Mark Hodgkinson,

support one specific team and have a name; for instance the “Chelsea Headhunters” is the firm linked to the London-based team Chelsea F.C.²⁵ Inevitably, however, some of these fights would escalate into skirmishes with the police, and occasionally larger confrontations that end in rioting, property damage and on occasion, death.²⁶

In Argentina, a firm goes by the name “barra brava,”²⁷ or barra, and hooligans themselves go by the same name. To avoid confusing between the organization and the individuals, this Comment will refer to all spectators that incite violence in soccer games as “hooligans.” Similar to their British counterparts, the barras started as hyper-devoted fans trying to show their loyalty to their team by singing songs, beating drums, and waving flags, but then evolved into rival gangs fighting each other on game days.²⁸ This became a sort of “honorable violence” or misplaced machismo where hooligans would show their love for their team by stealing a rival hooligan’s jersey, spray painting the wall of the rival stadium, and other petty acts to show that not only was the team better, but the fans were tougher, as well.²⁹ Here too, each team has an associated barra; for instance, Boca’s barra is called, “La Doce” (the Twelfth Player), and River’s barra is called, “Los Borrachos del Tablón” (The Drunks of the Leaderboard).³⁰ However, in Argentina, these barras developed a little further than they did in the United Kingdom. They became very organized and hierarchical, and quasi-officially linked to the teams they supported—this evolution started with the teams themselves giving the barras free tickets to ensure a contingent of fans at all home and away games.³¹

Over the years, the barras began feeling more entitled to rewards from the teams since they were at all the games supporting their team. So, by means of putting pressure on the team officials, the barras started

When Did Football Hooliganism Start?, GUARDIAN (Dec. 13, 2001), <https://www.theguardian.com/football/2001/dec/13/theknowledge.sport>.

25. Mof Gimmers, *Chelsea FC Has a Nationwide Following of Racist Hooligans*, VICE (Feb. 18, 2015), <http://www.vice.com/read/chelseas-racist-hooligan-diaspora-091>.

26. Rob Stewart, *Tottenham Await Verdict on Feyenoord Hooliganism*, TELEGRAPH (Dec. 16, 2006), <http://www.telegraph.co.uk/sport/football/2352394/Tottenham-await-verdict-on-Feyenoord-hooliganism.html>.

27. Barrionuevo & Newberry, *supra* note 24.

28. Miriam Wells, *Violence, Power, Soccer and Drugs: Argentina’s Barras Bravas*, INSIGHT CRIME (June 5, 2014), <http://www.insightcrime.org/news-analysis/violence-power-soccer-and-drugs-argentinas-barras-bravas>.

29. *Id.*; *Violencia Brava*, *supra* note 2.

30. Julio Chiappetta, *Qué Lugar Ocupa Cada Una de las Barras Bravas*, CLARÍN (Sept. 5, 2006), <http://edant.clarin.com/diario/2006/09/05/deportes/d-04401.htm>.

31. Wells, *supra* note 28.

collecting actual cash from the teams.³² The barras then got cut in on ticket sales and even began running their own ticket resale rackets.³³ With the inflow of cash, the barras became hierarchies of power and influence; the more connections a hooligan had with the team and the more a hooligan was willing to fight and shed blood “for his team,” the higher in the organization the hooligan could climb and receive more benefits.³⁴ With added organization and power came added access to income; the barras gained control of the right to charge for parking around the stadium—even when street parking is legal and free, people pay so that their cars do not end up stolen, or on fire.³⁵ The barras then expanded into running the concessions and merchandise in and around the stadium, and even getting a cut of the profits when their teams sold a player abroad.³⁶ The barras even began their own drug trafficking racket within the stands on game days.³⁷ On any given game day, barras of large teams are liable to make US\$30,000 on the parking racket alone.³⁸ The evolution of Argentine barras from small neighborhood hoodlums to powerful pseudo-mafias has not only perpetuated violence between rival barras but created strife within individual barras, with opportunistic hooligans vying for control of the barra and the lion’s share of the money.³⁹

This is a concern that goes beyond just the United Kingdom and Argentina. Such firms and barras exist in many countries with different levels of organization and propensity toward violence. Brazil saw thirty people die in soccer related deaths in 2013.⁴⁰ Hungary and Romania still struggle with containing hooligan groups that have adopted anti-Semitism as part of their ideology.⁴¹ Italian soccer players are frequently the subject of death threats and assault.⁴² With the ever-growing

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. Boca’s barra, La Doce, is one that has been wrought with internal fighting as members of the barra fight to gain control of barra as a whole. This has created rival factions within the barra as each faction fights and kills each other to gain control. Gustavo Grabia, *La 12: Historia de Una Traición*, ANFIBIA, <http://www.revistaanfibia.com/cronica/la-12-historia-de-una-traicion/> (last visited Nov. 4, 2016).

40. Fernando Duarte et al., *Football Violence: A View from Around the World*, GUARDIAN (Dec. 19, 2013), <http://www.theguardian.com/football/2013/dec/19/football-violence-view-around-world>.

41. *Id.*

42. *Id.*

importance and popularity of soccer's major international tournaments and fans going from city to city, and country to country, this is an issue of international crime that is still of tremendous concern as these hooligans take the fight abroad.⁴³

This Comment will focus primarily on the United Kingdom and Argentina, because as aforementioned, they have the oldest professional soccer leagues on their respective continents, and they share a very parallel history and development of their soccer leagues and violent traditions. Also, because the United Kingdom and Argentina have some of the most notorious examples of violence in soccer, they can serve as a representation of what the European and Latin American experience with this type of violence. Part II will cover European legislative responses to quell the growing tide of violence in soccer. The United Kingdom will serve as a model of an aggressive—and arguably successful—legislative framework aimed at curtailing violence. Additionally, the Union of European Football Association's (UEFA) legislative contributions will be noted within the scope of their influence as organizers of Europe's most prestigious tournaments. Part III will turn back to Latin America. Argentina has made numerous attempts to stem the spread of violence through legislation and executive action, though many of those efforts have been unsuccessful. Additionally, some action taken by the South American Football Confederation (CONMEBOL) that governs and organizes tournaments in South America will be contrasted with what UEFA has done. Part IV, in conclusion, will look at whether the U.K. model can work in countries like Argentina.

II. EUROPEAN REACTIONS TO HOOLIGANISM

A. *United Kingdom: A Model for Europe and Beyond?*

Before the start of the final game of the 1985 European Cup held in Heysel Stadium in Belgium between English club team Liverpool and Italian club team Juventus, the Liverpool hooligans charged the stands where Juventus supporters were seated, and forced the Juventus fans

43. In the 2006 World Cup held in Germany, English hooligans were responsible for any number of fights with the groups of fans or hooligans of other countries as well as bullying and threatening individual fans. *Hooligans*, BBC ONE (Aug. 1, 2006), <http://news.bbc.co.uk/2/hi/programmes/panorama/5219906.stm>. Most recently during the Euro championship held in France, Ukrainian and Polish fans had confrontations with the police. Jerry Lawton, *Police Use Tear Gas and Water Cannons on Rioting Poland and Ukraine Fans at Euro 2016*, EXPRESS (June 21, 2016), <http://www.express.co.uk/news/world/682036/Euro-2016-Poland-Ukraine-riot-fans>.

against a retaining wall.⁴⁴ Thirty-nine Juventus fans died from being crushed or trampled.⁴⁵ This was not the first event of this type or magnitude, but it was not until this tragedy that the United Kingdom began using its legislative muscle to try and control what was, at the time, a growing tendency toward extreme violence at soccer games by English soccer fans. The main legislative measures taken by parliament are detailed in the following Sections.

1. Sporting Events (Control of Alcohol Etc.) Act 1985

In the wake of the Heysel disaster, Parliament responded with the Sporting Events (Control of Alcohol etc.) Act (1985). This Act serves to control the use and availability of alcohol in and around the stadium on any given game day.⁴⁶ Any person who is found to be drunk or in possession of alcohol in or around the stadium grounds during a soccer game is guilty of an offense.⁴⁷ The term “drunk” is not defined in the Act, thus granting the police generous amounts of discretion to determine who qualifies as being too drunk. The Act also creates an offense for being drunk or being in possession of alcohol on any form of public transportation that is traveling in the vicinity of a stadium on a game day.⁴⁸ Furthermore, it holds the operator of the transportation (that is, the bus driver, train operator, or coach driver) that knowingly permits alcohol to be carried on to the public transport guilty of violating the Act.⁴⁹

The enforcement provision of the Act grants the police the right to enter any part of the stadium or its grounds to search individuals that are suspected of being in violation of any portion of this Act.⁵⁰ A police officer may also stop any form of public transportation to search individuals if the officer has a suspicion the Act is being violated or has been violated.⁵¹ Most notably, a police officer may, at any time during the duration of the game, force the closure of a bar whose alcohol sales

44. For a full description of the carnage of that game, see Oliver Brown, *Heysel Disaster of 1985 Is Football's Forgotten Tragedy and Liverpool and Juventus' Minimal Reaction Prolongs Hurt*, TELEGRAPH (May 28, 2015), <http://www.telegraph.co.uk/sport/football/teams/liverpool/11635476/Heysel-disaster-of-1985-is-footballs-forgotten-tragedy-and-Liverpool-and-Juventus-minimal-reaction-prolongs-hurt.html>.

45. *Id.*

46. Sporting Events (Control of Alcohol etc.) Act 1985, c. 57, pmbl. (Eng.).

47. *Id.* § 2.

48. *Id.* § 1.

49. *Id.*

50. *Id.* § 7.

51. *Id.*

are deemed detrimental to the safety and orderly conduct of the fans.⁵² Any person that is held to be guilty of a violation of this Act is subject to a fine.⁵³

2. Public Order Act 1986

This Act amended the Sporting Events (Control of Alcohol etc.) Act (1985) to include a ban on fireworks and pyrotechnics.⁵⁴ The term “firework” is defined in the legislation as “any article or substance whose main purpose is the emission of a flare for the purposes of illuminating or signaling . . . or the emission of smoke or a visible gas.”⁵⁵ Any person who is found entering the stadium or trying to enter the stadium, with one such firework is guilty of an offense.⁵⁶

This legislation also introduced the idea of “exclusion orders,”—a court order that a person guilty of a soccer-related offense would not be permitted to enter “any premises for the purpose of attending any prescribed football match.”⁵⁷ Any person that was found in violation of the Sporting Events (Control of Alcohol etc.) Act (1985), or threatened any violence against another person or the property of another person, would be guilty of an offense and could be sanctioned with an exclusion order *only* if the court found that it would help deter further violence at soccer games.⁵⁸ The exclusion order had a minimum duration of three months and violations of the exclusion order could result in summary conviction and incarceration of up to one month.⁵⁹ Police officers were given the right to arrest suspected violators without a warrant.⁶⁰

3. Football Spectators Act 1989

Because the Public Order Act (1986) offered no real mechanism for police to determine who was in violation of an order and risked too many false positives, the U.K. legislature passed The Football Spectators Act (1989) to be able to identify and differentiate authorized spectators from those who were not authorized.⁶¹ This Act was further designed to control the admission of spectators to soccer games and provide the

52. *Id.* § 6.

53. *Id.* § 8.

54. Public Order Act 1986, c. 64, § 3, sch.1 (Eng.).

55. *Id.*

56. *Id.*

57. *Id.* § 30.

58. *Id.*

59. *Id.* § 32.

60. *Id.*

61. Football Spectators Act 1989, c. 37 (Eng.).

courts with a mechanism whereby criminal proceedings against hooligans were to be governed.⁶² To achieve this end a “national membership scheme” was established wherein only those spectators that apply for and become members would be permitted to attend soccer games within England and Wales.⁶³ The issuing authority, the “Football Membership Authority,” would have discretion to create criteria for who is eligible for membership, who is not, and under what circumstances that membership could be revoked; the entire process would be controlled by and overseen by the Secretary of State.⁶⁴ The Act created the “Football Licensing Authority” that would have the responsibility of issuing licenses to stadiums to ensure that they comply with the standards of the Act.⁶⁵

The Act also created provisions for games that took place outside of England or Wales. It grants the courts the ability to issue “restriction orders” to a person guilty of a soccer-related offense if the court believes that such an order will prevent any violence in or around soccer games.⁶⁶ These orders can last anywhere between two and five years, and require that the accused report to a designated police station on the day and time of a restricted soccer game where the police, at their discretion, could choose to hold the offender in custody for up to six hours if they reasonably believe it will help deter violence.⁶⁷ This legislation created a system of accountability for local law enforcement, and a database of individuals that were known to be violent offenders at soccer games. This information could then be transmitted abroad so that foreign authorities could be alerted if one such hooligan violated his restriction order by not reporting to a police station on the day of a designated international match.

4. Football (Offences) Act 1991

In the 1970s and 1980s, there began to be an increase in racist and anti-Semitic, rightwing overtones among hooligan soccer fans in the United Kingdom.⁶⁸ Hooligans would frequently make monkey noises at black players on the field of play.⁶⁹ In one particularly heinous display of

62. *Id.*

63. *Id.* § 2.

64. *Id.* § 4-5.

65. *Id.* § 8.

66. *Id.* § 15.

67. *Id.* § 21A(3).

68. Tilak Dutta, *A Brief History of Football Chants in England*, GOALDEN TIMES (Apr. 19, 2015), <http://www.goaldentimes.org/a-brief-history-of-football-chants-in-england/>.

69. *Id.*

racism after the Deptford Fire of 1981 where thirteen black youths died,⁷⁰ fans of Millwall F.C. chanted, “we all agree n***** burn better than petrol.”⁷¹ To combat growing ties between soccer, hooligans and intolerance the Football (Offences) Act (1991) made it an offense to engage in any chanting that that is “racialist [in] nature,” or threatening, insulting, or abusive to anyone by reason of race, color, nationality, or ethnic or national origin.⁷² Additionally, this Act also created an offense for the throwing of any objects towards the pitch or anywhere else in the stands, as well as an offense for invading the field of play without a lawful excuse.⁷³

5. Football (Offences and Disorder) Act 1999

In an effort to finally get tough on hooliganism, this Act was passed as an amendment to Football Spectators Act (1989) and served to strengthen and broaden some of the provisions set forth in the Football Spectators Act (1989).⁷⁴ The restriction orders were renamed “international football banning orders” (international banning orders) and could go so far as to require that a person relinquish their passport to a designated police station up to five days prior to an international soccer game.⁷⁵ The duration of the international banning orders was extended to between a three year minimum and a ten year maximum.⁷⁶ Furthermore, it made the international banning order a sort of default punishment for any soccer-related offense because any magistrate that chooses not to issue a banning order has to state before an open court why he does not feel that the criteria for such punishment has been met.⁷⁷

On the domestic side of the game, the Act changes the name of the “exclusion acts” set forth in the Public Order Act (1986) to “Domestic Football Banning Orders” (banning order).⁷⁸ The courts were given the power to issue these banning orders in addition to a sentence imposed for the commission of an offense and, similarly to the international banning orders, if a magistrate chose not to issue the domestic banning order, he

70. For more information on this event, see *Deptford: Back to the Beginning*, GUARDIAN (May 14, 1981), <http://www.theguardian.com/uk/1981/may/14/race.world>.

71. Dutta, *supra* note 68.

72. Football (Offences) Act 1991, c. 19, § 3 (Eng.).

73. *Id.* §§ 2, 4.

74. Football (Offences and Disorder) Act 1999, c. 21 § 1 (Eng.).

75. *Id.* §§ 1, 3.

76. *Id.* § 4.

77. *Id.* § 5.

78. *Id.* § 6.

would have to justify his decision in open court.⁷⁹ The banning orders can last between one year and three years.⁸⁰ The punishment for breach of a banning order was also amplified and could result in summary conviction and incarceration for up to six months.⁸¹

6. Football (Disorder) Act 2000

During the European Championship in 2000, English hooligans travelled to the host nation of Belgium and incited riots and fighting in the street before the English national team faced off against Germany.⁸² The violence resumed after England defeated Germany 1-0 and went on for two days prompting UEFA to threaten to kick England out of the tournament if there was any more violence.⁸³ This was an unprecedented move by UEFA that resulted in tremendous amounts of embarrassment for the United Kingdom as a whole and inspired the passage of the Football Disorder Act (2000).

The Act repealed most of Football (Offences and Disorder) Act 1999 but did so in order to broaden the scope and severity of the possible punishment for soccer-related violence. First of all, the Act eliminated any distinction between domestic banning orders and international banning orders; meaning that if a hooligan was subject to a banning order, the order immediately applied both for any game held in England or Wales as well as any game held anywhere abroad.⁸⁴ Additionally, where banning orders could previously only be given for soccer-related offenses, they could now be issued against any person that "has at any time caused or contributed to violence or disorder in the United Kingdom or elsewhere," upon the request of the chief of police.⁸⁵ Any person that was subject to a banning order was now *required* to relinquish his or her passport to the police in the days leading up to the game, where previously this requirement was within courts' discretion.⁸⁶ A violation of the banning order requirements could result in up to six months imprisonment, a fine up to £5000, or both.⁸⁷

79. *Id.*

80. *Id.* § 8.

81. *Id.*

82. Rajeev Syal, Andrew Alderson & Ian Cobain, *Thugs Mar England's Night of Triumph*, TELEGRAPH (June 18, 2000), <http://www.telegraph.co.uk/news/worldnews/1343707/Thugs-mar-Englands-night-of-triumph.html>.

83. *Id.*; Vivek Chaudhary, *England Told: More Rioting and You're Out*, GUARDIAN (June 18, 2000), <http://www.theguardian.com/football/2000/jun/19/euro2000.sport3>.

84. Football (Disorder) Act 2000, c. 25, § 1(a) (Eng.).

85. *Id.* § 14B(2), sch. 1.

86. *Id.* § 1(c).

87. *Id.* §§ 14J(2), 21D(3), sch. 1.

7. Effectiveness

Based on the most recent statistics published by the United Kingdom's Home Office in September of 2015, the argument could be made that the measures in place are producing favorable results. Issuance of new banning orders has gone down from 678 in 2013 to 484 in 2014, and have shown relatively steady decline since 2010 when 960 new banning orders were issued.⁸⁸ Existing banning orders have also been tapering off for the last several years; as of the publication of the relevant statistics, there are 2181 banning orders in force, which is down from 3174 in 2011.⁸⁹

Arrests related to soccer have also been on the decline. During the 2014-2015 soccer season there were 1873 arrests, down 400 from the previous season.⁹⁰ There has been a relatively steady decline in soccer-related arrests since 2010 where there were more than 3000 people arrested for soccer-related offenses.⁹¹ The most common offenses are public disorder, alcohol offenses, and violent offenses amounting to 34%, 22%, and 16%, respectively.⁹² These figures amount to only 4.9 arrests per every 100,000 spectators.⁹³ While there is clearly a lot of room left for improvement, given that 2181 banning orders and more than 1000 yearly arrests is still very high, the important thing is the downward trend that, if continued, could lead to—ideally—an eventual eradication of organized soccer-related violence.

Though it would be somewhat myopic to assume that these legislative measures alone are responsible for the perceived decline in hooliganism in the United Kingdom, the measures cannot be disregarded. The clubs themselves have also contributed to the effort—in some cases voluntarily, but also by compulsion as the abovementioned Football Licensing Authority will only issue licenses to teams if their stadiums comply with the regime of law promoting safety at soccer games. For example, given that most hooligans are young working class men, clubs took the step of increasing ticket prices pretty substantially to attract a different demographic of supporters. The price increase made the games inaccessible to many working class men (the ones known to be

88. U.K. HOME OFFICE, FOOTBALL-RELATED ARRESTS AND BANNING ORDERS SEASON 2014 TO 2015 (Nov. 26, 2015), <https://www.gov.uk/government/publications/football-related-arrests-and-banning-orders-season-2014-to-2015/football-related-arrests-and-banning-orders-season-2014-to-2015>.

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

the troublemakers), while attracting a more middle class demographic. Furthermore, the clubs began issuing more season tickets so that the clubs could know exactly who was coming in the stadium—and should these ticketholders get violent it made it easier to identify them and ban them.⁹⁴ The soccer-related crime statistics do speak to the effectiveness of these reforms in, at least, beginning the process that would then emanate through the individual clubs and the league as a whole to make soccer games events where ordinary people could feel safe to attend.

B. UEFA and Strict Liability

1. Rules of Discipline

Turning to look, in brief, at the effects of violence in Europe more broadly and the legislative measures taken to combat this phenomenon, one must consider the actions taken by UEFA and what effects they've had. UEFA is the governing body of European soccer and thus has influence and jurisdiction over every major and minor soccer league in Europe.⁹⁵ It is an association composed of the fifty-five national soccer associations throughout Europe⁹⁶ and it is responsible for organizing the most prestigious and potentially lucrative tournaments in European soccer at a national and club level.⁹⁷ UEFA has its own disciplinary regulations relating to its international tournaments and the standard in UEFA tournaments is one of strict liability.⁹⁸ UEFA disciplinary regulations can be applied against all member associations and all club teams, as well as match officials and the players themselves.⁹⁹

Article 16 of the disciplinary regulations states that the host associations are in charge of ensuring a generally safe environment and orderly conduct in and around the stadium before, during, and after the duration of the game. The host association can avoid responsibility only if it can show that they were in no ways negligent in the planning of the event.¹⁰⁰ However, immaterial of whether a team is the host association

94. See generally *Premier League Ticket Prices: Which Clubs Charge the Most?*, GUARDIAN (June 19, 2013), <http://www.theguardian.com/news/datablog/2013/jun/19/premier-league-ticket-prices-club-charge-the-most>.

95. *About UEFA*, UNION EUR. FOOTBALL ASSOCIATIONS, <http://www.uefa.org/about-uefa/index.html> (last visited Nov. 4, 2016).

96. *Id.*

97. *Id.*

98. UNION OF EUROPEAN FOOTBALL ASS'NS, UEFA DISCIPLINARY REGULATIONS, art. 2 (2016), http://www.uefa.org/MultimediaFiles/Download/Regulations/uefaorg/UEFACompDisCases/02/37/00/86/2370086_DOWNLOAD.pdf [hereinafter UEFA DISCIPLINARY REGULATIONS].

99. *Id.* art. 3.

100. *Id.* art. 16.

or not, the teams are held strictly liable for disruptive conduct from their fans.¹⁰¹ Such conduct includes: the throwing of objects, lighting of fireworks, acts of damage, and “any other lack of order or discipline observed inside or around the stadium.”¹⁰² Furthermore, because violence does not always take on a physically destructive manifestation, teams can also be held liable for fans that yell or do anything that would insult human dignity in the form of racism or prejudice against another’s religion or ethnic origin.¹⁰³

UEFA grants itself a lot of discretionary space to determine what kind of sanctions to impose on a team whose fans exhibit any of the abovementioned behavior. Article 6 of the disciplinary regulations states that the following are some of the sanctions that can be imposed on a team:

- (a) Reprimand,
- (b) Fine,
- (c) Annulment of the result of a match,
- (d) Order that a match be forfeited,
- (e) Playing of a match behind closed doors,
- (f) Full or partial stadium closure,
- (g) Withholding of revenues from UEFA competition,
- (h) Disqualification from competitions in progress and/or exclusion from future competitions,
- (i) Withdrawal of a title or award.¹⁰⁴

UEFA has the right to choose any or all of these sanctions, depending on the nature and severity of the misconduct of the fans. If the misconduct relates to an Article 14 violation (racism or discriminatory conduct) the minimum measure of discipline is a partial stadium closure for a first offense.¹⁰⁵ A second offense minimum is a full stadium closure and a fine of €50,000.¹⁰⁶ Any violations thereafter are punished with more than one game played behind closed doors, a stadium closure, forfeiture of the

101. *Id.*

102. *Id.*

103. *Id.* art. 14. This is a far larger concern than one might suspect; it is not uncommon to see Nazi flags flown at soccer games in Europe or have fans throw bananas at black players as a means of calling them monkeys; Tom Conn, *UEFA Close Off Two Sections of the Santiago Bernabeu Due to ‘Nazi Flag’, Real Madrid to Appeal*, INSIDE SPANISH FOOTBALL (May 31, 2014), <http://www.insidespanishfootball.com/110710/uefa-close-off-two-sections-of-the-santiago-bernabeu-due-to-nazi-flag-real-madrid-to-appeal/>; Lauren Frayer, *Spain Fines Team of Racist, Banana-Throwing Fan, But Is It Enough?*, NPR (May 9, 2014), <http://www.npr.org/sections/codeswitch/2014/05/09/310990212/spain-fines-team-of-racist-banana-throwing-fan-but-is-it-enough>.

104. UEFA DISCIPLINARY REGULATIONS, *supra* note 98, art. 6 (noting the full list of possible sanctions available to UEFA).

105. *Id.* art. 14.

106. *Id.*

match, and a deduction of points or disqualification from the competition.¹⁰⁷ UEFA statutes do give the accused teams the recourse of appealing any UEFA decision to the Court of Arbitration for Sport within ten days of UEFA decision being handed down.¹⁰⁸

In recent history, UEFA has only taken action twice against instances of violence from hooligan firms in spite of plenty of examples of violent behavior. In 2006 hooligan supporters of the Rotterdam-based team Feyenoord¹⁰⁹ began fighting in the streets and destroying windows in the center of the French city of Nancy in advance of the UEFA Champions League game against the local team of AS Nancy.¹¹⁰ During the game, the Feyenoord fans began tearing down the walls dividing different sections of the stands, throwing their seats, bottles and other objects onto to the field, at the police and at stewards. Police ultimately had to use tear gas to disperse the mob.¹¹¹ UEFA responded by issuing a fine against Feyenoord of 200,000 Swiss francs, ordered that their next two home games be played behind closed doors, and the disqualification of the team from the Champions League.¹¹² Feyenoord appealed UEFA's decision to the Court of Arbitration for Sport claiming that it cannot be held responsible for actions of individuals in spite of its efforts to keep hooligans out. However, the court rejected all of Feyenoord's arguments and upheld the sanctions.¹¹³

Then, in 2007, the Serbian club team of Partizan Belgrade fans behaved similarly during a game against the Bosnian team of Zrinjski Mostar for the UEFA Cup.¹¹⁴ Partizan fans fought against police and rival fans by throwing rocks, flares, and ripped up seats.¹¹⁵ UEFA's reaction was far milder here than it was against Feyenoord in spite of

107. *Id.*

108. UNION OF EUROPEAN FOOTBALL ASS'NS, UEFA STATUTES, art. 62 (Dec. 24, 1997), http://www.uefa.org/MultimediaFiles/Download/OfficialDocument/uefaorg/WhatUEFAis/02/09/93/25/2099325_DOWNLOAD.pdf.

109. Feyenoord is a team whose hooligan firm (a firm which goes by the name "*Het Legioen*"—The Legion) are no strangers to violent or discriminatory outbursts before, during, or after games and have thus been on the business end of UEFA disciplinary action and are frequently the cause for heightened security measures during games. See *Dutch Police on Alert as Feyenoord Fans Produce T-shirt Threatening Roma Fans*, GUARDIAN (Feb. 25, 2015), <http://www.theguardian.com/football/2015/feb/25/dutch-police-on-alert-as-feyenoord-fans-produce-t-shirt-threatening-roma-fans>.

110. TED PHILIPAKOS, ON LEVEL TERMS: 10 LEGAL BATTLES THAT TESTED AND SHAPED SOCCER IN THE MODERN ERA 156 (2015).

111. *Id.* at 155.

112. *Id.* at 157.

113. *Id.* at 160.

114. *Partizan Won't Appeal UEFA Cup Ban*, CNN (July 26, 2007), <http://edition.cnn.com/2007/SPORT/football/07/26/serbia.partizan/>.

115. *Id.*

both teams' supporters having a long history of violent conduct.¹¹⁶ Partizan Belgrade was kicked out of UEFA Cup and fined €30,056.¹¹⁷ Unlike Feyenoord the year prior, when Partizan Belgrade appealed the decision, this appeal was denied by UEFA given the violent history of the Partizan hooligan faction.¹¹⁸

2. Effectiveness

There is little consensus within UEFA to move to a strictly zero tolerance policy in the application of these regulations because of the massive economic effect it can have on the team and the loss of revenue it creates for UEFA.¹¹⁹ A notable example of this reluctance was seen when Feyenoord's hooligans violated UEFA's rules again and started a riot in Rome in February of 2015 before a game against the local team of Roma.¹²⁰ UEFA took no action against Feyenoord even though its hooligans were responsible for nearly three million euros in damage, claiming that it has no jurisdiction since the events did not happen in the stadium.¹²¹ This goes against the very wording of Article 16 that says that teams can be held liable for actions in or around the stadium, before, during, or after the game.¹²²

The effectiveness of these rules in preventing violence in soccer is tied to the willingness of UEFA to enforce them, and thus motivates teams to make changes to how they handle their fans. Most recently, in France, another UEFA tournament was tainted by hooliganism. The European Championship (Euro) was held in France and the early stages of the tournament saw incidents of violence between Russian and English hooligans, as well as clashes between hooligans and the police.¹²³ After the violence between the Russian and English hooligans, UEFA threatened a suspension against the Russian soccer team, but did not

116. *Id.*

117. *Partizan Disqualified from UEFA Cup*, UNION EUR. FOOTBALL ASSOCIATIONS (Aug. 7, 2007), <http://www.uefa.com/uefaeuropaleague/news/newsid=568390.html#partizan+disqualified+from+uefa+cup>.

118. *Id.*

119. PHILIPAKOS, *supra* note 110, at 164.

120. *UEFA Will Not Discipline Feyenoord over Rome Riots: ANP*, DUTCH NEWS (Feb. 20, 2015), <http://www.dutchnews.nl/news/archives/2015/02/uefa-will-not-discipline-feyenoord-over-rome-riots-anp/>.

121. *Id.*

122. UEFA DISCIPLINARY REGULATIONS, *supra* note 98, art. 16.

123. Lawton, *supra* note 43.

make good on the threat and instead only fined the Russians €150,000.¹²⁴ In the wake of this incident, Russian president, Vladimir Putin, simply mocked the English hooligans for getting beaten up by a significantly fewer number of Russian hooligans.¹²⁵ UEFA needs more than just a regulatory framework and disciplinary code; they need to legitimize their rules in the eyes of the various European soccer federations as well as among nations that have invested in those federations.

III. LATIN AMERICAN REACTIONS TO BARRAS BRAVAS

A. *Argentina: Treating the Symptoms and Not the Disease*

Argentina has become one of the worst (if not the absolute worst) examples of systemic violence in sport. As of the time of this writing, there have been 312 reported soccer-related deaths since the inception of professional soccer in the country, and nearly 40% of them occurred in the last sixteen years.¹²⁶ The Argentinian government has made any number of attempts to slow the growth of this violent trend perpetuated by barras through legislation with minimal success because of the close association that the barras share with team organizations and enforcement powers. Argentina's main pieces of legislation aimed at reducing violence in soccer are discussed below.

1. Law 23.184 (1985)

Much like in the United Kingdom, Argentina's first piece of legislation aimed specifically at fighting soccer-related violence was passed in 1985 and, when one considers the provisions made in the legislation, it shows just how much deeper the problem had already become in 1985. The law applies to any event that takes place in or around the stadium before, during or after the game itself.¹²⁷ The law punished relatively minor civil infractions like the throwing of objects, disturbing the lines to get into the stadium, running onto the field of play,

124. Owen Gibson, *Russia Handed Suspended Euro 2016 Disqualification and Lash Out at England*, GUARDIAN (June 14, 2016), <https://www.theguardian.com/football/2016/jun/14/russia-handed-suspended-euro-2016-disqualification-fined-150000-uefa>.

125. Olivia Blair, *Euro 2016: Vladimir Putin Mocks 'Thousands of England Fans Beaten up by 200 Russians' in Violent Clashes*, INDEPENDENT (June 17, 2016), <http://www.independent.co.uk/news/people/euro-2016-vladimir-putin-russia-violence-england-fan-fights-doubt-a7087971.html>.

126. *Lista de Víctimas*, SALVEMOS AL FÚTBOL, <http://salvemosalfutbol.org/lista-de-victimas-de-incidentes-de-violencia-en-el-futbol/> (last visited Nov. 4, 2016).

127. Law No. 23184, June 21, 1985, B.O. 25704, art. 1 (Arg.).

or in any way creating a situation of danger in the stands.¹²⁸ These types of infractions were punishable by a banning order of a couple weeks or arrest for up to twelve days.¹²⁹

However, Law 23.184 (1985) also creates a number of criminal infractions for common soccer-related crimes of the day. Any person who is found to be resisting or disobeying the instructions of police officers, destroying public or private property, or impeding the normal functioning of public transportation vehicles could be arrested and sentenced to jail for one month to three years, depending on the severity of the offense.¹³⁰ More notably, however, the law starts by saying that anyone who intentionally, negligently, or in a moment of anger, kills another person in a soccer game would be subject to triple the amount of jail time provided by the penal code for such crimes.¹³¹ Anyone found attempting to bring any weapon or explosive into the stadium would be penalized with a one to six year prison term—assuming the crime ended at possession and did not escalate into a larger crime.¹³²

Additionally, any director, manager, player, or other type of employee of the soccer team itself that consented to the storing of weapons in the stadium would likewise be held liable of a crime and could be sentenced to jail for one month to three years.¹³³ For any of the criminal provisions of the law a judge could, in addition to the prison sentence, issue a banning order against the hooligan that could last from six months to five years and would be enforceable by requiring that the offender report to the police station for the date and time of any local soccer game.¹³⁴ If the sentence was being carried out against an employee of the team itself, the judge could ban the individual from resuming their role within the organization for one to fifteen years.¹³⁵

2. Law 24.192 (1993) and Law 26.358 (2008)

Both these laws were passed as amendments, modification and expansion of Law 23.184 (1985).¹³⁶ The amendments first expanded the scope of applicability of the legislation so that members of barras could

128. *Id.* art. 22-25.

129. *Id.*

130. *Id.* art. 6, 8, 9.

131. *Id.* art. 2.

132. *Id.* art. 3.

133. *Id.* art. 4.

134. *Id.* art. 10.

135. *Id.*

136. Law No. 24192, Mar. 23, 1993, B.O. 27606, art. 1 (Arg.); Law No. 26358, Mar. 18, 2008, B.O. 31370, art. 1 (Arg.).

be detained not only in and around the stadium, but also while in transit to or from the stadium.¹³⁷ These amendments added a list of civil infractions that include: the prohibition of fireworks or pyrotechnics in the stands, the prohibition of entering the stadium with alcoholic beverages, a prohibition against outside vendors selling alcohol within 800 meters of the stadium, and also holds ticket takers liable should they fail to give the ticket stub back to the entering guest, or if they allow people without tickets to enter the stadium.¹³⁸ Such offenses could result in five to fifteen days of incarceration or a fine of up to one thousand pesos.¹³⁹

This law also expanded criminal liability by stating that if any employee of a soccer team (manager, director, player, or any other employee) was a party to a crime, the organization as a whole would be jointly liable with the individual for a fine of ten thousand to one million pesos, and the judge could order the closure of the stadium for up to sixty days.¹⁴⁰ If the criminal is a known hooligan or otherwise not an employee of the team, this amendment changes the banning order requirement from having the individual present himself to the police station to simply issuing a restraining order holding that the hooligan is not allowed within 500 meters of the stadium during game days.¹⁴¹ Anyone who has been to a soccer game in Argentina in recent years knows that even the most basic of these provisions of the law are not followed terribly closely, if at all. In 2014, when River was playing against the Colombian team of Atlético Nacional for the final of the South American Cup, the River fans lit up the night sky with flares, fireworks, and smoke bombs as the teams entered the field of play.¹⁴² Such broad use of fireworks was not particular to that game for being the final of a championship nor was it even remotely an isolated event to River's barra. Such displays are absolutely commonplace in Argentine soccer and—though they provide quite the spectacle—they delegitimize the law by implying (or outright stating) complicity between police that are supposed to be enforcing the law, the teams that are coordinating security, and the barras, and allows

137. Law No. 26358, Mar. 18, 2008, B.O. 31370, art. 1 (Arg.).

138. Law No. 24192, 31, 40-41, Mar. 23, 1993, B.O., art. 23 (Arg.).

139. *Id.*

140. *Id.* art. 11.

141. Law No. 26358, Mar. 18, 2008, B.O. 31370, art. 3 (Arg.).

142. Reading about this particular disregard for law cannot possibly do justice to the magnitude of what goes on in stadiums; the only way to really appreciate it is to see it. Casitalb River Plate Videos, *El Mejor Recibimiento del Mundo—River Plate vs Atlético Nacional—Copa Sudamericana 2014*, YOUTUBE (Dec. 10, 2014), https://www.youtube.com/watch?v=Jw_nXzwiCtY.

the creation of a very hostile environment for visiting fans and visiting players.¹⁴³

3. Law 24.788 (1997) and Decree 1466/1997

Law 24.788 (1997) is a national law aimed at combating alcoholism in general but, in relevant part, it outlawed the sale and consumption of alcohol inside a soccer stadium on any given game day.¹⁴⁴ On the other hand, Decree 1466 (1997) promulgates the creation of two entities under the authority of the Ministry of Interior; the first being the “Committee for the Security in Soccer,” (the committee) whose charge it would be to execute Law 23.184 (1985) and the consequent amendment of Law 24.192 (1993).¹⁴⁵ The second organization created by this decree was the “National Council for the Prevention of Violence and Security in Soccer” (National Council), and would serve to assist the committee in all things related to security and the prevention of soccer-related violence, and the compiling and publishing of statistics related to violent incidents related to soccer games.¹⁴⁶ Two important aspects of the National Council’s objective are to: (1) categorize every soccer game as one of “high risk,” “medium risk,” or “low risk” based on factors such as what percentage of fans supported the visiting team, historic rivalry between the teams, and previous violent incidents between the two teams; and (2) establish a “National Database on Violence in Soccer” to keep track of known violent members of barras so that information could be disseminated to team organizations and their security personnel to prevent their entry into the stadiums through collaboration between the Argentine Soccer Federation, the individual clubs, and the federal police of Argentina.¹⁴⁷ Also of note, the National Council would be composed of a number of different agency members, but among them is the Secretary for the Prevention of Drug Addiction and the Fight Against Narcotrafficking, which certainly implies the escalating problems that were and are being

143. For further examples of different barras using pyrotechnics in a notably un-sanctioned manner and to illustrate how widespread of an issue this can be, see Vlog, *Top 5 Mejores Recibimientos del Fútbol Argentino 2014/15*, YOUTUBE (Jan. 15, 2015), <https://www.youtube.com/watch?v=uEEHcFEwArc>.

144. Law No. 24788, Mar. 31, 1997, B.O. 28618, art. 4 (Arg.).

145. Decreto [Decree] No. 1466/1997, Dec. 30, 1997, B.O. 28808, art. 1 (Arg.).

146. *Id.* arts. 5, 9a-b.

147. Resolución [Resolution] No. 1949/99, Sept. 18, 1999, B.O. 29248, art. 4(8) (Arg.); Resolución [Resolution] No. 838/2009, Mar. 23, 2009, B.O. 31624, art. 5 (Arg.).

experienced in Argentine soccer stadiums because of the barras expanding their enterprise into the sale of drugs during soccer games.¹⁴⁸

In addition to creating these agencies, the decree required that the teams themselves take steps to make the stadiums safer on game days. Teams were required to install closed circuit television cameras throughout the stadium, establish lines of communication with local police and other first responders, and provide adequate lighting throughout the stadium and its surroundings.¹⁴⁹ Teams were required to designate someone responsible for supervising the security in the stadium during the game. This entails ensuring that no illicit items are being brought into the stadium while spectators enter, that no person that appears drunk be allowed into the stadium, and that rival fans be kept separate during the game.¹⁵⁰ The person placed in charge of security in and around the stadium has to have been a Superior Officer in the police force, or have other irrefutably valid credentials that he or she is capable of filling that post,¹⁵¹ and is able to serve as the intermediary between the team itself and the police forces that would be serving as the security force. This legislation fails because the teams themselves are required to pay the police for the security at the stadium.¹⁵² This model is riddled with problems. For instance, oftentimes the police cost more money than the teams make in a game so teams try and cut corners to not have to have as many police officers present.¹⁵³ To combat this idea, the police will allow rival barras to fight each other and make adequate police presence seem more indispensable in the eyes of any given team.¹⁵⁴ The worst case scenario appears when teams (most frequently the smaller, more thinly capitalized teams) defer the payment of the police to the barras themselves, rendering the entire legislation effectively useless.¹⁵⁵

148. Decreto [Decree] No. 1466/1997, Dec. 30, 1997, B.O. 28808, art. 5 (Arg.). For reports linking barras to drug trafficking, see Wells, *supra* note 28.

149. Decree No. 1466/1997, art. 13.

150. *Id.* arts. 14-15.

151. Resolución [Resolution] No. 1202/2012, Oct. 10, 2012, B.O. 32500, art. 1 (Arg.).

152. *La Seguridad es un Negocio*, CLARÍN (May 19, 2000), <http://edant.clarin.com/diario/especiales/violenciaenelfutbol/nota6/d-05802.htm>.

153. *Id.*

154. *Id.*

155. In a documentary about barras bravas in Argentina aired by Canal + interviews with leaders of barras discussed the sort of masochism that is involved when the barras are in charge of paying the police *have* to crack down on serious offenses but at the same time because the barras are putting up the money the police let any number of violations slide including the consumption of alcohol in and around the stadium, the use of fireworks, the possession of weapons, etc. Henry Araoz, *Documental Barras Bravas Argentina*, YOUTUBE (Aug. 5, 2012), <https://www.youtube.com/watch?v=FyhpFOLnMSQ>.

4. April 30, 1994 Revisited: The Case of *Walter Vallejos and Angel Delgado v. Boca*

After the grisly murder of Walter Vallejos and Angel Delgado in 1994 by members of Boca's barra, their surviving relatives brought a civil suit against Boca itself, stating in their complaint that Boca should indemnify the families for the loss of Walter and Angel.¹⁵⁶ The case was appealed all the way to the Supreme Court, and in 2013, the Court dismissed the complaint against Boca, saying that the complaint was inadmissible on grounds that employees of Boca itself were not involved in the murder.¹⁵⁷ The wisdom of the Court's refusal to hold Boca strictly liable for the actions of its barras (which are, as aforementioned, unofficially on the team's payroll) is debatable at best, and highly problematic at worst. Just a few months after the Supreme Court issued this decision, prior to a friendly game (that is, no tournament at stake at all) between Boca and San Lorenzo, there was a firefight between rival factions of Boca's barra where more than one hundred shots were fired, just outside San Lorenzo's stadium.¹⁵⁸ Two men were killed, nearly eighty were wounded, and authorities were able to detain only one of the gunmen.¹⁵⁹ Because of this incident, the Ministry of Security decreed that visiting fans would no longer be allowed at soccer games; only registered fans of the home team would be allowed.¹⁶⁰ This order was then repealed in 2015 for a trial period, but did not produce the desired results and the ban on visiting team fans was reinstated.¹⁶¹ The state is effectively admitting that it cannot protect anyone that sets foot into a soccer stadium, so in an attempt to mitigate the potential damage, only the fans of one team are allowed to go in the stadium. This, however, fails to capture the depth of the problem. As shown by the shootout between the rival factions of the Boca barra, the violence is no longer limited to fighting between teams. The amount of money that a barra can make through its various rackets makes being the top hooligan of the

156. DyN, *Un Fallo de la Corte Suprema Favorece a Boca*, LA NACIÓN (Jan. 14, 2013), <http://www.lanacion.com.ar/1545608-un-fallo-de-la-corte-suprema-favorece-a-boca>.

157. *Id.*

158. Alejandro Casar González, *No Importa ni Cuándo ni Dónde: La Pelea de la Barra de Boca es a Muerte*, LA NACIÓN (July 22, 2013), <http://www.lanacion.com.ar/1603098-violento-tiroteo-entre-dos-fracciones-de-la-barra-brava-de-boca>.

159. *Id.*

160. *Hasta Nuevo Aviso, el Fútbol Argentino so Jugará Sin Público Visitante*, LA NACIÓN (July 23, 2013), <http://www.lanacion.com.ar/1603615-hasta-nuevo-aviso-el-futbol-argentino-se-jugara-sin-publico-visitante>.

161. *Este Fin de Semana Vuelven los Hinchas Visitante a las Canchas, Pero Sólo en Tres Partidos*, LA NACIÓN (Sept. 16, 2015), <http://www.lanacion.com.ar/1828384-el-fin-de-semana-vuelven-los-hinchas-visitantes-a-las-canchas-en-tres-partidos>.

barra hierarchy a very alluring prospect. Of course, the only way to reach the peak of the barra hierarchy is through a violent takeover.

5. Effectiveness

Looking at the efforts made by the Argentine legislature and contributions by the Supreme Court, it is clear that Argentina is insistent on ignoring the root cause of this disease and aiming to treat only the symptoms of it. Banning the sale and consumption of alcohol, adding lights and cameras, and even prohibiting fans of the visiting team can amount to very little when the root of the problem is found in the deep-rooted ties between the barras and the teams themselves, and the barras and the police. Furthermore, barras have infiltrated all levels of influential society beyond just the team officials. Politicians use barras to engender support for their party by giving barras tickets to World Cup games and paying for travel expenses in exchange for spreading their political ideology through society.¹⁶² Barras also serve as security contingents for politicians; they are involved in the illegal sale of U.S. dollars and have even functioned as assassins when political opponents need to be dispensed with.¹⁶³

Noting soccer-related arrests is too narrow a view in Argentina when there are so many deaths that occur in soccer-related altercations; 2015 saw one of the lowest death tolls in soccer for some time where there were only six reported cases of soccer-related deaths, but in 2014 there were eighteen, and in 2013 there were thirteen soccer-related deaths.¹⁶⁴ So long as there is complicity (voluntary or coerced) between the teams, politicians, police, and the barras, there is no value in added legislation. Compliance and enforcement need to be where the process starts.

B. CONMEBOL and Strict Liability

1. Rules of Discipline

Much like UEFA in Europe, CONMEBOL is an association of associations; the ten South American soccer associations that represent

162. Gustavo Grabia, "El Viaje lo Pagó un Dirigente K," OLÉ (July 7, 2010), http://www.ole.com.ar/fuera-de-juego/viaje-pago-dirigente_0_293970624.html.

163. Luis Custodio, *Los Negocios de las Barras Bravas Argentinas Alimentan la Violencia*, EL PAÍS, <http://www.elpais.com.uy/economia-y-mercado/negocios-barras-bravas-argentinas-alimentan.html> (last visited Nov. 4, 2016); Gustavo Grabia, *¿Halcón Asesino?*, OLÉ (Oct. 24, 2010), http://www.ole.com.ar/futbol-ascenso/Halcon-asesino_0_359364127.html.

164. *Lista de Víctimas*, *supra* note 126.

each member country comprise the membership of CONMEBOL.¹⁶⁵ CONMEBOL is in charge of organizing all international club teams, and national team tournaments, most notably the Copa Libertadores, and the Copa America.¹⁶⁶ For any of the international tournaments sanctioned by CONMEBOL, the disciplinary rules of CONMEBOL have jurisdiction over any misconduct and much like in Europe, the rule is technically one of strict liability.¹⁶⁷

The disciplinary rules of CONMEBOL state that host teams and/or organizing associations are responsible for safety in and around the stadium on game days, before, during, and after the duration of the game.¹⁶⁸ This applies to any incident that could reasonably occur, and failure to provide adequate security could result in a penalty against the host team or association.¹⁶⁹ Specifically in relation to spectators, CONMEBOL prohibits any fan from the following conduct: (1) invading the field of play; (2) throwing any object; (3) lighting any kind of pyrotechnics; (4) causing damage to property; (5) inappropriate gestures or words intended to promote political, racist, offensive, or otherwise provocative ideologies; (6) any other lack of proper behavior; and (7) any fights.¹⁷⁰ Teams that are liable for sanctions due to the behavior of their spectators can be sanctioned in any of the following ways (this list is not all inclusive but contains only the heaviest in the list of possibilities):

- (a) Fine of no less than USD 100 but no more than USD 400,000,
- (b) Annulment of the match score,
- (c) Repetition of the match,
- (d) Deduction of points,
- (e) Obligation to play a match behind closed doors,
- (f) Total or partial closing of the stadium,
- (g) Prohibition to play in a particular stadium,
- (h) Obligation to play in a third party country,
- (i) Disqualification from the competition,
- (j) Relegation to an inferior division,
- (k) Prohibition of the sale or purchase of tickets,

165. *The National Associations of CONMEBOL*, S. AM. FOOTBALL CONFEDERATION, <http://conmebol.com/en/content/national-associations-conmebol-0> (last visited Nov. 4, 2016).

166. *Id.*

167. CONFEDERACIÓN SUDAMERICANA DE FÚTBOL, REGLAMENTO DISCIPLINARIO, art. 5 (2014), http://www.conmebol.com/sites/default/files/reglamento_disciplinario_2014_1.pdf.

168. *Id.* art. 6.

169. *Id.*

170. *Id.* arts. 11-12.

- (l) Prohibition against sale or purchase of players.¹⁷¹

Additionally, if a team is to be sanctioned because of fans yelling or doing anything that is racially discriminatory, an additional fine of no less than US\$3000 is to be imposed as well, based on the severity of the offense.¹⁷²

2. Effectiveness

Although the regime of rules and sanctions is a notably strict one, the effectiveness of the legislative order turns to the issue of enforcement, or lack thereof. During the Copa Libertadores in 2015, River was slated to play its cross-town rival Boca in Boca's stadium again.¹⁷³ As the River players were coming onto the field to begin the second half, a Boca hooligan sprayed pepper spray at the River players, causing injuries and irritation to some of the players' eyes and skin, causing the game to be suspended.¹⁷⁴ Because it was an international tournament, CONMEBOL had jurisdiction and took the opportunity to issue sanctions and all things considered, it was a pretty light sentencing. Boca was eliminated from the 2015 Copa Libertadores, required to play the following eight games behind closed doors, and a US\$200,000 fine.¹⁷⁵ The popular opinion in the press, and certainly the opinion of River directors, was that the penalty should have been harsher—at least one year of suspension from international tournaments.¹⁷⁶ To make matters worse, the sentence was made even lighter when CONMEBOL cut the sentence by 75% and only required that Boca play two games behind closed doors.¹⁷⁷

CONMEBOL is prone to such amnesty or simply ignoring the rules. As noted above, in the game between River and Atlético Nacional, there was no shortage of the use of fireworks, gas bombs, and flares.¹⁷⁸ No penalties or sanctions were given. In a game between Boca and fellow Argentine club team Rosario Central for the South American Cup,

171. *Id.* art. 22 (containing the full list of possible sanctions).

172. *Id.* art. 12.

173. *Vergüenza en la Bombonera: Hinchas de Boca le Tiraron Gas Pimienta a los Jugadores de River y el Partido se Suspendió*, LA NACIÓN (May 15, 2015), <http://www.lanacion.com.ar/1792848-boca-river-superclasico-libertadores>.

174. *Id.*

175. *Es Oficial: A Boca le Dieron por Perdida la Serie ante River, Pero la Sanción no Fue Dura*, LA NACIÓN (May 17, 2015), <http://www.lanacion.com.ar/1793484-es-oficial-a-boca-se-lo-dio-por-perdida-la-serie-ante-river-y-se-le-aplico-una-dura-sancion>.

176. *Id.*

177. *Amnistía de la Conmebol a Boca: Le Redujo la Sanción por el Escándalo del Gas Pimienta*, INFOBAE (Feb. 2, 2016), <http://www.infobae.com/2016/02/02/1787170-amnistia-la-conmebol-boca-le-redujo-la-sancion-el-escandalo-del-gas-pimienta> [hereinafter INFOBAE].

178. Casitalb River Plate Videos, *supra* note 142.

the Rosario Central hooligans threw rocks onto the field, striking some of Boca's players.¹⁷⁹ Rosario Central was sanctioned by CONMEBOL to play one game behind closed doors, but this too was forgiven entirely.¹⁸⁰ Without proper enforcement, these rules serve no purpose and in no way hold teams or fans accountable for the damage that is done to the game as a whole or to individuals who end up hurt or dead.

IV. CONCLUSION

The United Kingdom has experienced some marked success in the fight against hooligans and soccer-related violence. The level of violent incidents and arrests have been going steadily in the right direction, and it can be said that the aggressive legislative framework put forward is, at least in part, to thank for that achievement. However, this aggressive legislative model of deterrence is not likely to be a strategy with universal application. The United Kingdom has the luxury of a citizenry that by and large respects the rule of law and a judiciary that, though not without its criticism, is not that easily corruptible.¹⁸¹ Argentina (like many others in Latin America and Europe) does not share in this luxury.¹⁸² In Argentina alone, presidents have forced out judges or entire Supreme Courts in order to protect their political interests,¹⁸³ packed federal courts with political supporters,¹⁸⁴ changed the composition of the Supreme Court,¹⁸⁵ and judges have been forced to sign resignation letters before being allowed to take their post in order to coerce complicity with government leaders.¹⁸⁶ Such tinkering with the judiciary is symptomatic of a corroded system of justice that can be exploited for individual gain.

Because the barras make extraordinary amounts of money through their various rackets, they have the required liquidity to breach these ethical holes in the judiciary and the political system as a whole. The

179. *Un Proyectil y Sangre: Así Arrancó el Partido Para Orion*, TN (Sept. 4, 2014), http://tn.com.ar/deportes/after-play/un-proyectil-y-sangre-asi-arranco-el-partido-para-orion_529871.

180. *Conmebol Autorizó a Central a Jugar con Público Local en el Debut en la Libertadores*, LA CAPITAL (Feb. 2, 2016), <http://www.lacapital.com.ar/conmebol-autorizo-central-jugar-publico-local-el-debut-la-libertadores-n502301.html>.

181. TRANSPARENCY INT'L, GLOBAL CORRUPTION REPORT 282 (Diana Rodriguez & Linda Ehrichs eds., 2007).

182. In Argentina, for instance, more than 70% of people believe that the judiciary is corrupt. In the United Kingdom, less than 40% of people believe their judiciary is corrupt. *Id.* at 13.

183. *Id.* at 139.

184. *Id.* at 142.

185. *Id.*

186. *Id.* at 44.

barras buy favors and protection from the police,¹⁸⁷ and the judiciary, as well as from politicians and club officials; even though, theoretically, these are the very people that should be fighting against the barras.¹⁸⁸ The rules of the sport and the rule of law, as concept, are further delegitimized if CONMEBOL is not an active participant in the process of rooting out violence. There is no value in legislation—be it from the federal government or CONMEBOL—if those are not used or violations of that legislation are simply forgiven in short order.¹⁸⁹

Some security experts have suggested that an entire overhaul of the system is required because of the deep set ties between the barras and politicians.¹⁹⁰ The issue then becomes one that is not about lack of legislation, but one of rampant corruption that mocks the rule of law. This is less an issue of crowd control, and more an issue of weeding out mafia-like organizations that are operating within communities at all levels, including the justice system. Some legislators have proposed a very harsh stance against barras—a law that would make association with a barra a crime in and of itself.¹⁹¹ This proposal was struck down, however, given the ease with which that could turn into a witch hunt.

Gustavo Grabia frequently suggests that people stop going to the games entirely.¹⁹² If the only people in attendance are the barras and nobody else is around to fund their rackets, they would only survive for so long before they simply imploded; if the barras have no money and no access to it, their appeal to current and future barra members would decrease, as well as their ability to buy influence.¹⁹³ If barras cannot buy influence then their utility to politicians, police officers, and judges would become a nullity.¹⁹⁴ This seems an unlikely solution, as Grabia himself admitted in his lecture, because people in Argentina (as in many places around the world) are unconditionally devoted to the game of

187. Police are often in direct contact with heads of barras bravas and when a known barra is detained the leaders of the barras negotiate a deal to keep the detained barra out of jail in exchange for being added to the barras' payroll—which is also the team's payroll. *Violencia Brava*, *supra* note 2.

188. Wells, *supra* note 28.

189. INFOBAE, *supra* note 177.

190. “*El sistema Europeo Para Controlar a los Barras es Inaplicable en Argentina*,” LA GACETA DEPORTIVA (Mar. 5, 2009), <http://lgdeportiva.lagaceta.com.ar/nota/316405/deportes/sistema-europeo-para-controlar-barras-inaplicable-argentina.html>.

191. *El Oficialismo Ataca la ley Anti ‘Barras Bravas’ por ser una “Estigmatización Brutal”*, NOTIMÉRICA (Dec. 3, 2015), <http://www.notimerica.com/politica/noticia-oficialismo-ataca-ley-anti-barras-bravas-ser-estigmatizacion-brutal-20150312203206.html>.

192. *Violencia Brava*, *supra* note 2.

193. *Id.*

194. *Id.*

soccer and cannot be convinced to boycott a game.¹⁹⁵ In any case, for a boycott to be effective, activists and the public at large must care passionately about the harm that is being created, and the cost of participation must be relatively low.¹⁹⁶ Most people in soccer-loving countries, like Argentina, are far more committed to soccer than they are to the idea of possibly getting rid of the plague that is the barras; so even if the general public cares about the issue, the cost of participation—that is, not going to the games—is far too much to ask in order to make the boycott serve its function.

However, Argentina had elections in 2015 and the Kirchner government—which, in large part, facilitated the strengthening of the barras and the further corruption of the judiciary—was beaten out of power and the new president of the republic is the former president of Boca, Mauricio Macri.¹⁹⁷ A man intimately aware with the issues created by barras has already taken steps towards cleaning out this system. Arrangements are being made for the state to control security at soccer games within Argentina, and the state will be in charge of controlling the admission of fans who have violated any of the existing legislation, or for having an active banning order.¹⁹⁸ This will take pressure off the team to find money and inspire compliance in security officers.¹⁹⁹ Furthermore, unlike previous presidents, Macri has vowed to take the executive out of the judiciary and is beginning the process of modernizing the judiciary to increase transparency and allow the judiciary to operate more independently with an eye toward rooting out corruption at all levels.²⁰⁰ Legislative attempts thus far have treated only the symptoms and not the disease that allows barras to continue existing and operating. Yet the changes that are being implemented by the new administration can legitimize the law in Argentina, and begin chipping away at the issue of violence in soccer and ideally give soccer back to the people and communities who truly love the game.

195. *Id.*

196. Daniel Diermeier, *When Do Company Boycotts Work?*, HARV. BUS. REV. (Aug. 6, 2012), <https://hbr.org/2012/08/when-do-company-boycotts-work>.

197. Ignacio de los Reyes, *Change Ahead: Mauricio Macri's Vision for Argentina*, BBC (Dec. 10, 2015), <http://www.bbc.com/news/world-latin-america-34899223>.

198. Iván Ruiz & Fernando Czyz, *El Estado Está Dispuesto a Asumir Todos los Costos de la Seguridad del Fútbol Argentino*, LA NACIÓN (Jan. 27, 2016), <http://www.lanacion.com.ar/1865867-el-estado-esta-dispuesto-a-asumir-todos-los-costos-de-la-seguridad-del-futbol-argentino>.

199. *Id.*

200. *Mauricio Macri Pidió que el Consejo de la Magistratura "Tome un Rol de Liderazgo más Importante"*, LA NACIÓN (June 28, 2016), <http://www.lanacion.com.ar/1913382-mauricio-macri-pidio-que-el-consejo-de-la-magistratura-tome-un-rol-de-liderazgo-mas-importante>.