

MAKING THE GAME BEAUTIFUL AGAIN: LESSONS FROM BRAZIL  
PROVIDE A ROADMAP FOR REBUILDING SOCCER IN NIGERIA

*John Cates\**

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\* J.D., University of Georgia School of Law, 2012; M.B.A., University of Georgia, Terry College of Business, 2012; B.A., Philosophy, University of Georgia, 2007.

## I. INTRODUCTION

Nigerian soccer<sup>1</sup> stands at an important crossroads where laws and regulations must be put in place if the nation's favorite sport is to survive. Soccer is a source of significant social and economic benefit for Nigeria,<sup>2</sup> and to let it fall into utter disrepair would prove devastating to an already struggling nation and its economy.<sup>3</sup> As will be discussed below, corruption and mismanagement, by both the government and the Nigeria Football Federation (NFF) have caused Nigeria's best players to leave for Europe to play in the prominent leagues of England and France, among others.<sup>4</sup>

However, Nigeria is not alone in experiencing growing pains when it comes to its most popular sport. Brazil was in a similar position during the last few decades, but the corrective measures taken by its government's leaders appear to have saved the sport, or at least placed it on the right path.<sup>5</sup> Like soccer in Brazil, soccer is so intertwined with the fabric and economy of Nigeria that, if the sport remains in corrupt hands and continues its demise, the entire nation will suffer.<sup>6</sup>

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<sup>1</sup> The terms "soccer" and "football" will be used interchangeably throughout this paper, as "soccer" is referred to as "football" in countries outside of the United States.

<sup>2</sup> See Wiebe Boer, *A Story of Heroes, of Epics: The Rise of Football in Nigeria*, in FOOTBALL IN AFRICA: CONFLICT, CONCILIATION, AND COMMUNITY 59, 59–60 (Gary Armstrong & Richard Giulianotti eds., 2004) (explaining that soccer in Nigeria is much more than a sport, bringing together people of different racial and religious backgrounds and promoting a sense of pride in the nation's teams and leagues).

<sup>3</sup> See Gabriel Omoh, *Which Way Nigeria in 2009 – Economy in Shambles*, VANGUARD (Mar. 8, 2009), available at <http://allafrica.com/stories/200903091104.html> (noting that the economic downturn was especially harsh in Nigeria, and explaining that these economic effects were exacerbated by corruption and mismanagement).

<sup>4</sup> See *Nigerian Soccer Players in Europe*, THE BEST ELEVEN (Aug. 12, 2008, 9:30 AM), <http://www.thebesteleven.com/2008/08/nigerian-soccer-players-in-europe.html> (detailing the large number of Nigerian players who play outside of Nigeria for some of the most recognizable and prestigious soccer teams in the world).

<sup>5</sup> Simon Hooper, *Brazil's Ugly Game: World Cup Shouldn't Distract from Corruption Fight*, CNN.SI.COM (July 4, 2002), [http://sportsillustrated.cnn.com/soccer/news/2002/07/04/waag\\_july4/](http://sportsillustrated.cnn.com/soccer/news/2002/07/04/waag_july4/).

<sup>6</sup> See Oluwashina Okeleji, *FIFA Loses Faith in Nigeria*, BBC SPORT (Jan. 27, 2009), <http://news.bbc.co.uk/sport2/hi/football/africa/7853991.stm> (discussing the problems faced by the Nigerian government and soccer-governing bodies as they prepared Nigeria for the 2009 FIFA Under-17 World Cup; and also detailing both the importance of football to the people of Nigeria, and Africa as a whole, and the need for successful World Cup events staged in African nations).

There are similarities between these two countries that allow for this comparison: both recently changed from military dictatorships to democracies,<sup>7</sup> both have large amount of talented soccer players, both place soccer at a very high level of importance as a point of national pride, and both are trying to deal with the corruption and mismanagement that led to the exodus of the country's best soccer players<sup>8</sup>. Given all of the similarities between Brazil and Nigeria—Nigerian leaders should seek to understand the history, politics, and the national role of soccer in Brazil. If any good can come from the tough lessons that Brazil learned, it may be that Nigeria can apply these lessons to stop the demise, and therefore ensure a better future for its beloved game and for its citizens. Nigeria may attain such a goal by passing laws and regulations similar to those enacted in Brazil, with the anticipation that they will have a similar effect.

This Note argues that Nigeria will benefit from enacting laws and regulations resembling those passed in Brazil during the last fifteen years. Part II provides a brief historical background of the game of soccer in Brazil, the relevant political history of Brazil, and an outline of Brazilian soccer's governing body, the Confederation of Brazilian Football (CBF). Part II also traces the history and causes of corruption and mismanagement of soccer in Brazil, which finally led to regulatory reform. This Part also describes and analyzes the actions taken by the Brazilian legislature to curb corruption and correct the game's trajectory between the 1980s and today.

Part III provides historical background on Nigeria and its soccer-governing body, the NFF, and discusses the importance of saving the country's most popular sport. Similar to the discussion of Brazil, Part III provides background and specific examples of the corruption and mismanagement of soccer in Nigeria, most of which occurred in the last ten to fifteen years. This section first looks at pertinent past and present laws in Nigeria, then demonstrates how this legal structure and outdated laws led to the current state of soccer in Nigeria, and finally, applies the Brazilian reforms to establish a framework for legislation and reform in Nigeria.

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<sup>7</sup> See JOSÉ MURILO DE CARVALHO, *THE STRUGGLE FOR DEMOCRACY IN BRAZIL: POSSIBLE LESSONS FOR NIGERIA* 5 (2000), available at <http://www.globalcitizen.net/Data/Pages/1759/papers/20090220133735533.pdf> (detailing Brazil's history toward becoming a democracy); see also Ian Bremmer, *Nigeria's Fragile Democracy*, N.Y. SUN (July 28, 2008), <http://www.nysun.com/opinion/nigerias-fragile-democracy/82713/> (describing recent obstacles and challenges faced by the new Nigerian democracy).

<sup>8</sup> *Nigerian Soccer Players in Europe*, *supra* note 4.

## II. SOCCER IN BRAZIL

Soccer arrived in Brazil in 1894,<sup>9</sup> about the same time, Brazil became an independent republic.<sup>10</sup> At this time, Brazil was defining its national identity and the game of soccer provided a unifying attribute.<sup>11</sup> During the next thirty to forty years, Brazil evolved from a fledgling nation to the home of one of the greatest national soccer teams<sup>12</sup> in the world.<sup>13</sup> Brazil has won more FIFA World Cups<sup>14</sup> than any other nation and has produced some of the most talented players<sup>15</sup> that the world has ever seen. In 1958, the Brazilian national team won the FIFA World Cup—the first of three World Cup titles for Brazil in a twelve-year period.<sup>16</sup> The national team's success further

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<sup>9</sup> ALEX BELLOS, *FUTEBOL: THE BRAZILIAN WAY OF LIFE 1* (2002).

<sup>10</sup> See *Brazil*, CIA: THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html> (expand the "Introduction" tab to see "Background") (last updated Jan. 17, 2011) ("Brazil gained its independence in 1822, maintaining a monarchical system of government until the . . . subsequent proclamation of a republic by the military in 1889.").

<sup>11</sup> See BELLOS, *supra* note 9, at 1–2 (discussing the remarkable ethnic diversity of the Brazilian peoples and how the national team evokes thoughts of a "utopian racial harmony" when playing the "beautiful game" in "football country").

<sup>12</sup> For purposes of this discussion of Brazil and Nigeria, "team" refers to one of two types of teams: a club team or a national team. Club teams are local teams that compete against one another in tournaments; typically, club teams are privately owned. The national team, on the other hand, is a single team comprised of the best players in the country. While a country may have many club teams, it only has one national team. The club-team structure is comparable to the structure of the National Basketball Association (NBA), while the national team is comparable to the single U.S. basketball team that represents the U.S. in the Olympics. While this Note addresses problems and solutions for soccer as a whole in both Brazil and Nigeria, it is important to remember that there are structural and political differences between a club team and a national team. Also, due to the focus of scholarly literature and the additional notoriety, this Note primarily addresses concerns with men's soccer.

<sup>13</sup> See BELLOS, *supra* note 9, at 2 ("Brazil is football's most successful nation . . ."); see also *Brazil*, FIFA, <http://www.fifa.com/associations/association=bra/index.html> (last visited Mar. 20, 2011) (showing Brazil's honors, including appearances in all nineteen FIFA World Cup competitions and World Cup victories in 1958, 1962, 1970, 1994, and 2002).

<sup>14</sup> The World Cup is a tournament hosted by the Federation Internationale de Football Association (FIFA), held every four years in a host-country chosen by FIFA. The FIFA World Cup matches the best thirty-two men's national teams after a rigorous qualifying process. See *FIFA World Cup: About FIFA*, FIFA, <http://www.fifa.com/aboutfifa/worldcup/index.html> (last visited Mar. 20, 2011).

<sup>15</sup> See, e.g., *Pele*, INTERNATIONAL FOOTBALL HALL OF FAME, <http://www.iffhof.com/hof/pele.asp> (last visited Mar. 20, 2011) (detailing the illustrious career of one of Brazil's many famous players, Pelé, whom many consider to be one of the most exciting and skilled players to ever play).

<sup>16</sup> See *Previous FIFA World Cups*, FIFA, <http://www.fifa.com/worldcup/archive/index.html>

ingrained the sport into Brazilian society, and Brazil was chosen to host the 1950 World Cup.<sup>17</sup> Soccer brought the Brazilian people together and it became increasingly important that their national team performed well.<sup>18</sup> When Brazil lost the 1950 World Cup title to Uruguay, Roberto daMatta, a famous Brazilian anthropologist, described it as “ ‘perhaps the greatest tragedy in contemporary Brazilian history.’ ”<sup>19</sup> While this designation may seem exaggerated, it is at least arguable that when the national team loses, the entire nation feels the loss.

Given the unifying nature of soccer and Brazil’s successful national team, it is no wonder that politicians capitalized on its popularity and used the team’s success to bolster their own success and agenda, especially the military dictators that intermittently ruled Brazil.<sup>20</sup> The last of these dictatorships exhibited this connection by playing the theme song of the 1970 FIFA World Cup winning team at political rallies, and using the star of that World Cup team, Pelé, as a poster-child for Brazil.<sup>21</sup> However, at the same time that Brazil’s leader was celebrating Brazil’s success on the soccer field, and promoting national pride in the country’s success under this dictatorship, Brazil suffered through the oil crisis of the early 1970s, which eventually led to high inflation and both economic and political turmoil.<sup>22</sup>

After almost thirty years of dictatorships, Brazilians elected Fernando Collor de Mello as their president.<sup>23</sup> Though he was not the first leader to use soccer as a means of advancing personal political goals and ideas, “Collor was [ ] the first Brazilian president who started public life as the president of a [soccer] club.”<sup>24</sup> This connection between Brazilian soccer and politics also paved the way for the mismanagement that brought the

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(last visited Mar. 20, 2011) (showing Brazil’s World Cup titles in 1958, 1962, and 1970).

<sup>17</sup> See BELLOS, *supra* note 9, at 45 (“Optimism was galvanised by confirmation that in 1950 the country would host the fourth football World Cup, the most important international event to take place within its frontiers.”).

<sup>18</sup> See *generally id.* at 45–46 (“To honour the importance of the World Cup and reflect the grandeur of national aspiration, Brazil decided to build the largest stadium in the world.” The author also outlines how the city prepared in every way possible for the event.).

<sup>19</sup> *Id.* at 45.

<sup>20</sup> See FRANKLIN FOER, *HOW SOCCER EXPLAINS THE WORLD: AN UNLIKELY THEORY OF GLOBALIZATION* 122–24 (2004) (describing the use of Pelé’s name and likeness by Brazil’s various military dictators).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 124.

<sup>23</sup> BELLOS, *supra* note 9, at 295.

<sup>24</sup> *Id.* at 296.

game to its knees in the last few decades, as players fled Brazilian leagues because of corrupt conditions.<sup>25</sup>

#### A. *Corruption and Mismanagement of Soccer in Brazil*

The famous Brazilian soccer player, Ronaldo, after signing a large contract to play for an Italian club team in 1998, told reporters “I wouldn’t return to Brazil now for any offer.”<sup>26</sup> This statement sums up the effect that corruption had on Brazilian soccer. Brazil produces some of the best players in the world, yet many of them do not play soccer in Brazil.<sup>27</sup> Over 5,000 Brazilian players have contracts with soccer teams outside of Brazil; of the twenty-two players on Brazil’s national team in the 1998 FIFA World Cup, only seven played for a Brazilian club in 2000.<sup>28</sup> A long track record of poor decisions combined with a corrupt soccer environment caused Brazil—a country that produces the best players—to watch as Europe’s club teams become far more successful and profitable than those of Brazil.<sup>29</sup>

While it is difficult to pinpoint when the corruption began in Brazilian soccer, by the 1960s, corrupt practices in the Brazilian soccer environment were common.<sup>30</sup> During the second half of the nineteenth century, there was little to no financial accountability of the club teams’ managers.<sup>31</sup> The leagues’ structures at this time provided that the team leaders received no formal salary; yet, these leaders appeared to live extravagant lifestyles.<sup>32</sup> At

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<sup>25</sup> FOER, *supra* note 20, at 121.

<sup>26</sup> *Id.*

<sup>27</sup> See *Top Fifty Players of the 2010 World Cup*, ESPN, [http://soccermet.espn.go.com/world-cup/story/\\_page/worldcup101-03012010/ce/us/top-50-players-2010-world-cup&cc=5901?ver=us](http://soccermet.espn.go.com/world-cup/story/_page/worldcup101-03012010/ce/us/top-50-players-2010-world-cup&cc=5901?ver=us) (last visited Mar. 20, 2011) (demonstrating that six of the world’s best fifty players are Brazilian and that none of them play in Brazil).

<sup>28</sup> FOER, *supra* note 20, at 131.

<sup>29</sup> See Antonio Carlos Kfoury Aidar et al., *Recent History of Brazilian Soccer*, in INTERNATIONAL SPORTS ECONOMICS COMPARISONS 245, 253 tbl.1 (Rodney Fort & John Fizez eds., 2004) (displaying that the average television revenues in Brazil during the 1999–2000 season were approximately \$80 million USD, compared to \$390 million in Italy and \$300 million in England; the average annual attendance for club team games in Brazil was 15,000, compared to 31,882 in Germany; and the total club revenues in Brazil during the 1999–2000 season were \$200 million, compared to \$795 million in England).

<sup>30</sup> See FOER, *supra* note 20, at 123 (detailing the corruption and mismanagement that surrounded Pelé during his professional career).

<sup>31</sup> *Id.* at 116–17 (“[T]heir status as nonprofit amateur enterprises . . . means that [the soccer clubs’] finances are not subjected to public scrutiny; their executives have no legal accountability.”).

<sup>32</sup> See *id.* at 117 (quoting the ex-president of the CBF, João Havelange saying, “I take no

the close of each financial cycle, it appeared as though all of the revenue was lost through the operations process, suggesting that the teams were operating in a loss position, and should not have funds remaining for club managers.<sup>33</sup> Despite the reported losses, club managers appeared to be living comfortably and saw increases in their personal finances. This disparity suggests that the club administrators took revenue distributions directly from the club before the close of each financial period instead of reinvesting this revenue in the club and its players.<sup>34</sup> This amateur, non-profit<sup>35</sup> structure of Brazil's soccer leagues allowed this kind of corruption. Moreover, it was an optimum environment for someone with political ambitions to use the game and its fans to support personal and political interests.

The intermingling of soccer with politics is significant because before legislative reform in Brazil, politicians were immune from prosecution.<sup>36</sup> This immunity allowed politicians to perform unscrupulous business transactions within their clubs, and also to use the visibility of the clubs to ensure reelection and retention of prosecutorial immunity.<sup>37</sup> This practice was especially harmful because many governmental leaders were also the leaders of soccer clubs.<sup>38</sup> However, this corruption was finally revealed, not because of admission by a corrupt club leader, but rather because of Brazil's defeat in the 1998 World Cup.<sup>39</sup>

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salary, just enough expenses to get by on.”).

<sup>33</sup> *Id.*

<sup>34</sup> *See id.* at 117–18 (describing a suspicious set of circumstances, whereby in 1998, a club team in Brazil received over \$34 million in cash as an investment from an American bank, and within two years, most of the money had vanished—reportedly, \$124,000 for campaign t-shirts for the club's president (up for reelection in the Brazilian legislature), and \$12 million to four Bahamian bank accounts for a company called “Liberal Banking Corporation Limited”).

<sup>35</sup> *See id.* at 116 (describing that, at this time, each local team in Brazil was called a “club team” because each team was based in a “country club” type of organization, with swimming pools, tennis courts, etc., and while the club teams paid their players, because each team was a part of a larger “club,” they had dues-paying members, which qualified the club for non-profit, amateur status under the law and excused them from public scrutiny of their finances).

<sup>36</sup> *Id.* at 118.

<sup>37</sup> *Id.*

<sup>38</sup> *See BELLOS, supra* note 9, at 293 (“The presidents of three other national first division teams — Sport, Santa Cruz and Cruzeiro — have also sat in the lower house in recent years. There are Congressmen who are presidents of smaller teams and Congressmen with positions in state football federations.”).

<sup>39</sup> *See id.* at 317–19 (detailing the impassionate performance of the team, the questions surrounding player Ronaldo, and the role of the sponsor, Nike).

### *B. Legal Reform in Brazilian Soccer*

As the twenty-first century approached, a series of events led to reform in Brazilian soccer. First, the Brazilian national team lost to France in the final game of the 1998 World Cup, leading to a congressional investigation about why the team played so poorly.<sup>40</sup> During this investigation, legislators began to question the large, lucrative contracts between the national team and some of its players, and Nike.<sup>41</sup>

Nike entered into a ten-year, \$160 million sponsorship contract with the CBF, the largest contract ever at that time for any national team.<sup>42</sup> Aldo Rebelo, a Brazilian congressman, launched a Parliamentary Commission of Inquiry (CPI) to determine if there had been any foul play between Nike and the CBF.<sup>43</sup> Rebelo believed that Nike “debased the national team by forcing it to play an inordinate number of lesser nations purely for the purposes of marketing.”<sup>44</sup> The investigation also showed that a great portion of the Nike contract money was missing from the CBF bank account.<sup>45</sup>

It is interesting to note the lack of investigations of club managers or directors of the CBF, especially while club teams continued to lose players and revenue to European clubs. As a result, the corruption and mismanagement of the game emerged only when the national team began losing games. The national team’s loss in the 1998 World Cup, further compounded by its loss in the 2000 Olympics, gave the anti-corruption movement in Brazil enough public support to finally begin.<sup>46</sup>

During the years of this investigation, Pelé, Brazil’s most famous player and newly-appointed Minister of Sports, began examining the national team and the operation of soccer in Brazil.<sup>47</sup> Pelé and a select group of “traditional soccer leadership” launched a probe into the soccer clubs to

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<sup>40</sup> *Id.* at 319–20 (“Congressman [ ] Aldo Rebelo . . . entered a petition in the House of Deputies—the lower house of Congress—to start an inquiry into the Nike-CBF contract. He based his argument on the possibility that the contract could have violated ‘sovereignty, autonomy and national identity’, which are guaranteed by the Brazilian constitution.”).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 319.

<sup>43</sup> *See id.* at 319–20, 322 (explaining that a CPI is the most expansive and serious type of congressional hearing in the Brazilian legislature as it grants the initiator unlimited access to bank accounts, tax forms, and other records).

<sup>44</sup> *Id.* at 324.

<sup>45</sup> *See id.* at 348 (discussing that the club would have been insolvent as a corporation, despite spending all of the Nike contract money).

<sup>46</sup> *See id.* at 318, 322.

<sup>47</sup> Aidar at al., *supra* note 29, at 245.



uncover the specific acts of corruption and mismanagement that plagued the league.<sup>48</sup> Their efforts ultimately resulted in legislation—known in the Brazilian legislature as “Pelé’s Law”<sup>49</sup>—that sought to reform the Brazilian game.<sup>50</sup> However, Pelé’s Law met much resistance by club and federation officials, as well as club owners, who did not want to lose the revenues from corrupt operations.<sup>51</sup> Eventually, Pelé’s Law weakened to a legislative bill that simply created free agency<sup>52</sup> in the clubs and that only attempted to restructure the clubs into organizations.<sup>53</sup> However, this result created greater instability for the players, because free agency allowed the most well-funded clubs who are possibly the most corrupt, to acquire any player without a transfer fee.<sup>54</sup>

The importance of Pelé’s Law is not in the actual wording or structure of the statute. Instead, one could argue that its power comes from the fact that Pelé himself, as the nation’s most influential athlete, publicly took a stand against the corruption he saw in soccer and put the corrupt leaders under increasing public scrutiny. These leaders were so corrupt, in fact, that at the end of a lengthy investigation of soccer in Brazil, Senator Alvaro Dias publicly stated that the CBF, many of whose leaders were club owners and coaches, was “truly a den of crime, disorganization, anarchy, incompetence and dishonesty.”<sup>55</sup>

Under pressure from these “cartolas,”<sup>56</sup> Pelé held a press conference in 2001 with the head of the CBF, an infamously corrupt club leader, and explained that he no longer supported the investigations and, instead, was going to work with the cartolas.<sup>57</sup>

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<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *See id.* at 255 (explaining that Pelé’s Law was not the first attempt to reform the game in Brazil; “Zico’s Law,” passed in 1993, allowed teams to become for-profit institutions and also codified the sports law, which paved the way for future legislation).

<sup>51</sup> *Id.* at 246 (“[S]tate federations and the [CBF] are striving to undermine this modernization process. Some of its managers . . . are now under accusation of corruption.”).

<sup>52</sup> *See id.* at 255–56 (explaining that when a club wishes to acquire a player from another club, not only must it pay the player, it must also pay the former club for the right to acquire the player—a free agency system eliminates this transfer fee and, in the eyes of opponents of Pelé’s Law, creates a disincentive for smaller, lesser-funded clubs to invest in young players (knowing they will not be if a wealthier club acquires a player)).

<sup>53</sup> *Id.* at 255.

<sup>54</sup> *Id.*

<sup>55</sup> Hooper, *supra* note 5.

<sup>56</sup> FOER, *supra* note 20, at 117 (“Top Hats” in Portuguese).

<sup>57</sup> *See id.* at 132–33 (describing the set of circumstances surrounding Pelé’s change of heart and explaining that, after Pelé publicly rescinded negative feelings toward the leaders of the

In 2001, those in Congress who still supported the anti-corruption movement proposed Provisional Measure 2193/2001 (PM 2193), which addressed labor issues, contract provisions, player contract terms, transfer fees, and player age requirements.<sup>58</sup> One important provision of PM 2193 is the requirement that when a team acquires a player from a Brazilian club, the acquiring team must pay both a transfer fee and a fee that goes toward the education costs of that player, if the player is of a certain age.<sup>59</sup> The transfer fee requirement solves a problem created by Pelé's Law; without transfer fees, a player's former club receives no compensation when a player is traded or sold to another team which discourages the development of players.<sup>60</sup> Also, PM 2193's educational fee requirement provides that the new club must take responsibility for the education of players of a certain age.<sup>61</sup> If the acquiring club cannot afford to pay this educational fee, then it cannot acquire the player. This fee structure is also important because a club in Europe must not only pay the player's former Brazilian club for the right to acquire the player, but it must also reimburse the Brazilian club for any educational costs associated with the player.

PM 2193 also placed wage caps on the above-described fee requirements and ensured that a player could not be bought or traded without receiving all owed wages, thereby promoting financial responsibility on the part of the club owners.<sup>62</sup> These compensation provisions also protect the players, who can be paid for up to six months after the end of their contract, allowing them time to find other employment.<sup>63</sup> This provision extends the regular contract length, allowing a club more time to trade a player, which in turn, benefits the player because it promotes a system where clubs held responsible for the player personnel decisions that they make.<sup>64</sup>

Equally as important, PM 2193 implemented an improved investment structure for the clubs.<sup>65</sup> The former laws ensured centralized power within

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game and admitted that he made a mistake by launching the investigation, the "anti-corruption crusaders" turned on him, and his legislative efforts were passed in a much less potent form).

<sup>58</sup> Aida et al., *supra* note 29, at 255–56.

<sup>59</sup> *Id.* at 256.

<sup>60</sup> *Id.* at 255.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 256.

<sup>64</sup> *Id.* at 256–57.

<sup>65</sup> *See id.* at 257 (explaining that, under the former laws, clubs were set up such that "only officers of the club with an effective commission could execute agreements or commitments").

the club; very few decision makers provided oversight or guidance to the actions of the club's board.<sup>66</sup> As a result, these laws discouraged foreign investment in soccer licensing, merchandising, or advertising.<sup>67</sup> By increasing the number of people within each club with authority to execute agreements, PM 2193 allowed investors, including foreign investors, to actively participate in the decisions of a club,<sup>68</sup> solving the previous situation where investors were precluded from knowing how their money was used.<sup>69</sup> For these reasons, it is not surprising that foreign investment had all but left soccer in Brazil, and the players, unsure about being compensated, left Brazil to play for regulated European clubs with contractual obligations to pay their players' salaries on time.<sup>70</sup>

Another important feature of PM 2193 is its requirements for a club's corporate structure went a step further than both Zico's Law and Pelé's Law. PM 2193 not only allowed clubs to transform from non-profit entities into corporations, it also established penalties for failing to do so.<sup>71</sup> Since this rule forced clubs to become corporations, the clubs became subject to federal oversight and regulation like all other Brazilian corporations. This requirement promoted financial responsibility and ensured that investments in soccer clubs were protected by Brazilian law.

An impressive aspect of PM 2193 is that it requires each club to publish financial statements that must be certified quarterly and annually by independent auditors.<sup>72</sup> This provision held club leaders personally accountable for any inaccuracies in the statements and subjected club leaders to Congressional hearings if the independent auditors found any suspicious activities within the club's finances.<sup>73</sup> This measure gives further comfort to

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *See id.* at 258 (“[Transparency] is precisely what has been demanded . . . by investors . . .”).

<sup>70</sup> *See, e.g.,* ALL PARTY PARLIAMENTARY FOOTBALL, ENGLISH FOOTBALL AND ITS GOVERNANCE 3–12 (2009), available at [http://www.allpartyfootball.com/APFG\\_Report\\_on\\_English\\_Football\\_&\\_Its\\_Governance\\_April\\_2009%5B1%5D.pdf](http://www.allpartyfootball.com/APFG_Report_on_English_Football_&_Its_Governance_April_2009%5B1%5D.pdf) (detailing the extensive corporate governance requirements for each club in the English Premier League, explaining the rights of each club and player, and explaining the federal regulations and their relationship to the players' contractual obligations).

<sup>71</sup> *See* Aidar et al., *supra* note 29, at 257 (explaining that the failure of a club to incorporate would result in that club not receiving compensation for players and in the club manager paying out-of-pocket for any unsettled club debts).

<sup>72</sup> *Id.* at 258.

<sup>73</sup> *Id.*

foreign investors, who can also investigate the internal operations of the club before investing.

PM 2193 also established regional professional soccer leagues to replace the separate state federations.<sup>74</sup> Previously, Brazilian soccer clubs were localized by states; each state's team played other states' teams in tournaments hosted by the CBF and the individual state soccer-governing bodies.<sup>75</sup> The tournaments were disorganized and rarely occurred on a regular annual schedule.<sup>76</sup> By establishing regional leagues as incorporated commercial companies, investors could trust the development of the league, instead of relying on just one state team.<sup>77</sup> Leagues needed more people, causing more pairs of eyes to monitor the financial activities of the teams in the league. The emphasis in a league, therefore, is on the entire organization, not only on one team. As such, success is measured by how all of the teams play, and thus generate revenues, instead of focusing on a single team's performance and revenue. Since success is determined in the aggregate, the league is incentivized to ensure the welfare of each and every team. This allows for teams and leagues to operate like a corporate business, rather than a sole proprietorship that a single leader uses for personal benefit.

The final important provision of PM 2193 established the National Sports Council (NSC), which acts as an oversight and advisory board, and also as an intermediary between players, team owners, and league officials.<sup>78</sup> With the creation of an intermediary organization, all conflicts and disagreements are to be resolved by an independent third party. The NSC also provides an extension of the government, whose sole responsibility is to promote the successful future of sports within Brazil.

While the reforms passed in Brazil are far from perfect, they provide a general framework for other nations experiencing similar problems of corruption and mismanagement in leagues, clubs, tournaments, and players. An important theme of these reformed laws is that the best soccer leagues and tournaments will thrive when the power and control is given to a larger

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 251.

<sup>76</sup> *See id.* at 249 (stating that, until the reforms by Pelé and others, there was no central, agreed-upon calendar by which the tournaments were played each year and as a result, fans had a hard time purchasing season tickets, investors would never know when to promote merchandise and club interest, and television networks would refuse to televise the games because they could not determine a set time to sell the commercial space).

<sup>77</sup> *See id.* at 258 (discussing the development of soccer as a league and as an important economic activity in the long run).

<sup>78</sup> *Id.* at 259.

number of people, and when one club or team is not subjected to the aspirations of one powerful individual. There is a need for accountability and transparency in any organization, and soccer, particularly in nations that have a combination of sensitive economic and political histories and an intense national passion for the game, should be regulated in the same way as any other profitable industry. As evidenced by Brazil's recent history, soccer is a valuable economic and social asset, but can be rendered worthless when control falls into the wrong hands.

### III. SOCCER IN NIGERIA

From the local bonds developed at the club level to the national identity established at the national team level, soccer is much more than a game in Nigeria.<sup>79</sup> The local club teams allow smaller towns to express their individual identities, while the national team provides a unifying symbol of how Nigeria can overcome individual differences to achieve great things.<sup>80</sup> Further, the success of the Nigerian national team in international tournaments, such as the World Cup and the Olympics, enabled Nigeria to receive international recognition—something that it has not received in other areas of international relations.<sup>81</sup> As a country with many different cultures and belief systems, Nigeria relies on soccer as a source of national unity.<sup>82</sup>

Like Brazil, European colonization introduced soccer to Nigeria.<sup>83</sup> The British began occupying Nigeria in the mid-nineteenth century and, during the following 150 years, Nigeria was split into two regions: the northern region, with an Islamic-structured hierarchy, where the British ruled indirectly through Islamic leaders; and the southern region, where the British ruled directly.<sup>84</sup> Because most of Nigeria's social elite lived in the northern region, their children grew up playing "high society" British sports like cricket and polo; meanwhile, while missionaries in the southern region introduced "middle-class" sports like soccer to the children.<sup>85</sup>

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<sup>79</sup> See Boer, *supra* note 2, at 59 (illustrating the significance of soccer in Nigerian culture by explaining that, in 2000, to settle a dispute between the two branches of the newly-formed Nigerian democracy, the legislative and the executive branches played a soccer match at the national team's stadium, with both branches wearing the Nigerian national team's jerseys).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 59–60.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 61.

<sup>85</sup> *Id.* at 61–62.

As people migrated from the southern region of Nigeria to the northern region, soccer began to spread throughout the entire country.<sup>86</sup> Eventually, people in the northern region saw the motivating and unifying power that soccer had Nigerians, and the game became so popular that leaders started organizing nationwide games and, by the 1950s, exhibition tournaments with European nations hosted by some of Nigeria's larger cities.<sup>87</sup>

On October 1, 1960, Nigeria gained independence from the United Kingdom, thus becoming a sovereign nation.<sup>88</sup> Over the next forty years, every time that a new military regime established rule in Nigeria, the national team seemed to take another step toward bringing international recognition to Nigeria as a great soccer-playing nation.<sup>89</sup> In the 1980s, economic conditions worsened.<sup>90</sup> As conditions declined, there was less money to pay the national players and talented Nigerian players began to leave to play in countries whose club teams could afford to pay them.<sup>91</sup>

However, through the 1990s, even as Nigerian players left for other countries, the Nigerian national team became stronger.<sup>92</sup> The success of the national team shed positive light on Nigeria. Finally, in 2000, Nigeria was selected to co-host the African Cup of Nations with Ghana—the first time that Nigeria would be in the spotlight since establishing a new democracy in 1998.<sup>93</sup> Nigerian President Olusegun Obasanjo, unlike the military dictators before him, did not embrace the power that soccer had with the people of

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<sup>86</sup> *Id.* at 67.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at 68.

<sup>89</sup> *See id.* at 68–73 (discussing how, only a few weeks after the nation became independent, the new government used soccer's influence as a means of trying to establish order and unity by building a new 30,000-seat stadium and also explaining that, after the oil boom in the 1970s, the military government in Nigeria supported the national team by building new training grounds, resulting in Nigeria qualifying for the African Nations Cup and the Olympics in 1976).

<sup>90</sup> *Id.* at 71.

<sup>91</sup> *See id.* (explaining that, in 2002, players as young as thirteen years old were leaving the country to play elsewhere and that almost the entire Nigerian national team played for a club team outside of Nigeria).

<sup>92</sup> *See id.* at 73 (detailing that by 1993, Nigeria's youth teams had won two Junior World Cup titles; in 1994, the senior men's national team won the African Nations Cup championship; and in 1996, the national team won the gold medal at the Atlanta Olympics, which was heralded as one of the greatest athletic achievements for any African nation). All of these accomplishments occurred under Nigeria's last dictator, General Abacha, who, like many of the Nigerian leaders before him, used the game as a means to promote Nigerian unity and to reinforce his political influence. *Id.* at 73–74.

<sup>93</sup> *Id.*

Nigeria; however, fans still flocked to the African Cup games en masse.<sup>94</sup> Unfortunately, large crowds rioted at every game, and some fans even stormed the offices of the tournament administrators.<sup>95</sup>

*A. Corruption and Mismanagement of Nigerian Soccer*

Even though the Nigerian national team experienced some success on the international level over the last twenty years, the best soccer players continue to leave Nigeria to play in the best European leagues—notably the English Premier League—largely due to rampant corruption and mismanagement of soccer in Nigeria.<sup>96</sup> While the Premier League in England rises to the highest level of international competition, attendance at Nigerian soccer games declines as the country's best players are lured away to play in England.<sup>97</sup> In fact, one a Nigerian club team coach remarked, “Whenever we play at the same time as an Arsenal game, nobody shows up.”<sup>98</sup> Nigerian players leave because the Nigerian teams cannot pay the players comparably for similar services provided in England.<sup>99</sup> Salaries in Nigeria cannot match those in England because of the corruption; leaders of the soccer leagues and national soccer associations in Nigeria either keep or mismanage the teams' funds, such that little money remains to pay the players.<sup>100</sup>

To understand the corruption and mismanagement of Nigerian soccer, it is necessary to understand the structure of Nigerian soccer's governing body, the Nigeria Football Federation (NFF). Unlike Brazil, where the main problems of corruption and mismanagement originated from corrupt and politically-motivated club team owners and not from Brazilian soccer's governing body, the problems in Nigeria were directly related to the NFF and

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<sup>94</sup> *Id.* at 74.

<sup>95</sup> *Id.* at 74–75; see also *Trouble Casts Doubt on Nigeria World Cup 2010 Bid*, AUST. BROADCASTING CORP. NEWS (June 13, 2003), <http://abc.net.au/news/stories/2003/06/13/878840.htm> (citing examples of several games in which Nigeria played where fans were rioting in the streets, including throwing bottles and other objects at opposing fans and teams; after a game between Nigeria and Congo, which resulted in a 0–0 tie, the Nigerian players had to be locked in their locker room by police because fans were gathered in protest).

<sup>96</sup> Andrew Walker, *Is Premier League Killing Nigerian Football?*, BBC NEWS (July 28, 2008), <http://news.bbc.co.uk/2/hi/africa/7526005.stm>.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> See *id.* (“ ‘When a player won't even be paid £1,000 (\$2,000) per month in Nigeria, but can get £1,000 a week in Europe, what do you expect?’ says Tukur Babangida, Chairman of Kano Pillars, champions in Nigeria's top league [in 2008].”)

<sup>100</sup> *Id.*

its connection to the National Sports Commission<sup>101</sup> (NSC), as well as certain club team owners.<sup>102</sup> Because the NFF began before Nigeria gained its independence from the United Kingdom, all of the NFF's original seven chairmen were from foreign countries.<sup>103</sup> Before the creation of a national soccer federation in Nigeria, there were several smaller confederations;<sup>104</sup> a singular association was not created until 1945.<sup>105</sup>

The chairmanship of the NFF has had a volatile history, with few chairmen holding the position for more than a year.<sup>106</sup> This volatility worsened as a result of the fact that the chairmanship became an increasingly political position chosen by the NSC after 1960.<sup>107</sup> Upon termination of his duty as Secretary General of the NFF, Momodu Kadin said that the NFF was "the strongest political party in Nigeria."<sup>108</sup>

As seen in Brazil, it is dangerous when the head of a nation's soccer federation is closely tied with politics because a lack of accountability results when the people responsible for overseeing the activities of a sports association are also those whose personal assets are at stake. This lack of independence typically allows for corruption and mismanagement; indeed, exactly what happened in Nigerian soccer over the last forty to fifty years.<sup>109</sup>

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<sup>101</sup> The Nigerian government created the NSC in 2006 to create coordination between the government and the various sports organizations throughout Nigeria. *History of NSC*, NAT'L SPORTS COMM'N, [http://www.sportscommission.gov.ng/x/index.php?option=com\\_content&view=article&id=5&Itemid=71](http://www.sportscommission.gov.ng/x/index.php?option=com_content&view=article&id=5&Itemid=71) (last visited Mar. 20, 2011).

<sup>102</sup> See, e.g., Olukayode Thomas, *The Sorry State of Nigerian Sports*, PLAYTHEGAME.ORG (Aug. 9, 2007), <http://www.playthegame.org/knowledge-bank/articles/the-sorry-state-of-nigerian-sports-1093.html> (detailing the interplay between the NFA and the other soccer bodies (such as the NFL, which organized Nigeria's club teams) in Nigeria and discussing the corruption and greed of the NFA).

<sup>103</sup> *Nigerian Football Association Chairmanship*, FOOTBALL HOUSE, <http://homepage.usask.ca/~iko340/nfa-history.html> (last visited Mar. 20, 2011). For the purposes of this Note, the Nigerian Football Federation (NFF) and the Nigerian Football Association (NFA) are the same organization. See Ikeddy Isiguzo, *Football's New Year Wails*, VANGUARD (Jan. 7, 2011), <http://www.vanguardngr.com/2011/01/football%E2%80%99s-new-year-wails/> (explaining that the organization was established by statute as the NFA and that it illegally uses the name NFF).

<sup>104</sup> See *Nigerian Football Association Chairmanship*, *supra* note 103 (citing regional organizations in smaller coastal cities).

<sup>105</sup> *Id.*

<sup>106</sup> See *Organization: Past Chairmen*, NIGERIA FOOTBALL FEDERATION, <http://www.nigeriaff.com/PastChairmen.php> (last visited Mar. 20, 2011) (showing the name of each chairman and the duration of each chairmanship).

<sup>107</sup> See *Nigerian Football Association Chairmanship*, *supra* note 103 (listing each government-appointed chairman).

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*



The first instance of corruption in Nigerian soccer occurred when local clubs began bribing referees. In Nigeria, as recently as 2006, it was legal for any league referee to accept a bribe, as long as this bribe did not significantly affect the referee's decisions during a game.<sup>110</sup> It is arguable that, because referees are going to be offered bribes regardless of the rules, they should be allowed to take them. However, a referee can hardly be expected to officiate objectively after receiving a financial interest in the game's outcome. Besides the obvious negative effects of the bribery on each game, the fact that other professional sports leagues, such as the United States' National Basketball Association (NBA), prohibit much less culpable actions on the part of its referees<sup>111</sup> not only casts the Nigerian soccer referees in a bad light, but also calls into question the legitimacy of the NFF.<sup>112</sup>

However, the issues with the NFF and the NSC exceed the problems of bribery, as corrupt leaders and structural complications inevitably result in a disorganized association of club leagues. Amos Adamu, a wealthy member of the executive board of both FIFA and the Confederation of African Football (CAF), personifies the idea that one person can have too much influence on the sport.<sup>113</sup> However, even if the allegations of NFF election

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<sup>110</sup> See *Nigerian Referees Given Permission to Take Bribes*, ESPN SOCCERNET (Mar. 31, 2006), <http://soccernet.espn.go.com/news/story?id=363449&cc=5901> (quoting then Secretary-General of the NFF, Fanny Amun as saying, "We know match officials are offered money or anything to influence matches and they can accept it" but referees should simply pretend that the bribe will influence their decisions on the field, accept the bribe, and then officiate the game in an unbiased manner). But see Johnson Ayantunji, *NRA Promises to Halt Bribery of Referees*, DAILY INDEP. (Lagos) (Mar. 1, 2011), available at <http://allafrica.com/stories/201103020394.html> ("The newly inaugurated executive committee of the Nigeria Football Referees Association (NRA) has mapped out steps to stop bribery, incentives and gratuity to referees by home team[s].").

<sup>111</sup> See *Report: Donaghy's Release Wednesday*, ESPN (Nov. 4, 2009), <http://sports.espn.go.com/nba/news/story?id=4615934> (detailing that an ex-NBA referee, Tim Donaghy, was sentenced to fifteen months in prison, not for directly receiving a bribe, but for merely providing what he thought to be insights about match-ups and teams of games that he officiated; Donaghy would talk to players and coaches and would report any information that the normal spectator would not know about to sports betting agencies).

<sup>112</sup> See Onochie Anibeze, *We Run the Most Corrupt League*, VANGUARD (Nov. 25, 2008), available at <http://allafrica.com/stories/200811250258.html> (quoting the Chairman of the FC Abuja club in the title of the article and noting the Chairman's belief that in despite of television coverage, Nigerian refereeing was substandard due to corruption).

<sup>113</sup> See Olukayode Thomas, *How Elections in the Nigerian Football Association Were Fixed*, GUARDIAN (Nigeria) (Sept. 8, 2006), available at <http://www.playthegame.org/news/detailed/how-elections-in-the-nigerian-football-association-were-fixed-1286.html> (expressing the opinion that Adamu discreetly directed every important election in the NFF and that his power and influence created a situation where there are no real "elections," merely public formalities which

tampering by Adamu are exaggerated, at the very least, Adamu has too much influence. When an official possesses such a presumed level of power, it demonstrates a lack of oversight and accountability in the election of NFF leaders. Additionally, given his position on the boards of FIFA and CAF, Adamu has broad discretion to make decisions, without fear of repercussions or questioning from the international soccer community.<sup>114</sup>

For soccer to thrive in Nigeria, investors must have faith in a solid investment return. There will be fewer investors if there is concern that funds will be squandered by warring associations and their officials. The lack of accountability, intermingling of funds and political power, and numerous examples of poor judgment<sup>115</sup> demonstrate the harsh reality that the NFF and NSC are not instilling confidence in foreign investors.

It is evident from Brazil's experience that foreign investment is critical to sustaining successful soccer leagues, especially in countries that lack an established reputation for success.<sup>116</sup> Invested funds are necessary to pay players to stay in their home country and to retain the best coaches. Foreign investment allows young players and grassroots soccer to flourish and helps ensure that players are getting the instruction and care that they need. However, as the practice exists now, when a player attains a certain age, he generally leaves Nigeria to play for the foreign club that has been supporting him in Nigeria. Although this practice leaves Nigeria with one less soccer asset,<sup>117</sup> with enough foreign investment, the amount paid for each player leaving Nigeria can be reinvested to the point where the financial support will exist to eventually keep more players in Nigeria, as more foreign

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pronounce that the candidate whom Adamu chose has indeed been elected to the position).

<sup>114</sup> *Id.*

<sup>115</sup> See, e.g., Osasu Obayiwana, *Nigerian Football's \$236,000 Scandal: Nigerian Football Is in the Midst of Yet Another Scandal*, 485 *NEW AFRICAN* 88 (2009) (detailing a recent situation in which \$236,000 USD, intended for players' expenses for the World Cup, went missing from the vault inside the NFF headquarters, and further explaining that the large amount of money is not legally allowed to be held by a non-banking institution, raising questions as to why the NFF was keeping such a large sum in its office and why someone was able to break into the building and steal the money in the middle of the day).

<sup>116</sup> See FOER, *supra* note 20, at 120–21 (“But while the Brazilian style and some Brazilian plays have flourished in the global economy, Brazil has not.”).

<sup>117</sup> See Thomas, *supra* note 102 (“Football only thrives at the academy and grassroots level and the reason for this is because football agents and managers are using it to scout for talents. . . . So many kids, who see football as the escape route from poverty, flock [to these] academies and grassroots football units. They see playing in the local league as a cause, where only the unlucky ones and those without talents end.”).

investment could result in club teams being able to pay similar salaries to those in Europe and elsewhere.

Nigeria and the NFF have also suffered setbacks concerning their participation in a number of international tournaments. Most notably, the team was forced to replace almost its entire roster for the 2009 Under-17 World Cup after twenty-nine players failed an MRI bone scan age test.<sup>118</sup> The results of the MRI age test, a test enacted by FIFA to make sure that players who participate in age-limited tournaments actually meet the age requirements, meant that all but seven players on Nigeria's team were unable to play.<sup>119</sup> Regardless of whether inaccurate birth certificates or foul play by the NFF were to blame for the ban on participation in such an important international tournament, if Nigeria was to be taken seriously in the international soccer community, such incidents cannot be allowed to happen.

### *B. Past and Current Legislation in Nigeria and a Roadmap for Further Reform*

The corruption in Nigerian soccer has been partially caused by the fact that the NSC, NFF, and NFL<sup>120</sup> are not set up to function properly; too few people have too much power. Moreover, though these three entities fight amongst themselves and question each other's actions, there is no real accountability or oversight.<sup>121</sup> When looking at the close connection between the NSC and the NFF, the last thing that the NFF needs is more government involvement. As previously stated, many of the same people that control the NFF derive their power from positions within the NSC.<sup>122</sup> Old and outdated legislation in Nigeria is to blame for this connection, as it requires the government to run the NFF.<sup>123</sup> This outdated law, Decree 101, was enacted during the last military dictatorship and is still sound law in the

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<sup>118</sup> 29 U-17 Nigerian Players Fail MRI Age Test, JAGUDA (Aug. 25, 2009), <http://www.jaguda.com/2009/08/25/29-u-17-nigerian-soccer-players-fail-mri-age-test/>.

<sup>119</sup> *Id.*

<sup>120</sup> See *supra* note 102 and accompanying text (introducing the NFL as an organization that oversees the games and tournaments played by the largest of Nigeria's club teams).

<sup>121</sup> Thomas, *supra* note 102.

<sup>122</sup> *Id.*

<sup>123</sup> See Oluwashina Okeleji, *Minister Slams Nigeria FA*, BBC SPORT (Lagos), <http://news.bbc.co.uk/sport2/hi/football/africa/3733766.stm> (last updated Oct. 11, 2004) (describing Decree 101—a law passed in 1992—which gives the government, through the NSC, the power to both appoint and dissolve NFF leaders and binds the government to the NFF in a restrictive manner).

country.<sup>124</sup> In addition, even though Nigeria is now a democracy, the law that keeps the NFF under direct government control by the NSC is still very much alive; FIFA has threatened to ban Nigeria from FIFA inclusion for the country's refusal to repeal this law.<sup>125</sup>

The problem with such a law is that, as shown in Brazil, operations have a much higher rate of corruption when a few, unaccountable people hold the power.<sup>126</sup> However, unlike Brazil, where there seemed to be too little direct government involvement, the problem with Nigerian soccer is that there seems to be too much governmental involvement and the lack of accountability combined with the slow process of decision making from bureaucratic control creates an environment in which the sport and its associations cannot operate effectively.<sup>127</sup> Another adverse effect of strict governmental control is that, because the NFF and its clubs cannot operate as independent businesses, raising capital is very difficult and most funding comes directly from the government or through government action.<sup>128</sup>

Also, watching the crippling effect that Decree 101 and government control of the NFF had on the sport in Nigeria, FIFA<sup>129</sup> announced in August 2006 that sanctions would be placed on Nigeria if they did not eliminate government control, which forced them to repeal Decree 101.<sup>130</sup> In order to

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<sup>124</sup> *Id.*

<sup>125</sup> See Pius Anakali, *Decree 101, FIFA Statutes and Our Laws*, DAILY INDEP. (Lagos) (Jan. 15, 2011), available at <http://allafrica.com/stories/201101170457.html>.

<sup>126</sup> FOER, *supra* note 20, at 117.

<sup>127</sup> See Anakali, *supra* note 125 (discussing the large role that government plays in Nigerian soccer—completely funding the activities of the national teams and funding a large portion of the club teams—and arguing that Nigeria must find a middle between a completely government-controlled soccer federation and the obviously desirable, but presently infeasible, independent soccer federation that FIFA wants).

<sup>128</sup> Int'l Monetary Fund [IMF], *Meeting Everyone's Needs: National Economic Empowerment and Development Strategy*, IMF Country Report No. 05/433, at 46–47 (2005), available at <http://planipolis.iiep.unesco.org/upload/Nigeria/PRSP/Nigeria%20PRSP.pdf>.

<sup>129</sup> See FIFA, *FIFA STATUTES* (2011), available at [http://www.fifa.com/mm/document/affederation/generic/01/48/60/05/fifastatuten2011\\_e.pdf](http://www.fifa.com/mm/document/affederation/generic/01/48/60/05/fifastatuten2011_e.pdf). FIFA is an international soccer organization founded under Swiss law that has over 200 members. In addition to training and supplying referees to all its member nations for use during club league play and for international play, FIFA oversees every aspect of international soccer. FIFA also hosts the World Cup. In order to participate in any of the major tournaments, or to have any standing in the international soccer community, a nation must be a member of FIFA and abide by its statutes. Once a member, the nation may partake in all tournaments and use FIFA's services, but may also face punishment for any violation of the statutes and codes that each member nation agrees to when it obtains membership. *Id.*

<sup>130</sup> *FIFA to Monitor Elections to Nigeria Football Association - Roadmap for Normalisation of Nigerian Football Laid Down*, AIPS MEDIA, <http://www.aipsmedia.com/index.php?page=n>

be a member of FIFA, a nation must abide by FIFA'S statutes and a violation may result in a suspension or expulsion from the federation.<sup>131</sup> One such statute requires that all member nations have independent national associations and federations which are free from government ownership or control.<sup>132</sup>

Another adverse effect of tight governmental control is that the chain of accountability stops with the government and because the government is running the NFF, there is plenty of room for corruption to continue.<sup>133</sup> If the NFF were to become independent from the government, the NSC would likely retain oversight of the NFF, as the NSC would play more of an oversight role, as it would hopefully move from a direct line of control to becoming more supervisory. However, the question would remain open about whether the NFF could stand on its own or if it would produce the same type of corrupt clubs that crippled Brazilian soccer for so many years if there is too much of a decrease in government involvement.<sup>134</sup>

The best opportunity that Nigerian soccer has to be successful is for the NFF and the other associations and leagues to become independent entities, free from the strict government control that now dominates them.<sup>135</sup> The fact that the influence of Decree 101 still seems to be driving cumbersome and inefficient government involvement in the NFF suggests that Nigerian soccer would be better in the hands of a private NFF organization. It has been shown that Nigeria's broader private sector is able to create thousands of jobs and the potential to create jobs and additional revenues in a decentralized, profit-driven, privately-held sector making privatization well worth any risks that come from lessening direct government management of the NFF.<sup>136</sup> In order to accomplish this change, the Nigerian government and

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ews&cod=423&tp=n (last visited Mar. 20, 2011) (“[T]he NFA will notify the government that Decree 101 must be abolished . . .”).

<sup>131</sup> See FIFA, *supra* note 129, arts. 13(g), 15, 17.

<sup>132</sup> *Id.* art. 13(g) (“Members have the following obligations . . . to manage their affairs independently and ensure that their own affairs are not influenced by any third parties.”).

<sup>133</sup> See IMF, *supra* note 128, at 47 (citing “political corruption” by those seeking “control of the state machinery for private or sectarian interests”).

<sup>134</sup> See Okeleji, *supra* note 123 (explaining the remarks of a former head of the NSC that the NFF would not be able to stand on its own, due to the lack of funding and the problems that are associated with the novelty of an independent sports federation in Nigeria).

<sup>135</sup> See IMF, *supra* note 128, at 47 (“[The Nigerian government should] [e]ncourage private sector participation in sports administration by setting up independent sports associations and amending the governance structure of existing ones.”).

<sup>136</sup> See *id.* at 46–47 (“The private sector has demonstrated enormous capacity . . . to run many sports profitably.”).

the NSC must encourage the creation and support of new and existing independent soccer associations, repeal any laws similar to Decree 101 that restrict the private nature of soccer associations, encourage private sector involvement in the maintenance of Nigeria's infrastructure, and encourage private sector partnerships with other industrialized nations.

As previously mentioned, there are legitimate concerns with liberalizing soccer in Nigeria, namely the potential for mismanagement and corruption like those found in Brazil before its reforms.<sup>137</sup> Also, recent corruption in Nigeria's banking industry demonstrates the potential for disaster in the private sector when it lacks government regulation.<sup>138</sup> Laws privatizing the soccer industry must be drafted with caution and must include certain provisions for accountability and financial reporting, similar to those in Brazilian Provisional Measure 2193.<sup>139</sup> The goal is not to preclude the government completely, but instead to grant the NFF and other soccer associations the freedom to sell tickets, obtain funding and sponsors, advertising, and employ any standard revenue-generating tactics that are used by private sector businesses.<sup>140</sup> The Nigerian government, ideally through some form of agency similar to the NSC, should require financial reporting from each club and from the NFF itself, and should provide any administrative assistance the NFF or club teams need to be successful. This government role allows for the necessary oversight and accountability initially, created in Brazil by Pelé's Law, and currently lacking in Nigerian soccer.<sup>141</sup>

The roles of the NSC and the Nigerian government would change significantly since the NFF and other soccer associations would no longer be under total government control but rather be privately run with limited government oversight. To achieve these new roles, the Nigerian government must first determine the nature of the NSC and pass enabling legislation for

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<sup>137</sup> Aidar et al., *supra* note 29, at 245.

<sup>138</sup> See Camillus Eboh, *C.bank Boss Laments Nigerian "Culture of Corruption,"* REUTERS (Dec. 3, 2009), <http://www.reuters.com/article/idUSGEE5B22EO20091203> (detailing the charges brought against many of Nigeria's banking executives amidst allegations of corruption, and explaining the culture of political "hob-nobbing" and unethical other practices that led to a devastating national financial crisis).

<sup>139</sup> See Aidar et al., *supra* note 29, at 245, 257–59 (explaining that Provisional measure 2193/2011 provided for investment incentives and various management oversight practices).

<sup>140</sup> See *id.* at 257 ("[T]hese provisions could encourage new investments . . . and new business opportunities could open up in the areas of media, licensing, and merchandising.").

<sup>141</sup> *Id.* at 245, 255.

its establishment.<sup>142</sup> The Nigerian legislature must also verify that the NSC, as well as its officers and board of directors, and the Nigerian people have a clear understanding of the NSC's important role in the NFF, other private soccer associations, and to the game of soccer in Nigeria as a whole.

In 2008, acting Director-General of the NSC, Chief (Dr.) Patrick Ekeji, announced that the decision to invite the private sector to adopt and fund [sports in Nigeria] . . . is consistent with the NSC's policy position.<sup>143</sup> Ekeji, along with Minister Ndanusa wanted to ensure that the sport sector does not rely completely on the government for financial support.<sup>144</sup> This privatization plan would also place an emphasis on the grassroots development of youth athletics, as well as the building and maintenance of the Nigerian sports infrastructure, which are needed to prepare for a prosperous future, by allowing foreign investment in private associations to secure outside revenue and to create more jobs.<sup>145</sup> Also, since the NFF and other associations would be financially independent for the first time, Minister Ndanusa plans to incorporate a "Public Private Partnership" (PPP) that "will require that individuals and corporation [sic] share resources and collaborate with government in designing and planning projects that will have mutual benefits."<sup>146</sup>

Encouraging to the success of the privately-run NFF was the news that Ndanusa met with United Nations leaders to obtain advice regarding how best to install, finance, and monitor the Public-Private Partnership.<sup>147</sup> This

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<sup>142</sup> See Emmanuel Ojeme, *Needs Assessment of the National Sports Commission*, NATION (June 12, 2009), <http://thenationonline.net/web2/articles/27804/1/Needs-assessment-of-the-National-Sports-Commission-/Page1.html> (detailing the fact that, though the Nigerian legislature passed creation legislation for the NSC, enabling legislation, signaling that THIS may be a great venue in which to clear up the role of the NSC by creating enabling legislation that takes into account privately run entities like the NFF).

<sup>143</sup> Sadiq A. Abdullahi, *The Politics of Sports Development and Privatization in Nigeria*, NIGERIANS IN AMERICA (Dec. 4, 2008), <http://www.nigeriansinamerica.com/articles/3078/1/The-Politics-of-Sports-Development-and-Privatization-in-Nigeria/Page1.html>.

<sup>144</sup> Sadiq A. Abdullahi, *Can Ndanusa's Vision for Sports Stop Corruption, Mismanagement, and Broken Promises?*, NIGERIANS IN AMERICA (Dec. 29, 2008), <http://www.nigeriansinamerica.com/articles/3136/1/Can-Ndanusas-Vision-for-Sports-Stop-Corruption-Mismanagement-and-Broken-Promises/Page1.html>.

<sup>145</sup> See *id.* ("[S]ports whether it is recreational or professional has the potential to not only impact the youths and their social and psychological orientation, it impacts national and economic development.").

<sup>146</sup> *Id.*

<sup>147</sup> *Nigerian Minister Welcomes Idea of Sports Patnership with Eritrea*, CAPITAL ERITREA (Oct. 21, 2009), <http://www.capitaleritrea.com/sports/nigerian-minister-welcomes-idea-of-patnership-with-eritrea-in-sports/>.

move by Ndanusa not only demonstrates a willingness on the part of the NSC and the Nigerian government to ensure that the PPP is a success, but also shows that the NSC wants associations like the NFF to succeed independently. The meetings between Ndanusa and the United States also produced suggestions that led to the NSC's creation of certain tax incentives for both foreign and domestic investments in Nigerian sports.<sup>148</sup>

Also, once independent of total government control, the NFF and other associations must ensure that the free agency problem does not allow teams outside of Nigeria to sign Nigerian players without paying a transfer fee. Also, once the NSC enabling legislation is passed and each involved party has a clearer understanding of their roles, the NSC and the NFF must take a closer look, as the Brazilian legislature did, at the various fees and compensation requirements that accompany both the transfer of players between clubs within Nigeria and also in the acquisition of Nigerian players by foreign clubs. When one of its players goes abroad, Nigeria should reap the benefit of such a transfer by implementing regulations similar to those enacted in Brazil that take the money received in the exchange and invest it in grassroots and infrastructure projects. By implementing these changes, one day the country's most talented players will not need to leave Nigeria in order to play in the best leagues in the world.

#### IV. CONCLUSION

For too long, too much government influence crippled the game of soccer in Nigeria. Based on the lessons learned from Brazil, Nigeria's government should limit its involvement to an oversight role, rather than comingling the soccer industry with the government to the point where there is no clear separation between the Nigerian legislature, the NSC, and the NFF. Creating the independence of the NFF is a vital first step toward rebuilding the game, but only if the appropriate governmental controls are in place. Government funding, made available to the NFF, provides a powerful incentive to comply with government oversight because the NFF will need funding, at least in the short-term. The NFF must also take a deeper look at the key concepts that guided Brazil through its reform movements, specifically the use of transfer and education fees, along with the cautioned use of the free agency system to ensure that Nigerian soccer does not suffer while the leagues of Europe prosper.

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<sup>148</sup> *Id.*



Though less governmental interference with the game is a positive first step, the Nigerian government and the NFF must remember the problems faced by an independent but unaccountable Brazilian soccer club structure and recognize that there remains an important role for the government in ensuring the success of Nigerian soccer.

