



SPORTS LAW BULLETIN

JUNE 2025 EDITION

EDITOR'S NOTE

Welcome to the latest edition of the Perchstone and Graeys' Sports Law Bulletin. Recently, Newcastle United's Sporting Director, Dan Ashworth who has been offered an appointment by Manchester United in a similar role, informed Newcastle United of his intention to leave the Magpies and was immediately placed on gardening leave by Newcastle. Both Dan Ashworth and Newcastle United have been embroiled in a stand-off over the best way to manage the situation. Newcastle has reportedly quoted a compensation fee which both Ashworth and Manchester United consider unrealistic. While it is not clear whether Newcastle has or will be taking a court action on the matter, available precedent shows that they will most likely succeed in their quest to keep their highly valued Sporting Director from joining perennial North-West rivals until next summer.

TABLE OF CONTENTS:

Email: editor@perchstoneandgraeys.com.

1. MULTI-CLUB OWNERSHIP MODEL & THE NEED FOR SPORTING INTEGRITY – REMO STARS FC AND BEYOND LIMITS FC AS A CASE STUDY
2. THE NPFL, PLAYERS' WORK HEALTH & SAFETY AND THE CIVIL LIABILITY OF SPORTS ORGANIZATIONS
3. COMBATING THE CHALLENGES OF SEXISM AND GENDER DISCRIMINATION IN SPORTS THROUGH THE LAW

Multi-club ownership model & the need for sporting integrity –Remo Stars FC and Beyond Limits FC as a case study

From City Football Group to the Red Bull Consortium, the multi-club ownership model has demonstrated significant on-field success. With an increasing number of private equity funds getting more involved in football, the impact of the multi-club ownership model could become even more significant in the coming years. The Ineos Group led by British business tycoon, Sir Jim Ratcliffe recently acquired a 27.7% stake in Manchester United. Ratcliffe became a part-owner of Manchester United some months ago where he has complete control of football operations, and is also the majority shareholder at Nice following his takeover of the French club in 2019.

Uefa's multi-club ownership (MCO) rules bar any organization or individual from having “decisive influence” over the running of more than one club in the same competition. United won the FA Cup a couple of weeks ago at the expense of fierce cross-city rivals, Manchester City and automatically qualified for Europe's 2nd tier club football showpiece, the Europa League. Nice FC of France, wholly owned by the Ineos consortium headed by Ratcliffe had earlier qualified automatically for the Europa League prompting concerns about the implications of this development on UEFA's regulatory framework entitled *“The Integrity of UEFA Club Competitions: Independence of the Clubs”*. United was due to respond to UEFA's informal enquiry on the propriety of the club remaining in the Europa League by Monday, June 3, 2024 to show cause why they should not be demoted to UEFA's third tier competition. An independent panel was also due to rule on the matter before the parties suddenly reached an amicable settlement with both clubs getting the approval to play in the competition. Just a few weeks ago, Beyond Limits Football Club secured their promotion to the Nigeria Premier Football League after an enthralling 3-2 victory over Nasarawa United Football club. Upon their promotion to the Nigerian Premier Football League, the exploits of Beyond Limits Football Club were blighted by rumours that the club is affiliated to Remo Stars Football Club and its Billionaire owner, Mr. Kunle Soname. Put differently, can two clubs affiliated to and/or owned by the same owners whether directly or indirectly be allowed to play in the same competition in the interest of sporting integrity of the league? There is available precedent in Nigeria to show that this is not a new development. For example, both Akwa United Football Club and Dakada FC of Akwa Ibom State, plied their trade in the NPFL at some point and are both affiliated, sponsored and managed by the Akwa Ibom State Government. Currently, both Enyimba Football Club and Abia Warriors Football Club of Aba are affiliated, sponsored and managed by the Abia State Government.

This article examines the regulatory implications of multi-club ownership under the Nigeria Premier Football League Rules in the light of available precedent on the one hand and a look at the existing framework in comparative jurisdiction. To the author's best knowledge, the UEFA MCO Rules provide the clearest indication yet, of a strong regulation of the practice would look like. These UEFA Rules would be analyzed in the light of Article 6 of the NPFL Framework and Rules to examine the propriety and the implications of allowing two or more clubs affiliated to the same owner to play in the same competition.



RECENT REGULATORY STRIDES

The First Chamber of the UEFA Club Financial Control Body (CFCB First Chamber) recently opened proceedings against:

- Aston Villa FC (ENG) and Vitória Sport Clube (POR);
- Brighton & Hove Albion FC (ENG) and Royal Union Saint-Gilloise (BEL); and

- AC Milan (ITA) and Toulouse FC (FRA) due to a potential conflict with the multi-club ownership rule provided for in Article 5 of the UEFA club competitions regulations. For completeness, UEFA'S statement read as follows:

“Following the implementation of significant changes by the clubs and their related investors, the CFCB First Chamber accepted the admission of the aforementioned clubs to the UEFA club competitions for the 2023/24 season. The CFCB found that the significant changes implemented brought the clubs into compliance with the multi-club ownership rule, considering that as of today.” In sum UEFA's MCO Rules are summarized as follows:

- i. No club, either directly or indirectly, holds or deals in securities or shares of any other club participating in a UEFA club competition;
- ii. No club is a member of any other club participating in a UEFA club competition;
- iii. No one has any power whatsoever or is simultaneously involved, directly or indirectly, in any capacity whatsoever in the management, administration and/or sporting performance of more than one club participating in a UEFA club competition; and
- iv. No one has control or decisive influence over more than one club in a UEFA club competition.

UEFA's statement further reads as follows:

“More specifically, the significant changes that were implemented relate to the ownership, governance and financing structure of the concerned clubs. These changes substantially restrict the investors' influence and decision-making power over more than one club, ensuring compliance with the multi-club ownership rule”.

In comparison to the foregoing, **Article 11.4 through 11.6 of the NPFL Framework and Rules, 2023/2024 season** prohibit the holding of dual interests in two or more clubs and very much mirror the provisions of **Article 5 (i) (iii) (iv) of UEFA MCO Rules**. They provide as follows:

11.4- “No Person may either directly or indirectly be involved in or have any power to determine or influence the management or administration of more than one Club”.

11.5- “No Person may either directly or indirectly hold

or acquire any Significant Interest in a Club while such Person either directly or indirectly holds any Holding in another Club”.

11.6. “A Club shall not either directly or indirectly issue Shares of any description or grant any Holding to any Person that either directly or indirectly already holds a Significant Interest in another Club”.

Remo Stars FC Billionaire owner, Mr. Kunle Soname while reacting to the development cited the case of Abia Warriors Football Club and Enyimba as examples of clubs in breach of the Multi-club ownership rules and maintained that his team has not breached the NPFL Framework and Rules. Whilst the author is not privy to the incorporation documents of both teams and cannot speculate on the quantum of sporting control held by the owners of both clubs in each of the teams, it is not in doubt that Beyond Limits FC enjoys some affinity to Remo Stars FC as a 'feeder team', the same way the City and Red Bull Groups exercise sporting control over their teams. The principal issue for the owners of both clubs revolve around the extent of their sporting control at the two clubs. Even if the owners are minority shareholders in Beyond Limits FC, if they retain full control of football operations at the club including the ability to hire and fire a Manager, Chief Executive, Technical Director and other key executives, it suffices to invoke the powers of the NPFL under Article 11 of the Framework and Rules and should disqualify the second team from participating in the 2024/2025 NPFL season.

The principle should inure if the management of the parent club has the ability to influence key executive decisions such as player transfers, budget approval, key commercial contracts, or benefits from specific contractual or statutory privileged rights with respect to the club's governance, through veto rights or other privileged rights. If one or more of these “indicators” are triggered, the NPFL should consider that a party “has the capacity to exercise a decisive influence in the decision-making of a club” and therefore in breach of the 'Dual Interest' Rules.

As a general principle, the NPFL reserves the right to intervene and to take appropriate action in any situation where it appears that an individual or legal entity is in a position to influence the management, administration and/or sporting performance of more than one team participating in the same NPFL competition. The MCO/Dual interest Rules is an essential feature for the organization of a professional football competition and is necessary to serve the fundamental goal of preventing conflicts of interest which would be publicly perceived as affecting the authenticity, and the sporting integrity of the NPFL and indeed, any other competition of comparable standard in Nigeria. The ramifications of this development and the possibility of match-fixing when both clubs play each other at a critical time of the season where one of the clubs is either fighting for the title or

battling relegation. It is common for the affiliated clubs to share the same ground/stadium like in the case of Enyimba and Abia Warriors. In most cases, they share the same fans. There is no better demonstration of conflict of interest. As the commencement of the NPFL 2024/2025 season draws closer, the NPFL should urgently address some of the regulatory gaps in its framework and Rules that enable the breach of the dual interest Rules that have accommodated the likes of Abia Warriors Football Club and Enyimba FC who have been in the competition for several years now. The author is not privy to the incorporation documents showing the extent of sporting control retained by their respective shareholders. However, it is public knowledge that both clubs are financed by the Abia State Government. There is now an urgent need for a serious restructuring of the affiliated clubs by divesting the equity in one of the clubs and relinquishing sporting control. There is a need for an amendment of the NPFL Framework and Rules to introduce certain significant changes. While an outright expulsion of clubs in breach of the Rules would be too extreme and should be the last resort, they should be enjoined to restructure their respective clubs and enter into Settlement Agreements with the NPFL with an undertaking to be expelled from the league should they breach the Settlement Agreement in the future. Some of the significant amendments and actions that could be taken include:

- i. significant reduction of the investors' shareholding in one of the clubs, or transfer of the effective control and decision making of one of the clubs to an independent party;
- ii. significant restrictions in the ability to provide financing to more than one club;
- iii. no representation on the board of directors and no capacity to directly appoint new directors on the board of more than one club;
- iv. total restrictions on the ability to participate in the general assembly or ability to participate in key decisions such as the approval of the budgets of more than one club; and
- v. loss of ability to exercise control over more than one club at the level of the board of directors or their general assemblies through veto rights or contractual arrangements entered into with other shareholders.

Much of the written and oral debate on this issue has centered around the question of the integrity of the games played between two affiliated clubs in the same competition. The NPFL and indeed, all tiers of professional football in Nigeria should be seriously concerned with this question. The regulators have a specific duty to protect the integrity of the game. As concern for the integrity of the game is indeed common ground between the regulators and the affected clubs, the question then, is how should integrity be defined in a sporting sense? For our purposes, it needs to be defined and characterized in the context of sports in general and football in particular, in its primary meaning of honesty and uprightness. The provisions of Article 6 -Owners and Directors tests need to be fully invoked to implement the philosophy underpinning its inclusion in the Framework and Rules of the NPFL for the 2024/2025 football season which is to vet owners, directors and executives of football clubs before allowing them to hold such positions. The debate has also evidenced the connection between the notion of integrity in football and the need for authenticity and uncertainty of results from both a sporting and an economic angle. Some analysts have stated that uncertainty of results is the most important objective of football regulators and the critical element for the business value of football.

As a post script, we make bold to say that integrity, in football, is crucially related to the authenticity of results, and has a critical core which is that, in the public's perception, both single matches and entire championships must be a true test of the best possible athletic, technical, coaching and management skills of the opposing sides. Due to the high social significance of football in Nigeria, it is not enough that competing athletes, coaches or managers are in fact honest; the public must perceive that they try their best to win and, in particular, that clubs make management or coaching decisions based on the single objective of their club winning against any other club. This particular requirement is inherent in the nature of sports and, with specific regard to football, is enhanced by the notorious circumstance that Nigerian football clubs represent considerably more in emotional terms to fans – the ultimate consumers – than any other form of leisure or of business. This is why the status quo must change as far as duality of interests in football in Nigeria is concerned.



THE NPFL, PLAYERS' WORK HEALTH & SAFETY AND THE CIVIL LIABILITY OF SPORTS ORGANIZATIONS

The legal status of an athlete who earns a living from participating in sport is determined in Nigeria by national legislation and principles developed from the common law and case law. Some athletes will be independent contractors, others will be workers and some will be employees. The legal status is important because it characterizes the contractual relationship between the athlete and the entity for which he or she provides services; the nature of that contractual relationship will determine the rights and obligations that arise. A professional athlete will almost always provide services under a contract with a club, competition organizer, or national federation. Three Nigerian Football clubs, at different times in 2021, experienced an unprecedented spate of accidents on their way to prosecute league matches for their respective teams. This development has attracted scathing comments against the organizers and the teams involved and raises concerns about employee safety in the Nigerian sports industry. First was Adamawa United whose bus was attacked on the Benin/Ore road by suspected kidnappers with the team's driver abducted. Wikki Tourists Football Club, Bauchi was next after the team bus became involved in a road accident. The bus, which was carrying the players and officials of the Bauchi-based club to Uyo for their NPFL matchday 11 tie against Dakkada FC, caught fire at Hawan Kibo, Riyom Local Government Area of Plateau State. According to a witness account by one of the players in the bus, Damala Ezekiel, the bus lost two tyres before finally going up in flames. A few weeks ago, the team bus of Doma United Football Club of Bauchi was involved in a ghastly accident on its way to conveying the first team to prosecute a league game.

It would be recalled that exactly 14 years ago 15 footballers of amateur side, Jimeta Football Club Yola, as well as their coach and another official, met their untimely death when their bus crashed into a gully. Then followed by Kwara United FC of Ilorin who suffered a similar fate on their way from Enugu where they had traveled to prosecute their match against Rangers International Football Club of Enugu with the traveling players and staff escaping death by the whiskers.

The risk of traveling several hours or even days in some cases to prosecute a league game can be staggering and has also called to question, the integrity of such games where a team has little or no recovery time to prosecute important matches. The outcome in most cases is usually a shellacking from the home team due to the fatigue suffered by the visiting team.



Undoubtedly, this development raises a number of legal issues from an employment standpoint i.e., the liability of an employer/club for personal injuries suffered by their playing and coaching staff in the course of their employment. Put differently, the work health and safety obligations of a professional football club. This article is in two parts; first, we take a look at Employers' liability insurance in general while the second part delves into insurance and risk management in sports and the ancillary issues of work health and safety.

The liability of employers for industrial injuries or disease caused to employees continues to be one of the most litigated areas of the tort of negligence. The Pension Reform Act, 2014 mandates employers of three and above to have in place employer's liability, (group life) insurance for employees. Employer's liability insurance in Nigeria provides compensation for the family of employees, in case of untimely death, disappearance, or disability while in service. It is one of the six compulsory insurance policies in Nigeria. Although a lot of employers are yet to comply with this, it remains a law in Nigeria and applies to both public and private sector employees.

This means that employees (and their families) have the right to demand compensation and payment from their employers in the event of injury or death. The penalty for non-compliance with this law is N250,000. In addition, the place of business may be sealed up. One hastens to point out that the existing legislative framework in Nigeria is rather weak to cater for all the conceivable situations under employers' liability especially as regards the ambit of protection as you have in other jurisdictions such as the United Kingdom. One would therefore expect that the scope of protection should only cover situations arising during the employee's course of employment. Thus, the insurable risks must refer to risks 'arising out of and in the course of the players' employment. This principle is in tandem with the common law principle on the point. For example, in **Moore v Manchester Liners Ltd**, Lord Loreburn defined the course of employment to mean *'that the event, normally an accident, giving rise to the employee's claim must arise when the employee is doing what a man so employed might reasonably do during which he was employed and at a place where he may reasonably be during that time to do that thing'*.

As a general rule, an employee's journey to and from his or her place of work is not ordinarily in the course of employment unless the journey is so closely connected with the employee's work that the general principle ceases to apply. In *Smith v Stages* an employee, a peripatetic logger had been instructed to work away from his usual workplace at the Drakelow power station in Staffordshire to undertake urgent work at Pembroke power station in Wales. As soon as the work was completed, the employee was driven back to his home in Staffordshire on a Bank Holiday Monday by a colleague so that he could resume work at his usual place of employment the next day. During the journey, the car skidded off the road and crashed into a brick wall. Both men were seriously injured. The plaintiff was paid by his employers for the day he needed to travel back on the same basis as any normal working day. The House of Lords held that at the time of the accident, the plaintiff was acting in the course of his employment. Lord Goff reiterated the fundamental principle as follows:

- iv. total restrictions on the ability to participate in the general assembly or ability to participate in key decisions such as the approval of the budgets of more than one club; and
- v. loss of ability to exercise control over more than one club at the level of the board of directors or their general assemblies through veto rights or contractual arrangements entered into with other shareholders.

Much of the written and oral debate on this issue has centered around the question of the «integrity of the



games played between two affiliated clubs in the same competition. The NPFL and indeed, all tiers of professional football in Nigeria should be seriously concerned with this question. The regulators have a specific duty to protect the integrity of the game. As concern for the integrity of the game is indeed common ground between the regulators and the affected clubs, the question then, is how should integrity be defined in a sporting sense? For our purposes, it needs to be defined and characterized in the context of sports in general and football in particular, in its primary meaning of honesty and uprightness. The provisions of Article 6 -Owners and Directors tests need to be fully invoked to implement the philosophy underpinning its inclusion in the Framework and Rules of the NPFL for the 2024/2025 football season which is to vet owners, directors and executives of football clubs before allowing them to hold such positions. The debate has also evidenced the connection between the notion of integrity in football and the need for authenticity and uncertainty of results from both a sporting and an economic angle. Some analysts have stated that uncertainty of results is the most important objective of football regulators and the critical element for the business value of football.

“The fact that a man is being paid by his employer in respect of the relevant period of time is often important but cannot of itself be decisive I approach the matter as follows. I do not regard this case as an ordinary case of traveling to work...in my opinion, in all the circumstances of the case, M was required by the employers to make this journey and it would be proper to describe him as having been employed to do so...the Monday, a normal working day, was made available for the journey, with full pay for that day to perform a task which he was required by the employers to perform.....the journey was therefore made in the course of their employment”.

On the other hand, in **Vandyke v Fender, V & F**, who were both employed by the same company as skilled moulders and who worked some distance from home, were provided with a car by their employer so that F could drive himself and V to their place of work. The employer also contributed towards the cost of petrol. During a journey to work, they were involved in an accident caused by F's negligence in which V was seriously injured. V brought an action in negligence for damages against F and the employer. The employer joined as third party its insurers. one of the issues before the court was whether the employers' liability policy covered this risk or whether the claim should be directed to the relevant motor insurer. It was held that the employers' liability insurer was not liable as the accident did not occur during the course of V and F's employment. The court further held that driving to work is not the same as driving at work and, in any case, V was under no obligation to travel in the car. Lord Denning, M.R held as follows:

“They show, to my mind quite conclusively, that when a man is going to or coming from work, along a public road, as a passenger in a vehicle provided by his employer, he is not then in the course of his employment unless he is obliged by the terms of his employment to travel in that vehicle. It is not enough that he should have the right to travel in the vehicle or be permitted to travel in it. He must have an obligation to travel in it. Else, he is not in the course of his employment.

Whether or not an employee was acting in the course of his employment is a question of facts which as shown by the foregoing cases, is amenable to a number of tests devised by the individual judges. The judge as arbiter is therefore under an enormous duty to take cognizance of the peculiar facts of each case in applying the law.

From the foregoing analysis, it is clear that the playing and coaching staff of these clubs suffered these mishaps on their way to prosecuting an important game for the club. By the terms of their contract, they are obliged to obey lawful instructions from their employers, the clubs. Part of these lawful instructions is to travel in the team buses provided by the employers to prosecute matches for the club. Refusal by any employee to travel in the team's buses would clearly be interpreted as insubordination by the employee and could be a ground for misconduct. It is therefore clear that the playing and coaching staff are obliged by the terms of their contract to travel in those buses and by road. Accordingly, any resultant injury or loss incurred by the playing and coaching staff would be deemed to have been suffered in the course of employment. A look at the Nigeria Professional Football League Framework Rules 2023/2024 season shows that there are no elaborate provisions for employer's liability insurance. as a matter of fact, the only provisions on insurance are contained in Article 12.12 of the Commercial Framework of the Rules which obliges the Clubs to ensure that they maintain a medical insurance scheme approved by the NPFL and comply with all relevant Pension laws and or special bridging Players pension approved by the NPFL. Curiously, clause 6.1.3 of the Framework and Rules suggests that this provision is not obligatory when it provides in part **that where the club's medical insurance does not cover medical and dental examinations for a player who is injured or ill, then the club is obliged to maintain a policy upon normal industry terms commonly available within professional football clubs.** What is deemed normal industry terms is not defined in the Rules and understandably gives the clubs a leeway to circumvent the existing regulations. Even though the Rules provide that the provisions of the Pension Reforms Act shall apply to the football clubs, it is clear that even the Employer's Liability Insurance Provisions under the Act are inadequate to meet the demands of global best practice.

Professional sport is work and therefore, an aspect of the law that needs to be accorded serious attention is work health and safety. Even though there is an implied term at common law that obliges an employer to exercise a duty of care to ensure the safety of its employees, there needs to be bespoke legislation that would expressly provide that those conducting a business owe a duty of care to ensure the safety of its workers and to exercise due diligence in taking reasonable steps to comply with work health safety obligations. One renowned *author posits that sport does not enjoy any privileges when it comes to work health and safety law as there is no broad exception for sport, and suggests policies for extreme heat conditions, pitch inspections, padding on posts etc as examples of what can be implemented as reasonable and practical.* In commending this to the regulators in the Nigerian sports industry, it is clear that professional sportspeople in team sports are classified as employees working under a contract of service and accordingly, entitled to employee insurance protection.



The standard practice globally is to enact laws that provide elaborate protection for sportspeople in respect of sports injuries. Australia for instance, enacted the Sporting Injuries Insurance Act to provide compensation for participants in all sports. It establishes the Sporting Injuries Compensation Authority which is tasked with creating a fund called the “Sporting Injuries Fund” and determining the premiums for each sporting organization. Premiums should cover both the playing and coaching staff as well as sports umpires. Sports clubs should be made to pay their premiums at the beginning of every season to ensure that compensation is paid to deserving persons. Sports teams and organizations should be mandated by the regulators to create a work health safety policy in their organizations with a special Committee created to ensure compliance. These steps would no doubt ensure that sports organizations and their employees are not embroiled in protracted insurance litigation. The club licensing regulations should be amended to incorporate stringent penalties for non-compliance. Until then, the commercial aspirations of Nigeria's football industry would remain a mirage.

See Braganza v BP Shipping Ltd and Another [2015] UKSC 17.

S o u r c e :

<https://www.premiumtimesng.com/sports/football/443607-nigerian-football-club-involved-in-ghastly-accident-on-the-way-to-honour-npfl-fixture.html>;

Source: NPFL: Doma United involved in road accident - Daily Post Nigeria last accessed on June 29, 2024

M. Brazier and J. Murphy, Street on Torts (London, Butterworths, 1999) chapter 13

(1910) AC 498

Ibid, at 500-1

In Smith v Stages, Lord Lowry stated that: “the paramount rule is that an employee travelling on the highway will be acting in the course of his employment if, and only if, he is at the material time going about his employer's business. One must not confuse the duty to turn up for one's work with the concept of already being on duty while travelling to it.

(1989) AC 928 at 955, see also Elleanor and Cavendish Woodhouse Ltd v Comerford (1973) 1 Lloyds Rep 313.

Supra, n 23 at 938-9

(1970) 2 QB 292

Supra, n 28, at 305

Eric Windholz, Professional Sport, Work Health and Safety Law and Reluctant Regulators (2015) Bond E-sports law journal.



COMBATING THE CHALLENGES OF SEXISM AND GENDER DISCRIMINATION IN SPORTS THROUGH THE LAW

Harry Potter' author J.K. Rowling tweeted a message to commemorate Serena Williams' victory at the 2015 Wimbledon tennis championships. Shortly after, Twitter user @diegristan8 responded that the "Main reason for [Williams'] success is that she is built like a man". Rowlings response, which highlights how sportswomen have to continually 'prove' their heterosexual femininity, went viral.

It is for this reason that sportswomen frequently have to accentuate the conventional appearance of heterosexual femininity in order to provide reassurance that they are still 'real' women. Indeed, women are rewarded for cultivating an overtly sexualised image with greater media attention and sponsorship. Even if they do not cooperate in this regard, the commercial media are likely to sexualise them anyway, as well as to disparage the appearance of sportswomen whose bodies they regard as unattractive and/or overly masculine and implicitly lesbian.

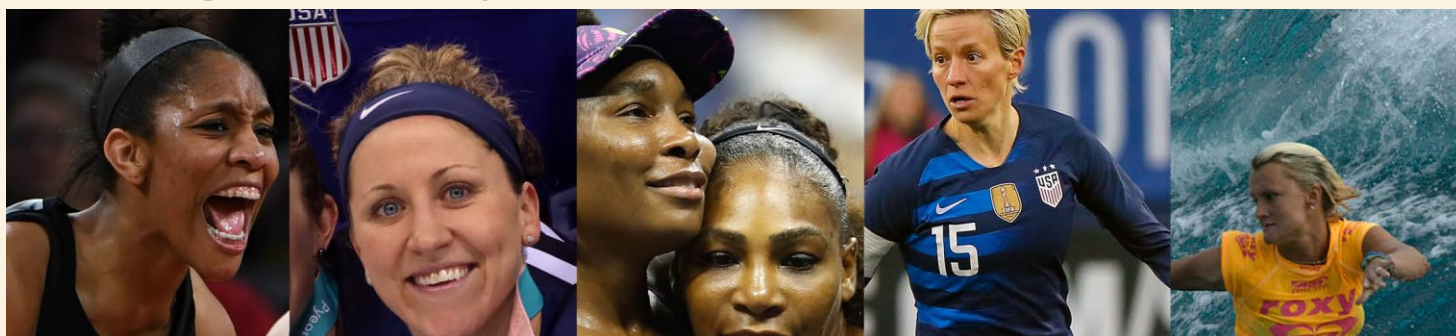
U.S football icon, Carly Lloyd represents one of the most vocal female athletes against gender discrimination. In an interview granted to the New York Times in 2016, the footballer in a sensational outburst stated as follows:

"I've worn a U.S. Soccer uniform for 12 years and have done so proudly. I've had some of the greatest moments of my life — winning two Olympic gold medals and the 2015 Women's World Cup — wearing that uniform. So, when I joined four teammates in filing a wage discrimination complaint against U.S. Soccer late last month, it had nothing to do with how much I love to play for my country. It had everything to do with what's right and what's fair, and with upholding a fundamental American concept: equal pay for equal play. Even if you are female. Simply put, we're sick of being treated like second-class citizens. It wears on you after a while. And we are done with it".

Perhaps, no sport epitomizes this gender disparity more brazenly than tennis. For instance, during the BNP Paribas open in Indian Wells, California (an equal prize money event), Raymond Moore, the tournament director, resigned after saying that WTA players were "lucky" to be able to "ride on the coattails of the men." his comments led to conversations at subsequent tournaments about the financial realities for men and women in tennis. The U.S Open became the first Grand Slam event to offer equal pay, in 1973, and Wimbledon the last, in 2007.

But at other large combined ATP-WTA tournaments, where the men and women are sold together under one ticket, the prize money disparity can be stark. The Western & Southern Open in Mason, Ohio, the biggest event in the weeks before the United States Open, attracts dazzling constellations of top men's and women's stars each year to the fourth-largest tennis tournament in the country.

In Nigeria, analysts point to three main areas where the practice is most pronounced: funding and support, government representation, and media and societal treatment. Female sports in Nigeria do not receive the same level of support (financially and otherwise) as male sports in Nigeria do. Over the last 3 decades, the Super Eagles have won just 2 (two) major tournaments. Whereas, their female counterparts have won over 10 (ten) African championship tournaments, and even had a historical showing at the 1999 female world cup where they lost to Brazil in the quarter finals. One would have thought that performances on the pitch would form a major criterion in terms of funding from the Football Association. The reverse is however the case as the team is often neglected and abandoned by the glass house. They are currently ranked 38th in the world. In December 2016, the team, rising from its triumph at the 10th edition of the African Women's Championship in Cameroun, where they won the continental showpiece for a record 8th time, stormed the National Assembly to protest the non-payment of their allowances. The nation's Minister of Sports, at the time, Mr Solomon Dalung, in a dramatic twist to the development released a statement seeking to justify the delay on the pretext that the Federal Government believed they (the Falcons) could win the competition. As embarrassing as this gaffe may appear, it once again represents a damning reality of the chauvinistic tendencies of a society riddled with institutionalized socio-cultural repression of the female gender.



Following this show of shame in the nation's sporting space, the Socio-Economic Rights and Accountability Project (SERAP) petitioned the United Nations' Working Group on issues of gender discrimination citing that each Super Falcons' player receives a sum of \$50 while each Super Eagles' player is paid \$4000 for a draw and \$5000 for a win. Not only is there a gap in the level of financial support given to female sports, general support of female sports is also lacking. This becomes even more baffling when it is remembered that it was a woman that won the country its first Olympic gold medal at the Centennial Olympics in Atlanta, Georgia, in 1996.

Sports media and the Nigerian society as a whole are also key contributors to gender inequality in sports. This is as a result of the “masculinization” of sports. The manner of media coverage, sport marketing, and celebration of female sportspersons and women's sport as a whole, leaves a lot to be desired. Female athletes are greatly underrepresented in all types of media and are usually not recognized for their athletic ability. Rather, most popular female Nigerian athletes are discussed in the media for their physical appearance, femininity, marital status and even their heterosexuality (or potential lack thereof). This phenomenon is known as Gender marking. Gender marking is particularly predominant in Nigerian media as a result of our traditional and cultural expectations of females. Gender marking is the characterisation (be it verbal or written) of male athletes and men's sports as being the norm, while interpreting female athletes and women's competitions as anomalous or at best secondary.

Women are resilient beings. This resilience has helped propel and maintain the gender equality movement from inception till date. Now it is the responsibility of the entire human race, particularly all Nigerians to press for progress; especially as applied to sports and athletics. As is so often the case, the meaning and implication of the legislation's actual wording have been subject to considerable judicial interpretation. In 1979, the U.S. Supreme Court held that a private right of action for injunctive relief exists under Title IX. But the practical impact of that potentially significant finding on athletic participation was eliminated in 1984 when the Court narrowly interpreted the statute. It basically held that Title IX applies only to matters related to admissions and financial aid, not to athletic opportunities, because athletic departments themselves were not direct recipients of federal funding. In response to this decision, Congress amended the terms of the statute in 1988 to make clear that if an institution receives federal funding, then all of its programs and activities, including those related to athletics, are subject to the mandates of Title IX. Following that legislative clarification, the Court approved in 1992 the remedy of monetary damages for Title IX plaintiffs.

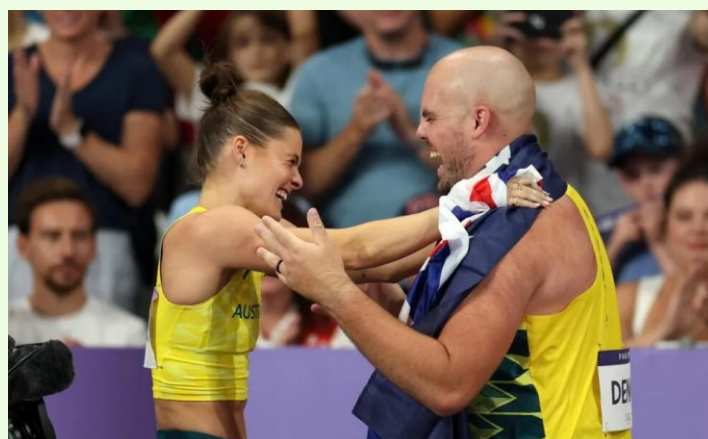
Some educational institutions in the United States have sought to find a way to circumvent the requirements of Title IX, as interpreted by the courts, by claiming that economic hardship has prompted them to cut women's teams, not as an act of discrimination but as an act of unavoidable austerity. The earliest case in this regard was *Favia v. Indiana University of Pennsylvania*, 7 F.3d 332 (3d Cir. 1993), in which the Third Circuit ruled that a school that is not in compliance with Title IX cannot cut opportunities for women, the already underrepresented sex, regardless of financial difficulties or challenges. Budgetary considerations are simply not a justification for failing to comply with Title IX.

The Courts have also spread this commendable judicial activism to institutional retaliations in respect of Title IX violations. In *Jackson v. Birmingham Board of Education*, 544 U.S. 167 (2005), the Supreme Court found in favor of a coach of a high school girls' basketball team who claimed that he had been fired because he complained about his team not being given equal funding or equal access to athletic equipment and facilities as similarly situated boys' teams at his school. The Court held that institutional retaliation against individuals who complain about discriminatory practices disallowed by Title IX is itself a form of discrimination and, therefore, a violation of Title IX.

Anti-discrimination law can be effective in countering some of the more blatant manifestations of sexism in sport, as well as the attachment of strings to public funding as occurred, for example, in February 2016 when: Australia's Federal Sports Minister Susan Ley and Australian Sports Commission (ASC) chairman John Wylie, apparently disturbed by the level of gender-based segregation and disparity in travel arrangements for Australian athletes, wrote to the 30 top funded organizations in an effort to curb the practice.

"In 2016, we can think of no defensible reason why male and female athletes should travel in different classes or stay in different standard accommodation when attending major international sporting events ...

The ASC is now proposing to make gender-neutral travel policies for senior major championships a condition of investment by the ASC in a sport".



Conclusion

Marginalisation and discrimination in sports bring the law into play. But sport and media organisations should lead rather than resist progressive change, and governments and the citizenry at large hold them to account. There must be legislative and policy changes to address this anomaly by enacting laws similar to the “Title IX” law in the United States. The exposition in the field of Tennis betrays the fact that this practice is more pervasive than thought. The persistence of sexism in sports diminishes its prospects in the face of all the other items on a crowded cultural menu. As stated by a renowned Sports law Professor, “Alienating half the population is a classic ‘own goal’ to be avoided on and off the field of play.

Rowe, D. (2004) *Sport, Culture and the Media: The Unruly Trinity* (second edition). Maidenhead, UK and New York: Open University Press/McGraw-Hill Education.

Available at <https://www.nytimes.com/2016/04/11/sports/soccer/carli-lloyd-why-im-fighting-for-equal-pay.html?ref=sports>

Ben Rothenberg, “The pay gap in Tennis” *New York Times*, 2016. Available at <https://www.nytimes.com/2016/04/13/sports/tennis/equal-pay-gender-gap-grand-slam-majors-wta-atp.html>
Ibid.

The tournament, in which the United States Tennis Association owns a majority stake, pays the women only 63 cents on the dollar as compared with the men. In 2015, Roger Federer received \$731,000 for defending his title at the tournament, while Serena Williams received \$495,000 for defending hers hours later.

The Punch; December 14, 2016 “Super Falcons storm National Assembly, protest non-payment of allowances”. Available at <http://punchng.com/breaking-super-falcons-storm-nass-protest-non-payment-allowances/>

To illustrate this ‘under-celebration’ of women in Nigeria sports, Perpetua Nkwocha holds the record as the most decorated African female footballer having won the highest number of individual awards in the

Molly Ryan, “Title IX and the Drive for Gender Equality in Sports”, *American Bar Association Section of Litigation*, 2013. Also available at <http://apps.americanbar.org/litigation/committees/minority/articles/fallwinter2013-0113-title-ix-drive-gender-equality-sports.html>

<http://www.abc.net.au/news/2016-02-03/gender-neutral-travel-policies-a-must-for-sports-bodies-ley/7134966>

Rowe, D. (2013) *The Sport/Media Complex: Formation, Flowering and Future*, in D. L. Andrews and B. Carrington (eds) *A Companion to Sport*. Oxford: Wiley-Blackwell, 61-77.

