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The Law Relating to Brazilian Sports Fans: An Introduction for a British Audience¹

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Abstract

This article describes the recent developments in Brazilian law that led to the enactment of the Sports Fans Statute in 2003. Over the last decade, Brazilian fans have been treated as consumers and are consequently entitled to a bundle of legal rights: fairness of the competition; transparency; access to an ombudsman; transportation; personal safety; insurance; sanitation; fair tickets and food pricing; and ticket selling standards. In addition to these consumer rights, due to the escalation of violence among hooligans, Brazilian authorities established Sports Fans Courts, prohibited alcohol consumption inside football stadiums, and permitted certain sports fans associations to be banned as well as individual spectators. Recently, the organisation of the World Cup provoked a clash between the transnational culture of FIFA executives and the local legal culture of Brazilian lawyers, as the norms adopted to organise the national Brazilian competition will be suspended during the international tournament.

Keywords

Sports Fans, Consumer Rights, Transparency, Ombudsman, Hooliganism, Safety, Alcohol Prohibition, Banning Orders

Introduction

The main goal of this article is to introduce recent Brazilian legislative and institutional developments to a British audience and to stimulate intellectual exchange between the two legal communities regarding sports law. On one hand, it is interesting to describe contemporary Brazilian legal practices and to communicate them to academics, lawyers, and public officials from Great Britain. On the other hand, it is also important to acknowledge that all legal developments should be analysed within a given national context and in accordance with the particular social circumstances of that legal culture. By describing the enactment of sports fans' consumer rights in Brazil, this comparative mirror may provoke a British audience to reflect. An awareness of the pitfalls of legal transplants (Blum 2008) and the differences between our legal cultures opposes any suggestion for the exact same rules to be adopted elsewhere. However, there is much common ground between the two countries regarding ticket touting, spectator safety, crowd control, banning orders, and alcohol restriction. In addition, the concept of sports fans as consumers is an idea that resonates to a British audience in contemporary times. Nowadays, we consume not only fashionable goods and electronic devices, but also sports events on TV and at stadiums as part of everyday life in our global village.

The text will be divided into five sections. First, the Brazilian Sports Fans Statute (*Estatuto do Torcedor*) will be introduced and the concept of the sport fan as a consumer and the right to a fair competition will also be explained. Second, the specific rights and duties of sports fans according to the Brazilian law will be detailed, focusing especially on transparency, purchase standards, and the rights to transportation and personal security. Third, the specific measures taken against Brazilian hooligans will be explained, especially the collective banning of sports

fans associations and the recent legal reform that imposes new duties on fans involved with episodes of violence in Brazil. Fourth, the clash between local and transnational legal cultures in relation to the organisation of the World Cup in Brazil will be discussed. Dissent regarding copyrighting laws, consumer rights and the Sports Fans Statute was observed when the World Cup Federal Act was enacted. Finally, some conclusive remarks about these developments and their impact on Brazilian law will be made.

Treating Sports Fans as Consumers: the Sports Fans Statute

The Brazilian Code of Consumer Defence was enacted in 1990 (*Federal Act n. 8.078/90*). In the years following the enactment, many different producers and service suppliers argued that the consumer code should not regulate the relationship between businesses and their clients. For example, financial institutions challenged the interpretation that the consumer code should be applied to financial services, though the Brazilian Supreme Court ruled that financial consumers are entitled to the same consumer rights provided to every other consumer by the Consumer Code (*STF, ADI n. 2591, j. 07/06/2006, Justice Eros Grau*). Likewise, it could be interpreted that football clubs and the Confederation of Brazilian Football (hereinafter, 'CBF') are also service providers and, therefore, the football fans should be treated as consumers. After all, sports tournaments are organized by the CBF in association with the football clubs. Moreover, football clubs and the CBF benefit from the economic profits gained from ticket consumption, television broadcasting, and product merchandising. In the case of any damage caused to fans during the sporting events, clubs and the CBF should be held responsible as service suppliers under the Consumer Defence Code. According to Articles 3 and 14 Consumer Defence Code, strict liability should be applied to consumer suppliers, rather than the traditional criterion of adhering to the appropriate 'standard of care'. Nonetheless, the original approach taken by Brazilian courts was to decide judicial conflicts involving sports fans without resorting to the Consumer Defence Code. Traditionally, courts would target occupiers – responsible for the premises – instead of clubs or the organisers. As a consequence, in the case of a personal accident or an episode of violence during a match, judges would punish only the governmental entity responsible for the management of football stadiums³. In the case of wrongdoings associated with selling tickets, lack of transparency, or disorganisation of the tournament, sports fans lacked clear enforceable rules to defend their rights in Brazilian courts. 3

In summary, on several occasions, football clubs and the CBF has committed abusive practices against consumer rights and there has been no legal remedy or injunction available to the fans, given the reluctance of courts to adopt the consumer code to protect their rights. In a limited number of cases involving personal injuries, the governmental entity responsible for the management of football stadiums was considered responsible and, therefore, forced to pay damages to the victims of accidents or episodes of physical violence inside football stadiums. Comparing this previous Brazilian legal regime with British law, one notes that the Occupiers' Liability Act 1957 traditionally also targeted the persons and entities responsible for the football stadiums in Great Britain. With the enactment of the Brazilian Sports Fan Statute, the difference between the two legal systems became the adoption of strict liability as a paradigm for torts in contrast with the negligence standard of taking reasonable care in the relevant circumstances that is applied in British sports law. In addition, organizers may also eventually be liable in negligence in English law (*Bottomley v. Todmorden Cricket Club* [2003] EWCA Civ 1575), but participants should, in most cases, only have to concentrate on their performance and not on the safety of spectators, *Wooldridge v. Sumner* [1963] 2 QB 43 (James M 2010). 4

The Brazilian Sports Fan Statute (*Federal Act n. 10.671/03*) was established in 2003 under the leadership of newly elected President Lula. One of the main purposes of this federal law was to reverse the precedents of Brazilian courts and to establish the rule of treating sports fans as consumers. It is worth noting that Article 3 Sports Fans Statute considers the tournament organizer and host football club to be equivalent to service suppliers and, therefore, that their relationship with sports fans is ruled in accordance with the consumer code. In addition, Article 2 Sports Fans Statute goes even further and defines a sport fan as "any person who enjoys, supports or associates oneself to any sport's entity within the country and follows the practice of a given sport". In other words, not only stadium goers, but also television watchers, may be deemed sports fans and, thus, entitled to rights under the 5

Brazilian Sports Fans Statute.

A few concrete examples may explain in which circumstances an individual fan could file a law suit, even if that individual rarely goes to football stadiums and follows their favourite team predominantly on TV. The following examples are associated with a sense of fairness in tournaments and are justified by problems encountered in the past in Brazil. For instance, whenever traditional football clubs were relegated to the second division, there was a lot of political pressure to change the rules of the competition in a way that would once again include the relegated club in the premier league. For instance, the current Brazilian national champion – Fluminense Football Club – was relegated three times in a row – in 1996, 1997, and 1998 – but was rescued twice to the first division, without having to compete in the second division. Nowadays, this practice of twisting relegation rules so that a team is rescued to the first division is illegal as it violates Article 10 Sports Fans Statute. Since 2003, there have been no more violations of this rule, as courts would clearly enforce Article 10 and restore fairness to the Brazilian national football tournament. 6

A further example is the mandatory obligation on the organisers to publicise the rules of the competition at least 60 days before its start. After the announcement of the rules, anyone may file a petition to the tournament ombudsman within ten days and address any relevant point regarding the fairness – or unfairness – of such rules. After the ombudsman’s evaluation, the definitive rules of the competition should be announced, at least 45 days before the opening match of the tournament. According to Article 9 Sports Fans Statute, once these rules of the competition are considered definitive, they may not be altered. Certainty about the rules of the competition is extremely important and should thus be considered a golden rule to be followed by football clubs and the CBF. On at least one occasion before the enactment of the Sports Fans Statute, the CBF altered the rules of the competition in the middle of the Brazilian national football tournament and forced the champion of 1987’s Brazilian premier league – Clube de Regatas Flamengo– to play extra matches against the champion of the second league. Given the absurdity of the new rule, the champion refused to play the extra-matches. As a consequence of this refusal, CBF proclaimed the winner of the second division as the 1987 national champion, rather than the premier league champion. Only in 2010 would the CBF acknowledge its unfair practice and recognise Clube de Regatas Flamengo as 1987 national champion (a title shared with the second division champion). The maintenance of competition rules are, therefore, an important guarantee for football clubs and sports fans. Article 9 allows these parties to file law suits to protect their right to fairness regarding the prohibition of changing the competition rules in the middle of a tournament. 7

Another important rule regarding the fairness of football tournaments states that referees must be independent, impartial, previously remunerated, and free of pressure. In addition, the referees for each match are determined through a lottery, which is open to the public, highly publicised, and is drawn at least 48 hours before the football match. The purpose of these rules is to preserve the fairness of tournaments, by preventing fraudulent schemes of arranged results in favour of a given club. A concrete example may highlight the importance of such rules. After an investigation in 2005, the referee Edilson Pereira de Carvalho was arrested because his telephone conversations were wiretapped by the police, who discovered that he was interfering with the results of football matches to favour internet gamblers. As a consequence of these findings, all the matches in which he participated were nullified and the clubs had to play rematches with new, impartial and independent referees. As a result, Corinthians – a team that had previously lost two fraudulent matches – had the chance to replay those illegal games, won both rematches, and became the national champion of 2005. The specific rules of the Sports Fans Statute are, therefore, valuable in restoring the fairness to the competition and to protect the rights of all fans, even those who do not buy tickets and do not go to football stadiums. 8

These rules are, therefore, very different from the previous Brazilian sports law. Historically, the Sports Organisation Act of 1941 (*Decreto-Lei n. 3199/41*) and the Sports General Act of 1975 (*Lei n. 6251/75*) were concerned with the discipline of athletes, public officials, and federations. Both acts were enacted by dictatorships and, thus, are characterised by authoritarian allocations of power and certain exotic prohibitions of conduct. For instance, the Sports Organisation Act 1941 was enacted by a totalitarian president, who decided that each sport modality should be organised by a different Confederation and that, ultimately, each Confederation would be subordinated to the Sports National Council, which was controlled by 9

the President. According to Article 41, sports entities were supposed to function under patriotic grounds and were prohibited to pursue profits on behalf of investors. In addition, patriotism was also evident in the prohibition of hiring foreign coaches and participating in international competitions without the previous authorisation of the National Sports Council (Articles 27 and 52). Likewise, the Sports General Act 1975 stated that the Executive Power would enact the National Plan of Sports and Physical Education, aiming to organise sports practices within local communities, students groups, military, and unions. The execution of this sports policy, including the centralised plan, was to be pursued by the National Sports Council, which has retained its normative and disciplinary powers (Article 41). Among the more exotic clauses, unions were prohibited from organising professional football clubs (Article 39, p. u.), perhaps because crowds would have taken advantage of football matches to express themselves against the military regime (Hollanda 2010) and the presence of unionised clubs could have encouraged protests in the arenas.

After the collapse of the military dictatorship and the enactment of a democratic constitution in 1988, Brazilian sports law entered a new historic period. A significant symbol of this transformation is the constitutional clause that guarantees the autonomy of sports federation and their organisation, prohibiting unlawful interference by government officials (Article 217). Another constitutional clause established the independence and priority of private sports courts over public judicial courts, on the condition of a 60 day deadline for private courts to reach a verdict on conflicts involving sports matters. 10

Therefore, in contrast to previous sports law, Brazilian constitutional norms now protect the autonomy of sports organisations and even recognise the predominance of private courts over public judges in an atypical example of public endorsed legal pluralism. Subsequently, the high profile football players Zico and Pelé were appointed to major positions in the federal government and have both since enacted new legislation in line with the contemporary goals of empowering clubs and athletes. Both legal acts were officially entitled The General Norms about Sports Act, but became popularly known as the Zico Act and the Pelé Act respectively. The more recent Pelé Act (Lei n. 9615/98) repealed the previous Zico Act (Lei n. 8672/93). In a nutshell, athletes were empowered as the Pelé Act established more stringent rules regarding labour relations with football clubs and mandatory contractual norms that increased both their bargaining power and personal rights. At the same time, football clubs were empowered, as a legal framework which transformed them structurally into more professional organisations was established and, furthermore, copyrights of broadcasting matches were finally legally protected. Detailed explanations of the Zico and Pelé acts are beyond the scope of this article as their main impact, in practice, was on the labour contracts between clubs and athletes. However, it is worth noting that the Pelé Act has already mentioned that sports fans should be treated as consumers (Article 42, § 3^o), without detailing the rules that should protect them. The repertoire of rights and duties of Brazilian sports fans was only detailed by the Sports Fans Statute. 11

Rights and duties of sports fans

The Sports Fans Statute also includes a comprehensive list of the rights and duties of stadium goers. In some cases, the legal norms are equivalent to certain rules in the consumer code. For example, according to Article 6 III Consumer Defence Code, Brazilian consumers have a right to basic information regarding products and services. This means that companies are obliged to publicise ingredients of products, risks of services, and any other relevant information regarding the consumption experience. Customers are, therefore, entitled to know all meaningful data about services and goods before their purchase. In the case of sports fans, Article 5 Sports Fans Statute establishes a principle of transparency and publicity regarding sports competitions. According to Brazilian law, all fans should have access to information regarding the rules of the competition, the table of matches, how to contact the ombudsman, and the referee lottery. This information should be available on websites and also at a visible spot inside the football stadium. The ombudsman should be available not only during matches, but also for suggestions, proposals, and complaints made via mail or email. According to Article 6, the ombudsman must be responsive to any contact made by fans and should provide feedback within thirty days. In line with the principle of transparency, the organisation must also announce the attendance of and income obtained from a given football match before its end. 12

Stadium goers are also entitled to consumer rights related to the selling of tickets. Brazilians are passionate about football and buying tickets for important matches may be particularly problematic. It was, therefore, necessary to establish minimum standards of consumer protection, so that stadium goers could be entitled to gain access to stadiums for popular football games. According to Brazilian law, tickets must be sold at least 72 hours before a match. The purchase of tickets must be speedy and transparent, as football clubs are obliged to sell tickets in at least five different neighbourhoods of the municipality. For purposes of personal and crowd control, all tickets must be numbered and the buyer should receive a receipt during the purchase. The tickets must also show their price, as it is a crime to sell tickets for a price in excess of the original value printed on the ticket. According to Article 41-F Sports Fans Statute, ticket touting is punishable with a penalty of one to two years imprisonment and a fine. In the United Kingdom, ticket touting is also a criminal offence under s.166 Criminal Justice and Public Order Act 1994 that is punishable by a fine of up to £5,000 and the imposition of a Football Banning Order. 13

Stadium goers are also entitled to adequate transportation to sports events. According to Article 26 Sports Fans Statute, the organisers of a football match must also organise the surroundings of the stadium in such a way that individuals have safe and speedy access to its interior. Both entrances and exits should be prepared for the massive flow of individuals at the beginning and the end of football matches. The organisers must also work in close collaboration with local authorities and the government to plan the special traffic measures required for sports events. Given the right to access to safe and organised means of transportation, additional parking spaces and additional means of transportation must be provided for sports fans. Finally, organisers must also guarantee the rights of disabled persons to access special parking spaces, regular means of transportation, as well as the interior of football stadiums. 14

Stadium goers also have a right to security. This means that sports fans are entitled to a comprehensive scheme of protection before, during, and after the football match. Providing security for stadium goers is, according to the Sports Fans Statute, the shared responsibility of competition organisers, sports clubs, government authorities, and sports fans associations. The football clubs must plan the security apparatus and contact public authorities with the request for security agents, according to the expected attendance of the football match. All the relevant public authorities must be formally communicated with and a special security plan should be prepared under the leadership of the competition organisers. This coordinated effort also includes sanitation and healthcare authorities. It is worth noting that each fan is entitled to basic insurance according to Article 16 Sports Fans Statute and organisers are obliged to provide this right to personal insurance to each individual. In addition, the organisers are also obliged to take special measures for football matches with an attendance of greater than 10,000 spectators. In these matches, the audience should be monitored with digital cameras and central security should control and prevent episodes of violence. For every 10,000 attendees, there must be one ambulance, one doctor, and two nurses. 15

Regardless of attendance, all football stadiums must be licensed for security on four different grounds: engineering; sanitation and hygiene; fire prevention; and police safety. Licensing authorities are located at the state level and inspections have been relatively irregular due to the complacency of some public authorities and the lack of enforcement of safety standards in some states. After the 2007 tragedy of Fonte Nova Stadium in Salvador – in which seven people died as the result of crowd disorder and poor conservation – CBF managers and club executives were charged because they ignored warnings from licensing authorities and designated matches at an unsafe stadium. Faced with the personal charges under the Brazilian Sports Fans Statute, authorities and organisers altered their conduct and as a result licensing procedures are currently much more rigorous than they previously were. In any event, the Sports Fans Statute requires coordination between organisers, clubs, and public authorities. Since their responsibilities are shared, they have real incentives to cooperate and prevent accidents in football stadiums. 16

In the United Kingdom, there is a similar concern with stadium safety. Under the Safety at Sports Grounds Act 1975, all football stadiums with a capacity of at least 5,000 spectators must be inspected and licensed. Since 1991, the Sports Ground Safety Authority (previously the Football Licensing) conducts these annual inspections of all 'designated football stadiums', which are defined by the Secretary of State under powers defined in the Football Spectators 17

Act 1989 and currently includes all professional club and international representative matches that take place in the UK. Further, the Licensing Act 2003 regulates every sports premise in England and Wales, regardless of size, through a licensing framework that includes fire safety and the safety of premises in more general terms (James 2010).

Since similar norms have also been adopted in Brazil since 2003, going to a stadium has gradually become not only a much more legally protected activity, but also a much better consumer experience. During the past decade, there has been a growing number of women, teenagers, and children in Brazilian arenas. Violence inside football stadiums has also significantly reduced. In contrast, violence among hooligan groups has escalated outside licensed stadiums and is an extremely serious problem for Brazilian authorities, competition organisers, and sports clubs. The next section will explain the measures that have been taken to repress hooliganism in Brazil and to prevent further episodes of violence among football fans. 18

Fighting Against Hooliganism: Organising Football Fans Associations

Brazil has a very interesting tradition regarding fans' groups as supporters of football clubs. Originally, the football clubs were deeply involved in sponsoring leadership among fans, so that designated fans would organise the crowds, produce flags and banners, and carry musical instruments to the football stadiums. Since there was a symbiosis between football clubs and fan leaders, crowds were expected to behave well and to express themselves only in a supportive way to the athletes and their clubs. If any individual cursed or booed a particular football club, the fan leaders would suspend or expel them from the crowd. However, the unity and coherence of football fans groups disintegrated in 1968 as the youth movement decided to criticise football clubs and, as a result, several youngsters created their own sports fans' associations. They wanted to express their independence and sometimes protested against the measures taken by club directors, who were eventually considered incompetent by the young crowds. These new sports fans' associations produced ironic banners, parodies of songs, and benefitted from the public sphere within football stadiums to express dissent. However, by the beginning of the 1980s, disintegration of this symbiosis between clubs and all fans and the consolidation of dozens of fans' associations resulted in an extremely conflicting scenario between rival sports fans' groups. In contrast with the earlier times, rival groups started to sing provocative chants, to curse the referee or rival club collectively, and to invite other groups of sports fans to fight with them. Episodes of violence escalated into massive confrontations between different sports fans' associations in the 1990s (Hollanda 2010). Given the terrible consequences of these events, the Brazilian government decided to establish specific measures to prevent and repress hooliganism in the Sports Fans Statute. 19

According to Brazilian law, sports fans are entitled to personal security before, during, and after a football match. Article 13 Sports Fans Statute defines the basic conditions for access to and presence inside football stadiums. In addition to possessing a valid ticket, individuals are not allowed to carry prohibited substances, or objects or liquids that may induce or generate violence. As a condition of access to a stadium, fans may not refuse personal searches by the security. Not only are banners, flags, and symbols of hate, racism, and xenophobia prohibited, but so too are discriminatory chants. Individuals are also expected not to throw any objects, nor to bring any kind of fireworks in to an arena. Flag carriers are obliged to use these artefacts in a peaceful way, especially due to the long sticks that hold the club's symbols. Fans are supposed to remain within the geographical limits of their area and simply inciting a pitch invasion is already an offence. Any act of physical violence may provide legal grounds for the prohibition of access to or removal of a fan from a football stadium. 20

These illegal activities are not only administrative wrongdoings, but also criminal offences. According to Article 41, disorderly conduct, violent acts, and invasion of restricted areas may result in one to two years imprisonment. Such criminal legal norms are relatively similar to the Football (Offences) Act 1991 in England. It is worth mentioning that the Sports Fans Statute considers these acts to be criminal offences even if they are committed outside a football stadium, just as long as they are within a range of five kilometres or if they are part of the fans' transportation to a football match (even if the act takes place far away from the 21

stadium). As part of any plea bargaining, public prosecutors and judges are entitled to prohibit individual fans from attending matches at any football stadium in the country for anywhere between three months and three years. These restrictions are similar to the Football Banning Orders that can be imposed under s.14A Football Spectators Act 1989 in England. Once an individual fan is prohibited from attending a match, judges are supposed to communicate the prohibition to the competition organisers – i.e. the CBF – and the CBF will communicate this prohibition to all sports clubs and the state football federations.

An interesting innovation of Brazilian law involved establishing Sports Fans Courts inside football stadiums with an expected attendance greater than 10,000 individuals. In these popular football matches, it definitely makes a huge difference having the presence of a judge, public prosecutor, and public defender, together with the necessary infrastructure to deliver an expedited judicial process. Since the establishment of these Sports Fans Courts, the police have had the opportunity to arrest offenders and to present them immediately to the criminal justice system within the sports environment. As an individual's behaviour can be shaped by the shadows of judicial decision-making, individual football fans have been induced to alter their conduct inside stadiums. The reduction of disorderly conduct and acts of violence inside stadiums has been dramatic following this innovation. 22

Outside stadiums, however, it is relatively difficult to prevent confrontations between rival groups. Some sports fans' associations usually try to trick police officials, so that they may schedule massive confrontations at a certain neighbourhood outside the control of public officials and public view. Once these episodes of brutality are discovered, investigations are extremely challenging enterprises, as the identification of individual criminal offenders within a mass of hundreds of hooligans is a substantially difficult task. For instance, when confrontation between groups of hooligans results in the death of an individual fan, criminal trials usually require stringent evidence that demonstrates that one or more individuals caused the death of the victim. Evidence of participation in the confrontation is usually not enough and, on top of this, it is usually difficult to obtain conclusive evidence of causation as members of the rival group may prefer to retaliate instead of becoming witnesses in a criminal trial. As a consequence, criminal defendants are unlikely to be convicted and, therefore, hooligans do not have disincentives to fight one another when they are far from the football stadiums. In this way, it can be seen that the effectiveness of the criminal justice system is limited. 23

In order to overcome this difficulty, the Sports Fans Statute was amended in 2010 as an attempt to reorganise the sports fans associations and to prevent episodes of collective wrongdoing. Nowadays, any existing group of sports fans must be organised as a juridical person in the mode of a legal entity, enacting an internal statute and registering each and every one of its individual members. Article 3-A Sports Fans Statute requires full identification of membership (full name, a photograph, and detailed personal and professional data). The purpose of this identification is to establish a sense of collective responsibility for their associations' individual members. Even before the legal amendment, judicial precedents imposed sanctions on individual members of the sports fans associations involved in episodes of collective wrongdoings. The rationale behind collective punishment is that individuals will have more incentives to encourage other members inside the association to behave properly and to comply with the law (Fortes 2013). The Brazilian legal framework is different from the National Membership Scheme that was originally proposed in the Football Spectators Act 1989; the Scheme was never introduced and was subsequently repealed by the Violent Crime Reduction Act 2006. In Brazil, the Ministry of Sport also promised financial support for an analogous Brazilian project, but did not deliver the necessary resources to the state authorities. So far, this identification scheme has not been enforced. 24

Recent examples may clarify the theoretical framework behind the idea of collective responsibility. A group of approximately 100 hooligans from one sports fans association persecuted and injured one member of a rival group in April 2012. After a couple of days in hospital, the member of the rival group eventually died. Investigating the case, the Brazilian police managed to identify a few individuals who participated in the episode, but not the actual criminal offenders who caused the death by assaulting the victim. Due to the lack of detailed evidence, the prosecutor responsible for the criminal case decided not to support any arrest orders of the criminal suspects without further evidence. In the meantime, approximately 100 hooligans from the rival group decided to retaliate and assaulted a 25

member of the sports fans association responsible for the previous attack. As a result of their assault, one fan was stabbed to death. The police managed to identify and arrest the two perpetrators of this homicide. In any event, the public authorities decided to impose a collective banning on these two sports fan associations, prohibiting their members to go to stadiums with musical instruments, flags, banners, or symbolic memorabilia. This initiative was inspired by previous local (Mancuso 2001) and international experiences (Gabler 2012). It should be noted that the new Brazilian legislation authorises the collective banning of sports fans associations for a period of up to three years and, once electronic identification devices are installed at stadiums, individual members of banned groups will be prevented from accessing arenas.

Public officials involved with security in football stadiums usually refer to the establishment of Sports Fans Courts and to the collective banning of sports fans associations as a turning point in violence prevention. The other turning point is more controversial and involves the prohibition of alcohol inside football stadiums. This initiative was jointly decided upon by public officials and private organisers in 2008. An agreement between the Brazilian Council of Attorney-Generals and the Confederation of Brazilian Football established the prohibition of alcohol consumption inside football stadiums as a necessary policy measure to prevent violence among sports fans. This was enacted by means of a clause in the competition rules, which prohibited alcohol inside stadiums. In addition, several states and municipalities enacted laws prohibiting alcohol consumption inside Brazilian stadiums as well. Therefore, there has been no purchase of alcohol inside Brazilian football stadiums for the past five years. Police officers and public prosecutors refer to a dramatic reduction in episodes of violence registered inside stadiums both at the Sports Fans Courts and at the medical emergencies section. According to these public officials, criminal offences and medical attention is nowadays limited to one or two episodic cases per match related to minor problems, if there is any record at all. On the other hand, some sports clubs and private stadium owners have challenged the prohibition in courts and are now lobbying for the permission to sell alcoholic beverages again. Brazilian rules regarding the prohibition of alcohol inside football stadiums are somewhat similar to the Sporting Events (Control of Alcohol) Act 1985, which restricts alcohol sales and consumption inside stadiums and prohibits through criminalisation stadium access to anyone attempting to bring alcohol into the stadium or who is drunk. This law is, however, more stringent as even transporting alcohol on public transportation or in private vehicles may lead to prosecution under ss.1 and 1A. The dispute between Brazilian authorities and sports clubs is currently the subject of intense debate in the national public sphere, especially because of the organisation of the 2014 World Cup. The next section will present recent legislative developments related to the organisation of this event and the clashes between different legal cultures that are currently taking place in Brazil. 26

The World Cup in Brazil: Recent Developments

One of the interesting phenomena regarding the organisation of the next World Cup is the clash between the local legal culture and the transnational legal culture (Friedman 1969). Ideas, concepts, interpretations of, and attitudes toward law and the legal system differ greatly between Brazilian lawyers and FIFA executives. On one hand, Brazilian law provides very strong protection for consumers and sports fans, given the legal experience over the past few decades with the enactment and enforcement of the Consumer Defence Code and the Sports Fans Statute. On the other hand, copyright law and enforcement have needed further refinement to protect the brands, images, and merchandising that is involved with the organisation of a World Cup. Therefore, FIFA executives have persuaded Brazilian legislators that they should pass new legislation ensuring copyright protection, whilst suspending consumer rights, and confirming that the Sports Fans Statute would not be applied in full to the World Cup. FIFA wanted ambush marketing to become a criminal offence as was the case in the UK during the Olympic Games with the London Olympic and Paralympic Games Act 2006 (James M and Osborn G, 2011): this initiative was not uncontroversial. However, the idea that the interests of transnational actors could lead to the temporary obliteration of deeply cherished legal ideals has caused negative reactions among the Brazilian legal community. 27

First, there is a consolidated tradition in several Brazilian states and municipalities that vulnerable minorities are entitled to half-price tickets for any 'cultural event'. The definition 28

of 'cultural event' may vary significantly among different communities. The term may be restricted to tickets to museums and opera houses, though local and regional legislatures are almost always generous and include sports events, gala parties, and carnival balls among the concept of 'cultural event'. Moreover, the definition of 'vulnerable minorities' is also very generous. It does not limit itself to discrete and insular minorities, such as the indigenous and the handicapped. Local and regional laws almost always include students and senior citizens as recipients of half-priced tickets, creating additional incentives for the enjoyment of cultural rights for both the youth and the elderly. One of the objectives of the World Cup organisers was to suspend specifically the application of these local and regional laws during the event, so that the price structure of tickets did not have to respect the half-price laws. However, the Brazilian President vetoed Article 26(9) World Cup Federal Act, as the suspension of local and regional laws would be a frontal violation of the federal structure of government established by the Brazilian Constitution. In addition, the reservation of 1% of tickets for handicapped individuals was also preserved in the World Cup Federal Act.

Second, none of the provisions of the Consumer Defence Code were expressly suspended. It is interesting to note, however, that the World Cup Federal Act established specific rules regarding selling tickets to the event. For instance, Article 25 provides a broad mandate to FIFA regarding ticket pricing. Article 26 establishes the rules regarding the purchase of tickets, the lotteries to select Brazilian buyers, and reservations and discounts for students, seniors, and poor consumers, in accordance with the Brazilian tradition. Finally, Article 27 permits the change of date or location of events, the selling of tickets as a component of tourist packages, and the imposition of contractual fines to buyers who do not fulfil their obligations. The above rules depart from the principles and rules that govern consumer protection in Brazil. According to the Brazilian Consumer Defence Code, companies are prohibited from imposing the purchase of a good or service as a requirement for another purchase. Selling World Cup tickets as a component of tourist packages would, therefore, be deemed absolutely illegal and seen as an abusive way of imposing the purchase of a less valuable service – flight and hotel accommodation – so that consumers may obtain the more valuable service – football match tickets – as long as they pay overvalued prices for something they are not ultimately interested in buying. In addition, Brazilian consumer law limits fines to a maximum of 2% of the total value of a given contract and it is not clear whether Article 27 World Cup Federal Act creates an exception to this general rule. The inclusion of a clause allowing FIFA to charge contractual fines definitely suggests the idea that there is no limitation, but courts may not be willing to ignore the 2% limit imposed by the Brazilian Consumer Defence Code. 29

Third, several provisions of the Sports Fans Statute were suspended by the World Cup Federal Act. Rules regarding the purchase of tickets were suspended and replaced by the above mentioned norms. The provisions regarding pricing were also suspended, as FIFA was given a broad mandate to price tickets. Rules regarding the shared responsibility of competition organisers for arranging parking places and for transportation were also suspended. The prohibition of abusive and excessive prices for food inside the football stadiums was also suspended for the World Cup and fans should probably be prepared for expensive products during the event. The World Cup Federal Act has also suspended the obligation of competition organisers to provide insurance for referees and the necessity of a lottery to select referees for football matches. The legal repertoire of possible punishments for sports executives – suspension, destitution, and prohibition of tax benefits, for instance – will also not be applied to any of the FIFA members. It is worth noting that Brazilian law appears to have more rigorous and stringent standards than those adopted by FIFA to organise their competitions. In particular, due to the controversial choice of referees for a given match, the adoption of public lotteries seems a better alternative to guarantee impartiality and the fairness of a competition. Nonetheless, the Brazilian rule was suspended by the World Cup Federal Act and will not be used during the competition. 30

In addition, the World Cup Federal Act does not reproduce the Sports Fans Statute clauses regarding liquids, despite the belief of public authorities that alcohol consumption may heighten the risk of violence in football stadiums. During the congressional debates, the representatives considered the level of safety during a World Cup to be higher than the security in any national tournament. Moreover, according to the majority, given the expensive costs of tickets, World Cup stadium goers will be considerably different from the Brazilian hooligans involved in violent confrontations in recent years. Thus, Congress did not consider it 31

necessary to reproduce the prohibition of dangerous liquids as a clause of the World Cup Federal Act. A dissenting voice from the Brazilian Communist Party mentioned the fact that an international brewery is one of the World Cup leading sponsors and added that, in his opinion, the economic perspective should not prevail over the right to personal security. As mentioned above, police officers and public prosecutors considered the prohibition of alcohol to be one of the turning points regarding violence prevention in Brazilian football stadiums. Regarding England, at least one author notes that "a complete prohibition of alcohol inside the stadium was not considered appropriate on financial grounds despite its apparent potential to create serious disorder" (James 2010, p. 202).

The National Commission against Violence in Football Stadiums, a joint initiative of the National Council of Attorney-Generals and the Confederation of Brazilian Football, criticised the absence of a clear prohibition on alcohol in the World Cup Federal Act. Before the enactment of the World Cup Federal Act, the Commission distributed a press release, not only highlighting the reduction of violence and the return of women and children to football stadiums after the prohibition, but also criticising the discriminatory idea that international fans would be less violent than Brazilian ones. The Commission also expressed concern over the prevalence of an economic perspective over the right to personal security. After the enactment of the World Cup Federal Act, the Commission adopted a different strategy. As many Brazilian states prohibit the consumption of alcohol inside football stadiums through regional legislation enacted in recent years, the Commission is currently following legal developments at the state level to monitor any legislation projects that may attempt to liberate alcohol consumption for the World Cup. The Commission still hopes to maintain the prohibition during the event. 32

Regardless of the outcome, the dispute between local Brazilian authorities and transnational sport executives demonstrates the clash between different legal cultures and the importance of sports fans' consumer rights for Brazilian lawyers. Due to a bundle of consumer rights having been extended to sports fans and pragmatic policies having been adopted to reduce violence, some Brazilian authorities are now reluctant to abandon their contemporary practices as they are perceived as a local recipe to success. On the other hand, transnational executives will organise only one event in Brazil and do not seem concerned with the contingencies of the local scenario, nor with the recent national experience regarding violence prevention or the consumer protection of sports fans. To these executives, Brazilian laws seem to have been more of an obstacle to overcome than of an experience to observe. 33

Final Remarks

This article described introduced Brazilian Sports Law for a British audience, focusing mainly on the Sports Fans Statute 2003 and the World Cup Federal Act 2012. Over the last decade, Brazilian fans have been treated as consumers and are consequently entitled to a bundle of legal rights. Due to the escalation of violence among hooligans, Brazilian authorities established Sports Fans Courts, prohibited alcohol consumption in football stadiums, and permitted certain sports fans associations to be banned as well as individual spectators. Recently, the organisation of the World Cup provoked a clash between the transnational culture of FIFA executives and the local legal culture of Brazilian lawyers, as norms adopted to organise the national Brazilian competition will be suspended during the international tournament. 34

If the Brazilian and British experiences are compared and contrasted, many similarities and disparities are revealed. Not surprisingly, ticket touting, football hooliganism, and spectators' safety are problems that are not restricted to one specific legal system as they are rooted in market failures, mass violence, and risk management. In times of globalisation, these contemporary problems cross borders and affect organisers, clubs, and public authorities from Manchester and Liverpool to Rio de Janeiro and Belo Horizonte. Solutions adopted in different global villages should be publicised to encourage debates about our current challenges and future prospects. By describing recent legal developments regarding the consumer rights of sports fans in Brazil, I offer a comparative mirror for a British audience to reflect not only upon Brazilian legislation, but also upon the current scenario of sports law in Great Britain. 35

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3 See, for instance, the following judgments from the State Tribunal of Rio de Janeiro: Appeal n. 1998.001.05536, 1ª Cam. Cível, j. 13/04/1999, judge Gerson Arraes; Appeal n. 1998.001.03917, 6ª Cam. Cível, j. 20/10/1998, judge Ronald Valladares; Appeal n. 1999.001.17236, 6ª Cam. Cível, j. 20/06/2000, judge Walter Dagostino; Appeal n. 2001.001.17975, 18ª Cam. Cível, j. 10/04/2001, judge Binato de Castro.