

PITCH INVASION DURING SPORTING EVENTS: A CASE FOR CRIMINALISED PUBLIC TRESPASS IN NIGERIA

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Abstract

The incessant pitch invasion by fans in different sports in Nigeria has become so alarming and has stirred up the discussion about the possibilities of criminalising the act itself. Scholars have deliberated extensively on the tortious principle of trespass but have sparsely discussed trespass as a Public tort with criminal elements and sanctions especially pitch invasion in sports. The author apart from conceding to the fact that pitch invasion should be a criminal offence points out the relevance of the principle and application of the tortious wrong of Public trespass and how it can curtail pitch invasions in jurisdictions such as Nigeria. Notwithstanding, the absence of so many jurisdictions recognising pitch invasion as a crime, the United Kingdom does but only prescribes a summary conviction of a fine which has not deterred the act till date which is why there is need for an amendment to ensure that pitch invasions deserve some duration of imprisonment and more importantly recommendation that the pitch invaders be sued for a civil wrong such as Public

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trespass and being prosecuted for a criminal offence.

Keywords: Public, Trespass, Pitch invasion, imprisonment, fines

1.0 METHODOLOGY

This paper utilised the doctrinal and desk based research method. The paper utilised the existing Nigerian legal framework on Trespass and the Criminal Code Act to justify an adequate framework capable of accommodating pitch invasion as a variant of trespass and its possible criminalisation in Nigeria. The concept of Pitch invasion and its Public Trespass exigencies was subjected to legal concepts such as Trust, *Locus Standi*, and negligence and their possible limitations on same. The criminal framework for pitch invasion in Nigeria was compared to that of the United Kingdom. The data obtained was content analyzed.

2.0 INTRODUCTION

The passionate followership of sports by spectators is a necessary evil for sports economies in the world at large because such passion evidently translates into monetary gains for sports organisations on a consistent basis.

However, there is a shade of passionate expression that is quite disturbing to sports tournament organisers, National governments, athletes and other spectators which is the (trespass) of spectators on the field of play during a sports game most times for reasons of notoriety which puts the life of athletes in danger and makes them really uncomfortable throughout the duration of the game.

The focus of this paper is on the passionate expression of spectators for their favourite sports or organisation by the spectators who

individually or collectively invade the field where the sporting events is taking place sometimes because the fans are unhappy about the outcome of a the sporting event or commit trespass on the sports field as a form of adventure.

The incursion of the field of play could also be for a positive reason for instance if the team which the spectators support wins the game or wins a trophy, scores an important goal then spectators may become so overjoyed that they wilfully advance on the sports field during the live event and harm themselves or others during the process thereby creating a lot of pandemonium in a public place with little or no room for sanity.

3.0 A CASE FOR PUBLIC TRESPASS AND IMPLICATION ON PITCH INVASION IN NIGERIA

Trespass generally as a tortious liability is with criminal and civil implications. Trespass as a tort in Nigeria can be committed against persons, movable and immovable property which is usually land.¹ However, this paper seeks a legal regime that accommodates not only the tort of trespass against a private person in terms of the private persons movable or immovable property or trespass to the person himself but also the ability for municipal governments, sports authorities or stadium owners to sue for tortious liability in the realm of public nuisance in order to protect athletes from spectators or the destruction of sports facilities on the actual field that belong to government despite not being trespass that violates the right of a person but a public authority and damage to a property in a public place and not specifically owned by a private person.

¹ *Bello Salami v Alhajih Adetoro Lawal*(2008) 6-7 SC (Pt. II) 242

The foregoing justifies the need for a variant of trespass that is of a public in nature to ensure that public authorities that have custodial rights over sports facilities and fields do have the right to sue for trespass on public facilities such as fields especially when barricades have been provided in the sports arena signifying where the movement of spectators are restricted in the sports arena.

This discussion is necessary especially in the Nigerian jurisdiction since trespass as a legal remedy and common law especially in Nigeria is a tortious liability that can only be committed against a private person, private property as opposed to publicly owned property in a public place opened to all persons but with restrictions.

However, it may be argued that with the current regime on trespass in Nigeria which is lopsided towards the protection of the property rights of private persons, the concept of public trespass can still be accommodated based on the choice of dictum of judges in common law in Nigeria for instance;

In the case of *Olagunju v Yahaya*² “Trespass was defined as a wrong committed against a person who is in exclusive possession of the land trespassed unto. When a parcel of land which was trespassed unto was in lawfully exclusive possession of another person, a suit in trespass is not maintainable by the owner who had no right to immediate possession at the time the trespass was committed”

The foregoing dictum helps the case of public trespass in different paradigms. First, it can be argued that the referees in games and players or athletes can be termed to be in possession of the field of play during the duration of games and any incursion on that field

² (2005) ALL FWLR PT 247 1466

during the game entitles the referee or athletes to sue for trespass since they are in possession of the public property as at the time of the trespass to the property.

Furthermore, the word person as suggested in the foregoing case can be expanded to mean government, sports authorities since the word person can either be a natural or artificial person as established in the case of *Salomon v Salomon*³ which creates the concept of corporate personality then sports authorities and municipal governments can be termed persons because of their corporate personalities which entitles them to also sue as persons affected by trespass to their property. The artificial person could be represented by government or public authorities in charge of the stadium as at the time of the trespass on the public property.

The rights of municipal governments or sports authorities who are usually the owners of sports stadiums and by extension sports fields to sue for trespass is also accommodated in common law as seen in the case of *Soleh Boneh v Ayodele*⁴ where the Supreme Court stated that

Where the trespass has caused a permanent injury to the land hereby affecting its value, a person not in possession but is entitled in reversion can sue for injury to his interest without waiting till his future estate falls into possession”

The foregoing provides sports authorities of government the opportunity to sue for trespass which in this case will be public trespass if by the acts of spectators who intrudes unto the field of

³ (1897) AC 22

⁴ (1989) 1 NWLR PT 99 549 @ 551

play damages or destroys facilities on the field of play but this may or may not extend to the depreciation of the value of the football field since most sports stadium in Nigeria are not usually built by Government for possible sale to private persons but governments in Nigeria are also protected by this authority just in case they want to sell the stadium to other interested parties.

4.0 TRUST NEXUSES AND LOCUS STANDI

The trust concept enables referees, athletes or government authorities that hold the sports fields in trust for all Nigerians and therefore should give them the right to *stand to sue* on behalf of Nigerians when there are intrusions on the field of play.

4.0.1 Implied Trust

The trust responsibility on government, referees and athletes can be termed implied or a resulting trust which arises as a consequence or operation of equity and which is established and in consonant to the manifest presumed intention of parties that can be compiled from the nature of transaction.⁵

The reference to the implied trust of the foregoing stakeholders is contingent on the equitable principle that demands of justice and good conscience imposing a constructive trust without reference to any express or presumed intention of the parties.⁶

The positioning of government as regards sports stadiums or the possessory positioning of the athletes and referees gives them all an implied trust to hold in custodial rights with the capacity to sue for pitch invasion without an express intention of parties since it can be

⁵ *Madu v Madu* (2002) FWLR PT 128

⁶ *Soar v Ashwell* 1893 2 QB 390

construed from the transaction of consistent social contract relationship between the Government and the governed and in the case of athletes (they are in manifest possession of the fields at the time of the invasion).

4.0.2 Public Trust

The foregoing circumstances because of the location and ownership of the stadium justifies the reference to the ownership as a public trust based on the definition or description attributed to the trust concept in jurisdictions such as Lagos which ``includes an executorships or administrator ship, guardianship of infants, or the office of the committee or the receiver of an estate of any person incapable of managing its own affairs.⁷ A trust property is also defined by the said law as “*all property in the possession and under the control wholly or partly of the public trustee by virtue of this trust*”⁸

Consequently, since Public trust is an extension of government responsibility then stadiums in the possession of athletes, referees at the time of play hold possession of the field in tandem with the Public trust responsibility of permanent possession, and the government also administers the stadiums by virtue of stadiums being public trust property and have the *locus standi* to sue for Public trespass against any field or pitch invasion.

More so, the generality of the Public lack the competence to administer public property due to possibility of chaos so by virtue of social contract and the trust concept elect trustees (government officials to administer their public/trust property on their behalf justifying the *locus standi* of government to sue for trespass.

⁷ Section 24 of Public Trustee Law of Lagos State 2019.

⁸ Section 24, Ibid.

The variant of Public trusteeship that characterizes the ownership and management of stadiums for which the objective of possessory rights and the right to sue should be custodial and management trusteeship. In that by law, the custodial trustee shall have the custody of all securities and documents of title or ownership relating to the said trust property.⁹

4.0.3 Right of the Beneficiary of a Trust

The beneficiaries of a trust relationship being referenced in this paper are members of the public who have surrendered their public property rights to government over sports field to government. The beneficiaries have the *locus standi* to sue a trustees over a breach of the trust.¹⁰

The importance of indicating the rights of beneficiaries in this case is that the Public can sue the trustees of sports stadiums i.e. government if the government fails to pursue the prosecution of pitch invasions that are detrimental to the stadia or even the lives of members of the Public at the stadium at the time, the beneficiaries can sue for a breach of the trust contained in the social contract.

5.0 ABUSE OF THE RIGHT OF ENTRY TO A PUBLIC PLACE (STADIUM FIELD OR COMPLEX)

There is a consensus amongst judicial authorities that when a person had access to a property or building by reason of invitation or payment for attendance of a certain event on a property or building, the right of access to the property or building immediately translates to trespass when such persons right of access expires or the time allotted for that access.

⁹ Section 6(c)Ibid.

¹⁰ *FBN Plc v Nireko Enterprises Ltd* (2002) FWLR) PT 95 @337

The case of *Balogun v Alakija*¹¹ states that

If a defendant refuses to leave after the expiration of his right of entry or use of land, he or she becomes a trespasser. Alternatively if due to the misbehaviour of the defendant, the Claimant revoked his right to be on the land and the defendant ignores or refuses to quit, he is a trespasser.

The spectators, referees and athletes usually have the right of access to sports complexes and the athletes and referee the field of play. However, the right of access of the spectators especially terminate at the end of the game at the sports complex which also signifies the end or expiration of the tickets for the sporting event.

The foregoing by application suggests that if after a sporting event which a spectator had a right of access by virtue of the ticket bought terminates at the end of the sporting event and such spectator refuses to vacate the stadium even after the expiration of the event then the spectators immediately becomes a trespasser.

This is based on the sanctity of the terms of contract which may be construed in an implied form consistently upheld by parties in a particular custom or trade where such parties know for instance that their ticket which gives them possessory rights at the stadium terminates after a game and the spectators are expected to vacate the stadium within reasonable time which has attained great notoriety amongst stakeholders in the industry.¹²

¹¹ (1963) 2 ANLR 115

¹² *British Crane Hire Corporation v Ipswich Plant Hire Ltd* (1975) Q.B 303,(1974) 1 ALL ER 1059

The same principle applies to spectators who are guilty of any misconduct during the course of the game and are guilty of disturbing acts which conditions the sports organisers to terminate the right of the spectators' access which if the spectator refuses makes such spectator a trespasser on a publicly owned property.

Furthermore, an interesting perspective is that even though athletes and referees also have the right of access to sports stadiums and fields of play, their right of access expires after the game and even their possessory rights on the field of play ceases and reverts back to the government after the game and athletes that refuse to vacate the premises after the game become trespassers.

6.0 THROWING OBJECTS ON THE FIELD OF PLAY AND TRESPASS TO PERSONS

There are other types of incursions or trespass on the field of play which involves the throwing on the field of play objects usually which are not harmful and are sometimes are harmful but fans throw them on the field of play just as a form of distraction to their opponents, protests to give the home athletes an unfair advantage during the game.

A clear example of the foregoing was when in the match between AC Milan and Inter Milan where the goal keeper Dida was struck by fireworks by the fans of inter millan in the 73rd minute of the game because of their rage about a disallowed goal of Inter millan.¹³

¹³ Ed Novelo, "The 30 absolute Worst Fans in Sports History" <<https://bleacherreport.com/articles/816529-ranking-the-30-absolute-worst-fans-in-sports-history>>accessed on 18/6/2020

The foregoing circumstances are trespassing events in the eye of the law. The placing or the projection of objects on a property in the possession of another amounts to trespass on the property of another. In the case of *Onasanya v Emmanuel*¹⁴ the Court held that the throwing of water and refuse on the land of another directly and allowed excreta to also permeate into the premises of another is indeed encroachment and trespass and nuisance respectively.

The foregoing case suggests that when spectators project materials either harmful or otherwise on a land represented by the field of play to which they have no right of access they are actually trespassing with those materials on a public place which makes it a public trespass.

7.0 THE PUBLIC TRESPASS DEBATE

Trespass is a tort in which there is the unlawful movement of a person on another person's land or interference with property without any legal right and depending on the jurisdiction it could be a civil wrong only and could be a criminal and civil wrong altogether.

More so, it is advocated that every pitch invasion made by a fan apart from being criminal in nature there is also the civil wrong dynamics to it which is that every time a fan invades a pitch he violates the civil wrong of trespass which is the unlawful physical interference by another in the exclusive possession of a property, land or chattel of a person.¹⁵

¹⁴ (1973) CCHCJ 1477

¹⁵ GROUP Captain Ogah

The foregoing is predicated on the basis for the claim for trespass which is grounded in possession. It is canvassed that since a pitch is usually in the possession of a referee or athlete during a sporting event or the Government (who are in the material possession of all public pitches at all times) can succeed in a claim for trespass against any trespasser on the field of play once the possession of the field can be established.¹⁶

Furthermore, in cases of trespass to land the person alleging trespass must prove that he or she is in actual and exclusive possession of the land and has a right to it for the duration of the time the person is in actual possession of the land.¹⁷

Infact, the courts were of the view that if the liable party who is being alleged to have trespassed or encroached places a part of his foot unlawfully on the land or property of another it is in law as much as trespass than when he takes a mile walking or running on the property.¹⁸

Furthermore, it is canvassed that the incessant pitch invasion by fans and spectators is a clear violation of the exclusive possession of stadium owners or athletes who at every live event should be in the exclusive possession of the pitch at the time of the sports activity to the exclusion of spectators and that once fans overstep the boundaries of the spectator stands even if they do not reach the pitch then by the definition of the legal authority above the violation of encroachment has already occurred.

¹⁶ *MTN Communications v Aluko* (2014) ALL FWLR PT 732@1710

¹⁷ *Amakor v Obiefuna* (1974) 3 SC 6

¹⁸ *Fillis v Loftus Iron Co* (1874) LR 10 CP 10 @ 12

The paper then posits that since these incursions are done in the Public domain and on stadium facilities usually owned by governmental authorities in the case in Nigeria, these intrusions on pitches should be termed public trespass other than just an ordinary trespass.

8.0 CLAIM FOR DAMAGES

The claim that is opened to Claimants after trespass has occurred is damages against such persons which is usually monetary compensation for the interference in property which could result in some destruction or property or of time form the lack of use of that property for reasons of unlawful interference.

The Supreme Court of Nigeria in the case of *Adesanya v Otuewu*¹⁹ as regards the claim of damages as regards trespass that

Every unlawful or unauthorised entry on land in the possession of another is trespass for which an action in damage lies, even if no actual damage is done to the land or any fixture in it. So where a person alleges bare possession and proves interference with it there is an actionable trespass, But also our law imputes possession to title can also maintain an action to trespass on any one, save any one who can prove a better title.

The foregoing case was expounded by Justice Nnaemeka Agu by stating that the civil wrong of trespass is actionable in damages only in Nigeria although some other jurisdictions add some form of criminal elements. Also, since the tort of trespass is actionable

¹⁹ 1993 (1) NWLR PT 270 414

against both the owner of title of the property (who is also in possession) and the persons who have exclusive possession per time, it means that both players and stadium owners can sue the pitch invaders for damages anytime they invade the pitch.

9.0 DUTY OF CARE

The claim for damages may not be sacrosanct against a pitch invader for instance if it is advocated that by legal standards the stadium owners are burdened with a duty of care to protect athletes and referees from pitch invaders.

Infact, some international sports organisations expect that the standard of duty of care be utilised in protecting persons on the field of play from potential pitch invaders and any levels below that standard may result in negligence. A clear example is the FIFA safety and security regulation which provides that;

The field of play must be protected against intrusion by unauthorised persons where unauthorised access cannot be controlled by stewards and/or police officers, stadium officers may erect a fence, a suitable moat that prevents intrusion, or a combination of two barbed or razor wire shall not be used, spectator lines of sight must be taken into consideration. The decision as to whether to have a physical barrier and what type of barrier shall be considered a formal risk assessment and the use of barriers shall not pose a risk to spectators²⁰

²⁰ Article 32 (2) of the FIFA Stadium Safety and Security Regulations

The provision above suggests that FIFA believes that the stadium owners owe the athletes and referees and all other sports personalities on the field of play a duty of care to prevent pitch invasion. Although, it seems that the duty of care threshold may be subjective since the particular mode of prevention is not mandatory on stadium owners.

Nevertheless, it can be canvassed that provisions such as the Fifa regulation may do stadium owners a disservice in their claim for damages if they have not complied with the duty of care to protect persons on the field from the Public trespass.

10.0 OWNERSHIP RIGHTS OF PITCH INVADERS

The success of a claim of trespass is dependent on whether the alleged trespasser does not have a better title compared to the person in actual or exclusive possession asserting same.²¹

The foregoing is peculiar to the fact that it can be canvassed that a spectator is indeed a co-owner of a football field by the trust concept since he is a member of the Public or can argue that since he or she is a financial contributor to a club or sporting organisation that own a stadium then he is a co-owner of the stadium which makes his title superior to that of referees or athletes who may be in actual possession of the field of play during a sporting event.

Therefore a pitch invader may prove superior title to the possessory rights of an athlete or a referee based on his financial contribution or ownership through Public trust although this argument may be a long shot.

²¹ *Samchase Nig Ltd v Gidado (2014) ALL FWLR 1311*

11.0 CRIMINALISATION OF PITCH INVASION IN NIGERIA

There is largely no law criminalising pitch invasion in Nigeria probably because of the perception that criminal offences that occur even in the sports sector can be catered for by already existing crimes in the Criminal and Penal code respectively in Nigeria.

Nevertheless, most international sports organisations have mandated that their national associations are burdened with the security and safety of spectators, players, officials, Vips, VVIPS and any other person within the premises of the stadium.²²

Consequently, national associations are expected to create safety regulations or a safety or security manual including counter terrorism measures in line with their municipal laws and regulations.²³

Furthermore, these regulations created by national sports bodies are expected to curtail some particular activities which are largely criminal in nature especially as regards situations such as crowd control especially surging and rushing of members of spectators at the sporting event and pitch invasion and incursion.²⁴

These regulations are also empowered with sanctioning powers to impose penalties such as stadium bans or other sanctions necessary against any identified persons whose behaviour either in or out of the stadium has put other spectators at risk or by their actions poses a threat to the safety and security of others.²⁵

²² Article 4 of the FIFA Stadium Safety and Security Regulations 2012.

²³ Article 8, *Ibid*.

²⁴ Article 9(2), *Ibid*

²⁵ Article 61, *Ibid*.

The foregoing proves that sports international organisations perceive pitch invasion as a threat to the security and safety of persons either as spectators or as athletes on the field of play and therefore of such a criminal status to warrant sanctions from sanctioning authorities.

However, the foregoing is largely not enforced in Nigeria because there are largely no safety and security codes for stadiums especially football stadiums in Nigeria which consequently means there are no tangible regulations that identify pitch invasion or incursion as a crime or imposes a sanction for such breach.²⁶

Nevertheless, it is posited that the regular legal framework for criminal law in Nigeria may suffice to cater to pitch invasion in Nigeria presumably by judicial interpretation under the umbrella of mostly the crime of assault or threat to life.

11.0.1 Assault

The Nigerian jurisdiction describes assault as

a person who strikes, touches or moves or otherwise applies force of any kind to the person of another either directly or indirectly without his consent or with his consent, if the consent is obtained by fraud or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without his consent, in such circumstances that the person making the attempt or threat has actually or apparently a present ability to affect his

²⁶ Abdulsamad Olajide Yusuf et al, 'Examining the level of Stadium security and safety during Nigeria Professional League Matches'(2020) 6(1) *European Journal of Physical Education and Sports Science*

purpose, is said to assault that other person and the act is called an assault²⁷

The assault argument is that generally, when there is a pitch invasion the invaders can on a minimum be culpable for the crime of assault being that the invasion already sets a tone of an attempt of force towards those on the pitch. However, in line with the provision above the actus reus may be proved easily by the forceful entrance on the field of play but the mens rea may be difficult especially when the intention of the invaders is not to actually cause any harm.

11.0.2 Grievous Bodily Harm

Furthermore, it is also canvassed that pitch invaders can be found culpable for the threat to causing grievous harm, or maim, disfigure, or disable any person is guilty of a felony and is liable for imprisonment for life.²⁸

The argument would also be canvassed against the foregoing provision if utilised as a regulatory mechanism for pitch invaders since the actual grievous harm needs to be done to ensure that they are culpable for the crime.

More so, the legal framework also empowers persons in exclusive or actual possession of property to defend themselves with reasonable force against trespassers. The law indicates that persons in peaceable possession of a property can utilize such force reasonably necessary to resist a trespasser but in an attempt to retake possession does not harm the trespasser.²⁹

²⁷ Section 252 of the Criminal Code Act Cap. C38 Laws of the Federation of Nigeria, 2004

²⁸ Section 326, Ibid.

²⁹ Section 289, Ibid

The foregoing provision aids the self-defence capacity of either referees or athletes in Nigeria in actual or exclusive possession of the field of play as at the time of the event empowering them to defend themselves with reasonable force without harming the invaders.

Despite the accommodating effect of this provision in providing a defence mechanism for athletes or referees in protecting themselves legally against pitch invaders, the provision is deficient in ensuring that the athlete or referee is empowered adequately to utilize commensurate level of force when he is harmed or attempted to be harmed since he is unable by law to harm the invader/trespasser.

Nevertheless, it is suggested that in the absence of a legal framework to prevent pitch invasion the present criminal law framework is minimally meets the requirement of sanctions against pitch invasions and can be a good start.

12.0 LESSONS FROM THE UNITED KINGDOM

Nevertheless, the English has shown some level of proactiveness in terms of football and even sports legislations which is quite noteworthy because in the opinion of the author the sports sector is one of the most under regulated sectors especially due to the absence of actual laws made by the legislature of the country which may be due to the fact that most jurisdictions still consider sports an informal sector.

More so, the United Kingdom in its proactive nature had enacted a law referred to as the football offences Act 1991 in which one of the provisions specifically caters to pitch invasion where it states that;

It is an offence for a person at a designated football match to go onto the playing area or any area adjacent to the playing area where spectators are not generally admitted without lawful authority or lawful excuse (which shall be for him to prove)³⁰

Furthermore, the law provides as regards the throwing of missiles or anything or object on the playing ground the law provides that;

It is an offence for a person at a designated football match to throw anything at or towards

- (a) The playing area or any area adjacent to the playing area to which the spectators are not generally admitted.
- (b) any area in which spectators or other persons are or may be present without lawful authority or lawful excuse (which shall be for him to prove)³¹

The law then goes further to state that “a person guilty of an offence under this act is liable to summary conviction to a fine not exceeding level 3 on standard scale.”

The act prescribes pitch invasion by fans as a criminal offence and it also criminalizes the throwing of objects on the football playing area of course because of the possible harm it can cause to the players while they are playing and generally to guarantee the safety of players and their safety.

However, it is suggested that this law be amended to recognise the prevalent issues surrounding sports pitch invasions in the 21st century where fans are more physical with players and engage in

³⁰ Section 4 of the Football Offences Act of 1991

³¹ Section 2, *Ibid.*

assault of players. There may be a need to make pitch invasion an offence deserving of a prison sentence.

The same ideology is also used in the cricket sport where historically after the game the spectators and fans were allowed to come on the pitch in the united kingdom but this practised stopped in 2001 for reasons of violence and now there is also a penalty for being banned from the sport and a 1,000 pounds fine.

The foregoing then shows that the United Kingdom government does perceive the pitch invasion as a crime in sports generally but considers it a misdemeanour of such a kind that is negligible and not worthy of a prison sentence but this ideology may have disregarded the possible consequence of the pitch invasion itself which could result in the possible death and injuries to players.

Furthermore, the reality is that in recent times especially in the pitch invasion by a fan in the match between Birmingham and Aston Villa in the 2019/2020 season where a fan came on the pitch and assaulted the captain of Aston Villa and reports show that the said fan was arrested and was jailed for at least 14 weeks which then means the police has been enforcing the offence outside its scope because the law mandates a fine and not imprisonment.³²

The British Crown prosecution service in reality has advised that the prosecution of the pitch invaders is to be done based on general principles of law based on the crimes such as assault, criminal negligence and such classes of offence so that the courts would

³² Ibid, 5

have some room for flexibility in the sentencing of the pitch invaders.³³

The reasoning of the prosecution is that is irregular for the courts to be able to ban spectators or fans for life for disorderly conduct such as being drunk at the stadium, causing riots or even the throwing of fireworks in the stadium and then just fine the spectators for pitch invasion.³⁴

The argument of the crown prosecution is that the powers of banning a fan is restriction of movement which is very high a degree of punishment and is supposed to be at par with the football disorder act of 1989 and not below in sentence.

Nevertheless, it is advocated that the crime of pitch invasion should even be higher than banning a fan for life but that the crime should be deserve some level of imprisonment although not exceeding three months because the rate at which fans are becoming more passionately violent for their teams and venting such anger on opposing players is becoming alarming.

Furthermore, there is an observation as regards to the football offences act of 1991 which is that the law only perceives that the crime can be committed by a male because in the determination of the burden of proof of lawful entry into the pitch the word him was utilized to determine who was to discharge the burden.

³³ Robin Bainer, "Football pitch invasions: Punishments& are people banned from stadiums? <<https://www.goal.com/en-gb/news/football-pitch-invasions-punishments-are-people-banned-from/15hkkfuit7i0q1mt2ucd8xp6av>> accessed on 18/6/2020

³⁴ Ibid.

However, evidence suggests to us that women are more now into sports and even just as passionate as their male counterparts and in more recent times have been involved in deadly activities that involve sports such as riots and pitch invasions.

The author however seeks for jurisdictions to merge the trespass element in the pitch invasion with the criminal element so that it is possible to sue the invaders of the pitches for a civil wrong which is the trespass element and the criminal aspect of the situation and the invader will be arrested and prosecuted and jailed for the incident to sanitize sports and to ensure player safety at all times during live sports games.

13.0 FINDINGS

1. Nigeria has no legal framework in criminalising Pitch invasion or incursion
2. Trespass to public property is not or the term public trespass is not expressly recognised in the legal framework in Nigeria.
3. Pitch invasion or incursion may be testament to negligence on the part of stadium owners.
4. The criminal legal framework minimally caters for pitch invasion in Nigerian stadiums.

14.0 RECOMMENDATIONS

1. All jurisdictions participating in sports should criminalize sports pitch invasions and it should be criminalized Public trespass so that the invader can be prosecuted and sued for a civil and criminal wrong at the same time
2. That the punishment for the offence of pitch invasion should deserve some of duration of imprisonment and not just fines to act as deterrent to spectators which are becoming more

aggressive and violent towards opposition players in recent times.

3. The safety and security stadium regulations proposed by international sports organisations for compliance with by National sports organisations, should be implemented

15.0 CONCLUSION

Jurisdictions all over the world should not neglect sports in terms of legislations because the sector is becoming increasingly formal especially because of the level of civil wrongs and criminal offences that occur in the sporting world during live sports events such as pitch invasion which needs to be nipped in the bud by the enactment of laws that make pitch invasion during live sports games both a civil wrong and criminal liability in order to retain and maintain the sanity of the games and the protection of the lives of the athletes.