

**THE SUCCESS OF A NATION’S SOCCER TEAM: A BELLWETHER  
REGARDING A NATION’S ELECTRONIC INFORMATION  
INFRASTRUCTURE, THE LEGAL REGULATIONS THAT GOVERN  
THE INFRASTRUCTURE, THE RESULTING CITIZEN-TRUST IN ITS  
GOVERNMENT AND ITS E-READINESS IN NIGERIA, THE DPRK,  
CHINA, JAPAN, SOUTH KOREA, THE NETHERLANDS AND THE  
UNITED STATES**

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I. INTRODUCTION

Information technology infrastructures should be designed with cutting-edge equipment that offers citizens consistent and dependable access to necessary and pertinent information. The infrastructures should be held accountable and regulated by a well-established legal system. Additionally, the infrastructures should create a body politic that trusts its government, is aware of its nation’s laws, regulations, and policies, and is motivated to contribute and participate positively in the national economy and political process.<sup>1</sup> In modern societies, the most efficacious means in which a nation-state can create an information infrastructure is via electronic technology (“e-technology”). Some nation-states are currently better prepared than others to provide information to their citizens via e-technologies, and some are more willing to provide a free exchange of electronic information. An assessment of how well a nation can disseminate freely accessible, valid, and reliable information, and how willing nations are to provide complete, accurate, and open information via e-technologies is defined as “e-readiness.”<sup>2</sup>

Scholars have posited numerous models to measure e-readiness.<sup>3</sup> These models use various factors to measure a nation’s e-readiness.<sup>4</sup> This paper takes

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1. Ahmed Al-Omari & Hussein Al-Omari, *E-government Readiness Assessment Model*, 2 J. COMPUTER SCI. 841, 842-43 (2006).

2. *See id.* at 841.

3. Some of these models include the International Telecommunication Union Digital Access Index, World Economic Forum Networked Readiness Index, United Nations Conference on Trade and Development ICT Development Index, the Economist Intelligence Unit e-Readiness Index, Mosaic Group Index, Conference Board of Canada Connectedness Index, and ORBICOM Infostate Index. Adegboyega Ojo, Tomasz Janowski & Elsa Estevez, *Determining Progress Towards e-Government – What are the Core Indicators?*, 360 UNU-IIST INT’L INST. SOFTWARE TECH. 1 (2007). *See also* BRUNO LANVIN, SOUMITRA DUTTA, & FIONA PAUA, THE GLOBAL INFORMATION

an eclectic approach from these proposed models and uses three factors to examine and determine the e-readiness of various nation-states: 1) whether a nation-state maintains a well-organized electronic information infrastructure (“EII”) that distributes valid and reliable information; 2) whether it has a reliable legal system that ensures that the information infrastructure is acting to benefit its members of society; and 3) whether the information infrastructure and the regulatory system are increasing societal trust and therefore citizen participation in economic and civic activities.<sup>5</sup>

## II. FACTORS USED TO ANALYZE E-READINESS AND THEIR CORRELATION TO SOCCER

This article seeks to decipher how adequately various countries—namely Nigeria, the Democratic People’s Republic of Korea, China, Japan, South Korea, the Netherlands, and the United States—have developed and implemented these electronic conduits and the necessary hardware and software to promote the free flow of electronic information. There are several important questions to consider in measuring the success that each nation has had in becoming “e-ready.” Are these nations’ governments utilizing these tools to benefit their citizens or to oppress them? Do the citizens have open access to electronic information? Is the electronic information to which they do have access censored? How are the electronic infrastructures and the electronic information that flows from these structures utilized, organized, and reviewed? How well are the EIIs regulated? What is the resulting effect regarding the citizens’ level of trust?

There are three factors that will be analyzed to assess each nation’s e-readiness score. Each nation will be examined by investigating how well it has organized an EII, how well this EII is regulated by the government, and how well each EII is trusted by the citizens. After calculating each nation’s e-readiness score, the article attempts to draw comparisons and show the correlation between the nation’s e-readiness score and the state of the nation’s soccer team.

### A. Well-Organized EII

The first factor used to analyze e-readiness is whether a nation-state has a well-organized and functional EII. Various components of a functional EII may consist of the ability to gain access to and fully utilize electronic information.<sup>6</sup>

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TECHNOLOGY REPORT (Oxford University Press 2004). See also *United Nations Conference on Trade and Development: Information and Communication Technology Development Indices*, 8-13 (United Nations 2003).

4. See Al-Omari, *supra* note 1, at 841 (e-readiness factors include: how e-technology is amalgamated with a nation’s politics, legal regulations, human capital, infrastructure organization, culture, communication, and technology preparedness).

5. See Al-Omari, *supra* note 1, at 842-44.

6. Jessica Gardner, *Blogs, Wikis and Official Statistics: New Perspectives on the Use of Web 2.0 by Statistical Offices*, 25 STAT. J. OF IAOS 81, 81-85 (2008). See also Terence Huynh, *Egypt*

To implement these technologies, valid and reliable EIIs must also have an ample supply of freely accessible internet connections and technical systems.<sup>7</sup> When nations have a sufficient supply of these types of information conduits, hardware, and software, then ubiquitous computing networks emerge that have positive and profound effects on a nation's economy and citizen trust.<sup>8</sup> Further, having such a multifaceted infrastructure in place is vital for a nation's government and its citizens to protect and disseminate pertinent information.<sup>9</sup> Providing these abilities allows a government and its citizens to create jobs, participate in the national and local economies, contribute in the political process, and benefit society as a whole.<sup>10</sup> However, when these resources are not offered, citizens are unaware of important national and local policies, laws, and procedures. As a result, economies lag and societies are deleteriously affected.

### B. Properly Regulated EII

The second factor used to analyze a nation's e-readiness is whether it has adopted laws to effectively regulate the creation and implementation of an EII.

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*Protests: Social Networking Sites Blocked, Journalist Beaten, Anonymous Threatens Govt.*, TECHGEEK (Apr. 26, 2011), <http://techgeek.com.au/2011/01/27/egypt-protests-social-networking-sites-blocked-journalist-beaten-anonymous-threatens-govt/>. Many nation states, such as China and North Korea, filter their internet connections to prevent its denizens from accessing certain social networking tools, such as Facebook and Twitter. In light of the current uprisings in the Middle Eastern countries, such as Libya and Egypt, filtering of specific internet sites and social networking tools, such as Twitter, is increasing.

7. Marianne Broadbent et al., *The Implications of Information Technology Infrastructure for Business Process Redesign*, 23 MIS QUARTERLY 159, 160-62 (1999) (other technical systems include: broadband and high-speed capabilities, open access (uncensored access to information) via the internet, hardware, technical support, data and project management, planning and consulting services, nationwide network services as land lines or wireless networks, operating systems, security and disaster planning, business recovery systems, electronic linkages between suppliers and customers, and other technical systems).

8. See Sachio Watanabe, *Realization of a Ubiquitous Network on the Jini Network Infrastructure*, J. OF INTEGRATED DESIGN & PROCESS SCI., Mar. 2006, at 81, 81-82.

9. See Vincent S. Lai, *Intraorganizational Communication with Intranets*, COMM. ACM, July 2001, at 95, 96-98. See also Lily Barback, *How to Plan for the Data Explosion: Data Storage Best Practices for Next-gen Life Sciences*, May 2010, at 23a, 23b-23c. See also G. T. S. Ho et al., *An Intelligent Information Infrastructure to Support the Streamlining of Integrated Logistics Workflow*, 21 Expert Sys. 123, 123-25, 129-30 (2004).

10. See Mutawakilu A. Tiamiyu & Kemi Ogunsola, *Preparing for E-Government: Some Findings and Lessons from Government Agencies in Oyo State, Nigeria*, 74 S. AFR. J. LIBR. & INFO. SCI. 58, 58-59 (2008). See also Stuart Comstock-Gay & Joe Goldman, *Civic Engagement and the New Agenda for Democratic Reform*, NAT'L CIVIC REV., Summer 2009, at 63, 64-65. These authors state when a nation-state overtly educates its citizens about the laws that regulate them, about basic civic procedures, and provides transparent access to pertinent civic information its citizens are more likely to trust the government, more likely to participate in national and local elections, encourage citizens to be partners with and work with a government, and overall quality of life is improved as people feel their voices are being heard and that they are a valid part of the civic system.

These legal regulations determine the following: whether a government is required—or has permission—to disseminate information to its citizens such as pertinent legislation, regulations, and rules;<sup>11</sup> whether citizens can participate in the dissemination of information; whether dissemination is open or censored; what other types of information may be published;<sup>12</sup> how it is dispersed; who distributes it; and by what means it may be circulated.<sup>13</sup> The regulation of such actions should also specifically indicate what type of punitive actions government officials or private citizens will encounter if they abuse their position to commit fraud or malfeasance, in some way taking advantage of the nation's EII.<sup>14</sup>

In evaluating how to regulate electronic content and determining what type of information should be disseminated to a country's citizens is a matter of personal choice.<sup>15</sup> Different people can consider one type of content beneficial and utilitarian, whereas individuals from another geographical location or from a different religious or cultural perspective may consider the same type of content detrimental or offensive. The same type of content may even be considered legal in one nation-state and illegal in another.<sup>16</sup> Further, most nation-states deem some content harmful to children, such as pornography, but implement divergent degrees of means to prevent children from viewing such content.<sup>17</sup> These personal, group, cultural, and national differences exemplify why different nation-states manifest varied degrees of access to and regulation of EIIs. Yet,

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11. An example of such legislation is the GPO Electronic Information Access Enhancement Act of 1993, which requires the Superintendent of Documents of the United States government to provide online versions of the Congressional Record and the Federal Register and to work with federal agencies to provide other valid and reliable information online. *See* 44 U.S.C. § 4101 (2006).

12. Many nation-states have passed some type of Freedom of Information Act guaranteeing citizens access to federal and state agency records with some exceptions. The general policy behind this law is it is believed citizens are entitled to open access, with a few exceptions, to the affairs and regulations passed by the government, which affects the everyday duties of citizens. The United States Congress has passed such a law. *See* 5 U.S.C. § 552 (2006). All fifty states in the United States and the District of Columbia have passed a version of an Open Records Act which provides state citizens access to government information. *See, e.g.*, OKLA. STAT. tit. 51, §§ 24A.1-24A.24 (2010); TEX. GOV'T CODE ANN. §§ 552.001-.353 (2010).

13. *See* Noam Tractinsky & Sirkka L. Jarvenpaa, *Information Systems Design Decisions in a Global Versus Domestic Context*, 19 MIS Q. 507, 512 (1995).

14. Nigeria's government has repetitively committed corruption and human rights abuses that have crippled its government at all levels when implementing some form of civic endeavor, such as national or local elections, or during its Central Bank's financial transactions. *See* Ben Rawlence & Chris Albin-Lackey, *Nigeria's 2007 General Elections: Democracy in Retreat*, 106 AFR. AFF. 497, 505-06 (2007). *See also* Jennifer Wheary, *One Step Forward, Two Steps Back*, WORLD POL'Y J., Winter 2009, at 80, 80-81.

15. J.P. Mifsud Bonnici & C. N. J. De Vey Mestdagh, *Right Vision, Wrong Expectations: The European Union and Self-Regulation of Harmful Internet Content*, 14 INFO. & COMM. TECH. L. 133, 133 (2005).

16. *Id.* One example, noted by Bonnici and De Vey Mestdagh, is that 'revisionist' content is illegal in Germany but is not considered illegal in other nation-states.

17. *Id.*

this varied degree of access to electronic information ultimately results in an assorted array of personal rights, economic strength, and level of trust in different countries.

### C. Resulting Level of Citizen Trust

The third factor that this article uses to evaluate a nation's e-readiness is the resulting level of trust citizens have in their government to appropriately create, maintain, and regulate a nation's EII. Trust is a complex and abstract psychological phenomenon, and many factors can affect the level of trust a person places in his or her government.<sup>18,19</sup> For example, a private citizen needs to have something at stake and some amount of risk involved in order for trust to be an issue,<sup>20</sup> such as trusting that the government has the competence to provide an EII that is capable and reliable enough to consistently circulate valid information.<sup>21</sup> Also, the private individual must be confident that government officials are ethical and competent enough to securely provide valid and relevant information that will serve the citizens' best interest.<sup>22</sup> These factors are vital because many private citizens have a natural inclination to distrust government-run institutions like school systems, health care systems, and other state-run institutions.<sup>23</sup> Despite this natural skepticism toward government-run institutions, if any entity can efficiently and transparently provide a valid and reliable service to consumers that benefits the citizenry, then such a service can fashion a high level of trust toward the service provider.<sup>24</sup> However, if the government cannot offer a fully functional EII and operate it in an ethical manner, then citizens will manifest an inherent level of distrust.

#### 1. Transparency Can Increase the Level of Trust

Transparency of national laws, policies, government activity, legal forms, and other information pertinent to citizens' everyday lives can increase a

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18. Sophia Elena Colesca, *Increasing E-Trust: A Solution to Minimize Risk in E-Government Adoption*, 4 J. APPLIED QUANTITATIVE METHODS 31, 32-33 (2009).

19. *Id.* at 33-34 (discussing examples such as government agents' level of competence, benevolence and candidness toward its citizens, and how the government agents' actions affect the living standards and quality of life of its citizens).

20. See Jens Riegelsberger et al., *The Mechanics of Trust: A Framework for Research and Design*, 62 INT'L J. HUM-COMPUTER STUD. 381, 385-86 (2005).

21. See Colesca, *supra* note 18 at 33-34.

22. See *id.* at 34. See also Merrill Warkentin et al., *Encouraging Citizen Adoption of E-Government by Building Trust*, Sept. 2002, at 157, 159-62.

23. Surveys have indicated many private individuals have a natural inclination to distrust government-run institutions, such as school systems or health care systems. One can assume the same level of distrust may be met when a government is attempting to provide an information infrastructure to its inhabitants. See Chrisanthi Avgerou, *Interpreting the Trustworthiness of Government Mediated by Information and Communication Technology: Lessons from Electronic Voting in Brazil*, 15 INFO. TECH. DEV. 133, 135-36 (2009).

24. See *id.* at 137.

population's trust in its government.<sup>25</sup> Nations can create transparency by developing, providing, and managing a well-organized and user-friendly EII that is capable of disseminating this helpful information.<sup>26</sup> Increased transparency, which leads to an enhanced level of citizen trust, is considered to be vital to a developed and fully functional society.<sup>27</sup> As Professor Stephan Grimmelikhuijsen points out, when citizen trust in government is augmented, citizens comply more with domestic laws and a greater amount of interpersonal trust develops among citizens.<sup>28</sup> Increased levels of denizens' trust toward their government can also benefit the economy and social harmony, as well as lower crime rates.<sup>29</sup> Such trust is often earned by increasing the amount of disclosed information (e.g., health, legal, or environmental information), thus leading to more transparency.<sup>30</sup> The more access to information, the greater the level of trust among citizens.<sup>31</sup> Therefore, to help foster a stable economy in which citizens trust their government, each nation's government officials must develop and properly maintain a stable and reliable EII.

## 2. Honesty and Benevolence Increase Citizen's Level of Trust

Professor Grimmelikhuijsen further suggests that honesty and benevolence of government officials greatly dictate the citizens' amount of trust in their government,<sup>32</sup> at times even more so than the competence level of government officials.<sup>33</sup> This finding suggests that citizens are willing to forgive honest mistakes or a lesser aptitude in some government officials, but they will neither accept nor trust a government that tolerates corruption, dishonesty, and malevolent actions by its officials.<sup>34</sup> Grimmelikhuijsen defines honesty as "whether participants believe that the government agency performs its duties soundly."<sup>35,36</sup>

Grimmelikhuijsen depicts benevolence as the level to which participants perceive the government as showing genuine care for its citizens.<sup>37</sup> For

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25. Stephan Grimmelikhuijsen, *Do Transparent Government Agencies Strengthen Trust?*, 14 INFO. POLITY 173, 173-76 (2009).

26. *Id.* at 173.

27. *Id.* at 174.

28. *Id.*

29. *See id.*

30. *See id.* at 173-76.

31. Grimmelikhuijsen, *supra* note 25, at 176, 184.

32. *Id.* at 175.

33. *Id.*

34. *See id.*

35. *Id.*

36. *See id.* (e.g. tells the truth, complies with current law, does not accept bribes...).

37. Grimmelikhuijsen, *supra* note 25, at 175. Benevolence may refer to whether government agents are creating an EII to benefit the citizens, or to benefit the government. Does the government assist in repairing a problem with the EII when the citizens desire such a repair? Does

example, does the government provide open and transparent access to documents that citizens need to perform everyday life activities? Or, does the government want to filter and censor certain information so that citizens cannot make informed decisions? In summary, a display of benevolence to citizens is when a government promotes fairness to citizens. Grimmelikhuijsen empirically concludes that what affects the level of trust in citizens most is the manner in which the government ultimately acts and the actions it accepts and rejects as morally corrupt and wrong.<sup>38</sup> Competence, or a lack thereof, in government agents who work with EII is more likely to be overlooked or forgiven by a country's citizens.<sup>39</sup>

The following example clarifies how a government agency providing access to electronic information, which appears to be an act of honesty and benevolence, earns the trust of its citizens. Many government agencies offer websites, either at the national or local level, that house various legal forms to assist citizens in creating, maintaining, and dissolving various types of business organizations.<sup>40</sup> As a private citizen visits one of these websites, he or she seeks a pertinent form to incorporate a business. At stake for the citizen is a timely filing of the articles of incorporation, or some other formation document for a specific type of business association, so that he or she may commence making a net profit. A possible negative outcome is not being able to locate the pertinent form on the website, and therefore not filing the formational document in a timely manner. This could result in the company losing potential capital due to a delay in opening a business, or being sued for allegedly running a business as a corporation or other form of business without properly filing the articles of incorporation. If the government fails to develop an electronic interface that fosters easy access to such necessary forms or engages in overtly corrupt practices to deceive a private citizen, the result may be economic damage or injury to a potential company's goodwill. If such damage occurs, the injured denizen may display an enormous amount of distrust, fear, and resentment of the government. These negative emotions can result in citizens creating their own

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the government take the citizens best interest in mind when it creates policy and law mandating who can use the EII, whether it is censored, what types of filters are implemented, etc.?

38. *See id.* at 181.

39. *Id.*

40. Many states in the United States post business forms on a governmental website for its citizens such as Articles of Incorporation, Change of Registered Agent, Certificate of Withdrawal, etc. *See* TEXAS SECRETARY OF STATE, <http://www.sos.state.tx.us/index.html> (last visited April 27, 2011). *See also* Mutawakilu A. Tihamiyu & Kemi Ogunsola, *Preparing for E-Government: Some Findings and Lessons from Government Agencies in Oyo State, Nigeria*, 74 S. AFR. J. LIBR. & INFO. SCI. 58, 61 (2008). Governments in developed countries have moved beyond using their websites to provide information only, as they now offer forms one may download, paying for services, voting and other business or civic transactions. Many of these forms assist citizens in filing pertinent tax forms, creating or amending bylaws, or commencing a limited partnership.

norms and values, which lead to further corruption.<sup>41</sup> However, if a government provides consistent access to valid and reliable information, then trust in the government increases. This increase in trust helps to foster job creation, economic growth, and the provision of efficient and reliable services to communities.

### III. CALCULATING A NATION'S EII SCORE AND ITS CORRELATION WITH SOCCER TEAM SUCCESS

In evaluating the nations analyzed in this article, each country will be assigned a score that depicts its e-readiness. The e-readiness score consists of a range of 0-3. A score of 3 indicates that a nation has the highest level of e-readiness, and a score of 0 indicates that a nation has the lowest level of e-readiness. A nation earns a score of 3 if it has developed a stable, fully-functional EII that provides a user-friendly interface from which citizens may freely obtain an abundant amount of information that assists them in locating a panoply of information, such as the following: laws, government policy, instructional and applied forms with which one may file taxes, commence businesses, learn about health threats, obtain web addresses, links, or contact information, and a variety of other helpful information. A nation earning 3 points demonstrates that it can aptly, ethically, and legally regulate its EII and that its creation, management, and regulation of the EII results in a high level of citizen trust. Therefore, a point will be awarded to each country based on its ability to maintain an EII that allows citizens to access and disseminate valid and reliable information. A separate point will be awarded to each country that has valid and unequivocal laws that adequately regulate the operation of the EII. A third point will also be awarded to countries whose citizens appear to manifest at least a modicum of trust based on the operation and regulation of an EII.

A fun and effective way to demonstrate the importance of e-readiness is by analogizing each country's e-readiness score to the current status of their national soccer team. Interestingly, the success or failure of a country's national soccer team in international play is often a bellwether of that country's ability to develop, maintain, and regulate an efficient and useful EII. A national soccer team's success or failure may often be an accurate predictor of a nation's EII

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41. See Gerald D. Berreman, *Fear Itself: An Anthropologist's View*, BULL. ATOM. SCIENTISTS, Nov. 1964, at 8, 8 - 9. Berreman states that lack of communication leads to mutual ignorance of the fundamental assumptions upon which the social actions of others are based and which make possible prediction of their behavior and hence articulation of one's own behavior with theirs. This mutual ignorance ultimately leads to fear. Fear is the product of distrust and suspicion. The dangerous consequence of this is that ultimately parties subjected to ignorance due to a lack of communication develop a sense of powerlessness, meaninglessness, and normlessness. Therefore, the argument could be posited that a society that does not effectively disseminate information to its citizens manufactures a society of unproductive citizens who may feel powerless to an overbearing government, and who resort to unscrupulous deed due to their perception of living in a normlessness society.



because the national soccer/football<sup>42</sup> association's ("SA"/"FA") infrastructure and governing regulations, and the reaction of players, coaches, and other members of the FA to the infrastructure and regulations, has an ostensible correlation with the nation's EII, the regulations governing that infrastructure, and how its citizens react to the EII and governing regulations.

For purposes of this paper, actual success of a national soccer team is defined as its capacity to win the World Cup. The World Cup is the pinnacle of all international soccer tournaments played once every four years. In order to qualify for the tournament, a country's national team must survive two or more years of grueling qualification matches.<sup>43</sup> After qualifying for the World Cup, to be considered a realistic contender at the tournament's commencement, a team usually needs to be ranked within the top fifteen countries of the world by the *Fédération Internationale de Football Association* ("FIFA").<sup>44</sup> The countries examined in this article exemplify how the success of a nation's soccer team can predict the adequacy or inadequacy of a nation's EII and the regulations that govern it.

#### *A. Nigeria's Great Façade and the DPRK's Hermetic Control*

The first two nations that will be examined are Nigeria and the Democratic People's Republic of Korea ("DPRK"). The economic and soccer infrastructure of each nation will be examined along with the nation's information technology infrastructure to determine each nation's e-readiness score.

##### 1. Nigeria's Demographics and Resources

At first glance, Nigeria appears to be a nation with the appropriate resources to assemble a national soccer team that can repeatedly qualify and compete for the World Cup. For example, one soccer scholar has empirically posited that nations with larger gross domestic products ("GDPs"), large human populations, and adequate experience in playing the game of soccer can produce national soccer teams that can repeatedly win the World Cup.<sup>45</sup> For the purposes of this

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42. In most countries, the governing body of a national soccer team and its local club and youth teams is called a football association ("FA"). In the United States, the governing body is referred to as a soccer association ("SA").

43. SOCCER WORLD CUP 2010 PREVIEW 30-31 (Sevenoaks 2010).

44. FIFA.com,

<http://www.fifa.com/worldfootball/ranking/lastranking/gender=m/fullranking.html> (last visited Aug. 4, 2010). FIFA updates these rankings every month. FIFA bases its rankings on a national team's performance in recognized international matches played over the previous four years. Because the ranking system is based on team performance over the past four years, this sometimes elicits a great amount of criticism.

45. See SIMON KUPER & STEFAN SZYMANSKI, SOCCERNOMICS: WHY ENGLAND LOSES, WHY GERMANY AND BRAZIL WIN, AND WHY THE U.S., JAPAN, AUSTRALIA, TURKEY – AND EVEN IRAQ – ARE DESTINED TO BECOME THE KINGS OF THE WORLDS MOST POPULAR SPORT 1-44 (Nation Books 2009).

paper, GDP and populations are more closely analyzed than experience, although experience in international play will be mentioned for each country. Nigeria's GDP is approximately 357.2 billion, which ranks thirty-second in the world.<sup>46</sup> Its population is about 152,217,341, which ranks eighth in the world,<sup>47</sup> and it is currently the most populous country in Africa.<sup>48</sup> More importantly, it is a country rich in natural resources, such as oil.<sup>49</sup>

Nigeria is the sixth largest exporter of crude oil in the world and it is estimated to have forty-two billion barrels of crude oil reserves.<sup>50</sup> Therefore, it is not lacking in capital to invest in a sport such as soccer. Nigeria is a nation with an abundance of money to invest in hiring the most experienced and intelligent managers and administrators in the world, and it has a large population from which to select and train genetically gifted athletes. It is duly noted that Nigeria lacks in international soccer experience compared to the soccer giants around the world such as Brazil, Italy, and France. Yet, despite the lack of international experience, these monetary luxuries should naturally produce a robust soccer infrastructure that produces highly skilled players and coaches, and multiple international tournament championships. However, similar to developing an EII, when the members of the governing body in charge of maintaining and regulating the soccer workforce and resources are complicit in committing corrupt acts, such maelstroms produce a feeble and susceptible infrastructure. As an unfortunate result, it is all but impossible to develop a national team that can be competitive at the World Cup level, much less win the World Cup.

## 2. Soccer Infrastructure

Nigeria exemplifies how reckless and wasteful management of resources begat a shabby soccer infrastructure. To establish a solid soccer infrastructure, an FA needs to locate and develop numerous highly talented players, employ experienced and proven coaches, build and maintain quality pitches and practice facilities, and earn the trust of all of these individuals to have faith in the mission of the soccer federation.

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The first two chapters of this book provide a succinct and brilliant illustration of how this statistical formulaic hypothesis plays out.

46. CIA – THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/> (last visited Aug. 4, 2010).

47. *Id.*

48. STEVE BLOOMFIELD, AFRICA UNITED: SOCCER, PASSION, POLITICS AND THE FIRST WORLD CUP IN AFRICA 171 (Harper 2010).

49. O.A. Olafuyi et al., *Enhanced Oil Recovery (EOR) Potential in Nigeria*, 1 J. ECON. & ENGINEERING 35, 35 (2010).

50. *Id.*

a. Nigeria's Dilapidated Soccer Infrastructure

Nigeria's national soccer team is incapable of performing any of the actions required to have a successful soccer infrastructure because its governing body, the Nigerian Football Federation (NFF),<sup>51</sup> operates in a licentious and profligate manner. For example, due to money laundering schemes and other corrupt practices, in which the NFF participates on a regular basis, millions of dollars are confiscated and used for personal matters by NFF agents. These funds could be used to pay coaches and players their respective salaries or to invest in building soccer stadiums with cutting-edge technology that would attract the best Nigerian players and coaches.<sup>52</sup>

One example illustrative of this corruption involves a Nigerian member of FIFA who was recently caught trying to sell his vote that would help select the host nations of the 2018 and 2022 World Cups for \$800,000.<sup>53</sup> Not only was this member of the NFF attempting to sell his vote for personal monetary gain, but concurrently he and his cohorts at the NFF were refusing to pay their national team coach his salary which was overdue about six months.<sup>54</sup> Such greedy and prodigal actions committed by the NFF eliminate players' and coaches' trust in the NFF, and thus deter highly talented players and coaches from renewing employment, or sometimes ever commencing employment, with the NFF. Therefore, few Nigerian soccer players, coaches, or fans care about their own local leagues<sup>55</sup> and usually prefer leagues abroad, where the players will receive fair pay, can be certain of their personal safety, and do not have to acquiesce to the widespread corruption of the NFF.<sup>56</sup>

b. The NFF's Poorly Managed Soccer Infrastructure

Due to the shameless actions of the NFF, most Nigerians who play for the Nigerian national soccer team elect to play professionally abroad in Europe, Asia, or the United States. When these players return to Nigeria to train with their national team cohorts for an international tournament, they have little time to prepare. For example, for World Cup preparations, these players are usually asked to return to Nigeria to train for only a month or two prior to the beginning of the tournament. Therefore, they have a limited amount of time to learn the

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51. NIGERIAN FOOTBALL FEDERATION, available at <http://www.nigeriaff.com/> (last visited Apr. 26, 2011).

52. See Bloomfield, *supra* note 48, at 165-69.

53. Matthew Futterman, *FIFA Probes Allegations of Bribery*, WALL ST. J., Oct. 18, 2010, online edition, available at <http://online.wsj.com/article/SB40001424052702303980804575558042906958802.html>.

54. *Id.*

55. Bloomfield, *supra* note 48, at 160-61.

56. See FRANKLIN FOER, *HOW SOCCER EXPLAINS THE WORLD* 140-41 (Harper 2004). In the late 1990's and the early 2000s, some of the most talented Nigerians soccer players played in Ukrainian leagues. See also Bloomfield, *supra* note 48, at 160-61.

national team coaches' playing philosophy and to build chemistry with other national team players. Yet, any limited potential of team chemistry is often thwarted by the NFF due to its incompetent and greed-motivated decisions. For example, the NFF incessantly fires managers just a few weeks prior to a major international competition due to a fee dispute or a battle of egos.<sup>57</sup> In both 1998 and 2002, the NFF replaced their existing manager only a few weeks before commencement of the World Cup.<sup>58</sup> Such administrative ineptness prevents national team players from adapting to a coaching system, thwarts players from learning teammates' tendencies, creates a distinct lack of leadership, is deleterious to the confidence of the players and coaches of the NFF, and contributes to making the NFF soccer infrastructure weak.<sup>59</sup>

Recently, the NFF displayed its irresponsibility and avarice by sacking its coach again just weeks prior to the commencement of the 2010 World Cup.<sup>60</sup> Subsequently, the NFF asked Swede Lars Lagerback to begin working with its national team players just days prior to the World Cup.<sup>61, 62</sup> To further exacerbate the situation, when the Nigerian national team arrived in South Africa for the World Cup, they discovered that the NFF had booked a hotel that was still under construction.<sup>63</sup> Therefore, needing a place to sleep, the NFF was forced to spend an extra \$125,000 to cancel its reservation and rebook at another hotel.<sup>64</sup> These types of illogical, inexcusable, and unprepared actions by the NFF do not build a strong and reliable soccer infrastructure. Not surprisingly,

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57. Lars Lagerback & Shaibu Amodu, *Can an African Team Win the World Cup?*, N. AFR., June 2010, at 40, 41.

58. Osasu Obayluwana, *Changing Coaches Like Underpants Just Doesn't Work*, AFR. FOOTBALL, Apr. 2010, at 56, 56. In 1998 and in 2002, new coaches Bora Milutinovic and Adebayo Onigbinde, respectively, replaced Nigerian incumbent coaches with only a couple of months to prepare. See M & C, [http://www.monstersandcritics.com/news/africa/features/article\\_1565594.php/Nigerian-recriminations-fly-after-another-dismal-World-Cup-Feature](http://www.monstersandcritics.com/news/africa/features/article_1565594.php/Nigerian-recriminations-fly-after-another-dismal-World-Cup-Feature) (last visited Apr. 26, 2011).

59. See Kuper, *supra* note 45, at 269-70.

60. Obayluwana, *supra* note 58, at 56-57.

61. *Id.* Lars Lagerback was hired on May 22, 2010. Interestingly, Coach Lagerback had been sacked by Sweden just days before his Nigerian hire due to his inability to qualify Sweden for the World Cup. To put their complete hope in a foreign coach who had just spent two years failing to get Sweden qualified for the tournament had to be a bit unsettling for the Nigerian players.

62. FIFA.COM: 2010 WORLD CUP SOUTH AFRICA, <http://www.fifa.com/worldcup/> (last visited Apr. 25, 2011). The World Cup began on June 11, 2010.

63. Will Connors, *Cup Results Shown Two Africas*, WALL ST. J., July 7, 2010, online edition, available at [http://online.wsj.com/article/NA\\_WSJ\\_PUB:SB10001424052748704525704575341022764804584.html](http://online.wsj.com/article/NA_WSJ_PUB:SB10001424052748704525704575341022764804584.html).

64. *Id.* With the lack of hotels in South Africa, and the enormous amount of individuals traveling to South Africa for the tournament, it is amazing that the Nigerian footballers were able to confirm a new reservation. Also, it is amazing that the NFF had the monetary means to immediately pay \$125,000 for a South African hotel, but they seem to be insolvent when it is time to pay the national team coach.

Nigeria did not win a single match during the 2010 World Cup, finished last in their qualification group, and did not qualify for the second round.<sup>65</sup>

### 3. Illogical and Inhumane Soccer Regulations Promulgated by the NFF

Along with a weak soccer infrastructure, the NFF rarely enforces current regulations that could extinguish the corruption that deteriorates its core, and deters players and coaches from agreeing to commence work with or continue working with it. When the NFF enforces a regulation, it does so in an illogical and bizarre manner. For example, after the Nigerian national team's poor showing in the 2010 World Cup, the Nigerian President, Goodluck Jonathon, arbitrarily declared that the Nigerian men's national team was banned from international competition for two years.<sup>66</sup> However, the NFF has no statutory authority to regulate its national team by arbitrarily banning it for any period of time, and the statutes that govern the NFF only address the suspension of individuals—not of entire teams.<sup>67</sup> Further, FIFA's rules eschew governments from interfering with their national team's operations, such as banning an entire national team.<sup>68</sup> To alleviate the Nigerian players, coaches, and staff from this illogical ban, FIFA ultimately put enough pressure on the NFF and President Jonathan so that he eventually rescinded this illogical ban. Even with this ban eliminated, the NFF is complicit in other activities, such as match fixing, that exacerbate the deterioration of the NFF.

#### *B. Match Fixing in Nigerian Soccer*

A major concern with regards to match fixing is the fact that the NFF does not enforce anti-match fixing regulations, and thus conspiracies to throw matches are endemic in Nigerian soccer. Also, a majority of the club teams in Nigeria are owned by Nigerian politicians,<sup>69</sup> who also have their hands in oil revenues.<sup>70</sup> Such business ventures often lead to conflicts of interests. As a consequence, the results of many matches are often decided days before they are played. The results of these predetermined matches are usually set by team

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65. *FIFA Threatens Nigeria With Suspension*, FOX SPORTS: WORLD CUP 2010, <http://msn.foxsports.com/foxsoccer/worldcup/story/FIFA-threatens-Nigeria-with-suspension> (last visited Apr. 29, 2011). The thirty-two teams that qualify for the World Cup are divided into eight different groups, with four teams in each group. Nigeria was placed in Group B along with South Korea, Argentina, and Greece. The top two teams in each group qualify for the second round of the Cup.

66. See FOX SPORTS: WORLD CUP 2010, *supra* note 65. This ban would literally prevent a Nigerian national team from participating or training for any international tournament or friendly match.

67. NIGERIAN FOOTBALL FEDERATION STATUTES, available at <http://nigeriaff.com/docs/NFF%20Statutes.pdf> (last visited August 9, 2010).

68. FOX SPORTS: WORLD CUP 2010, *supra* note 65.

69. Bloomfield, *supra* note 48, at 161.

70. See *id.* at 161-64.

owners paying referees money to decide matches in a certain way.<sup>71</sup> For example, at the end of the 2009 Nigerian Premier League<sup>72</sup> season a club team named Bayelsa United needed only a draw against the Warri Wolves for Bayelsa United to win its first ever league championship.<sup>73</sup> Warri are owned and operated by the governor of the Delta State.<sup>74</sup> And both of these club teams play their home games in the Niger Delta, which has been a war-torn area over oil revenues for the past few decades.<sup>75</sup> Prior to the start of the match, the two club team owners agreed to script the game so that Bayelsa United could win. Thus Bayelsa United could have its first league championship and Warri could still finish in fourth place, its highest finish ever in the Nigerian Premier League.<sup>76</sup> The owners felt that such a result would be a positive psychological result for the players and fans by taking the sting out of recent violence in the Niger Delta, and the players and the local fans could celebrate successful seasons rather than worry about the ubiquitous guerilla attacks.<sup>77</sup> As a result of the conspiracy to fix the match, when Bayelsa United was leading by a score of 1-0 after ninety minutes of play,<sup>78</sup> the official decided to arbitrarily add five minutes of stoppage time.<sup>79</sup> Well past three minutes of stoppage time, Warri scored a goal that tied the match. Interestingly, the Bayelsa players did not appear upset or frantic, nor did the Warri players look too enthusiastic that they had just remarkably tied the match in extra time.<sup>80</sup> Instead, it appeared that the players had followed a prewritten script, just as the NFF or the team owners had directed.<sup>81</sup> The owners were happy because they may have avoided possible violence, and the fans were then more likely to spend money on both clubs' merchandise and tickets for the next season's games.

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71. *Id.* at 157.

72. Soccerway, *Nigeria Premiere League*, <http://www.soccerway.com/national/nigeria/premier-league/2009-2010/super-4/> (last visited August 18, 2010). The Nigerian Premiere League is the top professional soccer league in Nigeria's tier-structured divisional system.

73. Bloomfield, *supra* note 48, at 156-57. In the Nigerian Premiere League, teams are awarded one point for a tie, and three points for a win. At the conclusion of the season, the standings are determined by the number of points that have been earned by each team, similar to how the National Hockey Leagues determines final team standings.

74. *Id.* at 161.

75. *Id.* at 157.

76. *Id.* at 156-58.

77. *Id.* at 156-57.

78. *Id.*

79. Bloomfield, *supra* note 48, at 155-56. During a soccer match, the game clock never stops for injury, balls kicked out of play, or other actions causing play to temporarily cease. Therefore, it is common for two or three minutes to be added to the end of each half when players have suffered injuries or some other action has occurred that has resulted in a stoppage of play. Apparently, during this match, only two or three minutes of stoppage time was warranted.

80. *Id.* at 155-57.

81. *Id.* at 155-58. On the same day two other teams in the Nigerian Premier League also had a match. One of the teams Zamfara United needed to win by at least six goals to avoid being relegated to a lower division for next year's season. They won the match 9-0. It is a very rare occurrence to score 9 goals in a soccer match.

The NFF has regulatory statutes in place that could eliminate match-fixing corruption,<sup>82</sup> but it simply turns its head and continuously allows this brazen corruption to take place.<sup>83</sup> The NFF seems to assume, why stop the corruption when it is generating revenue for the NFF and providing an arbitrarily legal, psychological opiate for its often upset, and sometimes violent, citizens? Regulations that could extinguish this fraud can be found in Article 2(f) promulgated by the NFF. This article grants the NFF the ability “to prevent all methods or practices which might jeopardize the integrity of matches or competitions or give rise to abuse of Association Football.”<sup>84</sup> Further, Article 7 of the NFF statutes states that the “bodies and Officials of NFF must observe the Statutes, regulations, directives, decisions and the Code of ethics of FIFA” and of the Confederation of African Football (“CAF”).<sup>85</sup> Both FIFA and CAF directly eschew any form of match fixing, corruption and other similar acts of fraud in an effort to maintain the integrity of the game. However, because these regulations are not enforced by the NFF, this type of corruption weakens the Nigerian soccer infrastructure by promoting brazen corruption, deterring highly skilled Nigerian soccer players and coaches from participating in Nigerian leagues, and injuring the international reputation of Nigerian soccer. These actions also cause Nigerian denizens to lose interest in the local soccer leagues because they lose trust that the owners are providing them with genuine soccer competitions.<sup>86</sup>

*C. Democratic People’s Republic of Korea (DPRK) – North Korea’s Demographics and Resources*

Unlike Nigeria, the Democratic People’s Republic of Korea (DPRK), more commonly known as North Korea, is a closed society that does not project the potential of producing a national soccer team that can win the World Cup. The DPRK has a population of about 22,665,345 people, which ranks fifty-first in the world.<sup>87</sup> The gross domestic product of the DPRK is approximately forty billion, which ranks ninety-sixth in the world.<sup>88</sup> The DPRK soccer team also lacks

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82. Nigerian Football Federation Statutes Article 2(f), <http://nigeriaff.com/docs/NFF%20Statutes.pdf> (last visited Apr. 29, 2011). Although most of the statutes are vague, the NFF could regulate and eliminate match fixing with Article 2(f), and Article 7.

83. See Bloomfield, *supra* note 48, at 156-58.

84. Nigerian Football Federation Statutes Article 2(f), <http://nigeriaff.com/docs/NFF%20Statutes.pdf> (last visited Apr. 29, 2011).

85. Nigerian Football Federation Statutes Article 7, <http://nigeriaff.com/docs/NFF%20Statutes.pdf> (last visited Apr. 29 2011).

86. See Bloomfield, *supra* note 48, at 160-61.

87. CIA World Factbook, *supra* note 46.

88. *Id.* The CIA World Factbook cautions that Korea does not publish any reliable National Income Accounts data; the data shown here is derived from purchasing power parity (“PPP”) GDP estimates for North Korea that were made by Angus Maddison in a study conducted for the OECD; his figure for 1999 was extrapolated to 2009 using estimated real growth rates for North Korea’s

international competitive experience, because its hermetic government rarely allows the national team to play matches on foreign soil, and it is atypical for the DPRK government to allow a foreign national team to play in the DPRK. Unlike Nigeria, the DPRK is a poor country that lacks an abundance of natural resources. The country suffers economically from a production shortage of oil, gas, and electricity,<sup>89</sup> its road system is limited and greatly unpaved,<sup>90</sup> and most of the DPRK's sea ports and airports are dilapidated and in need of repair.<sup>91</sup> Therefore, one can accurately surmise that the DPRK probably does not have a very competitive national soccer team.

#### 1. Inhumane Treatment of Players and Coaches in the DPRK Equates to a Dilapidated Soccer Infrastructure

Similar to Nigeria, the DPRK Football Association ("DPRKFA") also has a weak infrastructure due to its incessant malevolence and fraud. The DPRK FA openly threatens the safety of its players and coaches, and it often subjects them to physical torture if they do not produce results that are satisfactory to the country's leadership.<sup>92</sup> However, due to the secretive nature of the DPRK's society, much about their soccer infrastructure must be surmised from what little insight the media and the few soccer participants have garnered during rare encounters with the DPRK's national team and its FA members.<sup>93</sup> Although rare, glimpses of the national team demonstrate a soccer federation that operates in a similar manner as their hermetic and authoritarian government.

For example, in 2004, the Chinese club team, Beijing Celtic, was invited to play in a friendly match held in the DPRK. One of the players from that team chronicled and later published his experience while playing there.<sup>94</sup> His documentation verifies that the DPRKFA operates in a similar guise as the DPRK government.<sup>95</sup> For example, upon arriving at the DPRK airport, the Chinese players were stripped of any device that could be used to communicate

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GDP and an inflation factor based on the US GDP deflator; the results were rounded to the nearest \$10 billion.

89. See Stephen Blank, *Russian Energy and the Korean Peninsula*, E. ASIA, Mar. 2007, at 7, 17-24.

90. See *id.*

91. See *id.*

92. Anonymous, *Hermit Soccer*, WALL ST. J. June 25, 2010, online edition, available at <http://online.wsj.com/article/SB10001424052748704853404575322873031320294.html>.

93. The DPRK Football Association is so secretive that their uniforms for the 2010 World Cup were not revealed until they played their first match on June 15, 2010. See Adam Thompson, *Vendors Leave No Shirt Unturned Seeking North Korean Soccer Duds: Secrecy Suits Hermit Kingdom to a Tee; Will There be a Brand New Jersey?*, WALL ST. J., May 27, 2010, online edition, available at [http://online.wsj.com/article/NA\\_WSJ\\_PUB:SB10001424052748704717004575268232320877058.html](http://online.wsj.com/article/NA_WSJ_PUB:SB10001424052748704717004575268232320877058.html).

94. Doug Naime, *Fantasia*, NEW REPUBLIC, Feb. 2004, at 34, 34.

95. See *id.*



with any person outside of the DPRK,<sup>96</sup> their bags and their persons were thoroughly frisked and searched,<sup>97</sup> and they were verbally and possibly physically coerced to throw the match and allow the DPRK national team to win.<sup>98</sup> DPRKFA agents intimidated the Celtic players into agreeing to throw the match by threatening to immediately send them back to China without pay if they did not acquiesce.<sup>99</sup> Celtic FC agreed to the DPRKFA demands, and the next day the DPRK national team shockingly won the friendly match 2-0.<sup>100</sup>

The Chinese player who chronicled the trip noted, however, that the DPRKFA must have very strict standards for its players, because even if Celtic would have attempted to beat the DPRK players they probably would have lost.<sup>101</sup> The DPRK team's players were better conditioned and faster on the pitch than were Celtic.<sup>102</sup> This was probably a result of the DPRK threatening harsh sanctions against its players if they were ever to succumb to an embarrassing loss. Many times throughout history, the DPRK soccer players have been tortured or killed after exhibiting poor performances on the pitch.<sup>103</sup> For example, many DPRK players were fearful they would be sent to the DPRK's version of the gulag after their embarrassing 7-0 loss to Portugal in the 2010 World Cup.<sup>104</sup> These players exhibited this fear because it had actually happened to former players after performing poorly in the 1966 World Cup held in England.<sup>105</sup> Therefore, most of the DPRKFA's soccer infrastructure operates with inhumane and savage consequences if the players do not exhibit perfection on the pitch. Although many of the DPRKFA's actions are hermetic and inconspicuous, what is known about this organization is that it promulgates unobtainable standards for its players and coaches, and it doles out ruthless and unconscionable punishments when players, coaches, and others associated with the DPRKFA do not meet these standards.

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96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. Naime, *supra* note 93, at 34.

101. *See id.*

102. *Id.*

103. Anonymous, *Hermit Soccer*, WALL ST. J. June 25, 2010, online edition, available at <http://online.wsj.com/article/SB10001424052748704853404575322873031320294.html>.

104. *Id.*

105. *See* Barney Henderson, *North Korean Football Team Shamed in Six-Hour Public Inquiry over World Cup*, TELEGRAPH, (July 30, 2010), available at <http://www.telegraph.co.uk/news/worldnews/asia/northkorea/7918468/North-Korean-football-team-shamed-in-six-hour-public-inquiry-over-World-Cup.html>. The DPRK's qualification for the 2010 World Cup was the first World Cup it had qualified for since 1966. *See also* SOCCER WORLD CUP 2010 PREVIEW 92 (Sevenoaks 2010).

## 2. DPRK's Whimsical and Cruel Soccer Regulations

The regulations promulgated by the DPRKFA appear to have been dictated by the dictator Kim Jong-il.<sup>106,107</sup> These regulations are illogical, inhumane, and they promote fear for all agents of the DPRKFA. For example, after returning home to the DPRK from a horrendous showing in the 2010 World Cup played in South Africa, the DPRKFA's capricious regulations forced the manager of the team to become a construction worker,<sup>108</sup> and he was concurrently accused of betraying Kim Jong-il's heir apparent due to his team's poor performance in the World Cup.<sup>109</sup> This manager, Kim Jong-hun, is now said to be in fear for his life because others who have been charged with betraying Kim Jong-il or his heir apparent have been sentenced to death.<sup>110</sup> In early 2010, one DPRK government official who oversaw a recent disastrous currency revaluation in the DPRK and another government official who was in charge of diplomatic talks with South Korea were both charged with the same crime for which the soccer manager was charged.<sup>111</sup> Both of these top officials were ultimately put to death by a firing squad.<sup>112</sup>

The DPRKFA exemplified another act of capricious and arbitrary regulation when DPRK players were treated in a demeaning manner upon returning home from their poor performance at the 2010 World Cup.<sup>113</sup> This treatment was not life threatening, but it was still debasing because the players were forced to endure six hours of public, verbal barrage and humiliation before approximately four hundred people at the People's Palace of Culture.<sup>114</sup> Some of the spectators at the People's Palace of Culture included government officials, students, and journalists, who all gleefully cheered and encouraged the verbal berating.<sup>115</sup> The verbal onslaught developed into a climaxing circus-like atmosphere as it was led by a television commentator and sports minister Pak Myong-chol, who participated in the auditory condemnation of each player and the manager.<sup>116</sup> After the onslaught was complete, but before the players were allowed to depart

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106. His son and successor, Kim Jong-un, also appears to have a role in statutory promulgation.

107. Editor's Note: At the time this article was written, Kim Jong-il was still the Supreme Leader of the DPRK. He subsequently passed away on December 17, 2011. His son, Kim Jong-un, succeeded him as Supreme Leader.

108. Ravi Somaiya, *North Korean Soccer Team Punished for World Cup Failure*, NEWSWEEK, July 30, 2010, online edition, available at <http://www.newsweek.com/2010/07/30/north-korean-soccer-team-punished-for-world-cup-exit.html>. As stated previously, Kim Jong Il appears to make all ultimate decisions for the DPRKFA.

109. Henderson, *supra* note 104.

110. Cathal Kelly, *North Korea Soccer Coach Fears for His Life*, THE STAR, (July 30, 2010), <http://www.thestar.com/sports/soccer/article/842235--north-korea-soccer-coach-fears-for-his-life>.

111. *Id.*

112. *Id.*

113. Henderson, *supra* note 104.

114. *See id.*

115. *Id.*

116. *Id.*

from the stage, they were forced to turn and face their team manager and publicly criticize him for betraying Kim Jong-il and Kim Jong-il's heir apparent.<sup>117</sup>

#### *D. Dreadful Ramifications of the DPRK and Nigeria's Capricious Regulations*

As a result of these capricious regulations, neither Nigeria nor the DPRK has ever produced a national soccer team that is remotely capable of winning the World Cup, and both nations usually compete poorly in other international tournaments. In the DPRK, the merciless treatment of players and coaches prevents talented players and coaches from wanting to subject themselves to possible humiliation, torture, or death. Such cruel treatment is apparently an accepted custom for the DPRKFA. As previously referenced, after being eliminated from the 1966 World Cup in England, several of the DPRK players and coaches were allegedly sent to prison camps because they conceded five unanswered goals to Portugal in a quarterfinal match, after leading 3-0.<sup>118</sup> Further, after failing to qualify for the 1994 World Cup as a result of losing to South Korea in a qualifying match, DPRK government officials refused to allow the national soccer team to enter qualification for the 1998 and 2002 World Cups.<sup>119</sup> In 2010, the DPRK national team did not even qualify for the second round of the Cup, only scored one goal, and conceded twelve goals to its opponents.<sup>120</sup> One of the DPRK's defeats consisted of an embarrassing seven to nil loss to Portugal.<sup>121</sup> These embarrassing defeats are a result of the DPRKFA not being able to attract the most talented players and coaches due to the fear of mistreatment for poor performance.

### IV. NIGERIA'S AND THE DPRK'S UNRELIABLE EIIS

#### *A. Nigeria's EII*

Nigeria's EII at both the national and local levels historically and currently mirrors its national soccer team's infrastructure in that it is fragile and unreliable due to underdevelopment, highly vulnerable to corruption, and it lacks proper and fair enforcement of its regulations. Most of Nigeria's various infrastructures, such as gas and oil, have a long history of dishonest oversight.<sup>122</sup>

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117. *Id.*

118. *Id.*

119. SOCCER WORLD CUP 2010 PREVIEW 92-93 (Sevenoaks 2010). Again, this is a violation of FIFA rules, which state that governments cannot interfere with a nation's national soccer team by banning it from international play.

120. Somaiya, *supra* note 107.

121. *Id.*

122. Isiaka Alani Badmus, *Oiling the Guns and Gunning for Oil: Oil Violence, Arms Proliferation and the Destruction of Nigeria's Niger-Delta*, 323 J. OF ALTERNATIVE PERSP. IN THE SOC. SCI. 325, 325-27 (2010).

Nigeria was under military dictatorship rule until 1999,<sup>123</sup> and during this reign, the efforts to establish an EII were miniscule, inefficient, and outdated.<sup>124</sup> Thus, the first concerted government effort to develop an EII was when Nigeria commenced its attempt at forming a democracy in 2000.<sup>125</sup> However, this preliminary attempt failed, as have several subsequent attempts.<sup>126</sup> A major problem is that the Nigerian government's attempts at creating an EII are not directed toward helping citizens gain access to relevant and reliable information.<sup>127</sup> Instead, the attempts are implemented to provide a more convenient means of communication and transfer of information for government agents who work at the national and local levels of government.<sup>128</sup> However, even with these objectives in mind, the efforts have mostly failed to create an EII at both the national and local levels of government in Nigeria.<sup>129</sup>

#### *B. Nigeria's Adoption of Archaic Law Prevents a Burgeoning of its EII*

Another contributing factor preventing Nigeria from creating and maintaining a valid and reliable EII is its application of antiquated and oppressive laws,<sup>130</sup> rather than utilizing available modern legal charters and acts that guarantee Nigerian citizens a right to freely access and utilize information. For example, when the Nigerian government adopted the African Charter on Human and Peoples' Rights Act of 1983, among other rights given, it overtly grants its citizens the right to receive information<sup>131</sup> and the right to openly and freely express and disseminate opinions within the law.<sup>132</sup> The current Nigerian Constitution also guarantees citizens the right to receive and impart

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123. Musa Abutudu, *A Critical Assessment of the Constitutionalism Landscape in West Africa*, 132 W.J. BLACK STUD. 132, 136-38 (2009).

124. Mutawakilu A. Tihamiyu & Kemi Oguniola, *Preparing for E-Government: Some Findings and Lessons from Government Agencies in Oyo State, Nigeria*, 74 S. AFR. J. LIBR. & INFO. SCI. 58, 59 (2008).

125. *Id.*

126. *Id.* These failures may be due to continued government inefficiency, fragmentation, duplication of records, corruption, lack of transparency, and unproductive clerks and administrators in charge of creating the infrastructure.

127. *See id.* at 59-60.

128. *Id.* at 62. Many of these government agents are utilizing the makeshift EII for corrupt purposes such as: money laundering, spying, selling drugs, committing 419 scams...

129. *Id.* at 63-64.

130. No special provision for monitoring or evaluating e-government initiatives other than the normal processes for monitoring and evaluating government projects exists in Nigeria. Therefore, e-government initiatives did not receive much regulation in Nigeria.

131. The African Charter on Human and Peoples' Rights, 1983, 10 L.F.N. (1993) (Nig). *See also* Osita Mba, *Positive Obligations Under the African Charter on Human and Peoples' Rights: The Duty of the Nigerian Government to Enact a Freedom of Information Act*, 35 COMMON L. BULL. 215, 217 (2009).

132. Osita Mba, *Positive Obligations Under the African Charter on Human and Peoples' Rights: The Duty of the Nigerian Government to Enact a Freedom of Information Act*, 35 COMMON L. BULL. 215, 220 (2009).

information.<sup>133</sup> Further, Article IV(1) of the Declaration of Principles on Freedom of Expression in Africa, which the Nigerian legislature has adopted, makes clear that public bodies “hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.”<sup>134</sup> Additionally, the Nigerian landmark case, *Abacha v. Fawehinmi*, clarifies that the African Charter on Human and Peoples’ Rights Act of 1983 has been fully adopted and incorporated by the National Assembly of Nigeria.<sup>135</sup> Therefore, along with the Nigerian Constitution, the African Charter is fully binding and must be given full effect by the judicial power of the Nigerian Courts.<sup>136</sup> In summary, all of these charters, treaties, laws, and constitutions have been accepted as primary law by the Nigerian legislature and by its courts. They, as a whole, grant Nigerian citizens the right to have access to information that affects their lives (e.g., laws, regulations, and necessary government forms to establish a business) and to freely distribute this information without government interference.

However, despite the legal authority to obtain and disseminate information without government interference, the Nigerian legislature and its judiciary have chosen to follow antiquated, conflicting, and oppressive laws, which were historically promulgated and adopted as accepted law. These laws were overtly repealed after gaining independence from the British and are in conflict with the above-mentioned, more recently promulgated and adopted, laws. For example, while under British rule, two common law acts adopted were the Official Secrets Acts of 1962 and the Evidence Act of 1945. These two acts are in gross conflict with current human rights laws adopted by the Nigerian legislature and correctly interpreted by Nigerian courts. Unfortunately, these two antiquated and restrictive laws are currently utilized by the Nigerian legislature and judiciary to maintain authoritarian control over its citizens, whereas the more modern laws granting freedom of information to Nigerian citizens are ignored.

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133. *Id.* at 219. See also CONSTITUTION OF NIGERIA (1999), § 39. The Nigerian Constitution states “Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.”

134. Declaration of Principles on Freedom of Expression in Africa (2002), available at <http://www.misa.org/broadcasting/DeclarationinAfrica.pdf>.

135. *Abacha v. Fawehinmi*, [2000] 6 N.W.L.R. 228 (Nigeria), <http://www.chr.up.ac.za/index.php/browse-by-country/nigeria/412-nigeria-abacha-and-others-v-fawehinmi-2001-ahr1r-172-ngsc-2000.html>. See also Mba, *supra* note 131, at 221. The National Assembly of Nigeria is the bicameral legislature and the highest elective law making body in the country. See NIGERIA NATIONAL ASSEMBLY OFFICIAL WEBSITE, <http://www.nassnig.org/>.

136. See *Abacha*, *supra* note 134, at 229.

### 1. Implementation of the Official Secrets Act

The origins of the Official Secrets Act may be traced to 1889 in the United Kingdom where it was promulgated.<sup>137</sup> In 1911, the Official Secrets Act was revised by the British to maintain order in its Nigerian colony, resulting in oppressive conditions for Nigerians living under British rule.<sup>138</sup> For example, the 1911 act made it a crime without possibility of defense for one to report the number of cups of tea consumed per week in a government department in Nigeria.<sup>139</sup> The British policy for making the 1911 act so stringent was its belief that the less interference in governmental matters by the colonial inhabitants, the easier it would be to maintain order in the colony and bring about the national goals of the British.<sup>140</sup> However, in 1989, before military rule ceased in Nigeria—and as British colonial rule was diminishing globally<sup>141</sup>—the United Kingdom revised this act to strike a balance between a citizen's right to information and possible damage to the national interest.<sup>142</sup>

The intent of the 1989 version of the Official Secrets Act in the UK was to make it a criminal offense to disclose public information, but only if the disclosure had damaged national interests.<sup>143</sup> Thus, the intent appears to have been to attenuate criminal penalties for the release of information that would not cause any harm to the British government. For example, one could freely, and without the threat of criminal punishment, report the amount of tea consumption by Nigerian government officials, or disseminate information regarding the current texts of statutes, case law, regulations, or other forms that could benefit citizens' lives. However, when Nigeria gained its independence from the United Kingdom and established its new democracy in 1999, it codified<sup>144</sup> the 1911 version of the statute and continues to enforce it against its citizens. Nigeria's version of the 1911 Official Secrets Act is codified under section 9(1) of the Laws of the Federation of Nigerian Act which states that "any information or thing which under any system of security classification from time to time in use by or by any branch of government, is not to be disclosed to the public and of which the disclosure to the public would be prejudicial to the security of

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137. Mba, *supra* note 131, at 222. See also James S. Guseh & Emmanuel Oritsejafor, *Government Size, Political Freedom and Economic Growth in Nigeria, 1960-2000*, J. OF THIRD WORLD STUD., Spring 2007, at 139, 139-42. Nigeria was under British colonization until October 1, 1960. Thus, it adopted its legal system from the English common law.

138. Mba, *supra* note 131, at 222.

139. *Id.* at 223.

140. *Id.*

141. Gita Subrahmanyam, *Ruling Continuities: Colonial Rule, Social Forces and Path Dependence in British India and Africa*, 44 COMMONWEALTH & COMP. POL. 66, 79-87 (2006).

142. Mba, *supra* note 131, at 222.

143. *Id.*

144. The Official Secrets Act (2004) Cap (335), § 9(1) (Nigeria). See also, Abiola Abioye, *Confidentiality and Protection of Official Records in the Freedom of Information Era: Nigeria's Situation*, 20 AFR. J. LIBR. ARCHIVES & INFO. SCI. 29, 30 (2010).

Nigeria.”<sup>145</sup> Therefore, it is still a crime to report the amount of tea consumption by Nigerian government officials. This is one reason citizens currently do not have access to current statutes, laws, and regulations.

Nigerian government officials assume these laws are promulgated to protect the government official and not the citizens. Accordingly, they should be of no concern to the citizens. Further, the Nigerian government is actively utilizing this antiquated law as the United Kingdom did in the early twentieth century: to control every action of its citizens that may interfere with the Nigerian government, thus maintaining a general level of ignorance among its citizens and their knowledge of the current law. This act is abrasively in conflict with the treaties, regulations, and statutes that have also been adopted by the Nigerian government that provide its citizens with freedom to access and disseminate information.

## 2. Evidence Act of 1945

Along with the Official Secrets Act, the Evidence Act of 1945 is also based on an antiquated law in the United Kingdom, which conveys that the British government is entitled to a cloak of secrecy and is therefore immune from having to disclose any of its actions and information.<sup>146</sup> In 1945, a British court, in *Duncan v. Camel Laird*, interpreted this Act as declaring that the British government had sole authority to determine when government information should not be disclosed based on the content or class of a document.<sup>147</sup> However, in 1968, a United Kingdom court in *Conway v. Rimmer* assuaged this Crown privilege by holding that the non-disclosure of government documents must be weighed against the public interest in seeing those documents.<sup>148</sup>

Unfortunately, since establishing its own democracy in 1999, Nigerian courts and the Nigerian legislature have chosen to ignore the current law introduced in *Conway* and instead have decided to apply the overruled law in *Duncan*.<sup>149</sup> As a result, Nigerian citizens are subject to many oppressive consequences of the Evidence Act of 1945.<sup>150</sup> The following are some of these oppressive consequences: inability to access current and relevant government related information; failure of the branches of the Nigerian government to consider the public interest when determining whether to publicly disclose government information;<sup>151</sup> and individuals being subjected to criminal prosecution if the government determines the wrong type of information has been disclosed. For example, the Nigerian Criminal Code Act states that any

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145. Abioye, *supra* note 143, at 29-30 (citing The Official Secrets Act of 2004).

146. See *Attorney-Gen. v. Mayor & Corp. of Newcastle-Upon-Tyne*, (1897) 2 Q.B. 384, at 395.

147. See *Duncan v. Camel Laird*, (1942) A.C. 624, 636.

148. See *Conway v. Rimmer*, (1968) A.C. 910, 910. See also Mba, *supra* note 131, at 224.

149. Mba, *supra* note 131, at 224.

150. The Evidence Act (1990) Cap. (E14), §§ 87-88 (Nigeria).

151. Mba, *supra* note 131, at 224.

person who communicates or publishes any secret information that comes into his possession is liable to imprisonment for two years.<sup>152</sup> Therefore, the Nigerian government may whimsically decide that information a citizen possesses or disseminates is in violation of arbitrary Nigerian laws and subject the citizen to prison time. For example, a citizen who obtains an electronic form to help commence a business can be put in prison for using and disseminating such a form, if the government deems such a form a government form. Similar to the NFF, such arbitrary and oppressive regulations adhered to by the Nigerian government weaken an already feeble EII, and more importantly, prevent the dissemination of valid and reliable information.

### 3. Infamous 419 Scams in Nigeria

One form of corruption burgeoning in Nigeria is termed “419 scams.”<sup>153</sup> The etymology of such criminal activity can be traced to section 419 of the Criminal Code Act regarding financial crimes,<sup>154</sup> which is titled “Obtaining Property by False Pretenses: Cheating.”<sup>155</sup> 419 scams are performed by sending emails to individuals requesting that the recipient of the email send advanced funds with the promise of receiving multi-million (or billion) dollar payments in return.<sup>156</sup> In the text of the email scams, the authors often claim to be “high government officials, senior military officers, oil industry executives, bank managers, politicians, and even widows of dead dictators.”<sup>157</sup> The general theme of the emails usually promises to share millions or billions of dollars available from dormant accounts or charities if the recipient of the email will forward an initial security fee, usually in the amount of one-hundred thousand dollars or more.<sup>158</sup>

Most recipients of these email scams initially perceive them to be fraudulent, however, every year a few people are bilked and defrauded of thousands or sometimes millions of dollars. A notorious example of fatuous deception occurred in 1989. A group of unethical Nigerians sent a series of meretricious letters, faxes, and phone calls to an oil executive in Texas asking him to be a partner in an endeavor where he could gain access to thirty-five million dollars that remained in a dormant Nigerian National Petroleum Corporation (“NNPC”) fund.<sup>159</sup> After several attempts to entice the oil executive to travel to Nigeria

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152. Criminal Code Act (1990) Cap. (532) § 97 (Nigeria). *See also* Abiola Abioye, *Confidentiality and Protection of Official Records in the Freedom of Information Era: Nigeria's Situation*, 20 AFR. J. LIBR., ARCHIVES & INFO. SCI. 29, 32 (2010).

153. *Id.*

154. Jan Blommaert & Tope Omoniyi, *Email Fraud: Language, Technology, and the Indexicals of Globalism*, 16 SOC. SEMIOTICS 573, 574 (2006).

155. Criminal Code Act (1990) Cap. (38), § 419 (Nigeria).

156. *See* Abioye, *supra* note 143, at 28-33.

157. *Id.* at 28.

158. *See* Blommaert, *supra* note 153, at 581-83.

159. Abioye, *supra* note 143, at 1-4.



and claim his share to the funds, the oil executive foolishly obliged.<sup>160</sup> After traveling to Nigeria, the 419 scammers wined and dined the executive in a façade that appeared to be a NNPC office.<sup>161</sup> The scammers explained to the oil executive that they needed him to transfer one-hundred thousand dollars to a NNPC bank account in London in order to secure the release of the funds. The executive's avarice apparently clouded any logical thought, and he complied with the requested transfer.<sup>162</sup> The day after the funds were transferred to the fictitious account, the supposed NNPC agents had vanished, the fabricated NNPC office was vacant, and the duped oil executive never saw his money or heard from any of the 419 scammers again.<sup>163</sup>

One of the disheartening points about this Texas oil executive story is that, due to the helplessness and lack of understanding that infiltrates Nigeria, its citizens have developed ambivalence to corruption. They are cognizant that corruption undermines the country's attempt at a technologically advanced and economically sustainable democracy, yet they also believe that wealth, power, and prestige in Nigeria are only obtained through corrupt practices like the 419 scams.<sup>164</sup> A main contributing factor to the realization that wealth, power, and prestige only result from fraud in Nigeria is that the Nigerian government is not creating and maintaining a logical and fair system of laws and regulations. The Nigerian government is not providing its citizens with electronic or print access to the current laws and regulations, and the government is not promulgating any laws to punish the government officials that hold the citizens hostage.

### C. *The DPRK's EII*

Due to the hermetic nature of the DPRK's electronic information infrastructure, a nature very similar to that of its FA, the DPRK has had difficulty extrapolating accurate statistics concerning its current condition. However, from what sparse information is available, it can be deduced that the DPRK's information infrastructure also reflects its soccer infrastructure, in that it is antiquated, dilapidated, shady, and secretive. For example, a 1998 survey revealed that the DPRK had only one internet service provider.<sup>165</sup> Further evidence has revealed that in the late 1990's the DPRK's government attempted to build a stronger information infrastructure that could effectively disseminate information to North Korean citizens. However, this attempt was futile because of corrupt practices and an inability to locate and retrieve technological parts from the current make-shift EII, which has been a result of the DPRK

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160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. Joerg Heber, *Building Bridges to North Korea*, 6 NATURE 711, 712 (2007).

government's fear of losing control of its citizens.<sup>166</sup> For example, as government agents attempted to locate equipment necessary to redesign and improve the currently crude EII, they discovered that key power and telecom transmissions were buried underground because the government was afraid of eroding state control of national information.<sup>167</sup> The initial choice to conceal essential hardware has subsequently prevented any attempt to modernize and renovate an EII aimed at catching up with other countries around the world.

#### False Indications the DPRK Government May Loosen its Hermetic Grip on its EII

Despite historical decisions to hide necessary hardware, Kim Jong-il and his cronies have recently pursued actions and rhetoric that suggest a modicum of loosening government control of its EII with the goal of revamping the infrastructure. For example, Kim Jong-il believes that there are three kinds of fools in the twenty-first century: smokers, the tone-deaf, and the computer illiterate.<sup>168</sup> Kim Jong-il recently assigned his oldest son, Jong Nam, to direct the Korea Computer Center, which now mandates that grade-school children receive extensive instruction regarding Pascal and other computer languages.<sup>169</sup> This center commands that intellectually gifted children be channeled into science and technology programs at Kim Il Sung University and Kim Chaek University. To further Kim Jong-il's technology goal, he also recently mandated that qualified DPRK students enter the IBM-sponsored International Collegiate Programming Contest.<sup>170</sup> Many DPRK students have advanced to the finals of this competition due to their superior knowledge of complicated technology.<sup>171</sup>

The DPRK government has also recently loosened its reigns on professionals and commercial entities by allowing them to collaborate on information technology projects with other foreign professionals. For example, the DPRK government has allowed hundreds of DPRK software engineers to work abroad in China,<sup>172</sup> and in 2005, the DPRK government allowed Chan-Mo Park<sup>173</sup> and Malcolm Gillis, a former president of Rice University, to establish the Pyongyang University of Science and Technology which now offers an

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166. *See id.*

167. Ken Stier, *North Korea Tries to Ramp up Tech Infrastructure*, TIME (June 22, 2009), <http://www.time.com/time/world/article/0,8599,1906219,00.html>.

168. Anonymous, *Weird but Wired*, ECONOMIST, Feb. 2007, at 43.

169. Stier, *supra* note 166.

170. *Id.*

171. *Id.*

172. *Id.* China willingly receives the North Korean software engineers because their cost of labor is substantially cheaper than that of a Chinese or Indian engineer.

173. Chan-Mo Park is a former president of Pohang University of Science and Technology in Seoul, South Korea. *See* Joerg Hebbler, *Building Bridges to North Korea*, 6 NATURE 711, 712 (2007).

Information Technology graduate program.<sup>174</sup> Additionally, some DPRK scientists have recently been allowed to travel to the United States and stay for approximately one month to participate in university colloquia regarding cutting-edge information technology. For example, Syracuse University is currently collaborating with Kim Chaek University of Technology, located in Pyongyang. The DPRK also opened its first internet café in 2002.<sup>175</sup> These actions taken by the DPRK to strengthen its EII could theoretically and potentially place the DPRK on track to implement a valid and reliable infrastructure. However, despite these recent efforts at improving their EII, the DPRK's illogical political policies and inhumane regulations ultimately prevent the pervasion of an efficient EII that can disseminate relevant and valid information to its citizens.

#### *D. The DPRK's Hermetic Legal Regulation of its EII*

Knowledge of DPRK's legal regulation of its EII is about as inconspicuous as the style of the DPRK national soccer team's uniforms. Prior to the commencement of the 2010 World Cup, many soccer uniform vendors were unsuccessful in attempting to create and sell a North Korean soccer uniform due to the hermetic regime's elusiveness in revealing any information about the country and its inner workings, including national team soccer uniforms.<sup>176</sup> Subsequently, the DPRK's uniforms were not revealed until the day of their first match.<sup>177</sup> Much of the DPRK's arbitrary and whimsical application of its law, which regulates the EII, is just as inconspicuous.

##### 1. The DPRK's Phony Freedom of Information Act (FOIA)

While many countries around the world are experiencing new found freedom in information dissemination, it is certain the DPRK has not passed any statute similar to the United States' Freedom of Information Act ("FOIA").<sup>178</sup> Instead, the DPRK's idea of a Freedom of Information Act appears to be setting up a reading room in the Grand People's Study House located in the capital city, Pyongyang.<sup>179</sup> This reading room allegedly allows any visitor to freely search through thirty million original government texts. However, it is doubtful these texts convey any content that is not government propaganda attempting to bilk its audience. Any pro-citizen rhetoric has certainly been censored by the government, and DPRK citizens are privy to only a minute amount of

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174. *Id.*

175. *Weird but Wired*, *supra* note 167, at 43.

176. Adam Thompson, *Vendors Leave No Shirt Unturned Seeking North Korean Soccer Duds: Secrecy Suits Hermit Kingdom to a Tee; Will There be a Brand New Jersey?*, *WSJ*, (May 27, 2010), [http://online.wsj.com/article/NA\\_WSJ\\_PUB:SB10001424052748704717004575268232320877058.html](http://online.wsj.com/article/NA_WSJ_PUB:SB10001424052748704717004575268232320877058.html).

177. *Id.*

178. *See* 5 U.S.C. § 552 (2006).

179. *See Weird but Wired*, *supra* note 167, at 43.

government issued information that explains the law by which they are governed. For example, the web pages accessible to DPRK citizens divulge little more than the daily “on the spot guidance” conferred by Kim Jong-il.<sup>180</sup>

Although Kim Jong-il has displayed an inclination to implement some new information technologies, he apparently recalls that glasnost and perestroika significantly contributed to the demise of the communist Soviet Union regime.<sup>181</sup> Even though the DPRK may be eluding glasnost and perestroika, implementing illogical and fraudulent regulations begets a feeble EII. This lack of transparency also results in citizens who are ignorant of the laws that govern them and distrust their government. Citizens may then seek to create their own alternative methods of making sense of their environments. For example, in Nigeria the EII is weak, and access to government information is very restrictive in that only individuals who have an official role in a government transaction or activity and absolutely require access to government information are granted access to that information.<sup>182</sup> This weak infrastructure and very restricted access to laws and regulations prevents Nigerian citizens from gaining the knowledge that is necessary to help them earn a robust salary and contribute to the Nigerian economy. Such repression of knowledge creates an environment of ignorance and fear; thus, citizens begin to create their own set of norms, rules, and consequences.<sup>183</sup> However, the norms and rules they create are usually unscrupulous and deleterious to society. For example, in Nigeria where the unemployment rate is high and citizens do not trust their corrupt government that withholds information, citizens often turn to corruption to survive.<sup>184</sup>

## 2. Cyber-Crimes in the DPRK

Similar to Nigeria, the DPRK’s hermetic approach to the implementation of its make-shift EII, and its intentional equivocation regarding the current state of the law that regulates its infrastructure, creates feelings of isolation and distrust in its citizens. Subsequently, these psychologically distraught individuals also create their own sets of norms, rules, and consequences.<sup>185</sup> Some of these norms lead an individual to a life of cyber-crimes so that they can earn a living, and many of the resulting cyber-crime perpetrators are ignored, if not encouraged, by

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180. *Id.*

181. *See id.* *See also* Dmitri N. Shalin, *Sociology for the Glasnot Era: Institutional and Substantive Changes in Recent Soviet Sociology*, 68 *SOC. FORCES* 1019, 1023-25 (1990). Mikhail Gorbachev implemented glasnost and perestroika in the 1980 which is often attributed to the fall of Soviet style communism. These philosophies advocate for more government transparency, free market implementation, publicity, and openness.

182. Abiola Abioye, *Confidentiality and Protection of Official Records in the Freedom of Information Era: Nigeria’s Situation*, 20 *AFR. J. LIBR. ARCHIVES & INFO. SCI.* 29, 33 (2010).

183. *See* Berreman, *supra* note 41, at 8.

184. DANIEL JORDAN SMITH, *A CULTURE OF CORRUPTION: EVERYDAY DECEPTION AND POPULAR DISCONTENT IN NIGERIA* 18-27 (Princeton University Press 2007).

185. *See* Berreman, *supra* note 41, at 8.

the DPRK government. The DPRK has implemented a diminutive cyber warfare unit pervasively attempting to hack into the United States and South Korean military networks,<sup>186</sup> and many of these attempts have been successful.<sup>187</sup> It is also possible that other DPRK citizens will resort to email scams, similar to the Nigerian 419 swindles, out of desperation and distrust toward their corrupt government.

### 3. Alternative Stage-Skipping Model to Salvage and Improve the DPRK EII

In the alternative, the minuscule but incremental efforts of Kim Jong-il to improve the DPRK's EII, coupled with new governmental leadership and policy, could quickly help improve the dilapidated DPRK EII. One economic method that could be applied in the DPRK, which could quickly help its EII stand on equal footing with countries such as the United States and the Netherlands, is called the "stage-skipping" model.<sup>188</sup> This model was used in the Fujian Province in China to bypass some development stages and quickly assert itself as an economic competitor.<sup>189</sup> It emphasizes that a nation-state with a late-comer economy may follow a lucrative forerunner's path to develop, but at some point, it skips some stages to arrive on equal footing with the forerunner.<sup>190</sup>

In order for the stage-skipping economic model to have success, a late-comer nation-state must produce well-educated and competent leaders who can maneuver a dilapidated economy into one that is flourishing.<sup>191</sup> The DPRK has implemented some of the steps mentioned above by doing the following: increasing funding for educational endeavors that educate its citizens regarding EIIs, allowing its computer scientists to travel abroad and learn about emerging technological endeavors, and partnering with American professors to perform empirical research. Thus, the DPRK does have citizens with potential to develop a progressive and efficient EII. However, these efforts have not been consistently performed and, as a result, the DPRK may not be able to catch up to nations who are developing cutting edge EIIs. Unless there is a transformation in government policy, the citizens of the DPRK will suffer from not having access to a reliable and valid EII.

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186. Stier, *supra* note 166, at <http://www.time.com/time/world/article/0,8599,1906219,00.html>.

187. *Id.*

188. See Keun Lee et al., *The Possibility of Economic Reform in North Korea*, 39 J. CONTEMP. ASIA 279, 280-83 (2009). The Fujian Province in China is located directly across the narrow straits from Taiwan. In the 1980s this province was one of the most economically backwards provinces in the world. Its backwardness was due in large part to the government closing it completely off from the rest of the world. However, in 1989, the Fujian province opened its economy and invested widely in other nations, mainly in Taiwan. By opening its markets up, this province increased its gross domestic product by approximately seventy-five percent. This increase was by and large a result of active export promotion and a vast increase in foreign direct investment.

189. *See id.*

190. *Id.*

191. *Id.*

#### 4. A Weak EII also Deleteriously Affects the Health of Citizens in the DPRK and Nigeria

Nigerians have suffered for years by not having access to educational wikis, blogs, or social networking tools<sup>192</sup> that could be used to improve the health of citizens and save lives. Each year, millions of Nigerians contract HIV or malaria: diseases that could have been prevented if these Nigerians had access to valid and reliable information.<sup>193</sup> Numerous electronic tools exist today—such as wikis, social networking tools like Facebook and Twitter, and blogs—that could spread valid and reliable information regarding how to prevent the spread of such diseases.<sup>194</sup> Having knowledge about how to obtain and use a mosquito net, or where to obtain a safe vaccine, could prevent thousands of individuals from contracting malaria in one Nigerian village. This information could easily be distributed across all Nigerian cities and villages via a social network if Nigeria had a functional EII. Unfortunately, the Nigerian government continues to implement the EII for its own benefit, ignoring potential opportunities to disseminate life-saving information to its denizens. It is even more difficult to disseminate lifesaving information considering the fact that Nigeria has a population of approximately 152,217,340 citizens, but only has approximately 43,982,200 internet users.<sup>195</sup> Additionally, only 1,718,000 Nigerians use Facebook.<sup>196</sup>

#### *E. E-Readiness Score for Nigeria and the DPRK*

Currently, neither Nigeria nor the DPRK has developed even a scintilla of a valid and reliable electronic infrastructure. Accordingly, citizens are deprived access to all current laws within each respective country. Also, regulations from both countries regarding a citizen's right to access and disseminate information are either nonexistent or are applied equivocally to a citizen's detriment. Such harsh treatment leads citizens to mistrust their government. This mistrust leads a person to believe that they must act in a deceitful manner in order to survive.

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192. Social networking tools are largely blamed for beginning the recent revolutions in the Middle East. It remains to be seen whether social networking tools, such as Facebook and Twitter, can help spark political and EII revolutions in Nigeria, the DPRK, China and other countries that suffer from authoritarian governments that limit the reception, dissemination, and access to electronic information.

193. See generally Fredros O. Okumu et al., *Potential Benefits, Limitations and Target Product-Profiles of odor-Baited Mosquito Traps for Malaria Control in Africa*, PLUS ONE, July 2010, at 1, 1-3.

194. Richard F. Heller et al., *Capacity-Building for Public Health*: <http://peoples-uni.org>, BULL. OF THE WORLD HEALTH ORG., Dec. 2007, at 930, 931-933.

195. See Internet World Stats Usage and Population Statistics, <http://www.internetworldstats.com/> (last visited Apr. 29, 2011). This is according to a survey taken in June of 2010 by the Internet World Stats which records usage and population statistics around the world.

196. *Id.*

Based on these observations, Nigeria and the DPRK each receive a score of zero in all three categories, which results in a total sum of zero, on a scale of zero to three, in regard to their level of e-readiness.

## V. CHINA, JAPAN AND SOUTH KOREA

Oppressed citizens of Nigeria and the DPRK can take solace and hope from examining how some nation-states that previously regulated their EII in a fraudulent manner have recently taken a more responsible approach, establishing emerging reliable and efficient EIIs that are regulated by fair and logical laws. Japan, South Korea, and, to a lesser extent, China are countries whose EIIs are illustrative of such emerging responsible and efficient infrastructures. Fans of soccer in Japan, South Korea, and China may also garner hope for the future as the current economic and demographic conditions for these three nations suggest they could become soccer powerhouses within this decade.

### A. *Demographics of Japan, South Korea and China*

Japan, South Korea, and China are all economically powerful Asian countries, but their GDP and population statistics are somewhat varied. Japan has the third highest gross domestic product among sovereign nations<sup>197</sup> in the world at about \$4.31 trillion,<sup>198</sup> and ranks tenth in the world in population with approximately 126,475,664 citizens.<sup>199</sup> South Korea's GDP ranks thirteenth in the world among sovereign nations at \$1.459 trillion, and ranks twenty-sixth with a population of roughly 48,754,657 citizens.<sup>200</sup> China maintains the third largest economy in the world with about a \$10.09 trillion GDP, and ranks first in the world in population with roughly 1,336,718,015 citizens.<sup>201</sup> Therefore, based on Kuper and Szymanski's estimates, Japan, South Korea, and China should all be primed to become some of the new world soccer powers.<sup>202</sup> These countries just lack the experience that other international soccer powers have,<sup>203</sup> but experience should come over the next few years for these Asian sides.

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197. Sovereign nations do not include the European Union, the United Kingdom, or other conglomerations of sovereign nations. Instead it only includes separate nations.

198. It is acknowledged that China just surpassed Japan as the country with the second largest GDP, and India is a close fourth with a GDP of approximately \$ 4,046,000,000,000.

199. CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/ks.html> (last visited May 2, 2011). It is suspected that Japan, despite the recent tragic earthquakes and nuclear reactor disasters, will remain ranked one of the top four nations in the world with regard to population and GDP, due to its culture of resiliency and persistence.

200. *Id.*

201. *Id.*

202. *See generally* Kuper, *supra* note 45.

203. Japan just won the Asian Football Club Asian Cup in January of 2010. Japan also won this coveted tournament in 1992, 2000, and 2004, thus showing their emergence as an Asian soccer power.

*B. Japanese and South Korean Soccer Infrastructure*

With regard to soccer infrastructure, South Korea and Japan were fortuitous when FIFA granted them the right to co-host the 2002 World Cup. These two nations took advantage of this opportunity by investing the revenue that streamed in while hosting this tournament into their respective soccer infrastructures. After the tournament, Japan and South Korea poured millions of dollars into developing their own domestic soccer leagues, and they upgraded their physical infrastructures by building new stadiums and renovating older stadiums.<sup>204</sup> Both countries also creatively advertised the sport, and its newly created domestic leagues, to recruit highly talented players and coaches in order to entice local fans.<sup>205</sup> These advertisements led to a large increase of revenue from fans purchasing the various domestic teams' paraphernalia.<sup>206</sup> The soccer infrastructures of these nations have become so well-built that many of their domestic players—who have been developed in these leagues—are being approached by the English Premier League, the Spanish La Liga, and other well-established professional leagues in Europe and in the United States.<sup>207</sup>

Yet, despite the recent strengthening of these soccer infrastructures, they are still volatile. Due to their instability, the soccer performance of these nations still greatly lags behind some of the soccer world powers. Wolfram Manzenreiter illustrates this point with his empirically developed per capita index model that correlates the athletic (soccer) production of a nation with the population base of the country.<sup>208</sup> Implementing this model, a country is considered to produce average soccer players, average quality operational soccer clubs, average attendance at soccer games, and average economically viable television contracts for matches compared to the rest of the world's teams if it registers a score of 1.0 on the per capita index model indicator.<sup>209</sup> All of these factors are also used to help measure the success of a nation's soccer infrastructure.<sup>210</sup> Over time, this model has indicated that, since 2002, Japan and South Korea have deftly increased their soccer infrastructure compared to the world norm with an index of 1.30 and 1.19, respectively.<sup>211</sup>

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204. See Wolfram Manzenreiter & John Home, *Playing the Post-Fordist Game in/to the Far East: The Footballisation of China, Japan and South Korea*, 8 *SOCCER & SOCIETY* 561, 561-62 (2007).

205. See *id.*

206. See *id.*

207. See *id.*

208. *Id.* at 563. This model is derived from John Rooney's per capita index that he developed in *A Geography of American Sport*. The model calculates  $I = (N/P) \times (A/1)$ , where N is the number of players, and P is the total population of a country, A is the number of people per athlete in an athletic field. This model presents national variances measured against the overall output figure as 1.0.

209. *Id.*

210. Manzenreiter, *supra* note 203, at 563.

211. *Id.*



However, Japan and South Korea still have strides to make if they wish to begin producing elite soccer players and more competitive soccer clubs. The overall data suggests that the soccer infrastructures of Asian countries lag behind some of the more traditional soccer powerhouse countries that reside in Europe and South America; yet, the Asian soccer infrastructures are emerging. More specifically, this data suggests that Japan, China, and South Korea are lacking compared to Europe when evaluating the number of operational soccer clubs, performance of national soccer teams, game attendance, television contracts, and general economic activity generated by soccer infrastructures.<sup>212</sup> For example, Manzenreiter's per capita index model indicates Europe as a whole produces 2.5 times top-tier soccer players and club teams than the world norm.<sup>213</sup> China's index using this model is only .56,<sup>214</sup> and thus, it has a developing soccer infrastructure that has more progress to make than Japan or South Korea. Yet, Japan and South Korea already appear to be emerging as top tier national soccer teams that can compete with their European counterparts.

### C. Soccer Regulations in Japan and South Korea

The soccer infrastructures of Japan and South Korea may lag behind other more experienced soccer nations that have won world championships; however, the Japanese and South Korean FAs have created and applied logical regulations in a stable and beneficial manner. The ability to generate these logical regulations are largely a result of the Japanese and South Korean governments recently relinquishing control over the countries' FAs. Prior to the establishment of domestic leagues in Japan and South Korea, the two nations' FAs were tightly governed by highly centralized and bureaucratized federal government agencies.<sup>215</sup> For example, in the late 1980s, these countries' FAs promulgated regulations that mandated that national team players receive bare minimum salaries, and that the domestic teams were only marketed to citizens when it would benefit the governments for political purposes.<sup>216</sup>

However, in the early 1990s,<sup>217</sup> the Japanese and South Korean FAs convinced their respective governments to allow private corporate investment in both the domestic league teams and the national teams.<sup>218</sup> This commercialization allowed for intelligent and determined young individuals from Japanese and South Korean advertising agencies to market the sport domestically and abroad. This marketing immensely increased interest in the

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212. *Id.*

213. *Id.*

214. *Id.*

215. *Id.* at 569.

216. Manzenreiter, *supra* note 203, at 569.

217. Japan won its first Asian Cup championship in 1992, shortly after its government decided to relinquish control of the Japanese FA.

218. *See* Manzenreiter, *supra* note 203, at 564-67.

sport in Japan and South Korea, and thus corporations such as Coca-Cola, Canon, Fuji Film, JVC and others invested millions into these countries' domestic and national teams.<sup>219</sup> The release from repressive government control also rewarded these FAs with lucrative television contracts with organizations such as ESPN, and ultimately the opportunity to host the FIFA World Cup in 2002.<sup>220</sup> The encouragement of private capital investment is a primary reason that Japan and South Korea have been able to produce great player and coaching talent, win international tournaments, and subsequently increase their ratings on the soccer per capita index.

The Japanese and South Korean FAs also put regulations in place that prevent profligate spending of new sources of local and foreign revenue. These regulations guarantee reinvestment of this money to strengthen and improve each nation's soccer infrastructure.<sup>221</sup> Shortly after the FAs began reaping the monetary gains of the new marketing campaign from the 2002 World Cup, new regulations mandated that both domestic leagues begin investing large percentages of the money by signing highly talented players and coaches from abroad to improve the reputation of the domestic leagues and the skills of local players developed for the national teams.<sup>222</sup> Thus, the release of tight government control and allowing corporations to donate large sums of money to these domestic teams precipitated the ability of the South Korean and Japanese FAs to vastly improve the quality and reputation of their domestic leagues and national teams.

Evaluating Japan and South Korea's responsible creation and implementation of FA regulations, and juxtaposing them against Nigeria and North Korea's profligate spending and corruption, illustrates why some nations are able to create unwavering soccer infrastructures, while other nations fail. Consequently, the efforts to strengthen the Japanese and South Korean soccer infrastructures have resulted in magnificent and joyous performances for both countries in the past three World Cups.<sup>223</sup>

#### *D. China's Dubious Soccer Infrastructure*

Even though China's soccer infrastructure has the potential to burgeon like its Asian neighbors, it is also in danger of regressing into an infrastructure that resembles the current Nigerian FA due to the Chinese government's reticence to relinquish control. This peril exists because the Chinese government is solely

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219. *Id.* at 564-66.

220. *Id.* at 565.

221. *Id.*

222. *Id.* at 566. Highly talented players such as Paul Gascoigne, Gary Lineker, and Zico were signed to play in the Japanese league in the mid nineteen-nineties. These players were treated to lavish guaranteed salaries and were paid throughout their tenure in Japan. They were not mistreated, lied to and denied salaries as highly recruited players in Nigeria still often are.

223. *See* SOCCER WORLD CUP PREVIEW, *supra* note 43, at 54-55, 78-79.

managing the Chinese FA and is not enforcing regulations to prevent corruption, fraud and injustice. In fact, a 2008 undercover police inquest uncovered bank accounts, records of soccer betting deals, computer data, and other overt activity that incriminated the Chinese FA management, players, coaches, team leaders, club staff and former players in a gambling ring and a match fixing scandal.<sup>224</sup>

<sup>225</sup> Players, officials, team administrators, and other individuals involved with the Chinese FA frequently are paid by the Chinese mafia to fix matches.<sup>226</sup>

In 2006, Yang Yu, a deputy general manager of the Guangzhou Yiyao Team in China, admitted to fixing a match between his soccer team and their opponent, Shanxi Luhua Yang.<sup>227</sup> Yang described how he fixed matches by paying just one or two players to play poorly, or by compensating a referee to make certain calls and award random penalty kicks.<sup>228, 229</sup> More recently, on March 1, 2010, Chinese police arrested the former head of the Chinese FA, Nan Yong, on bribery and match fixing charges.<sup>230</sup> Yong, Zhang Jianqiang (now the former director of the Chinese FA's referees' committee), and twenty other Chinese officials will now face a criminal trial on bribery charges.<sup>231</sup>

The root causes of fraud in the Chinese FA are multifarious. Some members of Chinese soccer clubs resort to colluding with the Chinese gambling rings to pay debts.<sup>232</sup> Due to the Chinese government's regulations that prohibit largesse from corporations, many clubs are also facing potential insolvency.<sup>233</sup> Therefore, to avoid financial ruin, some club administrators are complicit with Chinese gambling rings so that they can pay their players, coaches, and other debt.<sup>234</sup> Other Chinese FA administrators, coaches, and players are motivated simply by avarice and participate in the collusion to reap the monetary gain for themselves. The average monthly salary of a starting Chinese player on a domestic Chinese league is four thousand Yuan, which translates to approximately six hundred and two United States dollars.<sup>235</sup> It is very difficult to make a living on such a salary in China. Therefore, the monetary temptation is often too seductive for a Chinese soccer player to refuse.

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224. Zhu Hong, *Chinese Soccer: Is the Fix in?*, CHINA TODAY, Feb. 2010, at 47, 47.

225. See generally DECLAN HILL, *THE FIX: SOCCER AND ORGANIZED CRIME* 24-64 (2008).

226. *Id.* at 45-64.

227. See Abioye, *supra* note 162, at 47.

228. *Id.*

229. Roughly eighty-two percent of all penalty kicks taken in a soccer match result in a goal. See Jordet G. Hartman et al., *Kicks From the Penalty Mark in Soccer: The Roles of Stress, Skill, and Fatigue for Kick Outcomes*, J. OF SPORTS SCIS., Jan. 2007, at 121, 121-24.

230. Former Chinese FA Head will be Tried on Bribery Charges, DNA – Daily News & Analysis, [http://www.dnaindia.com/sport/report\\_former-chinese-fa-head-will-be-tried-on-bribery-charges\\_1353973](http://www.dnaindia.com/sport/report_former-chinese-fa-head-will-be-tried-on-bribery-charges_1353973) (last visited May 1, 2011).

231. *Id.*

232. See Abioye, *supra* note 162, at 47-48.

233. *Id.*

234. *Id.*

235. *Id.* at 48. See also Universal Currency Converter, <http://www.xe.com/ucc/> (last visited May 1, 2011).

Is it possible to eradicate the lascivious gambling rings that currently pervade Chinese soccer? The Chinese FA has never overtly published and promulgated rules that could eliminate this type of malfeasance, although there may be some unpublished regulations that are equivocally implemented. However, it is unlikely that the Chinese FA would enforce such regulations even if they do exist because the Chinese government is sometimes slow to enforce governmental statutes that regulate fraud and other crimes in other aspects of the Chinese culture. For example, a plethora of individuals are arrested and implicated on charges of fraud and money laundering, but many FA officials and players are never prosecuted by the Chinese government.

The China FA must now decide whether it wants to develop into a strong, emerging soccer infrastructure equal to its Asian counterparts, or fade into the soccer-world abyss. One Chinese sociologist suggests that to evade the abyss, the Chinese FA must create and publish a long-term deterrence effort.<sup>236</sup> Such a deterrence model must mandate that individual players who participate in match fixing shall be fined substantially, and shall be suspended from a sizeable amount of games.<sup>237</sup> Whole teams that collude with the Chinese mafia or other gambling rings must be relegated to lower divisions and not allowed to participate in qualification matches,<sup>238</sup> even if this involves the national team. These regulations must also be enforced if the Chinese FA desires to progress into soccer greatness like its close neighbors, Japan and South Korea. Otherwise, China will quickly resemble many African nations that are complicit in an abundance of match fixing schemes, salary fraud, and disorganization. However, one may surmise that based on the current Chinese FA policy, China could be headed in the wrong direction.

#### *E. Chinese IT Infrastructure*

China did not begin its development of an EII until the early 1980s. The modern feeble state of the Chinese EII, however, is more a result of its practice of protectionism and its capricious manner of promulgating and enforcing regulations, rather than its late start in the developmental process. China's government did not commence an initial attempt at creating a sustainable EII until the mid-1980s.<sup>239</sup> During this attempt, CANET developed the first internet e-mail node in China which was implemented in Chinese universities.<sup>240</sup> This implementation of the internet was somewhat attenuated because it was only used in Chinese universities, and China did not subsequently commence an

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236. See Abioye, *supra* note 162, at 48.

237. *Id.*

238. *Id.*

239. Yang Shaoguang, *An Informal Discussion on Internet Matters*, CHINESE EDUC. & SOC'Y, Feb. 2006, at 65, 70.

240. *Id.*

aggressive attempt to build a strong, sustainable EII that would serve individuals unaffiliated with a university until around 1991.<sup>241</sup>

China's government decided to proceed with development of its EII in the early 1990s, and by 1994 the China Science and Technology Net successfully connected the Chinese government with the international internet, which marked the first time China had participated in the world internet family.<sup>242</sup> By 1998, China had approximately 2.1 million internet users,<sup>243</sup> and by 2004 it claimed to have 87 million online users, and 36.3 million online computers.<sup>244</sup> Although the Chinese government has increased its electronic infrastructure with more widespread access to the internet, it still maintains tight government control over the content placed on the internet, who may use the internet, and for what purposes individuals may use the internet.<sup>245</sup>

Various ministries of the Chinese government coordinate hermetic control over internet usage and content.<sup>246</sup> The ministry primarily responsible for overseeing use of the internet is the Ministry of Information Industry, established in 1998.<sup>247</sup> This ministry has granted licenses to just a few internet providers and carefully scrutinizes their business practices to ensure that they do not conflict with the Chinese government's philosophy or policy of promoting Chinese communist values.<sup>248</sup> Some of the few internet provider licenses given by the Ministry of Information Industry were granted to the commercial networks ChinaNet and China Golden Bridge, as well as the academic networks China Education and Research Network and China Science and Technology Network.<sup>249</sup>

Two other Chinese government ministries also help oversee the business practices of internet provider licensees: the Ministry of State Security ("MSS") and the Public Security Bureau ("PSB").<sup>250</sup> The PSB is charged with maintaining China's civilian network security, including their online security.<sup>251</sup> The MSS is responsible for external civilian intelligence, including online external intelligence.<sup>252</sup> Both of these ministries regulate and restrict the number

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241. Ping Gao & Jiang Yu, *Emerging Markets: Has China Caught Up in IT?*, COMM. OF THE ACM, Aug., 2010, at 30, 30.

242. See CIA World Fact Book, *supra* note 46.

243. Alex Zixiang Tan, *China's State-Coordinated Internet Infrastructure*, COMM. OF THE ACM, June, 1999, at 44, 44.

244. See Shaoguang, *supra* note 238, at 70.

245. See Yu, *supra* note 240, at 32.

246. See Tan, *supra* note 242, at 44.

247. *Id.* at 45.

248. See *id.* at 45-46.

249. *Id.*

250. RIGHTS & DEMOCRACY: INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT, [http://www.dd-rd.ca/site/\\_PDF/publications/globalization/legislationInternetChinaEng.pdf](http://www.dd-rd.ca/site/_PDF/publications/globalization/legislationInternetChinaEng.pdf) (last visited May 1, 2011).

251. *Id.*

252. *Id.*

of private sector organizations that can interconnect with Chinese citizens; the Chinese government wants to preserve Chinese communist philosophy and policy among its citizens.<sup>253</sup>

Despite the authoritarian oversight and control over internet usage, some Chinese citizens have implemented the internet for creative innovation.<sup>254</sup> However, most innovation is stymied due to the government's fear that original thought will be in conflict with the Chinese communist belief system.<sup>255</sup> As a result of the hermetic control, the development of the Chinese electronic information infrastructure is trailing other developing nations such as Malaysia, Japan, and the United States.<sup>256</sup>

### 1. Controlling User Behavior

Many of the specific regulations promulgated by the Chinese ministries are intended to control user behavior on the internet. However, these regulations are whimsical and promote protectionism. The Chinese government promotes protectionism on the internet because it adheres to Bill Gates' quote in which he opined that the internet is a double-edged sword and that one may see half of the web as an angel and the other half as a demon.<sup>257</sup> The Chinese government apparently perceives approximately ninety-five percent of the internet as a demon, and some government officials view the large majority of the internet as social and cultural garbage.<sup>258</sup> Yet, the Chinese government espouses that the internet and access to it is a cornerstone of their drive for economic development.<sup>259</sup> This creates cognitive dissonance for agents of the Chinese government in that they desire to provide ample access to the internet in order to generate revenue for the government, yet they want to maintain tight control of content to ensure that citizens are not inundated with ideas and information contrary to Chinese communist belief. When balancing these two cognitive tensions, the Chinese government tends to err toward more government control rather than toward an open internet.

In erring toward hermetic control, the Chinese government reasons that its protectionist policy is necessary to protect children and adults from the dangers of exposure to free thinking that is available on the internet, which could result

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253. See Tan, *supra* note 242, at 44.

254. See Yu, *supra* note 240, at 31.

255. *Id.* at 32.

256. Edmund Prater et al., *Emerging Economies, Operational Issues in China and India*, J. OF MARKETING CHANNELS, June 2009, at 169, 177.

257. Shaoguang, *supra* note 238, at 72.

258. See *id.* at 66. Of course such extreme views are developed out of fear that free thought and exposure to democratic ideas will lead to revolutions akin to those that have recently taken place in Tunisia, Libya, and Egypt.

259. Maris G. Martinsons et al., *State Censorship of the Internet in China*, COMM. OF THE ACM, Apr. 2005, at 67, 67.

in uncivilized phenomena in China.<sup>260</sup> Any unrestrained uncivilized phenomena could incite Chinese citizens to rebel against prescribed Chinese communist doctrine and ultimately prevent a citizen from being willing to sacrifice themselves for their motherland if the need arises.<sup>261</sup> Therefore, instead of instructing Chinese children to think critically and decipher valid information from invalid information, China instead promotes protectionism and attempts to censor as much content as possible so that only the government decides which type of information is valid and which is invalid. For example, the Chinese government censors up to fifteen percent of foreign web sites and sometimes renders them completely inaccessible to individuals from China.<sup>262</sup> In other words, the Chinese government prefers to inculcate a sense of complete submission to the Chinese state with intrusive censorship of the content of the Chinese internet broadband, rather than open the internet to new ideas and possibly make more money.

One catalyst that encourages the Chinese government to apply protectionist methods regarding internet use is the ubiquitous web bars and cyber cafés that have proliferated throughout China. Many Chinese government officials perceive these web bars and cafés as dissolute cultural atmospheres in which adults and children can behave without any inhibitions.<sup>263</sup> Such unregulated behavior is anathema to the Chinese Communist party, because if one has the ability to behave without inhibitions, one may discover other means of regulation besides what the communist party offers, which may in turn lead to an uprising. The Chinese government also claims they are justified in censoring the internet because it may expose young Chinese people to wantonly issued books, publications, videos, and recordings that lean toward violence and sex.<sup>264</sup> These licentious materials may severely erode the thoughts and morals of young Chinese citizens who are inexperienced in affairs of the world, causing them to become victims of a corrosive torrent of violence and pornography.<sup>265</sup> Some of the primary materials the Chinese government wants to shelter its citizenry from include information regarding Taiwan, Tibet, the Falun Gong spiritual movement, and democracy.<sup>266</sup> The Chinese government will extend great measure to protect its denizens from these topics. In fact, in a 2004 speech given in Shanghai, United States Vice President Dick Chaney's discussion of expanding political freedom and yearning for democracy were completely removed prior to it being published or posted anywhere in electronic or print format.<sup>267</sup>

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260. See Shaoguang, *supra* note 238, at 71-2.

261. *See id.* at 66.

262. *Id.*

263. *See id.* at 73.

264. *See id.* at 78-79.

265. *Id.*

266. Martinsons, *supra* note 258, at 67.

267. *Id.*

## 2. Chinese EII Regulations Deter Private Business

Many of the Chinese government's capricious regulations not only restrict individuals in their social life but also are deleterious to private business in China as well. For example, two regulations recently passed by the PSB, termed the Computer Information Network and Internet Security Protection and Management Regulation and the State Secrecy Protection Regulations of Computer Information Systems Internet Regulation, together require all internet networks operating in China to provide monthly reports of the number of users on the network, the number of pages viewed by each user, and the user profiles.<sup>268</sup> Also, per these regulations, any user violation reported to the PSB may result in that citizen losing their ISP business license and network registration, as well as fines and possible criminal prosecution of the company, the company staff, and individual users.<sup>269</sup> These regulations and other recently passed Chinese regulations all place an undue burden on private businesses.

To comply with these regulations, a private company would have to hire excess staff just to monitor the number of users on a network, the number of pages viewed, and create a profile for each user. This costs Chinese private businesses excess money and wastes their time, which ultimately cuts into their net profit. These regulations also call for criminal prosecutions for commercial entities or individuals who use the internet to incite an overthrow of the government or any other behavior that is contrary to the Chinese government's ideals.<sup>270</sup> These threatening criminal penalties also deter individuals from opening a private business because, under these regulations, owners of the companies can be criminally prosecuted for employee violation of the law and vice versa.<sup>271</sup> Interestingly, none of these regulations can be used against government officials for such violations. The government and all of its hundreds of ministries are intentionally omitted from these regulations and statutes. Such carefully crafted phraseology appears to be a convincing deterrent to the opening of any private businesses in China that are not excessively entangled with the Chinese government itself.

A further deterrent for private business to implement internet technology is that China is not a constitutional society, and therefore, its citizens are not given notice and due process when they are suspected of violating a regulation that proscribes reading or posting information on the internet that is arbitrarily threatening to the Chinese government.<sup>272</sup> In fact, many Chinese citizens are probably not even aware that to make such a post is a crime. Unfortunately, Chinese citizens are very rarely aware of the laws that govern them. Therefore,

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268. See Yu, *supra* note 240, at 31-33.

269. *Id.*

270. *Id.*

271. *Id.*

272. See Martinsons, *supra* note 258, at 67.



numerous Chinese citizens may be arrested for posting something to the internet or reading a forbidden site that the Chinese government was unable to censor, even though they may not even be aware that they have violated a regulation.

Amnesty International (“AI”) claims the Chinese government maintains the world’s largest prison for those who violate electronic technology regulations.<sup>273</sup> AI further alleges that it has documentation of more than fifty individuals who are imprisoned in China for posting messages on the internet that are offensive or threatening to the Chinese government.<sup>274</sup> One individual subjected to such imprisonment in China, named Huang Qi, set up a web site that discussed some content that was deemed threatening to the Chinese government.<sup>275</sup> He was arrested by the Ministry of Information Industry, otherwise known as the “great firewall of China,” in June of 2000.<sup>276</sup> Following his secretive trial, Huang Qi was sentenced to five years in prison in May of 2003.<sup>277</sup>

#### *F. Effect of Chinese EII and Its Regulations*

The negative effect on China’s EII is beginning to be manifested as the Chinese government eschews open relationships with private businesses, and then fails to comply with contractual agreements. For example, China has tenuously agreed to arms-length business relationships with Microsoft, Facebook, and Google as long as Microsoft will open its source code, and Facebook and Google agree to certain censorship requests.<sup>278</sup> It has also become apparent that, after agreeing to perform business with Google, the Chinese government directed domestic hackers to trespass the Google infrastructure and hack their site.<sup>279</sup> One of the wikileaks cables released in December of 2010 revealed an allegation by a United States Embassy source in Beijing that the attacks against Google were ordered by the Politburo, the governing group of China’s Communist Party.<sup>280</sup> Growing evidence also suggests that the Chinese government has also intentionally hacked into many sensitive servers in the United States.<sup>281</sup> Some of these web violations redirected large volumes of internet traffic, such as secretive communications of the United States armed service, away from their directed targets and into the hands of members of the Chinese government.<sup>282</sup> These types of cyber-attacks, coupled with vague

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273. *Id.*

274. *Id.*

275. *Id.*

276. *Id.*

277. *Id.*

278. Loretta Chao & Owen Fletcher, *Google Losing Ground in China*, WALL ST. J., (March 31, 2011), <http://online.wsj.com/article/SB10001424052748704530204576234693138486996.html>.

279. Loretta Chao, *China Touts Crackdown on Hackers*, WALL ST. J., (Dec. 2, 2010) <http://online.wsj.com/article/SB10001424052748703865004575648302067137596.html>.

280. *Id.*

281. *Id.*

282. *Id.*

regulations and ill treatment of foreign and domestic electronic infrastructure investors, deter foreign and private domestic investment, which is usually a necessity for improving a country's EII. Therefore, it is unlikely China will keep up with the burgeoning information infrastructures of some of its Asian counterparts, unless it revamps its hostile and untrustworthy business practices.

Unclear and capricious application of regulations, and a lack of efficient access to forms necessary to run a business also deter venture capitalists and entrepreneurs from investing in Chinese business associations. The erratic promulgation and application of regulations create a fear and a lack of trust in a citizen toward the government. Such fear and distrust leads to citizens deciding not to pursue business in their country. One study illustrates how such unpredictable regulations and irregular enforcement of those regulations diminishes productive domestic business in China.<sup>283</sup> This empirical study developed an economic competitiveness and business competitiveness index based on the clarity of a nation's laws with which private and state run business must comply.<sup>284</sup> This study illustrates how China is behind the curve in EII development and commerce compared to other Asian countries.<sup>285</sup> The index indicates that China is ranked fifty-seventh in the world, which pales in comparison to the United States, which is ranked second in the world in EII business and the amount of clarity regarding the laws that govern its EII.<sup>286</sup> Furthermore, another study revealed that, due to China's governmental agents turning their backs on certain fraud and collusion in everyday business practices, China ranked 79th out of 180 countries on a Global Corruption Index.<sup>287</sup>

For those individuals who are brave enough to attempt to commence a business in China, the lack of information available electronically in China can create quite a disheartening experience. For example, because Chinese citizens do not have access to regulations that govern their lives, it can take a Chinese citizen a great deal of time to set up a business that has adequate information technology support.<sup>288</sup> It is impossible to set up a business quickly when a citizen is not given efficacious electronic access to the regulations, forms, and other necessary materials that explain how one is to comply with all of the nation's regulations. Conversely, in the United States, an entrepreneur can locate all necessary regulations, forms, and other materials within a matter of minutes. Thus, an organized United States citizen can have all paperwork needed to commence a business filed in five days or less,<sup>289</sup> whereas in China, it

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283. *Id.*

284. *Id.*

285. Chao, *supra* note 278.

286. *Id.*

287. TRANSPARENCY INTERNATIONAL: THE GLOBAL COALITION AGAINST CORRUPTION, <http://www.transparency.org/publications/gcr> (last visited May 2, 2011).

288. Jing Quan, Qing Hu, & Xinan Wang, *It is Not for Everyone in China*, COMM. OF THE ACM, Apr. 2005, at 69, 69.

289. *Id.*

may take three months, or longer. All of these obstacles present a serious deterrence to investment in China and result in a less advanced Chinese EII.

### G. Japan's and South Korea's EII

Japan initially began developing its EII in 1992 for both government and commercial use by building LAN cables, other necessary hardware, and by providing access to information service providers ("ISPs").<sup>290</sup> Japan was one of the few countries to concurrently develop local and nationwide ISPs, which subsequently enabled them to develop their EII quicker than nations who only built one type of ISP.<sup>291</sup> The local ISPs are used for businesses or government agencies that provide services or information to a limited area or a local community.<sup>292</sup> In contrast, the nationwide ISPs can provide service to all Japanese citizens and to people outside of the Japanese state.<sup>293</sup>

In addition to the success of the local and nationwide ISP systems in Japan, the private ISPs that developed these systems had the judicious foresight to implement broadband technology while laying the cable.<sup>294</sup> Broadband is not commonly found in the countries so far mentioned in this paper. As a result of this EII creation process, in 2000, the percentage of Japanese citizens with internet connections was between 12.5% and 23%.<sup>295</sup> Further, by 2006, 95% of Japanese citizens had a reliable internet connection,<sup>296</sup> and almost all of this 95% had broadband access.<sup>297</sup>

Japan's EII was also strengthened in the 2000s by allowing private companies to develop wireless systems that could provide internet service to Japanese individuals on their wireless devices.<sup>298</sup> This prescience of the Japanese government to allow such investment of wireless technology attracted more private business that further strengthened the Japanese EII. Because of the nature of the Japanese society, most Japanese citizens spend an enormous amount of time commuting,<sup>299</sup> and therefore wireless internet connections became very popular as soon as they were available in Japan. In fact, by 2005, 81.2% of the Japanese population accessed the internet via their mobile phone or

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290. Toshihiko Takemura et. al., *Positive Analysis on Vulnerability, Information Security Incidents, and the Countermeasures of Japanese Internet Service Providers*, 1 INT'L J. OF BUS., ECON., FIN. & MGMT. SCI., 220, 221 (2009).

291. *Id.* at 221.

292. *Id.*

293. *Id.*

294. Martin Sonia San, *Risk, Drivers, and Impediments to Online Shopping in Spain and Japan*, 18 J. OF EUROMARKETING 47, 49 (2009).

295. *Id.* at 49.

296. *Id.*

297. *Id.*

298. *Id.*

299. *Id.* at 49-50.

other mobile device, whereas, 77.4% still used their desktop or laptop to access the internet.<sup>300</sup>

Another important factor that contributed to Japan's quick progress was that Japan deregulated its EII in the 1990s (much like its FA) and opened its EII to private and venture capital investment.<sup>301</sup> This privatization of the EII market in Japan led to an EII "big bang" (deregulation) in that the burgeoning of EII created numerous forms of communication and dissemination of information: universities were connected to the internet with fast and efficient forms of broadband, individual homes were connected to the most efficient forms of broadband internet, and global communication and commerce connections emerged.<sup>302</sup>

Japan has also improved their EII by researching and implementing technologies such as a smart EII system, termed "TRON" technology (The Real-time Operating System Nucleus), which theoretically created ubiquitous intelligent buildings in which all Japanese citizens could interact.<sup>303</sup> TRON embedded microchips into buildings, appliances, and other building infrastructures, which would communicate with each other to enhance the quality of living and efficiency for Japanese citizens.<sup>304</sup> An individual living in a smart house can program their computer to receive any legal updates relevant to necessary business filings for their corporation for a set period of time.<sup>305</sup> This automated process is possible because the microchip in the individual's computer could communicate with any relevant tax entities, business law databases, and courts with which necessary paperwork could be obtained or filed. TRON was designed as an open system so that all Japanese citizens and foreigners could interact with it.<sup>306</sup> Further, TRON was omnipresent, as microchips would be embedded in cell phones, cars, homes, and businesses.<sup>307</sup> Therefore, individuals could access needed information wherever they were located. Such progression in Japan's already advanced EII offers an increase in efficiency, peace of mind, and citizen trust.

#### *H. Valid and Effective Regulations for Japan and South Korea's EIIs*

As Japan expands its EII, cyber criminals exploit these innovative technologies, and technological transgressions become more prevalent. Therefore, the Japanese government has taken an aggressive approach against foreign and domestic cyber criminals by establishing the Japanese Information

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300. Son, *supra* note 293, at 50.

301. See Watanabe, *supra* note 8, at 81-82.

302. See *id.* at 81-84.

303. *Id.* at 81-82.

304. See *id.* at 82.

305. See *id.*

306. See *id.*

307. See Watanabe, *supra* note 8, at 82.

Security Countermeasures Promotion Office in 2001 to help prevent and prosecute cybercrimes.<sup>308</sup> Additionally, since 2007, the Japanese government has created other agencies that have oversight in maintaining a freely accessible internet that is free of crime, fraud, and abuse. Some of these agencies include the Ministry of Internal Affairs and Communications (“MIC”), the Ministry of Economy, Trade and Industry (“METI”), and the National Institute of Information and Communications Technology (“NICT”).<sup>309</sup> These government agencies fervently seek to eradicate fraudulent EII and encourage the burgeoning of venture capitalists that are developing crime-free innovations on the Japanese EII.<sup>310</sup>

#### 1. Japan’s Government Promotes an Open, Free Access and Educational Approach

To promote open access to information and to continue developing safe and innovative EII technologies, the Japanese government has taken more of a discovery and educational role, as opposed to a hermetic role. For example, one empirical study implementing logical regression analysis compiled by Toshihiko Takemura, et al., suggests reduction of cyber-crimes can be accomplished more by educating the Japanese public, rather than by increasing government oversight.<sup>311</sup> In other words, the Japanese government trusts its citizens to think for themselves and does not try to control its citizens’ thoughts. Thus, Japanese agencies tend to focus more on educational efforts such as seminars and displayed slogans that empower the public with valid knowledge about how to protect one’s technology from malware.<sup>312</sup> This approach gives Japanese citizens a great amount of autonomy to acquire and apply knowledge, free from government interference.

Furthermore, the Japanese government has gathered and analyzed data regarding current and potential information security incidents.<sup>313</sup> These include foreign governments hacking into Japanese government web sites, individuals imbuing viruses into Japanese internet networks, and other malevolent causes of network malfunctions. These types of research are completed to educate government officials about potential threats and how to protect against those threats. This information can then be passed along to Japanese citizens. The Japanese Information Security Countermeasures Promotion Office was established specifically to perform an inquest regarding security incidents that arise in Japan and to create and implement a policy to prevent future security

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308. See Takemura, *supra* note 289, at 220-21.

309. *Id.* at 221.

310. *See id.*

311. *Id.* at 226.

312. *Id.*

313. *Id.*, at 220.

breaches.<sup>314</sup> The National Information Security Center (“NISC”), another Japanese government agency, also helps to establish policies that protect its government and its citizens from potential cyber criminals.<sup>315</sup> The NISC’s policy is referred to as the “Secure Japan” endeavor and imposes criminal penalties against private citizens or government officials who inflict malware on any Japanese citizen or business.<sup>316</sup>

## 2. Specific Laws that Prevent EII Fraud, Malfeasance, and other Criminal Activity

South Korea’s and Japan’s proactive research endeavors have resulted in the development of reasonable and enforceable penal statutes to punish government officials and private citizens who commit a cyber-related crime. The Japanese legislature has also passed the Unauthorized Computer Access Law, which prohibits unauthorized computer access and the facilitation of unauthorized computer access by leaking or stealing other computer users’ passwords or identification materials.<sup>317</sup> The Japanese legislature further enacted amendments to a criminal law passed in 1907 to impose criminal penalties for individuals who commit computer fraud, illegal production of electro-magnetic records for payment (including credit cards and other bank cards), or who commit obstruction of business by destroying computers or computer equipment.<sup>318</sup> In Japan, when these crimes are committed, they are prosecuted and the criminals are punished.<sup>319</sup> As a result, more individuals are deterred from being complicit in cyber-crime.

Similarly, South Korea has enacted penal statutes that allow prosecution of individuals who commit falsification or alteration of public and private electromagnetic records, commit interference with businesses using EIIs, commit fraud, or offer unauthorized disclosure of EII information.<sup>320</sup> South Korea has also adopted the Promotion of Utilization and Communications Network Act to deter computer fraud and misuse of computer networks.<sup>321</sup> As in Japan, when a person allegedly breaches one of these laws, he or she is also prosecuted and given an appropriate punishment.

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314. See Takemura, *supra* note 289, at 220.

315. *Id.* at 220-21.

316. *See id.*

317. Keiho [Penal Code], Law No. 128 of 1999, art. 4, no. 9.

318. Keiho [Penal Code], Law No. 45 of 1907, art. 4, nos. 161-2, 246.2.

319. *Id.*

320. Republic of Korea, Criminal Code, Law No. 5057 of 1995, arts. 314, 227-2, 232-2, 347-2, 29, and 30.

321. Acts No. 3920 of 1986.

### 3. Effect of EII Regulations in Japan and South Korea

The continual development of the South Korean and Japanese EIIs provides citizens with a sense of trust in their government and a confidence that their judicial system will punish those who break laws.<sup>322</sup> The citizens also benefit from EIIs that allow open access to a wealth of valid information.<sup>323</sup> The individual who is seeking to download the proper business formation forms may quickly do so from home, on a train, or at work. Additionally, they may customize the forms online and receive instant satisfaction knowing that their business has cleared the first hurdle towards making a profit. Thanks to the convenience offered by a reliable EII, self-starters in South Korea and Japan have the luxury of locating, completing, and filing necessary business commencement forms in the same day.

The commitment to developing a strong EII and to implementing rational regulations to protect the existence of an appropriate use of the Japanese EII has resulted in an economic boom for many Japanese and South Korean individuals. For example, these two countries now have ubiquitous computing networks that have a profound effect on almost every facet of the Asian world.<sup>324</sup> Many private companies are burgeoning because Japanese and South Korean ISPs have provided access to many technologies that provide a way to effortlessly communicate with customers, disseminate information to them, and entice them with advertisements. This increase in communication can generate enormous economic gain and can also create competition between businesses that results in a better product for patrons.<sup>325326</sup>

### 4. Resulting EII Readiness Scores for China, Japan and South Korea

All of the data that has been examined leads to the conclusion that Japan and South Korea have well established and continuously innovated EIIs, as well as logical laws that regulate these EIIs in a fair manner. These two factors lead to an abundant amount of citizen trust, which ultimately produces motivation for foreign and domestically located individuals to conduct business, live in, and travel to Japan and South Korea. This business, domicile, and tourism friendly environment, which has in large part been created due to these two countries' EIIs, has led to multiple advantages: growth of the national economy, job creation, the development of cutting edge technology, and the gravitation of highly creative and intelligent people to these two countries. Therefore, Japan and South Korea receive a point each for all three facets of our EII scale: a well-established EII, logically created and fairly implemented laws to regulate their

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322. See San, *supra* note 293, at 48.

323. See San, *supra* note 293, at 48.

324. See Watanabe, *supra* note 8, at 81.

325. See *id.*

326. See K. Sangani, *Otaku World*, ENGINEERING & TECH., November 2008, at 94, 95.

respective EIIs, and the ultimate manifestation of citizen trust in its government. Therefore, Japan and South Korea both receive a score of three on our e-readiness measurement scale.

On the other hand, while China's EII has the potential to blossom and create the same citizen trust, economic benefits, and alluring environment as exists in its neighboring Asian countries, the autocratic government regulation and control prevent private citizens and businesses from this panoply of advantages. The laws promulgated to regulate the Chinese EII are capricious at best, and illogically implemented. Thus, the hermetically controlled EII and the erratically created and utilized EII regulations lead to a lack of citizen trust and an increased level of citizen fear of its government. Therefore, although China has great potential to earn three points on the e-readiness scale, it currently receives zero points on the e-readiness scale for failing to meet any of the prescribed criteria.

## VI. THE NETHERLANDS AND THE UNITED STATES

The United States and the Netherlands constitute the final group of countries examined in this article. These two countries were selected because of their advanced soccer infrastructures and competitive national teams. An examination of these sophisticated soccer infrastructures demonstrates a strong correlation with the advanced nature of their respective EIIs. It is no mistake that the United States and the Netherlands are world powers in soccer and information technology.

### *A. Demographics of the United States and the Netherlands*

The Netherlands boasts a population of approximately 16,783,092, and a GDP of around 680.4 billion.<sup>327</sup> Thus, the Dutch have the twenty-second ranked GDP in the world,<sup>328</sup> and they also have one of the most experienced national soccer teams in the world. According to Kuper and Szymanski's empirical model, the Dutch are primed to win the World Cup,<sup>329</sup> and in fact nearly did, losing 1-0 to Spain in the 2010 World Cup final. The Dutch have created a great soccer machine, sometimes referred to as "total football" or "Clockwork Oranje." This is no accident, as the Dutch have taken full advantage of their vast pools of talent and immense monetary supply by building one of the strongest soccer infrastructures in the world in addition to maintaining it with rational and logical FA regulations.<sup>330</sup> The Netherlands are one of the greatest teams in the history of international soccer. They consistently produce a national team that

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327. Central Intelligence Agency, *The World Factbook*, (last visited May 2, 2011) <https://www.cia.gov/library/publications/the-world-factbook/>.

328. *Id.*

329. *See* Kuper, *supra* note 45.

330. *See* Soccer World Cup 2010, *supra* note 43, at 74-75. *See also* DAVID WINNER, BRILLIANT ORANGE: THE NEUROTIC GENIUS OF DUTCH SOCCER 28-33 (Overlook Press 2010).



has the potential to win international tournaments. The Dutch most recently won the European Championship in 1988, reached the semifinals in the 2000 and 2004 European Cup, qualified for five of the past six World Cups, and finished second overall in the 2010 World Cup final.<sup>331</sup>

### *B. Soccer Infrastructure*

Both the United States and the Netherlands have sturdy soccer infrastructures, boasting two of the strongest professional soccer leagues in the World. The Dutch league is called the Eredivise, which is ranked ninth out of fifty-three leagues in Europe. Some of the better known teams from this league consistently qualify for and progress successfully through the prestigious Champions League and Europa international tournaments held in Europe.<sup>332</sup> The Eredivise has a successful business plan that reinvests its lucrative profits, providing each club an opportunity to attract highly skilled players and brilliant coaches. Many of the better-known teams in the Eredivise continually develop players that eventually play for the Dutch national team in international competition. Thus, the NFA's infrastructure, frequently termed "total football," which revolutionized the game of soccer in the 1960s,<sup>333</sup> continues to create great soccer and entertainment.

The United States league, Major League Soccer ("MLS"), was established just after the 1994 World Cup, which the United States hosted.<sup>334</sup> The MLS now boasts nineteen teams, with expansion teams being added in each of the past two seasons,<sup>335</sup> and all of these teams are currently economically viable.<sup>336</sup> There has been tremendous public and private investment league wide to build an infrastructure of soccer specific stadiums and to develop youth academies for each of the teams.

Such economic stability in the United States and the Netherlands is a result of pro-business regulations implemented league wide by the Eredivise and the MLS. The Netherlands Football Association ("NFA") regulates soccer in the Netherlands and the United States Soccer Federation ("USSF") regulates soccer in the United States. Both the NFA and the USSF adhere to FIFA's statutes and implement their own bylaws to regulate malfeasance. For example, bylaw 241, section 2 of the USSF gives the acting Board of Directors authority to terminate, suspend, or fine any person who commits malfeasance, such as committing acts

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331. The World Cup is the most difficult international tournament to qualify for and win, and arguably, the European Championship is the second most difficult to qualify for and win.

332. See DAVID WINNER, *BRILLIANT ORANGE: THE NEUROTIC GENIUS OF DUTCH SOCCER* 1-71 (Overlook Press 2010).

333. See *id.* at 28-39.

334. MAJOR LEAGUE SOCCER, <http://www.mlssoccer.com/> (last visited May 4, 2011).

335. MAJOR LEAGUE SOCCER, <http://www.mlssoccer.com/> (last visited May 4, 2011).

336. *Id.*

adverse to the best interests of the federation.<sup>337</sup> Bylaws 703 through 706 of the USSF convey the due process all players, coaches, and other USSF members must receive before facing a hearing and possibly being fined, suspended, or terminated.<sup>338</sup> Such due process includes being notified of the allegations being made, a right to a hearing, the right to appeal, the right to arbitration, and all administrative procedures.<sup>339</sup> The USSF and the NFA honestly adhere to these bylaws, which prevent players and coaches from being subjected to the embarrassing public humility or physical torture Chinese and North Korean players may face. Further, the contracts of coaches and players are benevolently honored via the rule of law. Unlike players in Nigeria and North Korea, players and coaches in the United States and the Netherlands are not fired randomly weeks before a major tournament, and they are not denied payment of their salary despite a poor showing in a match. Such benevolence and honesty creates a rapport between highly talented players and coaches and their respective governing bodies. This rapport leads to success in international tournaments.

#### 1. The United States SF Regulations Prevent Match Fixing

The USSF promulgates and implements rules that prevent players, managers, and other individuals affiliated with the USSF from gambling on matches, fixing matches, and participating in other types of corruption. For example, bylaw 241 of the USSF, states that the Board of Directors may suspend, fine, or terminate (or any combination thereof) the membership of any member of the federation if the Board determines that the member's conduct is adverse to the best interests of the sport or the federation.<sup>340</sup> This catch-all phrase would include the termination, suspension, or fining of any USSF member who participates in gambling on United States domestic or national team matches, as well as anyone who attempts to bribe anyone who can influence the outcome of a match. Further, bylaw 414 expresses that the Board may remove a Board Member for cause and after a reasonable notice, hearing, and opportunity to present his or her case.<sup>341</sup> This regulation prevents high-level administrators in the USSF from being complicit in deceptive and criminal behavior, such as match fixing and/or gambling rings. Bylaws 701 through 708 of the USSF bylaws give the accused the right to have timely notice, a timely and fair hearing, the right to an appeal, the right to arbitration, and contain a definition of proper venue.<sup>342</sup>

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337. Bylaws of the United States Soccer Federation, Inc., [http://www.illinoisoccer.org/2006-07\\_BylawBook\\_USSF.pdf](http://www.illinoisoccer.org/2006-07_BylawBook_USSF.pdf) (last visited May 4, 2011).

338. *Id.*

339. *Id.*

340. *Id.*

341. *Id.*

342. *Id.*

## 2. United States Soccer Regulations Promote Fairness and Trust

Because these bylaws are updated and enforced fairly, an environment of trust is established between the USSF players, coaches, and the governing Board. The players, coaches, and other members are cognizant that if anyone involved in the USSF commits a violation, they will be suspended, terminated, or fined. All of these laws and policies are clearly defined in the bylaws of the USSF; therefore, all USSF agents should be aware of all laws. Being aware of the possible outcomes of one's decision due to consistent enforcement of these regulations creates a trust among the members of the USSF. As a result, each individual is more likely to understand the policy behind each law and will be more likely to comply with the laws.

## 3. The Netherlands FA Adopts FIFA Law – Which Deters Match Fixing and Promotes Fairness

The Netherlands has adopted, and adheres to, FIFA's disciplinary bylaws for misconduct of a player, manager, or other agent of the NFA. Article sixty of these Bylaws makes it illegal for anyone to use violence or threats to coerce a match official into taking certain action or to hinder the official from acting freely.<sup>343</sup> Any player, coach, or other member of the NFA caught complicit in such fraudulent action may be fined, suspended, or banned from future participation in Dutch soccer.<sup>344</sup> Additionally, article sixty-two, section one conveys that anyone who offers, promises, or grants an unjustified advantage to a body of FIFA in an attempt to incite it or the individual themselves to violate any FIFA regulation may be banned, suspended, or terminated from NFA activities.<sup>345</sup> Sections two through four of article sixty-two indicate that anyone who solicits, promises or accepts an unjust advantage for any type of consideration may also be fined, suspended, or terminated from the NFA.<sup>346</sup> These sections also indicate that the NFA will further confiscate all assets garnered by the offender as a result of committing fraud.<sup>347</sup> Article sixty-four states that anyone who fails to pay an entity such as a coach, player, or other NFA employee or agent their salary or other owed monies will be fined and assigned a final deadline to pay the owed entity in full.<sup>348</sup> If an offender misses

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343. FIFA Disciplinary Code, [http://www.fifa.com/mm/document/affederation/administration/50/02/75/disco\\_2009\\_en.pdf](http://www.fifa.com/mm/document/affederation/administration/50/02/75/disco_2009_en.pdf) (last visited May 4, 2011).

344. *Id.* The NFA takes any accusations of this kind seriously, as a Dutch player was even suspended once for kissing a referee during a match. This was probably not an attempt to bribe. Nevertheless, the NFA is very persnickety in regard to any misbehavior that may be an attempt to influence a referee. See FARK.COM, <http://www.fark.com/comments/355637/Dutch-soccer-player-suspended-for-kissing-Referee> (last visited May 4, 2011).

345. FIFA Disciplinary Code, [http://www.fifa.com/mm/document/affederation/administration/50/02/75/disco\\_2009\\_en.pdf](http://www.fifa.com/mm/document/affederation/administration/50/02/75/disco_2009_en.pdf) (last visited May 4, 2011).

346. *Id.*

347. *Id.*

348. *Id.*

this assigned deadline they may be subject to further fine, suspension, or perpetual termination.<sup>349</sup> Article sixty-nine prescribes a single match, a multiple match, or a lifetime ban for anyone who conspires to fix a match.<sup>350</sup> The NFA regularly enforces these regulations, which prevents a lot of the corruption that occurs frequently in China, North Korea, and Nigeria.

All of these regulations implemented by the Eredivise and the MLS result in solid soccer infrastructures. For example, instead of wanting to play abroad due to rampant corruption and malfeasance, some of the most talented players in the United States elect to play for an MLS team. For example, Landon Donovan, possibly the best player U.S. soccer has developed to date, elected to play for the Los Angeles Galaxy after a stint with a team in the German Bundesliga.<sup>351</sup> David Beckham has also chosen to spend the twilight of his career playing with Donovan for the Galaxy, due to the economic and professional stability of MLS. In the Netherlands, the Eredivise has also helped many Dutch natives become some of the best players in the world. For instance, Siem De Jong played for Ajax, Wout Brama plays for the FC Twente Dutch club, and Eric Pieters competed with PSV, to name a few. These players choose to stay with the Eredivise and the MLS because these soccer organizations promote accountability and trust.

### C. Dutch EII Infrastructure

Until the 1980s, the Netherlands' EII was maintained by its government and subject to heightened state control.<sup>352</sup> However, in the mid-1980s, the Netherlands decentralized their EII and encouraged private companies to develop and provide electronic information services.<sup>353</sup> Now, the Netherlands implements a shared approach between the public and private companies, thus collaboratively building and maintaining a national EII. The policy behind this approach is to promote competition and innovation, allow all Dutch citizens to have access to electronic information, attract new inhabitants, bring in money to all cities in the Netherlands, and recruit the best and brightest entrepreneurs to the Netherlands.<sup>354</sup> This public/private partnership has sought to implement contemporary technologies such a broadband and wireless local area network

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349. *Id.*

350. *Id.*

351. The Bundesliga is the top soccer division in the world, and is ranked as one of the top three professional leagues in the world. Such a ranking is reasonable, as the Germans have dominated world soccer for decades. See Bundesliga TV, <http://www.bundesliga.de/en/> (last visited May 4, 2011).

352. See Willem van Winden & Paulus Woets, *Urban Broadband Internet Policies in Europe: A Critical Review*, 41 URB. STUD. 2043, 2046 (2004).

353. *See id.*

354. *See id.* at 2046-51.

(“WLAN”) access to ensure Dutch citizens have quick, efficient, and reliable access to electronic information.<sup>355</sup>

Additionally, the national Dutch government, local Dutch governments, and private companies in the Netherlands have recently placed a heavy emphasis on implementing broadband technology in its EII.<sup>356</sup> In fact, broadband coverage in the Netherlands is approximately one hundred percent.<sup>357</sup> Due to its dedication in developing a strong EII, the Netherlands has surpassed most other countries in the European Union in the development of broadband.<sup>358</sup> The Netherlands has also strived to set up WLAN due to the ubiquitous use of mobile devices.<sup>359</sup>

### Three Dutch EII Models

The Dutch have taken the responsibility of creating and implementing an EII very seriously. This is because the Dutch understand that a high quality, reliable EII can boost the economy and well-being of their citizens, as well as increase the technological advancements that their country produces. With this understanding in mind, the Dutch have utilized three different EII models to advance the technological infrastructure of their country.

#### a. Model one: Dutch Government Subsidies

Having access to broadband and WLAN technologies, Dutch governmental bodies and private companies have the luxury of creating a few different models of providing EII service and ISPs to Dutch citizens. In Eindhoven, Netherlands, for example, the local government does not create or maintain the EII infrastructure or provide service via the infrastructure. Instead, private companies are given complete control and authority to compete to improve and manage the EII and service provided on the EII.<sup>360</sup> The local Eindhoven government subsidizes broadband subscriber communities.<sup>361</sup> These subsidies usually cover the cost of a connection and the cost for the community to locate and hire a company to connect fiber cables necessary for a broadband connection, or networking towers for WLAN usage.<sup>362</sup> Thus, using this paradigm, the local government helps support the EII in a monetary fashion, but is not a co-owner of the EII, only a subsidizer. Private enterprises are given authority to compete to develop and provide the necessary hardware, software, and conduits to provide service.

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355. *See id.* at 2046.

356. *See id.* at 2045

357. *See id.* at 2047.

358. *See van Winden, supra* note 351, at 2048.

359. *See id.* at 2046

360. *Id.*

361. *Id.* at 2049.

362. *Id.*

b. Model Two: Local Government Subsidies

The local government in Groningen, Netherlands implements a second model in which it bears the cost and time commitment of developing the entire EII infrastructure, the servers, all fiber optic cable, WLAN towers, and any additional necessary hardware and software.<sup>363</sup> It finances the development of the EII by adding up the costs of the EII development and capitalizing them for many years.<sup>364</sup> The private ISPs then compete to provide service via the publically developed EII. This EII model in Groningen has connected several communities with wireless and broadband means of communication, and as a result, many private companies and individuals are naturally attracted to this area and use the infrastructure along with employees who work in over one hundred and seventy public buildings.<sup>365</sup> Thus, Groningen has realized enormous savings by capitalizing and investing in the EII service expenses.<sup>366</sup> In Groningen, the EII is entirely owned by the public. Private ISPs compete to provide service to the Dutch citizens, who in turn use the EII, and the local government ultimately can earn a large profit from this type of investment partnership.<sup>367</sup>

c. Model Three: Local Government as Co-owner

A third manner in which the Dutch have developed a strong and reliable EII is by having a local government actually invest in and become a co-owner of an EII. The local governments in Rotterdam and Amsterdam implement this type of model. In this model, the local government actually invests in the development of the EII, organizes the implementation of the EII hardware, and gives all willing individuals living in homes and running businesses the option to participate in the network.<sup>368</sup> Essentially, these local governments own and finance the development of the EII, but they do not provide service to the EII.<sup>369</sup> Instead, they allow private ISPs to compete for service.

Allowing the private ISPs to compete for business still promotes a quality product, attracts cutting edge service and quality businesses, lowers costs of ISPs, and attracts intelligent and hardworking citizens. Rotterdam currently has more than 6,750 homes connected via fiber optic cable,<sup>370</sup> and additional homes and businesses are connected via a WLAN service.<sup>371</sup> The Dutch government and its local municipalities implement all three of these models because they believe such privatization of the development of the EII will augment local

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363. *Id.* at 2050.

364. *See* van Winden, *supra* note 351, at 2050.

365. *Id.*

366. *Id.*

367. *See id.*

368. *Id.* at 2050-51.

369. *Id.*

370. *See* van Winden, *supra* note 351, at 2051.

371. *See id.*

economic development, provide cutting edge broadband and WLAN service, attract and retain companies that provide excellent service to Dutch citizens, and attract intelligent, productive citizens.<sup>372</sup>

#### *D. United States EII Infrastructure*

In order to maintain its position as a global leader in technological advancement, the United States must continually maintain a high functioning and reliable EII. The United States has shown a strong commitment towards maintaining its status as a global technology leader. And in a free, democratic society, it should come as no surprise that transparency and scam protection are cornerstones of the American EII ideal.

##### Recent United States EII Innovations

The United States EII has come a long way since Tim Berners-Lee initially set the internet in motion, and it is so strong now that it is a world leader in providing free and easily accessible information to its domestic and foreign citizens. For example, Google television, Hulu, and Apple TV now bring television, movies, and other content to users via the internet to any household in America.<sup>373</sup> Apple has further revolutionized how individuals seek and find information with its creation of the iPhone and the iPad, where users do not just use browsers, but they interact with application platforms.<sup>374</sup> The WC3 technology is currently developing a technology that allows voice recognition with the iPad, other tablets and mobile devices, and via Gmail.<sup>375</sup> The Wii and Xbox360 video game consoles also allow individuals to browse the internet and to download specific applications configured for these consoles.<sup>376</sup>

The U.S. government has implemented a laissez-faire approach in partnering with private companies to develop several key items that guarantee a strong EII. Over the past two decades, the U.S. has expanded the availability of access points, servers, increased bandwidth, technology outlets, and LAN and WLAN, so that more individuals have access to open, free, or reasonably priced electronic information.<sup>377</sup>

##### a. Moore's Law is Proven True Again

As the United States has improved its EII by increasing the number of people who have access to technology, its internet users have increased, congruent with

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372. *See id.* at 2049-51.

373. *See* Kris Sangani, *Web Everywhere*, ENGINEERING & TECH., OCT. 2010, AT 26, 26.

374. *See id.*

375. *Id.*

376. *See id.* at 26-27.

377. *See generally* Randy L. Sparks, *Building Infrastructure for Ubiquitous Computing*, KNOWLEDGE QUEST, Jan.-Feb. 2006, 14, 14.

Moore's Law.<sup>378</sup> Thus, in places like the United States, Japan, and South Korea, citizens' access to and efficient use of electronic items such as smart phones, iPads and other information tools should increase more quickly with each passing year. For example, in 2000, only forty-four percent of U.S. citizens had access to the internet, which increased to sixty-eight percent of citizens in 2005, and in 2010, seventy-seven percent of Americans had access to the internet.<sup>379</sup> This rapid increase in internet access in eleven years depicts the validity of Moore's Law.

Further indication of how the United States' EII is becoming sturdier is that broadband access is becoming ubiquitous in metropolitan areas, and in the past two years, has increased the most in rural areas.<sup>380</sup> The rural market has produced a sixteen percent increase in broadband access from 2007 to 2009, making it the quickest growing geographic market in the U.S.

The U.S. government and the U.S. private sector took Moore's Law seriously and designed their EII in a flexible manner so that it could quickly adapt to sudden changes in computer technology.<sup>381</sup> Therefore, contributions by government agencies and private ISPs have constructed an EII that allows a company to purchase an iPad or a server that will fill up an entire store room, and this equipment will run efficiently in a specific geographic location.<sup>382</sup> When that company decides to relocate to a different geographical location, or it chooses to purchase a new iPad for its employees or a new server the size of a broom closet, it may purchase and implement these technologies without worrying about network configuration problems.<sup>383</sup> Such a guarantee of EII configuration with new and older technologies ensures private companies, government agencies, and private individuals that any change in their technology should have no negative impact on their ability to market, distribute, or describe their products.

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378. Moore's Law states that the number of transistors on a chip will double about every two years. Thus, technological development of computers, computer hardware, and software will double approximately every two years. An increasing number of United States citizens should have affordable and efficient access to hardware such as an iPad with the passing of each year.

379. Internet World Stats: Usage and Population Statistics, <http://www.internetworldstats.com/>. See also Marilyn S. Fetter, *The Internet: Backbone of the World Wide Web*, 30 ISSUES IN MENTAL HEALTH NURSING 281, 281 (2009).

380. *Id.*

381. See generally Randy L. Sparks, *Building Infrastructure for Ubiquitous Computing*, KNOWLEDGE QUEST, Jan.-Feb. 2006, 14, 14.

382. See generally *id.* at 14-15.

383. *Id.* Of course a company needs to purchase service from a reliable ISP, as there is no guarantee some ISPs may provide better services than others. Also, with the advent of cloud computing, geographical locations and mortar free offices are frequently implemented. See InfoWorld.com: Cloud computing, <http://www.infoworld.com/d/cloud-computing/what-cloud-computing-really-means-031> (last visited May 4, 2011).



#### b. American EII Regulation

The United States Congress has passed a multitude of laws concerning its EII. One such piece of legislation is 18 U.S.C. § 1030, titled “Fraud and related activity in connection with computers.”<sup>384</sup> This legislation prescribes criminal penalties for a private citizen or a government employee who knowingly accesses a computer without authorization, and in the process, knowingly obtains financial information with the intent to defraud.<sup>385</sup> Possible punishment includes imprisonment up to twenty years and a fine.<sup>386</sup>

Many countries around the world have increased transparency in their governments by enacting legislation that allows for the free flow of information, and the United States is no different. The United States’ version of the Freedom of Information Act (“FOIA”)<sup>387</sup> was promulgated with the intent of having the American government maintain a subservient role to the individual. This would allow individual citizens to obtain as much information about the government as possible. When FOIA was originally passed in 1966, it was with the intent that citizens had the right to access and become cognizant of government information. Therefore, all that a citizen would have to do to gain access to certain information is make a written request or access it independently. However, some exceptions to FOIA have developed over the years. For example, anything may be kept confidential if the information contained within pertains to national secrets or other classified information.<sup>388</sup> Yet, despite these restrictions, citizens of the United States are provided with a wealth of information when compared with a country like Nigeria that may criminally prosecute an individual for garnering and disseminating the number of cups of tea Nigerian government officials consume.

#### c. 419 Scam Prevention

Another piece of federal legislation promulgated to protect private citizens and government employees states that any person who intentionally intercepts, attempts to intercept, or procures another person to intercept a wire, oral, or electronic communication, or intentionally discloses to another person the contents of any wire, oral, or electronic communication, shall be criminally

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384. 18 U.S.C. § 1030 (2006).

385. *Id.*

386. *Id.*

387. 5 U.S.C. § 552 (2006).

388. *Id.* (Types of classified information include: information related solely to the internal personnel rules and practices of an agency, any information exempted by federal statute, trade secrets, inter agency or intra agency memoranda, personnel and medical files, records or information compiled for law enforcement, information regarding the oversight of an agency responsible for the regulation of a financial institutions, and geological and geophysical data, such as a map).

punished by a fine and imprisonment of no more than five years.<sup>389</sup> These laws prevent many potential criminals from participating in EII fraud similar to Nigeria's 419 scams or hacking schemes similar to what takes place in China. And unlike citizens in many of these other countries, Americans are provided with quick, free, and easy access to these statutes via numerous electronic sites: GPO access,<sup>390</sup> the Library of Congress' Thomas,<sup>391</sup> Cornell University Law School Legal Information Institute,<sup>392</sup> and FindLaw.<sup>393</sup> This ubiquitous access to laws that govern their lives allows American citizens to know what to expect from the American legal system. Further, if they violate a law, they can be cognizant of what punishment awaits them. This awareness of the law also augments American citizens in trying not to violate the law, and in general, in improving their trust in the American federal government.

### *E. Dutch EII Regulations*

#### 1. Promote Fair, and Open Access to E-Information

The primary goal of the Netherlands current approach to regulating their EII is to maintain fair, equal,<sup>394</sup> and open access to information.<sup>395</sup> The Netherlands is a nation-state member of the European Union ("EU"), and this fairness and equality approach to content on the internet has evolved since its inception into the EU.<sup>396</sup> In the late nineteen-nineties, the Netherlands' legislature considered inappropriate or harmful content on the internet to be a matter of personal choice based on one's beliefs, preferences, and social and cultural traditions.<sup>397</sup> Therefore, content received through a wireless or wired means in one country may be considered criminal, whereas in another country it may be perceived as harmless.<sup>398</sup> The Netherlands government and other EU nations followed a self-

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389. 18 U.S.C. § 2511 (2006).

390. *GPO Access*, <http://www.gpoaccess.gov/uscode/index.html> (last visited May 4, 2011).

391. The Library of Congress Thomas, <http://thomas.loc.gov/links/> (last visited May 4, 2011).

392. Cornell University Law School Legal Information Institute, <http://www.law.cornell.edu/uscode/> (last visited May 4, 2011).

393. FindLaw, <http://www.findlaw.com/casecode/uscodes/> (last visited May 4, 2011).

394. Developing a definition of fairness is an ongoing debate in the Netherlands and the European Union, of which the Netherlands is a member country. Also, the debate persists as to whether fairness can ever exist on the internet or on any other entity on which profits are generated, regardless of the regulations promulgated.

395. See J.P. Mifsud Bonnici & C.N.J. De Vey Mestdagh, *Right Vision, Wrong Expectations: The European Union and Self-Regulation of Harmful Internet Content*, 14 INFO. & COMM. TECH. L. 133, 133-35 (2005).

396. Europa: Gateway to the European Union, [http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm). (last visited May 4, 2011).

397. See Bonnici, *supra* note 395, at 133.

398. *Id.*

regulatory approach to policing content placed on the internet and the actions of individual users.<sup>399</sup>

## 2. Dutch EII Regulations Invite Economic Development

The primary motive for utilizing a self-regulatory form of policing the internet was economic development in all member nations of the EU.<sup>400</sup> The majority of member nations believed that creating an electronic environment where information and trade could flow freely, without over-regulation, would foster an environment in which economic markets could thrive, and consumer trust and business development would increase.<sup>401</sup> This laissez-faire approach to internet regulation is codified in Article 10(2) of the European Convention of Human Rights and Fundamental Freedoms, which declares that democratic societies must be committed to protecting a citizen's right to freedom of expression.<sup>402</sup> The approach relies on several key aspects: a hotline provided by the EU to which consumers may report alleged crimes and misuse; internet filters to prevent the flow of information statutorily declared as illegal by the EU (e.g., child pornography); and awareness in segments of the population at high risk of suffering harm from contact with statutorily declared illegal content or actions (e.g., schools, prisons, etc.). Overall, the main idea that percolates from any EU nation-state is that this international conglomerate still aspires for an open access electronic venue for the people: a venue in which users can freely exchange information, entrepreneurs can create viable economic ventures, and governments can disseminate relevant information to citizens.

## 3. Positive Economic and Psychological Effect of Dutch Infrastructure and Regulations

Due to the decentralized and private citizen/private business focused approach to establishing a solid EII and the logical and effective implementation of cyber regulations, Dutch citizens have benefited from high quality EII service and the creation of new jobs. For example, the price for ISPs has diminished,

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399. *See id.* at 134.

400. *Id.* at 136.

401. *See id.*

402. *Id.* During the later part of this decade, the EU and the Netherlands have tempered the notion of "complete free flow of information with the introduction of possible net neutrality. Net neutrality argues for all ISPs to be granted the right to give its customers the same internet browsing speeds, regardless of the site a consumer is attempting to view. Most ISPs in the western world currently have legal authority to limit browsing speed to sites that are not economically viable. However, a push for net neutrality, which would require all ISPs to grant the same speed for all consumers to all sites is in progress in Europe and in the United States. The EU has set up a commission called Body of European Regulators of Electronic Communications (BEREC) to study the pros and cons of potential net neutrality laws. This commission is set to give a recommendation about possible net neutrality laws in 2011. *See also* Europe's Information Society: Thematic Portal, [http://ec.europa.eu/information\\_society/policy/ecommm/tomorrow/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecommm/tomorrow/index_en.htm).

niche markets have developed (e.g., specific ISPs now serve a certain corporate client), and customers have more choice—which in turn improves the product ISPs provide.<sup>403</sup> Cities in the Netherlands such as Rotterdam, Amsterdam, and Groningen have reported that their models have promoted economic development in several ways. The models have made their cities more attractive to citizens and companies through the use of widely available WLAN and broadband networks, which in turn has promoted competition, leading to lower prices for ISP service; additionally, they have improved economically distressed neighborhoods by offering them cheaper ISP service.<sup>404</sup> Such infrastructure allows virtually all denizens of the Netherlands to access high-speed internet connections for free.<sup>405</sup>

#### 4. WLAN and Broadband Equate to a Boom for the Dutch Economy

The development of WLAN and broadband high-speed internet has also been a boom for the Netherlands economy and for citizen convenience. This pro-private-business approach attracts many intelligent and creative minds from around the world who have opened successful private businesses. Also, this EII has allowed Dutch citizens to purchase needed items quickly and efficiently via electronic methods. For example, many private individuals commence a business in a Dutch city and utilize websites that allow them to advertise, list specific information, provide detailed product catalogs, list prices, and sell and deliver products directly from their website.<sup>406</sup>

##### The Albert Heijn Example

One of the most effective and profitable uses of the EII in the Netherlands has been to implement hybrid uses of the four above-mentioned website purposes to advertise and sell goods to domestic and foreign customers.<sup>407</sup> For example, one grocery called Albert Heijn, founded in 1887 in Oostzaan, now serves citizens via its brick and mortar stores and via the internet with two separate websites. Albert Heijn offers one website to list its products, services, and prices which generally serve its traditional customers.<sup>408</sup> The customers can view a list of products and become cognizant of what they wish to purchase prior to visiting a brick and mortar store.<sup>409</sup> Additionally, this grocer offers a second

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403. See van Winden, *supra* note 351, at 2046.

404. See *id.* at 2049-51.

405. *Id.* at 2051.

406. J.W.J. Weltevreden, O.A.L.C. Atzema, & R.A. Boschma, *The Adoption of the Internet by Retailers: A New Typology of Strategies*, J. URB. TECH. Dec. 2005, at 59, 64-65.

407. See *id.*

408. *Id.* at 65.

409. *Id.*

website that serves other geographical areas and nontraditional customers.<sup>410</sup> Such nontraditional customers include elderly or disabled individuals who can order products from Albert Heijn and have these items delivered directly to their residence.<sup>411</sup> This grocer also accepts preorders for items via their nontraditional website for people who often travel by train. By using this nontraditional website, a person on the way to a train station may purchase an item using a mobile device and pick it up when he or she arrives at that particular train station.<sup>412</sup>

Juxtaposing this type of service that is made possible because of the advanced Dutch EII against Nigeria, China, or North Korea's EIIs, and how it affects private business and customer convenience in those countries, one may deduce that the citizens of these authoritarian ruled countries are being denied access to the convenience and efficiency that citizens of the Netherlands enjoy. Also, these limited EIIs thwart private businesses from making an extra profit because they are not able to offer these services.

##### 5. Dutch EII Allows Entrepreneurs to Set Up a Local Business with Ease

The goals of the Dutch government are to attract private businesses run by honest, competent, and economically minded individuals; synergize social benefits, such as providing free internet access to economically poor neighborhoods; and lower prices while improving the quality of ISPs.<sup>413</sup> Due to this pro-citizen/pro-private business laissez-faire approach to Dutch EII regulation, a person may easily locate and access necessary business forms in electronic format. A citizen can locate forms in several different languages using Dutch governmental websites, which include the following: form instructions, filing fee information, tax information, insurance information, and business planning information.<sup>414</sup> For example, one of these electronic portals called Expatax provides users with easily accessible instructions and forms to assist in setting up a limited liability company.<sup>415</sup> This site further explains in detail the types of liability protection that this type of business entity provides, any mandatory fees, management formation information, and other pertinent information.<sup>416</sup> This site additionally provides a detailed brochure assisting in

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410. *Id.* See also Albert, <http://www.albert.nl/display.do?page=home> (last visited May 25, 2011).

411. Albert, <http://www.albert.nl/display.do?page=home> (last visited May 25, 2011).

412. *Id.*

413. See van Winden, *supra* note 407, at 2053.

414. Expatax – Starting a Business in the Netherlands, <http://www.expatax.nl/startingbusiness.htm> (last visited May 4, 2005).

415. *Id.*

416. *Id.* See also Setting up a Limited Company in the Netherlands Brochure, <http://www.expatax.nl/Documents/Brochure%20Setting%20up%20a%20limited%20company%20in%20the%20Netherlands.pdf> (last visited May 4, 2011).

the formation, management, and dissolution of a limited company in the Netherlands.<sup>417</sup>

Providing these tools to the citizens of the Netherlands, and to foreigners who wish to conduct business in the Netherlands, equips these individuals with essential EII tools that can assuage the commencement and management of a business association. Such EII tools allow entrepreneurs to provide cost effective, quality, and beneficial products to the denizens of the Netherlands. Contrasting these tools and the resulting services and products with the lack of the same offered in Nigeria, North Korea, and China, one can easily surmise that having a strong and appropriately regulated EII will produce a stable and thriving economy with high quality and easily acceptable products. This ultimately results in producing citizens of the Netherlands, and foreign individuals who conduct business in the Netherlands, who trust the Dutch government to help maintain and regulate the EII.

#### *F. The Dutch EII Creates Public Trust*

Along with synthesizing and offering technology via a well-built, well-maintained EII that promotes prosperity and quality goods and services, the Netherlands' logical and effective regulation of its EII promotes public trust. One empirical study reveals that the Netherlands is noted as one of the least corrupt countries.<sup>418</sup> This study focused on the qualitative trait of how the Netherlands' citizens viewed their government: as trustworthy or untrustworthy.<sup>419</sup> The questionnaire used in this study focused on how corrupt Dutch citizens perceived public officials and acts of public administration to be and how any such corruption was addressed.<sup>420</sup> This study defined corruption as public officials "providing, requesting, or obtaining private favors with a view to a person doing or not doing something in their official capacity," such as bribing someone or being bribed.<sup>421</sup>

The study addressed several important questions. Are politicians taking bribes and using EII information in ways counter to what current law dictates, similar to what occurs in Nigeria or China? Was the corruption dealt with effectively in the criminal justice system? Was the corruption diminished by the punishment?<sup>422</sup> Was the internal investigation sufficient to provide significant

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417. Setting up a Limited Company in the Netherlands Brochure, <http://www.expatax.nl/Documents/Brochure%20Setting%20up%20a%20limited%20company%20in%20the%20Netherlands.pdf> (last visited May 4, 2011).

418. G. De Graaf, L.W.J.C. Huberts, & J.M. Nelen, *Is the Glass Half Full or Half Empty: Perceptions of the Scale and Nature of Corruption in the Netherlands*, 9 *PERSP. ON EUR. POL. & SOC'Y* 84, 84 (2008).

419. *See id.* at 84-85.

420. *See id.* at 85.

421. *Id.* at 92.

422. *See id.* at 85.

evidence to convict and punish a wrongdoer?<sup>423</sup> Or, is such corruption and misuse of information—preventing the public from obtaining uncensored information—an acceptable practice in the Netherlands,<sup>424</sup> as it often is in countries such as Nigeria, North Korea, and China? The study's results revealed that in the Netherlands the ministries that maintained and operated any government control over the EII had .19 corruption investigations per thousand employees per year during the study's five-year period.<sup>425</sup> This is remarkably low compared to the apparent widespread corruption in Nigeria, North Korea, and to an extent in China. From 1994 to 2003, half of the cases forwarded to the Public Prosecution Service in the Netherlands regarding a public servant or public administrator had a prosecution initiated and were based at least in part on anti-corruption cases.<sup>426</sup> Once a criminal prosecution is initiated in the Netherlands by the Public Prosecution Service, a conviction is received nine out of ten times.<sup>427</sup> After conviction, the Dutch judicial system consistently imposes punishments similar to those of the United States judicial system, such as community service, fines, or custodial confinement punishment.<sup>428</sup> One may surmise that a higher level of trust exists due to the ostensibly lower amount of government corruption involved in the Netherlands' maintenance of their EII and the consistent prosecution and punishments of offenders.

If one is looking for corruption involving the EII in the Netherlands, surely one may find it, as there is no crime free utopia on this earth. However, the fact that EII corruption is reported, investigated, and prosecuted—with convictions and punishments when necessary—conveys to the Dutch citizens that its government is helping regulate an EII for the citizens' benefit. It also communicates that it is not maintaining an EII solely for the government's benefit, which is ostensibly different than Nigeria, North Korea, and China. This system of order demonstrates that the Dutch government is on notice and will investigate, convict, and punish those government officials who are committing abuses of power that may corrupt the EII.<sup>429</sup> The Dutch citizens are cognizant of this altruistic effort manifested in the Dutch governments' actions, and in turn, this creates a sense of trust in Dutch citizens toward their government.

#### *G. Effect of the United States EII on Individuals and Business*

As a result of the fair and logical regulation of the United States' solid EII, millions of Americans depend on the American EII for their jobs, health, and

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423. *See id.* at 85-87.

424. *See De Graaf, supra* note 418, at 85-87.

425. *Id.* at 87.

426. *Id.* at 90-91.

427. *Id.*

428. *Id.* at 91.

429. *See id.* at 93.

entertainment.<sup>430</sup> The American government is also reliant on the EII to distribute information to its citizens. For example, all fifty states and the District of Columbia offer Secretary of State web sites that offer various business forms,<sup>431</sup> election information,<sup>432</sup> or general alerts notifying citizens of possible fraudulent activity occurring in their jurisdiction.<sup>433</sup> Other state governmental websites offer information regarding the state's Attorney General,<sup>434</sup> state environmental laws, policy, notices and hearings,<sup>435</sup> and services to senior citizens.<sup>436</sup> Other government-managed websites in the United States offer information about current state legislation, including bills, committee reports, legislative hearings and state fiscal reports;<sup>437</sup> national laws, regulations, rules, committee reports, bills, conference reports, and fiscal reports;<sup>438</sup> federal and state court opinions, rules, and dockets;<sup>439</sup> and state and federal statutes, regulations, cases, and other regulatory promulgations.<sup>440</sup>

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430. See Nigel Shadbolt & Tim Berners-Lee, *Web Science Emerges*, SCI. AM., Oct. 2008, at 76, 76.

431. Such forms may be necessary to commence, modify or dissolve a business. They may provide necessary forms to for a Board of Directors for a corporation, or provide mandatory forms for filing corporate tax reports. See, e.g., New Mexico Secretary of State, <http://www.sos.state.nm.us/> (last visited May 4, 2011).

432. These forms may consist of registration forms for eligible voting, voter guides, polling information, candidate information, electronic voting information, absentee voting... See, e.g., Texas Secretary of State, <http://www.sos.state.tx.us/> (last visited May 4, 2011).

433. These fraud alerts may consist of inflated gas prices during a natural disaster such as a hurricane, currently known scams targeting seniors, spurious activity affecting denizen's physical and mental health. See, e.g., North Carolina Department of the Secretary of State, <http://www.secretary.state.nc.us/corporations/corpalerts.aspx> (last visited May 4, 2011).

434. These websites may offer information regarding child support, consumer protection, crime victims' rights and assistance, and Attorney General issued opinions. See, e.g., Attorney General of Texas, <https://www.oag.state.tx.us/> (last visited May 4, 2011).

435. These websites offer information regarding a state's water, air, waste, cleanup, toxic hazards, and recycling. See, e.g., Department of Ecology State of Washington, <http://www.ecy.wa.gov/> (last visited May 4, 2011).

436. These websites offer information about agencies that regulate, Alzheimer facilities, nursing homes, assisted living centers, hospice care, Medicaid, Medicare, and disease and illnesses. See, e.g., Oregon.gov Department of Human Services, <http://www.oregon.gov/DHS/> (last visited May 4, 2011).

437. See, e.g., Maine State Legislature, <http://www.maine.gov/legis/> (last visited May 4, 2011); see also Mississippi State Legislature, <http://billstatus.ls.state.ms.us/> (last visited May 4, 2011); see also Kentucky State Legislature, <http://www.lrc.ky.gov/> (last visited May 4, 2011).

438. See, e.g., The Library of Congress Thomas, <http://thomas.loc.gov/> (last visited May 4, 2011); see also GPO Access, <http://www.gpoaccess.gov/> (last visited May 4, 2011).

439. See, e.g., Supreme Court of the United States, <http://www.supremecourt.gov/> (last visited May 4, 2011); see also State of Connecticut judicial Branch Connecticut Appellate Court, <http://www.jud.ct.gov/external/supapp/appellate.htm> (last visited May 4, 2011).

440. See, e.g., GPO Access United States Code, <http://www.gpoaccess.gov/uscode/> (last visited May 4, 2011); see also Supreme Court of the United States: Opinions, <http://www.supremecourt.gov/opinions/opinions.aspx> (last visited May 4, 2011).



### 1. The United States' EII Promotes Efficient Access to Information

Having electronic access to all of these materials helps individuals reliably and efficiently access documents. For example, an attorney in the United States can gain access to a needed code, case, or legal form within seconds by using one of these websites. Just the same, an individual in the United States may commence, modify, or dissolve a business association in just a few days, whereas it may take agents of a business in Nigeria or China forty or more days to complete such a task. A person hoping to acquire information about child support from a state government website in the United States can do so in a matter of minutes, whereas individuals in Nigeria, China, and the DPRK may never find pertinent information regarding child support. Efficient access to such a breadth of relevant, reliable, and valid information creates trust in one's government.

### 2. The United States' EII Improves Access to Health Care Information

The United States' open and free (or reasonably priced) internet access has also improved the health care system. Despite recent debates inculcated with animosity and venom regarding U.S. health care, some innovations have improved the health care system. In 2006, approximately eighty-percent of adult users of the internet in the U.S. searched for answers to health care questions online.<sup>441</sup> Over half of these searches indicated that the results had a significant impact on the health care decisions individuals made regarding their treatment of an illness.<sup>442</sup> Several electronic sites are available for U.S. citizens to locate any of this information such as WebMD,<sup>443</sup> the Mayo Clinic,<sup>444</sup> and Women's Health.<sup>445</sup> Efficient access to each of these sites empowers Americans to choose doctors with whom they feel comfortable, treat minor symptoms in a cost effective way, locate affordable insurance, and assist in making medical decisions. In contrast, individuals who reside in Nigeria, China, or the DPRK are denied access to a valuable resource because of the lack of access to open and advanced EIIs.

#### *H. Resulting E-Readiness Score for the United States and the Netherlands*

As a result of the advanced EII systems in the United States and the Netherlands, individuals residing in those countries also have access to a

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441. Marilyn S. Fetter, *The Internet: Backbone of the World Wide Web*, 30 ISSUES IN MENTAL HEALTH NURSING 281, 281 (2009). See also Pew Internet and American Life Project, <http://www.pewinternet.org/> (last visited May 4, 2011).

442. *Id.*

443. WEBMD, <http://www.webmd.com/> (last visited May 4, 2011).

444. MAYO CLINIC, <http://www.mayoclinic.com/> (last visited May 4, 2011).

445. WOMEN'S HEALTH, <http://www.womens-health-questions.com/> (last visited May 4, 2011).

plethora of information dissemination tools.<sup>446</sup> All of these tools can distribute a wide array of information relating to anything from the legal system to art and culture. Juxtaposed with the underdeveloped, censored EIIs in countries such as China, Nigeria, and the DPRK, the U.S. and Dutch citizens are fortunate to have free and open access to these tools.

Thus, the Dutch and the Americans receive one point on our measurement scale for building and maintaining strong, solid EIIs. They also receive a point for promulgating and applying logical and effective regulations to maintain and advance their EII. Empirical studies show that the Dutch citizens trust their government about as much as individuals are willing to trust their government, whether fatuously or not. Despite some polls showing a general distrust precipitating in Americans of their government in general,<sup>447</sup> most do still heavily trust the national and state governments to create, maintain, and distribute information via an EII. Thus, both countries earn the full possible three points on the e-readiness scale.

## VII. CONCLUSION

In conclusion, various e-readiness models have been proposed by scholars. This paper used three factors to measure a nation's e-readiness: the current state of the nation's EII, the laws that have been promulgated to regulate the EII, and the resulting level of trust manifested by citizens toward their nation's government as a result of the EII and the laws that police it. On the three point e-readiness scale proposed, Nigeria and the DPRK received a score of zero due to their archaic EII structure, the whimsical and illogical regulation of their outdated and fragile EII, and the complete lack of trust their citizens convey towards their authoritarian and corrupt governments. Not surprisingly, both of these countries' soccer infrastructures, FA regulations, and low levels of trust that players and coaches have in their respective FA mirrors the weak EIIs, EII regulations, and low levels of trust that the citizens have in their respective governments and regulation agents.

Japan and South Korea earned all three possible points on the e-readiness scale for their strong EIIs, business-friendly and reformed EII regulations, and the resulting trust created between their citizens and their national governments. The Chinese government, however, continues to hermetically regulate and censor its EII, often encouraging illegal activity on the EII; thus, it is not as progressive as its Asian counterparts. This results in Chinese citizens and potential foreign investors being deterred from trusting the Chinese government

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446. See Fetter, *supra* note 441, at 282 (tools such as online chat, instant messaging, file transfer, blogs, remote access, collaboration software, streaming media, social networking, virtual worlds such as Second Life, and voice over internet protocol).

447. See Gallop, <http://www.gallup.com/poll/102706/americans-widely-disappointed-democrats-congress.aspx> (last visited May 4, 2011); see also Rasmussen Reports, <http://www.rasmussenreports.com/> (last visited May 4, 2011).

and its tightly controlled EII. Therefore, China, while still having the potential to have a burgeoning and economically viable EII, presently earns a score of zero on its e-readiness rating. This e-readiness score relates to how the regulation of China's soccer FA and its current infrastructure limit China's current possibility of winning major international tournaments such as the World Cup. In the meantime, the soccer regulations and infrastructures of Japan and South Korea are propelling each of their nation's national teams toward near-future international soccer success, just as their regulations and EIIs are making them major players in the global economy.

The United States and the Netherlands have built two of the most progressive, open, and economically beneficial EIIs in the world. These EIIs have helped disseminate relevant information in an efficient manner to both citizens and foreign denizens throughout the world. Both countries promulgate logical and enforceable statutes to effectively regulate corruption within their EIIs, and both the American and Dutch judicial systems successfully follow through with prosecutions of criminals. These well-organized EIIs, coupled with reliable and valid EII regulations, synergize a high level of citizen trust that their governments will allow open and quick access to relevant laws, business forms, and other necessary information. This efficient access and high level of resulting trust attracts highly intelligent and productive individuals to open businesses in both countries. Attracting such individuals ultimately raises the standard of living for both countries and provides an economic boom, better products, and a happier citizenry overall. They both earn a score of 3 on the e-readiness scale. Each of these nations' EIIs mirror their countries' status in the international soccer arena as well. Thus, this is why the Netherlands were a goal away from a World Cup championship in 2010, and why the United States may be crowned World Cup Champions in 2014 in Brazil.

In the future, the United States and the Netherlands need to continue their progressive synthesis of their EIIs by continuing to include cutting edge technologies in their EIIs and persisting in their promulgation of laws that protect EII users with a genuine interest in bettering their country. The Japanese and South Korean governments should maintain their *laissez-faire* approach in regulating their EIIs, and China must either emulate the Japanese and South Korean approach, or it will join Nigeria and the DPRK in the EII abyss. The Nigerian and DPRK governments almost certainly will have to undergo a complete regime change to even commence an EII refurbishment. However, until these nations obtain new government leadership, their citizens will continue to languish in an inoperable EII, face capricious regulation, and turn to 419 scams or similar crimes because of the extreme lack of faith in one's ability to prosper economically, morally, and personally.