

**What would the political philosophers do?  
An exploration of ideological perspectives on  
'athlete-centered' reform**

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In this paper I explore how the values inherent in the political philosophies of libertarianism, capitalism, utilitarianism, and egalitarianism are manifest in big-time college athletics reform which places athletes' rights as its highest value. The initial intent of the paper focuses on the use of Marx and Engels' dialectical materialism as a way of framing the historical relationship between the NCAA and the athletes. Next, I turn to the main thrust of the paper which is to utilize the ideological inquiry approach to explore the overarching values inherent in the perspectives of John Locke, Adam Smith, John Stuart Mill, and John Rawls in an attempt to see more clearly how their perspectives are manifest in 'athlete-centered' reform. Lastly, I put forth that, based on the values inherent in the perspectives of the political philosophers, 'athlete-centered' reform begins with liberty for the athlete, which is assured by right, just, and democratic institutions, and is secured by an athlete association.

**P**olitical economy...belongs to moral philosophy... and is considered as a branch of the science of a statesman or legislator...to provide a plentiful revenue or subsistence for the people...or to enable the people to provide a revenue or subsistence for themselves. (Adam Smith, *Wealth of Nations* in Morrow (Ed.), 1969, p. 60)

Adam Smith instructs that morality should guide leaders as they make decisions that profoundly affect the well-being of a society. For this paper, "a society" is defined as the National Collegiate Athletic Association (hereinafter, "NCAA") member institutions in the power five conferences (ACC, SEC, Big 10, Big 12, and PAC 12) and Notre Dame as an independent in

football. “The leaders”, as Smith points out, are those in positions of power (the NCAA and its members as a governing collective) who have the solemn duty to morally legislate. Because the play of the athletes (primarily male athletes in the sports of football and basketball) is the product which the schools, conferences, and NCAA commercially exploit by way of television contracts, gate receipts, and merchandise sales, to what degree is morality guiding the leadership in their decision making such that the athletes are provided a revenue or are enabled to provide a revenue for themselves? While the power five conferences have made recent progress on this front (i.e., voting to increase the scholarship to cover the full cost of attendance (Hosick, 2015)), it is fruitful to explore the overarching values that are manifest in an ‘athlete-centered’ college sports system. Toward this goal, I explore how the values inherent in the political philosophies of John Locke, Adam Smith, John Stuart Mill, and John Rawls are manifest in reform which places athletes’ rights as its highest value. To begin, Marx and Engels’ dialectical materialism is presented as a way of framing the historical relationship between the NCAA and the athletes. Next, I utilize the ideological inquiry approach to explore the overarching values inherent in the political philosophies in an attempt to see more clearly how said values are evident in ‘athlete-centered’ reform. Lastly, by way of model creation, I discuss the ways in which the values held by

the political philosophers are manifest in ‘athlete-centered’ reform.

### **Theoretical Foundation: Dialectical Materialism**

A historical exploration of moral values calls for an awareness of the economic, political, social, and religious context and an understanding of the process of change. Change, according to Hegel, is grounded in ideas; namely, “every idea...bred its opposite and the two merged into a synthesis which in turn produced its own contradiction...and history was...the expression of this flux of conflicting and resolving ideas” (Heilbroner, 1967, p. 129). Marx and Engels refined Hegel’s work realizing that in order to understand the process of change, *and* to actually affect change, history needed be interpreted from the perspective of dialectical materialism. “*Dialectical* because it incorporated Hegel’s idea of inherent change, and *materialism* because it grounded itself not in the world of ideas, but...the social and physical environment” (Heilbroner, 1967, p. 130). Dialectical materialism, then, focuses on how capitalism (*thesis*) is socially and economically untenable (*antithesis*) and how a fundamentally different system emerges when the workers gain class consciousness and overthrow the owners (*synthesis*) (Marx, 1932, p. 10, in Eastman (Ed.)). Here, Marx and Engels revealed that “...socialism was no longer an accidental discovery of this or that ingenious brain, but the necessary outcome of the struggle between two

historically developed classes—the proletariat and the bourgeoisie” (Engels, *Socialism: Utopia and scientific*, in Tucker (Ed.), 1972, p. 622).

In the same sense, and on the topic of this paper, the existing NCAA system is also socially and economically untenable. Indeed, it is safe to say that the process of big-time college sports reform has not always been a rational attempt to achieve justice and fairness; rather, it has been a relationship of strife wherein the NCAA has sought to maintain the status quo and athletes and reformers have sought to change it. This relationship is untenable because it embodies a contradiction wherein the economic interests of the NCAA and the athletes are fundamentally at odds. To give the reader a sense as to how the material dialectic frames and informs this relationship, the historical narrative that follows underscores the ongoing economic strife between the NCAA and the athletes and reformers who seek to change the system.

### **The NCAA System through the Lens of Dialectical Materialism**

Founded in 1906 as a way to curb the violence in football, in 1910 the Intercollegiate Athletic Association of the United States became the National Collegiate Athletic Association (NCAA) (Crowley, 2006). With just 39 colleges and universities in its impetus, the non-profit NCAA currently has more than 1,200 members and boasts an annual budget of

nearly \$1 billion (NCAA Membership, 2015; NCAA Consolidated Financial Statements, 2014). Even before its founding, however, the economic interest in college sport existed when, in 1852, the prize for winning a rowing match between Harvard and Yale “was a pair of expensive black-walnut oars” and “no one complained that...a railroad owner sponsored the event” (Smith, 1985, p. 223; Smith, 1993, p. 432). With Harvard and Yale leading the charge, in the early 1900’s, Harvard spent \$300,000 to build its football stadium and Yale followed “...by constructing a stadium with a seating capacity of 75,000...” (Sack & Staurowsky, 1998, p. 31). By 1908, concerned that athletes would exploit their talent for pay during the summer, Amos Alonzo Stagg of the University of Chicago supported the development of a definition of amateurism. In fierce opposition to such a restriction, J.P. Welsh of Pennsylvania State University stated, “The student in good collegiate standing...needs to be let alone in the full, free, untrammled exercise of his American citizenship, which entitles him to life, liberty and the pursuit of happiness, which sometimes means money” (Hawes, 2000, para. 32). Despite such protest, in 1916, NCAA members agreed to insert a definition of amateurism into its bylaws: “An amateur athlete is one who participates in competitive physical sports only for the pleasure and the physical, mental, moral and social benefits directly derived therefrom” (Hawes, 2000, para. 35).

With World War I having ended, college sports were becoming an integral part of higher education as a business operation with expanding stadiums, national radio broadcasts, and extensive travel (Smith, 2000). So too, the locus of control over college athletics shifted "...from an activity that was internally controlled for internal purposes to an activity that had the entertainment of external constituents as its purpose" (Gerdy, 1997, p. 32). By 1922, the NCAA was already modifying its definition of amateurism to read: "An amateur sportsman is one who engages in sport solely for the physical, mental, or social benefits he derives therefrom, and to whom the sport is nothing more than an avocation" (Sack & Staurowsky, 1998, p. 35). And, in 1929, The Carnegie Foundation issued a scathing report of college football noting that rampant professionalism, commercialization, and exploitation were corrupting college sports and, by extension, academic institutions (Savage, Bentley, McGovern, & Smiley, 1929).

Prior to the end of World War II, President Franklin Roosevelt enacted the Serviceman's Readjustment Act of 1944 (i.e., the "G.I. Bill") (Reimann, 2004). With the massive influx of male students, many of whom were athletes, college football realized a direct benefit. As competition to recruit the best athletes increased, under-the-table payments increased as well. In an attempt to reign in these excesses the NCAA passed the Sanity Code in 1948 which aimed to establish uniform financial

aid standards; unfortunately, adherence was short-lived as the competition to secure the most talented athletes proved too great (Byers, 1995).

By the 1950's, with higher education transitioning to the business-model, corporate language began to permeate the walls of the academy; students became customers, and academic programs became products (Sack, 2008). As institutions began to adopt a more entrepreneurial model, they realized that athletics was an effective way to promote and market the product of higher education (Stoke, 1954). Further, with Americans enraptured by the television, colleges had the perfect mode through which to sell their product. Sack (2008) refers to this period as the era of "academic capitalism" wherein "...high-profile athletic teams are presumed to give universities an edge in attracting new students, creating revenue streams, and...enhancing a university's brand..." (p. 48).

With television contracts propelling the NCAA's revenue stream into the millions, the colleges realized that they had to unite on the issue that college sports still were only for 'amateurs'. So, in 1956, "colleges, acting through the NCAA in the name of 'amateurism,' installed their own pay system called the athletics grant-in-aid or athletics "scholarship" (Byers, 1995, p. 65). The fear was that the "...athletes could be identified as employees"; thus, the NCAA "...crafted the term *student-athlete*, and soon it was embedded in all NCAA rules and

interpretations as a mandated substitute for such words as players and athletes” (Byers, 1995, p. 69). In addition, NCAA rules capped financial inducements to athletes by universities, limited player mobility through transfer rules, and in 1967 “the NCAA passed a rule allowing athletic scholarships to be taken away from athletes who voluntarily withdrew from sports” (Sack, 2008, p. 70). This “fraudulent misrepresentation rule” gave coaches the authority to more easily get rid of unwanted players and it was no coincidence that the rule was passed “during the period when athletes on some college campuses were in revolt” (p. 70).

By 1981, NCAA television rights totaled \$31 million/year; a 77% increase from 1977 (Byers, 1995, p. 145). With so much money to be had, in 1984, the colleges and universities demanded the right to control the lucrative market of televised football (*NCAA v. Bd. of Regents of the University of Oklahoma and University of Georgia Athletic Association*, 104 S. Ct. 2948, 1984). While the NCAA lost the right to monopolize the football television market, Judge Bork’s comments in *Bd. of Regents, et al.* (1984) gave considerable assist to the NCAA by solidifying the necessity of ‘amateur’ college sports. Indeed, Judge Bork noted that in order to maintain the integrity of the product (i.e. amateur sports), the principle of amateurism must be *perceived* as secure; and, this product integrity “cannot be preserved except by mutual agreement [of the colleges]...[t]hus, the NCAA plays a

vital role in enabling ... a product to be marketed which might otherwise be unavailable” (Bd. of Regents, et al., 1984, p. 102).

By 1998, the free market for coaches’ salaries broke wide open when assistant coaches successfully challenged the NCAA’s restricted earnings rule (*Law v. NCAA*, 134 F.3d 1010, 10<sup>th</sup> Cir. 1998). Indeed, currently over 100 college football and men’s basketball coaches earn \$1 million or more (Nick Saban, head football coach at the University of Alabama, tops the football list making more than \$7 million/yr. and Mike Krzyzewski, head men’s basketball coach at Duke University, makes \$9.6 million/yr.) (*USA Today NCAA Salaries*, 2015). With the free market operating for the NCAA, conferences, institutions, coaches, and athletic administrators, the athletes, under the guise of ‘amateurism’, remained the lone party being denied the fundamental right to be economically free.

Now, over a century later, the athletes are gaining class consciousness, recognizing that their relationship with the NCAA is economically untenable. In 2001, former University of California Los Angeles (UCLA) football player Ramogi Huma founded the National College Players Association (NCPA) “to provide the means for college athletes to voice their concerns and change NCAA rules” (NCPA, Mission, 2015). One of the NCPA’s biggest victories came in 2006 when the court granted class certification for football and men’s basketball players in *White v. NCAA*. *White*

argued that the NCAA and its members violated antitrust law by engaging in a horizontal agreement to cap the financial aid award. Ultimately, the suit was settled and the NCAA was ordered to create a \$10 million educational fund to assist athletes (NCPA, Victories, 2015). Stemming, in part, from the athletes success in *White*, in 2006 late-president Myles Brand reaffirmed the NCAA's position when he stated, "amateur" defines the participants, not the enterprise"...the NCAA need "...not be ambivalent about doing the business of college sports" (Brand, 2006, p. 1).

But the athletes were just getting started. In 2009, former UCLA basketball star, Ed O'Bannon filed a class action lawsuit against the NCAA alleging antitrust violations in relation to ownership rights of former athletes' likenesses and images (*O'Bannon v. NCAA*, C 09-03329, N.D. Cal., July 21, 2009). In 2013, the NCPA backed the Collegiate Student Athlete Protection Act (CSAP Act), which aimed to provide much needed protections for the athletes (H.R. 3545, 2013). And in 2013, researchers (Otto & Otto) offered assist when they exposed the logical flaw in Brand's definition of amateurism, pointing out, that "...in certain commercial contexts, *an implication* of the common definition of the word 'amateur'—together with the common definition of 'exploitation'—runs headlong into conflict with a clear requirement of NCAA Bylaw 2.9" (p. 261).

In 2014, Northwestern University football players, also backed by the NCPA,

petitioned the National Labor Relations Board to be recognized as employees under the law (Region 13, Case 13-RC-121359, Mar. 26, 2014). And *Jenkins v. NCAA* (2014) seeks to allow athletes to sell their services to universities in a free-market system (Case 3:33-av-00001, U.S. Dist. N.J. Mar. 17, 2014). Additionally, faculty formed the College Athletes Rights and Empowerment Faculty Coalition in support of the athlete's in their quest for justice (CARE-FC, 2015). Even the U.S. Congress took note, calling two separate hearings pertaining to the relationship between athletics and academics and the potential consequences of athlete unionization (Senate Commerce, Science and Transportation Committee, 2015; Berkowitz, 2014). This brings us to the present day wherein, as a result of mounting legal, congressional, and organizational pressure, NCAA institutions in the power five conferences passed a measure, which allows schools to cover the athletes' full cost of attendance (Hosick, 2015). Is this concession free from moral contradiction?

The successes of the athletes are due, in large part, to a common consciousness, which has manifested itself in collective social, political, and legal action. But, as the material dialectic has revealed, it is actually the NCAA that is responsible for the rise of the athlete collective. Indeed, Marx pointed out that

[T]he development of Modern Industry...cuts from under its feet the very

foundation on which the bourgeoisie produces and appropriates products. What the bourgeoisie therefore produces, above all, are its own grave diggers. Its fall and the victory of the proletariat are equally inevitable. (*The Communist Manifesto* (1848), in Eastman (Ed.) (1932), p. 334)

Thus, it is because the athlete is still economically bound that change is on the horizon. For this reason, an exploration into how the values inherent in the political philosophies are manifest in reform which places athlete's rights as its highest value is necessary.

### **Ideological Inquiry Approach Part I: Ideological Perspectives**

*Ideology* generally refers to a set of values, meanings, and beliefs. Viewed negatively or positively, ideology can "...give birth to massive social illusion or...inspire a...group or class in the pursuit of political interests..." (Eagleton, 2007, p. 43 & 44). In *The German Ideology*, Marx understood that "the production of ideas and conceptions, of consciousness...is...directly interwoven with the material activity...of men..." (1932, p. 9). It is the economic structure of society that is the real foundation on which the legal and political superstructure arises, shaping social consciousness. Indeed, "it is not the consciousness of men which determines their existence, but on the contrary it is their social existence which determines their consciousness" (Marx, in Eastman (Ed.), 1932, p. 11).

In applying the Marxist ideology to sport, Rigauer (1981) noted that "...the athlete is the producer, the spectators the consumers. The athlete's achievement is transformed into a commodity and is exchanged on the market for its equivalent value, expressed in money" (p. 68). In the case of the NCAA, however, the existing ideology requires the athlete to enter into definite economic, political, and social relations, which includes being classified as an "amateur", who, according to the NCAA, cannot be paid. Still, payment for services rendered does not dissolve the relationship between owner and laborer. Rather, it brings a sense of economic fairness to the relationship. Indeed, Hoch (1972) noted that while professional athletes have a union and are paid handsomely, they are still viewed by the owners as workers who produce the product known as the "spectacle-of-competition" (p. 119). In this sense, sports leagues, operating as legalized monopolies, "...sell a product whose main ideological function is to perpetrate the belief in competition" (p. 121).

Thus, the ideological-oriented approach "...is determined by the framework within which one is operating and the findings are interpreted...from the perspective of that theory" (Patton, 1990, p. 86). Recall that we began by using Marx's material dialectic as a way of understanding the historical relationship between the NCAA and the athletes. Now, we turn toward positive ideological inquiry so as to explore how political philosophies of John Locke, Adam

Smith, John Stuart Mill, and John Rawls may serve to inspire the NCAA in pursuit of political interests judged to be desirable. This approach aims to answer: How is (x) [where (x) is an ideological perspective] manifest in (y) phenomenon [where (y) is athlete-centered reform]? To this end, we begin by exploring the ideological perspectives.

### **Review of Ideological Perspectives**

This review takes the reader from the mid-1600's through the late-1900's wherein some of the great political philosophers used logic and reason to determine how best to care for society. These thinkers rationally and morally measured one value against another toward the goal of a 'good' society. What follows, broadly, is continuous rational dialogue wherein these thinkers sought to refine the work of their predecessor. It should be noted that this review does not attempt to provide a comprehensive analysis of each of the political philosophies, since, as one reviewer noted, this is too large an undertaking; rather, this is but an *exploration* into the *overarching values* inherent in each of the perspectives.

#### **John Locke (1632-1704)**

Regarded as the father of modern liberalism, Locke valued the freedom of the individual stating, "just and true liberty, equal and impartial liberty, is the thing we stand in need of" (Fraser, *Locke*, in Morris, 1931, p. 54). While holding that "...no man

can be allowed to interfere with the freedom of another..." (p. 56), Locke recognized that in order to live together in peace "...firmly sanctioned principles..." must be established to form a civil society (p. 57). It appears that Locke's philosophy resides in Kohlberg's (1963) post-conventional morality, social contract; namely, a 'good' society is one which individuals respect each other's right to life, liberty, and the pursuit of happiness.

Foreseeing the necessity of a shift from the monarchy of the late 1600's to a democratic system of government, Locke held that the stability of governments are dependent on the will of the people. In fact, it was Locke who had a profound influence on John Hamilton, James Madison, and Thomas Jefferson as they constructed the Declaration of Independence with liberty as the bedrock principle. Pertaining to property rights, in *Two Treatises of Government*, Locke noted that initially everything was held in common by all men "...but when a man by his own effort has changed a thing from the state in which nature made it, that thing from being common becomes the property of him that mixed his labour with it" (Morris, 1931, p. 59). With capitalism yet to take hold, Locke, perhaps, did not foresee the extensive problems that would soon develop as it pertained to property rights since, in discussing man's property rights he said "...it requires no government to establish it, nor can any government take it away" (Morris, 1931, p. 59). Locke's theory of the origin of the right of property



served to establish the fundamental principle of the science of wealth, shaping future political ideologies, including Marx's critique of the capitalist system (Morris, 1931).

### **Adam Smith (1723-1790)**

Born in Kirkcaldy, Scotland during British industrialization, moral philosopher Adam Smith extended the work of Locke. As a result of excessive regulations of the French mercantilists, Smith viewed *laissez-faire* as a moral imperative; namely, that people have the natural right to be free—to be economically “let go of” (Morrow, 1969, p. 63). To this end, Smith held that the “...duties of the state [should] be restricted to defending the society against external aggression, administering justice, and maintaining...public works...” (p. 63).

In *Inquiry into the Nature and Causes of the Wealth of Nations* (1776) Smith contemplated the motivation of humans (self-interest) within the context of industrialization. In this sense, Smith's focus was not exclusively economic but rather “a broad study in social welfare” (Morrow, 1969, p. 59) as he sought to understand the ethical motivations of humans inside a capitalistic system. Virtue, Smith argued, is the common thread—virtue, consisting of prudence, justice and benevolence.

Prudence (self-interest) is an essential characteristic of a good man, which is beneficial in the economic sphere and is to be restrained only by the principle of justice. One individual in the pursuit of

his own interest must not be allowed to hinder another in the same pursuit. Above the activity of self-interest restrained by justice there is a higher ethical principle, benevolence, which rules in the more intimate sphere of personal relationships...[and] thus represents the fullest degree of human excellence. (Morrow, 1969, p. 8)

Smith understood that the wealth of a nation is a consequence of the productivity of its labor and that industry is more productive when there is a division of labor, noting that specialization gives the laborer meaning, a purpose, and a sense of dignity (Morrow, 1969, p. 60). Since class divisions cannot be dissolved, industry serves the interests of bettering the lot of life of the worker. This inequity is a fundamental aspect of capitalism, creating a competitive environment where “...workmen desire to get as much, the master to give as little as possible” (p. 67). Smith sought the advancement of a system that was both profitable and civilized wherein the leadership, guided by virtue, would ensure that revenues are distributed to the worker and to public services.

### **John Stuart Mill (1806-1873)**

British philosopher John Stuart Mill was influenced by John Locke and Adam Smith and so was in agreement that individual liberty is foundational to any just society and should not be interfered upon except in cases of self-protection or to prevent harm to others (Mill, 1955). Although class

divisions were fragmenting society (i.e., workers sold their labor to owners), Mill could not reconcile one voluntarily selling himself as a slave for in so doing “he abdicates his liberty...he defeats ...the purpose the justification of allowing him to dispose of himself...The principle of freedom cannot require that he should be free not to be free” (Mill, 1955, p. 152). Freedom of thought, speech, and expression and economic freedom had to be ensured since it was *freedom* that motivated individuals to better their lives. Because of this, Mill brought to the forefront trade and craft guilds, collectives, and associations.

Influenced by David Hume’s notion of ‘utility’, Mill, along with his mentor, Jeremy Bentham, put forth the notion that the greatest good should be sought for the greatest number of people. They understood that “...nature placed mankind under the governance of two sovereign masters, *pain* and *pleasure*” and that “the *principle of utility* recognizes this subjection” (Bentham & Mill, 1961, p. 17). Under this line of thinking, there must be a consensus; namely, a group of individual interests become the interests of a community (i.e., guilds, collectives, associations). From individual liberty, “...follows the liberty...of combination among individuals...the freedom to unite...no society in which these liberties are not...respected is free...and none is completely free in which they do not exist absolute and unqualified” (p. 18).

### **John Rawls (1921-2002)**

Moral and political philosopher John Rawls brought the discussion more acutely back to the foundation that Locke and Smith had so vigorously advocated for hundreds of years prior when he reaffirmed the necessity of the moral imperative in his 1971 work *A Theory of Justice*. Rawls coined the phrase ‘justice as fairness’ noting that the starting point for any society must be that of agreed upon principles of right and justice and that any social institution that fails to ensure that individuals are treated justly needs to be abandoned or reformed (p. 11). Such principles, Rawls pointed out, can only be established when people operate behind the ‘veil of ignorance’ (i.e., impartially) (p. 136).

In *The Law of Peoples*, Rawls (1999) reasoned that peace and justice can be achieved in a society of liberal and decent peoples. “Liberal” meaning a reasonably just constitutional democratic society (p. 12). “Decent” generally describing “societies whose...institutions meet certain... conditions of political right and justice” (i.e., “the right of citizens to play a substantial role...in making political decisions and lead their citizens to honor a reasonably just law for the Society of Peoples”) (p. 3). Stemming from Rousseau’s inquiry in *The Social Contract*, Rawls’ position was that “reasonable pluralism” is possible but relies on “actual laws of nature and the stability those laws allow for the right reasons” (p. 12) and “its...principles...be workable and

applicable to ongoing political and social arrangements” (p. 13).

Similar to Locke, a just society is one in which liberty is paramount in that primary goods are afforded to all citizens (“basic rights and liberties, opportunities, income and wealth, and...self-respect”) (p. 13), and similar to Smith, a just society requires virtuous conduct of its citizens. While a free citizen (by extension a collective of free citizens) determine(s) the moral culture, a society “...must have political and social institutions that effectively lead its citizens to acquire the appropriate sense of justice” (Rawls, 1999, p. 15). Rawls’ position maximizes liberty, values equality for all (with the ‘difference principle’ exception, wherein inequality is justifiable if it leads to a better situation for the disadvantaged group), and affords all citizens a fair opportunity to acquire goods.

## **Ideological Inquiry Approach Part II: ‘Athlete-Centered’ Reform**

Having reviewed the ideological perspectives, we now turn to the second part of the inquiry approach—the phenomenon: what is ‘athlete-centered’ reform? Otto (2014) identified four major categories of “athlete-centered” reform (p. 189) which can be used *as a starting point* to “...develop ethically sound frameworks...to advance principled collegiate athletics reform” (p. 202) (*see* Figure 1).

Categories include two educational options—scholarship education or optional education. Scholarship education includes

the following protections for the athlete: scholarship security (the athlete will not have his scholarship revoked for any athletic reason and it will extend to graduation); freedom from academic exploitation (*See* McCants & Ramsey et al., v. NCAA & the University of North Carolina at Chapel Hill, Class Action Complaint, 15 CVS 1782, Jan. 22, 2015); tutoring services are offered for athletes who would benefit from such; and, lastly, the athlete has total freedom to transfer just like any other university student. Optional education is the opportunity for the athlete to attend college or not, and just like any other prospective student, their admission is dependent upon meeting university standards.

Economic options for the athlete are also two-fold: access to the “Derivative Value Trust” (hereinafter, “DVT”) (Otto & Otto, 2013, p. 265) or employee status. The DVT is part of an attachment to a proposed scholarship upgrade; it would be jointly owned (athlete and institution) and would take effect in the athlete’s post-playing years, and depending on the commercial value of the athlete they would reap a fairly negotiated percentage of the profit from commercial exploits such as television deals, video games, merchandise, etc. (Otto & Otto, 2013). Should the athlete not be interested in attending college or not be qualified for admission, the athlete, if talented enough, can apply for employment with an institution as, say, a basketball or football player. This employment situation would be the same as any other standard

employer-employee relationship and the market would assist in determining appropriate salaries.

Health, safety, and well-being (hereinafter, “HSWB”) and legal protections are the baseline provisions and protections for all athletes. Based on Otto’s (2014) categories of ‘athlete-centered’ reform, four overarching considerations were developed: 1) economic freedom; 2) education; 3) legal protections; and, 4) HSWB provisions.

The next step was to explore how the values inherent in the ideological perspectives of Locke, Smith, Mill, and Rawls inform ‘athlete-centered’ reform considerations by developing a model for each perspective. In the models that follow, the values of the political philosophers are set forth in the left column. The right side of each of the models serves to explain the way in which each of the perspectives are manifest in ‘athlete-centered’ reform. A few notes will assist the reader in understanding the models: A hard dot at the beginning or end of a line represents the starting point or ending point, respectively. A hard line represents an outcome that is likely to be manifest in ‘athlete-centered’ reform. A broken line represents an outcome that is dependent on ability, effort, or desire. A long dash dot dot line represents equality of opportunity; therefore, the outcome is optional (dependent on choice). An arrow illustrates the effect of, outcome of, or relationship to. All models, Figures 2-5, are given at the end of the paper.

## Creation and Interpretation of Ideological Models

### John Locke (see Figure 2)

John Locke’s position on liberty serves to inform the foundation of ‘athlete-centered’ reform; namely, every athlete ought to have the same rights, privileges, and freedoms which are guaranteed to all citizens. These protections, along with constitutional rights and legal protections, can only be assured by a democratic government operating in accordance with the will of the people. In this case, the athlete owns himself and the labor of his body (property rights). Once the athlete puts forth effort so as to change a thing from its natural state it becomes the property of him whose effort (labor) changed it. The example that Locke provides in *Two Treatises of Government* is instructive. It is the case of an Indian killing a deer. Locke explains that the deer is the common right of every one, but when the Indian bestows his labor upon it, killing it, the deer becomes the property of the Indian. In applying this case to that of the athlete we begin with the athlete owning himself and his labor as his property. Once the athlete engages his effort in, say, playing in a basketball game, the game becomes his property (at least in part) because he mixed his labor with it. This is no different from the music student who engages his effort in composing a symphony—the symphony becomes his property (at least in part) because he mixed his labor with it.

### **Adam Smith (see Figure 3)**

Extending the work of Locke, Smith held that individual economic liberty is paramount. Here, the athlete's economic liberty is assured. Smith's call for a non-intrusive government is instructive as a number of steps would need to be taken to unravel, and ultimately change, existing NCAA legislation and bylaws which violate the athlete's economic liberty. Additionally, Congress would need to act virtuously so as to not infringe on athlete's rights, and the courts would need to rule from a place of virtue so as to ensure justice for the athlete. Indeed, Smith highlighted the fact that if virtue does not undergird the actions of the leadership then society cannot function in a civil and just fashion.

As it pertains to property rights, the athlete is free to sell his labor in open markets. Here, the athlete is bound by a class division. The inequality that exists is due, primarily, to the fact that he is a laborer and that his market worth is dependent on merit. Because of this the outcomes are not equal. Based on merit, the athlete could either operate within the scholarship education model or the employee model.

An additional insight is Smith's recognition that an industry is only as good as its laborers. This being the case, it would be in the economic interest of the NCAA to offer additional benefits to the athlete so as to improve production. Additional offerings would include HSWB provisions to the degree that they improve the product, and legal protections to the degree that they give

the athlete a sense of protection such that they continue to labor for the NCAA. It would also be in the NCAA's interest to allow the athlete to engage in endorsement contracts with business entities since the NCAA's market reach would be extended and it would also reap significant financial gains from its intellectual property rights. If the amateur restrictions were lifted then the NCAA, in contractual relationship with the players, could exploit the economic potential of the athletes in areas that are currently off limits (i.e., EA Sports video games, merchandise identifying the player, etc.). As Smith pointed out, this give-and-take between the industry and the laborer serves the interests of both parties (i.e., the laborer's lot in life is improved and the owner's market expands).

### **John Stuart Mill (see Figure 4)**

John Stuart Mill countered Smith's self-interested individual because he realized the significant imbalance of the class system was beginning to fragment society. Mill's contention was that while individual liberty is essential, it is only when individuals act collectively that the 'greatest good for the greatest number' is realized. Thus, Mill's position (i.e., social liberty) would inform the development of an athlete guild (i.e., collective or association) which would, by rational consensus, determine what should be of greatest value. In establishing a hierarchy of values, the athlete association would use its collective status to push the NCAA, conferences, and institutions to

implement its reforms (e.g., the NCPA has made progress in this regard).

Still, because it is a collective, the association could be restrained in advocating for advancements in each of the areas in so far as the reforms would result in the greatest 'good' for the greatest number of athletes. Under the utility calculation, it is likely be that the DVT would result in the greatest 'good' for the greatest number of athletes since all athletes (to include athletes who otherwise would not merit the benefits of the DVT) would benefit from the DVT while only a few who merit more than the DVT (i.e., the star athletes who have market value) would be exploited. But it is also possible that within the collective the athletes would agree to differing outcomes based on varying degrees of achievement, and therefore could negotiate for different benefits and privileges (as is the case in the professional sports leagues). If the association shares the values of justice and fairness based on achievement, then it is conceivable that the members would be amenable to different economic options.

As for legal protections and HSWB provisions, these would be afforded in full for all athletes since this would indeed result in the greatest 'good' for the greatest number of athletes. Finally, Mill's commitment to individual liberty may serve to shed light on the consideration of education. Of course, making education necessary for play serves the greatest 'good' for the greatest number since the benefit for the athlete is two-fold (education and

athletics), but perhaps it need not be requisite, rather it could be a choice since the requirement that the athlete be a student is unrelated to the athlete's labor and arguably violates his liberty.

### **John Rawls (see Figure 5)**

Having had the benefit of time, John Rawls was able to see the values and systems that worked best toward achieving the goal of a 'good' society. Drawing on the works of Locke, Smith, and Mill, Rawls' position begins with the requirement that "any institution that fails to ensure that individuals are treated justly need to be abandoned or reformed" (1971, p. 11). In other words, college sports reform begins with 'justice as fairness' for the athletes. The starting point is that, guided by natural law and virtue, right and just institutions ensure that the rights of the athlete are honored.

Once this occurs athletes would be free to maximize their liberty and all athletes would have the same opportunity to acquire social goods (this is where the long dash dot dot lines come in representing equality of opportunity; therefore, the outcome is dependent on choice, or optional). This opportunity, however, can only occur if during the establishment of right and just institutions, the leadership (guided by natural law and virtue), acts behind a 'veil of ignorance'. This impartiality requirement lays the groundwork for people to be on an equal footing (i.e., all athletes would have the same opportunity to realize their academic potential). Consider that if a

family, school, or community does not value education for the athlete at a young age then it is likely that the athlete will be at a disadvantage in realizing his academic potential (i.e., in 2014 CNN reporter Sara Ganim revealed that some college athletes are illiterate). Rawls' intent was to attempt to remove individualistic factors that currently serve to differentiate people (i.e., socio-economic status, merit, need, competence, etc.). In order to accomplish this John Rawls calls upon right and just institutions to intervene in an attempt to mitigate these disadvantages on the front end. Rawls' (1999) call may serve to inform the issue of special admissions for athletes at the university level. If elementary and secondary schools renewed their commitment to ensuring that all students are afforded a genuine opportunity to be educated, and universities did away with "special admissions" for athletes, then it is likely that we would not have athletes at our universities who are illiterate.

The economic offerings would include the choice between the DVT or employee status. Rawls (1999) advocated for minimizing inequality on the front end and then allowing for inequality on the back end if it could be shown that the inequality resulted in a better situation for the disadvantaged (i.e., the 'difference principle exception'). Here, both economic options could be defended since the most talented athletes (i.e., those who could command a salary in a competitive college sports market) aid in the maintenance of a high

level product—but for these athletes the opportunity may not exist for the other athletes to reap the benefits of the scholarship and the DVT. HSWB and legal protections would be granted absolutely since right and just institutions recognize that these are basic protections which are to be afforded to everyone.

### Discussion

It is clear that the foundational value inherent in the perspectives of Locke, Smith, Mill, and Rawls is liberty. The way in which we see liberty manifest in 'athlete-centered' reform is in a step-wise progression. Locke begins with individual liberty. Smith extends Locke's requirement to include economic liberty. Mill recognizes the necessity of social (collective) liberty. Lastly, Rawls stresses the importance of political liberty (i.e., justice as fairness). In brief, all of these thinkers held that liberty is paramount and that any system that denies an individual his liberty is unjust and must be abandoned or reformed. It is largely the case today that while athletes are often viewed as having privileged status (and they do receive a number of benefits and are afforded special treatment), it is also the case that, under the control of the NCAA, conferences, member institutions, and coaches, they are restricted from otherwise enjoying the freedoms and protections guaranteed under the Constitution (e.g., some universities bar athletes from using certain words (Wolverton, 2012)). In addition, as the dialectic revealed, the

NCAA has used, and continues to use, carefully crafted terms (i.e., ‘amateurism’ and ‘student-athlete’) as the way to bar athletes from financially capitalizing on their athletic talent—this in violation of the athlete’s liberty (i.e., property and economic rights to own oneself and to own the product of his labor).

The next value inherent in the political philosophers’ perspectives which is manifest in ‘athlete-centered’ reform is the prescription that right, just, and democratic institutions virtuously lead in accordance with their duty to morally care for society. Smith pointed out that for the free market to flourish self-interested individuals must act from a place of virtue. When people fail to act virtuously, as the dialectic also revealed, rules are broken, corruption flourishes, and exploitation takes hold. As a starting point the NCAA would need to rid itself of all legislation that violates the athlete’s liberty. The courts would need to advance justice for the athlete (noting that current precedent in *Bd. of Regents* (1984) has legitimized the NCAA’s operations). U.S. and state congresses must pass legislation in support of athlete’s rights (noting that legislators have moved to bar athletes from unionizing (e.g., Michigan House Bill No. 6074, Dec. 2014)).

Once liberty is assured for the athlete through right, just, and democratic institutions, what is the next step? The next value manifest in ‘athlete-centered’ reform is the freedom to unite (i.e., collective liberty). Here, Mill’s notion of community good vis-

à-vis the establishment of a guild or association is a secure tack. Professional sports provides an instructive example of how an athlete association could result in liberty for the athlete while also ensuring the stability of the league. The ‘big-4’ professional sports leagues (NFL, NBA, NHL, and MLB) all have players unions. They have a system of shared governance and built in market controls (i.e., salary caps, drafts, free agency, luxury taxes, etc.) to ensure the success of the league as a whole. The players associations have also agreed to unequal economic outcomes based on varying levels of achievement.

The final values manifest in ‘athlete-centered’ reform are ‘equality of opportunity’ and ‘justice as fairness’. Can the consideration of unequal opportunity to acquire social goods (i.e., education, economic benefits) be rectified? Rawls attempts to minimize this concern by advancing the notion of equality of opportunity. This is a much more difficult issue to tackle since it requires a universal value set and major institutional and programmatic interventions and corrections. For example, as it pertains to improving the opportunity for children to realize their academic potential, as an initial step, scholastic-level schools could renew their commitment to educating all students, and NCAA member institutions could send a message to elementary and high schools that it too values education for all students and so is doing away with special admissions exceptions for athletes.



We now turn to the conception of ‘justice as fairness’. Here, the athlete association is called upon to deal fairly with each of the athletes as it pertains to economic value or worth. Recall that Rawls ‘difference principle exception’ allows for inequality if it can be shown that the inequality resulted in a better situation for the disadvantaged. On this basis the athlete association can negotiate varying deals depending on each of the athlete’s merit which will result in economic fairness (not to be confused with equality) for all of the athletes.

### **Recommendations for Future Research**

Exploring the ideological perspectives of Locke, Smith, Mill, and Rawls served to shed much needed light as to how their values are manifest in an ‘athlete-centered’ college sports system. Going forward, I would recommend that future researchers conduct a comprehensive analysis into each of the political philosophies in order to sharpen and deepen our understanding as to the way in which their values are manifest in ‘athlete-centered’ reform. Additionally, it would be prudent to examine existing regulations, policies, standards, and laws, which are applicable to other industries (business, law, healthcare, etc.), with the goal of tailoring the requirements such that they can inform the policy development of an ‘athlete-centered’ college sports system (overarching laws and requirements such as work policies and standards, employment

law, contract law, Constitutional law, health and safety codes and regulations, etc.).

### **Limitations**

Due to the fact that the political philosophies of libertarianism, capitalism, utilitarianism, and egalitarianism have evolved to such an extent, it should be noted that in developing these models I worked from the values held by the principal contributors (John Locke, Adam Smith, John Stuart Mill, and John Rawls). Additionally, this paper was *an exploration* (a beginning point) as to how the values of these thinkers are evident in an ‘athlete-centered’ college sports system.

### **Conclusion**

As is often the case, the present mirrors the past wherein over a century ago J.P. Welsh so aptly stated that the athlete, like everyone else, deserves liberty first-and-foremost:

The student in good collegiate standing...needs to be let alone in the full, free, untrammelled exercise of his American citizenship, which entitles him to life, liberty and the pursuit of happiness, which sometimes means money. (Hawes, 2000, para. 32).

It seems that the difficulty in leaving the student alone in the full, free exercise of his American citizenship is due to the distorted notion that it is acceptable to deny these freedoms to a student who participates in athletics. Perhaps now is the time for the athletes to put forth a Constitutional

argument; namely, that in order to play a sport at an NCAA member institution the athlete must abdicate his liberty. He is no longer free.

On September 30, 2015, the U.S. Court of Appeals “vacate[d] the district court’s judgment and permanent injunction insofar as they require the NCAA to allow its member schools to pay student-athletes up to \$5,000 per year in deferred compensation” (*O’Bannon et al., v. NCAA et al.*, 2015, p. 63). An initial aspect of this ruling, which is troubling, is the court’s continued use of the term “student-athlete” which, late-NCAA president Walter Byers admitted, was deliberately crafted to avoid the possibility that athletes could be identified as employees (Byers, 1995, p. 69). Next, the court relies on Judge Bork’s comments in *Bd. of Regents* (1984) in which he noted the importance of maintaining the integrity of the product (‘amateur sports’). It appears that the court permitted the values of preserving the product based on an *if*; namely *if* consumer demand decreases if the athlete were paid, then the athlete cannot be paid. This *if* effectively served to trump the mandate of liberty which is guaranteed to the athlete under the United States Constitution.

Finally, this court disregarded the mutual interest amongst the power five conferences to grant the athlete up to \$5,000 in deferred compensation. In striking down the requirement permitting the NCAA to allow its members to grant compensation, is not the court violating the

economic liberty rights of the member schools? Indeed, a careful reading of Judge Bork's comments suggests that Bork was not opposing the payment of monies to 'amateur' athletes. Rather, Bork was merely pointing out that that the product integrity of 'amateur sports' must be *perceived* as secure by mutual agreement. Thus, if the athlete's liberty is assured by mutual agreement, then 'amateur sports' is *perceived* as secure.

In sum, based on the values inherent in the perspectives of John Locke, Adam Smith, John Stuart Mill, and John Rawls, ‘athlete-centered’ reform begins with liberty for the athlete, which is assured by right, just, and democratic institutions, and is secured by an athlete association.

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## References

- Bentham, J. & Mill, J.S. (1961). *The utilitarians: An introduction to the principles of morals and legislation; Utilitarianism; and, On liberty*. Garden City, NY: Dolphin Books.
- Berkowitz, S. (2014, May 8). House panel grills college leaders on unionization. *USA Today*. Retrieved from <http://www.usatoday.com/story/sports/ncaaf/2014/05/08/house-education-workforce-committee-northwestern-football-labor-union/8846329/>
- Brand, M. (2006, September 11). President's message – Call for moderation is a complex message, not a mixed one. *The NCAA News Online*. Retrieved June 23, 2010 from [http://www.ncaa.org/wps/portal/ncaahome?WCM\\_GLOBAL\\_CONTEXT=/ncaa/NCAA/Media+and+Events/Press+Room/News+Release+Archive/2006/Official+Statements/NCAA+President+Delivers+State+Of+The+Association+Address](http://www.ncaa.org/wps/portal/ncaahome?WCM_GLOBAL_CONTEXT=/ncaa/NCAA/Media+and+Events/Press+Room/News+Release+Archive/2006/Official+Statements/NCAA+President+Delivers+State+Of+The+Association+Address)
- Byers, W. (1995). *Unsportsmanlike conduct: Exploiting college athletes*, Ann Arbor, MI: The University of Michigan.
- College Athletes Rights & Empowerment Faculty Coalition (2015). Retrieved from [http://care-fc.org/Collegiate Student Athlete Protection Act. H.R. 3545 \(2013, November 20\).](http://care-fc.org/Collegiate Student Athlete Protection Act. H.R. 3545 (2013, November 20).)
- Crowley, J. (2006). *In the area: The NCAA's first century*. Indianapolis: IN: NCAA.
- Eagleton, T. (2007). *Ideology: An introduction*. New York, NY: Verso.
- Eastman, M. (Ed.) (1932). *Capital The Communist Manifesto and other writings by Karl Marx*. New York, NY: Random House.
- Ganim, S. (2014, January 7). Some college athletes play like adults, read like 5<sup>th</sup>-graders. *CNN*. Retrieved from <http://www.cnn.com/2014/01/07/us/ncaa-athletes-reading-scores/index.html>
- Gerdy, J.R. (1997). *The successful college athletics program*. Phoenix, AZ: Oryx.
- Hawes, K. (2000, January 3). Debate on amateurism has evolved over time. *The NCAA News*. Retrieved from <http://fs.ncaa.org/Docs/NCAANewsArchive/2000/association-wide/debate+on+amateurism+has+evolved+over+time+-+1-3-00.html>
- Heilbroner, R.L. (1967). *The worldly philosophers* (3<sup>rd</sup> ed.). New York, NY: Simon and Schuster.
- Hoch, P. (1972). *Rip off the big game: The exploitation of sports by the power elite*. Garden City, NY: Doubleday.
- Hosick, M.B. (2015, January 18). Autonomy schools adopt cost of attendance scholarships. *NCAA.org*. Retrieved from [www.ncaa.org/about/resources/media-center/autonomy-schools-adopt-cost-attendance-scholarships](http://www.ncaa.org/about/resources/media-center/autonomy-schools-adopt-cost-attendance-scholarships)
- Jenkins v. NCAA, Case 3:33-av-00001 (U.S. Dist. N.J. Mar. 17, 2014).

- Kohlberg, L. (1963). The development of children's orientations toward a moral order. I. Sequence in the development of moral thought. *Vita Humana*, 6(1/2), 11-33.
- Law v. NCAA, 134 F.3d 1010 (10<sup>th</sup> Cir. 1998).
- McCants & Ramsey et al., v. NCAA & the University of North Carolina at Chapel Hill, Class Action Complaint, 15 CVS 1782 (Jan. 22, 2015).
- Mill, J.S. (1955). *On liberty*. Chicago, IL: Henry Regnery.
- Michigan House Bill No. 6074. (Dec. 2, 2014).
- Morris, C.R. (1931). *Locke Berkeley Hume*. London: Oxford University Press.
- Morrow, G.R. (1969). *The ethical and economic theories of Adam Smith*. New York, NY: Augustus M. Kelley.
- National College Players Association (2015). Retrieved from <http://www.ncpanow.org/more?id=0004>
- National Labor Relations Board, Region 13, Case 13-RC-121359 (Mar. 26, 2014).
- NCAA Consolidated Financial Statements (2014). National Collegiate Athletic Association and Subsidiaries. Deloitte Independent Auditors' Report.
- NCAA Division I Manual (2013-14). Retrieved from <http://www.ncaapublications.com/productdownloads/D114.pdf>
- NCAA Membership (2015). Retrieved from <http://www.ncaa.org/about/who-we-are/membership>
- NCAA v. Board of Regents of the University of Oklahoma and University of Georgia Athletic Association, 104 S. Ct. 2948 (1984).
- O'Bannon v. NCAA, No. C 09-3329 (N.D. Cal. July 21, 2009).
- O'Bannon v. NCAA, No. C 09-3329 CW (N.D. Cal. Aug. 8, 2014).
- O'Bannon v. NCAA and Electronic Art, Inc.; Collegiate Licensing Company, D.C. No. 4:09-cv-03329 CW (U.S. Ct. App. 9<sup>th</sup> Cir. Sept. 30, 2015).
- Otto, K.A., & Otto, H.R. (2013). Clarifying amateurism: A logical approach to resolving the exploitation of college athletes dilemma. *Sport, Ethics, and Philosophy*, 7(2), 259-270.
- Patton, M.Q. (1990). *Qualitative and evaluation and research methods* (2<sup>nd</sup>, ed.). Newbury Park, CA: Sage.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge, MA: Harvard University.
- Rawls, J. (1999). *The law of peoples*. Cambridge, MA: Harvard University.
- Reimann, P.A. (2004). The G.I. Bill and collegiate football recruiting after World War II. *International Sports Journal*, 8(2), 126-133.
- Rigauer, B. (1981). *Sport and work*. New York, NY: Columbia University.
- Sack, A.L. (2008). *Counterfeit amateurs: An athlete's journey through the sixties to the age of academic capitalism*. University

- Park, PA: The Pennsylvania State University.
- Sack, A.L. & Staurowsky, E.J. (1998). *College athletes for hire: The evolution and legacy of the NCAA's amateur myth*. Westport, CT: Praeger.
- Savage, H.J., Bentley, H.W., McGovern, J.T., & Smiley, M.D. (1929). The Carnegie Commission Report. The Carnegie Foundation. Retrieved from <http://www.carnegiefoundation.org/publications/pub.asp?key=43&subkey=990>
- Senate Commerce, Science and Transportation Committee. (2015). Hearing on college athletes and academics. Retrieved from <http://www.congress.gov/video/?320346-1/hearing-college-athletes-academics>
- Smith, R.A. (1985). The historic amateur-professional dilemma in American college sport. *The International Journal of the History of Sport*, 2(3), 221-231.
- Smith, R.A. (1993). History of amateurism in men's intercollegiate athletics: The continuance of a 19<sup>th</sup>-century anachronism in America. *QUEST*, 45, 430-437.
- Smith, R.K. (2000). A brief history of the National Collegiate Athletic Association's role in regulating intercollegiate athletics. *Marquette Sports Law Review*, 11, 9-22.
- Stoke, H.W. (1954, March). College athletics: Education or show business? *Atlantic Monthly*, 46.
- Tucker, R.C. (Ed.). (1972). *The Marx-Engels reader*. New York, NY: Norton.
- USA Today NCAA Salaries (2015). Retrieved from <http://sports.usatoday.com/ncaa/salaries/>
- White v. NCAA, CV 06-0999-RGK (2006 U.S. Dist., Oct. 19, 2006).
- Wolverton, B. (2012, August 20). 2 universities bar athletes from using hundreds of words on Twitter. *The Chronicle of Higher Education*. Retrieved from <http://chronicle.com/blogs/players/u-of-kentucky-louisville-ban-athletes-from-using-hundreds-of-words-on-twitter/31096>

# Figures

Figure 1

## Categories of “Athlete-Centered” Reform

<p><b>Education</b></p> <p><i>Scholarship Education</i></p> <ul style="list-style-type: none"> <li>Scholarship security</li> <li>Freedom from <u>academic</u> exploitation</li> <li>Tutoring services</li> <li>Freedom to transfer</li> </ul> <p><i>Optional Education</i></p> <ul style="list-style-type: none"> <li>Uniform policies, standards, benefits, burdens apply</li> </ul>	<p><b>Economic</b></p> <p><i>Derivative Value Trust (DVT)</i> (Otto &amp; Otto, 2013)</p> <ul style="list-style-type: none"> <li>Joint ownership</li> <li>Fair % of proceeds</li> <li>Access</li> <li>Renegotiable</li> </ul> <p><i>Employee Status</i></p>
<p><b>Health, Safety, Well-Being (HSWB)</b></p> <ul style="list-style-type: none"> <li>Concussion testing</li> <li>Insurance</li> <li>Policies, standards, plans, supervision</li> <li>Athlete awareness training</li> </ul>	<p><b>Legal</b></p> <ul style="list-style-type: none"> <li>Constitutional Rights</li> <li>Due Process</li> <li>Right to Appeal</li> <li>Right to Representation</li> <li>Right to Name, Likeness</li> </ul>

Figure 2

## John Locke

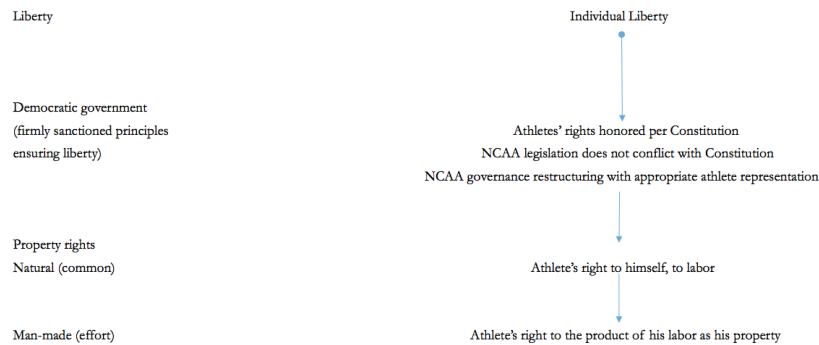


Figure 3

*Adam Smith*

Liberty

Non-intrusive government  
(no infringement on economic liberty)

Property rights

Class divisions, *inequality of opportunity*  
(based on ability, effort, and desire)

*Inequality of outcomes*

Provisions & protections which improve lot of laborer  
to the degree that production is improved as a result

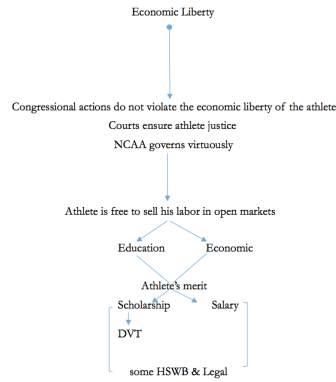


Figure 4

*John Stuart Mill*

Liberty

Community 'good'  
(shared values)

Democratic governance  
(hierarchy of values)

Cost/benefit analysis  
results in greatest 'good'  
for greatest # of athletes

Property rights

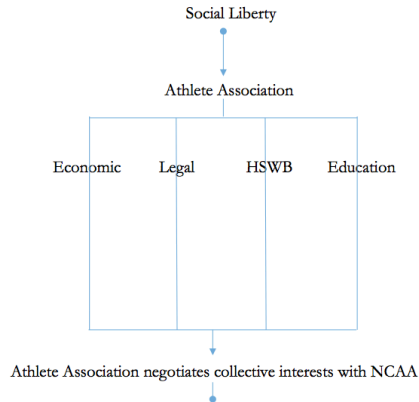


Figure 5

*John Rawls*

Liberty

Natural law & virtue  
(agreed upon principles conveyed  
through right & just institutions)

Maximize liberty; equality of  
opportunity to acquire social goods

*Inequality can exist*  
(difference principle exception)

