

FOREWORD

LOSING TO WIN: DISCUSSIONS OF RACE AND INTERCOLLEGIATE ATHLETICS

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On April 13 and 14, 2011, Wake Forest University hosted *Losing to Win: Discussions of Race and Intercollegiate Sports*. The conference brought together prominent academics, athletic administrators, sports journalists, former student-athletes, professional athletes, and other professionals who have developed an expertise in sports. The goals of the conference were to examine the issues of race and intercollegiate sports through a wide and comprehensive lens and to initiate a direct and ongoing dialogue around the variables that impact today's student-athletes of color.

Indeed, events occurring after the conference demonstrate the salience of a dialogue that both identifies and offers solutions to the challenges confronting intercollegiate athletics. In June 2011, the Bowl Championship Series ("BCS") vacated the University of Southern California ("USC") of its 2004 national football title.¹ The action of the BCS occurred after the National Collegiate Athletic Association's ("NCAA") Infractions Appeals Committee upheld sanctions imposed on USC for major NCAA rules violations stemming in large part from former USC football

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1. Chris Dufresne, *Trophy-Dashed: BCS Strips USC of 2004 Football Title*, L.A. TIMES, June 7, 2011, at C2.

running back Reggie Bush's receipt of improper benefits.² In another incident, an August 2011 *Yahoo! Sports* investigative report linked an incarcerated Miami booster convicted in connection to a multi-million dollar Ponzi scheme to seventy-two University of Miami football and men's basketball players.³ From 2002 through 2010, the booster allegedly, with the complicity of certain University of Miami football coaches, provided athletes with gifts, jewelry, clothing, meals and lodging, and access to strip clubs and prostitutes.⁴ The university faces the possibility of severe NCAA sanctions. Finally, Ohio State University's highly successful head football coach, Jim Tressel, resigned in the wake of revelations that he failed to disclose information relating to player conduct that violated NCAA rules.⁵

These events reveal the dissonance between what transpires in college sports and the fundamental principles (e.g., athletics co-existing with the educational mission of colleges and amateurism)⁶ on which intercollegiate athletics are premised. These scandals also give rise to questions that go to the heart of the role of highly commercialized sports within academic institutions, including: (1) the ability of the NCAA to effectively govern commercialized intercollegiate athletics; (2) whether the potential rewards of successful athletic programs have compromised the willingness of college presidents, operating through the NCAA, to adopt reforms that address the variables that give rise to NCAA rules violations; (3) the extent to which athletes' disregard of NCAA rules and their willingness to participate in an underground economy is based on their disrespect for a system of athletics that athletes view as unjust, hypocritical, and exploitative;⁷ (4) what are the racial implications of recent events; and, (5) why commentary regarding

2. *Id.*

3. Charles Robinson, *Renegade Miami Football Booster Spells Out Illicit Benefits to Players*, YAHOO! SPORTS (Aug. 16, 2011), available at http://sports.yahoo.com/investigations/news?slug=crenegade_miami_booster_details_illicit_benefits_081611.

4. *Id.*

5. Jeff Schultz, *Buckeyes' Coach Sent Packing for His Lies*, ATLANTA J.-CONST., May 31, 2011, at 1C.

6. NCAA ACADEMIC AND MEMBERSHIP AFFAIRS STAFF, 2010-11 NCAA DIVISION I MANUAL 1-4, arts. 1 & 2 (2010).

7. See Timothy Davis, *African-American Student-Athletes: Marginalizing the NCAA Regulatory Structure?*, 6 MARQ. SPORTS L. REV. 199, 220-21 (1996) (discussing reasons that may underlie African American student-athletes' disregard for NCAA amateurism rules, particularly those prohibiting athletes from receiving extra benefits).

illicit conduct in college sports fails to address the possible racial dimensions of the NCAA regulatory system as well as the actions of individuals that run afoul of that system.

The articles that appear in this symposium issue of the *Wake Forest Journal of Law & Policy* address many of the underlying causes that contribute to scandals in college sports. This is certainly true of the first set of papers that address economic, academic, and racial equity issues for student-athletes, particularly African Americans. The salience of questions of equity arise against a backdrop of the considerable revenues generated by Division I institutions from revenue streams including television contracts, naming rights, tickets sales, and the marketing of athlete images and other intellectual property. The hyper-commercialization of college sports calls into question the appropriate role of big-time college athletics within our institutions of higher education and the nature of the relationship between student-athletes and their institutions. With respect to the latter, critics of big-time intercollegiate athletics assert that the economic and other institutional benefits derived by Division I colleges and universities are so disproportionate to the educational, social, and other benefits derived by student-athletes as to create a severe imbalance in this relationship.

In the first of these articles, Professors Amy McCormick and Robert McCormick assert that this alleged imbalance severely operates to the economic and educational detriment of a subgroup of student-athletes: African American participants in Division I football and men's basketball. The McCormicks apply the interest convergence theory to provide a theoretical lens through which to view the relationship between colleges and their student-athletes of color.⁸ They then observe that while African Americans are disproportionately represented as athletes in the primary revenue-generating collegiate sports, the beneficiaries of those revenues are almost exclusively of European American descent.⁹ The McCormicks conclude that "the NCAA amateurism regime—in which free market principles determine compensation for coaches and all other economic beneficiaries of college sports,

8. Amy Christian McCormick & Robert A. McCormick, *Race and Interest Convergence in NCAA Sports*, 2 WAKE FOREST J.L. & POL'Y. 17, 20 (2012).

9. *Id.* at 18.

but not for athletes—replicates apartheid-like systems that have existed throughout history and under which members of the racial majority have exploited the labor of minorities for entertainment and profit.”¹⁰

In *The BCS and Big-Time Intercollegiate Football Receive an “F”: Reforming a Failed System*, Professor Rodney K. Smith and his co-author, Neil Millhiser, assert that high-level collegiate football programs breach their contractual commitments to student-athletes. According to them, the breach is a consequence of football programs’ failure to fulfill their implied obligation to provide athletes with an educational opportunity.¹¹ They also assert that practices employed in college football undermine student-athletes’ physical welfare and foster the unequal treatment of athletes of color.¹² Professor Smith and Mr. Millhiser propose a series of short- and long-term initiatives aimed at addressing the alleged inequities.¹³ Short-term proposals range from including the mandatory disclosure of graduation and injury rates within the National Letter of Intent, to limiting the length and types of football practices, to replacing the current football bowl system and replacing it with a national football champion system.¹⁴ Over the long-term, the revenues generated from such a championship would be used to develop academic programming that would enhance the ability of athletes to succeed academically at college.¹⁵

Television contracts, ticket sales, and other revenue streams have not only made college sports big business, but also provide colleges with an incentive to compete for the best athletes.¹⁶ NCAA regulations impose limitations, however, that prohibit institutions from freely competing for student-athletes.¹⁷

10. *Id.* at 24–25.

11. Rodney K. Smith & Neil Millhiser, *The BCS and Big-Time Intercollegiate Football Receive an “F”: Reforming a Failed System*, 2 WAKE FOREST J.L. & POL’Y. 45, 67 (2012) (“Schools with big-time football programs are not keeping their promises to student-athletes, particularly those of color.”).

12. *Id.* at 45.

13. *Id.* at 59–66.

14. *Id.* at 59–64.

15. *Id.* at 64–66.

16. *See id.* at 54 (“[M]any university presidents lack the authority to change the emphasis from athletics to academics because their power has been trumped by outside forces, such as income from lucrative television contracts and a public that clamors for victories on the field instead of success in the classroom.”).

17. *See id.* at 62.

It is often assumed that a free market for student-athlete services would result in athletes receiving compensation beyond that which NCAA regulations currently allow.¹⁸ It is against this backdrop that commentators have vigorously debated whether NCAA compensation restrictions contribute to the economic exploitation of student-athletes.¹⁹

Adding an important voice to this debate, Professor Ahmed Taha examines the existing evidence regarding whether colleges economically exploit their student-athletes. After he offers alternate definitions of economic exploitation in the student-athlete and university context,²⁰ Professor Taha adroitly synthesizes the existing literature. Moreover, his application of economic theory provides fresh insight. He engages in a comprehensive examination of the multiple variables (e.g., revenues generated by athlete services and benefits accruing to athletes by virtue of their participation in top NCAA football programs) that frustrate attempts to determine definitively whether college athletes are economically exploited.²¹ Nevertheless, Professor Taha concludes that evidence suggests that a subgroup of student-athletes—football and men’s basketball players at top programs—“generate much more revenue than costs for their colleges.”²² He also observes that evidence establishes that, given that most intercollegiate athletic programs generate little revenue, top football and basketball players subsidize other student-athletes at their colleges.²³ Finally, Professor Taha identifies a troubling dimension of this subsidization, “athletes that generate the most revenue for their colleges are disproportionately black.”²⁴

The final contribution to this set of articles is authored by Professor David Wiggins, who provides historical context for what some authors characterize as the economic exploitation and academic under-achievement of African American student-athletes. As Professor Wiggins explains, in the early 1900s a select

18. Ahmed E. Taha, *Are College Athletes Economically Exploited?*, 2 WAKE FOREST J.L. & POL’Y. 69, 71 (2012).

19. *Id.*

20. *Id.* at 71–72.

21. *Id.* at 70–71.

22. *Id.* at 92.

23. *Id.* at 93.

24. *Id.* at 94.

group of predominantly white northern colleges and universities recruited upper-middle-class African American athletes who excelled athletically and academically in collegiate environments marked by blatant racial discrimination.²⁵ Beginning roughly in the 1930s, patterns emerged that profoundly impacted the collegiate experiences of African American student-athletes and would set the stage for future events.²⁶ Colleges began to channel African Americans into select sports (e.g., football and track), and colleges recruited and enrolled academically underprepared African American student-athletes from poorer backgrounds who stood little chance to succeed academically.²⁷ Professor Wiggins's essay adds a human dimension through his depiction of the personal experiences of African American student-athletes, ranging from Paul Robeson in the early 1900s, to Jesse Owens in the 1930s, to Kevin Ross in the 1980s.²⁸ Professor Wiggins cautiously acknowledges that today's African American student-athletes may be the beneficiaries of reform efforts, such as more stringent academic requirements, that have restored a modicum of academic sanity to big-time intercollegiate athletics.²⁹ He concludes, however, that unlike their early 1900s counterparts, today's African American student-athletes in the highly commercialized top football and men's basketball programs are "disproportionately the star players" and "disproportionately the non-graduates."³⁰

In a 2005 study,³¹ researchers examined why entry-level positions (i.e., players) in team sports are integrated, but managerial level positions often are not. The authors concluded that at the managerial levels of professional sport, subconscious racism combines with institutional complexity, which increases the difficulty of measuring candidates' relative qualifications and

25. David K. Wiggins, "Strange Mix of Entitlement and Exploitation": *The African American Experience in Predominately White College Sport*, 2 WAKE FOREST J.L. & POL'Y 95, 101 (2012).

26. *Id.*

27. *Id.* at 104.

28. *See id.* at 100, 104–05, 109–10.

29. *See id.* at 113 (describing standards that contributed to improved graduation rates, such as the NCAA's requirements that high school athletes complete sixteen core courses for initial Division I eligibility).

30. *Id.*

31. Robert E. Thomas & Bruce Louis Rich, *Under the Radar: The Resistance of Promotion Biases to Market Economic Forces*, 55 SYRACUSE L. REV. 301, 318 (2005).

limits opportunities for African Americans.³² According to the authors of the report, the decision-making process for managerial positions is “replete with ambiguity and uncertainty. This uncertainty encourages the use of stereotypes, attributions, and decision frame biases to simplify this subjective decision process. These biases work to the detriment of minority managerial candidates.”³³

The next three articles examine themes addressed in the above-referenced report, including struggles by National Football League (“NFL”) and college-level football teams to provide equality of access to head football coaching positions. In her article, Professor Linda Greene concludes that race is a “salient explanation for the lack of black football coaches” at the professional and collegiate levels.³⁴ In this regard, she establishes a discourse of privilege, defined as “a phenomenon that operates to exempt those who select head football coaches from contemporary norms of fairness and legitimacy,”³⁵ as the theoretical framework within which to assess the effectiveness of strategies, such as racial report cards and the Rooney Rule, to improve access for persons of color to head coach positions in college football.³⁶ Acknowledging that positive outcomes have resulted from these strategies, Professor Greene concludes that they ultimately fall short due to their failure to fully address and reject a privilege discourse.³⁷ Professor Greene proposes that the *Division I Athletic Directors’ Policy* is potentially a more promising strategy.³⁸ This is due in large measure to the policy’s efforts to both identify minority candidates and ensure that hiring decisions of coaches are made on the basis of merit. According to Professor Greene, these components of the policy represent a vigorous rejection of a discourse of privilege as it relates to head football coach hiring.³⁹

32. *Id.* at 318–19.

33. *Id.* at 319.

34. Linda S. Greene, *Head Football Coaches: Ending the Discourse of Privilege*, 2 WAKE FOREST J.L. & POL’Y 115, 120 (2012).

35. *Id.* at 116.

36. *See id.* at 139.

37. *Id.*

38. *Id.* at 138.

39. *Id.*

Professor N. Jeremi Duru also discusses impediments for African Americans to head football coaching positions in college football. He argues that, notwithstanding entrenched attitudes that shut out African Americans from head coaching positions, the NFL's adoption of the Rooney Rule transformed the NFL's hiring culture and lowered barriers for African Americans to assume NFL head coaching positions.⁴⁰ He also observes that the denial of equality of opportunity within head football coaching in college football has historically mirrored (and has perhaps been worse than) that of the NFL.⁴¹ Given this history, the Rooney Rule's success, and the adoption of the Rooney Rule's core principles by organizations in other sports and non-sport contexts, Professor Duru criticizes the NCAA's refusal to mandate a Rooney-like rule as a means of increasing racial diversity in the ranks of head football coaches.⁴²

Professor Duru then explores Title VI as a means of improving racial diversity in college football head coaching ranks.⁴³ Noting that it would be controversial, Professor Duru argues for the development of a Department of Education regulation requiring the use of diverse candidate slates for college football head coaching searches.⁴⁴ According to Professor Duru, Title VI authorizes such action under its mandate:

Considering Title VI's mandate, the Department of Education's regulations enforcing that mandate, and, in particular, the Department of Education's choice to authorize—and, in some cases, require—recipients to implement proactive measures to thwart discrimination and its effects, diverse candidate slates would seem a reasonable tool for the Department of Education to use in ensuring equal opportunity in football coaching positions at our nation's colleges and universities.⁴⁵

40. N. Jeremi Duru, *Call in the Feds: Title VI as a Diversifying Force in the Collegiate Head Football Coaching Ranks*, 2 WAKE FOREST J.L. & POL'Y. 143, 143–44 (2012).

41. *Id.* at 144.

42. *Id.* at 149–50.

43. *Id.* at 157–63.

44. *Id.* at 163–64.

45. *Id.* at 159.

Professor George Cunningham's article, *Occupational Segregation of African Americans in Intercollegiate Athletics Administration*, is a welcome addition to discussions of diversifying coaching and administrative levels of college sports. Professor Cunningham begins with an acknowledgement of improvement but finds that African American coaches have made comparatively modest inroads across all levels of coaching in college sports.⁴⁶ Professor Cunningham then focuses on the increasing occupational segregation, reminiscent of position-segregation for players in college sports.⁴⁷ For example, African Americans represent 9.2 percent of athletic directors but "20.4 percent of all persons in academic support services."⁴⁸ Although the latter figure might be cause for celebration, Professor Cunningham cautions that limited opportunities for career advancement often exist in the occupational positions with higher rates of African Americans.⁴⁹ He attributes the occupational segregation of African American athletic administrators to macro-level factors—institutional racism and isomorphic pressures.⁵⁰ Occupational segregation is also influenced by meso-level factors—leadership categorization (linking whiteness to leadership ability) and athletic departments' diversity mindset (the failure of NCAA athletic departments to fully embrace diversity).⁵¹ Finally, Professor Cunningham identifies micro-level factors, social capital and vocational interests, as contributors to occupational segregation in college sports.⁵² Professor Cunningham's theoretical framework calls into question the long-term efficacy of efforts that focus on a single variable in attempting to eradicate occupational segregation.⁵³ He concludes that strategies must "take into account the intersectionality of macro-, meso-, and

46. George B. Cunningham, *Occupational Segregation of African Americans in Intercollegiate Athletics Administration*, 2 WAKE FOREST J.L. & POL'Y 165, 165–66 (2012).

47. *Id.* at 166–67.

48. *Id.*

49. *Id.* at 167.

50. *Id.* at 168–70.

51. *Id.* at 170–72.

52. *Id.* at 172–76.

53. *Id.* at 176.

micro-level factors [that contribute to occupational segregation].”⁵⁴

The next set of articles focus on the prevalence and harmful effects of stereotypes in college sports. In *A Hidden Toxicity in the Term “Student-Athlete”: Stereotype Threat for Athletes in the College Classroom*, Professor Jeff Stone persuasively argues that negative stereotypes undermine college athletes’ academic performance. He sets the stage for his discussion with a succinct overview of the psychology of stereotype threat and the variables that produce it.⁵⁵ He concludes that the research supports the following theoretical framework: “when a negative stereotype about a group becomes salient as the criteria for evaluating performance, individual group members may become concerned that their performance will confirm the validity of the negative stereotype.”⁵⁶ Having established this framework and identified stereotypes often associated with college athletes (e.g., athletes are less intelligent and less academically prepared and motivated than non-athlete students), Professor Stone turns to the impact of stereotype threat on the academic performance of college athletes.⁵⁷ According to Professor Stone, three factors converge to “activate the stereotype threat processes that impair [college athletes’] academic performance”⁵⁸: psychological engagement in academic performance (i.e., basing self-worth, in part, on academic performance); cues linking athlete identity to academic performance (e.g., the term student-athlete); and, racial identity.⁵⁹ Based on empirical studies, Professor Stone concludes that for African American college athletes, these factors coalesce so as to “exacerbate the debilitating processes that underlie stereotype threat.”⁶⁰

Stone proposes strategies aimed at ameliorating the harm caused by stereotype threat, including counter-stereotypic information about college athletes and the development of

54. *Id.* (internal quotations omitted).

55. Jeff Stone, *A Hidden Toxicity in the Term “Student-Athlete”: Stereotype Threat for Athletes in the College Classroom*, 2 WAKE FOREST J.L. & POL’Y 179, 181–83 (2012).

56. *Id.* at 181.

57. *Id.* at 184–93.

58. *Id.* at 185.

59. *Id.* at 185–186, 190.

60. *Id.* at 186.

programs that attempt to bolster athletes' coping responses when their athlete identity is invoked in classroom settings.⁶¹

Professor Andrew Billings's discussion of racial stereotypes in sports media complements Professor Stone's research on stereotype threat. Professor Billings demonstrates that a formidable impediment to ameliorating the harmful effects of racial stereotypes is the predilection to talk around race in sports through the use of narratives that perpetuate racial stereotypes.⁶² Professor Billings identifies racialized exemplars that appear racially neutral.⁶³ His analysis of these exemplars (e.g., the Wonderlic Test used in the NFL and discussions regarding the NBA's "one-and-done" rule) reveals, however, that they are imbued with racial undertones that contribute to the perpetuation of racial stereotypes in sports.⁶⁴ For example, discussions of the NBA's "one-and-done" rule are often infused with racial undertones that suggest African American athletes lack interest in academic performance.⁶⁵ According to Professor Billings, such media depictions inundate the public to the detriment of black athletes, with "the binary distinctions of players who are athletically-focused versus those who are academically-focused."⁶⁶ Rather than becoming a tool that can help to eradicate harmful stereotypes, the media helps to perpetuate them.⁶⁷

Similar themes are explored by Professor Kevin Blackistone, who argues that factors are present which reduce the likelihood that the media's tendency to talk around race will change anytime soon. According to Professor Blackistone, limited access for journalists of color to positions in sports media outlets does not bode well, at least in the short-term, for moving beyond these negative stereotypes.⁶⁸ His examination of recent studies

61. *Id.* at 195–96.

62. See Andrew C. Billings, *Talking Around Race: Stereotypes, Media, and the Twenty-First Century Collegiate Athlete*, 2 WAKE FOREST J.L. & POL'Y 199, 199–200 (2012).

63. *Id.* at 200 (listing three case studies which the author will discuss: "(1) athletic intelligence of college football players as defined by the Wonderlic Test, (2) the 'one-and-done' college basketball player, and (3) the 'out-of-place' or 'out-of-position' college athlete").

64. *Id.*

65. See *id.* at 206–09.

66. *Id.* at 207–08.

67. *Id.* at 210–12.

68. See Kevin B. Blackistone, *The Whitening of Sports Media and the Coloring of Black Athletes' Images*, 2 WAKE FOREST J.L. & POL'Y 215, 217 (2012).

reveals a decline in the already low rates of racial diversity in newspaper sports departments and web-based sports sites.⁶⁹ By way of example, between 2008 and 2010, the percentage of sports editors who were women or minorities decreased from 11.7 percent to 9.4 percent.⁷⁰ Professor Blackistone concludes that the “consequences of an increasingly less diverse or more white sports media, covering what is unquestionably a more diverse or more black and brown major sports team universe, are the concerns proven by research over the years that black athletes are portrayed negatively and stereotypically.”⁷¹

Most discussions of race and sports revolve around the black-white binary paradigm of race in America. In a groundbreaking article, Professor Christopher Cameron expands this discourse. Noting the ever-increasing contributions of Latinos to the cultural, political, and economic spheres of American society, Professor Cameron observes that Latinos are largely absent from an important place in American life—college athletics.⁷² He cites to the available evidence that establishes low participation numbers by Latino athletes and a dearth of Latinos in administrative and coaching positions in collegiate athletics.⁷³ For example, Latinos comprise just 4 percent of the roughly half a million athletes who participate in NCAA sanctioned events each year.⁷⁴ Professor Cameron then offers reasons that may explain why Latinos remain “*los olvidados*—the forgotten ones—of American college athletics.”⁷⁵ These include: “(1) kinks in the educational pipeline that divert Latinos from transitioning from high school to college; (2) restrictive academic eligibility rules; (3) cultural and familial expectations about going to work; and (4) the absence of sports participation from Latinos’ group success narrative.”⁷⁶

69. *Id.* at 215–217.

70. *Id.* at 215.

71. *Id.* at 225.

72. Christopher David Ruiz Cameron, *You Can't Win If You Don't Play: The Surprising Absence of Latino Athletes from College Sports*, 2 WAKE FOREST J.L. & POL'Y 227, 229 (2012).

73. *See id.* at 231–35.

74. *Id.* at 229.

75. *Id.* at 231.

76. *Id.* at 235.

Title IX has substantially contributed to greater equity for female student-athletes.⁷⁷ A lingering question, however, is whether women of color have benefited from increased athletic opportunities to the same extent as white female student-athletes. For example, the growth of black female participation in intercollegiate sports is confined to basketball and track; otherwise, intercollegiate athletic participation by black women has languished.⁷⁸ Notwithstanding Title IX, African American women have not realized increased administrative and coaching opportunities in college sports.⁷⁹ The final set of articles addresses these and other issues.

Professor Angela Hattery examines the impact of gender and race on coaching opportunities for women in college sports. Her research and review of the literature verifies that Title IX has extended participation opportunities for women athletes in college sports.⁸⁰ The beneficial effects of Title IX have also extended participation opportunities in college basketball to African American women.⁸¹ Nevertheless, Title IX's passage has not resulted in a substantial increase in opportunities for women to coach men's basketball teams.⁸² Moreover, Professor Hattery concludes that, despite Title IX's extension of athletic participation opportunities for African American players in women's basketball, this extension has not been mirrored by increased opportunities for African American women to coach women's basketball teams when compared to white women.⁸³ This is true even though the composition of women's basketball teams is dominated by African American women.

In an article in which she seamlessly infuses her personal experiences and legal analysis, Professor Jacquelyn Bridgeman calls for achieving true equality in sports between men and

77. See Diane Heckman, *The Glass Sneaker: Thirty Years of Victories and Defeats Involving Title IX and Sex Discrimination in Athletics*, 13 FORDHAM INTELL. PROP., MEDIA & ENT. L.J. 551, 561-62 (2003).

78. See MONEQUE WALKER PICKETT, *THE INVISIBLE BLACK WOMAN IN THE TITLE IX SHUFFLE* 11 (2009), available at http://scholarlyrepository.miami.edu/cgi/viewcontent.cgi?article=1287&context=oa_dissertations.

79. *Id.* at 8.

80. Angela J. Hattery, *They Play Like Girls: Gender and Race (In)Equity in NCAA Sports*, 2 WAKE FOREST J.L. & POL'Y 247, 259 (2012).

81. *Id.* at 260.

82. *Id.* at 261.

83. *Id.* at 262.

women.⁸⁴ She acknowledges gains for women in sports participation opportunities since the passage and enforcement of Title IX. Yet, Professor Bridgeman also addresses a limitation inherent to Title IX that impedes the ability of the statute and its regulations to achieve true equality for women in sports. Professor Bridgeman argues that the inherently male normative standard that resides in Title IX's regulations (e.g., the contact sport exception) reflects the male norm that inhabits American sports culture.⁸⁵ She also observes that the beneficial effects of Title IX tend to mask the male norm in sport.⁸⁶ Professor Bridgeman concludes that meaningful equality for women in sports will become a reality only when there is the "creation of equal value with respect to men and women in sports."⁸⁷ Finally, Professor Bridgeman offers suggestions that may hasten the move toward equal value and meaningful equality in sports, including: (1) the elimination of the contact sport exception, (2) distributing money in college sports more equally between men's and women's sports, and (3) measuring what constitutes a successful athletics program in ways that go beyond win-loss records.⁸⁸

In the last of the symposium's articles, Professor Alfred Mathewson argues that Title IX was designed to remedy discrimination along the single axis of gender. According to Professor Mathewson, "conventional anti-discrimination law employs a single-axis model that prohibits discrimination on the basis of race or gender, separately, but does not prohibit discrimination based on race and gender acting in concert."⁸⁹ A consequence of Title IX's failure to remediate the impact of the intersectionality of race and gender on African American females' athletic opportunities is an imbalance in which Title IX has benefited white female athletes more so than their black female counterparts.⁹⁰ Another consequence is that educational

84. See Jacquelyn Bridgeman, *The End Game: Envisioning Equality for Women & Girls in Sports*, 2 WAKE FOREST J.L. & POL'Y 267 (2012).

85. *Id.* at 285.

86. *Id.* at 288–89.

87. *Id.* at 287.

88. *Id.* at 288–92.

89. Alfred Dennis Mathewson, *Remediating Discrimination Against African American Female Athletes at the Intersection of Title IX and Title VI*, 2 WAKE FOREST J.L. & POL'Y 295, 299–300 (2012).

90. See *id.* at 298, 313.

institutions can comply with Title IX without addressing the impact of gender and race on athletic opportunities for women of color.⁹¹

Given Title IX's remedial shortcoming, Professor Mathewson explores the viability of other anti-discrimination statutes as means of effectively remediating the unique situation of African American female athletes occasioned by the intersection of gender and race discrimination.⁹² This shortcoming is a feature not only of Title IX but also other anti-discrimination statutes which are constructed to remediate single-axis discrimination—race or gender—but not discrimination resulting from a confluence of the two.⁹³ Professor Mathewson acknowledges the absence of an antidiscrimination law that specifically prohibits discrimination against African American female athletes.⁹⁴ His proposed solution is not to craft new anti-discrimination legislation, but to utilize existing race- and gender-based anti-discrimination statutes to work in tandem to sculpt remedies that effectively address discrimination against African American female athletes. Professor Mathewson concludes that the Department of Education possesses the regulatory authority and discretion, under Title VI and Title IX, to modify its existing regulations or to promulgate a policy interpretation that would both define discrimination against African American female athletes and prescribe remedies.⁹⁵

On behalf of my co-organizer of this symposium, Earl Smith, PhD, I thank the symposium participants and the many others who enabled this dialogue regarding the intersection of race and intercollegiate athletics to occur. As is often true of symposia, the presentations and papers raised more questions than definitive answers. Nevertheless, we hope that this symposium will heighten the awareness of the issues addressed and encourage commentators and policy-makers to continue to examine them

91. *Id.*

92. *Id.* at 306–08. (explaining that the existence of race and gender makes the experiences of black women different from those of white women and black men).

93. *See id.* at 312.

94. *Id.* at 314 (“I am not proposing additional legislation at this time, but rather a regulatory agency solution.”).

95. *Id.* at 315–16.

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and to seek solutions to the important issues confronting intercollegiate athletics.