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## Sport and Masculinity: The Promise and Limits of Title IX

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“Sport and Masculinity: The Promise and Limits of Title IX”\*

by

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Throughout history, sport has been a site where masculinity is learned, performed, and reproduced.<sup>1</sup> In the United States, sports were introduced into schools in response to fears that boys were being feminized by the shift from an agrarian to industrial labor force, leaving boys in the day-to-day care of their mothers. Boys today continue to learn lessons in masculinity from participation in sports. For boys who excel in sports, athletic achievement is a path to a celebrated, traditional masculinity. For boys who lack ability or interest in sport, they risk developing a more marginalized masculinity. So great is the connection between sport and masculinity that some opponents of homosexuality push sports as a “cure” for boys who are, or are perceived to be, gay. In one lawsuit involving a male student’s complaints of anti-gay harassment, the principal allegedly told him, “You can learn to like girls. Go out for the football team” (*Schroeder* 2003, 871). Through excelling at sports, boys become men and establish their masculine *bona fides*.

The particular masculinity produced through participation in sports is shaped by race, class, and the kind of sport played. The world of men’s sports contains layers of privilege and hierarchies of masculinity within it. This hierarchy is costly, in different ways, both to the men who are situated at the top and to the greater numbers of men and women who occupy a more marginalized place in sport.

The entry of girls and women into sports in large numbers—a relatively recent phenomenon that began after Congress enacted Title IX of the Education Amendments of 1972—has complicated the connections between sport and masculinity. The mass participation of girls and women in athletics has the potential to disrupt the masculinizing work of sport. If a girl can be a great athlete, sport may lose its power to turn boys into men. The expanding presence of women athletes has the potential to dilute the hetero-masculine norms associated

with sports participation and expand the range of masculinities available to men who participate in sports.

And yet, despite increasing numbers of female athletes, sport remains a primary site for the construction of masculinity. For all its success in opening up athletic opportunities to women, Title IX has not yet succeeded in transforming sport's function as a masculinizing institution. Nor has it destabilized the hierarchy of masculinity within men's sports, or rectified the harms of male sports culture. The law has had somewhat more success in punishing the worst excesses of violence and aggression by male athletes, although this, too, is limited. This Chapter considers sport's construction of masculinity and the limits and promise of Title IX in disrupting this process.

## I. Title IX's Feminist Legacy: Expanding Women's Opportunities and Transforming Femininity

Enacted in 1972, Title IX prohibits sex discrimination in educational institutions that receive federal funds, including in athletic programs. Title IX's effect on women's sports has been tremendous. In 1971, the year before the law's enactment, fewer than 300,000 girls nationwide competed in high school sports. Today girls in high school sports number more than three million (Brake 2010). To put this into perspective, the ratio of girls playing high school sports has gone from one in twenty-seven to nearly one out of every two (ibid.). Sport has gone from being an exceptional and somewhat odd activity for girls to one that is part of normal girlhood and adolescence. The growth of women's sports at the college level is also remarkable. Female intercollegiate athletes have seen their numbers jump from 32,000 in 1971 to over

200,000 today (ibid.). Although it is impossible to pinpoint precisely how much of this growth is directly attributable to Title IX, much evidence suggests that the law has played a significant role in this expansion (Stevenson 2007).

It is hard to overstate the impact of these changes. As more women have become athletes, they have expanded the range of acceptable feminine identities and transformed deeply ingrained understandings about what it means to be a woman. As feminist philosopher Judith Butler explains, women's participation in sport troubles binary understandings of gender and reveals gender to be a performance. The category of woman is itself destabilized as female athletes who were perceived as masculine become accepted as genuine women (Butler 1998).

Sports participation has benefitted girls and women at the individual level as well. Female sports participation has been linked to academic achievement, job success, positive self-esteem, lower incidence of high-risk behaviors such as drug use, smoking, sexual activity and teen pregnancy, and a plethora of health benefits, both mental and physical (Staurowsky et al. 2009; Stevenson 2010). Sport has become a site of empowerment for girls and women, enabling them to develop more positive relationships to their bodies (Bolin and Granskog 2003; Roth and Basow 2004). Although female athletes still contend with negative stereotypes and reckon with the paradox of being both female and athletic in a culture that associates sport with masculinity, there is more room for them to succeed in doing so and to construct positive identities as athletes (Ross and Shiner 2008).

## II. Sport and the Construction of Masculinity

While the greater presence of women in sport has transformed the norms of acceptable femininity for women, it has not similarly expanded the range of masculinities available to men. Sport continues to function as a masculinizing institution, a rite of passage for boys in developing a traditional masculine identity. Sport's production of masculinity reinforces a hierarchy among masculinities in which strength, aggression, and heterosexuality are privileged.

Because it is performed on a public stage and is part of the collection of values that bind people as a community, sport has been identified as one of, if not *the* most significant institution for the reproduction of masculinity. Sport's emphasis on physicality, competition, and winning align it with a particular kind of masculinity, one that starkly differentiates itself from the feminine (Whitson 1990). The objects of differentiation include women and less masculine men. Participants in men's sports construct a masculinity that values strength, discipline, aggression, and loyalty to other men (*ibid.*). As long as they abide by the norms of their sport and display athletic competence, male athletes are presumed to be heterosexual and clothed with an enviable masculinity (*ibid.*).

Of course, not all sports masculinize male athletes to the same degree, and not all boys or men are masculinized in precisely the same way through sports participation. The masculinity developed in a football player differs from that of a baseball player, which differs still from that of a golfer or swimmer. The more violent and/or aggressive the sport is, and the less it emphasizes aesthetics, the more masculine it is (Pronger 1990, 19-20). In high school and college sports, the most masculine sports, football and men's basketball, sit at the top of the athletic hierarchy. These two sports draw the largest crowds, receive the largest budgets, have

the reputation (if not necessarily the reality) of being profit-makers, require great physical strength and speed, and have high levels of violence and aggression. Men who excel in these sports reap the greatest rewards of the hetero-masculinity that sport constructs.

Race and gender interact in complicated ways in the production of masculinity, and this is true in sport as well. In contrast to other sites where masculinity is developed (such as the workplace, for example), men of color, and black men in particular, have succeeded in developing a celebrated masculinity through sports participation, especially in football and basketball. Through excelling in sports, black boys and men have been able to construct a higher-status masculinity and more varied life paths (Atencio and Wright 2008). And yet, their success is paradoxical because it does not challenge the institutions or structures that situate black men in a position of inequality, nor provide any but a very few with any real economic security through professional sport (Messner 1989).

Black men's success in sport resonates with a deep-seated racial ideology that depicts black men as more physical—and in the West's mind/body dualism, less intellectual—than white men (van Sterkenburg and Knoppers 2004). Race essentialism in sports and the naturalization of a white-black binary permeates discourses about black athletes, although some research suggests that girls are more skeptical than boys of narratives that essentialize black athletes as more “naturally” athletic (Azzarito and Harrison 2008). Black male athletes can excel in sport without challenging this racial ideology, and their success functions to support liberal beliefs in a colorblind meritocracy and to obscure racial injustices in sports and society (Ferber 2007). For example, while black men make up a substantial percentage of the elite athletes in football, basketball, and track, their ranks are thin in other sports. Even within sports, there is tracking by position (Davis 1995; Messner 1989). For example, black football players have encountered

resistance when they move into the position of quarterback (Buffington 2005). And despite their large presence as athletes in certain sports, they rarely break into the ranks of coaching or administration (Davis 1999). This racial stratification comports with a racial ideology that permits black men a celebrated masculinity as athletes, but locks them into a physical masculinity grounded in their bodies. The masculinity that comes from coaching men—being a strategic, thinking leader of other men—is less available to African American men. Race discrimination laws, such as Title VII of the Civil Rights Act of 1964, have done little to disrupt the role race plays in constructing the masculine hierarchies in men’s sport leadership (ibid.).

By far the most research on race and gender in sports has focused on black male athletes (Davis and Harris 1998). Much less is known about how race interacts with gender in shaping the experiences of, and the construction of masculinity within, other men of color. What information does exist demonstrates the importance of studying race and masculinity in sport with greater particularity. For example, while Latinos, like blacks, have succeeded in breaking into some sports, such as baseball, in large numbers, they too are subject to “stacking,” limiting them to playing positions that match up with racial stereotypes. Perceived as being shorter, agile, and quick, Latino baseball players are concentrated in the infield, and are presumed to lack the speed and power necessary for outfield positions (Gonzalez 2001). Even though coaches and managers are mostly recruited from the infield, Latinos are greatly under-represented in these positions, suggesting that their athletic success on the field does not translate into a broader dismantling of racial barriers or racial ideology (ibid.).

Sport studies literature contains even less about Asian men. The virtual absence of information about Asian American men in sport sociology research is itself significant (Coakley 1998). It reflects both the resilience of a binary approach to studying race in sport as a



black/white phenomenon and the conflict between stereotypes of Asian men and the dominant masculinity constructed by sport. As Michael Kimmel observes, throughout U.S. history, Asian men have been viewed as “small, soft, and effeminate,” serving as “unmanly templates” against which American men are measured (2001, 281). Their low visibility in sport both reflects and reinforces the compromised masculinity of Asian men in U.S. culture.

Class also interacts with race and gender in shaping the masculinity men derive from sports, with certain sports contributing to a more genteel, upper-class masculinity (Messner 1989). Sports typically played in country clubs—spaces which are often racially exclusive and highly class-conscious—develop a more refined “gentlemen’s” masculinity. These sports, such as golf, swimming, tennis, and racquetball, do not involve high levels of physical contact or aggression, and have been less welcoming to men of color. In golf, for example, Tiger Woods stands out as the exception to the rule that golf is a white gentlemen’s sport. The significance of Woods’ success in golf for opening up golf, and other country club sports, to men of color more broadly is diluted by Woods’ disavowal of any strong sense of identity as a black man. Woods has referred to himself as “Cablinasian” (for Caucasian, Black, Indian, Asian) and has minimized the significance of his racial background in talking about his legacy in the sport (Billings 2003; Cashmore 2008). The masculinity inculcated by golf and other country club sports remains less available to men of color and men from working class backgrounds than the very different masculinity constructed by the contact sports.

One window for viewing the distance between the masculinity conferred on male golfers and the masculinity produced by men’s contact sports is the recent controversy over Tiger Woods’ adultery. The recent hype in reaction to Woods’ infidelity—causing him to take a “break” from golf—was likely shaped by the class associations and expectations connected with

the sport. As the best golfer in the world, Woods had more to account for when he slipped from grace. The reaction to his affairs, by all accounts voluntary, generated more negative press coverage than allegations of rape, sexual assault, and domestic violence by football and basketball players typically do. In contrast to the negative publicity surrounding Woods' adultery, much of the public reaction to the rape charges brought against NBA star Kobe Bryant rallied around Bryant, painting him as the victim of a promiscuous woman who consented to sex and then cried rape (Anderson 2004; Haddad 2005). Compared to the expectations of unlimited sexual access to women enjoyed by talented football and basketball players, the masculinity inculcated by country club sports is a more refined and cultivated masculinity. The norms of country club masculinity do not, by any means, insist on chastity, but they do prefer that sexual peccadillos be managed discretely. Football and basketball, as more rugged, physical sports with more working class masculine identities, allow more leeway for flagrant promiscuity. The stars of these sports are expected to have sex with many women, and the women they have sex with are regarded as virtually unrapeable. The most masculine sports construct a kind of hypermasculinity, which confers sexual access to women and privileges above and beyond those conferred on other men.

Despite Title IX's effect of expanding the range of acceptable gender performances by women, the law has not yet significantly changed the masculinizing function of men's sports, nor has it destabilized the hierarchy of masculinities within men's sports. Instead, through its reinforcement of gender as a dividing line in sport and its failure to dislodge the extreme privileging of the most masculine men's sports, Title IX has participated in sport's construction of a dominant hetero-masculinity.

### III. Policing the Gender Line in Sport and Preserving All-Male Enclaves

One of the most significant policy choices Title IX makes is to leave intact the sex-differentiation of athletic teams. Viewed from the perspective of getting more girls and women into sports, there is much to recommend this choice. Because school sports were designed for male bodies, gender-neutral try-outs would likely lead to token representation of female athletes in varsity sports. Such tokenism would reinforce a belief in men's natural athletic superiority and the view that sport is not a place for most women. Those few female athletes who excelled in competition against men would likely be seen as aberrational, unlike normal women. A high level of performance by a few exceptional female athletes would not significantly change cultural norms or challenge the gender binaries that have limited women's participation in sports (Messner 1988). Moreover, sport might become a less empowering place for girls and women without their own teams (Wachs 2003; Landers and Fine 1996; Usher 2005; Hannon and Ratliffe 2007).

Of course, there is no easy answer to the question of whether the law's approach to sex equality in sport should proceed along an assimilationist model, integrating women onto coed teams, or a separatist model, pursuing equality between separate men's and women's sports. The question presents a true dilemma, with a downside either way. A gender-blind assimilationist approach would risk missing out on women's mass participation in sport and the societal changes that have come from making sport a typical part of girls' and women's lives. As shown by the packed stadiums during the women's Final Four, women can play a rousing game of college basketball without men on the court to legitimize their performance. And yet, the current strategy of separation also has downsides, including the risk of reinforcing a second-class status for

women's sports and the belief that the top female athletes could never compete with men—a belief that may well be wrong in some cases, but is rarely tested. On balance, however, Title IX makes a respectable choice in prioritizing concrete opportunities for large numbers of women.

And yet, by leaving in place the sex-separate structure of sports, the law reaffirms the salience of sex as a dividing line in sport and preserves the male-only spaces of athletic fields and locker rooms. All-male settings tend to promote a traditional form of masculinity, one that differentiates from and establishes dominance over both women and less masculine men. The absence of women in male-only settings can produce a “hypermasculine ethos” marked by misogyny, belief in male superiority, and homophobia (Levit and Verchick 2006, 102).

To a limited extent, Title IX grants an individual student a right to try out for an athletic team that is offered only to members of the other sex. However these rights are too narrow to significantly expand men's range of sport opportunities or disrupt the male-only spaces of sport. Under the Title IX regulations, integration rights apply only to students whose access to sport has been limited by sex, and only to sports that are offered exclusively to members of the other sex (Athletics Regulation—Separate Teams 2010). Since female athletes in general have had limited athletic opportunities, the regulation may give them the right to try out for a sport offered only to men. However, the regulation creates an exception for contact sports, defined as sports which involve bodily contact as their purpose or major activity (*ibid.*). The regulation lists boxing, wrestling, rugby, ice hockey, football, and basketball as contact sports, but the designation may apply to other sports as well. Since most of the sports that a school offers to men but not women are contact sports, Title IX has only rarely been a vehicle for granting women access to male-only teams.

As a result, Title IX has done little to disrupt the male-only enclave of men's sports, thereby missing an opportunity to challenge the culture of men's sports. As David Whitson explains, the presence of women on men's teams could potentially disrupt the process by which men "rehearse their ties as men and reaffirm their differences from women" (1990, 25-26). Since women rarely have enough experience with contact sports to support their own teams, the contact sports exception effectively deprives them of any access to these sports. In doing so, it reaffirms the masculinity of contact sports themselves by signaling their unsuitability for women. It demeans female athleticism as fragile and passive while reaffirming the ultimate masculinity of the most aggressive and dangerous sports by accepting the exclusion of women from these sports.

To some extent, the Equal Protection Clause has eased the impact of the contact sports exception. Since the 1970s, numerous court decisions have relied on the Equal Protection Clause to require schools to permit female athletes to try out for male-only teams in sports not offered to women, even in contact sports (Brake 2010). However, the Equal Protection Clause only applies to state actors, so these precedents are limited to public schools and universities (*ibid.*). Female athletes at private schools can rely only on Title IX, which applies to any educational institution, public or private, which receives federal funds (including federal student loans). Moreover, the message sent by the contact sports exception goes well beyond its application in particular cases; this message reaffirms that the most masculine of sports are unsuitable for women, and that the men who play these sports are the most masculine of men.

Male students have had even less success using the law to gain access to sports offered only to the other sex, albeit for different reasons. Under Title IX, an athlete has a right to try out for a team offered exclusively to the other sex only if his or her own athletic opportunities have

been limited by sex (Athletics Regulation—Separate Teams 2010). Since male athletes have historically been over-represented in school sports programs, this restriction typically leaves male students without a right to try out for sports offered only to women. Cases decided under the Equal Protection Clause take a similar approach, justifying female-only teams based on the important interest in expanding opportunities for girls and women, who still have fewer athletic opportunities. As a result, male students generally do not have a right to try out for teams in sports offered only to women such as field hockey and volleyball—sports which register as less masculine than the typical menu of sports offered to men (Brake 2010).

In the final analysis, Title IX has not done much to de-gender sports. Most sports retain a gender identity constructed by the gender of their participants and the qualities required to play them (Ross and Shinew 2008; Hardin and Greer 2009). These gender associations are deeply entrenched and widely shared. In one study of black and white boys and girls, all of the students subscribed to gendered perceptions of particular sports, although race and sex influenced how particular sports were gender-typed (for example, black girls in the study were more likely than white girls and all boys to view basketball as gender-neutral rather than more appropriate for boys) (Hannon et al. 2009). Contact sports are the most likely to be gender-typed as masculine (ibid.). Sports that emphasize gracefulness, aesthetics, and accuracy over strength are more likely to be gendered feminine. While the gendering of sports limits both girls' and boys' athletic participation choices, boys are even more reluctant than girls to play sports typed as gender-inappropriate (ibid.).

Title IX has not helped men cross the gender line in sports or gotten them into more feminine sports. Although there is a plausible anti-subordination rationale for this result—preserving limited athletic opportunities for girls and women—it comes with the cost of

reinforcing the narrow range of masculinities in men's sports. Male participation in a more diverse range of athletic experiences could serve as a path to developing more fluid gender identities and alternative masculinities in sport (Azzarito and Katzew 2010). By looking at sex-equality through a binary lens of male vs. female opportunities, Title IX misses an opportunity to broaden the range of masculinities available to male athletes. Men are relegated to more masculine sports and the gender associations of particular sports are reinforced.

The impermeability of the gender line in sport is sealed by the virtual exclusion of women from leadership positions in men's sports. Much attention has been paid to the decline in the percentage of women coaches in women's sports since Title IX was enacted in 1972 (Carpenter and Acosta 2010). Much less concern has been voiced over the near absence of women from the ranks of coaches in men's sports. Less than 3% of men's intercollegiate teams are coached by women, a figure that has barely budged in the decades since Title IX was passed (ibid.). Cross-gender coaching occurs much more frequently in women's sports: men are 57% of the head coaches in women's intercollegiate athletics (ibid.). Men even coach women in sports in which they lack varsity experience themselves, such as field hockey and softball. And yet, while men are accepted as leaders in women's sports, the reverse is not true; women are much less likely to be considered capable role models for men's sports (Bracken 2009). This disparity has important consequences. The entrance of women into this realm would disrupt the masculinizing function of sport and likely broaden the range of masculinities sport develops.

In the push for sex equality in sport, the virtual absence of women from jobs coaching male athletes is rarely part of the conversation. Title IX treats the sex of the coach as irrelevant. It does not confer a right to gender diversity among coaches in men's sports, nor a right to same-gender role models in women's sports. Title IX follows employment discrimination law in this

regard by requiring only formal equality in the hiring process and not equality of results (Brake 2010).

As a result, there is little room for women in men's sports at any level, from the athletes on up to the coaches and athletic directors. At the same time, there is little room for male athletes to expand the range of masculinities constructed by sport, or to cross the gender line and compete in women's sports. The gender separation of sport leaves intact a structure in which particular sports are gender-typed. This hurts men whose sport offerings are limited to masculine sports, and has a rebound effect on women, who face social penalties when they participate in sports cast as too masculine (Ross and Shiner 2008; Hardin and Greer 2009). Although Title IX has gotten women into sport, it has done little to de-gender sport itself.

#### IV. Follow the Money: Privileging the Most Masculine Sports

Within men's sports there is a hierarchy of masculinities. At the top sit the most masculine sports and the athletes who play them. The privileges conferred by these sports dwarf the status and rewards associated with other men's sports. One of the most visible privileges is the allocation of resources provided to men's sports. A quick review of athletic budgets leaves little question about which sports are the most-valued. Football and men's basketball consume by far the greatest share of athletic budgets, leaving all other men's sports to scramble for leftovers. In 2005-2006, the average Division I institution spent over seven and a half million dollars on football and men's basketball combined—about 88% of the total average budget of \$8.65 million for all men's sports (DeHass 2008). For perspective, this amount far exceeded what the average



Division I institution spent on all women's sports (about \$4.5 million) and all other men's sports combined (ibid.).

Title IX purports to require the equal treatment of men's and women's sports. However, limitations in Title IX's legal framework and enforcement make this promise a hollow one, at least when it comes to extending to women a level of treatment equal to that of the most privileged men's sports. For one thing, Title IX does not require equal spending on men's and women's sports. Funding inequality is a factor to consider in measuring compliance, but it does not in and of itself establish a Title IX violation (Athletics Regulation—Equal Opportunity 2010). Instead, compliance is measured by a qualitative comparison of the overall men's and women's programs.

The need for an overall program comparison stems from Title IX's allowance for men and women to play different sports. A sport-specific comparison would provide no way to measure equality when men and women play different sports. However, while the overall program comparison is necessary to accommodate men's and women's different sport interests, it does have a downside. Comparing the level of treatment across men's and women's sports programs overall makes for a messy, information-saturated undertaking. Differences in the equipment, rules, squad sizes, and facilities of different sports make them hard to compare, and the lack of a financial test for parity requires the use of less tangible and more manipulable measures. Moreover, the theory of gender difference underlying the sex-separation of sports makes the different treatment of men's and women's sports seem more acceptable. If men and women are different enough to require separate athletic programs in the first place, the logic goes, why should their teams have the same level of resources and support?

As a result of the messiness of Title IX's overall equal treatment approach and the resistance to its full enforcement, the perks taken for granted in the most-valued men's sports are virtually never extended to any women's sport; nor has the law reined in these extreme expenditures. Football and men's basketball teams receive perks that very few women's teams ever see, including luxury accommodations on nights before home games, high tech video and digital display equipment in locker rooms, travel by chartered jet, coaching salaries that dwarf even a college president's pay, and money lavished on recruits (universities spend on average twice as much money to recruit male as female athletes) (Brake 2010).

Driving the disparity is the presumption that football and men's basketball deserve their perks because they bring in revenue. The factual basis for the revenue justification has been strongly critiqued elsewhere (Sperber 2000, 220-22; Zimbalist 2001, 14), but the key point for purposes of this Chapter is that, revenue-producing or not, Title IX leaves intact an athletic structure in which the rewards, status, and benefits afforded male athletes in the most masculine sports dwarf those of all other athletes, male and female. Indeed, the very assumption of profitability (however unfounded) only adds to the special status reserved for these male athletes. Most sports programs would fail a profitability test if held to the same accounting standards applied to normal businesses, but the veneer of revenue functions as a value judgment of worthiness, further adding to the celebrity status of the athletes who play these two sports (Brake 2010).

While paying lip-service to equal treatment, Title IX legitimizes a model of sport that spends lavishly on the two most masculine sports, while creating a resources crunch for all other sports, with the result that other (less masculine) men's sports are left scrambling for crumbs and (wrongly) blaming Title IX.

## V. Challenging Hypermasculinity within Men's Sports

Among the privileges bestowed on elite male athletes is a certain status. The masculinity conferred on men by participation in the most-valued sports includes a presumption of heterosexuality and an expectation of unfettered sexual access to women. Their status as elite athletes is often thought to make these men irresistible to women, an assumption that drives the “she was asking for it” public reaction when a celebrated male athlete is accused of sexually assaulting a woman. At its worst, the culture of men's sports contributes to an atmosphere of entitlement in which sex with women is one of the perks of being an athlete. It also sets up a dynamic in which men who do not live up to these norms of masculinity are hazed or harassed. By engaging in demeaning treatment of other men, dominant males reaffirm their own masculinity. The result, to borrow from Angela Harris, is a “hypermasculinity” in which “the strictures against femininity and homosexuality are especially intense and . . . physical strength and aggressiveness are paramount” (2000, 793).

In recent years, Title IX has had some success in checking the most virulent excesses of hypermasculinity in men's sports. These successes show the potential of Title IX to open up more space within men's sports for alternative masculinities, and to punish performances of hypermasculinity that hurt women and other men. However, Title IX's high hurdles for a successful suit make it a limited vehicle for transforming the culture of men's sports in a positive direction. At best, the law may serve as a check on the most extreme forms of masculine aggression in men's sports and prompt educators and administrators to pay more attention to the kinds of masculinities that are being developed and reinforced through male sports participation.

Two recent high-profile cases show the potential for Title IX to intervene when athletic programs encourage or condone expectations of sexual access to women as part of the “perks” to which male athletes are entitled. In one of these cases, the University of Colorado (CU) was charged with collaborating in a football recruiting program that supplied female students to act as “ambassadors” for the male recruits brought to campus (*Simpson 2007*). The job of these ambassadors—escorts, really—was to show male recruits “a good time,” a thinly veiled euphemism for sex. The lawsuit was brought by two female students who were gang-raped by a group of football players and recruits during one of these recruiting visits. Although the district court granted the university summary judgment on the grounds that it was not responsible for the sexual misconduct of its athletes and visiting recruits, the Tenth Circuit Court of Appeals reversed. The appellate court cited the existence of longstanding concerns about sexual misconduct and abuse of women by male athletes, both in college football generally and at the University of Colorado specifically. The university’s failure to adequately supervise its recruiting program or stop the use of female escorts, despite its knowledge of these risks, could establish deliberate indifference, the court concluded.

In a second high-profile case involving extreme hypermasculinity by male athletes, a female student sued the University of Georgia for its role in facilitating a gang-rape involving basketball and football players (*Williams 2007*). During the incident, the ringleader, a basketball player, had what the court described as consensual sex with the plaintiff while, unbeknownst to her, a football player was hiding in the closet. When the basketball player gave the cue, the football player emerged from the closet and sexually assaulted the plaintiff. While the assault was taking place, the basketball player called two other athletes (one football player and one basketball player) and told them they were “running a train” on the plaintiff. One of the two (the

basketball player) showed up and, with encouragement from the first basketball player, raped the plaintiff. The district court dismissed the complaint for failure to state a claim based on the lack of allegations establishing the university's culpability. The Eleventh Circuit Court of Appeals reversed, citing allegations that university officials had prior notice of sexual assaults and harassment by the basketball player who led the gang-rape before admitting him to the University of Georgia. Allegations that university officials knowingly recruited this player established that they put female students at increased risk of sexual assault. The court also found that the university's response to the gang rape was itself deliberately indifferent: the university waited eight months after receiving the police report before conducting a disciplinary investigation, and ultimately failed to sanction the assailants.

While welcome developments, it is too soon to view these cases as heralding a new era for combating misogyny in men's sports. Both cases involved extremely egregious facts showing actual notice of a high risk of sexual assault and a deliberate indifference to these risks on the part of university officials—the strict standard required by Title IX for holding a school liable for sexual harassment by its students (*Davis* 1999). In the *Simpson* case, a high school girl had been sexually assaulted by CU recruits and football players four years before the sexual assault that was the subject of the litigation, and the university ignored explicit warnings from the local district attorney about the use of alcohol and sex in its recruiting program (2007, 1173). Moreover, when the CU football coach learned of a sexual assault allegedly committed by one of his players just two months before the events in the *Simpson* case, the coach discouraged the complainant from going forward and closed ranks around the player (*ibid.*, 1183). The facts establishing actual notice and deliberate indifference were also egregious in the *Williams* case. In that case, the university president, basketball coach, and athletic director all knew that the

basketball player who orchestrated the gang rape of the plaintiff had numerous disciplinary infractions at prior institutions, including multiple instances of sexual assault and sexual harassment, when they recruited him to play for the University of Georgia (*Williams* 2007, 1289-90). That court expressly emphasized “the extent and limits” of its decision, stating “the facts alleged in this case are extreme” (*ibid.*, 1298-99).

Without evidence of actual notice of prior sexual misconduct by the same assailants or evidence that university officials ignored clear warnings about sexual harassment or abuse in its sports program, lawsuits challenging institutional complicity in male athletes’ abuse of women will be difficult to win. Title IX’s high hurdles for establishing liability in such cases, requiring actual notice to an appropriate person with the authority to take corrective action followed by deliberate indifference, make it a limited tool for challenging hypermasculinity in men’s sports programs (Scales 2009). Still, the potential to hold schools legally accountable in egregious cases should pressure them to more closely examine their sports programs and the kinds of masculinity they promote.

Title IX has also had some recent success in intervening in male-on-male aggression in men’s sports. As masculinity scholars have shown, establishing male dominance over other men is at least as important to the construction of a dominant masculinity as men’s relationships to women (Dowd, Levit, and McGinley this volume). Male posturing for dominant positions in relation to other men is a cornerstone of men’s sports culture. Men’s locker-room talk valorizes men who live up to the norms of hegemonic masculinity, both in sports and in their relationships with women, while demeaning gender non-conforming men or men perceived as less masculine (Clayton and Humberstone 2006). The very practice of establishing dominance over other men contributes to the development of a dominant masculinity in the aggressors.

In a 2009 case involving this dynamic, several high school football players made creative use of an air pump to sexually assault freshman teammates during the school's football camp (*Roe* 2009). One of the victims of this and other sexually harassing conduct and homophobic epithets by the same aggressors brought a Title IX lawsuit based on the school's insufficient response. The court found the issues of actual notice and deliberate indifference to be close, but denied the school's motion for summary judgment based on evidence that the football coach was slow to respond because he initially viewed the behavior as childish horseplay. Most significantly, the court rejected the argument that the misconduct was simple hazing and did not amount to discrimination based on sex. The court noted that "the homophobic language used by the perpetrators appears to be part of a larger constellation of sexually-based conduct, which included assaulting Plaintiff with an air hose, exposing their genitalia, and grabbing his bare buttocks in the shower," and concluded that such allegations could conceivably show that "the conduct at issue relates to gender" (*ibid.*, 1027).

This court's ability to comprehend the gendered nature of the football players' harassment contrasts starkly with an earlier judicial refusal to see any connection to gender in a similar acting-out of hypermasculine aggression on a football team. In a 1996 decision, the Tenth Circuit Court of Appeals upheld the dismissal of a Title IX complaint brought by a male high school football player who was sexually harassed by his teammates (*Seamons* 1996). As he was coming out of the shower, Brian Seamons was grabbed by five upper-class football players who tied him, naked, to a horizontal towel bar with athletic tape and taped his genitals. To further humiliate him, they brought in a former girlfriend to see him in this condition. The coach viewed the incident as a normal part of athletic culture, since "boys will be boys." When Brian reported the incident to school authorities, the football coach accused him of betraying the team, saying

he “should have taken it like a man,” and directed Brian to apologize (ibid., 1230). When Brian refused, the coach dismissed Brian from the team; the five assailants went unpunished. In response to Brian’s complaints, the school district cancelled the final game of the season, a state play-off game. Brian was threatened and harassed as a result, and the principal suggested he leave the school. Fearing for his safety, Brian transferred to another school.

Despite the deeply gendered nature of these events, the district court dismissed the Title IX complaint for failure to state a claim on the ground that none of this amounted to sex discrimination and the appellate court affirmed. In its decision, the Tenth Circuit minimized the statements that Brian should have taken it “like a man” and “boys will be boys,” saying, “the qualities Defendants were promoting, team loyalty and toughness, are not uniquely male” (ibid., 1233). The court also cited the lack of any proof that a female harassment victim would have been treated any better.

Exposure to masculinities literature might have helped the court understand that the events in this case were very much about gender. The football player assailants were furthering their own hypermasculine identities through their sexualized domination of Brian. Brian’s masculinity was further marginalized when he reported the attackers, thereby failing to “take it like a man.” Traditional masculinity is constructed in more novice male athletes by enduring ritualized bullying and bodily aggression by alpha-male athletes (Light and Kirk 2000). Brian’s masculinity was tarnished when he turned in his teammates. The court’s comparison of Brian’s treatment to that of a similarly situated female student further obscures the gender dynamics in Brian’s case. Hypermasculine aggression does not become de-gendered by targeting female as well as male victims. The kind of dominant masculinity performed in Brian’s locker room might well have turned against female victims too. For example, a similar kind of hypermasculinity



played out at the University of Colorado when a female football player, Katie Hnida, was sexually harassed by her male teammates and then kicked off the team for reporting it (*Simpson* 2007, 1183).

In contrast to the *Seamons* case, the more recent *Roe* decision reflects real progress in judicial understanding of the gender dynamics in men's athletics. The recognition of male-on-male sexual aggression as a form of sex discrimination has the potential to disrupt the socialization processes in men's sports that construct and elevate a traditional, hegemonic masculinity over alternative masculinities. By policing the outer limits of hypermasculinity in men's sports, whether it targets men or women, Title IX may put pressure on athletic administrators to cultivate locker room cultures with more space for alternative masculinities to flourish.

However, hopes that Title IX will serve as a counterweight to hypermasculinity in men's sports should be tempered by an awareness that, historically, racism has been an integral part of the U.S. legal system's regulation of male sexual violence. Black male athletes who transgress may lose their athletic privileges as "good Blacks," triggering stereotypes of black men as dangerous and naturally aggressive (Ferber 2007, 20). As law professor Ann Scales has noted, African American athletes are disproportionately involved in the high-profile incidents of sexual assaults by athletes, and have been disproportionately singled out in the enforcement of NCAA rules violations (2009). The risk that Title IX will operate as a vehicle for further entrenching racist ideologies about dangerous black men necessitates careful attention to how race influences the regulation of hypermasculinity in sport. And yet, as Scales admonishes, we must resist "divide and conquer" strategies that use racial victimization as a rhetorical strategy for pardoning

misogyny and simultaneously work against a racial caste system and a male sports culture that promote violence against women and other men (ibid.).

## VI. The Price of Privilege

Masculinities literature instructs that men pay a price for gender privilege, and this is certainly true in sport. Although elite male athletes—especially those in the most masculine sports—have unparalleled perks and advantages, they do not come without cost. Sport sociologists have identified a “toxic jock” identity most-present among athletes in the highest-status, highest-contact sports played by male athletes, leading to an over-identification with the role of athlete and greater participation in high-risk behaviors (Miller 2009). The educational costs to elite male athletes are also pronounced. The pressures on student-athletes to win are intense in intercollegiate athletics, especially in the so-called revenue sports. Athletes receive admissions preferences that put a premium on athletic performance, and demands from their coaches are incompatible with any serious devotion to academics. They must maintain the minimum grade point average required for eligibility, but little or nothing more is expected of them academically. The vast majority of them do not land lucrative careers in professional sports, and many leave college without having acquired much of an education outside of sports (Gohl 2001; Messner 1989). These costs are particularly acute for black male athletes, who are saddled with the double-sided stereotype of athletic superiority and intellectual inferiority, and are particularly vulnerable to “academic neglect” (Duru 2007, 512-13).

Some critics of this status quo call for paying athletes wages to reflect both their market value to the universities that exploit them and their opportunity costs in forgoing other aspects of

education. However, paying student-athletes would only legitimize a model of sport based on commodification and educational neglect, and would compound the gender inequality in the present system (since no one seriously advocates paying female athletes for their sports participation). Rather than capitulate to the big business model of sport, we should interrogate a system that puts sports in schools for their educational value but then fails to ensure that the athletes obtain a meaningful education. At the present time, however, neither Title IX nor any other legal reform has managed to reinvigorate an educational model of sports that puts learning first. Male athletes in revenue sports bear the brunt of this system in costs to their education and other (under-developed) aspects of their identities.

And yet, the Title IX culture was posit a zero-sum game between men and women for dividing an ever-shrinking athletic pie, with the most privileged male athletes determined to preserve their share and the more marginalized male athletes blaming women and Title IX for their own diminishing portion. Instead of examining inequities within men's sports, men blame Title IX when their teams are cut, aligning themselves with higher-status male athletes, despite their divergent interests (Messner and Solomon 2007). This result fits with masculinity theorists' prediction that nonconforming males will acquiesce in the privileging of a dominant masculinity even when they themselves do not benefit from it (Connell 2005). In demonizing Title IX for losses to their programs, men in more marginalized sports fail to consider whether the current system best serves their interests. Despite the vitriolic catcalls lobbed at Title IX whenever men's sports are cut, a number of male athletes have found their lives improved when their sports are demoted to club status, giving them more time for studying and more balance in their lives (Pennington 2008). Framing the issue as men vs. women obscures differences in the status and privileges among male athletes, as well as the costs to male athletes from the present structure of

sports. Both male and female athletes could benefit from a more equitable model of sport that emphasizes sport's educational value instead of the win-at-all cost model that prevails today.

## VII. Conclusion

Much of the attention paid to Title IX examines its impact on women's opportunities and progress toward equality between male and female athletes. While important, we need to move beyond comparisons of men and women to consider how sex equality law participates in the construction of masculinity and its potential to disrupt those masculinities that are problematic for women and more marginalized men. In the realm of sport, that work has only just begun.

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1. I use "sport" to refer to the institution of sport and "sports" to refer to the collection of athletic activities that it encompasses. Because this essay addresses sport and masculinity in the context of Title IX, its primary focus is the interscholastic and intercollegiate setting.