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Preface

Sports is America’s common denominator—the universal past-time, the all-embracing institution. Sports transcends typical ethnic, religious, gender, and even financial boundaries: the office water cooler, school cafeteria, local tavern, barber shop and hair salon, all are venues where everyone—player and fan alike—gather to discuss or debate last night’s game, match or contest. Americans love sports: they unite us, and maybe even help define us.

But not, perhaps, all of us, and certainly not all of us equally. In truth, sports in America may be a common denominator only for those who already have a great deal in common. Just who, after all, is debating the merits of the designated hitter, the prudence of the zone defense in the NBA, or the proposal to eliminate “sudden death” overtime in the NFL; is it really true that everyone is intimately acquainted with the nuances of baseball, basketball, and football? Just who is arguing about the Ryder Cup, or disputing the advantages of a titanium composition racquet; do we really all share the same detailed knowledge of golf and tennis? In sports, as elsewhere, we seem both united and divided, and the divisions ultimately seem rooted not so much in differences in interest or aptitude, but rather more in disparities in knowledge and in access to knowledge; the divisions are rooted, that is to say, in unequal opportunities.

It evolves that barriers large and small, biases conscious and unconscious, discrimination intended and accidental, have infused the politics of exclusion into the world of sports. Major components of sports and the sports industry have been systematically closed to segments of our society. In many instances, the exclusion has been flagrant and deliberate—look no further than the longstanding color barrier in Major League Baseball. In other instances, the exclusion has been more subtle, emanating from “neutral” policies that perpetuate earlier discriminatory practices. Golf affords a conspicuous example. Much ado has been made about Tiger Woods and his impact on the sport. But Tiger Woods has not has not made it any less expensive to join a club, or to pay greens fees, or to equip a golf bag. The harsh reality is that golf—and tennis, swimming, diving, equestrian, and a host of other athletic pursuits—remain well-nigh unapproachable for many middle class families, and are foreign endeavors for America’s underclass.

This problem is by no means limited to the elite or country club sports: the exclusion game is played in our most popular team sports at all levels. Consider the status of racial minorities. Black Americans are easy to find on the football field, but they are nearly invisible in Division I collegiate coaching ranks, and just slightly more visible in the head coaching ranks of the NFL. Collectively, Black, Latino, and Asian ballplayers comprise a growing majority in Major League Baseball, but they are a distinct minority among Major League managers. And the exclusion grows more complete as we scan the decision-makers in all the professional team sports—the general managers, the club
presidents, the team owners. Climb the decision-making hierarchy, and the rich diversity of the playing fields quickly fades to white.

In some cases—and it is arguably the case for racial minorities—under-employment, under-representation, and even exclusion result from ostensibly neutral practices and policies. In some cases, however, exclusion is by formal design. Is there some little girl in Topeka, Kansas who, despite stereotypes about size and strength, was born to be a Major League shortstop, but was told that her dream was wild fantasy? Is it really possible that out of four billion women in the world, not one has the skills to make it to the “show”? In 1911 Amanda Clement umpired her first professional baseball game; she served admirably for several years, winning the acclaim of players and colleagues. Nearly a century later, barely a handful of women have followed her path. Why? Do women lack the skills to umpire? The interest? And if they do—if they do—then why would that be so?

And what of gay athletes? Why is it that in the history of Major League Baseball, the NBA, the NFL, and the NHL, no athlete—not one—has revealed his homosexuality while he was still playing? Are gay athletes discouraged from playing, or discouraged from “coming out”? Can the exclusion of gay players—or the suppression of their sexuality—be justified? And what of athletes with disabilities—have they been fully integrated into the fabric of American sports? Have their abilities and disabilities been fully and fairly accommodated, or has the integrative ideal been sacrificed to the zeal for competition, and the desire to preserve the traditions of “our” games.

In the pages that follow, we will explore the inequalities that characterize America’s sports. We will trace the struggles for equality, and we will witness their many achievements. But we will observe too many lingering examples of sports’ apparent insensitivity, unconcern, or intentional disregard for the absence of diversity, and for the failure of inclusion. We will examine the debate over the causes, and we will survey the proposed remedies, from modest reforms to major structural overhauls.

Through it all, we will recognize that the first step lies in raising the collective consciousness. By making the problem more palpable, we at least obviate the tired protest that “I didn’t have any idea.” Ignorance then becomes no excuse, and the status quo continues only through apathy or deliberate disregard. But indifference and denial also should have short lives: apathy, we hope, is overcome in the face of matters of such import; disregard, we hope, is embarrassed by the ideals voiced in this text.

Our objectives, then, are serious ones, but we still hope that the journey is fun. Walt Disney once said that his goal was to entertain and, if he could educate in the process, then so much the better. Hopefully, this text will both entertain and educate, without compromising either project.

— MJC and RLH

* * *

I am daunted by the task of acknowledging the countless people who are responsible in varying degrees for this book’s completion. To the deans, administrators, colleagues, and secretaries who provided financial, intellectual, moral, and clerical support, I will always be in your debt. To the students whose research assistance, salient in-class commentary, and provocative insights have elevated this text to an unexpected level, words simply do your involvement too little justice. To friends and extended family who listened patiently as I voiced ideas, lamented deadlines, and generally commiserated, I hope that I can return the favors.
As in earlier works, I will resist the urge to thank each of the foregoing people by name; I suffer from this morbid fear that I will omit a deserving person. Thus, as much as it would give me a great sense of closure to provide individual attributions, the risk of ignoring any contributor compels a more general acknowledgement. I will attempt to thank each of you in my own way.

Notwithstanding the preceding disclaimer, there are a few people who, due to their limited numbers and undeniable identity, will receive my special acknowledgement.

First, my parents, Jean and Larry Cozzillicio, and my children Alyssa, Bobby, and Christopher, thanks for the inspiration. If not for you…

Second, my friend and co-author, Bob Hayman. How do you show appreciation to someone who provides insights without being condescending, who serves as a conscience without being sanctimonious, who takes his work seriously without taking himself so, who is brilliant without making anyone seem unintelligent? I suppose that I will have to find a way. Bob, the world should know that the author’s order of appearance on the cover of this book is solely a function of the vagaries of the Phoenician alphabet. If ever there were an equal partnership, this collaboration was it. Thanks for helping to transform a good idea and worthwhile project into the most gratifying professional effort imaginable.

Finally, my wife, Krista. I have expressed my affection and gratitude in so many other works that more effusive expression may only appear excessive and insincere. Perhaps a sports metaphor is the best synopsis. Our sons are outstanding tennis players, and I asked them once for the best strategy for playing doubles. They perceptively noted that the most important tactic was to secure a great partner. Each has been my partner on the court and their performance, carrying their father and erasing his many mistakes, convinces me that I have chosen well and reinforced their theory. Well, off the court, Krista, in every personal and professional endeavor, you have been my partner. Not a single unforced error or double fault, all winners, throughout our life together. This book is merely one more illustration of your support, dedication, love, and generosity. I hope that this acknowledgement in some small way reflects my deepest appreciation and reciprocal feelings.

— MJC

* * *

I was profoundly skeptical when my friend Michael Cozzillicio invited me to collaborate on this text—skeptical not of the project, but of my ability to meaningfully contribute to it. I figured I knew a little constitutional law and a little jurisprudence, a bit about race and disability and I had a fan’s appreciation of sports; that didn’t seem much to offer (especially since, as a Philadelphia sports fan, I was mostly an expert only in disappointment). Compared to Michael’s knowledge of Sports Law—he co-wrote the book on it, for crying out loud—the scope and depth of my relevant expertise looked pretty paltry. But Michael rejected my protests, and persisted with the invitation; I am very glad he did.

I have learned a lot over the course of this project. Some of it is about the significance of sports—as a metaphor, as a microcosm, and, I now believe, as a cultural phenomenon in its own right. Some of it is about the pervasiveness of inequality: in contexts that would seem least hospitable to inequities, unfair hierarchies persist. Some of it is about the transformative powers of resistance—by folks who refused to accept their subordination, and who struggled for equality, sometimes through the law, sometimes in opposition to it. It’s been a rewarding journey; thanks, Mike, for the ride.

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And thanks to my wife, Alice Eakin, for helping in ways too numerous to count, and to my son, Caleb, for distracting me when I needed it the most. I love you both with all my heart.

Finally, thanks to my mother, who is not here to see this project completed, but who set me on the path to it many, many years ago. My mom loved sports, and she had a powerful sense of justice; she once thought I’d be a ballplayer, she was proud that I became a lawyer. Hope this one stays fair, Mom; I hit it for you.

— RLH
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