

Athletes as workers

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ABSTRACT In this paper, I argue that there are a number of ethical issues facing college and professional athletes that admit of a unified treatment: viewing athletes as workers. By worker, I mean an agent who sells their labor for compensation. With this notion of worker in place, I present and discuss arguments for four claims: not paying college athletes is morally wrong; that the N.C.A.A. infringes on the right of college athletes to collectively bargain; that it is *prima facie* wrong to draft and trade professional athletes; and that fans fail to respect athletes' right to strike when they complain about labor stoppages in professional leagues. I argue that sports fans and members of sports media should explicitly conceive of athletes as workers to recognize and prevent these wrongs. I conclude by suggesting that all with an interest in the welfare of labor have an interest in conceiving of athletes as workers, as it puts what is owed to all workers into stark relief.

KEY WORDS Athlete; worker; college sports; labor; N.C.A.A.; applied ethics

'Probably that's a normal thing, you know. Nobody likes his job. Or maybe they do (they're lying)'.

-Nikola Jokic, three-time N.B.A. M.V.P.

Introduction

This paper argues that there are number of ethical issues facing college and professional athletes that admit of a unified treatment: viewing athletes as *workers*. By worker', I mean an agent who sells their labor for compensation. Considering athletes as workers promises to make progress on issues that occupy center stage in the philosophy of sport, like the question of paying college athletes and the obligations of fandom, while shining spotlight on issues that have received comparably less attention, such as the drafting and trading of professional athletes.

Here is how the paper proceeds. First, I say more about what I mean by worker, and the normative entitlements that being a worker bestows. In the following section, I use this notion of

worker to present and discuss arguments for four claims: first, that not paying college athletes is morally wrong; second, that the National Collegiate Athletic Association (N.C.A.A.) infringes on the right of college athletes to collectively bargain; third, that it is *prima facie* wrong to draft and trade professional athletes; and fourth, that fans fail to respect athletes' right to strike when they complain about labor stoppages in professional leagues. The penultimate section discusses the implications of these arguments for fandom, and I argue that sports fans and members of sports media should *conceive* of athletes as workers in order to recognize and prevent the wrongs highlighted before. Finally, I conclude by suggesting that those with an interest in the welfare of labor throughout society have an interest in conceiving of athletes as workers: athletes are among our most visible workers; in taking an interest in their welfare *qua* worker, we put what we owe to all workers in stark relief.

What Is a Worker?

Like all philosophical concepts, it is difficult to give necessary and sufficient conditions for what counts as a *worker*. We'll thus have to be stipulative to start. For purposes of this paper, I define worker as an agent who sells their labor in exchange for compensation (typically money). While not all instances of work are instances of *employment*, this is the notion of work that dominates philosophical discussion of work, and one I want to highlight across different issues faced by athletes.¹

To initially see how this notion of worker extends to athletes, consider the N.B.A. player Kelly Oubre, Jr. As a free agent in the summer of 2021, Oubre, Jr. signed a two-year, \$24,600,000 contract with the Charlotte Hornets.² In doing so, he sells his labor – his playing basketball for the team for the duration of the contract – to the Hornets in exchange for compensation (in this case, a wage) ultimately in the course of the production of *capital*. In this context, 'capital' refers to the

profits accumulated by the team which Oubre, Jr. helps produce. In the capitalist political economy of the contemporary United States, the forces of production are primarily aimed at capital *accumulation*, rather than aimed at human need or distributed back to workers like Oubre, Jr.³ This sense of ‘worker’ is intended to be compatible with various systems of political economy (e.g., capitalism, socialism, or others). We will see, however, that understanding athletes as workers has significant normative upshot given the ubiquity of capitalism, particularly when it comes to the *exploitation* of some athletes.

A worker, in my sense, is an agent who sells their labor for compensation. Work thus has a kind of value, *exchange value*, that workers provide to a productive enterprise for some material goods, typically money.⁴ Before turning to the normative entitlements workers have, there are two points worth making explicit regarding this notion of worker so understood.

First, whether an activity counts as work is *extrinsic* to the activity, as it is a matter of the external relations the activity bears towards a larger productive enterprise. We of course sometimes speak of work and labor as synonymous with physical toil, but the activity that one performs when contributing their labor to an enterprise need not be one of physical exertion. Indeed, it seems that you can take any activity and make it work, so long as it bears the relevant relations to a larger productive enterprise. Playing tennis with a friend is mere recreation, but when you contribute playing tennis toward a larger, economically productive enterprise, it is work, and you are entitled to at least some of the benefits of that work.

Second, work having exchange value is consistent with it having other kinds of value; the exchange value of work does not exhaust its value. The college basketball player completely absorbed in their team’s scrimmage is at *play*, which might be thought of as autotelic and valuable for its own sake, while also *at work*, because they are at the same time contributing their labor to a productive enterprise (e.g., N.C.A.A. basketball). Athletic labor is interesting and complex in part

because it is the site of both kinds of value. We may not conceive of athletes as simultaneously at work and at play, but there is nothing contradictory about it.⁵ The goal of this paper is to show that athletes are and can be seen as workers in addition to other multivarious properties or values they realize.

If an agent is a worker, then the agent has certain normative entitlements.⁶ I briefly list four entitlements here:

- (1) *Fair compensation.* As mentioned above, work has a particular value, exchange value, that is measured in terms of the material goods the work generates for the worker – typically, monetary compensation.⁷ This compensation should be fair: employers have a moral reason to ensure that the compensation generated for the worker is sufficient, relative to the exchange value of the work.⁸ What counts as fair compensation will of course be disputed. But that workers' compensation for their labor ought to be fair is a matter of common ground.

- (2) *Freedom to sell their labor without undue restrictions.* All else equal, workers should be free to sell their labor to whom they wish unencumbered by constraints.⁹ Of course, all else is hardly ever equal, and some restrictions on selling ones labor do seem be justified (e.g., most nations prohibit one from selling their labor for any price by implementing a minimum wage).¹⁰ What counts as an undue restriction will again be a matter of debate. This is consistent, however, with workers having a *defeasible* right to sell their labor without restriction.

(3) *The right to collectively bargain.* Employers typically hold considerable power over employees in the contemporary workplace, so much so that some philosophers compare this relationship to dictatorships.¹¹ The most common way of combatting this power imbalance has been the ability for workers to unionize or collectively bargain. Collective bargaining allows workers to engage with employers as a group, forcing employers to negotiate with a whole that represents the shared interests of individual workers. While the ability to actually form a union in the workplace in a nation will be a matter of the nation's labor laws, workers are entitled to collectively bargain – to freely associate with other who share their interests.¹²

(4) *The right to strike.* Related to the right to collectively bargain, workers have a right a to strike: to withhold their labor in protest of employer overreach or to spur employer concessions. Much has recently been written about the right to strike and its justification.¹³ Whatever its grounds, we can assume workers have the right to strike as a defeasible right, though acknowledging the possibility that it can be defeated (e.g., health care workers' right to strike may be overridden by their duty to care for patients).

Two points of clarification before concluding this section. First, there may be other entitlements that agents have in virtue of being workers; for our purposes, however, we can proceed with the entitlements listed above. Second, the extent to which workers in fact realize these entitlements, and have them respected, will typically be a local matter of particular labor conditions in various societies. Going forward, I take it on as an assumption that workers have these entitlements, so that we have some concrete grip on the normative properties workers instantiate when we turn to the ethical issues facing athletic labor in the philosophy of sport.

Athletes as Workers: Four Issues

With this minimal notion of worker in place, this section uses this notion to present arguments for four different claims: first, not paying college athletes is morally wrong; second, the N.C.A.A. acts wrongly when it infringes on the rights of college athletes to collectively bargain; third, it is *prima facie* morally wrong to trade and draft professional athletes; and fourth, fans wrongly fail to respect athletes' right to strike when they complain about labor stoppages in professional sports leagues.

For the first three of these arguments, I discuss how an opponent might respond. Whether any of these arguments are ultimately successful are projects for a later date; my main goal is to show that we can make progress on these issues by adopting the position that athletes are workers.

Paying college athletes

The first claim I argue for is that not paying college athletes in the United States is morally wrong.

Here's the argument:

- (1) It is morally wrong for workers to not receive fair compensation for their labor.
- (2) College athletes are workers.
- (3) Some college athletes, e.g., football and basketball players, do not receive fair compensation for their labor.
- (4) Therefore, it is morally wrong for some college athletes, e.g., college football and basketball players, to not receive fair compensation for their labor.

The argument is valid. Is it sound? Let's examine the premises in turn. (1) falls out of our notion of worker entitlements discussed above. We're assuming this premise for the sake of the argument, so this is not the place to discuss its truth.

(2) is the claim that college athletes are workers. Because the goal of this paper is to show that we can make progress on ethical issues facing athletes by accepting the truth of this premise, I also don't discuss this premise in detail in the sub-sections to come. In this sub-section, however, I offer some reasons for thinking that college athletes are workers.

Recall our notion of worker: an agent who sells their labor for compensation. College athletes sell (rather, because they are not paid, *give*) their athletic labor to their team, in exchange for the athletic training, media exposure, the cost of tuition, athletic apparel, and more. I've also glossed being a worker above as one who contributes their labor to an enterprise. Narrowly construed, the enterprise to which college athletes contribute their labor is their team, or perhaps their university. This narrow construal of enterprise, however, is misleading. College football and basketball players are also a constitutive part of the enterprise of college sports, a massive, billion-dollar *industry*. These athletes contribute their labor to a broader athletic enterprise, consisting not only of their team and university but of also television companies, apparel companies, and millions of fans. Moreover, the college sports industry is *essentially dependent* on the labor of college athletes: without their labor, there would be no college sports. The same isn't (at least straightforwardly) the case when it comes to the relationship between, e.g., television executives and college sports.

This also helps address an objection one might have against (2), namely, that it proves too much. While the running back on the Ohio State football team counts as a worker because they are contributing their labor to an enterprise, so too does the member of the Dartmouth fencing team. Does this mean that the Dartmouth fencer is also a *worker*? On the narrow construal of enterprise, yes: the fencer and the running back both spend time practicing their respective sports, and both perform physical actions that are constitutive of their sports. The running back, but not the fencer, however, contributes their labor to much broader, massively profitable enterprise. Their athletic labor is an essential constituent of that enterprise. Because college football and basketball players

contribute to this broad enterprise, and because this enterprise is highly profitable but where these profits are not given to college athletes, they are our main focus here.¹⁴

Finally, it is worth emphasizing that college athletes being workers is consistent with their having other properties, too. It is consistent with them being ‘student-athletes’, as the N.C.A.A. continually emphasizes (see the discussion of ‘amateurism’ in the sub-section below).¹⁵ College athletes being workers is also consistent with college athletics having educational value continuous with the missions of universities, as some in the recent philosophy of sport literature have maintained.¹⁶

The soundness of the argument thus turns on (3), the premise that college athletes do not receive fair compensation for their labor. College athletics (largely football and basketball) generates billions of dollars in revenue – \$14 billion in 2017. Yet, athletes receive a miniscule fraction of this amount.¹⁷ The N.C.A.A. explicitly forbids college athletes from receiving a wage from their universities. Some might claim that what athletes do receive is sufficient to count as fair compensation. College athletes receive scholarships for tuition, room and board, cost of attendance, apparel, as well as access to training and medical resources. They also receive the economic value of a college degree, which is not a trivial amount over the course of lifetime. While all of this is not nothing, it pales in comparison to the amount the athletes generate in revenue.

Others might protest that college athletes do receive fair compensation because they are now able to receive compensation based on their name, image, or likeness (‘N.I.L.’) through outside endorsements.¹⁸ In a unanimous decision, the U.S. Supreme Court ruled in 2021 that the NCAA prohibiting athletes receiving compensation based on N.I.L. violates antitrust law. College athletes can now receive monetary compensation from local businesses and alumni collectives (‘boosters’) in the form of endorsement deals. Some of these N.I.L. deals can be quite lucrative for college athletes, with some of them receiving over a million dollars.¹⁹

I do not deny that allowing college athletes to receive outside compensation through N.I.L. deals is an improvement over forbidding them to pursue such deals. I do deny, however, that being able to pursue N.I.L. deals thereby entails that college athletes do receive compensation for their labor. This is because N.I.L. deals are *not* compensation *for their labor*, where their labor is primarily *athletic labor* – preparing for and playing in games. It’s this athletic labor that is the essential generator of billions of dollars in revenue – this revenue would not exist without college athletes playing the sport – thanks to ticket and merchandise sales, corporate sponsorships, and television deals. It’s *this* revenue that college athletes do not receive, despite their athletic labor being the *essential* cause of it. N.I.L. deals are derivative of this athletic labor: the reason why college athletes are able to generate such lucrative endorsements based on their likeness is that their likeness is valuable *precisely because* their athletic labor is so valuable. Receiving outside compensation in the form of N.I.L. deals thus does not change the fact that college athletes do not receive fair compensation for their labor. The ability to generate millions in endorsements off of their likeness does not make up for their being *unpaid* for their athletic labor when their likeness is dependent on that labor and that labor generates billions. N.I.L. deals do not threaten (3).²⁰

College athletes do not receive fair compensation for their labor, and, with (1) and (2), it follows that this is morally wrong. College athletes ought to be paid for their labor. Recent proposals in the philosophy of sport to allow them to receive outside compensation (Zema 2018) or that conceive of college athletics as akin to performance majors (Brand 2006, Metz 2020), attractive though they may be, are insufficient.

There are of course outstanding questions about how such payment would be implemented. Which sports should be given a wage? How much should the wage be? Should *all* college athletes receive a wage? These are important and difficult questions that deserve thoughtful consideration. But they are secondary to the primary question of whether or not college athletes should receive fair

compensation. Any difficulty in answer questions about the implementation of payment does not entail a negative answer to this foundational question. If we accept that college athletes are workers, then this suggests that they should be compensated for their labor, on pain of gross exploitation.²¹

College athletes and collective bargaining

The second claim I argue for is that the N.C.A.A. acts wrongly when it infringes on the right of college athletes to collectively bargain. While the issue of paying college athletes has received much attention in the philosophy of sport literature, the issue of college athlete unionization has received comparatively little. As before, we can state the argument in premise-conclusion form:

- (1) All else equal, infringing on the right of workers to collectively bargain is morally wrong.
- (2) College athletes are workers.
- (3) The N.C.A.A. infringes on the right of college athletes to collectively bargain.
- (4) Therefore, all else equal, it is morally wrong for the N.C.A.A. to infringe on the right of college athletes to collectively bargain.

(1) falls out of our notion of workers discussed above, and the minimal set of normative entitlements that workers possess. We're assuming that workers have a right to associate together in and have their interests represented collectively in virtue of their shared labor position.

(3) says that the N.C.A.A. infringes on the right of college athletes to collectively bargain. This premise is true as a matter of empirical fact. The N.C.A.A. expressly does not recognize college athletes right to collectively bargain and form a union. In 2015, players from the Northwestern University football team attempted to form a union under the National Labor Relations Act. The National Labor Relations Board, however, ruled against the players' petition. The board did not rule

directly on the question as to whether the players were employees, instead emphasizing the novelty of the petition, and that ruling in the players' favor would not have promoted 'stability in labor relations'.²² It is unclear what stability in labor relations is, why it is good, and, indeed, whether current labor relations in college athletics are 'stable'. It seems correct to say that labor relations in college athletics are very stable for some but highly unstable for others. Indeed, in the landmark settlement of the 2024 case *House v. N.C.A.A.*, despite agreeing to a revenue-sharing framework for power conferences to pay athletes directly, the N.C.A.A. *still* refused to consider athletes employees, forbidding them to collectively bargain.

What about (2), the premise that college athletes are workers? The N.C.A.A. is committed to viewing college athletes as 'student-athletes', *rather than* employees of the university for which they play.²³ It's on these grounds that the N.C.A.A. does not recognize college athletes' right to collectively bargain. Specifically, the N.C.A.A. alleges that the *amateur* status of college athletes is an essential part of the appeal of college sports, one with a storied history. This has been the main legal justification deployed by the N.C.A.A. in preventing college athletes from being categorized as employees of universities and exempting the N.C.A.A. from anti-trust scrutiny (see the ongoing litigation in *N.C.A.A. v. Johnson* that takes up this very issue). The historical consensus, however, is that college athletes' amateur status is a fiction invented by the N.C.A.A. in the 1950s in part to prevent athletes from receiving workers' compensation.²⁴ Indeed, college athletes have received compensation in some form or another dating back to the 19th century. Moreover, it is doubtful that it is their amateur status is *essential* to the appeal of college athletics, rather than identification with the university or their athletic abilities of its athletes.²⁵

As in our discussion of college athletes not receiving fair compensation above, even if college athletes are student-athletes, this is consistent with them being workers. Even if they are not *yet* employees from a legal perspective, this need not prevent us from viewing them as workers from

a broader, moral perspective (see footnote 1).²⁶ Their athletic labor is the primary cause of billions of dollars in revenue. College athletes are workers; insisting that they are also students enrolled at a university does not change this.

It therefore follows that the N.C.A.A. acts wrongly in infringing on the right of college athletes to collectively bargain. Premise (1), and therefore the conclusion, has an ‘all else equal’ qualifier. An opponent may hold that all else is *not* equal in the case of college athletes, and that allowing college athletes to unionize would introduce practical difficulties that are best avoided, and so denying workers their right to collectively bargain is justified in this case. I concede this possibility, and grant that the landscape of college athletics would change drastically were athletes permitted to collectively bargain. But it is worth being honest about what this objection involves: it says that college athletes are workers, yet it is justifiable to prevent them from collectively bargaining. This stands in stark contrast with most workers in the U.S., particularly those that generate the amount of revenue as college athletes.

The drafting and trading of professional athletes

The first two ethical issues facing athletes that we considered primarily concerned college athletes in the U.S. We now turn to two issues specific to the ‘big four’ North American professional sports leagues (M.L.B., N.B.A., N.F.L., and N.H.L.): the drafting and trading of athletes. I argue that allowing drafting and trading professional athletes is *prima facie* immoral. Here’s the argument:

- (1) It is *prima facie* wrong to restrict workers’ ability to sell their labor.
- (2) Professional athletes are workers.
- (3) The drafting and trading of professional athletes restricts their ability to sell their labor.
- (4) Therefore, the drafting of professional athletes is *prima facie* wrong.

(1) says that it is *prima facie* wrong to restrict workers' ability to sell their labor. This premise comes from the normative entitlements we are assuming all workers possess. (2) is the claim that professional athletes are workers. Accepting this premise helps us make progress on the ethical issues under consideration in the present section; it's truth, again, is reinforced by the truth of the surrounding premises.

The action thus lies with (3), the claim that drafting and trading professional athletes restricts their ability to sell their labor. In the 'big four' North American sports leagues, athletes usually enter the league by being drafted to a team. Once on that team, athletes can also be traded to others at the team's discretion. The agency of professional athletes in North America is thus restricted regarding where and to whom they can sell their labor. (3) is thus true.

Among workers, these restrictions are rare. Most workers in other industries do not get traded, sometimes at a moment's notice, to other firms to whom they must then sell their labor anew. In contrast, workers are typically able to enter a free labor market, both when initially entering a given industry or changing firms within that industry. This feature of North American professional sports leagues is unique among professional sports leagues. For these reasons, some authors (e.g., Burneko 2016) argue that sports drafts ought to be abolished.

Opposition to drafts and trades might seem surprising, as I suspect most Americans take these aspects of professional sports for granted. It is notable, however, that these aspects are absent from major professional sports in other parts of the world. In European soccer, for example, athletes have much more negotiating power over where they play, as that sport operates with complete free agency. North American professional sports could adopt this model, or at least certain aspects of it.

There is a reasonable objection that the *prima facie* wrongness of restricting workers' ability to sell their labor is justified when it comes *drafting* of athletes. That is, there is a reasonable objection

that (1) is false when it comes to the drafting of professional athletes. One function of drafts in the ‘big four’ professional sports leagues is to promote competitive balance. Teams with the lowest winning percentage from the previous season receive (or have the best odds of receiving) the highest draft picks, giving them the chance to select the best prospective players. This increases competitive parity amongst teams, making more teams attractive places to play for players and plausibly increasing overall interest in the league as a whole, which in turn is good for players *qua* workers. In the absence of this parity-inducing mechanisms, teams able and willing to spend the most in the labor market would have a clear leg up over the rest of the league’s teams.²⁷ So, the idea is that restrictions on athletes’ ability to sell their labor in the form of drafts and trades are justified on Rawlsian grounds: restricting labor power in this way maximizes the worst off.

One response to this objection is a general utilitarian one: maximizing the worst off may not be justified if it results in lower overall utility.²⁸ In particular, if the teams most willing to spend, as well as the top draft picks, benefitted from a freer market in a way that maximized overall utility for the league and consumers of the sport, then it’s unclear that promoting competitiveness would be justified, so long as doing so did not drive down interest in the long term. Given just how much interest there is in professional and college football and basketball, it is not clear that promoting competitiveness is crucial in this way.

A full treatment of this issue ultimately merits further treatment on another occasion. I imagine similar objections can be levied against the trading of professional athletes, though in that case the reasons for leagues permitting teams to trade are not ones of competitive balance; in that case, it is the league permitting particular teams to act in their own perceived best interest.²⁹ For present purposes, it suffices that resolving these matters will turn on whatever solution is most sensitive to athletes’ status as workers.

Professional athletes' right to strike and fandom

The final issue I consider concerns professional athletes' right to strike. Owners of teams in the 'big four' U.S. professional sports leagues and the athletes playing for these teams are on opposite sides of the bargaining table when engaging in collective bargaining negotiations. These negotiations occur on a regular basis as the sides hash out how large a slice of the revenue pie their side is entitled to. The resulting collective bargaining agreements ('CBAs') are a complex blend of labor, sport, and antitrust law.³⁰ Athletes sometimes go on strike in the course of CBA negotiations, refusing to play in effort put pressure on owners to cede a better deal.³¹

The attitudes of sports fans, I suggest, should be sensitive to professional athletes' right to strike. They are often not, however, and I argue that this is wrong:

- (1) All else equal, workers have a right to strike.
- (2) All else equal, it is wrong for consumers of a product to not respect the rights of the workers producing the product during strike.
- (3) Professional athletes are workers.
- (4) Fans sometimes do not respect the rights of athletes to strike.
- (5) Therefore, it is wrong for fans to not respect the rights of athletes to strike.

Premise (1) is our assumption that workers have a defeasible right to strike. Premise (3) is the claim that professional athletes are workers, the truth of which is again accepted by the strength of the surrounding premises.

Premise (2) says that, all else equal, it is wrong for consumers of a product to not respect the rights of the workers producing the product during a strike. Why believe this premise? When workers go on strike, this should be seen as evidence that they are holding out for higher

compensation and better working conditions. Labor disputes are not merely disagreements between two parties with relatively equal stature and bargaining power. Workers must sell their labor to earn their share of revenue. This is in contrast to owners, who do not sell their labor for their share. All else equal, consumers of a product produced by striking workers should be sensitive to these features. The slogan ‘don’t cross the picket line!’ captures this call for solidarity by consumers of a product. By continuing to consume a company’s product or patronize a business whose workers are striking in the absence of a compelling reason, consumers do not show respect for workers. But it is precisely the labor of workers that allows them to consume the product in the first place.

Premise (4) says that fans sometimes do not respect the rights of athletes to strike. That is, premise (4) says that the situation described in premise (2) occurs with respect to some sports fans. When athletes go on strike, refusing to withhold their labor for better conditions for themselves, some fans and members of sports media view these labor disputes as mere annoying extended stoppages of play (for an example of this attitude being expressed in a high-profile newspaper, see Gillies (2011)). Rather than expressing solidarity with striking athletes, who are singularly responsible for the product they consume, these fans express frustration that the athletes are preventing them from watching the sport they love. Of course, being annoyed that our favorite sports are being interrupted is understandable, and I am not saying that merely being annoyed is by itself problematic. I am only claiming that fans should be reflective about their reactions of annoyance, and have a prima facie obligation to refrain from expressing their annoyance. Not all fans express these attitudes. But those that do, I have argued, are wrong to do so.

We’ve now seen how athletes being workers, and possessing the normative entitlements that all workers have, has important implications for a number of ethical issues that athletes face. Each of these issues merits fuller treatment, as do others not previously mentioned, such as the relationship between athletic labor and risk of injury.³² I hope to have shown that athletes are

workers, and that this has significant consequences for how they ought to be treated. The next section argues that fans should recognize athletes' status as workers.

Athletes as Workers and Fandom

The discussion of athletes' right to strike in the previous sub-section introduced another variable into the appraisal of athletes being workers: how does the fact that athletes are workers intersect with sports fandom, and the attitudes of fans towards athletes? In this section, I examine how athletes being workers intersects with the growing literature on fandom in the philosophy of sport. Like others in the literature (Tarver 2017, Kadlac 2022, Archer and Wojtowicz forthcoming), I agree that fans should be sensitive to athletes' status as full persons with off-the-field lives, desires, and interests. What is distinctive about my view is that fans should be sensitive to athletes' status as workers in particular. I'll show in this section that understanding athletes as workers has interesting consequences for the fandom literature.

Fans should conceive of athletes as workers

Recall that, in each sub-section of the previous section, I gave an argument for a claim about college and professional athletes that turned on their being workers. For example, here's an argument from that section again:

- (1) It is morally wrong for workers to not receive fair compensation for their labor.
- (2) College athletes are workers.
- (3) Some college athletes, e.g., football and basketball players, do not receive fair compensation for their labor.

- (4) Therefore, it is morally wrong for some college athletes, e.g. football and basketball players, to not receive fair compensation for their labor.

In particular, notice that the argument turns on our assenting to (2), the premise that college athletes are workers. College athletes are workers because they sell their labor for compensation. Conceiving of them as workers allows us to recognize wrongs that they face in virtue of their being workers.

I submit, however, that many sports fans will be inclined to resist (2) precisely because they do not *conceive* of college athletes, and athletes in general, as workers. In popular culture, a prevailing attitude of sports fans toward athletes is akin to that towards a favorite film or television character: figures that play a starring role in what is ultimately a recreational or leisure activity for the consumer. Indeed, some fans and sports media members deride professional athletes as being ‘overpaid’ for merely ‘playing a children’s game’.³³ It is common for sports fans to have a kind of false consciousness regarding the social conditions of athletes (Lukács 1971).

Sports fans and sports media members, however, should conceive of athletes as workers, for at least two reasons. First, fans, like all subjects, ought to believe things that are true. If the arguments of the previous section are on the right track, then there are truths about athletes’ exploitation and moral conditions that we should accurately represent. Second, and relatedly, we can only hope to ameliorate the harms athletes faced in virtue of being workers by accurately situating them. If moral progress is to be made, we first must accurately diagnose the situation.

So, sports fans and members of sports media, I argue, should conceive of athletes as workers. What do I mean by *conceiving* of athletes as workers? In broad terms, I mean that sports fans should *think* of athletes as workers. When representing professional and certain college athletes in thought and talk, and when making inferences with propositions containing the concept ATHLETE, consumers of sport should represent the property of being a worker. In many contexts, the

extension of athlete should include this property. For example, if one were to engage in a line of reasoning that ‘Kelly Oubre, Jr. is under contract, and the upcoming game matters for our playoff standing, so he ought to play through his hamstring injury’, this chain of reasoning should represent Oubre, Jr.’s status as a worker.

Representing athletes as workers means representing them as being entitled to the normative properties that all workers are entitled to: fair compensation, freedom from undue restrictions to sell one’s labor, the right to collectively bargain, and the right to strike. By representing them under this concept, we accurately capture their normative predicament, and make it easier to notice and refer to the normatively salient properties. The concept thus serves an *alertive* function: just as ‘no means no’ functions to reduce the cognitive effort of identifying sexual assault, so representing athletes as workers in thought and talk functions to make it easier to access the exploitive relations that athletes stand in.³⁴ Indeed, the slogan ‘athletes are workers’ can serve as a shorthand to refer to the entirety of these social relations. Individual fans ought to represent athletes in this way, but the point applies equally to the hundred-billion-dollar sports media industry, itself an enormous part of the North American sports landscape in its own right.

Is conceiving of athletes as workers compatible with partisan fandom?

As promised, I now turn to how my account of athletes as workers, and fans’ obligation to represent them as such, intersects with debates about fandom in the philosophy of sport. We start with the distinction between partisan fandom and purist fandom. What divides these approaches to fandom is how they answer the following question: is having allegiance to a particular team compatible with the highest form of sport spectatorship? Proponents of purist fandom (Mumford 2011, Fezell 2013) answer no: they want to see a good game and appreciate athletic excellence, regardless of which team or athlete wins. Proponents of partisan fandom (Russell 2012, Kadlac 2022) say yes,

arguing that the attachments fans have to their teams is a way of realizing certain values that a pure, detached fan with no particular allegiance cannot capture. Most sports fans exist on a spectrum between complete purists and partisans, as many acknowledge (Dixon 2012).

There is debate as to just what is going on when one engages in partisan fandom. Many sports fans care very deeply about their team associated with a city or school, and feel great joy or sadness at their teams' fortunes. Yet many of these same fans recognize that the outcomes of sporting events don't matter all that much in the grand scheme of things. Kendall Walton (2015) has recently argued that being a partisan fan in this way is to engage in a kind of pretense: in order to invest so much time, money, and emotion in one's team, you may need to pretend or falsely believe that the team is in some sense *yours*, or an extension of yourself and your identity.

One might object that conceiving of athletes as workers is incompatible with partisan fandom in this way.³⁵ For it is partisan fans of competitive team sports who largely buy tickets and merchandise, watch their teams' games on television, and consume sports media. In other words, competitive team sports being a hundred-billion-dollar industry is in large part dependent on partisan fandom. If we conceive of athletes as workers, we shatter the pretense at the center of partisan fandom, and in turn lower the demand for athletic labor for one's favorite team. The well-being of professional athletes as workers may thus well depend on sports fans and sports media *not* conceiving of them as workers.

I have three responses to this objection. First, proponents of partisan fandom hold that fandom is permissible when fans are appropriately critical of ethical issues that partisan fandom brings in its train. Kadlac (2022, ch. 4), for example, argues that partisan fandom is permissible only if fans adopt attitudes that go beyond objectifying them.³⁶ We ought not be so partisan as to ignore the ethical dimensions of fandom (e.g., racism in soccer). I propose that partisan fans should simply extend this line of thinking to the ethical issues athletes face qua workers.

Second, it's a complex empirical question the extent to partisan fans becoming less partisan in their fandom would make athletes' lives as workers go worse. Stephen Mumford (2011), argues for purist fandom while still attending games and taking in sports culture. It's at least not obviously the case that more purist fans would lower the demand for athletic labor.

Third, my call for fans to conceive of athletes as workers can also be usefully adopted by proponents of partisan fandom. Nearly every team in the big four North American professional sports leagues are owned by very wealthy individuals. More than anyone else, these owners of teams are responsible for the fortunes of the partisan fan of professional teams. Their willingness to spend money to invest in the team is often determinative of team success. Owners can also literally take fans' teams away from them should they deem it more lucrative to relocate elsewhere. Indeed, many owners view owning a professional sports franchise as primarily an investment opportunity. This is in stark contrast to the athletes, whose athletic labor is performed in the hopes of winning. Viewing athletes as workers allows partisan fans to notice that owners are decidedly *not* workers. Partisan fandom thus can in fact be further developed by conceiving of athletes as workers, with whom the fan is likely to have more in common than they do ownership.

Conclusion: Athletes Are Our Most Visible Workers

I've argued that athletes are workers, and that accepting this premise can help us make progress on a variety of ethical issues facing college and professional athletes. Like all workers, college athletes should receive fair compensation and be allowed to collectively bargain. I've raised doubts about the permissibility of drafting and trading of professional athletes, while affirming their right to strike. Finally, I've argued that fans should conceive of athletes in this way, and that doing so can add to the literature on fandom in the philosophy of sport.

This conception of athletes as workers should be attractive not only to sports fans, but to all those who have an interest in the well-being of labor. This is because athletes are among our most visible workers, constantly appearing on our screens and figuring in our discussions. When we conceive of them explicitly in these terms, we highlight what is owed to *all* workers: at a minimum, fair compensation, freedom from restrictions on selling their labor, and the right to collectively organize.

This is significant, because the vast majority of sports fans, and people in general, are workers. This is a property that most people have, one that cuts across other demographic boundaries. Recognizing that athletes are not *just* objects of entertainment or celebrity, but also workers, and thus entitled to certain normative considerations, can help us see that all workers are deserving of these considerations. In short, it can help us achieve a kind of solidarity with athletes and with one another.

Athletes captivate us. Not only do we evaluate them for their distinct sporting virtues, but also morally (Feezell 2005) and aesthetically (Foster Wallace 2006, Mumford 2011). In the existing political economy that we find ourselves in, however, athletes are also *workers*. I have argued that an interest in athletes' welfare, and in the welfare of workers generally, motivates explicitly conceiving of athletes in this way.³⁷

References

- Archer, A. and B. Matheson. (2019). 'Shame and the sports fan'. *Journal of the Philosophy of Sport* 46(2): 208-223.
- Archer, A. and J. Wojtowicz. (2023). *Why It's OK to Be a Sports Fan*. Routledge.
- Borman, D. (2017). 'Contractualism and the Right to Strike'. *Res Publica* 23(1): 81-98
- Branch, T. (2011) 'The Shame of College Sports'. *The Atlantic*.

- Brand, M. (2006). 'The Role and Value of Intercollegiate Athletics in Universities'. *Journal of the Philosophy of Sport* 33(1): 9-20.
- Burneko, A. (2016). 'Sports Drafts Are Immoral and Bad'. *Deadspin*.
- Cholbi, M. (2023). 'Philosophical Approaches to Work and Labor'. In E. Zalta and U. Nodelman (eds.), *The Stanford Encyclopedia of Philosophy*.
- Cohen, G. (1983). 'The Structure of Proletarian Unfreedom'. *Philosophy and Public Affairs* 12(1): 3-33.
- Cohen, G. (2000). *Karl Marx's Theory of History: A Defense*. Princeton: Princeton University Press.
- Corrada, R. (2020). 'College Athletes in Revenue-Generating Sports As Employees: A Look Into the Alt-Labor Future'. *Chicago-Kent Law Review* 95(1), 187-216.
- Dixon, N. (2016). 'In Praise of Partisanship'. *Journal of the Philosophy of Sport* 43(2): 233-249.
- Feldman, G. (2018). 'Collective Bargaining in Professional Sports: The Duel Between Players and Owners and Labor Law and Antitrust Law'. In M. McCann (ed.), *The Oxford Handbook of American Sports Law*. New York: Oxford University Press.
- Feezell, R. (2005). 'Celebrated athletes, moral exemplars, and lusory objects'. *Journal of the Philosophy of Sport* 32(1): 20-35.
- Foster Wallace, D. (2006). 'Roger Federer as Religious Experience'. *The New York Times Play Magazine*.
- Friedman, M. (1962). *Capitalism and Freedom*. University of Chicago Press.
- Gilbert, P. and M. O'Neill. (2019). 'Socialism'. In E. Zalta (ed.), *The Stanford Encyclopedia of Philosophy*.
- Gillies, I. (2011). 'Mom to N.B.A.: Play Ball!' *The New York Times*.
- Gourevitch, A. (2016). 'Quitting Work but Not the Job: Liberty and the Right to Strike'. *Perspectives on Politics* 14(2), 307-323.
- Gourevitch, A. (2018). 'The Right to Strike: A Radical View'. *American Political Science Review* 112: 905-917.

- Gourevitch, A. (2020). 'Themselves Must Strike the Blow: The Socialist Argument for Strikes and Self-Emancipation'. *Philosophical Topics* 48(2): 105-129.
- Hayak, F. (1960). *The Constitution of Liberty*. University of Chicago Press.
- Heath, J. (2018). 'On the Very Idea of a Just Wage'. *Erasmus Journal for Philosophy and Economics* 11: 1-33.
- Kadlac, A. (2022). *The Ethics of Sports Fandom*. New York: Routledge.
- Kalman-Lamb, N. (2018). *Game Misconduct: Injury, Fandom, and the Business of Sport*. Black Point, Nova Scotia: Fernwood.
- Lindblom, L. (2019). 'Consent, Contestability, and Unions'. *Business Ethics Quarterly* 29: 189-211.
- Locke, D. (1984). 'The Right to Strike'. *Royal Institute of Philosophy Lecture Series* 18 173-202.
- Lukács, G. (1971). *History and Class Consciousness: Studies in Marxist Dialectics*. MIT Press.
- Mack, E. (2002). 'Self-Ownership, Marxism, and Egalitarianism: Part I: Challenges to Historical Entitlement'. *Politics, Philosophy, and Economics* 1 75-108.
- McLeod, C. (2022). 'Are Athlete-Owned Leagues a Viable Alternative for Professional Sport?' *Journal of Sport and Social Issues* 46(1): 51-74.
- Metz, L. (2020). 'Turning Intercollegiate Athletics Into a Performance Major Like Music'. *Journal of the Philosophy of Sport* 47(2): 283-300.
- Moriarty, J. (2011). 'Justice in compensation: a defense'. *Business Ethics* 21(1): 64-76.
- Moriarty, J. (2020). 'What's in a Wage? A New Approach to the Justification of Pay'. *Business Ethics Quarterly* 30(1): 119-137.
- Mumford, S. (2011). *Watching Sport: Aesthetics, Ethics, and Emotion*. London: Routledge.
- Munter, D. and L. Lindblom. (2017). 'Beyond Coercion: Moral Assessment in the Labor Market.' *Journal of Business Ethics* 142(1): 59-70.
- Murphy, C. (2017). *Madness, Inc.: How everyone is getting rich off college sports – except the players*.

- Nozick, R. (1974). *Anarchy, State, and Utopia*. Basic Books.
- Raekstad, P. and E. Rossi. (2022). 'Radicalizing Rights: Basic Liberties and Direct Action.' *Political Studies Review* 20(3): 353-365.
- Reddy, D. (2021). 'There Is No Such Thing as an Illegal Strike: Reconceptualizing the Strike in Law and Political Economy'. *130 Yale Law Journal Forum* 421.
- Rothbard, M. (1973/1985). *For a New Liberty*. Macmillan.
- Russel, J.S. (2012). 'The Ideal Fan or Good Fans?' *Sport, Ethics and Philosophy* 6(1) 16-30.
- Silva, D., J. Mellis, and N. Kalman-Lamb. (2021). The Sports Media Problem. *The End of Sport Podcast*.
- Shirazi, N. and A. Johnson. (2021). 'The Ungrateful Athlete: Anti-Black, Anti-Labor Currents in Sports Media'. *Citations Needed Podcast*.
- Spector, J. (2019). 'Are Pro Athletes Overpaid? Yes.' *The New York Times Upfront*.
- Tarver, E. (2017). *The I in Team: Sports Fandom and the Reproduction of Identity*. University of Chicago Press.
- Tyler, G. (2021). 'The moral responsibilities of fandom'. *Journal of the Philosophy of Sport* 48(1): 111-128.
- Walton, K. (2015). 'It's Only a Game!: Sports as Fiction'. In K. Walton (ed.), *In Other Shoes: Music, Metaphor, Empathy, Existence*. Oxford University Press: 75-83.
- Zema, P. (2018). 'Should Student-Athletes be Paid?' *Sport, Ethics and Philosophy* 13(2): 198-212.

¹ One might reasonably wonder why the relevant normative concept for athletes in the issues I raise is not *worker* but *employee*. Indeed, the unprecedented legal challenges currently ongoing in the 2023 case *NCAA v. Johnson* takes up the questions of whether college athletes are employees. I choose *worker* rather than *employee* because I take it that all employees are workers, but not vice versa, and I want to leave it open that there might be interesting claims one can

make about athletes as workers but not employees. For example, the professional league Premier League Lacrosse gives ownership equity to its players. It's not straightforward that these athletes are employees, but they are still workers (McLeod 2022). In general, this article is making a moral argument rather than a legal argument. Thanks to an anonymous referee for pushing me to clarify this point.

² <https://www.sportrac.com/nba/charlotte-hornets/kelly-oubre-jr-17843/>

³ See Cohen (2000).

⁴ Cholbi (2023).

⁵ Indeed, the athletes in the 2023 case *N.C.A.A. v. Johnson* make this very point.

⁶ 'Normative entitlement' in this context is ambiguous between workers having a moral entitlement and a legal entitlement. Unless stated otherwise, by 'normative entitlement,' I mean moral, rather than legal, entitlement.

⁷ Cholbi (2023).

⁸ Moriarty (2012); see also Heath (2019) and Moriarty (2020).

⁹ Friedman (1962), Rothbard (1973/1985, chapter 2); Nozick (1974); for critical discussion, see Cohen (1983) and Munter and Lindblom (2017).

¹⁰ For criticism, however, see Mack (2002).

¹¹ Anderson (2017).

¹² Lindblom (2019).

¹³ See Gourevitch (2016, 2018, 2020), Borman (2017), Reddy (2021), Raekstad and Rossi (2022). For criticism of the right to strike, see Hayek (1956, ch. 18) and Locke (1984).

¹⁴ Some might wonder whether the difference between the running back and the fencer is that the former, but not the latter, generate *profit*, and that is why the running back, and not the fencer, is a worker. I think, however, that both can count as workers, strictly speaking; it's just that the running back contributes their labor to a much more productive enterprise, and so considerations of *fairness* kick in for the running back and not the fencer. Thanks to an anonymous referee for prompting me to clarify this point, and others, in this section.

¹⁵ See the N.C.A.A. constitution, most recently ratified in 2022, which explicitly emphasizes the 'student-athlete model.'

The constitution can be accessed at

https://ncaaorg.s3.amazonaws.com/governance/ncaa/constitution/NCAAGov_Constitution121421.pdf.

¹⁶ Brand (2006), Metz (2020).

¹⁷ See Murphy (2017).

¹⁸ Zema (2018).

¹⁹ <https://bleacherreport.com/articles/10045014-college-footballs-most-unique-nil-deals-in-2022>

²⁰ Moreover, it is also far from obvious that receiving N.I.L. compensation is any sort of remedy when it comes to the exploitation of college athletes; there are already several examples of N.I.L. deals exacerbating it. See:

<https://www.insidehighered.com/news/students/athletics/2023/06/07/two-years-nil-fueling-chaos-college-athletics>.

²¹ In the landmark settlement of the 2024 case *House v. N.C.A.A.*, the N.C.A.A. and plaintiffs agreed to the framework of a revenue-sharing model for between power-conference schools and athletes. If put into place, this would be a significant step in remedying some of the wrongdoing discussed in this section, though it is just a first step. See:

<https://www.nytimes.com/athletic/5510354/2024/05/23/house-v-ncaa-settlement-votes/>

²² See the case decision, accessible at: <https://www.nlrb.gov/case/13-RC-121359>

²³ See the N.C.A.A. constitution, accessible at:

https://ncaaorg.s3.amazonaws.com/governance/ncaa/constitution/NCAAGov_Constitution121421.pdf.

²⁴ See the historians amicus brief in the *N.C.A.A. v. Alston* case.

²⁵ See Branch's 'The Shame of College Sports' (2011). Thanks to an anonymous referee for prompting me to discuss the issue of amateurism.

²⁶ The athletes in the 2023 case *N.C.A.A. v. Johnson* argue to the Third District Court of Appeals that they are employees, not only for the time spent in practice and competition but also in part because of the *control* that their universities impose on them, where this control is not faced by their fellow classmates.

²⁷ Some sports leagues, like the N.B.A., have maximum salary contracts that place a ceiling on the salary a team can offer any one player, which function in the same way.

²⁸ See Lyons (1972) for discussion of this objection to Rawls on utilitarian grounds.

²⁹ Thanks to an anonymous referee helping me see this point.

³⁰ See Feldman (2018) for an overview.

³¹ For a list of work stoppages among the big four North American sports leagues, see:

<https://www.cnn.com/2013/09/03/us/pro-sports-lockouts-and-strikes-fast-facts/index.html>.

³² For a book-length treatment of the relationship between athletic labor and injury in the field of sociology, see Kalman-Lamb (2018).

³³ See, for example, Spector (2019); for a list of others, see Silva, Mellis, and Kalman-Lamb (2021) and Shirazi and Johnson (2021).

³⁴ Thanks to Tristram McPherson for putting the point in this way.

³⁵ Thanks to John Collins for raising this objection.

³⁶ For other examples, see Archer and Wojtowicz (2023) and Tarver (2017).

³⁷ For helpful comments, thanks to John Collins, Alex Guerrero, Aly McCarthy, Tristram McPherson, Daniel Olson, and two anonymous reviewers for this journal. For helpful discussion, thanks to Mich Ciurria, André Curtis-Trudel, Jill Delston, Rachel Harris, Seungsoo Lee, Michael Lennon, Jacob MacDavid, Lavender McKittrick-Sweitzer, Tee Neely, Lily Perkins, audiences at the 2022 Philosophy and Activism Conference at UMSL, the 2023 Eastern APA in Montreal, and a 2021 Graduate Student Workshop at Ohio State. Special thanks to my father, Tom Lennon, who inspired many of the ideas in this paper over the course of my sports-watching life.