

A JESUIT'S PERSPECTIVE ON INTERCOLLEGIATE ATHLETICS

By Rev. Patrick Kelly, S.J., Associate Professor of Religious Studies, University of Detroit Mercy; Former Chair, Intercollegiate Athletic Oversight Committee, Seattle University Board of Trustees

AJCU: It's safe to say that, for most of us, intercollegiate athletics has changed more in the past five years than ever before. Can you summarize those changes and suggest what is driving them?

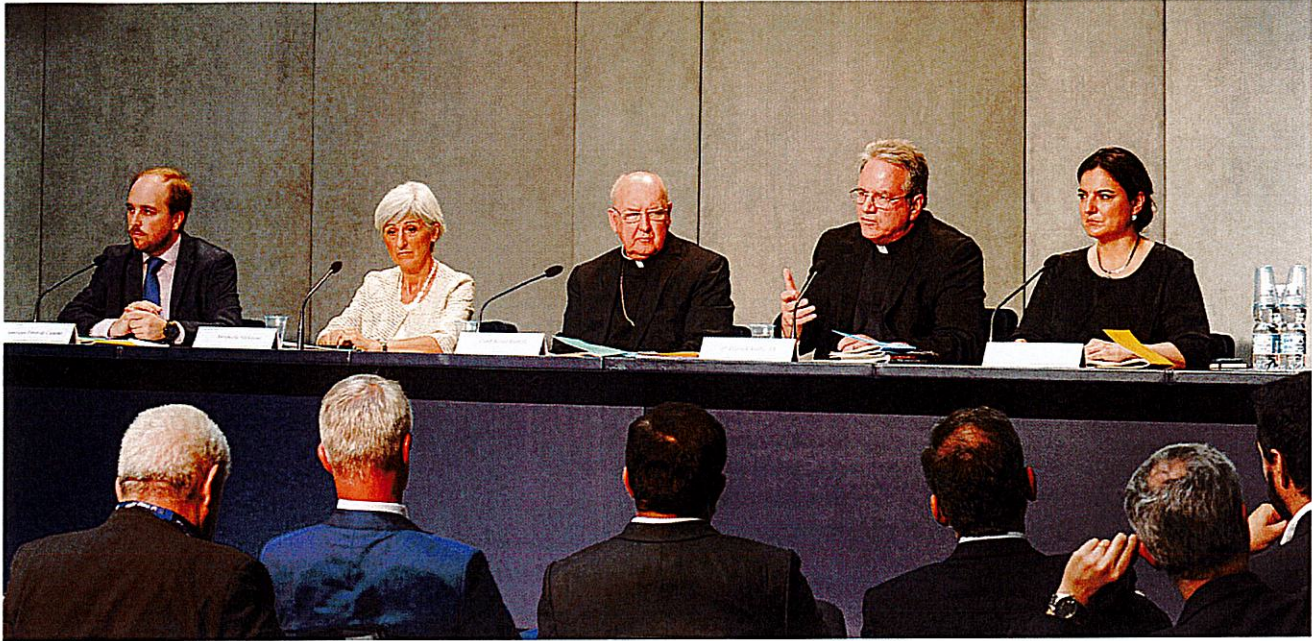
Rev. Patrick Kelly, S.J.: Three main drivers of the changes happening in recent years are the dramatic increase in the amount of money in intercollegiate athletics, the rise of television contracts, and antitrust court cases. Because of intercollegiate athletics' popularity, and what could turn at times into a mania for winning, stories about money's influence have been present since the beginning. Many of the rules that were developed by the NCAA at various stages were meant to keep college athletics distinct from professional sports and maintain its connection to education.

A new era of televised sports coverage began with the advent of ESPN in 1979, which made round-the-clock cable coverage of college sports possible. Other networks also increased their coverage and, in the process, college sports became a more pervasive part of the cultural landscape in the United States.



(Above) Rev. Patrick Kelly, S.J.

A 1984 U.S. Supreme Court anti-trust lawsuit, *NCAA v. Board of Regents of the University of Oklahoma* (based on the premise that a free market is the best way to allocate the nation's resources), ruled against the NCAA's control of negotiations with television networks for football coverage. The ruling allowed individual schools and conferences to negotiate football television contracts directly, which led to more games being televised and larger deals. The television coverage of the NCAA Division I (D-I) men's basketball tournament also began to bring in more exorbitant amounts of money. The financial windfall for the highest levels of D-I intercollegiate athletics led universities into an 'arms race' for better facilities, stadiums, higher coach contracts, etc. While few of even the most well-resourced athletic programs made a profit for their universities, they were pursuing what was most helpful for them to gain a competitive advantage.

Intercollegiate Athletics (continued)

Above: Rev. Patrick Kelly, S.J. speaking at a press conference for the release of a Vatican document about sport, which featured contributions from Fr. Kelly (2018)

In recent years, other anti-trust court cases have lifted the cap on educational benefits that schools could offer student-athletes; opened up the free market for them to receive Name, Image, Likeness (NIL) money; and to transfer schools without having to sit out before competing again.

Another related development has to do with debates about whether young people who participate in intercollegiate athletics are “student athletes” or “employees.” In 2021, the National Labor Relations Board ruled that student-athletes can be properly classified as employees of their universities. In March 2024, Dartmouth College basketball players formed a union. The College will not bargain with them, though, saying that “athletes in the Ivy League are not employees.” The U.S. Court of Appeals for the Third Circuit ruled in the *Johnson vs. NCAA* case in July 2024 that student-athletes can be classified as employees of their institutions. That case will continue making its way through the courts.

AJCU: With all of the focus on these issues, are there other topics being overlooked?

Kelly: With all of the attention being directed to who has the right to access the large sums of money at the highest levels of college sports, what is omitted is any meaningful discussion of sport itself, its human and cultural significance, and how it is related to education.

These are issues that must be addressed in any ‘educational framing’ of this topic. Such issues only appear in the dissents or ‘qualified’ concurrences of the court cases. In the dissent of Justices Byron White and William Rehnquist in the 1984 Board of Regents case, for example, they wrote that intercollegiate athletics is not a “purely commercial endeavor in which colleges and universities participate solely, or even primarily, in the pursuit of profits.” Rather, it is a “vital part of the educational system.”

Intercollegiate Athletics (continued)

Third Circuit Judge David Porter did not accept the reasoning of the majority in *Johnson vs. NCAA* about whether student athletes are employees because the majority does not clarify the “critical distinction” between “service,” “labor,” or “work,” and play or sport. An obvious starting point in such considerations, he says, is to ask whether “a student-athlete may play her chosen sport because she wants to play, not to work primarily for her university’s benefit. Play is arguably a human good that many pursue for its own sake.”

While it is beyond the purposes here to discuss in depth, many psychological studies have demonstrated the relationship between play and human development. To take just one example of how playing sports can lead to the development of the person: In the United States, many young people have their first experiences of being a part of something larger than themselves while playing on sports teams. They learn how to develop their own skills and personality in such a way that they can contribute to the goals and success of the team. And those lessons continue as they play sports even at the intercollegiate level. As Pope Benedict put it:

“In team play, the player learns to put his individuality in the service of the whole. Sport unites people in a common goal: the success and failure of each one lies in the success or failure of everyone.”

What is also omitted in the current framing is how a too narrow focus on external goods such as money or prestige can corrupt sport itself and education. Such external goods that are connected to the most popular college sports accrue to individual persons or institutions.

Regarding sports primarily as a means to these ends introduces a kind of individualism that has been present in recent decades in the wider culture into sport itself. As was mentioned, one of the ways that sport leads to the growth of young people is that they learn how to develop their own skills and other capacities, but in such a way that they work together with others toward a common goal. That is changing and there is a tilt in the direction of the individual student athlete’s focus on pursuing external goods. In recent decades, youth sport is being viewed increasingly as a means for individual children to earn a college scholarship. And youth sport is increasingly becoming “pay to play,” which makes it inaccessible to many young people from poorer communities. The transfer portal that allows student athletes to play right away after transferring, along with the fact that there were initially no guardrails or regulations related to making money on one’s name, image and likeness, have also had the unintended effect of moving college athletics more in this direction.

Intercollegiate Athletics (continued)

AJCU: Is a “new normal” in sight? What might it look like when it arrives?

Kelly: It is hard to predict. The changes have come so fast and they will keep coming because lawsuits will continue to make their way through the courts. Congress will also likely pass legislation at some point in the future (this is not likely to happen now, in election season).

There is an “individualism of institutions” where schools are all doing what brings in the most money for them and gives them the greatest competitive advantage.

You may have seen that to avoid treble damages in the 2020 *House vs. NCAA* antitrust lawsuit, the NCAA and Power 5 conferences proposed a settlement (which will also serve as a settlement for two or three other cases and still needs to be approved). As part of the proposal, the NCAA and D-I conferences will pay \$2.8B to student athletes who were not able to make money from NIL agreements, going back to 2016 when the statute of limitations ran out. The NCAA and D-I schools are also proposing as part of the settlement a new arrangement where the Power 4 (now without the Pac 12 Conference) conference schools and any other D-I schools that want to, will pay a minimum of \$30,000 to half of their student athletes directly. This will be a momentous change from the amateurism model that the NCAA has long defended, in that student-athletes will be paid directly for playing their sport.

The NCAA and Power 5 conferences settled the House case to avoid paying triple the damages. But the new massive football television deals that led to conference reorganizations will help these schools to weather the storm and continue to build facilities, pay coaches exorbitant salaries, and now pay players directly. So, in a sense, the rich will keep getting richer.

Most of our D-I Jesuit schools don't sponsor football, but some have nationally prominent men's and women's basketball programs. These schools won't benefit from the new football television money, and will also be getting less for the NCAA basketball tournaments, as some of that money will be used to pay the \$2.8 billion settlement.

Val Ackerman, the Commissioner of the Big East Conference, has objected strongly to the amount of money that Big East schools have to pay. She says it is unfair given that the lawsuits were brought by student-athletes in the Power 5 conferences. And the bulk of the payments will go to student-athletes in those conferences, particularly football players.

Basically, I think we are still going about everything in the same way that led us to our current situation. There is an “individualism of institutions” where schools are all doing what brings in the most money for them and gives them the greatest competitive advantage. This fits well within a business framing of college sports that trusts that a free market is the best way to allocate the nation's resources.

Intercollegiate Athletics (continued)



(Above: Rev. Patrick Kelly, S.J. at a dedication for the 'Father Kelly' at Seattle University)

However, increased freedom for some schools and student-athletes may end up meaning less freedom for others. Will other non-football playing D-I schools feel pressured or coerced into directly paying some of their student-athletes \$30,000 per year, even if this is inconsistent with their philosophy of education, so that they will be able to continue to compete for the best players and in March Madness? In order to afford to pay half of their student-athletes, will some D-I schools have to drop non-revenue producing sports, depriving many student-athletes of the freedom to participate in intercollegiate athletics at all?

I mentioned earlier that one of the ways that participation in sports leads to the growth of young people is that they learn how to be part of something larger than themselves. In this way, they can be introduced to the notion of the "common good"). It would be helpful if the decision-makers and leaders in college sports would take this lesson to heart. And if conference leaders would convene discussions having to do with values in sport that are broader than winning and money, that could help us to understand how sports are related to education.

The NCAA and its member institutions have failed so far to convince the courts of the connection between sports participation and the educational mission of our universities. For those who cannot accept the complete severing of athletics from academics in our institutions, this is still an issue that needs to be resolved.

AJCU: How do these changes impact the relationship between student-athletes and the schools for which they compete?

Kelly: At Jesuit schools, we try very hard to ensure that student-athletes are part of the student body. This is important to do in part because such a very small percentage even of the best D-I student-athletes go on to play their sport professionally.

Most students who play sports on our teams have gotten a lot of attention for sports since they were very young. They may have even attained celebrity status at their high schools and in their local communities. Some have developed a "foreclosed identity" around sports before they have had a chance to explore other identities. So one of the more important things that a Jesuit (or any university) education can help them to do is to pivot to the rest of their lives. This happens as they discover what gives them joy in their studies or service learning, what their talents and gifts are, and how they can use these to work with others to serve and build up the community. It is important at this time in their lives that they develop genuine relationships with other students and are provided with opportunities (academic and otherwise) to explore meaning and purpose in their lives.

Intercollegiate Athletics (continued)

But this kind of formation is undermined if students are moving from one school to another too often, which is what the loosening of restrictions on the transfer portal and the focus on NIL money has led to.

AJCU: What questions ought trustees be asking now and going forward?

Kelly: The most important question is: How is our intercollegiate athletics program meaningfully integrated into the Jesuit education that students receive? There are concrete steps that can be taken to ensure that this is the case.

Coaches and athletic directors know from years of experience and reflection what the human and educational significance of sports is. (If they don't understand its educational significance, they shouldn't be coaching in a university setting.) Drawing on their experience and that of student-athletes, the athletic department should develop a mission statement that expresses clearly the way that participating in intercollegiate athletics is related to the Jesuit educational mission.

I think particularly in our context today our boards should consider having an Intercollegiate Athletics Oversight Committee (IAOC). If an IAOC is present, the Athletic Department's mission statement can be approved by its members. (Boards that are considering establishing an IAOC may find it helpful to consult the Association of Governing Boards of Universities and Colleges' "[Statement on Governing Boards' Responsibilities for Intercollegiate Athletics](#)" and other helpful materials at agb.org.)

I chaired the IAOC at Seattle University for seven years, while we were transitioning from Division II to Division I athletics. We would occasionally invite head coaches to our meetings to talk about their programs. One question we always asked them was about how the experience of playing on their team related to the Jesuit educational mission? At the very least, this put the question on the table and gave them the opportunity to think about it. It signaled that this was an important issue to the trustees and to the University.

There are other ways of assessing how well your university is doing in relation to intercollegiate athletics being meaningfully integrated into the Jesuit educational mission. One way is to establish a tradition of receiving feedback/evaluations from all student-athletes at the end of every school year. Also useful are in-depth senior exit interviews, which can be conducted in-person by faculty and other university community members outside of the athletic department.

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Intercollegiate Athletics (continued)

Trustees also ought to inquire as to their institution's stance on paying some of our student-athletes directly to play for our teams. If Power 4 schools move forward with their plan to pay \$30,000 to half of their student-athletes, pressure may be felt in some of our non-football D-I programs to make these payments in order to be able to compete at the national level in basketball and other sports.

There is a financial dimension to this decision. But there is also a philosophical dimension. Paying student-athletes directly for playing would seem to move our players more firmly into employee territory. What is our stance about some of our student-athletes being regarded as employees of a university? In the *Johnson vs. NCAA* case, the question of whether the students are "student-athletes" or "employees" hinges on whether their athletic participation primarily benefits the students in an educational sense, or the university. Are we willing to say that participation in intercollegiate athletics is no longer primarily part of the educational experience for some of our student-athletes?

AJCU: What gives you hope in the present situation?

Kelly: The dizzying pace of change in intercollegiate athletics and the issues that are still being contested are requiring universities to be more reflective about why they have athletic programs in the first place and to be more explicit about how these programs are related to their educational mission. This is not something that universities have had to do in the same way in earlier eras.

The fact that this hasn't happened in a sufficient way before now is part of the reason we are in the current situation. Without an account of the human and educational significance of sport, it becomes more vulnerable to being regarded merely as a means to the ends of money, institutional prestige, etc. It is only a small step from there to regarding our student-athletes as means to ends.

Now there is an opportunity to become more reflective about what we are doing and how to become more intentional as we go forward. This may result in needing to make difficult decisions and even changes in the years ahead. But my hope is that this process will help to make us more faithful to our Jesuit heritage and educational mission and that, in the end, this will enable us to better serve the young people who come to our schools.

To learn more about Fr. Kelly's biography and work, please click [here](#).

CONVERSATION PROMPT

Fr. Kelly makes a variety of suggestions as to how boards might best exercise their governance responsibilities with respect to intercollegiate athletics. How does your board exercise this important oversight? Are any of his specific suggestions (e.g., ensuring that intercollegiate athletics are well-integrated within your school's overarching Jesuit purpose, creating departmental mission statements, conducting exit interviews for your student-athletes, etc.) elements of your own school's approach? How might they become implemented?