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# Fair Play: Retributive and Distributive Principles in the Soccer Laws of the Game

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FAIR PLAY: RETRIBUTIVE AND DISTRIBUTIVE PRINCIPLES IN THE SOCCER  
LAWS OF THE GAME

An Honors Thesis

Presented To

The University Honors Program

Gardner-Webb University

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By

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Accepted by the Honors Faculty

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## **Purpose**

One of the most basic strivings of the field of philosophy is to define and formulate the fundamental makeup of a just society. Countless thinkers across two millennia have expended their efforts towards this arduous undertaking, each in their own way seeking to better the society in which they found themselves. With *Republic*, the focal point of philosophical writings began to focus on the proper application of justice within society. In the thousands of years since, the brightest minds in the world have each formalized their own systems and models for just societies and the populations therein. This time-honored tradition of inquiry is typically the preeminent concern of established societies and its consideration of public justice is the hallmark of an accomplished student of philosophy. In carrying on this multi-generational burden, this thesis will also probe the question of just governance with the intention of exploring the relationship between two competing justice systems.

### **Nature and Scope of Thesis:**

This thesis will attempt to demonstrate that the game of soccer, through its rules and their implementation, can serve as an analogy for a just society. Further, the resulting analogy serves to highlight the presence of both retributive and distributive justice within the paradigm of a soccer match. From this point, this project will seek to analyze the applications of both forms or types of justice systems within the framework of a soccer match. Specifically, the thesis will focus on the joint effectiveness of these systems, and determine whether they can function together for the good of the match as a system. Based on this analysis, the thesis will explore the ability to depict a way for these two systems of justice to exist cooperatively within the context of a just society based on their ability to do so within the game.

## Outline

The execution of this project will consist of four parts:

First, a theoretical section will describe the underlying opposition between retributive and distributive justice systems. This will involve a detailed examination of what these schools entail and how they are commonly implemented in a societal framework. Central to this process will be the underlying definitions of these two systems; retributive justice and desserts theory. The former concerns the reward and punishment of individuals in accordance to their actions or merits. Typically this can be seen represented in judicial decisions which adopt a non-consequentialist way of thinking-- where a crime must have a prescribed punishment regardless of how that punishment will affect the judged or others. Opposed is distributive theory, which takes as its focus the 'equitable distribution of good and bad results to human beings in accordance with a just and fair basis.'<sup>1</sup> This is in opposition to the former system due to its ability to look at both corporate welfare in judgements as well as the effects of a punishment or reward on individuals and communities. The first section of this thesis will demonstrate these competing systems as fundamentally opposed in the realm of social justice. In the process, I will also demonstrate possible criteria for basic tenants of a just society, the likes of which my synthesis will be applied.

Second, I will take the appropriate measures to demonstrate the ability of the game of soccer to be considered a microcosm of a just society. Through generalized research into the social phenomena surrounding the game, I will show that the game of soccer, in addition to being a truly global sport, is also one in which many societal norms, values, and vices are

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<sup>1</sup> Thiroux, Krasemann, *Ethics, Theory and Practice*, (Tappan NJ: Prentice Hall 11<sup>th</sup> ed, 2016), 106.

represented. This section allows for the later application of the Retributive/Distributive Synthesis to have reasonable grounds for successful implementation in a just society.

Third, I will show how the principles of retributive and distributive justice achieve within the framework of a soccer match. This will require an in depth analysis of the soccer *Laws of the Game* (or *Laws*) in which retributive justice principles are represented. I will also show, however, how in the administration of a match, referees act in accordance to distributive justice principles in the way they apply the *Laws*. This section will require a sampling of the population of elite (or at least professional) referees in the United States. This survey will focus on instances where individual infractions are not punished in accordance with predetermined retributive principles, but instead allow the officials to invoke distributive values in the way they carry out sporting ‘justice’.<sup>2</sup>

Lastly, this thesis will show that a synthesis of distributive and retributive justice can be implemented in a just society in the same manner as in the game of soccer. While being a simple combination of the other parts, this section is the pivotal point at which values of sport and society collide to reveal universal truth.

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<sup>2</sup> A copy of the sample instrument will be attached to this thesis, that has been approved by the Gardner-Webb Institutional Review Board.

## Part 1: Retributive and Distributive Justice

### Introduction to Justice

During the time of the Greek Golden Age, philosopher and scientist Aristotle developed what many consider to be the quintessential definition of justice; being either that which is ‘fair’ or that which is ‘lawful’.<sup>3</sup> Further, in regards to the whole of society (or the whole of the life of an individual) justice is the expression of proper alignment of internal and external personal processes with Aristotle echoing that ‘in justice is summed up the whole of virtue.’<sup>4</sup> This thesis will use these general parameters when discussing the proper forms of justice, and it is understood that the two definitions are at play in both sets of competing systems of justice.

Since that time, the proper application of justice has been a perennial point of interest for societal leaders. Indeed, a central tenant of any human organization is the concern of how best to ensure both order and a general climate of wellbeing for members of the society. The necessity of justice comes from situations that require adjudication between persons sharing the same resources. Miller describes three specific criteria for judging whether justice is a present concern in any given situation.

First, the situation must involve sentient beings.<sup>5</sup> While sentience is not strictly defined, one may assume that all humans fall into this category by nature of their personhood, regardless of their mental capacity or any disability. For the sake of this exploration, no assumptions will be made concerning possible interactions with supernatural deities, gods, etc. Next, this scenario requires at least one person to be either benefiting or

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<sup>3</sup> Aristotle, *The Nicomachean Ethics* (London: Penguin Books, 2004), 113.

<sup>4</sup> Ibid, 115.

<sup>5</sup> David Miller, *Social Justice*, (Oxford: Oxford University Press, 1976), 18.

being harmed by the exchange between the other beings.<sup>6</sup> Lastly, individuals must either benefit or be harmed from their own actions or the actions of other members of the society, in addition to any governance or lack of governance from their rulers. In short, justice is only a concern when human actions affect the wellbeing of other human beings. As such situations make up the very basis for human interaction, it is obvious that a system of justice is necessary to arbitrate between competing interests, a topic this thesis shall explore in depth later. For the purposes of this discussion, two forms of justice will be examined; retributive justice (commonly called ‘Deserts Theory’) and distributive justice (considered a ‘results’-minded theory.) These systems bear particular significance because they are fundamental to the makeup of societal justice while also possessing innate qualities that make them mutually opposed at a surface level.

### Retributive Justice

Retributive justice is the oldest system of societal justice. During the time of the ancient Babylonian Empire, whose law code predates nearly all other organized systems, justice was considered the balancing of transgressions with appropriate (although sometimes disproportionate) punishments.<sup>7</sup> This might have taken the form of inflicting monetary loss or physical pain upon those who unfairly took advantage of a fellow member of their society. In response, the ruler of Babylon and over two millennia worth of rulers following him set out to define specific penalties to be assessed to those found guilty. This system of reciprocity is then ingrained into the fabric of society for nearly all of human history,

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<sup>6</sup> Ibid.

<sup>7</sup> David Johnston, *A Brief History of Justice*, (Wiley-Blackwell Publishing, 2007), 15-17.

providing an inescapable interpretation of justice as the paying back to someone what they have done to another.<sup>8</sup>

The characteristic that most sets classical retributive justice at odds with distributive justice is its lack of consideration of the results of dispensing justice. For instance, if a judge applies a retributive principle upon a ruling in court, she does not consider any further result of the guilty individual's punishment beyond that which makes it fit the crime committed. In this way, pure retributive justice is considered a non-consequentialist or deontological theory, one that does not consider future ramifications of judgement nor anything other than the prescribed response to a punishable infraction.<sup>9</sup>

Rather than look primarily to the future, retributive justice concerns itself only with what has been committed in order to regain the moral balance of the society that has been disturbed by the breaking of the law. In order to hold this view, one must first ascribe to a theoretical equilibrium of morality present within a just society. As exemplified above in the example of the Law Code of Hammurabi (Babylonian law), those within a society (or at least those in power) perceive violations of the law as an imbalance in the equity of the society as a whole. As a result, these Retributivists believe that justice is paramount in order to allow balance to return to the society. By effect, those who serve the law and carry out its precepts serve the interest of this figurative balance above any other concern.<sup>10</sup> However, this is in stark contrast to distributive justice, which has a differing underlying system for which those who dispense justice serve.

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<sup>8</sup> Ibid 29.

<sup>9</sup> Thiroux, Krasemann, 118

<sup>10</sup> Ibid.



## Distributive Justice

Distributive justice, according to Thiroux and Krasemann, takes as its focus the ‘equitable distribution of good and bad results to human beings according to a just and fair basis.’<sup>11</sup> In order to do so effectively, those practicing distributive justice must take into consideration how the results of their actions may affect the society as a whole. In this way, the punishment of one individual must not be based upon his own merits or even the crime itself, but rather upon how his sanctioning will influence those around him, for both good and bad. The primary theory involving distributive justice is Utilitarianism, which was championed by early British economic philosophers such as Jeremy Bentham.<sup>12</sup>

Utilitarianism is the result of the consideration of what would best benefit all members of a society, or the society as a whole. This school of thought focuses not on an initial action or inaction by a member of the society, but rather whatever possible action would maximize the overall ‘good’ of the scenario.<sup>13</sup> Rather than punish or reward one who creates an inequality of good between members of the society, either selfishly or altruistically, a utilitarian principle will choose between a variety of responses or lack of response that in turn would best benefit the situation for all of those involved. Here of course interpretation becomes paramount.

Since the time of the British Industrial Era, a debate has developed between the schools of retributive justice and Utilitarianism. In this conflict, writers such as David Hume have advocated a departure from the legacy of social reciprocity and instead an endeavor towards what could benefit society as a whole.<sup>14</sup> This adaptation has worked its way slowly

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<sup>11</sup> Thiroux Krasemann, 106

<sup>12</sup> Ibid, 133.

<sup>13</sup> Miller, 33.

<sup>14</sup> Johnston, 137-139.

into modern society, typically by ameliorating the harsh punishments associated with retributive justice.<sup>15</sup> When compared to the aforementioned harsh penalties of the ancient era, modern sentences are indeed less cruel and unusual. However, debate still continues as to whether the punishments handed out by a society's judges should be considered in terms of overall societal effect. Indeed, it would be strange, even today, for a convicted criminal to be given a lighter sentence solely because those around him would be negatively affected.

### **The Opposition**

As mentioned above, retributive and distributive justice are opposed in a few key ways. While retributive justice serves to maintain the equilibrium of morality and immorality for the good of a community, distributive justice, according to Krasemann, seeks to 'maintain the equity between the distribution of good and bad outcomes within a society'.<sup>16</sup> Rather than look to elevated moral standards, distributive justice, and specifically Utilitarianism, looks to the overall wellbeing of the society as a basis for its judgements. Also, these two systems differ in the criteria they examine when evaluating proper, just action. A pure retributivist theory cannot look to the results of a punishment or reward as justification for assigning a course of justice- they may only consider the specific action taken by an individual that creates an imbalance in justice.<sup>17</sup> In this way retributive justice is concerned only with the effects justice will have upon certain individuals not the community as a whole beyond perhaps a metaphysical rebalancing of morality. Conversely, distributive justice may only consider the results of the dispensation of justice. Instead of only considering how a punishment will affect a guilty party, an arbiter would need to consider how such a penalty

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<sup>15</sup>Felicia Cohn, 'Cruel and Unusual Punishment; Distinguishing Distributive and retributive justice', *Journal Of Clinical Ethics*, 19, no. 3 (Fall 2008): 264-267.

<sup>16</sup> Thiroux Krasemann, 106.

<sup>17</sup> Ibid, 113.

would affect those around him as well as society as a whole. In this way, distributive justice concerns itself not with individuals but with groups and the whole of society. Clearly, these three differences place distributive and retributive justice at odds.

### **Synthesis**

Evidence, however suggests that retributive and utilitarian principles could coexist within the same societal paradigm. Through the theories of John Stuart Mill and other key Utilitarians, societal justice has largely inculcated consequentialist notions into its fabric.<sup>18</sup> These cause lawmakers setting down legislation or any kind to take into consideration the overall result of the effects of both the infraction in question as well as the resulting corrective action. This synthesis is evident in the game of soccer as this thesis will discuss later, after the game is demonstrated to be a credible analogy for a just society.

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<sup>18</sup> John K. Roth 2005. *Ethics*. Rev. ed. (Pasadena, Calif.: Salem Press. 2005), 1532.

## **Chapter 2: Soccer As Analogy**

At first glance, there are many similarities between the sport of soccer and society as a whole. As mentioned before, government officials operate in much of the same capacity as match referees in regards to management of internal conflicts as well as minimizing the influence of outside interferences upon those in their charges. This section will demonstrate how the game of Soccer can be used as an analogy and representation of a just society. To do this, one must first detail what a just society is comprised of, both in its government as well as its citizenry.

### Necessity of Governance

One aspect of society likely taken for granted by citizens is the presence of an organized structure or government. The same could be said for Soccer, which is almost never seen without some incarnation of its government- the referee. Participants in sport and society, however, have, at one point or another, undertaken their activities without giving clear command or authority to any central individual or organization. This sort of arrangement seems the most natural, as any form of government or rule-based system is inherently artificial to those used to living (or playing) without it. Potentially, individuals living in a world without fear of an inevitable rise of conflict would not see a need for a large, complex institution under which to be ruled. Similarly, children playing a game of soccer in their backyard have no innate desire to appoint an arbitrator to administer abstract laws unless there arises some specific recurring problem that requires such action. However, as this section will now explore, most of human experience points to the need for some kind of establishment able to mediate between individual actors.

To begin this examination, one must first examine an underlying notion that it is more desirable for a group of individuals to be ordered together under a government than to be left to their own devices in a state of lawlessness or anarchy. The principle argument against such a systematic society becomes that mankind seeks its own benefit best when left uninhibited by governments, laws, etc. In effect, those institutions become hindrances in the way of individuals securing their own wellbeing and the mutual benefit of all people in addition to themselves.<sup>19</sup>

A main argument against the establishment of government postulates that such a construct forces individuals into an unnatural relationship with one another. Proponents such as Peter Kropotkin argue that if humankind is able to completely act in a natural manner then it will seek the best social standing for themselves, and through the joint nature of this pursuit, will bring about the best possible outcome for the majority of those involved.<sup>20</sup>

One well-known rebuttal to this argument and, therefore, an explanation for why a state must be created comes from the English philosopher and political theorist Thomas Hobbes. In his most successful treatise, *Leviathan*, Hobbes makes the claim that humanity is in fact purely self-serving and goes as far as to call a purely natural state such as the one advocated by Kropotkin a 'state of war'.<sup>21</sup> This, Hobbes claims, is due to the underlying competition that permeates all aspects of human relations. Further, he states that 'the way of one competitor, to the attaining of his desire, is to kill, supplant, or repel the other.'<sup>22</sup>

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<sup>19</sup> Adams, Matthew S. 2016. "Formulating an Anarchist Sociology: Peter Kropotkin's Reading of Herbert Spencer." *Journal Of The History Of Ideas* 77, no. 1: 49-73. *Art & Architecture Complete*, EBSCO host (accessed January 16, 2017),

<sup>20</sup> *Ibid*, 67.

<sup>21</sup> Hobbes, Thomas. *Leviathan*. Indianapolis: Hackett Publishing, 1994, 88.

<sup>22</sup> *Ibid*, 70.

Essentially, Hobbes sees human beings as too selfish to be permitted the opportunity to become fully self-reliant.

Examples of the potentially volatile results of anarchism can be seen in failed states such as Somalia, where a government has folded due either to internal or external pressures. The result in Somalia is the widespread economic and social suffering undertaken by its citizens. After the Somali Democratic Republic collapse in 1991, individual actors began amassing power within the country's borders and sought to take advantage of their newfound freedom.<sup>23</sup> Those with the ability to do so then undertook actions resulting in the oppression and abuse of non-combatants while also compounding the rise of economic depression as commerce became an unsafe endeavor. Once they may act with impunity, lawless individuals seek to maximize their potential personal advancement no matter the cost to those around them.

Robert Nozick postulates that individuals cannot effectively deter infringements upon their wellbeing, either because they do not possess the power or influence necessary to do so, or because, if they do have these elements, they will in turn exploit them in order to inflict unequal retribution upon their oppressors.<sup>24</sup> This in turn causes a perpetual string of retaliations one against the other, until either only one remains or all desire to make war is exhausted. This is surely an undesirable outcome for individuals seeking to make a living for themselves without undue interference. Instead, some structure and organization must exist in order to enforce minimum standards of behavior as well as maintain societal balance.

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<sup>23</sup> Putten, Frans-Paul van der, Bibi van Ginkel, and "Clingendael" Nederlands Instituut voor Internationale Betrekkingen. 2010. *The International Response to Somali Piracy : Challenges and Opportunities*. Leiden, Netherlands: Brill, 2010. *eBook Collection (EBSCOhost)*, EBSCOhost (accessed January 16, 2017).

<sup>24</sup> Nozick, *Anarchy, State, and Utopia*. New York: Basic Books, 1974, 10-11.

This concern of necessary governance is directly applicable to an analogy involving a soccer match, if in a simplified manner. Players on two teams struggle with and against each other in order to achieve a desired outcome. This kind of competition mirrors Hobbes' view of a natural human state- with individual interests, typically represented by those as a team as a whole, but sometimes even teammates seek different outcomes during the course of a match, taking the foreground. If there were neither *Laws of the Game* nor referees to enforce them, a competitive soccer match would quickly devolve into a series of aggressive, perhaps violent confrontations.

This tendency is often visible in matches where factors such as previous negative interaction between opposing players, lackadaisical officiating, or extremely high stakes cause players to divert attention from engaging in fair play and instead focus attention on committing misconduct at the expense of the opposing players.<sup>25</sup> This may manifest itself in the form of deliberate rule-breaking in order to either secure an advantage for one's team, intimidate an opponent, or in extreme cases inflict physical harm upon an opposing player. Such a progression from a safe, fair contest to one of acute danger and disrespect may be assumed to be an undesirable outcome, much like that of a failed state or anarchist system mentioned above.

#### Just Societies, Just Governance

From this point, one must subscribe to a particular societal system or more accurately a synthesis of several systems. Beyond minimum management mentioned above, the makeup of a society has a profound impact on the citizens contained therein. Because of this fact, one must take into consideration both the individual prosperity and wellbeing of a citizen as well

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<sup>25</sup> 'Misconduct' as defined by Law 12 of the Laws of the Game entails an offense necessitating further sanction in the form of a yellow card (caution) or red card (send off).

as the continuity of the community as a whole. Mumford states that a good community ‘could not be simply a collection of individuals...whom (sic) insists upon some private and particular happiness without respect to the welfare and interests of his fellows.’<sup>26</sup> Thus, not only is the establishment of a societal order necessary, but it in turn must be used to ensure the general wellbeing of all contained within.

Opinions on the proper role of government are diverse and varied. Predating much of modern scholasticism, the discussion of what form societal authority should take has dominated discussions of philosophers, politicians, and ordinary citizens alike. It is from the former group however, that society has taken most of its direction and likewise, from a selection of these thinkers, this thesis will take its direction as to the composition of an analogous society. Namely, it will draw from the theories of classical thinkers Plato and More, as well as contemporary formulations. Once established, this thesis will demonstrate how the game of Soccer, through its Laws and their applications holds as a viable microcosm of an idealized just society.

### **Possible Systems**

This section is concerned with the selection of a few notable systems of government that may serve as examples of how a just government could function. These particular examples are chosen for their ability to illustrate a select group of general elements needed for just governance. First, as mentioned before, centralized government should exist as a desirable alternative to individual governance or anarchy. Second, the government created must emulate and promote the highest human ideals, which will be discussed at length later. Third, government influence should be limited as much as practical while maintaining

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<sup>26</sup> Mumford, Lewis, *The Story of Utopia*, Glouster; Peter Smith, 1959, 40.



societal control. Next, laws created by this government should be legislated only as necessary and without bias while also being enforced by unbiased agents on a fair basis. Lastly, a just society must promote the good of the community as a whole while also protecting the interest of the individual. It is this final point where this analysis will begin, with the juxtaposition of Plato's *Republic* and Thomas More's *Utopia*.

### Republic

The most famous conception of the proper composition of society comes in the form of the timeless work of Plato; *Republic*. While predating nearly every formative document concerning government, few works have even come close to the immense impact of this single book. Focusing on proper role and function of citizens within a strict class system, Plato postulates that a community or society is at its base a collection of individuals living together in order to fulfill their needs.<sup>27</sup> Citizens each have a role in their society that they fulfill to the best of their ability and effort.<sup>28</sup> In this way, rather than allowing for individuals to decide their specific role, Plato advocates that each citizen is placed in a role that best represents his individual merits. This is accomplished by the institutionalization of a three-tiered caste system, with rulers selected based on both their intelligence and their ability to demonstrate the virtues Plato advocates.<sup>29</sup>

The leaders of this society are chosen due to their exceptional mastery of these virtues, as demonstrated by a lifetime of education, training, and evaluation.<sup>30</sup> No other members of the civilization may be permitted to dabble in matters of governance, as they are too preoccupied with their own wellbeing to rule with any kind of objective impartiality.

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<sup>27</sup> Plato. *Republic* Translated by Robin Waterfield. New York: Oxford University Press, 1993, 59.

<sup>28</sup> Ibid, 59-60.

<sup>29</sup> Ibid, 118-119.

<sup>30</sup> Ibid.

Again, one must not attempt to reach beyond that of his station or attempt to disrupt the established order by seizing for himself rights or responsibilities to which he is not entitled.

Here immediately one may see evidence of retributive justice playing out in Plato's model. Rather than focus on the 'fair' distribution of societal goods to every member of the society, Plato determines that a just community is one focused on self-discipline, extending to one's very position within their social strata.<sup>31</sup> What is 'fair' to Plato is not equitable distribution of societal goods between classes but a strict system of punishments and rewards according to personal merit- namely the innate qualities which places them in their particular class. This does not give way to egocentrism, as the Republic must place individuals into classes that restrict their personal advancement. With this order, the author insists, true happiness stems not from the personal gratification of seeking one's own good and societal advancement but rather by satisfying the role to which they are best suited by their innate personal qualities.<sup>32</sup>

Stanley Rosen states in his analysis of *Republic's* Book 4 that the ideal city is one that displays an affinity for 'temperance' or the subjugating of base desires behind those that better exemplify the characteristics and qualities of good citizenry.<sup>33</sup> This quality becomes of paramount concern to the ruling class, as the entire fabric of the city depends upon citizens doing what is best for the society, even if it comes at the cost of their own advancement. However, through accepting their place in society, citizens are able to achieve their fullest potential. The *Republic's* government takes as its mission the promotion of the highest ideals

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<sup>31</sup> Ibid, 139.

<sup>32</sup> Mumford, Lewis, *The Story of Utopia*, Glouster; Peter Smith, 1959, 38.

<sup>33</sup> Rosen, Stanley. *Plato's Republic: A Study*. New Haven: Yale University Press, 2005. *eBook Collection (EBSCOhost)*, (accessed March 30, 2017), 145-146.

of its citizenry. In this regard, the society is able to inculcate elevated principles into the lives of its members through the way its laws are created and administered.

Plato's work however is not without criticism. While he is successful in formulating a detailed system by which to configure the hierarchical makeup of a citizenry, he is unable to ensure that individuals in his society have reason to seek the best interest of their countrymen. Instead, he relies on the authoritarian power of his rulers to maintain proper balance among his citizens. Without this consideration, Plato's society cannot allow for the acquisition of any greater good in the lives of his citizens than those that are innate to their social class. Not only does this hinder citizens from having rights outside of their societal place, but it refuses them the right to pursue their own destiny. In the millennia since the writing of *Republic*, much of political theory has evolved past notions of placing citizens into static societal roles from which there is no reprieve. This in turn necessitates the introduction of other possible systems through which one may model these notions of justice.

### *Utopia*

The strict ordering of the social structures of Plato's *Republic* are contrasted with the more open organization of Thomas Moore's *Utopia*. While at face value, there seems to be little reason to place these two works on equal footing within this synthesis, both endeavor to demonstrate possible ways in which public life may be regulated to better serve the community. Where *Utopia* differs sharply, however, is the point in which the interests of the individual are also served when those in power distribute justice.

Lewis Mumford states that the cornerstone of Thomas More's penultimate work is the formulation of justice.<sup>34</sup> Seeking to systematize the 'best form of the Commonwealth', More

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<sup>34</sup> Mumford, 43.

diverges from Plato by focusing more on the individual needs and wants of his citizenry.<sup>35</sup> This change in focus immediately opens the possibility of the work being used as a model of distributive justice, and will serve the purpose of illustrating distributive principles elsewhere in the analysis. As *Republic* has given a good model for the general structure of a just society, one will need More for his. Specifically, the next section will analyze More's response to the justice systems of his day, and how those shaped his views and writings in *Utopia*.

The book itself, told as a frame narrative, begins with the protagonist discussing with Raphael, an acquaintance, the implementation of laws and punishments in European Countries. Specifically, Raphael finds the penalties for offences such as stealing to be both harsh and counterproductive.<sup>36</sup> This is because crimes are punished as offences against the crown, not as infractions against other individuals, and thus enact a more severe penalty than truly warranted. Also, Raphael argues that these punishments are not effective deterrents to committing crimes of thievery, as the underlying causes thereof- unemployment, poverty, boredom, etc. - are not being addressed. Instead, thieves now have motivation to kill those they victimize in order to prevent them from testifying against them and invoking a sentence of death.<sup>37</sup>

As a remedy, Raphael suggests that a ruler adopt principles of another remote civilization. Having discovered this society while traveling, Raphael notices that thieves are not hung, but rather given the option of restoring what they took from their victims, or committing to hard labor until they have worked enough in the public service to equate the

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<sup>35</sup> More, Thomas. *Utopia* Translated by Clarence Miller. New Haven: Yale University, 2001, 1..

<sup>36</sup> Ibid, 18-19.

<sup>37</sup> Ibid,19.

fulfillment of their debts.<sup>38</sup> With this departure, More is acknowledging a greater good that can be meted to both the general public and those involved in the crime. Whereas other civilizations might consider death the fitting punishment for committing most crimes, this isolated society, at this point in the narrative identified as utopians, esteems human life as more valuable than nearly any other resource. While a criminal's crime may be at face value worthy of capital punishment, the society as a whole, not to mention the accused's family, would be deprived of some later good that could arise from the guilty serving a life sentence of hard labor.<sup>39</sup>

More postulates through his fictional traveler that the Utopians consider a dual purpose for convicted felons. Obviously, the work that these 'slaves' contribute to the public may eventually outweigh the gravity of their crimes, and in some cases the public can petition for their release and reintroduction into the citizenry.<sup>40</sup> However, the Utopians ensure that the slaves are kept in public, visible to all and often used or contracted out by citizens when they are in need of cheap labor. The guilty's presence in everyday society allows for them to become living reminders of the punishments of diminishing public morality, and are kept alive in relative care in order to serve as deterrents to other's potential misconduct.

The presence of Distributive principles in More's imagined judicial system is undeniable. The focus of the Utopian system is not solely on punishing an individual offence, but rather maximizing the potential for the best outcome from an undesirable situation. Likewise, rather than deal exclusively with punishments, Utopian courts also seek out virtuous role models to enshrine in their nation's folklore.<sup>41</sup> In this way they hope not to only

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<sup>38</sup> Ibid, 28-29.

<sup>39</sup> Ibid, 99-100.

<sup>40</sup> Ibid, 100.

<sup>41</sup> Ibid, 101.

act reactively against criminal behavior, but also help their citizens and sojourners grasp the true value of virtue and social cooperation.

### Limited Government

As shown earlier in this section, a just society necessitates the establishment of a central government able to keep its citizenry from total anarchy. This license to govern however, does not in turn mean that such a government should be one that consistently and unnecessarily seeks out ways in which to interfere with the lives of its citizenry. Without proper bounds for government intervention, the whole of a government's work would involve micro-managing every decision made by its citizens. Somewhere between anarchy and Plato's *Republic* there is perhaps an ideal, limited form of governance. This can be equated from the relative ineffectiveness of a society that leans towards one of these extremes of the other.

One possible set of principles by which to guide a government in its decisions is that of Lawrence Becker. In his work on limited government, Becker surmises the minimum interference necessary for a government to maintain positive control on its subjects. Encompassing three main requirements, Becker's essay 'The Proper Bounds of Government Regulation' defines the circumstances in which a government may break its ethereal bounds and impart change or law in the lives of its subservients.<sup>42</sup> First is the Principle of Impartiality. This condition requires that a society have decision makers that do not 'play favorites' when establishing or enforcing a law.<sup>43</sup> Further, all instances of rule-breaking are

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<sup>42</sup> Becker, Lawrence. 'The Proper Bounds of Government Regulation' Ed, Norman Bowie. Temple University, Philadelphia, 1981, 93-94.

<sup>43</sup> Ibid, 96-97.

to be treated in a similar manner, without great divergence between the punishments or rewards of one case and another.

Next, Becker insists on a requirement called the Principle of Certainty. This also has a dual-meaning, as rules must be both ‘reasonably discernable’ as well as prescriptive in regards to the type of consequence or reward to impart upon its subjects.<sup>44</sup> Here, ambiguity is in itself a social problem as a law that is not clear cannot possibly be implemented in the spirit of its original penning. Also, this takes away much of the uncertainty those who enforce the law will encounter when they are required to punish an individual for an infraction of the law.

Lastly is the Principle of Non-Arbitrariness. While similar to the Principle of Utility’s cost-benefit analysis, Becker’s principle advocates for there to be a significant need for a new law before one may be created. Instead of allowing lawmakers to add laws that they believe may someday be needed, Becker insists that they focus only on present needs. Also, any such created law must clearly be able to achieve the desired societal change due to the law’s implementation.<sup>45</sup> This protects from laws or regulations becoming enacted under the guise of solving one problem, but actually not addressing it in its practical application.

These principles together create a model for the composition of a just government. While the specific makeup of the society as a whole will be shaped by other influences, the government of that populace will know both its required duties as well as its necessary limitations. When coupled with *Republic*’s esteem of moral and intellectual virtue as well as More’s desire for the promotion of the common good, citizens may be able to form a

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid, 98.

synthesis through which to frame their government. Such a synthesis, as discussed will encompass a list such as this:

- The Government should exist as a desired alternative to anarchy.
- The Government should promote through its laws the highest human ideals.
- The laws of the Government should have an impartial origin, clear purpose and scope, and be of a definite necessity.
- Those who enforce the laws of the Government should apply the laws impartially, in the spirit of their creation, and with the clear purpose of achieving social betterment.

Now that this thesis has defined what constitutes a just society, it may begin to analyze the ways in which the game of soccer, through its culture, rules, and subsequent administration may act as a microcosm for the values detailed above. From there, the next section will describe how distributive and retributive justice principles attain within the bounds of the match.

### Soccer as Analogy

The game of soccer has played a part in the lives of countless individuals the world over. In 2006 the sport's governing body conducted a study that found that over 265 million people were actively involved in the 'beautiful game'.<sup>46</sup> This vast constituency makes Soccer the most popular sport in the world- and has the societal impact characteristic of a movement of such enormous scope.

For soccer to serve as an analogy for a theorized just society, one must ensure that it satisfies the list of governmental requirements. To do this, theoreticians must examine the

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<sup>46</sup> Kunz, Matthias. '265 Million Playing Football', *Fifa Magazine*: July 2007. Accessed online at: [http://www.fifa.com/mm/document/fifafacts/bcoffsurv/emaga\\_9384\\_10704.pdf](http://www.fifa.com/mm/document/fifafacts/bcoffsurv/emaga_9384_10704.pdf)



primary actors involved in the match to determine if they, in their proper functioning, demonstrate the principles presupposed for a just society.

### Players

The first and foremost concern in this analogy are the players themselves. Each team fields 11 individuals at a time for the purpose of propelling a ball into the net of the other team within certain restrictions. Each player is typically designated as having a specific role in this effort with some acting defensively and others offensively within certain areas of the field. With the notable exception of each team's goalkeeper, however, each player is restricted by the same set of rules or *Laws*. As the primary actors in a match, these individuals and their actions are the focal point of an ideal contest. Indeed, most regular observers of soccer matches will agree that the sport is best when outside distractions, influences, etc. are minimized in lieu of a successful contest. Any failure on behalf of contest officials to do so generally results in a less interesting game- unless these distractors are of truly a dire nature, which means they are intriguing for their disastrous merits.

The role of player in a match is equitable with that of a citizen within a society. Each has inherently selfish motives. The citizen seeks his own self-advancement and that of the betterment of those other individuals he esteems. The player likewise seeks to advance the cause of his own team while simultaneously gaining notoriety for his abilities in the hope of further use in other matches. Each in his own way desires more than mere existence and sustenance in the world or match they inhabit. They also seek to promote their own interests to whatever end they may achieve.

Both sets of individuals must also conform to the rules and norms of their respective society. In a justly administered match, it follows that all participants must be bound by the

rules of the contest, ensuring fair play on two fronts. First, neither team should gain an advantage from unfair actions or tactics. Secondly, no player should behave in such a way that any other participant is placed in undue danger of physical harm. Likewise, in a just society, citizens must not be permitted to gain undue advantages or leverage at the expense of their peers or neighbors. This is not to say that they are not rewarded in each case for their diligent efforts, but is to say that such actions must take place within the precepts of their communities. When players seek the ends of their teams while also following the guidelines found in the *Laws of the Game*, they demonstrate the just actions of citizens in a just society.

### Officials

Match officials are likely the group of next highest importance in this synthesis of sport and society. Typically comprised of three to four officials, the referee crew in a soccer match consists of one referee and two assistant referees. The referee acts as the central judge of the match and administers the *Laws of the Game* with the help of his assistant referees. Charged with maintaining both fair play and player safety, the role of referee often comes with a myriad of challenges- often requiring a dedication to the success of the match and protecting the ‘spirit of the game’ (discussed in detail later). Former professional referees Robert Evans and Edward Bellion state in their book, *For the Good of the Game*, that in essence referees are the ‘custodians of the integrity of the game’.<sup>47</sup> This requires referees to also purport the highest levels of integrity when dealing with players, team representatives, and spectators before, during, and after the match.<sup>48</sup> This parallels the leadership Plato demands of his Guardians in *Republic*, where, as mentioned earlier, each leader of his society

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<sup>47</sup> Robert Evans, Edward Bellion, *For the Good of the Game*, Canoga Park: Youth Sports, 2002, 90.

<sup>48</sup> *Ibid*, 149.

must have mastered self-discipline so that he can justly administer the law without bias or reservation.

Rather than representing policymakers, as discussed in the next section, referees act as the primary enforcers of the *Laws of the Game*, they are bound to do so as fairly and accurately as possible. The authority of the referee are detailed in Law 5, in the phrase ‘Each match is controlled by a referee who has full authority to enforce the Laws...’<sup>49</sup> Much akin to a policeman, judge, or other lawful agent, the referee must enforce the laws set down by the association, league, or other organization for which he or she works.

This distinction is significant, as while the referee may be allowed to interpret the laws to form his decisions, he may not allow himself to create his own law under which the players must play the contest. As mentioned earlier, the Law mentions two parts to a referee’s decision making process; ‘decisions will be made to the best of the referee’s ability according to the *Laws of the Game* and the ‘spirit of the game’.<sup>50</sup> ‘Maintaining the Spirit of the Game’ is a common expression in the lore of sports officials, especially those involved in administering soccer matches. Essentially, this concept refers to a multi-faceted enjoyment of a match as experienced by all involved be they players, spectators, etc. From a player’s perspective, a match is most enjoyable, outside of her team’s victory, when its administrators allow it to flow and take shape in accordance to the competing wills showcased within it. The spectator holds a similar perspective, as he simultaneously wants the match to be a rout in favor of his team yet also a competitive, exhilarating drama throughout. This duality is a fundamental aspect of spectator sports- they must be *entertaining*. The ‘spirit of the game’

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<sup>49</sup> Law 5:1.

<sup>50</sup> Ibid, 5:2.

comes from an abstract concept; that the match is enjoyable on the part of the sporting actions taken by its contestants, and the minimization of outside influences.

To this end, there is a need for referees to allow for a degree of flexibility within the *Laws* while at the same time maintaining a reasonable degree of consistency. As Evans and Bellion muse, ‘the game is meant to be freely played, that it should be interrupted only when absolutely necessary.’<sup>51</sup> This notion of flexibility within the decisions and judgements of referees will be re-examined more closely later in the section exploring the presence of distributive justice within the soccer match. However, here it is sufficient to say that there cannot be a successful match without a referee (and assistants) who enforce the *Laws* while also maintaining a positive ‘spirit of the game’.

Returning to the criteria for societal justice, the just referee clearly demonstrates the requirement for enforcers of the law to carry out her duties with the utmost impartiality and equity. After all, the foremost necessity of an official after a working knowledge of the *Laws* is a commitment to the administration of a fair contest for all involved. Along with this comes the need for referees to promote the ideals behind the writing of the *Laws* in the players, coaching staff, and spectators with which they interact. The sport itself exists as a diversion or entertainment but may also serve the purpose of instructor; teaching the virtues of good citizenship, determination, and teamwork that are necessary for a team to achieve victory. This of course will in turn necessitate referees to conduct themselves in a manner in accordance to the professional standards of the *Laws* in order to show the overall benefits of playing in a fair manner. This demonstrates how soccer referees demonstrate the same qualities as embodied in the administrators of just laws in a just society.

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<sup>51</sup> Evans, Bellion, 71.

## Laws

The rules of a soccer match are, in their purest form, the result of centuries of incremental progress towards standardization. Likely due to the sport's traditional origins, the game of soccer, or 'football' as it is known elsewhere in the world for years existed with quite diverse characteristics, with individual regions recognizing their own rules and interpretations thereof. In the 1800s the International Football Association Board (IFAB) met to begin to set down specific rules in the form of the *Laws of the Game*.<sup>52</sup> These guidelines became the generational inheritance of soccer players everywhere, as they guided the administration of the sport as it blossomed from trivial pastime to international cultural icon.

For the sake of this project's goal of setting the game of soccer as an analogy for a just society, the *Laws* are crucial. It is here that the structure, administration, and execution of a legal match are described, with specific requirements set down to ensure that a game is indeed fair. Broken into 17 individual laws in its most recent incarnation, the document directs those who administer the game (referees) as to what actions they must take to protect the integrity of the sport, the safety of the players, and the enjoyment of the game for all. They also exist as a lasting tribute to the storied history of the world's most popular sport.

As mentioned in the formation of this analogy, a just law must have a clear purpose. This is satisfied in the specificity of the *Laws*, each set down to achieve the goals mentioned above. Also, the law must be enacted in such a way as to prevent bias or favoritism on the part of legislators or enforcers. This too is attained in the manner in which the *Laws* apply to all players, substitutes, and staff on either team equally. Lastly, just *Laws* must be enacted

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<sup>52</sup> Fédération Internationale de Football Association, 'The International FA Board', n.p. [accessed February 12, 2017]. Online: <http://www.fifa.com/about-fifa/who-we-are/the-laws/ifab.html>

only out of clear necessity, so as to avoid anarchy or unfair oppression. As Evans and Bellion aptly describe, the framers of the *Laws*, in a manner analogous to legislators is the analogy of just society, created these guidelines to combat the brutish behavior that characterized English soccer in the centuries before its regulation.<sup>53</sup> If not for the institution of common regulations in the *Laws*, the average game of soccer would quickly devolve into violence in short order, with players, coaching staff, and perhaps even spectators taking part in regular fracas. These comparisons demonstrate that the *Laws of the Game* mirror the laws of a just society.

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<sup>53</sup> Evans, Bellion, 73

### **Chapter 3: Examining the Laws and their Application**

At this juncture, this thesis will turn to the topic of the *Laws of the Game*, and how they are structured to ensure the proper administration of a just match. The first section will discuss each law in brief, highlighting both basic tenants and how they contribute to the tenants of fair play. After this, this thesis will turn to the complex topic of administration, and how these laws are applied in the framework of an actual match. The final part of this section will labor to demonstrate how both the *Laws* and how the referee interprets them to demonstrate principles of distributive and retributive justice. Together these elements will demonstrate how, although opposed in theory, these two justice systems fully attain within the paradigm of the just soccer match. The summations that follow group the *Laws* in a manner that emphasizes their inter-relatedness and shows some of the common threads and concerns that forge them into a cohesive whole. These rules are grouped according to similarity and as such will not be discussed entirely in order. Laws 5 and 6 however will be discussed last as they encompass the match officials whose duty it is to administer the laws within the framework of the match.

#### **Laws 1 & 2: The Field of Play and the Ball**

True to the Victorian-era origins of the sport, the *Laws of the Game* begin in the most fundamental place possible, the field and its many components as well as the ball used to play upon it. Undergoing several key periods of renaissance, the development of the modern laws has taken nearly two centuries, with millions of players, supporters, and officials comprising several generations all contributing to the landscape of the modern sport. In this way, the game of soccer has been shaped by the desires of those who have both gained the most enjoyment from it as well as those who are the most involved with the soccer world.

Evolving over the better part of two centuries, the makeup of the field of play has been modified to best suit the needs of both players and spectators.<sup>54</sup> Governing officials made most of these changes in order to encourage a more contiguous or ‘fluid’ style of play, where the game is always moving or developing in one direction or another regardless of whether the ball is in play or a team is playing in a decidedly defensive manner. To this end, all field markings are standard, with very little room for customization, so as to convey the properties of the field clearly and without delay.<sup>55</sup> Also, to ensure player safety, flag posts must be a certain height, advertisement boards must be held a minimum distance from the touchlines, if applicable, and goals must be secured and anchored to prevent them from falling on players.<sup>56</sup> Similarly, the ball must be ensured to pose no risk to those playing through any deficiency in its inflation or defect in its outer materials.

Another primary focus of Laws 1 and 2 is the assurance of fairness for visiting teams. In similar fashion to other sports, soccer allows for a degree of customization of the pitch or field of play, as well as the surrounding areas, stadium, etc. While the size and precise shape of the field may be adapted for what is most efficient or appropriate for the level of competition, there is a base attribute that must be satisfied in each element of the field. Prime examples of this are restrictions in playing surfaces (either grass or artificial turf) as well as minimum width and length measurements. These restrictions exist in order to accomplish two goals-- the exhibition of an entertaining match, and to ensure that a home team does not have an unfair advantage.

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<sup>54</sup> <http://www.fifa.com/about-fifa/who-we-are/the-laws/>

<sup>55</sup> Law 1:2, 1:13

<sup>56</sup> *Ibid.*



The latter concern is realized in the event that a visiting team is forced to play on a field that is too far removed from the theoretical norm such teams are used to. A notable example of this kind of unfair advantage is evidenced in the practical example of a match played in the National Women's Soccer League, the United States' premier women's professional soccer league. In June of 2016, extenuating circumstances prompted the league to allow the Western New York Flash to host a home game on a field below the league standard dimensions.<sup>57</sup> What followed was a match that several analysts, team representatives, and even league administrators admitted was unjustly administered. Without examining the match in detail, it is sufficient to say that the home team, while also encountering the field for the first time, benefited unjustly from the smaller dimensions of the playing surface. This was because a smaller field was conducive to their standard tactical abilities but not so for the visiting team. This scenario demonstrates both the reasoning for dictating specific field and ball requirements as well as demonstrating retributive justice evident within the laws. After all, the law exists as a safeguard against one party gaining an unfair advantage over their opponents. These laws are retributive in nature because they are meant to be applied in rigid fashion, without undue allowances. This scenario certainly depicts an instance where distributive justice is not conducive to promoting a just match if used in every case.

#### Laws 3 & 4: The Players and Their Equipment

More important than the field they play upon and the ball they play with, the players are central to the administration of a just match. To this end, these individuals are given

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<sup>57</sup> Sports Illustrated, 'NWSL Criticized as Match Relegated to Aggressively Small Field' *Sports Illustrated*, 10 July, 2016, n.p. [accessed March 12, 2017]. Online: <http://www.si.com/planet-futbol/2016/07/09/nwsl-criticized-match-small-field-pitch-megan-rapinoe-alex-morgan>

specific guidelines, restrictions, and other limitations to ensure each team has an equal *prima facie* chance of competing in a fair manner. Such restrictions include the number of players, the number of substitutes, as well as distinctly different standardized uniforms so ease of identification between members of opposing teams.<sup>58</sup> Additionally, Law 3 provides instruction on how to properly deal with outside interference from outside agents or sideline personnel. The aim of this guideline is to ensure that, regardless of any particular incident, there is a prescribed response capable of restoring proper balance to the match to any such disruption that arises.<sup>59</sup>

The other primary focus of these laws is the assurance of player safety. Law 4 in particular calls for the restriction of extra equipment on players to that which is either for safety (shin guards, headgear, etc.) or, in some cases, items such as fitness trackers for monitoring player performance.<sup>60</sup> In all cases of ambiguity, the referee has final authority as to what equipment is safe and appropriate for the level of play. Exceptions are not made for religious, personal, or other items that lie outside the mention of the *Laws*, regardless of their overall effect on the match. While the referee may choose to, when reasonable, defer to special circumstances, the safety of the other players must take precedence. This demonstrates, in similar fashion to Laws 1 and 2, that the primary concern of the *Laws* is the prescription of a specific system by which the game may be uniformly and justly administered—a clear retributive system.

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<sup>58</sup> Law 3:1-2, 4:2-3

<sup>59</sup> Law 3:7

<sup>60</sup> Law 4:1-4

## Law 7: The Duration of the Match

This law standardizes the amount of time the match is played. Simple yet critical, this law ensures that each team is aware of the allotted match time including that designated for the two halves and the half-time interval.<sup>61</sup> However, due to the fluid nature of the match, there is no starting and stopping of a clock and the referee merely makes note of time lost through the substitution of players, the treatment of injured players, time wasting, etc. and adds the balance of that time onto the end of the half.<sup>62</sup> In this way, the match has a natural progression, moving from play to play without undue attention paid to the mechanical foibles of a clock operator. This ability for the referee to act as timekeeper also demonstrates retributive principles, as any team aggrieved by their opponents wasting time can expect to be made whole by this action of the referee at the end of the half. By allowing the game to continue until lost or wasted time is recovered, the referee acts in a deontological manner; embodying the just desserts principle and restores balance back to the moral standing of the match.

## Laws 8, 13: Starts, Restarts, and Free Kicks

These two laws together constitute perhaps the most rigid of the Laws in terms of application. Law 8 stipulates how teams are awarded throw-ins, corner kicks, as well as kick offs at the beginning of each half.<sup>63</sup> This law also gives a correct procedure for the restart of play in the event of an interference not specifically mentioned within the *Laws of the Game*. This ‘dropped ball’ scenario seeks to allow play to be restarted without giving one team a great advantage by the awarding of a free kick. Instead, both teams are permitted to contest

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<sup>61</sup> Law 7:1-2

<sup>62</sup> Ibid 7:3

<sup>63</sup> Law 8:1-2.

the dropped ball. This is because the referee gives or ‘awards’ free kicks, throw ins, penalty kicks, etc. on the basis of one team securing them by forcing their opponents to commit a foul, play the ball into touch, or violates another rule or regulation.<sup>64</sup> This retributive principle, of giving to one team what they secured from the other cannot allow a team to gain an advantage they did not earn as would happen in the situation of giving a team a free kick when an outside agent interferes with play- even if they maintain possession of the ball when this incursion happens.

#### Law 14: The Penalty Kick

The penalty kick is a particularly powerful sanction awarded to a team who has been fouled by an offense necessitating a direct free kick, within the penalty area.<sup>65</sup> These offenses would ordinarily result in a mere free kick, however, the location of the offense requires the referee to award a special free kick from the penalty spot. These punishments are particularly severe due to the high frequency teams convert them into scoring opportunities. This severity is not addressed within the *Laws*, and by the nature of the rule any offense that would be punished with a free kick elsewhere on the field must be punished with a penalty kick when committed within the penalty area by a defensive player. A non-consequentialist view such as this shows clear influence of retributive principles.

#### Laws 9, 11 The Ball in and Out of Play, and Offside

Similarly, there is no room for interpretation in Law 9, which gives incredibly specific guidelines for determining if a ball is in or out of play. By effect, the law determines whether a ball is in or out of touch purely by its location on the field without regard to other factors of interpretation. The only time a ball is not determined thus is when the referee stops

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<sup>64</sup> A ball is ‘in touch’ when it crosses the touch or goal line (out of bounds)

<sup>65</sup> Law 14

play for any other reason such as to award a free kick, stop play for an injury, etc. Once again, the Laws demonstrate the retributive nature of the game, where a referee is instructed by the wording of the law to only consider factors related to the merits of the players or situations in front of them.

Law 11 is only moderately more open to the influence of interpretation, as a player's violation of it is also determined almost entirely on the basis of his position on the field of play in relation to their opponents, the ball, and the halfway line.<sup>66</sup> Essentially, a player cannot receive a pass from his teammate if he is simultaneously closer to the opponent's goal than the second to last defender as well as the ball while also standing over the halfway line on their opponent's side of the field at the time the ball is played towards them. This seems rather straight forward until it is applied in the context of a match whereby the assistant referee must also determine if the offending player was actively involved in play and whether a defender made an attempt to play the ball. Once this is sorted however, the resulting call will hinge on the individual actions of the players, not on the game as a whole or the teams as a unit. In this respect, the enforcement of offside is an inherently retributive principle.

#### Law 10: Determining the Outcome of the Match

The outcome of the match is entirely due to the merits and accomplishments of either team in the form of scoring goals. Quite simply, the team with the most goals at the end of the match is declared the winner, for the most part without any consideration of other factors.<sup>67</sup> The only instance of this principle of highest score not determining the outcome of the match would occur in a situation of severe misconduct on the part of one team, of which, is discussed in the next section concerning Law 12.

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<sup>66</sup> Law 11:1-2

<sup>67</sup> Law 10:

## Law 12: Fouls and Misconduct

Law 12 presents a stark contrast to the brevity of Laws 8, 9, and 11. In great detail, the Law properly dictates the consequences of committing fouls and misconduct. These two categories are not expressly predetermined though they often occur as the result of the same offense. A foul is defined by the nature of Law 12 as an unfair action undertaken by a player against an opponent while the ball is in play. The framers of the *Laws* make this distinction because the offenses listed are not fouls if they are committed by outside agents, against teammates, or while the ball is out of play. However, as will be demonstrated later, such actions may fall under the category of misconduct. This analysis will first look at the retributive principles housed within Law 12's treatment of fouls.

Fouls are penalized by the referee by the awarding of either direct or indirect free kicks.<sup>68</sup> Such offenses include charging, jumping at, kicking, tripping, pushing, striking, or tackling an opponent with what the referee considers careless, reckless, or with use of excessive force. The referee must judge whether these offenses have been committed with any of the prescribed categories of severity. Once that judgement is complete, the referee restores balance to the match by awarding a free kick to the offended team. This prescriptive approach does not make mention of any other mitigating factors or even how the referee believes her decisions will affect the outcome of the match-- a clear use of retributive justice principles.

Similar to the process involved in determining if a foul has occurred, the referee also must determine whether a player has committed misconduct. Misconduct is punished with one of two possible sanctions-- either a caution (yellow card) or a send-off (red card).<sup>69</sup>

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<sup>68</sup> Law 12: 1-2.

<sup>69</sup> Law 12:3

Cautions are issued for lesser offenses such as reckless play or unsporting behavior. Send-offs are given to players who have committed grave misconduct such as violent conduct or serious foul play. Each of these sanctions are given to players according to their individual actions, namely gross violations of the *Laws of the Game*. The punishment of these dismissed players comes purely based upon their own actions, of which the *Laws* make no exceptions. Clearly, this law is a prime example of retributive principles in action.

#### Law 16: The Goal Kick

Law 16 stipulates a restart of play involving a defending player clearing the ball from his own goal area as the result of the ball being played into touch over his team's goal line by an offensive player.<sup>70</sup> This restart is a neutral one, with neither team truly having an advantage. The goal kick is awarded while requiring that the ball must travel the length of the field before it presents a threat to the other team. This lack of advantage is further evidenced by the fact that both teams may substitute players before this kick is taken, as no momentum is lost if the defending team delays the restart in this manner. This law is applied, like laws 15 and 17, on the basis of one team securing the restart from either their direct or indirect action. As such, this law acts in accordance to retributive principle, as individual players are awarded according to their merits.

#### Laws 15 & 17: Throw-ins and Corner-Kicks

Along the same vein as Law 16, Laws 15 and 17 seek to prescribe restarts based on their securement by players on one team or another. Unlike goal kicks, throw-ins and corner kicks provide a decidedly greater amount of advantage to the team to whom they are awarded. Throw-ins occur along the touch line and, depending on their location, can lead

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<sup>70</sup> Law 16

very quickly to goal scoring opportunities.<sup>71</sup> Corner kicks also provide a hefty advantage as skilled players can either convert them to goals directly or play them in such a way that their teammates score in short order.<sup>72</sup> Because of the direct reward of these restarts and the fact that they must be earned by either a team's skill in pressuring a mistake from their opponents, Laws 15 and 17 also demonstrate clear retributive elements. They must be earned according to merit, not because of how those decisions affect the outcome of the game.

#### Laws 5 & 6 The Referee and Other Match Officials

Of the 17 *Laws of the Game*, laws 5 and 6 are perhaps the most significant for the administration of the match. Contained within these statutes are the powers and duties of the match officials, most notably the referee. These agents are called to enforce the *Laws of the Game* in order to ensure a just contest, as well as to protect the safety of the players and the repute of the sport. In order to do so, match officials are empowered by the *Laws* to have the final judgement in any match decision immediately before, during, and even after its execution.<sup>73</sup> In this regard, referees and the other match officials under their authority act as judges, seeking to interpret the *Laws* in such a way that the lofty precepts of safety, fairness, and a positive 'spirit of the game' are each maintained to the highest possible degree.

Many of the particular decrees of Laws 5 & 6 have been discussed already in Chapter Two, and as such only minor further illumination is necessary. A main concern of the *Laws* surrounding referees is their status as unbiased, relatively disinterested agents capable of judging the true nature of the match and deciding when an action gives an individual or team an unfair advantage or perhaps places them in danger. To accomplish this, not only are

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<sup>71</sup> Law 15:1.

<sup>72</sup> Law 17:1-2.

<sup>73</sup> Law 5:1-3



officials obliged to disclose any previously existing biases towards a team they oversee, they are also completely protected from any liability stemming from the outcome of the match so long as the *Laws of the Game* have been justly applied in their contest.

In this respect, match officials take on more of the form of Plato's Philosopher Kings, who are intentionally bereft of any possessions in order to ensure that they cannot be swayed or persuaded by the lure of wealth, of which they have no need. Also, they cannot be tempted by the draw of influence or power as they already have absolute authority over their charges.<sup>74</sup> In the same manner, officials are positioned so that they receive compensation for their appointments without regard to the outcome of the match, and are unencumbered by desire for increased standing within the sport as their performance in the just dispensation of their duties directly translates to their use and appointment to further contests.

The aforementioned aspects of Laws 5 and 6 denote the duties of the match officials. To accomplish these goals, officials are also bequeathed powers of administration that allow them to hold sole sovereignty over the match- aside from extreme situations. Powers of the referee include her ability to penalize infractions, discipline players and other personnel, award points to either team, keep a record of the match, keep the official time of the match, and even decide to terminate the match if necessary.<sup>75</sup> Beyond this, however, the referee also has the ability to interpret the laws of the game in order to ensure that the match is fair, just, safe, and also is conducive to a proper 'spirit of the game'. This ability will be discussed later, and will encompass an entire section dedicated to how referees interpret the *Laws of the Game* in a live match environment.

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<sup>74</sup> Plato, 358.

<sup>75</sup> Law 5:3

These laws demonstrate that the primary function of the match officials is to apply the *Laws of the Game* in the most consistent manner possible. This requires referees to be able to master their powers and duties and set about ensuring all facets of the match fall within the regulations of the *Laws*. This function is a prime demonstration of retributive justice principles, where the law is applied to the situation without real regard to the circumstances surrounding the infraction in question. However, as this thesis explores in the next section, the art of refereeing lies not only in knowing the law, but knowing how best to impart the spirit of the law upon the match in order to maintain a positive ‘spirit of the game’.

### Applying the Laws

It is of paramount importance to understand not only what the *Laws of the Game* prescribe, but also how those principles are applied in a match by a skilled referee. This is not a readily understood process however, and any attempt to understand these decisions requires an in-depth investigation into the fundamental understanding referees have of the *Laws* and perhaps even more importantly, how their decisions based on these precepts affect the outcome of the match. Once this analysis is completed, it becomes clear that referees administer the retributive justice principles found within the *Laws of the Game* through the lens of distributive justice.

### **Method**

When applying the *Laws*, the researcher needed to create a survey with which he could poll a sample of the population of professional soccer referees within the United States. The survey contained six questions, each aimed at determining how far from retributive principles referees drift when making decisions within a match.

The first question posed to respondents concerned the number of years they had been refereeing at the professional level. For this research, the ‘professional level’ includes Major League Soccer, the North American Soccer League, the United Soccer League, the National Women’s soccer League, and Division 1 National Collegiate Athletic Association. These leagues each require the highest quality from their officials, and the researcher sought out these individuals with the belief that they would know both the proper way to administer a just match as well as be able to adequately conceptualize the foundations of justice found therein. After this point in the survey, the remaining propositions were answered via a seven-point likert scale with ‘1’ meaning total disagreement, ‘4’ representing neither agreement or disagreement, and ‘7’ representing total agreement.

Proposition Two asked respondents whether maintaining a referee’s obligation to maintain a positive spirit of the game supersedes the need to punish individual infractions. This notion represents the most basic thread of distributive justice mentioned in the *Laws of the Game*. Essentially this question asked at the most basic level if an official believed that the administration of the laws sometimes necessitated the adaptation or amelioration of sanctions due to the context of the game.

Proposition Three inquired along a similar vein whether proper administration of the match would sometimes require an official to punish specific offenses differently depending on the context surrounding them. This scenario in a match would consist of one player committing an offense and being sanctioned with a free kick, a caution, or a send-off while a similar offense is not punished in the same way in another case during the same match. This question does not make a distinction between the offenses of one player and another as the

researcher sought to show that even offenses committed by the same player during the same match often carry differing penalties.

Proposition Four asked whether players with known histories of misconduct had been sanctioned at a higher rate than those who do not carry such a reputation. This question illustrates clearly distributive theory, when a referee actively seeks to find instances of potential misconduct in regards to one player in order to better control the individual as well as the match as a whole. If referees agree with this question, their interpretation of the *Laws of the Game* comes much closer to the principles of distributive justice. Given the diversity of perspectives involved, it would be unusual to expect resounding agreement in responses to this question.

Propositions Five and Six inquired into the decision making of referees when they encountered situations where the wellbeing of a player, be it through sanctioning or even notoriety resulting from his success in the match, was eclipsed in importance by the wellbeing of his team. Question Five phrased this as ‘Referee decisions should be focused more on the fair treatment of teams rather than the fair treatment of individual players’ in order to assess if officials would recognize this as a necessary part of administering a just match. Proposition Six opted to give a specific example and stated ‘If given the choice between a player’s success in a match and the success of the player’s team in the same match, the referee should show deference to the wellbeing of the team. These questions at their most basic regard the same concepts, however the shift in focus from general rule to individual example may illuminate a potential disconnect between what is stated as refereeing theory and what is practiced within a match.

## Analysis

The following are brief descriptions of each proposition posed to survey respondents in this study. Also included are summaries of the data that resulted from the sampled population's response. Useful to this explanation is Appendix A, located after the reference list at the end of this thesis. This chart shows each individual's response to each proposition as well as providing any statistical proof of the conclusions to be drawn in the next section that may be required.

### **Proposition 1:**

#### **How long have you been involved with soccer refereeing at the professional level?**

This question elicited a wide range of responses from referees answering the survey. Years of experience at the professional levels mentioned above ranged from '0' in a few cases to '19' at the highest. In all, the average number of years a referee answering this survey has officiated at the professional level is 6.95.<sup>76</sup> This is a strong value, and the researcher may infer that the responses given to this survey, when taken together, reflect those of experienced professional referees.

### **Proposition 2:**

#### **Maintaining a positive 'spirit of the game' is a higher priority than penalizing individual infractions**

This statement (and all those following it) used a likert scale to show respondents' agreement with the premise of the question. Each respondent could answer by selecting an

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<sup>76</sup> See data table in appendix for individual responses

integer between 1 and 7, with 1 indicating total disagreement and 7 indicating total agreement. The response to this proposition saw 22 of 24 respondents answer with some level of agreement. This percentage may suggest that the majority of referees answering this survey value the maintenance of the ‘spirit of the game’ over the punishment of every infraction in a similar way.

**Proposition 3:**

**Proper administration of the game sometimes requires that a player be sanctioned with a free kick, caution, or send off for an infraction regardless if the same infraction has occurred previously (by the same player or another) without sanction**

This statement, as mentioned before, sought to determine if referees considered proper administration of the match to include occasional variances in sanctions administered to players. While this does not imply that players should not be punished in the same way for similar infractions, it does suggest that the match as a whole is best suited when a referee sometimes addresses instances of infractions with a mind towards the overall context of the match. This proposition saw 24 out of 24 respondents answer with some level of agreement, implying that referees do indeed consider punishing offenses differently based at least in part on a holistic view of what is best for the match. This, coupled with Question 2 suggests that a strong measure of distributive justice becomes part of a referee’s decision-making process within the context of a live match.

**Proposition 4:**

**Players with a known history of misconduct should be cautioned at a higher rate than other players who do not have such a history**

The researcher posed this question to respondents to gauge how far they would take retributive justice principles within the context of a match. In this scenario, a referee pays special attention to a player (or other team agent where applicable) in order to proactively spot early indications of misconduct and punish them as soon as they begin to arise. This of course implies that these players would then be sanctioned at a higher rate in order to keep them from escalating to further misconduct. This proposition was met with the most opposition from the sampled referees. No respondents selected ‘completely’ or ‘mostly agree’ with 14 of 24 responses falling below the neutral response in favor of disagreement. This opposition perhaps suggests that referees of this experience level do not believe that a player’s history of misconduct warrants increased scrutiny or sanctioning, though that is often the natural reaction by those outside of the refereeing profession.

**Proposition 5:**

**Referee decisions should be focused more on the fair treatment of teams rather than the fair treatment of individual players**

This proposition along with the one following it, sought to probe the question of whether a referee should place a higher value on the success of a team rather than the individual success of a player on that team. This first iteration of the concept states gives the concept in terms of a general idea, one that is without direct reference to an event in a match. The responses to this proposition were lower than those of the proposition following. Most respondents fell within the ‘somewhat agree’ with 14 of 24 answering with some form of

positive response. At this point, the results of this item seem to be inconclusive and perhaps merit further investigation This led the proposition to be inconclusive.

**Proposition 6:**

**If given the choice between a player's success in a match and the success of the player's team in the same match, the referee should show deference to the wellbeing of the team**

This proposition was a mere repetition of the one that preceded it, with the only difference being the application of the general rule on a specific in-match instance. The result was a markedly different looking response distribution. With the vast majority of respondents falling at least in a neutral stance, with 22 of 24 respondents answering with some form of positive response. While the previous proposition showed a majority of respondents falling below the neutral response, it can be speculated that the introduction of a live match scenario leads to a response which better reflects the decision-making processes of match officials. Regardless, both this question/proposition and the preceding one it are inconclusive but could merit further investigation.

**Data Summary**

This survey served to provide insight as to the current climate/culture among officials practices on the soccer playing field. First, in regards to the authority of the respondents, the criteria for inclusion in the survey ensured that only those with advanced refereeing prowess would partake and submit their opinions. Secondly, the survey results show through propositions 2 and 3 that distributive principles are present in the application of the laws of the game further, through proposition 4 the results seem to indicate that retributive principles are not considered as highly when it comes to punishing player misconduct as in other areas.



### Conclusion: Laws vs. Application

Through these two sets of data, the *Laws of the Game* and how referees administer those rules, it becomes apparent that distributive and retributive justice principles are able to become actualized simultaneously within the paradigm of a justly-administered match. This is due to the fact that the retributive principles constituting the *Laws* are guidelines meant for the game in the abstract, whereas the judgements of the referee allow those principles to become applicable within the context of a specific match. Distributive justice then allows general precepts to take form in the individual situations within a match. Without this adaptation, it is unlikely that a soccer match could be undertaken with any sort of natural flow or anything less than constant interference by the arbiter.

In this respect, the referee acts as a sort of judge, where he is given what are often abstract regulations with which he controls his society, ensuring that infractions are punished under both what is best for the match as well as what the individual deserves as a result of their actions. These two competing duties, to punish according to actions and to punish in accordance to the best interest of the match, make up the majority of the referee's decision-making. This struggle provides much of the basis for a formulation of the 'spirit of the game' where the match may flow unencumbered from undue interference while also positing the requisite punishments for infractions that ensure the match stays fair and safe.

## Chapter 4: Synthesis

At this point, this thesis has considered three major propositions. First, it has labored to demonstrate the inherent opposition between distributive and retributive justice both in theory and in practice in public affairs. The second consideration focused on what characteristics are inherent in a just society. These traits specified that the government should exist as a desired alternative to anarchy, should promote the highest human ideals, and its laws should be impartial, necessary, and focused on social betterment. The third concern focused on the ability for the game of soccer to act as a microcosm or analogy for the above-mentioned just society. This need was satisfied by the analysis of the *Laws of the Game* as well as the arbiters that enforce them. Fourth, this thesis demonstrated the presence of both distributive and retributive justice principles in the game of soccer, again through both the *Laws* and the decision-making processes that referees undergo to administer a just match. These two schools seemingly paradoxically work together in this paradigm in order to produce a well-run contest.

With these considerations properly analyzed it becomes possible for a synthesis to be created merging the schools of distributive and retributive justice. This is due to the strong nature of the analogy linking the game of soccer and its administration by referees and the creation and maintenance of a just society. If the two competing theories can be assuaged in the game, then it is possible that they may similarly be realized together within the context of an actual society. The key component will be those who interpret the laws in both contexts, be it the referee within the match paradigm or a judge within the context of society as a whole. With the ability to balance judgements based upon the surrounding circumstances of a society or match, judges and referees have the potential ability to ameliorate the retributive

principles under which they work, allowing for each individual case to be administered according to what both the infraction to be punished as well as the society as a whole require.

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Appendix A:

| Respondent  | Q1/Years       | Q2           | Q3             | Q4           | Q5             | Q6           | Ind Score (of 35) |
|-------------|----------------|--------------|----------------|--------------|----------------|--------------|-------------------|
| <u>1</u>    | 4              | 5            | 6              | 2            | 5              | 7            | 25                |
| <u>2</u>    | 6              | 6            | 5              | 2            | 5              | 7            | 25                |
| <u>3</u>    | 8              | 5            | 7              | 3            | 6              | 4            | 25                |
| <u>4</u>    | 3              | 5            | 6              | 2            | 2              | 4            | 19                |
| <u>5</u>    | 7              | 5            | 7              | 4            | 2              | 1            | 19                |
| <u>6</u>    | 0              | 5            | 6              | 4            | 5              | 6            | 26                |
| <u>7</u>    | 8              | 7            | 6              | 4            | 5              | 5            | 27                |
| <u>8</u>    | 5              | 6            | 4              | 4            | 6              | 5            | 25                |
| <u>9</u>    | 16             | 7            | 7              | 1            | 1              | 1            | 17                |
| <u>10</u>   | 5              | 6            | 5              | 5            | 3              | 5            | 24                |
| <u>11</u>   | 4              | 6            | 7              | 5            | 5              | 7            | 30                |
| <u>12</u>   | 5              | 3            | 5              | 3            | 6              | 4            | 21                |
| <u>13</u>   | 5              | 6            | 5              | 2            | 4              | 4            | 21                |
| <u>14</u>   | 4              | 5            | 6              | 3            | 5              | 4            | 23                |
| <u>15</u>   | 4              | 5            | 6              | 3            | 3              | 4            | 21                |
| <u>16</u>   | 10             | 7            | 6              | 1            | 1              | 4            | 19                |
| <u>17</u>   | 0              | 6            | 5              | 3            | 3              | 5            | 22                |
| <u>18</u>   | 3              | 5            | 7              | 5            | 2              | 2            | 21                |
| <u>19</u>   | 5              | 5            | 6              | 1            | 4              | 6            | 22                |
| <u>20</u>   | 12             | 6            | 6              | 2            | 5              | 4            | 23                |
| <u>21</u>   | 4              | 6            | 7              | 5            | 3              | 5            | 26                |
| <u>22</u>   | 15             | 5            | 6              | 5            | 6              | 7            | 29                |
| <u>23</u>   | 19             | 6            | 6              | 5            | 4              | 6            | 27                |
| <u>24</u>   | 15             | 1            | 5              | 1            | 1              | 4            | 12                |
| <u>25</u>   |                |              |                |              |                |              |                   |
| <b>mean</b> | <b>6.95833</b> | <b>5.375</b> | <b>5.91667</b> | <b>3.125</b> | <b>3.83333</b> | <b>4.625</b> |                   |