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Sport, Performance-enhancing Drugs, and the Art of Self-imposed Constraints

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ABSTRACT: Should the use of performance-enhancing drugs (PED) be banned in sport? A proper response to this question depends upon ideas of the meaning and value of sport. To a certain extent, sport is associated with ideal values such as equality of opportunity, fair play, performance and progress. PED-use is considered contrary to sport. On the other hand, critics see sport as an expression of non-sustainable and competitive individualism that threatens human welfare and development. PED-use is considered a logical consequence of sport values. I challenge both views as simplistic and inadequate. I develop what I refer to as the normative structure of sport consisting of self-imposed constraints at three levels: in the formal rules, in norms for fair play, and in the interpretation of athletic excellence as a morally relevant instantiation of human excellence. I argue that the question of a ban on PED should be discussed at the third level and depends upon interpretations of athletic excellence as a form of human excellence. I conclude that, in the current situation of elite sport, proponents of a ban on PED seem to have the strongest arguments.

KEYWORDS: sport, performance-enhancing drugs, normative structure, human excellence

Sporting games occupy an important role in popular culture and has a wide following, both in terms of participants and spectators. In most developed societies sport is among the main leisure activities. Important elite sport events are top-rated commodities in the international entertainment market. According to the International Olympic Committee (IOC), more than half of the world's population follows broadcasts from the Olympic Games.¹ The social and cultural significance of sport should not be underestimated.

Interpretations of the significance of sport, however, differ. Sport, in particular in its elite form, is contested terrain. The use of performance-enhancing drugs (PED) is considered by many to be the most fundamental challenge to sport's meaning and value. As of today, a large number of PED are banned in sport. However, the ban is disputed and subject to heated public and academic debate.² Should PED be banned in sport?

A proper response depends upon interpretations of the meaning and value of sport. One standard position, promoted in particular by sport organizations, is the view of sport as a carrier of ideal values such as equality of opportunity, effort, performance, and progress.³ Sport is understood as a sphere of human excellence. PED use is considered 'artificial' and against what the World Anti-Doping Agency (WADA) refers to as 'the spirit of sport.'⁴ Critics hold a different view. Sporting values are interpreted in negative terms. PED-use is a consequence of

aggressive competitive individualism and of a non-sustainable quest for quantitative progress and records.⁵

Understandings of sport as basically good or basically evil, however, are simplistic and leave little room for critical discussions of PED use. On closer inspection, sporting norms and values emerge as more complex and ambiguous. Why does the sporting community accept significant risk of harm in sports such as downhill skiing and boxing, but ban PED-use due to health concerns? Why are performance-enhancing strategies such as high altitude training and hypoxic chambers legal, whereas there is a ban on the use of pharmaceutical means such as EPO (erythropoietin) with similar physiological effects?

To be able to deal with the ethics of PED use in informed and critical ways, and inspired by Merton's classic analysis of the normative structure of science, I will develop a system of explicit and implicit norms distinguishing between non-permissible, permissible, and admirable acts and conduct in sport.⁶ More specifically, I will point to the normative structure of sport as characterized by relatively strict constraints found at three levels: in the logic of formal rules, in norms for fair play, and in the understanding of athletic excellence as a form of human excellence. Testing systematically the question of a ban on PED at each level, I will argue that a well-justified standpoint depends upon interpretations of athletic and human excellence at the third level of analysis.⁷

1. LOGIC OF THE RULES: ACCEPTING 'UNNECESSARY OBSTACLES' TO REACH SPORTING GOALS

As of today, certain forms of PED-use are banned by the rules of sport. WADA, co-financed by sporting institutions and public authorities, has global responsibility for managing and enforcing the ban.⁸ Is there anything in the logic of sporting rules that supports a ban on PED? Does a PED ban make sense as an integral part sport?

In all sports, rules define what counts as performance and how to evaluate participants accordingly. Runners are timed and compared at the accuracy of a hundredth of a second. Tennis players are evaluated based on their ability to score points, games and sets as compared to their opponents. Sport competitions share the common, structural goal of measuring, comparing, and finally ranking competitors according to rule-defined performance.

Examining sporting rules more closely provides further insights. John Searle's analysis of constitutive and regulative rules is illuminating.⁹ Constitutive define a game in such a way that the game is inconceivable without them. Practicing the game is logically dependent upon the existence and keeping of such rules. In swimming, these are the rules that define the particular

swimming technique, distance, and timing procedures. In American football, constitutive rules define the number of players on a team, the size and organization of the pitch, and what counts as a touch down. Constitutive rules give meaning only within the game they define.

Regulative rules on the other hand relate to concerns that are logically independent of constitutive rules and make sense outside of the competition. Regulative rules may prescribe practicalities such as a certain quality of surface on a racetrack, or the air pressure in soccer balls; they may regulate commercial aspects such as the number and size of advertisements on athletes' outfit; or health concerns such as requirements on protective gear in American football. Sporting games are comprehensible without regulative rules but are inconceivable without their constitutive rules. In the further discussion of the normative structure of sport, constitutive rules are of primary interest.

In *The Grasshopper: Games, Life and Utopia*, Bernard Suits presents an analysis of the relationship between game rules and game goals and proposes a definition of game playing.¹⁰ From an instrumental 'non-game' perspective, constitutive rules define 'unnecessary' obstacles to reach game goals. If a hurdling race is considered complete when all runners have passed a defined line across the track, running around instead of jumping the hurdles can be an efficient strategy. If the point in soccer is to place a ball behind a white line between two poles, an efficient measure could be to take the ball with the hands and put it there. Suits explains how games operate under a different logic. Game goals make sense only within the framework of a set of constitutive rules in which some of the most efficient means are prohibited. According to Suits, this interdependency between means and goals is a demarcating characteristic of games and makes sense only within the context of game playing.¹¹

Suits defines game playing as 'the voluntary attempt to overcome unnecessary obstacles' to reach what is defined as game goals.¹² The claim is that the definition covers all game playing, whether hide-and-seek, poker and chess, or competitive sport. Game playing arises from the voluntary acceptance of self-imposed constraints. This voluntary acceptance constitutes the first level of constraints in sport.¹³

To what extent is this understanding helpful in dealing with the question of whether to ban PED use in sport? To a certain extent, Suits' analysis demonstrates that constitutive rule violations are violations against the very logic of the practice and emphasizes the significance of fairness understood as rule-adherence. In the case of PED use, however, the analysis offers little help. Those who view PED as against 'the spirit of sport' would probably categorize anti-doping rules as constitutive in kind. Per definition, PED-enhanced performance is not athletic performance. This view however requires further justification. PED use takes place outside of

the competition, and it is difficult to see the ban as a constitutive rule. Those who reject PED use due to potential harm, place the ban in the regulative rule category. Again, however, this position is not clear. Why should PED-use be banned when so many other risks of harm are accepted?

The distinction between constitutive and regulative rules and the idea of games as the voluntary attempt to overcome 'unnecessary' obstacles enhances the understanding of the nature of sporting games but offers no real possibility for critical and systematic discussion of PED use in sport. There is need for further analysis.

2. ACCEPTING FAIR PLAY

Constitutive rules define a framework within which competitions become possible. Sport can be practiced in many ways and played at many levels. Within their constitutive framework most sports open up a space for a variety of technical and tactical approaches. Good games cultivate a diversity of human talent. Sometimes disagreement or conflict arises as to what is inferior, superior, or even 'proper' game playing. As D'Agostino has pointed out, for sport to be meaningful practitioners depend upon a shared interpretation of main constitutive rules.¹⁴ D'Agostino points to the example of basketball. In principle, rules prohibit body contact. Playing basketball, however, avoiding body contact seems difficult if not impossible. Hence, players and game officials agree on a functional rule interpretation with distinctions between permissible and non-permissible kinds of body contact. Such shared interpretation of the constitutive rules of a sport is referred to as the ethos of that particular sport.

There are limits to ethos interpretations. For instance, if slalom skiers agree to miss certain gates, or if tennis players accept two bounces of the ball on each court half, then the ethos deviates significantly from the constitutive rules. One option then is to enforce the constitutive rules more strictly and/or increase penalties. If the emerging ethos leads to what is considered more interesting and better games, another option is to revise the rules and accept new versions of slalom skiing and tennis, or even to create new sports.¹⁵

A further reason for ethos restriction or modification is risk of harm. If, in ice hockey, fistfights develop and lead to serious injuries among players, rule officials will most certainly invoke tougher penalties. Serious fist fighting is not considered a relevant skill of the game. The ban on PED can be understood in a similar way.

Again, however, counter arguments come to mind. PED use takes place outside of training and competition. It could be argued that this is really beyond the sphere of a game ethos. Moreover, even if a sport ethos of non-harm is extended to training, still a ban on PED is

problematic. What distinguishes PED-use from accepted risks of harm in intensive training, or from training in risk sports?

Obviously, there is need of a more general understanding that goes above and beyond a particular ethos of a particular sport. I will argue that a shared sport ethos is not only a shared interpretation of a particular set of constitutive rules, but, implicitly, a shared interpretation of the moral ideal of fair play.

Following Rawls, voluntary engagement in just and rule-governed practices gives rise to a moral obligation of fairness¹⁶: Participants ought to keep the rules. Based on D'Agostino's ethos argument, 'rule adherence' can be referred to as 'ethos adherence.' In other words, if competitions are considered just, voluntary engagement calls for ethos adherence. Rawls provides the following rationale:

...when a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to these restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission. We are not to gain from the cooperative labors of others without doing our fair share.¹⁷

The fairness obligation provides normative force to ethical analyses in sport. The issue of rule violations becomes more clear. Some rule violations within the ethos of a sport can be acceptable and ethically unproblematic, whereas violations contradicting the socially shared ethos are considered problematic and, if intentional, obvious cases of cheating. In the case of PED use, however, the fairness ideal has less to offer. If there is a socially shared ethos accepting the use of PED, and if most or all competitors use PED, this is not necessarily unfair. Can the idea of a sport ethos be developed further?

The obligation of fairness aims at realizing sporting games according to a shared interpretation of the rules and in a setting of mutual respect between participants. The obligation says little however of how to realize competitions that are experienced as good in terms fun, excitement, mastery, et cetera. Neither does the obligation say much about how to realize well played competitions in accordance with standards of excellence of the sport in question. Fairness is a necessary but not sufficient condition for good competitions to take place. A shared ethos should be able to cover more ground.

Above I formulated the structural goal of sport competitions as one of measuring, comparing, and finally ranking competitors according to rule-defined performance. Keeping the ethos of a sport implies trying to reach this goal. Valid evaluations and rankings depend upon participants'

honest effort and that they perform at the best of their ability. Lack of effort compromises the structural goal and tends to drain competitions of meaning and value.¹⁸ Following a similar justification as with fairness, we can say that if we are voluntarily engaged in competitions in which we enjoy the benefits of others' doing their best, we should do our fair share by performing at our best. Doing one's best arises as a further obligation in the ethos of sport.

Ideals of doing one's best and competing with honest effort belong to traditional codes of conduct in sport. Legendary sportswriter Grantland Rice has given a poetic expression of the ideal:

For when the One Great Scorer comes
To mark against your name
He writes—not that you won or lost—
But how you played the Game.¹⁹

Moreover, pointing to the significance of honesty and effort coheres with theories of the value of play. Johan Huizinga defines play as being of pure autotelic value. Suits views the voluntary acceptance to overcome 'unnecessary obstacles' an expression of play, or of what in his terminology is called a 'lusory' attitude.²⁰ Performing at one's best can be labeled an obligation of play.

In the handling of ethical dilemmas in sport, the play obligation is a clear guiding norm in many situations and is the primary source of rules against 'sabotage of the game' and on 'unsporting conduct.' In the particular case of PED, however, arguments on play are insufficient. In a setting of PED as an accepted part of an ethos one could argue that, on top of hard training and efforts, PED use indicates an even stronger dedication and willingness to doing one's best.

Summing up so far, then, we can say that voluntarily engaged in sport competitions, participants have an obligation to keep to the ideal of fair play, that is, to adhere to a shared interpretation of the rules and perform at the best of their ability. Competitions without fair conduct and honest effort lose meaning and value. Fair play constitutes the second level of self-imposed constraints in sport.

As a source for normative positioning in the PED case however, the idea of fair play is insufficient. Questions of PED use seem to pose even more fundamental challenges to the value and meaning of sport.

3. SPORTING EXCELLENCE AS HUMAN EXCELLENCE

Although sport competitions share the structural goal of performance evaluation and ranking, specific definitions of performance are diverse and found in the rules of each sport. Rule-defined performance is the demarcating characteristic of a sporting game. A basketball team excelling with an efficient passing and scoring game executes the typical technical and tactical skills of their sport. An expert swimmer gliding through the water with stable and high speed gives a vivid expression of swimming expertise. But again, on closer examination of practical cases, more general ideas can be found.

As with any other human performance phenotype, athletic performances are products of complex interplays between innumerable predispositions and environmental influences. Starting at the moment of conception, human capacities develop in processes of merit, luck and chance. In sport, the impact of luck and chance is contested terrain.²¹ Two athletes might have identical motivation for sprint running and put in similar effort. Their genetic predispositions may differ significantly, however, and only one succeeds. Outcomes of ‘the natural lottery’ seem decisive. Is this fair, or should such inequalities be compensated for? Or, two athletes with more or less identical predispositions for succeeding in alpine skiing, and with similar ambitions, grow up in radically different environments. One athlete is supported by parents and a strong coaching system and enjoys brilliant skiing facilities. She is successful. The other athlete has neither good coaches nor good facilities and fails. Should decisive inequalities in environmental resources be compensated for? These questions lead to more general questions on the very idea of athletic performance. What are the ideals upon which performances are based?

Different social practices and institutions emphasize different norms in this respect.²² Most physical education programs in schools cultivate the idea of relative progress. A lottery is built on chance. A general understanding of sport is that it has a meritocratic base. The view is that athletes who train deserve their fair rewards. The challenge seems to be how to deal with the impact of chance and luck.

A closer look at classification efforts indicate some answers. Historically, and due at least in part to religion and conventional morality, men and woman have competed in separate classes (to the extent women were allowed to take part at all).²³ There are also reasons behind classification that to a larger extent reflect fairness ideals. In many sport, in particular those that emphasise basic bio-motor abilities such as strength and speed, statistically speaking women have less favourable genetic dispositions for performance development. Examples can be weight lifting and sprint running. Similarly, in sports such as boxing and weight lifting in which body size matters significantly, there are weight classes.

The discussion here is not one of individual obligations but of institutional fairness and distributive justice. I have argued that classification in sport is best understood as an attempt on levelling the playing field by adhering to the fair equality of opportunity ideal (FEO):²⁴

In the distribution of significant goods and burdens we should eliminate or compensate for inequalities between individuals and groups that they cannot control or influence in any significant way and for which they cannot be held responsible.²⁵

FEO works as a regulative norm in many social and cultural settings, primarily when it comes to distribution of what Rawls labels primary social goods: liberty and opportunity, income and wealth, and the social bases of self-respect found in just and fair institutions and practices.²⁶ Social and welfare schemes compensate for serious physical and mental impairments and for problematic outcomes of events over which individuals cannot exert control such as accidents and natural catastrophes.

Reflecting general norms and values in larger society, I find FEO to be a regulative norm in the setup of sport as well. Classification rules are established at least in part to enable all participants a fair chance of success. Firstly, and most obvious, FEO is followed strictly when it comes to external conditions. All runners run the same distances on the same surface and are measured with the same timing technology. Basketball teams switch court halved regularly to even out potential inequalities. In many sports, technology and equipment are standardized or at least regulated. There are strict rules in ski jumping on the size and fabric of athlete suits. In baseball, the bat has to meet accurate size and material standards. Classification examples above demonstrate that FEO has implications when it comes to individual inequalities such as biological sex, body size. An additional example is classification according to chronological age in, by examples, junior, senior, and veteran classes.²⁷

A challenge here is that upon a strict interpretation of FEO the opposite challenge of over-classification may emerge with expectations of elimination and compensation efforts when it comes to a high number of genetic and environmental inequalities. Since each individual is unique in these respects, we could end up with the absurd situation of one class per athlete.

One solution is to distinguish between relevant and non-relevant impacts of sporting chance and luck.²⁸ Genetically based inequalities in biological sex and body size are stable inequalities and out of reasonable control of individuals. If they exert significant impact on performance, classification is called for. Inequalities in genetic predispositions for developing bio-motor qualities such as speed, strength, endurance, and motor skills, are to a larger extent dynamic

and can be influenced by individual effort and systematic training. Therefore, and based on FEO, there is less reason for classification.

When it comes to environmental luck, FEO requires similar kinds of thinking. Compensation is relevant primarily when it comes to systemic inequalities with significant impact on performance that are out of individual control. More specifically, FEO applies primarily to inequalities in system strength: the total amount of human, technological, scientific, and financial resources supporting an athlete or a team.²⁹ It seems unfair to have wealthy soccer clubs such as Paris St. Germain play clubs of far more modest means such as the Swedish club Malmö FC.³⁰ Similarly, it seems unfair when Scandinavian cross-country skiers with extensive technological support compete against Ukraine or Belarus skiers with almost no support system at all. Financial and technological ‘muscle,’ and not athletic abilities and skills, is decisive of the outcome.

Looking at concrete cases of FEO (or the lack of it) in sport is informative in developing more general, normative characteristics of athletic performance. Classification and the organization of competitive systems according to results and assumed performance capabilities such as series and cups (knock-out competitions) indicate a priority on matching competitors of similar performance capabilities. Leagues, series, and knockout competitions are expressions of a quest for relatively even contests and uncertainty of outcome. In general, and except perhaps from pedagogical settings in which competition is used a pedagogical tool, lopsided contests are held to be of lesser quality.³¹ Competitors and teams do not get a relevant challenge and are seldom able to perform at their best. As said above in the discussion of the obligation of play, evaluation and ranking of performance become invalid.

Scholars such as Huizinga emphasize uncertainty of outcome is a main characteristic of play.³² The quest for uncertainty can be found in games of chance, in mixed skill and chance games such as poker, and in pure skill games as in chess where players are matched according to previous results. In games involving bodily movement skills, uncertainty of outcome can be constructed in several ways; with handicap system favouring the lesser skilled athlete, or in games against animals, or against machines. Who runs the fastest 60 meter race: a human or a dog? Who performs best in archery: an elite archery athlete or a computer-guided machine? In general, however, these events are not considered sports. As shown above, sporting regulations indicate that sporting games are primarily meritocratic: athletes are measured, ranked and evaluated based on performances for which they can be held responsible. This resonates with the etymology of the word ‘athlete’. *Athletes* (Greek) and *athleta* (Latin) refers to ‘a

prizefighter' and a 'wrestler, ..., combatant in public games'.³³ Athletic performances are understood as genuinely human expressions.

To sum up the argument above, core elements of athletic performances are

- the outcome of genetic predispositions in terms of natural talent, and
- environmental impact as matters of good or bad luck and individual and system merit from the moment of conception to the moment of performance,
- within the constraining framework of a sport-specific version of FEO: elimination of or compensation for genetic and environmental inequalities with systematic and significant impact on athletic performance which individuals and groups cannot control or influence in any significant way and for which they therefore cannot be held responsible.

This ideal of athletic performance seems applicable to all kinds of competitive sport. Returning to the idea of fair play, competing according to a shared interpretation of the rules and putting honest effort into a common quest for good games implies a mutual quest for excellence. This is not just physical, technical and tactical excellence specific to a particular sport. With FEO as a backing principle, an obvious interpretation is that sport cultivates the ideal of the empowered and responsible athlete, that is, of the athlete as a moral agent. Murray captures well the idea in describing sport at its best as the virtuous development of natural talent towards human excellence. Simon points to sport as 'a mutual quest for excellence through challenge,' and Morgan talks of the 'gratuitous logic' of sport offering morally significant possibilities of human development.³⁴ In MacIntyrean terms, justifying sport morally depends upon realizing its internal goods, and justifying that this process cultivates morally significant virtues. Being realized in fair and just ways and with honest efforts, sport can cultivate virtues such as temperance, justice, resilience and ability to do one's best. The interpretation of sporting excellence as a particular kind of human excellence constitutes the third and final level of constraints in sport.

4. REVISITING PED-USE

The two first levels of constraints in sport offered frameworks for discussing certain ethical issues such as rule violations. The dilemma of whether to ban PED, however, was left open. The third level points at the potential of sporting excellence as an instantiation of human excellence. Does normative positioning when it comes to PED become more clear at this level?

The dominant view, as mentioned in the introduction, is a restrictive one. PED ought to be banned simply because PED use undermines the ideals of athletic excellence as a form of

human excellence. Usually, to be efficient, PED use requires medical insight competence. As the significance of system strength is increased, athlete responsibility for performance is reduced. The use of PED is seen as a shortcut of 'natural' biological adaptation to training, and as a reduction of individual responsibility for performance.³⁵ Athletes' status as responsible moral agents with the possibility of making informed and consensual decisions is threatened. PED-use reduces sport as a sphere for human excellence and drains sport of moral value.

An alternative view stands in opposition to this argument.³⁶ Some scholars hold a permissive view which implies giving each athlete the freedom to choose whether to use PED or not. The view is justified in various ways. One justification builds on the view of the value of human enhancement.³⁷ The nature of sport is one of enhancement of human mental and physical potential. As long as athletes choose in free and informed ways, restrictions on performance-enhancing technologies do not make sense and are considered remains of anachronistic ideas of the pure amateur.

A less radical version of the permissive approach is liberalization of PED-rules with the ambition on reducing risk of harm.³⁸ Biomedical and biotechnological enhancement is on the rise in society at large, and it is unreasonable to ban these practices in sport. Moreover, a ban leads to underground activities in which PED-use is practiced at great risk of harm. WADA visions of 'clean' sport are unrealistic. Legalization and PED-use under competent medical supervision is considered a 'lesser evil' approach.

The permissive view meets criticism as well. A premise for legalization views is athletes' choice of PED within a framework of informed consent. However, most (if not all) elite athletes start their career at an early age, as adolescents they compete at high levels, and their support systems depend upon their success for their professional survival.³⁹ As game-theoretical analyses demonstrate, the situation is characterized by a negative equilibrium.⁴⁰ Even if most athletes may have the preference of no PED use, such use by some exerts a coercive effect on all.⁴¹ Moreover, even if most PED are well developed and clinically tested pharmaceutical products, they are designed for use in rehabilitation and not as enhancement, and their long-term effects on healthy individuals are unknown. Following a precautionary principle would go against their use in sport. The vision of athletes free and informed choice of PED use is sociologically naïve.

What then is the right choice in the PED dilemma? Should the use of PED in sport be banned or not? The answer is not a simple one. At the third level of constraints in sport, discussions become more demanding as they involve thicker descriptions of sporting ideals

and human excellence. On the permissive side, human excellence is associated with transcendence and transformation of our nature as biological beings. On the restrictive side, there is concern for distinguishing between morally admirable development of natural talent towards excellence, and biomedical enhancement by external experts. It remains to be seen how ideals of sporting excellence and human excellence will develop in the time to come. As of today, however, and based on what is referred to as ‘the spirit of sport’ and insight into the vulnerable position of athletes in elite sport systems, the international sport movement and public authorities stand united in support of WADA and a ban on PED-use in sport.

5. CONCLUSION

The initial question in this article was whether PED use in sport should be banned. A proper response depends upon interpretations of the meaning and value of sport. Sport organizations and anti-doping agencies argue that PED use is against ‘the spirit of sport’ and see it as social deviance. Sport critics consider PED use a natural consequence of a harsh and cynical performance logic. I have argued that both views are simplistic and inadequate and pointed to the need for a philosophically developed normative theory of sport. I have presented such a theory in terms of the normative structure of sport including self-imposed constraints at three levels: in the constitutive rules, in ideals for fair play, and in interpretations of sporting excellence as an instantiation of human excellence. I have shown that the issue of PED use really belongs to the third and most fundamental level as it challenges ideals of what sporting and human excellence are all about. I conclude that, at least at the current stage of PED development, PED use should be banned in sport as it contradicts basic sporting norms and values.

My outline of sport’s normative structure should not lead to an idealization of current sport. Commercialization and commodification processes and the constant quest for extraordinary performances and records challenge sporting constraints and create conditions for increased PED use. In this situation, however, a theory of constraints seems more important than ever. Sport without empowered athletes who can take responsibility for their performances easily becomes a struggle between total resource systems leading to a ‘dehumanization,’ to use an expression from John Hoberman.⁴²

German scholar and poet Johann Wolfgang Goethe has pointed to human mastery and excellence as expressions of intelligent self-imposed constraints.⁴³ In the context of sport, I have argued that the art of self-imposed constraints leads not only fair and well-played competitions, but also allows for sport as a sphere of morally admirable human excellence.

Justification of a ban on PED cannot be based on arguments of fairness and health alone as it depends upon interpretations of athletic excellence as an instantiation of human excellence.

ENDNOTES

¹ The 2012 London Summer Olympic Games could be accessed worldwide via 500 television stations covering 220 territories and with an estimated potential TV audience of 4.8 billion people. See

http://www.olympic.org/Documents/IOC_Marketing/Broadcasting/London_2012_Global_%20Broadcast_Report.pdf. Accessed April 25, 2016.

² The debate has resulted in several edited volumes addressing PED use from sociological, philosophical, and ethical perspectives. For a recent and comprehensive volume, see Verner Møller, Ivan Waddington, and John Hoberman, eds., *The Routledge Companion to Sport and Drugs*. London: Routledge 2015.

³ For a discussion of the rise of modern sport and its norms and values, see Allen Guttman, *From Ritual to Record: The Nature of Modern Sport*, 2d edition (New York: Columbia University Press, 1978).

⁴ <https://www.wada-ama.org/sites/default/files/resources/files/wada-2015-world-anti-doping-code.pdf>. Accessed February 20, 2017.

⁵ See Part I of William J. Morgan, *Leftist Theories of Sport: A Critique and a Reconstruction* (Champaign: Illinois University Press, 1984) for an overview of cultural and ideological critiques of sport. For an eco-philosophical critique of the values of Olympic sport, see Sigmund Loland, "Olympic Sport and the Ideal of Sustainable Development," *Journal of the Philosophy of Sport* 33.2 (2006): 144–56

⁶ Merton understands the norms of science as defining 'prescriptions, proscriptions, preferences, and permissions' when it comes to actions and conduct and is 'legitimized in terms of institutional values.' See Robert K. Merton, *The Sociology of Science: Theoretical and Empirical Investigations* (Chicago, IL: University of Chicago Press 1943), 269.

⁷ This view of the normative structure of sport and its relevance in dealing with the PED-dilemma is explored in similar ways in Sigmund Loland, "Morgan, the 'Gratuitous' Logic of Sport, and the Art of Self-Imposed Constraints," *Sport, Ethics and Philosophy*

(2018), DOI: [10.1080/17511321.2018.1493530](https://doi.org/10.1080/17511321.2018.1493530). Although structured differently and further developed, the substantial argument in this article is similar in kind.

⁸ Since 1999, international sport organizations together with governments have funded the World Anti-doping Agency (WADA) which is an independent agency with responsibilities of scientific research, education, development of anti-doping policies, and monitoring of the World Anti-Doping Code: a harmonized set of anti-doping definitions, rules and regulations valid in almost all sports and in all countries. For more information, see <https://www.wada-ama.org/>. Accessed January 21, 2016.

⁹ John R. Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge UK: Cambridge University Press, 1969), 33–4.

¹⁰ Bernard Suits, *The Grasshopper: Games, Life, and Utopia* (Toronto: University of Toronto Press, 1978).

¹¹ A contrasting example of a different means and goals-relationship may serve to clarify the argument. Imagine traffic. Traffic rules are designed and implemented with the goal of making transportation as efficient and safe as possible. The goal of efficient and safe transportation carries meaning independent of what means are set out to realize it. Traffic means are justified instrumentally. Knowing that there are empty streets in all directions, passing an intersection on red light can be both efficient and safe. Moreover, the goal of traffic can be reached with alternative sets of rules and means. If new technology is introduced, for instance sensors in cars eliminating the possibility for collision in intersections and thus making traffic lights abundant, the rule on stopping on red light can be abandoned. In other words, lacking the characteristic interdependency of means and goal of a game, traffic is a non-game activity.

¹² Suits, *The Grasshopper*, 55.

¹³ For an overview of the discussion on the logic of sporting games and the function of rules, see Section I in Mike McNamee and William J. Morgan, *Routledge Handbook of the Philosophy of Sport*, 2015).

¹⁴ D'Agostino op. cit.

¹⁵ Based on sociologist Jon Elster's work, Lewandowski discusses what he considers 'optimal constraints' in boxing and argues in favor of the ethos of sparring as superior to that of the fight. Sparring promotes to a larger extent technical and tactical boxing skills and even some kinds of human excellence. Perhaps sparring will emerge as a new and less morally contested sport than traditional boxing? See Joseph D. Lewandowski, "Boxing: 'The Sweet Science of Constraints,'" *Journal of the Philosophy of Sport* 34.1 (2007): 26–38.

¹⁶ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

¹⁷ *Ibid.*, 112.

¹⁸ For an extensive decision theoretical argument supporting this thesis, see part IV of Sigmund Loland, *Fair Play in Sport: A Moral Norm System*. (London: Routledge 2002).

¹⁹ The poem is reprinted in Charles Fountain, *Sportswriter: The Life and Times of Grantland Rice* (Oxford: Oxford University Press, 1993), 93.

²⁰ Johan Huizinga, *Homo Ludens: A Study of the Play Element in Culture* (London: Routledge & Kegan Paul, 1949); and Suits, *The Grasshopper*.

²¹ For definitions and discussions of the role of chance and luck, see Nicholas Rescher, *Luck: The Brilliant Randomness of Everyday Life* (Pittsburgh: University of Pittsburgh Press, 1995).

²² For a study of justice norms and schemes in various social practices and institutions, see Jon Elster, *Local Justice. How Institutions Allocate Scarce Goods and Necessary Burdens* (New York: Sage, 1992).

²³ For vivid examples, see Jennifer Hargreaves, *Sporting Females: Critical Issues in the Sociology and History of Women's Sport* (London: Routledge, 1994).

²⁴ Loland, *Fair Play in Sport*, part III.

²⁵ For a thorough and critical review of various interpretations of the fair equality of opportunity ideal, see Richard Arneson, 'Equality of Opportunity,' in *The Stanford Encyclopedia of Philosophy* (Summer 2015 Edition), ed. Edward N. Zalta.

<http://plato.stanford.edu/archives/sum2015/entries/equal-opportunity/>. Accessed April 25, 2016.

²⁶ Rawls, *A Theory of Justice*, 178–82.

²⁷ The issue of FEO and classification however is not as straightforward as that of external conditions. Firstly, FEO is not followed in consistent ways. In weight lifting and boxing, weight classes secure evaluation of what are considered the relevant abilities and skills. Inequalities in body mass should not determine the outcome. In volleyball and basketball, body height has significant and systematic impact on performance. To a large extent, inequalities in body height are results of genetic predispositions upon which individuals exert no control and which they cannot influence in any significant way. In these sports, however, there is no classification. It seems as if history and tradition take precedence over critical thinking and concern for institutional fairness.

²⁸ For discussions of the role of chance, luck and desert in sport, see Robert S. Simon, "Deserving to be Lucky: Reflections on the Role of Luck and Desert in Sport," *Journal of the Philosophy of Sport* 34.1 (2007): 13–25; and Sigmund Loland, 'Simon on Luck and Desert in

Sport: A Review and Some Comments,” *Journal of the Philosophy of Sport* 43.1 (2016): 15–25.

²⁹ For an analysis of the impact of total systems on elite sport performances, see Kalevi Heinilä, “The Totalization Process in International Sport,” *Sportwissenschaft* 12.3 (1982): 235–54.

³⁰ Not surprisingly, in the 2015–16 European Champions’ League, Paris St. Germain easily defeated Malmö in two matches with an accumulated score of seven to zero. For a discussion of the impact of financial system strength on athletic performance, see Adrian J. Walsh and Richard Giulianotti, *Ethics, Money and Sport: This Sporting Mammon* (London: Routledge, 2006).

³¹ Nicholas Dixon, ‘On Sportsmanship and ‘Running up the Score,’” *Journal of the Philosophy of Sport*, 19.1 (1992): 1–13.

³² Huizinga, *Homo Ludens*.

³³ See Online Etymology Dictionary, <http://www.etymonline.com/index.php?term=athlete>. Accessed on April 25, 2016.

³⁴ See Thomas H. Murray, “Enhancement,” in *The Oxford Handbook of Bioethics*, ed. Bonnie Steinbock (Oxford UK: Oxford University Press 2007), 491–515. With his views of sport and human excellence Murray follows a tradition in the philosophy of sport found in, among others, Paul Weiss, *Sport: A Philosophical Inquiry* (Carbondale: Southern Illinois Press, 1969) who talks of sport as young men’s quest for excellence; in Robert L. Simon, *Fair Play: The Ethics of Sport* (Boulder, CO: Westview Press, 2010), 3rd ed., who refers to sport as a mutual quest for excellence through challenge; and in William J. Morgan, *Why Sports Morally Matter* (London: Routledge 2006), who points to the potential of sport as a morally significant sphere to the individual and in society.

³⁵ Sigmund Loland and Hans Hoppeler, “Justifying Anti-doping: The Fair Opportunity Principle and the Biology of Performance-enhancement.” *European Journal of Sport Science* 12.4 (2012): 347–53.

³⁶ For an overview of different positions in the PED-debate in sport, see Sigmund Loland and Michael J. McNamee, “Anti-doping, Performance-enhancement, and the ‘Spirit of Sport’: An Ethical and Philosophical Critique,” in Ahmadi Nader, Arne Ljungqvist and Göran Svedsäter, *Doping and Public Health* (London: Routledge, 2016), 111–23.

³⁷ For an example, see Julian Savulescu, Bennett Foddy, and M. Clayton, “Why We Should Allow Performance-enhancing Drugs in Sport,” *British Journal of Sport Medicine* 38.6 (2004): 666–70.

³⁸ See Bengt Kayser, Alexandre Mauron, and Andy Miah, “Current Anti-doping Policy: A Critical Appraisal,” *BMC Medical Ethics* 8.1 (2007): 2. For detailed development of these views, see also Bengt Kayser, *Ethical Aspects of Doping and Anti-doping. In Search for an Alternative Policy*. (Doctoral Dissertation, Leuven: KU Leuven, 2018)

³⁹ See Michael McNamee, “Beyond Consent? Paternalism and Pediatric Doping,” *Journal of the Philosophy of Sport* 36.2: 111–26.

⁴⁰ For game-theoretical analysis of the PEM-dilemma emphasizing the negative equilibrium situation of lifting the ban, see Gunnar Breivik, “Doping Games: A Game Theoretical Exploration of Doping,” *International Review for the Sociology of Sport* 27.3 (1992): 235–53; and Eric Chwang, “Why Athletic Doping Should be Banned,” *Journal of Applied Philosophy*, 29.1 (2012): 33–49. For a review of the ethics of PED use among young people, see Mike McNamee, “Beyond Consent? Paternalism and Pediatric Doping,” *Journal of Philosophy of Sport* 36 (2009): 111–26.

⁴¹ Thomas H. Murray, “The Coercive Effect of Drugs in Sport,” *The Hastings Center Report* 13.4 (1983): 24–30.

⁴² John Hoberman, *Mortal Engines: The Science of Performance and the Dehumanization of Sport* (New York: The Free Press, 2002).

⁴³ In the final verses of his sonnet *Natur und Kunst*, Goethe says:

*Wer Großes will, muß sich zusammenraffen;
In der Beschränkung zeigt sich erst der Meister*

In David Luke’s translation the verses read as follows: “To achieve great things, we must be self-confined; Mastery is revealed in limitation.”

See Johann Wolfgang von Goethe, *Selected Poetry of Johann Wolfgang von Goethe*, ed. David Luke. (London: Penguin, 2005), 125.