

NO HARM, NO FOUL? JUSTIFYING BANS ON SAFE PERFORMANCE-ENHANCING DRUGS

John Gleaves

Scholars such as Simon (2007; 2004) and Loland (2002) as well as the authors of the World Anti-Doping Code (2001) argue that using performance-enhancing substances is unhealthy and unfairly coercive for other athletes. Critics of the anti-doping position such as Hoberman (1995), Miah et al. (2005) and Tamburrini (2007) are quick to argue that such prohibitions, even though well-intended, constitute an unjustifiable form of paternalism. However, advocates for both of these positions assume that preserving good health and, conversely, avoiding health-related harms, lie at the centre of the debate. Given the apparent stalemate in the debate over the validity of health concerns on performance-enhancing drugs, in this essay, I investigate ethical issues of 'harm-free' pharmaceutical performance enhancement. Beginning with the hypothesis that a harm-free performance-enhancing drug may be produced in the future, I ask if there would still be compelling reasons for prohibiting such a drug. I address this question by providing two arguments against allowing athletes to use pharmaceutical performance-enhancing drugs – the damage to the testing and contesting of sport and the loss of internal goods that are intrinsically satisfying. These two arguments taken together, I argue, are sufficient to sustain the prohibition of pharmaceutical performance-enhancing drugs without citing their harmful side effects.

Resumen

Académicos como Simon (2007;2004) y Loland (2002) así como los autores del Código Anti-Dopaje Mundial (2001) [World Anti-doping Code] argumentan que el uso de sustancias que mejoran el rendimiento deportivo es nocivo para la salud y coacciona injustamente a otros atletas. Críticos de la posición anti-dopaje tales como Hoberman (1995), Miah (2005) y Tamburrini (2007) no pierden el tiempo a la hora de argumentar que tales prohibiciones, a pesar de ser bien intencionadas, constituyen una forma injustificable de paternalismo. Sin embargo, los partidarios de ambas posiciones asumen que el cuidar la salud y, a la inversa, el evitar daños a la salud, son el meollo de la cuestión. Dadas las aparentes tablas en el debate sobre la validez de las inquietudes sobre la salud en cuanto a las drogas que aumentan el rendimiento deportivo, en este ensayo investigo los temas éticos involucrados en la mejora farmacéutica del rendimiento deportivo "sin daños". Empezando con la hipótesis de que una droga sin daños que mejora el rendimiento deportivo puede ser producida en el futuro, pregunto si podría haber todavía razones

convincentes para prohibir tal droga. Encaro esta cuestión mediante dos argumentos que rechazan permitir que los atletas utilicen drogas farmacéuticas que mejoran el rendimiento deportivo – el daño que se causa a la prueba y al concurso en el deporte [distinción basada en el artículo de S. Kretchmar “From Test to Contest”] y la pérdida de bienes internos que son intrínsecamente gratificantes. Estos dos argumentos tomados conjuntamente, adujo, son suficientes para mantener la prohibición sobre drogas farmacéuticas que mejoran el rendimiento deportivo sin tener en cuenta las secuelas perniciosas.

Zusammenfassung

Wissenschaftler wie Simon (2007; 2004) und Loland (2002) sowie die Autoren des Welt-Anti-Doping-Codes (2001) argumentieren, die Verwendung leistungssteigernder Substanzen sei ungesund und stelle einen ungerechtfertigten Zwang für andere Sportler dar. Kritiker der Anti-Doping-Position wie Hoberman (1995), Miah (2005) und Tamburrini (2007) argumentieren kurzerhand, dass solche Verbote, obwohl gut gemeint, eine nicht zu rechtfertigende Form von Paternalismus bilden. Allerdings sind sich Fürsprecher beider Positionen einig, dass die Erhaltung der Gesundheit und umgekehrt die Vermeidung gesundheitlicher Schäden ein Kernpunkt der Debatte sind. Angesichts der scheinbar festgefahrenen Debatte über die Bedeutung der Gesundheit in Bezug auf leistungssteigernde Mittel, werde ich in diesem Aufsatz die ethischen Fragen von „schadloser“ pharmazeutischer Leistungssteigerung untersuchen. Ausgehend von der Hypothese, dass ein schadloses leistungssteigerndes Medikament in Zukunft erzeugt werden könne, frage ich, ob es auch dann noch zwingende Gründe für das Verbot eines solchen Medikaments geben würde. Ich bearbeite diese Frage, indem ich zwei Argumente gegen den Gebrauch pharmazeutisch leistungssteigernder Mittel durch Athleten anführe – die Beeinträchtigung des Austestens und Wettkämpfens im Sport und der Verlust von inneren Gütern, die intrinsisch befriedigend sind. Diese beiden Argumente zusammen, so behaupte ich, sind ausreichend, um das Verbot von pharmazeutischen leistungssteigernden Mitteln aufrechtzuerhalten, ohne auf ihre schädlichen Nebenwirkungen einzugehen zu müssen.

Résumé

Des chercheurs comme Simon (2007; 2004) et Loland (2002) aussi bien que les auteurs du Code anti-dopage mondial (2001) soutiennent que l'utilisation de substances améliorant la performance est malsaine et injustement coercitive pour d'autres athlètes. Les critiques de la position anti-dopage comme Hoberman (1995), Miah (2005) et Tamburrini (2007) répondent immédiatement que de telles interdictions, bien que bien intentionnées, constituent une forme injustifiable de paternalisme. Cependant, les défenseurs de ces deux positions estiment que la préservation de la santé et, au contraire, le rejet des atteintes à la santé, sont au centre du débat. Étant donné l'impasse apparente du débat sur la validité de la question sanitaire en ce qui concerne les produits dopants, j'examine dans cet essai les questions éthiques posées par l'amélioration pharmaceutique de la performance sans effet négatif. Je développe cette question en fournissant deux arguments contre l'autorisation donnée aux athlètes d'utiliser des produits dopants : l'altération de la rencontre sportive et la perte des productions internes donnant intrinsèquement satisfaction. Je démontre que ces deux arguments pris ensemble sont suffisants pour pouvoir lever l'interdiction des produits dopants pharmaceutiques sans avoir à évoquer leurs effets secondaires nuisibles.

學者 Simon (2007; 2004) 與 Loland (2002), 以及世界反運動禁藥規範(2001) 的作者們都認為使用增進運動表現的物質不健康, 並且對其他運動員並不公平。反對此一立場的學者, 包含 Hoberman (1995), Miah (2005) 與 Tamburrini (2007) 駁斥這樣的限制, 即便有周延的計畫, 仍然是種無理的專制。然而, 兩個立場的擁護者都認為保持良好的健康以及避免傷害都是這項辯論主題的核心。由健康觀出發探討增能藥物的正當性, 在這項辯論陷入僵局時, 本研究探討無害的增進表現藥物的倫理議題。本研究首先假設未來將生產無害的增能藥物, 在這樣的情況下, 是否仍有充分的理由來禁止此項藥物。就此問題, 接著提出兩項論點以反對運動員使用增能藥物: 對於運動競賽的傷害以及失去由內在的善所獲得本質上的滿足。我認為, 不需提及增能藥物的健康損害副作用, 這兩點理由即足以維持對於此種藥物的禁令。

KEYWORDS Performance-enhancing drugs; doping; anti-doping bans

Introduction

Throughout our literature, when debating the merits of performance-enhancing drug use in sports, philosophers typically address the issue of the substance's health-related harms to athletes (Brown 1984; Hoberman 1995; Miah 2005; Simon 2004).¹ Authors supporting the bans on drugs, such as Simon (2007; 2004) and Loland (2002), as well as the authors of the World Anti-Doping Code (2001), argue that using performance-enhancing substances is unhealthy for athletes and unfairly coercive for other athletes who would prefer not to adopt such high-risk practices. Critics of anti-doping bans such as Hoberman (1995), Miah (2005) and Tamburrini (2007) are quick to argue that such prohibitions, even though well-intended, most likely constitute an unjustifiable form of paternalism. They also suggest that coercive influences are commonplace in virtually any high-achieving society, thereby casting doubt on the claim that one athlete's use of performance enhancers unfairly coerces other athletes into taking undesirable risks. They go on to remind us that athletes commonly choose to risk their health, even though such decisions may carry negative short- or long-term consequences.

Although we often view these positions as directly opposing one another, they are actually similar in one important respect. Advocates for both of these positions assume that preserving good health and, conversely, avoiding health-related harms, lie at the centre of the debate. These assertions may be warranted given the nature of the drugs historically used to enhance performance.² Nonetheless, it has deflected attention from other fundamental issues regarding performance enhancement in a number of ways. First, it has grounded the discussion in several contingencies. Rather than primarily addressing philosophical issues, some have chosen instead to debate the harm principle. Articulated by Simon, the harm principle presupposes that using performance-enhancing substances carries both inherent and unreasonable risks of

harm to athletes' physical health and that rules should prohibit using these drugs in order to protect the athlete from what constitutes excessive physical harm (Simon 2004, 78). However, hindered by a lack of conclusive scientific findings on the health effects of common performance-enhancing drugs, this argument has proved less than convincing.

The inconclusive nature of the health arguments has effectively hijacked both sides by mutual uncertainty. Neither side seems able to present definitive health arguments that would settle the issue. For this reason, some philosophers such as Simon and Tamburrini as well as the World Anti-Doping Agency have pointed out that perhaps drugs simply contradict the nature or the spirit of sport (Simon 2004; Tamburrini 2000; WADA 2001). This argument has been refuted by Miah who simply points out that the essence or spirit of sport is difficult to define and that often we find irresolvable conflicting views regarding this spirit (Miah 2004, 26–7). On the other hand, those continuing to debate the issues of health ignore the possibility – perhaps even the likelihood – that science will develop relatively harm-free pharmaceuticals in the future. As physiologists better understand the human body, it is not difficult to imagine a time when a scientist will develop a way for athletes to pharmacologically boost performance without undue health risks. Moreover, the sporting world appears ready and willing to utilise such a technological advance in its pursuit of the ultimate in human performance. The fact that new harm-free performance enhancers that dramatically improve an athlete's performance may soon become a reality shows there is good reason to explore the ethics of using such a substance. Additionally, the likely availability of such a harm-free pharmaceutical substance suggests that philosophers focusing only on health issues may cease to be relevant to the future debate over performance enhancement in sport.

Even without using the health argument, philosophical grounds still exist for the prohibition of certain performance-enhancing substances.³ To show this, I present two non-harm arguments against pharmaceutical performance enhancement. I first argue that when viewing the effects of pharmaceutical performance enhancement on sporting tests and contests, we can see unnecessary threats to three important qualities of sport: suitability, durability and continuity. Second, using safe performance-enhancing drugs potentially risks certain internal goods of many sports. Although neither of these arguments show pharmaceutical performance enhancers will *necessarily* harm a sport, it is the risk of damaging these two aspects of a sport that provides sufficient grounds for continuing to prohibit performance-enhancing substances in sport.⁴

Damage to the Testing and Contesting of Sport

An athlete's increased physiological performance caused by current drugs or possibly more powerful drugs in the future threatens that have the potential to damage the tests and contests of a variety of sports. Confirming popular belief, scientific meta-analyses of studies on performance-enhancing drugs indicate that elite athletes who use these drugs show measurable improvement in their performance (Gaudard *et al.* 2003). Having set aside the issue of health, I will argue that permitting pharmaceutical performance enhancers facilitates significant improvements that threaten the well-designed tests of numerous sports.

Typically, each well-designed sporting test has three qualities that make them appealing: suitability, durability and continuity. The suitability of a test is both its suitability for human physiology as well as its suitability for the culture in which it is played. Durability, on the other hand, is a test's ability to provide lasting challenges over time. A test's continuity is its ability to provide a meaningful comparability with other participants in the test as well as with one's own performance in the test over time.

Introducing performance-enhancing drugs into sports risks – but does not guarantee – upsetting the fragile balance of ideal tests by potentially altering a test's suitability, durability or continuity. Although these drugs may possibly improve the suitability of the test, given the risks to sports that are already suitable, we ought to err on the side of caution and prohibit the use of pharmaceutical performance enhancers in sport.⁵ I suggest this caution since good sporting tests are fragile and difficult to develop. Altering a sport's rules even slightly may upset the balance between the means and the ends of a test. In his work *The Grasshopper*, Suits describes the difficult process of balancing the means and the ends so as to create 'just right' tests (Suits 2005). He points out that although game rules function to rule out the simplest, easiest and most direct means for achieving a goal of a game, 'it is not uncommon for players of a new and difficult game to agree among themselves to "ease up" on the rules', or if they prove too easy, players 'may choose to tighten up the rules, that is to heighten the difficulties they are required to overcome' (ibid., 52). Arguing from an anthropological point of view, Kretchmar believes that 'if [games] are too physically demanding or do too little to test our physicality ... we change them' (Kretchmar 2005, 188). However, changing the rules of the sport can also upset its balance of difficulty. If we alter the rules of these tests, we may discover that they are no longer suitable.

Altering the rules to allow pharmaceutical drugs risks use risks damaging established tests by affecting the test's cultural suitability. Concerns over the cultural suitability of sports stem from the fact that sports are always played within a culture. The nature of sporting tests is that they fit into the cultures that play them. Kretchmar argues that 'we have a wide variety of games in our various cultures that speak to people with different levels of maturity and skill, and with very different interests, tastes, and backgrounds' (ibid., 188).

The sport of baseball exemplifies this point. A game developed in the 1860s, baseball paralleled the traditional American values of both individual agency, as the sport pitted the lone batter against the single pitcher, as well as cooperative agency, as a team would work together to advance runners and score runs or prevent runners from scoring. Although popular in the United States, other cultures have not embraced the sport. In Britain and throughout its former empire, cricket remains the sport *de rigueur*.

Performance-enhancing drugs can potentially alter a sport by changing its test so much that it is no longer well-suited for its culture. Although today's drugs may not dramatically alter all sports to significant degrees, Michael Sandel points out that using enhancement technologies 'run[s] the risk of transforming [sports] into something else – less like a sport and more like a spectacle' (Sandel 2007, 36). If a sport changes in that way, there is no guarantee that a culture will continue to find the sport meaningful. In the case of baseball, when combined with good technique, the increased strength of players clearly aids their ability to hit the ball farther. Once enhanced baseball players reach the point where they consistently hit the ball out of the park for a home run, the game would

change from a sport of tactic and skill to a home run derby between the pitcher and batter. This change alters the characteristics of the test that had previously been culturally suitable. In this instance, performance-enhancing drugs, Sandel argues, harm the suitability of a sport since a game played by enhanced athletes 'might be amusing for a time, but it would lack the human drama and complexity of baseball, in which even the greatest hitters fail more often than they succeed' (ibid.).

Moreover, introducing these drugs into baseball illustrates these drugs' likely harm to a sport's continuity. The performance of enhanced athletes will likely prove incomparable with past performances. The ability to compare athlete's records and performances is an important part of a sport's culture and a source of meaning. Given the challenges in preserving the cultural 'fit' of such desirable sports, many sports often limit new technology – as was the case with polyurethane swimsuits – that enhance performance. In the same way that sports prohibit new technology that harms a sport's continuity, it makes sense to also prohibit safe performance-enhancing drugs if they risk transforming a sport so that it no longer has the same continuity.

On the other hand, the challenges of good sporting tests also prove suitable for human anatomy and physiology. A widespread improvement by athletes in a sport could potentially diminish the physical challenges of a test. According to sports statistician Ray Stefani, these improvements depend on a combination of four factors: enhanced physiology, innovations in technique, better coaching and improved equipment or new technology (Branch 2009). Thus a test's challenges may become easier as athletes' fitness improves, new techniques are invented (such as the Fosbury flop in high jumping or the jump shot in basketball), coaches develop better pedagogy and strategy, or new equipment (such as faster swimsuits, square grooved golf clubs or carbon-fibre bikes) is adopted. These types of changes in a sport are commonplace. However, it does not mean that they are always readily accepted. Often a sport reviews the new technology to see if it changes the test of the sport in undesirable ways. Although a sport may allow such changes, it also may be the case that it judges such advances 'too good'. An example may be the oversized sidecuts introduced by ski manufacturers in the 1990s which made the challenges of ski racing too easy by overcompensating for the poor technique of lesser ski racers.

In the case of pharmaceutical performance enhancement, the enhanced physiology of an athlete using performance-enhancing drugs risks upsetting the suitability of a test by improving an athlete's physiological abilities. This improvement may mean that the test no longer provides the same type of challenge. Across a wide variety of sports, the venue where the sporting test takes place may no longer fit athletes' new-found physical capabilities. Enhanced nordic ski jumpers may find their hills are too short, while enhanced marathon runners are no longer challenged by such seemingly short distances. Since many people find meaning in the continuity of competing in hallowed venues such as Wimbledon or Fenway Park, it does not seem desirable to abandon these 'play grounds' just so athletes can use performance-enhancing drugs. Thus new innovations that improve athletes' performances (which include such things as performance-enhancing drugs, faster skis, better golf clubs etc.) should not be so effective that a test's challenge is no longer suitable. Given that good sporting tests are both fragile and difficult to develop, it does not make sense to unnecessarily risk damaging the suitability of a good test by introducing performance-enhancing drugs. If these sports work without these drugs and

introducing these drugs may harm the sport, then the risk of damaging good sports merits the drugs' continued prohibition.

Since many of the challenges provided by sport rely on the traditional physiological limits of human beings, it makes sense to limit the degree that an athlete's physiology can be altered. If sporting tests prove too easy, then the desire to play the sport may diminish. However, a possible solution to easier tests is modifying the rules to preserve the challenges of the sporting tests. In the instances where physiological performance is improved drastically enough to harm the suitability of a sport's test, some may argue that simply increasing the challenges offered by the test will compensate for any decrease in the test's integrity caused by performance-enhancing drugs. Others could also argue that we could create new sporting tests that are well-suited for pharmaceutically enhanced humans. Both of these arguments point to the belief that we could preserve a test's physiological suitability and allow performance-enhancing drug use. However, neither of these two options actually presents viable alternatives.

Although the 'enhanced' test may fit with the 'enhanced' athlete, it may now no longer fit with unenhanced athletes. The solution to make tests more difficult would only undermine their suitability for the standard population. Currently, it appears to be the case that even if various sports allowed athletes to use performance-enhancing drugs, only a small percentage of athletes would (or could) ever use them.⁶ Thus, enhanced venues could prove too challenging for the majority of a sport's athletes and they would be unable to play in the 'enhanced' venues. The unenhanced athletes would require their own separate set of venues, resulting in a creation of two tiers of competitors and the need to maintain two separate sets of facilities. Few communities could likely support these multiple venues that cater to two different (and smaller) sets of athletes. The creation of multiple venues would most likely not prove feasible and thus is not a suitable solution for the choice to allow performance-enhancing drugs.

In addition, sport tests that can only be overcome by using performance-enhancing drugs would not likely prove lasting or meaningful over time. As argued previously, our well-designed tests are both fragile and difficult to create. Altering a sport's challenges risks diminishing its durability. For example, if the sport of baseball moved its home run walls farther back to adjust to baseball players hitting the ball farther, one may say the valued aspects of the test are preserved since the challenge of hitting a home run remains intact. But these adjustments cause unintended harm to the sport's durability by creating challenges too difficult for unenhanced players who would need to use performance-enhancing drugs just to handle the increased challenge of the test.

This 'solution' would have unintended negative consequences for the sport. New sports that meet the needs of the enhanced athletes would likely have little appeal for the unenhanced. These new sports would more than likely not be sports played by the majority of the unenhanced and would appeal only to the enhanced athletes.⁷ Perhaps one may assume that these 'sports' would prove to be entertaining, yet the entertainment value of a sport should not outweigh its playability. Unlike football, basketball, track and field or wrestling, the fact that only enhanced athletes participate in the enhanced test makes it unlikely that these sports would prove as durable as the sports we have today. The fact that so many play sports such as football or cricket indicates that they already have durability. Rather than establishing enhanced tests, it appears far more desirable to avoid the risk and continue the current prohibitions against performance enhancement.

Additionally, the 'solutions' to the introduction of performance-enhancing drugs threaten the continuity of a sport. The continuity of sport is what establishes its test's comparability. Good comparability means that one can measure one's performance against prior performances or against the performance of others. Moreover, comparability also generates meaning when assessing the performances of elite athletes from different eras.

As Simon points out, it is important that we compare our results to others. In his story about the free-throw shooter isolated on the island, his ability to make five shots out of ten may be impressive to the other islanders, but is less impressive when compared to the performances of shooters from around the globe (Simon 2004, 29). Simon's example illustrates that 'what counts as a significant achievement requires reference to the performance of others' (ibid.). But when the continuity of a test is broken, comparing results with past performances diminishes in meaning. The introduction of performance-enhancing drugs threatens the continuity of the test by providing athletes with such distinct advantages that one cannot find meaning when one compares their 'enhanced' results with their prior performances. Additionally, the results of non-enhanced athletes are not truly comparable with the results of the enhanced performances. Once a sport allows performance-enhancing substances, the drugs diminish the continuity of the test thus diminishing the comparability of the results.

Additionally, when one considers the possibility of both current and future drugs, we may discover the improvements attained by pharmaceutical performance enhancers are drastic enough that the sport becomes irreparably too easy. Yet increasing a sport's challenges or creating new tests that offer better challenges for the enhanced athletes does not resolve the problem since it sacrifices continuity with previous tests. Increasing the challenges for enhanced athletes would make it meaningless to compare their enhanced performances with their prior ones. Additionally, we could not compare the results of athletes performing in non-enhanced venues with the athletes performing in enhanced ones.

Creating new sports just for enhanced athletes also poses problems. Although these new sports would have comparability, the comparability exists only among the few athletes playing the sport. There would be no way for these athletes to measure their improvements except within the few short years that they were enhanced and playing this sport. Such comparisons do not seem as durable as the comparisons that exist currently in sports.

Due to the potential damages caused by the introduction of performance-enhancing drugs, it appears unwarranted to accept the possible risk created by their use. As I have argued, the introduction of pharmaceutical performance enhancers risks ruining the suitability, durability and continuity of a test. Although the use of such drugs may enhance the test in some ways, these improvements do not seem to outweigh the risks of damaging our fragile, established tests. When considering the damages to the test, it makes more sense to err on the side of caution and continue prohibiting their use regardless of their affects on athletes' health.

Loss of Internal Goods

While using performance enhancers may harm the physical aspects of a sporting test, they may also threaten many of the intrinsically valuable internal goods found within

sport. As I will argue, introducing pharmaceutical performance enhancers into a sport risks damaging that sport's internal goods. I apply MacIntyre's understanding of internal goods to athletics and show that introducing performance-enhancing drugs might harm the sport by removing certain internal goods that are intrinsically valuable (MacIntyre 2007). I believe that even without the issue of harm, preserving a sport's internal goods offers a second compelling argument against performance-enhancing drugs in sports.

In his seminal work *After Virtue*, Alasdair MacIntyre explains that internal goods are activity-specific goods gained only by actually participating in the designated activity. Using the example of chess, MacIntyre believes that we 'can only specify [internal goods] in terms of chess or some other game of that specific kind and by means of examples from such games' (ibid., 188). In the practice of athletics, internal goods are only understood within the shared context of a specific sport or within the context of sport in general.⁸ MacIntyre's second insight regarding internal goods explains that 'they can only be identified and recognised by the experience of participating in the practice in question' (ibid.). So not only do we understand these goods *only* within a specific context, but it is only within that context that we experience these internal goods.

MacIntyre believes that we only come to realise internal goods by accepting the rules of a practice since 'we cannot be initiated into a practice without accepting the authority of the best standards realised so far' (ibid., 190). Now this argument could be read as saying that athletes must follow the rules against performance enhancement in sport so as to attain its internal goods. However, this line of reasoning presupposes that using performance-enhancing drugs is against the rules of competition. It is this line of reasoning I am directly trying to avoid since it presupposes that drug use is wrong. Even if it is currently against the standards of the practice that provide the internal goods, these 'standards are not themselves immune from criticism' (ibid.). I am asking what reasons exist to justify the rules against performance-enhancing drugs without presupposing drugs are harmful. Considering that WADA cites harm to the athlete as its primary justification for the prohibition of pharmaceutical performance enhancers, if harm is no longer an issue, what is left to justify the standards that athletes must observe in order to attain the internal goods of a test (WADA 2008)?

One such argument is that using performance-enhancing drugs may alter the way athletes train, compete and even view their sport. In other words, it fundamentally may change the 'life of the athlete'. And it is in living the life of an athlete that one finds these internal goods. 'For what the artist discovers within the pursuit of excellence in portrait painting,' MacIntyre explains, 'is the good of a certain kind of life' (MacIntyre 2007, 190). If it is 'the painter's living out of a greater or lesser part of his or her life *as a painter*' that provides certain internal goods, then clearly the same is true for athletics (ibid.). As it stands now, athletes uncover many internal goods in the pursuit of their craft. Adding performance-enhancing drugs to the equation may risk upsetting this lifestyle. I will concede that there is a chance that performance-enhancing drugs could make training more rewarding, but this is far from certain. It seems equally likely that the drugs may provide short cuts, make training less relevant or change the nature of training in negative ways. Without overwhelmingly good reasons to introduce pharmaceutical performance enhancers, there is no reason to risk losing the intrinsically valuable internal goods found within living the life of the athlete.

The introduction of pharmaceutical enhancers into sport may also refocus the athlete towards the attainment of external goods. MacIntyre identifies external goods as 'contingently attached ... [to practices] by the accidents of social circumstance' (ibid., 188). Moreover, one can gain these external goods through many different practices that are often of extrinsic value such as money, power or fame. However, sport is an activity that places a high premium on intrinsic value.⁹ Additionally, it is often the case that athletes uncover intrinsically valuable aspects of a sport by attaining its internal goods. But does it really matter if sport focuses on intrinsically valuable internal goods or extrinsically valuable external goods?

It certainly does. Sport does not make sense unless it is a practice focused towards intrinsic ends. Activities oriented towards extrinsic ends, such as building a house, Morgan argues, 'are, and can't help being separate from the means used to achieve them', since 'valuing the ends of such activities does not entail valuing the means used to achieve them' (Morgan 2008, 134). Using Morgan's example of a home builder, Morgan believes that one wishing to build a house in order to create shelter would not limit himself to inefficient means such as handsaws and screwdrivers. Instead, the home builder would employ the most efficient means, such as a table saw or a power drill, in order to reach his desired ends as efficiently as possible. The home builder does not value the means used to obtain the ends. Those seeking extrinsic goods concern themselves only with the utility of the means and are not concerned with the means being the source of any internal satisfaction. 'The reason value so easily and one-sidedly bifurcates in this way,' Morgan explains, 'is that the means of these activities are not, and cannot be, incorporated into their ends without undermining their instrumental payoff' (ibid.). Thus, using performance-enhancing drugs likely 'undermines the payoff' because it places a higher value on the ends of an activity and not on the means used for achieving those ends.

By shifting an athlete's focus towards the ends of an activity and not the means, we lessen the possibility of the athlete ever actually *playing* the sport. In sports, the gratuitous nature of the lusory goal indicates that the ends are inherently intrinsic in the activity. Rather than the activity of home building, in games, 'one can't value their ends without valuing their means, since in valuing the former they are at one and the same time valuing the latter' (ibid., 134). Athletes who use pharmaceutical performance-enhancing drugs only with the specific aim of achieving the extrinsic rewards of sport illustrate a view of sports that places little or no value on the means of obtaining that end. Without valuing the means, there would be little reason for athletes to obey the rules that stipulate inefficient means or create artificial barriers. More clearly, even if athletes 'agreed' to the rules of the contest which delineate the inefficiencies, they would only follow the rules in only so far as it improved their chances of gaining the external goods.

If the former was the case, it is likely that athletes who only sought extrinsic ends would happily enact a charade in order to give the illusion that they were playing the game. Cheating would simply be a risk/reward analysis since there would be nothing that compelled the athlete to engage in the test's challenges, much as there is nothing that compels a home builder to limit himself to only using a hammer and nails. Yet cheating, MacIntyre argues, 'bars us from achieving the standards of excellence or the goods internal to the practice' – so much so 'that it renders the practice pointless except as a device for achieving external goods' (MacIntyre 2007, 191). We do not want sport to just

be a practice for achieving external goods. Morgan confirms this sentiment by noting that a golfer who 'resorts to means other than ... strokes to try to accomplish this end, by virtue of using these alternative means, is prevented from accomplishing it – which is just another way of saying that one is no longer playing golf' (Morgan 2008, 136). The same is true for athletes using performance-enhancing drugs to accomplish an end with no regard for the means. In this way, an athlete using pharmaceutical performance enhancers only for extrinsic rewards precludes the athlete from playing the game. Such a risk, which seriously undermines the nature of sport, constitutes a defensible reason for prohibiting their use.

However, there is another way that the use of performance enhancers threatens the internal goods of sport. Performance enhancers can potentially remove many challenges from sport. Overcoming these artificially meaningful challenges is one source of practice-specific internal goods. The challenges harmed could range anywhere from providing short cuts in training to making the sporting tests less challenging. In effect, the removal of certain challenges removes the possibility of obtaining the internal goods achieved through meeting and triumphing over these challenges. Lessening the challenges by using pharmaceutical performance enhancement may diminish a sport's internal goods or make them altogether unobtainable. Thus performance enhancers threaten internal goods in the only area in which these goods are obtainable.

Some may conclude, however, arguing for the preservation of internal goods in sport equates to arguing for WADA's philosophically untenable 'spirit of sport' listed in its code (WADA 2008).¹⁰ At first glance, there appear to be many similarities between my argument for internal goods and WADA's argument for the 'spirit of sport'. This would make both arguments susceptible to the same criticism. However, the 'goods' cited in WADA's 'spirit of sport' are not characteristics unique to sport. They are goods found in many endeavours. Internal goods, however, are goods attainable only through participating in a specific activity. Now McNamee has successfully argued that many internal goods of sport exist in other practices (1995, 74). That does not necessarily preclude the fact that there exist certain goods that specific only to a particular sport or to sport in general. We know that characteristics in WADA's 'spirit of sport', such as courage and hard work, are relevant to sport, but these are not internal goods to sport. Rather they are goods traditionally associated with sport. However, the feeling of out-sprinting the field in a bike race or striking a game-winning goal in a football match can only be found in the sports in which they exist. WADA's position regarding the 'spirit of sport' does not state anything that resembles internal goods. My argument for internal goods only defends that which is unique to the practice of sport, not those values traditionally associated with sport. Thus the criticisms such as Simon's mounted against the 'spirit of sport' argument do not apply to my argument for the preservation of internal goods (Simon 2004, 85).

The people who appreciate the internal goods of sport would likely see an increased emphasis on external goods as undesirable. As I have shown, introducing performance-enhancing drugs threatens to make external goods the focus of sport. When the use of technology, such as harm-free pharmaceutical performance enhancers, shifts an athlete away from valuing the means of the test and thus the source of its internal goods, the arbiters of sport knowledgeable about the internal goods of sport may choose to prohibit new technologies that appear designed only for the attainment of its extrinsically valuable external goods. In the case of pharmaceutical

performance-enhancing drugs, it appears that their ends do not enhance the internal goods of the test but may orient athletes towards the external goods. Therefore, if the use of pharmaceutical performance enhancers is for the attainment of external goods, then it appears that experts knowledgeable in a sport's goods may justifiably elect to prohibit their use in order to preserve its intrinsically valued internal goods.

Conclusion

The issue at hand is the status of the health argument in the justification of current bans on performance-enhancing drugs. I have entertained the possibility of safe pharmaceutical performance enhancers that would remove the issue of health from the debate. These arguments, however, do not apply to just hypothetical pharmaceutical enhancers but to the drugs currently used by athletes as well as the rapidly emerging field of performance-enhancing genetic modifications. Although neither of the two arguments I presented ends the debate over pharmaceutical performance enhancement, together these arguments help justify the current bans that exist in sport. More importantly, they show that arguments against the use of performance-enhancing drugs exist that do not presuppose the harmful effects of performance-enhancing drugs.

With the harm principle set aside, I argued that we are more clearly able to view the fundamental philosophical issues at stake in the performance-enhancement debate. However, this debate is only growing more complex. New technologies, methods and substances are all being created with the potential to improve performance in a multitude of ways. The future debates over performance enhancement, however, need to address more lasting and fundamental issues in sport. By moving away from the contingent arguments over the negative health effects of steroids, amphetamines and EPO and towards more philosophical arguments for banning pharmaceutical performance enhancers, sport governing bodies can create a framework for anti-doping policies that do not depend on the philosophically questionable harm principle. In the future, arguments aimed at the defence of the fundamental nature of sports should take precedence over arguments that address concerns over the negative health effects of pharmaceutical performance enhancers.

I have presented what I believe to be the most compelling arguments that justify the prohibition of pharmaceutical performance enhancers in sport without appealing to the harm principle. Exploring the issue of performance enhancement without the assumption of negative health effects shows that the debate over the ethics of pharmaceutical performance enhancement should include a discussion of the fundamental qualities of sport and the importance of their preservation. In the future, sport ethicists must move away from the principle of harm as *the* case for banning performance-enhancing drugs. While either the introduction of safe pharmaceutical performance enhancers or the philosophical arguments of unjustifiable paternalism may nullify the persuasiveness of the harm principle, my arguments show that the use of pharmaceutical performance enhancers in sport unnecessarily risks upsetting the balance of our established sporting tests and the internal goods that they contain. Thus, even in the absence of health concerns, prohibitions of pharmaceutical performance enhancers from sports are ethically justifiable.

NOTES

1. Central to this paper is the distinction between doping and performance enhancement. While often conflated, this paper is not addressing the issue regarding doping in sport, which is the practice of using specific prohibited substances and methods for improved performance. Rather, this paper explores the ethical issues of allowing the use of pharmaceutical performance enhancers by athletes. While many pharmaceutical performance enhancers such as steroids and EPO (erythropoietin) are currently considered doping by many sporting governing bodies, the term doping as it is currently used refers to a practice embedded within a large social context. Furthermore, since doping is, by definition, against the rules, sport philosophers struggle to untangle the inherent ethical problems of performance enhancement from the problems that arise from doping, which include cheating, deception and accepted social values. Rather than exploring the issue of doping, this paper explores only the ethical arguments regarding the use of pharmaceutical substances to enhance an athlete's performance in sport.
2. Although inconclusive, scientific evidence indicates both steroids and erythropoietin can be harmful to athletes if used at certain levels.
3. I define pharmaceutical enhancement as the use of any controlled substance whose use enhances performance and is not needed to address an athlete's medical condition.
4. While both genetic enhancement and non-pharmaceutical performance-enhancing methods are important issues under the topic of performance enhancement, I am limiting my subject only to the use of harm-free pharmaceutical interventions. However, as I will argue later, my conclusions could be used to address both new technological advances in performance enhancement such as genetic and harm-free pharmaceutical enhancement.
5. While an argument for preserving the test sounds at first a resurrection of formalism, this is not the route I am suggesting. In the tradition of broad internalism provided by Simon (2004) and Russell (1999), I rely on a broader understanding of sport where the tests can change while the excellences deemed central to the test are preserved. I hold that tests can be altered, but the alterations should not corrupt the excellences the sport intends to test.
6. I will admit that this belief is a bias on my part and that I have found no empirical data to either confirm or deny this position. It does however seem the most believable given the various factors in surrounding their use.
7. This references the previous belief that the majority of athletes would not take performance-enhancing drugs or would not have access to them.
8. There is some debate as to the specificity of internal goods (see McNamee 1995). Some internal goods may be specific to a single sport, like the feeling of hitting a home run in a World Series, but some internal goods may apply to the practice of sport as a whole, such as triumph over an opponent in a shared contest. MacIntyre indicates that football has its own internal goods, but as McNamee points out, many of these goods are not specific *just* to football (MacIntyre 2007, 187; McNamee 1995, 79). Rather they are part of sports in general. I agree that both exist. When important, I will make clear when I am referring to sport-specific internal goods or to goods internal to sport in general. Otherwise, I will use the term internal goods inclusively to indicate both kinds.

9. I do concede that some elite athletes place less emphasis on the intrinsic value of sport than do athletes at other levels. However, this level of sport is only a small percentage of all sport. It is also likely the case that many athletes even at the elite level still place a high degree of emphasis on the intrinsically valuable aspects of sport.
10. Some examples of the characteristics of WADA's 'spirit of sport' are ethics, fair play, honesty, health, excellence in performance, character and education, fun and joy, teamwork, dedication and commitment, respect for rules and laws, respect for self and other participants, courage, community and solidarity (2008).

ACKNOWLEDGEMENTS

I would like to thank Dr Scott Kretchmar for his help on numerous revisions and input, the journal's editor Mike McNamee for his patience in helping revise this article, and also the anonymous reviewers for their valuable input.

REFERENCES

- BRANCH, J. 2009. For free throws, fifty years of practice is no help. *New York Times*, 3 March 2009. Available at <http://www.nytimes.com/2009/03/04/sports/basketball/04freethrow.html?scp=1&sq=free%20throws%20percentage&st=cse>, accessed 9 May 2009.
- BROWN, W. 1984. Paternalism, drugs and the nature of sport. *The Journal of the Philosophy of Sport* 11: 14–22.
- GAUDARD, A, E VARLET-MARIE, F BRESSOLLE and M AUDRAN. 2003. Drugs for increasing oxygen transport and their potential use in doping: A review. *The Journal of Sports Medicine* 33 (3): 187–212.
- HOBERMAN, J. 1992. *Mortal engines: The science of performance and the dehumanization of sport*. New York: The Free Press.
- HOBERMAN, J. 1995. Listening to steroids. *Wilson Quarterly* (Winter): 35–44.
- HOBERMAN, J. 2005. *Testosterone dreams: Rejuvenation, aphrodisia, doping*. Los Angeles, CA: University of California Press.
- KRETCHMAR, R. 2005. Why do we care so much about mere games? (And is this ethically defensible?) *Quest* 57: 181–91.
- LAVIN, M. 1987. Sports and drugs: Are the current bans justified? *The Journal of the Philosophy of Sport* 14: 34–43.
- LOLAND, S. 2002. *Fair play in sport: A moral norm system*. New York: Routledge.
- MCNAMEE, M. 1995. Sporting practices, institutions, and virtues: A critique and a restatement. *The Journal of the Philosophy of Sport* 22: 61–82.
- MACINTYRE, A. 2007. *After virtue: A study in moral theory*, 3rd edn. South Bend, IN: University of Notre Dame Press.
- MIAH, A. 2004. *Genetically modified athletes: Biomedical ethics, gene doping and sport*. New York: Routledge.
- MIAH, A, B. KAYSER and A. MAURON. 2005. Legalization of performance-enhancing drugs. *Lancet* 521.
- MORGAN, W. 2008. Some further words on Suits on play. *The Journal of the Philosophy of Sport* 35 (2): 120–41.
- RUSSELL, J. 1999. Are rules all an umpire has to work with? *The Journal of the Philosophy of Sport* 26: 27–49.

- SANDEL, M. 2007. *The case against perfection*. Cambridge, MA: The Belknap Press of Harvard University.
- SIMON, R. 2004. *Fair play: Sports, value and society*, 2nd edn. Boulder, CO: Westview Press.
- SIMON, R. 2007. Good competition and drug-enhanced performance. In *Ethics in Sport*, 2nd edn, edited by William Morgan. Champaign, IL: Human Kinetics: 245–52.
- SUITS, BERNARD. 2005. *The grasshopper: Games, life and utopia*. Peterborough, ON: Broadview Press.
- TAMBURRINI, CLAUDIO. 2000. What's wrong with doping? In *Values in sport: Elitism, nationalism, gender equality, and the scientific manufacture of winners*, edited by T. Tannsjo and C. Tamburrini. London: E and FN Spon: 200–16.
- TAMBURRINI, CLAUDIO. 2007. Are doping sanctions justified? A moral relativist view. In *Doping in sport: Global ethical issues*, edited by Angela Schneider and Fan Hong. New York: Routledge: 23–5.
- WADA (WORLD ANTI-DOPING AGENCY). 2001. World anti-doping code. Available at <http://www.wada-ama.org/en/dynamic.ch2?pageCategory.id=250>, accessed 17 July 2008.

John Gleaves, Department of Kinesiology, Penn State University, 266 Rec Hall, State College, PA 16803, USA. E-mail: jtg192@psu.edu