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**Journal Title:** Sport, ethics and philosophy

**ISSN:** 1751-1321



**Volume: Issue:**

**Month/Year: 2014Pages:**

doi:10.1080/17511321.2014.9084

**Article Author:** John Gleaves, Matthew Llewellyn,  
and Tim Lehrbach

**Article Title:** Before the Rules are Written:  
Navigating Moral Ambiguity in Performance  
Enhancement

**Imprint:**

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Publisher: Routledge

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## Sport, Ethics and Philosophy

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/rsep20>

### Before the rules are written: navigating moral ambiguity in performance enhancement

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Published online: 17 Apr 2014.

To cite this article: John Gleaves, Matthew P. Llewellyn & Tim Lehrbach (2014): Before the rules are written: navigating moral ambiguity in performance enhancement, Sport, Ethics and Philosophy, DOI: [10.1080/17511321.2014.908410](https://doi.org/10.1080/17511321.2014.908410)

To link to this article: <http://dx.doi.org/10.1080/17511321.2014.908410>

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# BEFORE THE RULES ARE WRITTEN: NAVIGATING MORAL AMBIGUITY IN PERFORMANCE ENHANCEMENT

**John Gleaves, Matthew P. Llewellyn and Tim Lehrbach**

*In 1984, a number of US cyclists used blood transfusions to boost their performance at the Los Angeles Olympic Games. The cyclists broke no rules and dominated the Games, yet were later maligned as cheaters and dopers—they had, it seemed, violated some important norm, albeit one which was neither an official rule nor otherwise easily identifiable. Their case illustrates the moral ambiguity that arises when a performance enhancement is employed in a sport that has not addressed it. This article takes up the crucial question posed by such moral ambiguity: is it ethical to enhance performance through a substance or technology when no rules exist to prohibit it? We first examine ordinary ethical obligations that athletes carry based on their status as moral agents. We conclude that such obligations provide some guidance, but cannot resolve the issue. We then examine arguments that take sport as a unique social practice that presents its own moral obligation not to use performance enhancers. We argue that these ‘spirit of sport’ arguments, developed by McNamee and Loland and Hoppeler cannot resolve the issue either. We conclude that when the rules governing sport are silent on the issue of performance enhancement the constraints on its ethical use are limited at best.*

**KEYWORDS** doping; spirit of sport; ethical obligation

As far as my sense of morals goes, he is cheating ... For me there are no gray areas in sport, only ruthless training. Sport has to be a natural activity, without artificial methods.’ Norwegian 800 meter champion Vebjørn Rodal criticizing his countryman, skier Bjørn Daehlie for using an oxygen tent. (Møller 2010, 109)

I’ve come up with a set of rules that describe our reactions to technologies:

1. Anything that is in the world when you’re born is normal and ordinary and is just a natural part of the way the world works.
2. Anything that’s invented between when you’re fifteen and thirty-five is new and exciting and revolutionary and you can probably get a career in it.

3. Anything invented after you're thirty-five is against the natural order of things (Douglas Adams).

## Introduction

In July of 1984, members of the United States Olympic cycling team faced a tough decision. One of the coaches, physiologist Ed Burke, approached the athletes about using blood transfusions to boost their performance at the upcoming Los Angeles Olympic Games. At the time, blood transfusions had not been banned by the International Olympic Committee or the Union Cycliste Internationale, despite sporting officials knowing about the procedure as early as 1976. Other cyclists, notably Francisco Moser, had used blood transfusions earlier in 1984 to set the 'world hour record.' The US athletes split on the decision to use blood transfusions. Some did and others did not, but on the whole the US cycling team dominated the Olympic events, winning nine medals in total. Later, when news of the blood transfusions became public—though it was never a secret—the athletes were maligned as cheats and dopers in articles ranging from *Sports Illustrated* to *Rolling Stone Magazine*. The cyclists who did use transfusions did not break any rules, yet they were made to feel shame for having won medals tainted by their apparent violation of some uncertain ethical norm.

This situation illustrates an extreme case of moral ambiguity regarding performance enhancement. However, it is far from the only case. Despite the World Anti-Doping Agency's (WADA) effort to clarify anti-doping rules, athletes face varying shades of ethical gray when considering the means they employ to enhance their performance. Recent confessions by Tyler Hamilton, David Millar, and scores of other cyclists revealed that cycling had a pervasive culture that not only tolerated banned drug use but required the use of such substances to compete. At the same time, some athletes experience moral guilt over permitted methods of enhancements. Cyclist Christophe Basson refused to take iron injections or receive an intravenous saline drip, both practices well within the rules of the sport at the time. Norwegian cross-country skier Vebjørn Rodal asserted that oxygen tents, though allowed, violate the ethics of sport.

Doping scholarship has mostly overlooked these morally ambiguous gray areas athletes face. The focus has instead drifted towards defending or attacking the current doping bans or determining the appropriate policies for enforcing such bans. The assumption behind this research is that once the rules are in place—girded by their ethical justification—the matter is resolved for the athletes. Yet as Beamish and Ritchie noted, 'well-entrenched value positions and personal investments in these politically charged social practices overtly and covertly guide most work on drugs and sport' (2004, 355). Loland and Hoppeler have also reminded us that 'public and political consensus on anti-doping ... is no guarantee for a good justification' (2012, 348). More to the point, Beamish and Ritchie assert that 'ongoing legitimacy ultimately rests on policies that are internally consistent with a group or association's principles and the overt practices that stem from them' (Ritchie and Beamish 2004, 356).

Thus it is not enough to simply ban certain performance-enhancing substances and then condemn any athletes who transgress the rules; the rules prohibiting performance-enhancing substances and technologies must have some sort of justification behind them. Even more, what are we to conclude when athletes, such as those on the 1984 US cycling team, face decisions where the rules are of no help? If we overlook the

actual ethical choices athletes face, and instead focus only on policies of sporting organizations, we ignore an opportunity to defend and recommend concepts of right and wrong conduct that can have real impact for sports' most important stakeholders: the athletes. We must find some normative ideals that can help athletes navigate moral ambiguity and make correct moral judgments in cases where the rules cannot help.

Following, we will undertake just such a search for moral principles that the athletes could use when considering using performance enhancement. The answers will largely be negative: we conclude that a moral framework does not yet exist that is both internally consistent with sporting practices and able to either endorse or reject the use of performance enhancement. We will reach this conclusion by first arguing that sport does not yet have an internally consistent, practice-specific ethic. We will then argue that athletes' status as moral agents offers some general ethical considerations, but that they are of limited use. Next, we will argue that ethical arguments based on sport's status as a special social practice—the spirit-of-sport arguments—cannot be applied to situations where the rules are ambiguous and may in fact be fatally flawed. We will then conclude that even when the rules are not written some ordinary moral obligation exists that prevents athletes from introducing certain performance-enhancing substances, but that beyond ordinary moral considerations little has been said that can guide the ethics of performance enhancement.

### Source of Moral Ambiguity

Moral ambiguity in performance enhancement arises first when the sports' rules do not clearly articulate whether a performance enhancer, whether it be a substance, technique, tactic, or piece of technology is permissible. In the 1984 Olympic cycling example and other past cases as well as in possible future cases, the rules did not expressly forbid their use. Similarly, no rules existed before the advent of ultrafast skinsuits in swimming, clap skates in speed skating, oversized drivers in golf, or ski wax in skiing to instruct athletes on their permissibility.

Athletes want to perform better at their test. Other persons invested in sporting practices—coaches, physiologists, trainers, organization staff, etc.—likewise want athletes to perform their best and improve on their best. Experimenting with new enhancers is natural but often brings mixed results. In some cases, a sport will opt to ban an enhancer, as was the case with blood transfusions and skinsuits. In other cases, a sport will adopt the enhancer, as with clap skates and ski wax. So until the rules are written, the decision to adopt or decline a performance enhancer is left to the athletes', coaches', and trainers' sense of moral obligation. In the case of the 1984 blood transfusions, some of the team believed that using the technique was unethical. Others thought they could morally endorse their behavior.

Where sport's tendency is to pursue enhanced performance, the inevitable incidence of nonexistent rules (and the fact of frequently unenforced rules), and a sporting ethos sending mixed messages about doping or other enhancements converge, the question of how athletes ought to behave is frequently left unresolved by reference to the rules. What are athletes to do when opportunities for performance enhancement are morally ambiguous? In such cases, even sincere athletes may find the rules unclear and their ethical obligations uncertain. For this reason, we will attempt to sketch out the issues surrounding morally ambiguous performance enhancement.

## Ethical Arguments

As we have suggested, there are two ways to navigate such ambiguity. First, is there any general ethical approach that can help athletes identify the ethical good? Second, is there anything within sport that can or should guide athletes' decisions? Since ordinary ethical obligation would necessarily supersede any sporting obligation, let us examine the first question first.

While there is ample literature on this topic, we start with the basic premise that everything that is considered morally impermissible outside of sport would also be judged as morally impermissible inside of sport.<sup>1</sup> Athletes within the sporting realm are never exempt from any of the ordinary moral obligations that apply to them outside of the sporting realm. Yet, a common critique of this position holds that sport does in fact suspend ordinary moral obligations when it permits behavior we would ordinarily consider unethical, such as fighting in hockey or the entire sport of boxing. However, under the surface of such apparent unethical actions lays basic moral precepts that sanction their action, including respect for autonomy, consent, and the willingness to suspend and scrutinize actions which could not otherwise be morally endorsed. This is the moral justification behind boxing: if both players consent, it is a boxing match; if only one consents, it is a beating. Though consent alone does not necessarily make an action like boxing ethical, without consent from both participants, boxing could not be morally endorsed.

If we apply ordinary moral obligation to the case of blood transfusions at the 1984 Olympic Games, at least three ethical issues appear: (1) whether the procedure violates accepted notions of health, (2) whether the procedure meets basic requirements of consent, and (3) whether the procedure could still be endorsed if every athlete used it.

In the first case—the question of health—many scholars cite health as the chief justifying principle for banning performance-enhancing substances (Brown 2001; Lavin 1987; Simon 2010). Another camp asserts that health risks are irrelevant because people already accept risks in sport (Kayser, Mauron, and Miah 2005; Savulescu, Foddy, and Clayton 2004; Tamburrini 2000). Still others concede that health risks might exist but invoke John Stuart Mill's Harm Principle, which holds that a person can act as they wish even if it is not in their own interest so long as it does not harm others (Mill 2009, 10). Critics of this latter rationale assert that permitting the substances in question amounts to coercion, while defenders argue that such coercion is soft and in line with other accepted coercive norms like the health risks assumed through extreme training. At this point, the debate reaches a loggerhead, with philosophers split over whether health concerns really matter and whether respect for autonomy trumps potentially paternalistic concern for others' well-being.

However, Mill offers another way to approach debates concerning principles of harm and autonomy in conflict. In the same essay, *On Liberty*, where Mill developed his harm principle, he added another interesting layer on the ability to sell one's self into slavery or to commit suicide. In such instances, Mill argued that others can intervene if a person wishes to commit such actions because:

By selling himself for a slave, he abdicates his liberty; he forgoes any future use of it, beyond that single act. He therefore defeats, in his own case, the very purpose

which is the justification of allowing him to dispose of himself. He is no longer free; but is thenceforth in a position which has no longer the presumption in its favour, that would be afforded by his voluntarily remaining in it. The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom. (Mill 2009)

What can Mill's remarks tell us about sport? If a person can ethically prevent someone from acting in a way that prevents future freedom to act, we might extend this to consider lethal or highly risky behaviors in sport.

Admittedly, Mill's position does seem at odds with itself since Mill concedes that only an individual can really judge for themselves what is in their own best interest.<sup>2</sup> However, if we accept the principle of freedom that individuals are free to act only in ways that preserve their freedom to act, then we can begin to develop a case against highly risky and lethal activities, while still permitting behaviors that might be risky but are unlikely to limit freedom. If we grant that we have ethical grounds to prevent suicide, then we can easily infer that we can intervene in sports if a behavior will severely limit or even extinguish future freedom. For example, we can agree that it would be unjustifiably paternalistic to prevent people from skydiving (which obviously presents risk), but not overly paternalistic to prevent individuals from trying extreme no-parachute skydiving, even if it is a once-in-a-lifetime thrill. Moreover, we could also intervene if individuals wished to engage in Russian Roulette or other activities with high risk of significant harm. To engage in the latter two cases likely limits future freedom and thus runs contrary to any respect for the principle of freedom.

Returning to the health risks with performance-enhancing substances in particular, if the substance presents high risks that are also very likely, we could intervene on the grounds that rational autonomous individuals would find such actions unacceptable. People using substances that very likely limit future freedom would be acting in such a way that does not respect the principle of freedom. So this position might prevent athletes from ethically using an extremely dangerous performance-enhancing substance. However, with blood transfusions or any performance-enhancing substance, we must ask whether there is a high likelihood of harm. If there is, then we can intervene and ban its use.

Intervention in most cases seems unlikely because blood transfusions, along with anabolic-androgenic steroids and recombinant erythropoietin, are medically approved substances. Thus, it is hard to accept that performance-enhancing substances necessarily constitute a significant health risk. This is not to say that we think their use is absolutely safe. Rather, it is that these substances can be used to enhance performance within the same degree of risk usually deemed acceptable in not just sport but other areas of ordinary life.<sup>3</sup>

The obligation to preserve health is not enough to justify a wholesale ban on all performance-enhancing substances. As Loland and Hoppeler admit, without further consideration 'an argument on anti-doping due to health risks could be developed into a more general argument against the practice of elite sport as a whole.' (2012, 348).<sup>4</sup> Brown adds to this point, asserting that an absolute focus on health 'is inherently a cautious one, that forgoes extremes with an eye to later enjoyments ... The difficulty is that this directive is clearly at odds with one important feature of many sports, already mentioned, the element of risk.' In the position we outline, we have a moral obligation

to intervene if risks become excessive and highly likely, but otherwise we cannot assume an overly cautious position that limits autonomy or forgoes reasonable risks.

In that sense, we must acknowledge that some degree of risk is acceptable in not only meaningful activities like sport but ordinary ones such as driving cars or operating heavy machinery. Even more, supervised uses of anabolic-androgenic steroids, corticosteroids, and blood transfusions have risks in line with those normally accepted for worthy causes.<sup>5</sup> To draw a line around these substances and no other practices (or sport in general) appears arbitrary. Thus, while the health concern can in extreme cases provide an ethical rationale for not using a substance, in the case of blood transfusions and many other PES, it appears arbitrary and baseless.

This leads us to our second ethical concern: consent. Returning to the case of blood transfusions, it is worth asking whether the athletes did (or could) consent to the risks associated with the procedure. We have reason to believe in this case that the US cyclists were not fully aware of the risks because tests did not exist that would let the athletes know they risked contracting HIV or hepatitis. Moreover, we can also infer that if the athletes were made fully aware of the risks, then all of them would have objected to the procedure. In this case, the athletes likely used blood from other people and not their own blood. Using other people's blood increases the risk for blood-borne diseases. Given that in 1984, tests for HIV in the blood supply did not exist, the athletes risked contracting a fatal or serious disease, of which risk they were not informed. So we might ethically object that what the doctors did was unethical and that the athletes could not or would not have provided consent.

But this should not be the last word. Had the blood been transfused with autologous transfusions (their own blood, which is more commonly the source used in blood boosting) and done with standard medical supervision, the blood boosting would have presented rather minimal health risks. Athletes could have consented to this safer procedure and outsiders would have had little reason to intervene. Thus it is possible to imagine that full consent for blood transfusions was possible, though in this specific case it was likely not obtained.

Imagining the athletes could have selected the medically endorsed blood transfusion procedure keeps the ethical question alive. However, our third and final ethical question still looms. In the absence of significant health concerns and with informed consent, could athletes have universally endorsed their behavior?

The question of universal endorsement ties into Kant's Universal Law formulation of his Categorical Imperative, which states: 'act only according to that maxim by which you can at the same time will that it should become a universal law' (Kant 2002). While the Universal Law has its critics, as Korsgaard explains, 'the Formula of Universal Law is a test of the sufficiency of the reasons for the action and choice which are embodied in our maxims' (Korsgaard 1985, 25). Taken in this way, the Universal Law can help identify practical contradictions in one's reasons for committing an act. Such contradictions are pointed out in the question, 'What if everyone did that?' Korsgaard explains:

As rational beings you may take the connection between a purpose you hold and an action that would promote it to be a reason for you to perform the action. But this connection must be universalizable *if the reason is sufficient*. Only in this case have you identified a law. If universalization would destroy the connection between action and purpose, the purpose is not a sufficient reason for action. (Korsgaard 1985, 42)



If an athlete wishes to use a performance-enhancing substance but cannot universalize their behavior, then we can argue that it would be unethical for them to do so. Thus, doping in secret when your opponents are not doping would be unethical. However, it can be imagined that members of the US cycling team, or any other athlete using performance-enhancing substance could universalize their behavior. After all, the cyclists who used blood transfusions were not only teammates but also opponents.

Furthermore, there is no necessary reason why performance-enhancing substances could not be universalized. Consider how widespread and widely known doping was in cycling throughout the 1990s. In this era, athletes not only decided to use but were quite willing to accept their opponents using. Only a half dozen or so athletes ever spoke out against the practice. Others might not have liked violating the rules, but when it came to using the substances they still asserted that the effects were desirable and positive. Had the rules not been in place, as was the case with the blood transfusions, more athletes would likely have been at ease with using. In that sense, we must concede that it is possible that an athlete facing moral ambiguity could authentically endorse the practice of using a blood transfusion.

However, this introduces one more burden on the athlete, one which may cause some ethicists (and athletes) to balk. If an athlete believes they can universally endorse their practice, then they must not act so as to deceive others about its use. In this case, the athletes cannot lie or attempt to gain an advantage by other athletes failing to know they are employing such means. To do so would indicate that they really could not universalize their actions as they are attempting to gain positional advantage.

The criteria not to deceive may strike some who know sport as odd. Such critics would point out that deception is permitted in sport. They would ask 'Must I now tell my opponent what plays I am planning to execute or abstain from any fakes so as not to deceive my opponent?' But such objections miss the point of Kant's Universal Law (and overlook Pearson's point about strategic deception [Pearson 1973]). In some cases, deception makes the game better. Athletes can universalize that all plays be kept secret or that opponents use fakes thus indicating they are not making exceptions of themselves. In that sense, athletes may not wish to reveal to opponents their strategy or methods for success. In fact, they may hope that their opponents never discover their performance-enhancing strategies. But such hopes and desires are not necessarily ethical.

If an athlete reflected, they would likely realize that such a situation could not be ethically endorsed. They would not endorse a reversed situation where their opponent deceived them about a performance enhancement. Nor could they endorse lying to keep their performance enhancer a secret. An athlete deceiving others would be violating the Universal Law as they could not universalize such deception if it was the other way around. Returning to the case of blood transfusions, the athletes did not lie about their use and when asked explained it in detail to those who inquired, including reporters from *Sports Illustrated* and *Rolling Stone Magazine*. Though they did not advertise to their opponents, the athletes did not attempt to deceive others about what they had done.

Given this conclusion, it appears that ordinary moral obligation provided some guidance, but could not resolve clearly whether the athletes should or should not have used blood transfusions. As long as the health risks were reasonable, they consented to the practice as autonomous individuals and could universalize their actions, there are

no clear reasons to not use the performance-enhancing procedure. Without such reasons, the ethos that supports athletes' enhancing themselves might provide inclusive reasons to use a substance. However, the enhancement ethos is not enough to remove the moral ambiguity. For that, we must examine sport as a practice to see if it provides any guidance.

### The Spirit of Sport

Ordinary ethical considerations can only remove some moral ambiguity by indicating some situations where athletes have an obligation to not use a performance-enhancing substance. These limited conclusions are not irrelevant, but they are also not definitive. Fortunately, sport as a social practice may offer its own moral obligations, which may serve to settle the problem of moral ambiguity. As MacIntyre argued, we have an obligation to behave in such a way as to allow those participating in a practice community to realize goods associated with that practice (MacIntyre 1984, 188–91).<sup>6</sup> These obligations stem from the duty to preserve the social practice, which in this case is sport. These internal moral obligations simply require members of that social practice to follow certain conventions because either by following these conventions a social practice's goods can be achieved or by flouting these conventions a social practice's goods are jeopardized. Though these types of obligations will not apply to society writ large, they still carry normative force and can help guide an athlete's moral decision-making.

Regarding performance enhancement, the internal approach considers how performance-enhancing substances affect sport as a practice community.<sup>7</sup> Developed by Schneider in her doctoral dissertation as the 'Joy of Sport' (1993), the Canadian Centre for Sport Ethics provided a 'spirit of sport' justification for prohibiting doping (1993). In this approach to doping, the arguments are inherently limited to sport as a practice and do not apply beyond the sporting sphere. This 'spirit of sport' argument holds that using performance-enhancing substances undermines goods internal to sport as a practice. Today, WADA cites the spirit of sport as a valid criterion to use when considering whether a substance or a method should be added to the doping list, the spirit of sport is also a more general philosophical approach that asserts there is something intrinsic in sport that doping harms.

Despite the intuitive appeal, the spirit-of-sport argument has been heavily critiqued, most notably by Kayser, Mauron, and Miah (2005), Møller (2008), Tamburrini (2005), Savulescu and Foddy (2007), and Savulescu, Foddy, and Clayton (2004), the general criticism is twofold. First, the general characteristics provided by WADA are vague and unhelpful in justifying prohibiting doping. Second, there is reason to believe, as Tamburrini (2000) argues, that performance enhancement conforms to sport's central ethos rather than contradicts it. However, recent works by McNamee (2012) and Loland and Hoppeler (2012) have provided the approach with more philosophical muscle. Thus, it is worth exploring the spirit of sport to identify any moral clarity regarding performance-enhancing substances in general and the specific case of the blood transfusions at the 1984 Olympic cyclists. McNamee answers the first criticism leveled by Savulescu at the spirit of sport while Loland and Hoppeler take the later argument to task, though both not without some inconsistency of their own.

The vagueness of WADA's spirit-of-sport claim does not make it ethically irrelevant. As McNamee argues 'this is what sports look like ideally, and this is the standard we shall use partly to determine what may be considered on the Prohibited List' (McNamee 2012, 381). Moreover, this vagueness may be of value because our conception of what we want prohibited often draws from collective reasons and not just one necessary and sufficient reason.

Even as a fuzzy picture, however, it is difficult to see how the spirit-of-sport claim can rise to the challenge of telling us which substance or substances should be prohibited and which, if any, are permissible. This is chiefly because, as McNamee points out, the spirit of sport does not just apply to doping. 'Match-fixing and corruption are a larger threat to the spirit of sport; they are clearly not doping' (McNamee 2012, 389). So while McNamee hints that the spirit of sport can be made more precise, he maintains that the vague picture is good enough that we can use it to determine which substances can be banned. But Møller has already shown why this spirit-of-sport line of reasoning is bound to fail. As Møller argues, 'the fight against doping was a product of the spirit of the age' and not a fight based on the spirit of sport (2010, 109). He cites the sport historian Matti Goksøyr, who pointed out that 'When certain clever individuals introduced something as novel as rubbing wax under Norwegian cross-country skis just before the First World War, the practice was met with all sorts of raised eyebrows' (Møller 2010, 109–10). Møller concludes 'what is natural is determined by history and culture, which makes it impossible to establish clear limits' (2010, 110).

We believe the case of Norwegian ski wax presents an insurmountable challenge for WADA, McNamee, and any attempt to apply the spirit-of-sport ideal to resolve moral ambiguity in performance enhancement. This is because the spirit-of-sport ideal can only work looking backward, once the substance list is set and the ideals defined. It cannot work looking forward. It cannot tell us why a new innovation like waxing skis is or is not contrary to its ideal. More to the point, it cannot tell us if blood transfusions are more akin to steroids or to ski wax.

More problematic, treating the spirit of sport as a fuzzy ideal ignores the historicized nature of performance enhancement and technology. As Lopez argues, the inescapable technological nature of sport calls into question any idea that an emerging technology such as blood transfusions can ever be read as contrary to any enduring notion of sporting (Lopez 2010). Any reading of technology, whether a technology is biomedical like erythropoietin or chemical like fluorocarbon ski wax, must consider the historicized norms of the community evaluating it. Looking back in light of the banned substances' list and 30 years of anti-doping ideals, the moral status of blood transfusion is perhaps now clear. However, for athletes in a hotel room on the eve of the 1984 Olympic Games, our view from 2013 was unavailable and, therefore, useless.

Loland and Hoppeler take a different approach to the spirit-of-sport claim and attempt to imbue the argument with normative force by combining a fair opportunity principle with a biologically tethered notion of athletic performance. Like McNamee, Loland and Hoppeler make great strides to move the spirit-of-sport argument past the straw-man caricature scholars often use when responding to it. Loland and Hoppeler start by asserting that sport is a social practice defined by its function 'to measure, compare, and rank participants according to athletic performance,' while adding that an athletic performance is a result of 'a high number of genetic and environmental influences from the moment of competition to the moment of performance' (2012, 349). Talent in

sport, Loland and Hoppeler assert, involves an interaction between environment and genetic factors, both of which involve elements of luck. 'Talent in this sense' Loland and Hoppeler conclude 'is distributed in the so-called 'natural lottery' and based on inheritance' (2012, 349). Loland and Hoppeler concede that such a natural lottery is undesirable in sport and ought to be compensated for. They express this obligation to compensate as the fair opportunity principle derived from Beauchamp states: 'Persons should not be treated unequally based on inequalities that they cannot influence or control in any significant way and for which they therefore cannot be claimed responsible' (Loland and Hoppeler 2012, 349).

The hinge of Loland and Hoppeler's spirit-of-sport argument is that if athletes have been improving through licit means (rather than illicit doping), it is because they are making the most of their organism's potential. The process of licit improvement involves understanding physiology, psychology, and biomechanics to enhance performance. This is complicated and requires great effort not just on the part of the athlete but also coaches and scientists. This is meant to make the process merit-based and within the spirit of sport since sport is about rewarding those who can honestly lay claim to ownership over their success through effort and responsibility. Performance-enhancing substances, Loland and Hoppeler conclude, provide a shortcut to this process since 'they produce a beneficial physiological effect in an athlete without invoking the complex organismal reaction described for the training stress response' (2012, 351).<sup>8</sup> As Lundby and Olsen note, this is not the case. EPO includes not just blood pressure, but metabolism, renal function, and cognitive function such that 'EPO has emerged as a pleiotropic substance with multiple targets of action' (Lundby and Olsen 2011).

In that sense, using certain performance-enhancing substances runs contrary to a normative interpretation of the spirit of sport such that 'it makes sense to say that substances and methods on WADA's prohibited list enhance performance independent of talent' (Loland and Hoppeler 2012, 352). Loland and Hoppeler, among others, believe that talent, and not performance-enhancing substances, should be the sole source of athletic success. Given this argument, it would be reasonable to conclude that using blood transfusions is likewise unethical because it improves performance irrelevant to talent.

Have Loland and Hoppeler offered a reasonable way out of the moral ambiguity of performance enhancement? Unfortunately not. As intuitive as it is to argue that performance-enhancing substances overrun talent, remember that Loland and Hoppeler argued that talent is based on the natural lottery. This was something that they argued which violated their fair opportunity principle and should be remedied when possible. So if the substances in question circumvent the genetic lottery, it would seem consistent with their fair opportunity principle to endorse and use such substances. What's more, banning them seems only to reward those who won the genetic lottery, something at odds with their argument's intended purpose.

Consider the simple case of hematocrit. Hematocrit is the percentage of red blood cells in a person's whole blood. Endurance athletes with higher natural hematocrits have an advantage because more oxygen can be delivered to muscles. In sports where metabolizing oxygen is an especially large factor, the difference between a hematocrit of 43 and 47% can easily determine not just who wins, but who gets to compete. This can be as big a factor in sports like running or cycling as height is to sports like basketball and volleyball. Thus, using blood transfusions of red blood cells to boost all athletes

to an identical hematocrit—for example 50%—would insure that the natural lottery does not decide the winner. It would be like, to use an example Loland and Hoppeler endorse (2012, 350), insuring that the random luck of height is not the deciding factor on basketball success.

Loland and Hoppeler want sport to 'evaluate inequalities in performances that are primarily linked to and influenced by choices and efforts of the athlete and as such to a large extent under the athlete's control.' (2012, 350). However, in the case we are examining, and in other cases we can easily imagine, Loland and Hoppeler have provided a normative criterion that only insures sport is about that which they already defined as something beyond an athlete's control: talent. Talent is the result of genetic and environmental factors, both of which are not linked to an athlete's choice or efforts. In that sense, their spirit-of-sport argument is not only at odds with itself, but undermined by the very example of blood transfusions in question. If Loland and Hoppeler want sport to be an expression of our genetic differences, they should say so. However, if they do not want this, they cannot at the same time argue in favor of removing or minimizing our genetic differences on the grounds of the fair opportunity principle and argue against the use of performance-enhancing substances which would serve to remove or at least minimize precisely those genetic differences. In the end, although Loland and Hoppeler have provided the spirit of sport with a more fleshed out account than the ordinary straw-man claims, when you unpack their normative claims you find that the logic is contradictory.

Can the spirit-of-sport claim be saved? We suspect not, though more needs to be said on the issue. Still, neither McNamee nor Loland and Hoppeler have succeeded in outlining an approach to evaluating the use of blood transfusions when they were not prohibited by the rules. Moreover, as Miller Brown wrote in his often-overlooked essay 'Practices and Prudence,' there is nothing about the practice of sport to preclude the use of performance-enhancing substances. Brown explains:

The constraints of the practice [sport], including the internalizing of the virtues, are compatible with the use of performance-enhancing drugs, novel and risky training regimes, and biomedical or surgical treatments or modifications of practitioners. Indeed, insofar as these techniques are designed for, and in fact achieve, enhancement of performance, they are fully consonant with the nature of practices. (Brown 1990)

Thus, it may be that the nature of sport, or at least elite sport, actually encourages the use of certain performance-enhancing substances at times. This is not to say that such substances are necessarily permissible by default. Far from it. The point here is that athletes will not find moral clarity by considering arguments from within their sporting milieu to decide the issue either way.<sup>9</sup> Moreover, the morally astute elite cyclist in 1984, convinced that the basic moral requirements outlined above were met, would struggle to find a reason why they should not use the blood transfusion—not why they should—since their sporting ethos values the desire to improve their performance up to the limits placed on them by the rules. This is the crux of the moral ambiguity: if there is no rule prohibiting the use of a performance-enhancing substance (or there is no prohibition being enforced), the substance is within accepted health risk norms and an athlete can universally endorse its use, is the athlete morally permitted to use it?

## Conclusion

While looking at the widespread use of banned performance-enhancing substances in cycling, the historian John Hoberman explained 'either the sport is recruiting huge numbers of deviants or this is simply routine behavior being engaged in by, more or less, normal people' (Rohan 2013). We tend to believe the latter is the case. The members of the 1984 US Olympic cycling team certainly fit that description. They were just young women and men, still amateurs, and excited to be representing their country on home soil. Thirty years later, many of these athletes have married, started businesses, and contributed to their society and their sport. But on the eve of the Games, they faced a morally ambiguous question.

Morally astute athletes with opportunities to enhance their performance without violating any rules have little to guide their ethical decisions. They certainly could have looked to Mills' argument against suicide or Kant's universal law and found *some* guidance, but not enough to convince them not to use. Even the best 'spirit of sport' arguments, advanced by leading scholars almost three decades after the 1984 Games, fail to show how considering sport as a practice will guide them. The same analysis extends to cases where entire sport communities regularly use banned performance-enhancing substance because the rules are not enforced.

As we explained in the introduction, our argument is largely negative in that we conclude that athletes have little to guide them when faced with moral ambiguity. We have identified what is not helpful to them, but we have not identified what *is* helpful. This is not to say that no approach will be found to help them or that a solution to moral ambiguity is necessarily impossible, only that no one has found it yet. We hope further research on this subject focuses not on providing political or institutional justification for entrenched sporting organizations that make their living by enforcing anti-doping rules but rather on addressing the moral ambiguity facing athletes and coaches who make up the participants in the sporting communities. These participants answer not only to their sporting authorities but to each other and to everybody who has a stake in preserving and enhancing the quality and integrity of sport. These answers have real value and, as we have argued, still need further consideration.

## NOTES

1. Implicit in this is the assertion that conventions established by past rules and practices do not inform any further insight into the ethics of an action, including that of performance enhancement.
2. It must also be remembered that Mill emphasizes that a 'sincere interest in the public good' is to be balanced equally with one's 'private affections' in applying the principle of utility. The desire to be a 'public benefactor' is a crucial distinction between the 'pig satisfied' or 'fool satisfied' and the 'human being satisfied' or 'Socrates satisfied.' What's more, 'laws and social arrangements,' as well as 'education and opinion' are expected to produce 'rightly brought up human being[s]' whose habits and motives promote the general good in all conduct. There should be no problem imagining that suicide or exceedingly risky behaviors are generally inconsistent with this conception of the highest happiness, nor should there be any objection to benign intervention of these grounds (Mill 2001, 12–9).

3. For more research on health risks of anabolic-androgenic steroids and recombinant erythropoietin, see (Amsterdam, Opperhuizen, and Hartgens 2010; Lundby and Olsen 2011).
4. Please note that Loland and Hoppeler do not *endorse* this position, as they think relevant arguments exist to undermine this distinction. Rather they point out that without further distinction, this is a rational inference. Their further argument will be discussed later in the paper.
5. See citations in endnote 1.
6. This is not taken as an endorsement of his virtue ethics approach or his argument for internal goods. Rather, this is simply pointing out that the existence of any kind of good made possible through a social practice necessitates a moral obligation to preserve the good.
7. We will not spend time going through previous arguments over fairness, cheating, naturalness, equality of condition, or other arguments in the doping debate as they have been addressed elsewhere. For more on this debate, see (Brown 1980; Gardner 1989; Lavin 1987; Møller 2008; Murray 1985; Schneider and Butcher 1994, 2000; Vorstenbosch 2010).
8. It is worth noting that Loland and Hoppeler's characterization of EPO is far from widely accepted. Loland and Hoppeler write that 'By injecting EPO you essentially only get an increase in red cell mass that is favourable to endurance performance' (2012, 351).
9. Here, it is worth noting Russell's 1999 article 'Are the Rules All an Umpire Has to Work With,' which focused on a player's behavior when rules were vague or unwritten. His argument about guiding principles, though convincing, did not address actions that might not have been clearly articulated in the conventions associated with the sport. As with ski waxing, swimsuits, and other forms of enhancement, conventions exist to support adoption sometimes and reject adoption at times. In the morally ambiguous cases of performance enhancement, one cannot rely on conventions since they offer divergent instructions.

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