

Handout 2: The Ethical Use of PEDs

This handout makes use of "Ethics, Drugs, and Sport" by W. M. Brown. In this article, Brown argues that the *argument from fairness* and the *argument from harm* against the use of PEDs in competitive sports are flawed. And, he argues that there is a strong reason against prohibition of PED use in professional sports. Brown argues that prohibition against PED is a violation of the autonomy of professional athletes and indicative of an essentially conservative attitude toward the human condition.

1. Ethical Questions about Blood Doping

Blood-doping is a technique where an individual's blood is removed and then later reinfused into the original donor. Blood-doping is a technique that can be used for increased athletic performance, especially in endurance sports, e.g. distance running, cycling, triathlons. But there are several other "non-natural" or "non-traditional" methods for improving performance, e.g. drugs (steroids, cortisone, and amphetamines) or enhancement technologies (artificial limbs).

See Handout 2s: List of Performance Enhancing Drugs

Given the existence of these non-natural methods and the assumption that they *improve performance*, several questions emerge

Q1. Should the rules of sport prohibit the use of PEDs?

Q2. Is using enhancement technologies for improving performance morally justified in professional athletics?

Q3. If there are situations where such use is justified, what are they? If no situations exist where their use is justified, why not?

CDQ: what are your thoughts on the use of "non-natural" or "non-traditional" methods for enhancing performance?

CDQ: Do you think it is morally acceptable for professional athletes to use enhancement technologies to increase performance, even if they are dangerous?

CDQ: Do you know any famous athletes who have been caught (or who have been strongly suspected of) using PEDs? If so, what is the social perception of these individuals? Does the media portray these individuals in a moral way?

2. Games & Two Kinds of Rules

A **game** is defined by a set of *constitutive rules* which specify what moves or equipment are permissible and impermissible (*allowed* vs. *against the rules*) and *strategic rules* which specify various tactics you might use to win the game.

Example #1: In basketball, you cannot push another player, run out of bounds and take a shot, or kick the ball (constitutive rules) but there is no rule allowing or denying the strategy of taking only three-point shots to try to win.

Example #2: In distance running, you cannot punch another runner (constitutive rule) but you can run behind (draft) another runner (strategic rule).

Given the distinction between *constitutive* and *strategic rules*, consider two points.

First, Brown (p.16) notes that “We specify what may not be done by someone *as* a player, but seldom who may *be* a player.” That is, games in general do not say **who** or **what kind of person** can be a player. That is, there is no *constitutive rule* saying that what kind of person can play the game. In other words, games do not *discriminate* on the basis of race, social status, wealth, and religion (although there are some exceptions).

However, there is one exception. Games do discriminate as to who can be a player in order to make the game *fair*.

Example #1: In boxing, we discriminate on the basis of weight as it would be unfair to have a 300lb heavyweight fight a 112lb flyweight.

Example #2: In running, we discriminate on the basis of sex as it would be unfair to have the top *male* runner compete against the top *female* runner.

Notice that the above exceptions discriminate in order to allow players of relatively equal standing to play the game. The goal of this discrimination is to make a sporting event is a fair fight. Rules that would discriminate on grounds that don’t have this interest in view, e.g. only allowing white people to play soccer, would discriminate in the wrong way.

Certain games, however, do tend to attract individuals that have particular physical characteristics. For example, players in professional basketball tend to be taller than the average human being. But, these characteristics are part of the *strategic rules* of the game. In other words, there isn’t a constitutive rule in basketball that says you must be above a certain height in order to play basketball. Coaches and managers tend to choose taller players as it plays a role in their overall strategy, *but they could decide to have a team with short players*.

Second, the constitutive rules of games are **not entirely arbitrary**. The constitutive rules are sensitive to our practical limitations as human beings and they aim to avoid putting participants in unnecessary danger.

Example #1: A football field isn’t ten miles long

Example #2: Distance running events are not 1,000 miles or 1 step

Example #3: Basketballs do not weight 100 pounds

Example #4: A soccer ball is not a sharp object.

Example #5: An amateur boxer with a 1-0 record cannot fight the heavyweight champ.

3. Argument #1: PED use is Unfair

There are two classic arguments against the use of enhancement technologies in sport. These are the *argument from unfairness* and the *argument from harm*. The argument from fairness says that PED use is morally wrong and should not be allowed in professional athletics because it is **unfair**.

The Argument Against PEDs from UnFairness (Inequality of Ability Version)

P1 The constitutive rules of games permit rules that preserve fairness.

P2 If B uses PEDs and C does not use PEDs, then B has an unfair advantage over C because B’s *ability* has been enhanced by the PEDs.

- P3 All unfairness in sport is morally wrong and should be prohibited.
 C Therefore, PED use in sport is morally wrong and should be prohibited.

According to Brown, **P2** is false. If by “PED use is unfair” we mean “PED gives certain individuals an advantage in terms of ability over another”, then the argument from fairness fails *because* no game is a challenge between individuals of equal ability. Rather, games are competitions between unequally matched individuals. What is important is that the *rules of games should be fair*. What he means is that if the point of games is to be a test between players of unequal ability, then the rules should not tip unduly tip the balance in one way rather than another.

The Argument Against UnFairness

- P1** Fairness does not mean that all of the participants have **equal ability**. If it were, then all games would be battles against perfectly matched clones. Games test the certain *inequalities* in participants.
P2 The *structure of the game* (its rules) should be **fair**. If we want to test inequalities between people, we don’t want the rules that favor one participant over another.
Example #1: In football, there is not a rule that the home team starts with a 7–0 lead.
P3 Games should be fair in the desired sense.
C The rules of the game should be fair, but it is **not unfair** if the participants are not equal.
Example #1: Before 1984, women were not allowed to compete in the Olympic marathon. To say that it is **unfair** to let women compete because *women are not equal to men in terms of ability* is to say use the notion of fairness in the wrong sense.

But we might think that PED use in sport is unfair for another reason. Suppose that you and I are going to engage in a fist fight on Tuesday. Neither of us wishes to bloody our hands and so we both agree to wear gloves. We do not make any provision about what gloves are to be worn and we both decide to wear gloves that will protect our own hands but harm the other when hit.

You go to the local sporting goods store and purchase some standard boxing gloves and dry them out. I contract a friend of mine who works in a weapons laboratory to make me some gloves that will protect my hands but inflict near deadly damage to you if hit.

The fight is no longer fair and one reason we might think this is because I have access to something you don’t, namely to designer boxing gloves that guarantee a knock out.

The Argument Against PEDs from UnFairness (Inequality of Access Version)

- P1** The constitutive rules of games permit rules that preserve fairness.
P2 If B has *access* to and uses PEDs and C does not have access to PEDs, then B has an unfair advantage.
P3 All unfairness in sport is morally wrong and should be prohibited.
C Therefore, PED use in sport is morally wrong and should be prohibited.

O1: This argument is *explosive*. If not having *access* to a particular resource that gives individuals a competitive advantage (makes things *unfair*), then lots of things should be prohibited, e.g. clean air, top-of-the-line training equipment, excellent coaches, high-altitude, etc.

O2: The argument isn’t strong enough for its goals. PED use would still be morally acceptable

provided we could give everyone access to PEDs. In other words, if we prohibit PEDs on the basis that it gives us an unfair advantage, then we need to ensure that *all participants have access to the same training resources*. In the case of the boxing gloves example, the fight could be made fair if I had two pairs of designer gloves made and gave you one. If what makes PED use morally wrong is *limited access*, then provided we could ensure *universal access* to PEDs, there would be nothing wrong with allowing athletes to use PEDs.

CDQ: Putting aside the issue of whether or not PEDs are harmful or not (we'll discuss this in a minute), do you agree with Brown's claim that *PED use is not morally wrong because it is unfair?*

4. Argument #1: PED use is Dangerous

Next, let's consider the *argument from harm*. This argument contends that PED use is morally wrong and should be kept against the rules because using PEDs is unhealthy and dangerous.

The Argument Against PEDs from Harm

- P1** The constitutive rules of games permit prohibition of activities that expose players to unnecessary harm.
- P2** PED use exposes athletes to unnecessary harm..
- P3** All exposure of athletes to unnecessary harm is morally wrong and should be prohibited.
- C** Therefore, PED use in sport is morally wrong and should be prohibited.

O1: Athletic training and competition is dangerous; perhaps more dangerous than PED use alone.

DANGERS ASSOCIATED WITH ATHLETIC TRAINING & COMPETITION	
Serious	
Moderate	
Low	

The basic idea then if we prohibit PEDs because of the harm they cause to the body, we ought to prohibit a variety of other practices and training methods designed to increase performance.

O2: PEDs are neither used with the intent to harm the body nor is their effect wholly negative. PEDs increase ("improve") the functional efficiency of the body.

The idea here is that if PED had no other function than to harm the body (e.g. injecting yourself with a dangerous drug that only destroys the body), then the rules prohibiting might be justified. But, PEDs can be said to *enhance* the body in certain desirable ways.

5. PEDs are morally permissible

To summarize, Brown thinks that the *argument from unfairness* and *argument from harm* are flawed. First, provided there is universal access to PEDs, there is no reason to think that PED is unfair. Second,

PEDs pose no greater risk to athletes than traditional training methods and their use does not *only* damage the body.

Returning to the central question:

Q1. Should the rules of sport prohibit the use of PEDs?

Brown (p.19, 22) contends that we **should not** restrict the use of enhancement technologies (e.g. drugs) in professional athletics. He writes “But should we not restrict the use of some drugs, or blood doping? No, in no way whatsoever.”

Here is Brown’s central argument:

Brown’s Argument for PED Use from Human Freedom

- P1** We cannot reduce our activity of playing/competing to certain instinctive (animalistic) dispositions, e.g., competing in a race is not a *fight or flight response* (see pp.19-20).
- P2** The activity of playing/competing in sports is a *free (rational) choice*, an act of exaltation, an act aimed to explore the limits of our strength (see p.19).
- P3** We should not interfere with human freedom (unless it causes harm to others).
- C** Therefore, the rules of sport should not prohibit the use of PEDs.

The idea here is that *the decision to engage in sport* is an act of freedom and that *there is no justification for restricting someone’s freedom unless they are hurting someone else*. Thus, individuals who want to put themselves in harms way ought to be free to do so. There is thus something *morally wrong* with interfering with the goals of human beings, especially when pursuing those goals does not hurt anyone else.

The above argument allows Brown to make some claims about how athletes who use PEDs are treated by rules banning their use.

Corollary #1: Prohibition on PED use is a form of discrimination (p.21).

While there is a stigma associated with PED use, Brown thinks that this is analogous to previous cases of social discrimination. And, he thinks that the constitutive rules should not allow for discrimination.

Example #1: London oarsman vs. the blue-collared American coal-whippers

Example #2: Upper-class, country-club swimmer from a democratic country vs. Bulky east German swimmer from a socialist country

Example #3: Pure athlete who uses no drugs vs. Athlete who uses PEDs?

Corollary #2: Prohibition on PED use is unjustifiably conservative (p.22)

If PED use is motivated by a free and rational choice, it can be seen as an indication about one’s choice of what one values. Brown (p.22) thinks that prohibition on PED use reflects

Conservative Values: “an essentially conservative attitude toward the human condition which neglects to give sufficient weight to a primary human value: freedom. It opts for relative stability, predictability, and control in human affairs.”

In contrast, allowing PED use reflects:

Progressive Values: it values human freedom and opts for “novelty, change, surprise, and creativity”

CDQ: Brown’s claim that banning players who use PEDs is a form of discrimination akin to the discrimination of women from running the marathon or African Americans from playing baseball is troubling. However, we might hold onto the intuition that PED users and non-PED users should not participate in the same sport. One way that the charge of discrimination has been dealt with in the past is to *group* individuals into separate classes, e.g. when we discriminate on the basis of sex, weight, and age. Women do not compete against men in the 100m dash. A 110lb man does not wrestle a 300lb man (except TV-wrestling). Given this is the practice, should we allow a venue for professional sports that is open to individuals who openly use PEDs? Is there any problem with this proposal?

CDQ: One of the key premises in Brown’s argument for PED usage is the choice to use or not use PEDs is a *free choice*. Is this true?