



**VICTORIA UNIVERSITY**  
MELBOURNE AUSTRALIA

*Anti-doping policies and the Gay Games; Morgan's treatment–enhancement distinction in action*

This is the Accepted version of the following publication

Burke, Michael and Symons, Caroline (2016) Anti-doping policies and the Gay Games; Morgan's treatment–enhancement distinction in action. *Journal of the Philosophy of Sport*, 43 (2). 267 - 280. ISSN 0094-8705

The publisher's official version can be found at  
<http://www.tandfonline.com/doi/full/10.1080/00948705.2015.1112236?src=recsys>  
Note that access to this version may require subscription.

Downloaded from VU Research Repository <https://vuir.vu.edu.au/32537/>

**Anti-Doping Policies and the Gay Games; Morgan's Treatment-Enhancement Distinction in Action.**

**By**

**Michael Burke**

**ISEAL and College of Sport and Exercise Science**

**Victoria University**

**Melbourne City, MC, Victoria, 8001**

**Australia**

**And**

**Caroline Symons**

**ISEAL and College of Sport and Exercise Science**

**Victoria University**

**Melbourne City, MC, Victoria, 8001**

**Australia**

## **Anti-Doping Policies and the Gay Games; Morgan's Treatment-Enhancement Distinction in Action.**

### **Abstract:**

The anti-doping policy of the Gay games offers an interesting exemplification of William Morgan's (2009) treatment-enhancement distinction. Some gay games athletes require steroids to deal with the effects of HIV or for sexual reassignment, and the practice community had to negotiate coordinating conventions with regards to steroid use that remained committed to the deeper conventions of gay games sport. This paper will investigate the way that this policy emanated from the type of participatory social practice community that would be necessary for any sport to challenge the anti-doping fundamentalism within contemporary sports.

**Keywords:** Doping, Gay Games, Treatment, Enhancement, Practice Community, Democracy

### **Introduction:**

As with many issues in sport, William Morgan (2009) has again produced a brilliant anti-realist exposition that challenges dominant views about doping in sport, both inside and outside of the philosophy of sport world. Whilst accepting the deep foundation of the realists' arguments in his endorsement of their understanding of the ideal 'perfectionist' purpose of sport<sup>1</sup>, his socialization of the sporting community's preferences results in the conclusion that steroids and EPO should be allowed in sports as they allow for athletes to recover quickly from the demands of their sports in order to pursue perfect sporting practice. In other words, Morgan suggests a distinction between legal doping practices that treat athletes and illegal doping practices that enhance the performance of athletes, and argues that the sporting practice community is moving to a position where steroids and EPO should be located on the legalized treatment side of the distinction. This position is supported by a deep reading of the contemporary historicized and socialized understanding of 'perfection in sport.'

Carwyn Jones' (2010) expands on this performance-enhancement distinction. Utilising research and argument from Moller and Hoberman, Jones states "that for cyclists there is a fine line between medication and doping and that, in their minds, the line is drawn arbitrarily" (2010, 89). From personal cyclist testimony, as captured in doping trials and biographies, it appears that the practice community of road cyclists see various currently illegal doping substances as the necessary treatments required for cyclists to carry out 'superhuman' work on the tours. Rather than ignoring these testimonies out of a misplaced and prejudicial attachment to the 'pure sport ethic' of anti-

doping fundamentalists, Jones suggests that the practice community should judge these testimonies against the deep conventions held by the cycling community about perfect cycling performance (2010, 95).

Despite Morgan's and Jones' erudite observations, in the contemporary world of elite sport/cycling, the battle for a sympathetic hearing has not been won by those who would argue that the ban on performance enhancing drugs is too widely enacted and captures interventions that should be considered allowable treatments. Athletic practice communities generally, and road cyclists specifically, have not won great sympathy for their specific socialized positions on the treatment-enhancement distinction. Jones' strategy for cyclists hoping to endorse Morgan's treatment-enhancement distinction is that:

Our cyclist, if he is to have his way and be allowed to use dope for the reasons suggested [treatment] has to make his case to his peers and persuade them that his strategy is not at odds with the standard or best interpretation of the excellences which exemplify road cycling. His moral justification must be answerable to the intuition and experience of other cyclists and the practice community more broadly, and he must attempt to persuade them that the strategy he advocates is not detrimental to the good of cycling. (2010, 96)

Unfortunately, road cyclists, like many other athletes, have not often engaged in this sort of public debate until after being found guilty of drug charges.<sup>2</sup> The testimonies that have suggested the treatment-enhancement distinction have largely come from banned cyclists such as Floyd Landis, Tyler Hamilton, Jorge Jaksche and David Millar. Despite contrary suggestions from cyclists like Chris Froome (Ingle 2013), road cycling's *omerta* remains strongly opposed to the types of public testimony that would be necessary to produce change in the public debate and sport policy (Ashenden 2012). Allegations of coercion, bullying, intimidation and threats to maintain the secrecy about drug use in cycling do not lend themselves to producing a practice community that generates sympathy for a different way of understanding the use of some banned drugs as sensible medical treatments.

The group of athletes discussed in this paper may be one that can produce a sympathetic re-alignment that would be the precursor to a consideration that support for a blanket ban on performance-enhancing drugs is reducing, at least in the case of the use of those drugs that help in athlete treatment and recovery. This article will discuss a different group of athletes who collectively support those who are infected with the HIV virus and trying to continue to compete in sports whilst, by medical necessity, taking a course of steroids to support their respective bodies' fight against the virus. This collectivity also endorses the use of steroids for sexual re-assignment so that transitioning athletes can continue to gain the psychological and social benefits that accrue to individuals who play sport and are part of sporting communities. In both of these cases, the

'perfectionist' purpose of sporting policies runs second to, but not in opposition to, other purposes of sport policy making.

This brings up an interesting philosophical consideration in the drug debate. The arguments so far in debates concerning the legitimacy of the anti-doping ban, with a few notable examples discussed below, have treated all athletes as if they are the same as the benchmark able-bodied elite male athlete (Brigham 2008; Thornton 2006). The arguments have mostly centred on principles of fairness, health and privacy, with all principles applied to an abstracted and idealised healthy male athlete. Put differently, many of the arguments presented so far in this debate have not dealt with differences in power within the practice community. In contrast, Cole (2000) has argued that drug testing has replaced gender testing as a mechanism for the practice community to police the boundaries of the female gender, and Lock (2003) has argued that the drug restrictions also function to police sexuality. This article will continue to present alternative standpoints and suggest that the current 'Benchmark elite healthy male' drug legislation, even when supported by the deep convention of perfectionist practice, does not take into account the existence of the HIV+ athlete or the gender transitioning athlete.

The major rationale for the ambitious claim that this specific practice community exemplified the type of idealised practice community that Morgan's position would need, is that the Gay Games organisation utilised the existing WADA arguments and codes in the 2006 and 2010 Gay Games, and then recognised the harm that was being produced in the enforcement of these codes on both the democratically agreed-upon ideals of the Gay Games, and some specific members within the practice community. The response was an intersubjective agreement that the WADA policies and practices were not adequately fine-tuned to deal with the 'treatments' required by this community. So, this organisation becomes an example-in-action of Morgan's suggestions about the importance of deep conventions in resolving conflicts within a community, allowing Morgan's suggestions to come down from the ivory tower of theoretical philosophy<sup>3</sup> and enter the 'muddling' world of sport. The first section of this paper will present Morgan's argument. The second section of the article will describe the participatory consensus of the gay games and its changing orientation toward taking steroids for treatment. The final section of this paper will then briefly expand the influence of the argument to posit that a concern for the health and well-being of communities of athletes in different sports can be promoted by socialising decisions about drug use in a sport, and that the gay games could become the 'strong poet'<sup>4</sup> for more enlightened doping policy in other sporting communities.

## **The Treatment-Enhancement Distinction and Socialising the Debate**

William Morgan modifies the position taken by Michael Lavin that suggests that the current ban on performance enhancing drugs is morally permissible, rather than morally justified, because of a freely agreed upon democratic consensus that taps into a widely shared, although currently covert, ideal that performance enhancing drugs do not belong in sport. Morgan offers his modification as a way out of the current argumentative standoff between pharmacological libertarians and sporting essentialists. Morgan's modification is to historicize and socialize this democratic consensus such that the support for the consensus is explicable given the current deeply held conventions (Morgan 2012, 66) that appear to emanate from the democratic communities in most sports.<sup>5</sup>

This modification achieves many purposes. It certainly shores up Lavin's argument by no longer relying on the effect of 'a covert sporting ideal.' Opponents of Lavin's position had to do little more than suggest that if the ideal is covert, how would any community know for sure whether this ideal supports or opposes performance enhancing drug use? In other words, the attempt to go beyond the moral permissibility of the drug ban by positing a covert ideal actually weakened, rather than strengthened, Lavin's position.

Morgan avoids this problem by presenting a historicized and socialized ideal for contemporary sporting communities, one which currently reads the normative purpose of sport as a perfectionist practice, and determines that the policies that affect contemporary sport should emanate from the protection of this ideal. In addition, Morgan demonstrates both that this ideal was different to ideals from other historical periods in sport, and that many of the contemporary limitations or inclusions of other technologies, practices, tactics and behaviours can be read in light of the protection of this ideal. So Morgan provides strong historical and contemporary evidence that this is, at least, one of the prevailing ideals in the context of many contemporary elite sports.

At the same time, Morgan is also able to demonstrate that the participatory democracies of many sporting communities, whilst retaining the importance of this ideal, may be changing their minds with regards to how this ideal impinges on the legitimate use of certain previously-banned substances. This change may result in some adjustment in the list of proscribed substances and methods. Such changes, given the body of Morgan's work, should also be read as historicized and socialized adjustments in the co-ordinating conventions of the practice community. That is, the community could in the near future, decide that the deeply held perfectionist ideal of sport would be better achieved by recognising that some substances, such as steroids and EPO, allow athletes to recuperate faster from the increasing demands of competition and training, and this recuperation allows athletes a greater opportunity to perfect their crafts in the ways that the community endorses (2009, 177). Again, it is important to emphasise that the community would only be adjusting a co-ordinating convention, and not changing the underpinning deeper conventions of the

contemporary sporting community. Morgan asserts that some of the recent positive responses to athletes who have returned from drug bans are as “not a worrisome sign of their [the public’s] moral indifference to the integrity of the game, but of their growing conviction that steroids are not the threat to the integrity of sport that antidoping proponents make them out to be” (2009, 177). We would add that the opposition to the injustice of certain rulings by WADA, such as the Andrea Raducan adverse finding at the Sydney Olympics for taking an over-the-counter cold medication that did not enhance her gymnastics performance (Burke and Hallinan 2008, 48), has also attuned the community to Morgan’s performance-treatment distinction.

At the same time, in the contemporary sporting world, the various anti-doping agencies remain powerful lobby groups, supported by politicians who recognise the political utility of being perceived as ‘tough on drugs’ in any form (Collins 2005).<sup>6</sup> Baseball had a set of rules regarding performance enhancing drug use that was agreed upon by the participatory democracy of players [via the player association] and owners. This historicized and socialized position could not withstand the onslaught from a President, a Congress and a media who could all see benefits in attacking this position, and who had public support on their side. Wealthy professional baseball players do not invoke a lot of public sympathy when challenging the records set by historical icons in America’s national pastime. The Australian Football League Players Association has agreed to a three-strike policy regarding out-of-competition and non-game-day testing for recreational drug use. Information about footballers who test positive for recreational substances is initially provided only to AFL doctors, and then on a second-strike to club doctors. Only on a third-strike will clubs be informed and penalties imposed. This policy is based on a concern of the participatory democracy, involving players, agents, clubs and the league, that recreational drug use be treated as a health issue. But this democratic ideal is constantly under attack from politicians and media who seek their own form of capital, and again, wealthy professional footballers taking recreational drugs are a population group that does not inspire sympathetic attachment.

In no way do these two examples undermine Morgan’s position. His ideal is for a completely open discussion between all members of a community. So Morgan would be wary of powerful people within any community, including politicians and journalists, imposing their will on the community in such a way so that other positions become impossible to be listened to and judged. At that moment, sporting communities are no longer either participatory or democratic. In contrast to Morgan’s position, we believe that the ‘moral panic’ from the 1970s surrounding drug use in sport remains firmly in place, and part of the reason for this is that there are no representative athletes that are the cheerleaders for these discussions about treatment and enhancement practices. Morgan is aware of the generalised opposition to drug use in sports (2009, 168) but suggests that

some very recent examples of practice community behaviour in some situations suggests some softening of this general opposition. Two points are worth restating and expanding on from Morgan's argument. Significantly, Morgan is one of the first to recognise that the 'Actually Existing Top-Level Sport' gatekeepers, including the sports media, have a vested interest in maintaining the rage. We would include that the various anti-doping agencies also have a vested (and financial) interest in promoting themselves as the guardians of clean sport. Both groups, as well as the politicians that support clean sport, are good at playing political games. Secondly, Morgan cleverly explains the difference between what athletes do and what they say regarding drug use in sports. Athletes also have a vested interest in 'talking the talk' of drug-free sport.

The next section of the paper offers a contrast to such undemocratic communities utilising research on the historical development of doping policies in the Gay Games. The International Gay Games have been held every four years since these first Games in San Francisco in 1982 (Symons, 2010). The athletic orientation of the Gay Games has been toward mass participation and tolerant support of difference through defending the ideals/deep conventions of "participation, inclusion and personal best" (Markwell and Rowe 2003, 10), a combination of Russell's internal and external principles of games (2004, 146-147). The political orientation has been towards the celebration of different identities as well as the development of a diverse participatory democracy in the organisation and policy making of the Games (Symons 2010), a participatory democracy that would mirror Morgan's ideal community with shared support for a deeply held convention of respect for the voices and positions of all members of the community.

### **When Treatment 'really' is Treatment<sup>7</sup>**

There have been vocal groups within the Gay Games that have, at various times, lobbied to have the events mainstreamed. There are positive benefits from ongoing engagement with mainstream sports bodies such as the development of bridging capital with mainstream sporting organisations and society more generally, opportunities to educate concerning the treatment, perspectives and needs of the LGBT [Lesbian, Gay, Bisexual and Transsexual] sporting community, as well as opportunities to change the policies of these mainstream sporting bodies so as to be more inclusive of LGBT people (Symons 2010, 87-88, 186-189; Brigham 2008). One aspect of mainstreaming has been the imposed requirement to adopt performance enhancing drug policies as endorsed by the international sporting federations that sanction events within the Gay Games (Symons and Burke 2014). This has at times resulted in a conflicted relationship between the organising bodies of the Gay Games and the athletes who are being tested for



performance enhancing drug use, whereby the deep principles of mass participation and tolerant support of all members of the community have come into conflict with the underpinning philosophies and practices of those mainstream sporting and anti-doping bodies that monitor athletes for performance enhancing drug use. Resolution of this conflict within the Gay Games community reflects the very type of open and tolerant participatory democracy that Morgan (2009) endorses.

Prescription of steroids is/was a recognised treatment for people with HIV. Steroids helped people with HIV to maintain muscle mass and function and, in particular, arrest facial muscle wastage, and increase stamina and appetite (Collins 2005). In addition, athletes undergoing gender transitioning from female- to- male have to take regular doses of testosterone. Either of these groups of Gay Games athletes could test positive for performance enhancing drug use if the test was done shortly after a testosterone or steroid dose (Symons 2010, 211). The World Anti-Doping Code International Standards [WADC] allows for therapeutic use exemptions for certain prohibited substances under very strict and limited conditions. The WADA website contains no category for HIV treatment/therapeutic use in the medical information to support the decisions of current TUECs (WADA: Medical Information to Support Decisions 2013). There is one document on the WADA website that lists HIV as a potential *functional* cause of androgen deficiency. The document goes on to explain that a “TUE for androgen deficiency should only be approved for androgen deficiency that has an organic etiology” (WADA: Therapeutic Use Exemptions for Androgen Deficiencies 2013). The document makes clear that a therapeutic use exemption should not be allowed for androgen deficiency due to HIV as HIV is considered a functional disorder.

To cope with the possibility of testing positive, athletes with HIV and athletes undergoing gender transition were able to receive a waiver from drug testing at the Sydney 2002 Gay Games provided they could demonstrate that they were using steroids for medical reasons. Athletes seeking a waiver were required to “supply a letter from their treating physician describing the condition being treated, the relevant treatment regime, duration of treatment, copy of the current prescription, and physician’s full name, address and phone number” (Symons 2010, 91). This documentation was to be destroyed as soon as the judgement about the athlete had been made, as an attempt to satisfy the desire for privacy for athletes undergoing these treatment protocols. This treatment of the therapeutic use of steroids has remained part of the practice of the Gay Games since this time.

At both the 2002 Sydney and 2006 Chicago Gay Games, the licensing agreement between the FGG and the Organising Committees required strong support for a drug-free Games with randomized testing to take place in some events, as demanded by the two international sanctioning

organisations, the International Natural Bodybuilding Association [INBA] and the International Powerlifting Federation [IPF]. Neither international federation had mechanisms within their drug-testing policies/practices to allow for the therapeutic use of steroids. Considerable consultation and discussion with the LGBT sporting communities involved in powerlifting and physique, as well as in wrestling, and the policy makers of the Federation of Gay Games [FGG] and the 2006 Chicago Gay Games occurred in the lead up to the 2006 Games:

In the impassioned stakeholder discussions that occurred in the three years leading up to Chicago, there was a balance of voices calling for compassionate use exemptions for things such as steroids prescribed for facial wasting, a side effect common in HIV-infected individuals, and those concerned that steroid abuse to gain unfair advantage was so ubiquitous that it could not be ignored. The compromise policy developed [in Bodybuilding] allowed people to enter either the tested group or the untested group, judged all competitors together, then awarded two separate groups medals (Brigham 2010a).

Anti-doping policies were developed for each of these sports with the sometimes conflicting principles of inclusion, participation, safety, the maintenance of privacy and confidentiality of the medical status of athletes involved in these sports and ‘fair’ competition in mind. Four possible anti-doping policy approaches were taken including a policy of ‘not testing’ for the majority of sports. Of the three sports that included performance enhancing drug testing, physique had the most stringent requirements for a drug-free bodybuilding competition (Brigham 2008). Two categories of participants competed – the tested and the untested. Urine samples were only tested for those nominating to be tested and, except for the individual athletes, nobody, including the judges or other competitors, was informed of which category the individual contestants were in during performance and judging. Medals were posted to athletes of both categories pending results of the test and the judging outcomes. The category of “Guest Lifter” was included in the powerlifting event to allow athletes who were using banned substances for any reason to be able to compete with their peers, whilst the athletes agreed to forfeit their chances to win a medal (Symons 2010, 238-239). This category allowed the athlete to compete in a non-sanctioned way, but brought up issues concerned with athlete medical privacy. Athletes who were HIV positive and athletes who were transitioning from female to male, would need to decide whether they would compete under the ‘guest lifter’ category and reveal their medical status to others, or avoid competition. In the wrestling competition, it was announced that visual screening of all competitors would occur. Qualified physicians would examine the skin of competitors for evidence of drug use. Brigham observes that:

No one was entirely satisfied with any of these approaches, but what makes the Gay Games unique is that it is the athletes themselves who are shaping the policies, experimenting with approaches, and making the effort to be inclusive. It is that

participatory empowerment ... that makes the Gay Games different and important (2011).

There were a lot of athletes attending the Games who participated in the three sports that included forms of drug testing, who supported testing and were concerned about the abuse of steroids for competitive advantage. The important thing in terms of participatory democracy was that the debate included a number of different perspectives, and resolved conflict in a way that took account of all of these perspectives.

In a distinctive shift from the spirit of the democratically agreed upon, creative 2006 Chicago Games anti-doping policy, the organisers of the Cologne Gay Games of 2010 were set on introducing the first across-the-board drug testing regime ever done at a Gay Games. Random testing would occur in all sports and for all proscribed performance-enhancing substances and methods banned by WADA at the time of the Games. There appears to be multiple motives for the introduction of this mainstream anti-doping policy at a mass participatory, masters and largely recreational multi-sport event. These motives included the heightened concern for a legitimate drug-free sport event in the wake of Tour De France drug scandals (Brigham 2008) and the partnership between the Cologne Gay Games and the German Sports University and the German National Doping laboratory who specialize in WADA anti-doping tests, advocacy and research, both based in Cologne (Brigham 2008; Cassels 2010).

Federation members and key players in the community consultative development of the Chicago anti-doping policy approach expressed major concerns about the development and implementation of this across-the-board anti-doping policy. Dermody (in Brigham 2010a) was concerned that members of the HIV community were not involved in formulating this policy. He pointed out that WADA standards were too stringent and were designed for world-class athletes at the Olympics, rather than the mix of professional and amateur athletes of the Gay Games, some of whom need steroids and other proscribed substances to live, let alone, participate. Brigham explained that many athletes did not trust the process, fearing their HIV status could be exposed during the drug testing and reporting procedures. Brigham also questioned what he saw as the autocratically imposed nature of the policy which went against the Gay Games philosophy of inclusion and participation of all members in the very shaping of policies (2010a).

### **Current anti-doping policies in the Federation of Gay Games**

The response to the problematic effects of the Cologne anti-doping policy and practices was that it produced a democratically derived decision by the Federation [FGG] that confronted the unsuitability of such policies and surveillance across all events at the Gay Games. We believe that

this participatory democracy has provided a good model for other community-based large scale events and sports that follows Morgan's position in favour of participation and inclusion of all people in the decision making process.

The FGG General Assembly met in August of 2010 and voted to "adopt new anti-doping policies which will not be based on random, across-the-board testing, but will be more reflective of the Gay Games mission with respect to inclusion and participation, both in development and implementation" (Brigham 2010b). The current FGG anti-doping policy (FGG Performance-Enhancing Drug Policy 2013) begins with a focus on the agreed-upon deep principles of the policy. The three deep principles of the community's doping policy are to promote the health and well-being of all participants, promote individual responsibility for actions and decisions, and contribute to the production of a fair competition for all participants. The methods suggested to achieve these principles include education and awareness-raising amongst games participants, structural and organisational measures to decrease the incentive to use performance enhancing drugs and limited and agreed-upon uses of drug testing under strict conditions imposed on the sporting organisation and oriented by the achievement of all three goals of the policy.

The policy recognises the importance of continued communication with WADA in producing changes to the WADA policies and practices to improve the situation faced by LGBT athletes in other competitions; for example, to lobby for a TEU for steroid use for HIV athletes. Its education and awareness-raising methods includes the use of the WADA Athlete Outreach Model adapted to the specific goals of the FGG policy. Other methods of education and awareness-raising include access for Games participants to the experts who helped develop FGG and Games policies, applications for athletes to question their own ideas and behaviours in the area of performance enhancement and drug use, and a focus of all education on the health consequences of performance enhancing drug use. The structural and organisational interventions promoted by the FGG include recognition that there are more economically effective measures that can be taken than comprehensive athlete testing, to achieve the goals of the policy. For example, the organising committee of any Gay Games schedule events with enough time for recovery to reduce the need for athletes to engage in performance enhancing drugs or methods to recover quickly from participation in a prior event.

Finally, the drug testing method is oriented by an underpinning principle, as decided by the FGG General Assembly of 2010, that "as a rule drug testing is not appropriate for the Gay Games." The reasons suggested for this lack of suitability are; the expense associated with testing, that testing is an invasion of the privacy and physical integrity of athletes who, for personal safety reasons, may desperately require privacy, that most Gay Games participants are

recreational and do not closely monitor food labelling and medications, that many Gay Games participants are older and/or suffer from medical conditions whose treatment is not currently covered by TEUs, and that the Gay Games cannot financially support nor access a range of testing protocols, including out-of-competition testing, that would produce an effective drug testing regime. Drug testing can only be implemented subject to the “express approval of the FGG” (FGG 2013) and only if it is required by a sanctioning body or if it is a *legitimate* response to demands by event participants. In the first category of cases, the Games organisers and the FGG will need to determine whether the mainstreaming effects are worth the economic costs of testing and the potential damage to the values of the event. In the second case of popular support for testing, to be a legitimate response, the demands must demonstrate that drug testing is the only available and viable option to produce the goals supported by the policy, that drug testing will not negatively affect the number of participants, that drug testing will significantly improve the health and well-being of participants, and that drug testing will be effective in improving the fairness of the event. Given the reasons suggested for the anti-testing orientation of the FGG anti-doping policy, the demands placed on particular sports to demonstrate a justification for drug testing will be difficult to achieve. Also, if drug testing is permitted, the games organisers must ensure that a parallel event is run that follows the policy and practices of the Bodybuilding competition at the 2006 Chicago Games. This type of discussion to bring the deep historicized and socialized principles of a sport community into concert with the deep conventions of antidoping, so as to form specific antidoping policies that are acceptable to this specific practice community, should serve as a model to all specific sporting communities that are dealing with this issue.

Whether the hard-line anti-doping stance suggested by the agencies that control elite level sport is the most appropriate orientation for other communities of practitioners is up for the respective participatory democracies to decide. The Gay Games community certainly offers a model that is worthy for consideration (Symons and Burke 2014, 235). The anti-doping policies of the Gay Games have emanated from democratic discussions that question the contradictions between their original and underpinning philosophy of mass participation and inclusion, and a mainstream philosophy of sport that supports exclusionary drug rules. The philosophical benefit of this exposition of the Gay games practice community is that it provides a living example of the participatory democracy that Simon (2004), Morgan (2009), Schneider and Butcher (1993-94) and Jones (2010) agree on. Unlike the secretive *omerta* of Jones’ cycling practice community, the gay

games community is emblematic of open and co-operative participation in the development of its antidoping policies and practices.

### **ACKNOWLEDGEMENTS**

Our thanks go to the reviewers for their wise suggestions for improvements to this paper. We also need to thank John Russell for his constant support.

---

### **NOTES**

<sup>1</sup> The criticism of Morgan's position by John Gleaves, is whether Morgan's position essentialises sport as a perfectionist practice. How do we read sporting communities that see perfection as one ideal among many, or that don't see perfection as a worthy ideal to organise their participation around, or that see other ideals as more important in achieving the ends that they desire as a community? Whilst we would suggest that the perfectionist ideal is one that Morgan did go on to suggest as a socialized and historicized concern of contemporary elite sporting communities, Gleaves argues that the co-ordinating conventions that Morgan reads from this ideal are essentialist. In his terms, Morgan's argument:

... assumes not only that some sports are designed to test certain qualities (such as nerves under pressure) and not other qualities (such as recovery from difficult training) but that the qualities a sport tests are inherently worth preserving. By asserting that a sport ought to preserve certain tests, Morgan implies that sports have inviolable constitutive components and thus runs into the traditional problems of essentialism. It is very difficult to justify why certain challenges are essential to a sport and worth preserving while other challenges are tertiary or auxiliary and are disposable. (2011, 106)

We support one of the proposed ways out of this situation that Gleaves suggests; we think Morgan's response would be to again historicize and socialize decisions about what qualities are worth preserving and what are tertiary or auxiliary.

In all other ways, we agree with Gleaves' argument and suggest that the case of the gay games is exemplary of Gleaves' point that:

Accepting Lavin's argument for a democratic consensus, this is a discussion for the sporting communities. Moreover, if this discussion does occur, then it ought to take place on a sport-by-sport level (2011, 110)

We would add that it should take place on a community-by-community level as well.

<sup>2</sup> One reviewer reminded us that there is a history of elite level athletes presenting positive endorsement for sporting community-based decision making regarding issues associated with doping in sport. The reviewer explained that these views were unfortunately not recognised as legitimate voices by sporting organisations and WADA. At the same time, the Canadian Centre for Drug-Free Sport produced a report that called for the development of a sporting community consensus that would produce compliance for antidoping practices because the athletes have come up with the regulations themselves, rather than having these regulations imposed on them from above [WADA] (Schneider and Butcher 1993).

<sup>3</sup> Morgan's position is thoroughly engaged with the socialized and historicized communities of sporting practice. So, it is certainly not an ivory-tower abstraction. We are merely suggesting that our community provides an example of the treatment-enhancement distinction that is emblematic of Morgan's (2009; 2012) [and perhaps Simon's (2004)] position.

---

<sup>4</sup> The feminist concern with Rorty's notion of the strong poet suggested that his investigation of feminism shifted his stance from an excessively individualised strong poet to a collective and political worldmaking (Fraser 1990). This criticism may also apply to Morgan's moral entrepreneurs (2012, 66).

<sup>5</sup> We only suggest 'most sports' because of our counterexample, and not as a criticism of Morgan's position.

<sup>6</sup> Collins (2005) outlines the political context that influenced the scheduling of anabolic steroids under the *Controlled Substances Act*, and the consequential effects on medical research and treatment utilising steroids.

<sup>7</sup> For anti-realists like us, the section title should be read as a pun.

## REFERENCES

Ashenden, M. 2012. "Opinion on Omerta-101." *Cycling News*, September 18. Accessed February 2, 2015. <http://www.cyclingnews.com/features/opinion-michael-ashenden-on-omerta-101>.

Brigham, R. 2008. "Gay Games VIII to expand and refine drug testing." *Bay Area Reporter* [online]. July 10. Accessed April 4, 2013. [http://www.ebar.com/common/inc/article\\_print.php?sec=news&article=3150](http://www.ebar.com/common/inc/article_print.php?sec=news&article=3150).

Brigham, R. 2010a. "Games Cologne misses mark with drug testing policy." *Bay Area Reporter* [online]. June 17. Accessed April 6, 2013. [http://www.ebar.com/common/inc/article\\_print.php?sec=sports&article=294](http://www.ebar.com/common/inc/article_print.php?sec=sports&article=294).

Brigham, R. 2010b. "FGG gives random drug testing the boot." *Bay Area Reporter* [online]. August 19. Accessed April 6, 2013. [http://www.ebar.com.common/inc/article\\_print.php?sec=news&article=5014](http://www.ebar.com.common/inc/article_print.php?sec=news&article=5014).

Brigham, R. 2011. "Roger Brigham reviews "The Gay Games: A History." *Federation of Gay Games website* [online]. March 31. Accessed April 10, 2013. <http://gaygames.org/wp/blog/2011/03/31/roger-brigham-reviews-the-gay-games-a-history/>.

Burke, M. and Hallinan, C. 2008. "Drugs, Sport, Anxiety and Foucauldian Governmentality." *Sport, Ethics and Philosophy* 2 (1): 39-55.

Cassels, P. 2010. "Gay Games Drug Testing Causes Concern among AIDS Advocates." *Edge, New York City*. Accessed April 4, 2013. <http://www.eugenewyork.com/index.php?ch=news&sc=&sc3=id=106395&pf=1>

Cole, Cheryl. 2010. "Testing for Sex or Drugs." *Journal of Sport and Social Issues* 24 (4): 331-333.

Collins, R. 2005. "The Anabolic Steroid Control Act – The Wrong Prescription," *Think Steroids website*[online]. September 15. Accessed May 25, 2015. <https://thinksteroids.com/articles/anabolic-steroid-control-act-wrong-prescription/>..

FGG Performance-Enhancing Drug Policy. 2013. Accessed April 9, 2013. <http://gaygames.org/wp/sport/sports-policies/performance-enhancing-drugs/>.

Fraser, N. 1990. "Solidarity or Singularity? Richard Rorty between Romanticism and Technocracy." In *Reading Rorty*, edited by Alan Malachowski. Oxford: Basil Blackwell Ltd: 303-321.

Gleaves, J. 2011. "A New Conceptual Gloss that still Lacks Lustre: Critiqueing Morgan's Treatment-Enhancement Distinction." *Journal of the Philosophy of Sport* 38 (1): 103-112.

Ingle, S. 2013. "Chris Froome say Cycling's Code of Omerta has been Broken." *The Guardian (newspaper)*. June 23. Accessed March 25, 2015.  
<http://www.theguardian.com/sport/2013/jun/22/chris-froome-cycling-code-omerta-broken>.

International Masters Games Association. 2008. "Anti-Doping Rules." Accessed April 4, 2013.  
[http://hosting2.sportingpulse.com/www.imga-masters.com/fileadmin/user\\_upload/doc/IMGGA\\_Anti-Doping\\_Rules\\_December\\_2008.pdf](http://hosting2.sportingpulse.com/www.imga-masters.com/fileadmin/user_upload/doc/IMGGA_Anti-Doping_Rules_December_2008.pdf).

Jones, C. 2010. "Doping in Cycling: Realism, Antirealism and Ethical Deliberation." *Journal of the Philosophy of Sport* 37 (1): 88-101.

Lock, R. A. 2003. "The Doping Ban: Compulsory Heterosexuality and Lesbophobia." *International Review for the Sociology of Sport* 38 (4): 397-411.

Markwell, K. and Rowe, D. 2003. "The International Gay Games: Subverting Homophobia or Selling Out?" *International Sports Studies* 25 (1): 5-20. Accessed April 1, 2013.  
[http://www.uws.edu.au/\\_data/assets/pdf\\_file/0008/365759/Markwell\\_and\\_Rowe\\_InternationalGayGames\\_IC\\_S\\_Pre-Print\\_Final.pdf](http://www.uws.edu.au/_data/assets/pdf_file/0008/365759/Markwell_and_Rowe_InternationalGayGames_IC_S_Pre-Print_Final.pdf)).

Morgan, W. J. 2012. "Broad Internalism, Deep Conventions, Moral Entrepreneurs, and Sport." *Journal of the Philosophy of Sport* 39 (1): 65-101.

Morgan, W.J. 2009. "The Ethics of Performance-Enhancing Drugs and the Treatment-Enhancement Distinction." *Journal of the Philosophy of Sport* 36 (2): 162-181.

Russell, J.S. 2004. "Moral Realism in Sport." *Journal of the Philosophy of Sport* 31: 142-161.

Schneider, A.J. and Butcher, R.B. 1993-94. "Why Olympic Athletes Should Avoid the Use and Seek the Elimination of Performance-Enhancing Substances and Practices From the Olympic Games." *Journal of the Philosophy of Sport* 20-21: 64-81.

Schneider, A.J. and Butcher, R.B. 1993. "Doping in Sport: An Analysis of the Justification for Bans and the Ethical Rationale for Drug-Free Sport." *Report to the Canadian Centre for Drug-Free Sport*.

Simon, R.L. 2004. "From Ethnocentrism to Realism: Can Discourse ethics Bridge the Gap." *Journal of the Philosophy of Sport* 31: 122-141.

Symons, C. 2010. *The Gay Games: A History*. London: Routledge.

Symons, C. and Burke, M. "Drug Legislation and the Gay Games." In *Drugs and Sport: Writings from the Edge*, edited by Bob Stewart and Michael Burke. Melbourne: Dry Ink Press: 223-242.

Thornton, M. 2006. "Feminism and the Changing State: The Case of Sex Discrimination." *Australian Feminist Studies* 21: 151-172.

World Anti-Doping Code International Standards: Therapeutic Use Exemptions for androgen deficiencies.2013. Accessed April 3, 2013. <http://www.wada->



[ama.org/Documents/Science\\_Medicine/Medical\\_info\\_to\\_support\\_TUECs/WADA-Medical-info-Androgen-Def-Hypogonadism-2.0-EN.pdf](http://ama.org/Documents/Science_Medicine/Medical_info_to_support_TUECs/WADA-Medical-info-Androgen-Def-Hypogonadism-2.0-EN.pdf)

World Anti-Doping Agency: Medical Information to Support Decisions of Therapeutic Use Exemption Committees. 2013. Accessed on April 3, 2013. <http://www.wada-ama.org/en/Science-Medicine/TUE/Medical-information-to-support-the-decisions-of-TUECs/>