

Drugs, Sport and Human Rights

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Introduction

On the third anniversary of the implementation of the Islamic fatwa on Salmon Rushdie, a group of his supporters came together to maintain their opposition to the death sentence. Tom Stoppard, the famous author and playwright, said the following:

What this occasion is not, I hope, is the one thing it appears to be; a gathering of Western Liberals to deplore attitudes uncongenial to Western liberalism. That particular circularity won't roll anywhere, anymore.... The least ingratiating interpretation of this occasion would be that we are writers closing ranks for literature.... Literature, the freedom of expression... is categorically invalid in this argument.... The right to freedom of expression is not fundamental.... To a theist, free expression can never be fundamental.... The notion of tolerance as a human virtue, the concepts of liberty and pluralism as we venerate them today were as unintelligible to St. Augustine, as they were to his contemporary, Mohammed... (Fraser-Cook, 1992)

Stoppard continued by arguing that the complacency a nation or a community holds about the truth or goodness of their beliefs is brought into sharp doubt by opposition to those beliefs. And merely asserting 'human rights' of free speech and tolerance as universally good would not satisfy those opponents who see such rights as a sign of a decaying or disharmonious society. Instead, it will be necessary to engage with our opponents on their terms, to listen to their stories and endeavour, if we still feel resistance towards those stories, to turn them inward against their authors.

What Stoppard was explaining was that the concept of universal 'human' rights is decidedly a Western concept. But it is also a Western concept which we, in the West, do not always agree to follow. We will suggest that the case of the Chinese swimmers is one where a Western sporting nation has not provided their so-called 'basic human rights' of a fair hearing and a just trial to this threatening group of individuals. The idea of a fair hearing requires that the jurors are capable of, and motivated to, listen to the defendants. Free speech is a useless right if no one will listen. For some people, free speech does not fall in their laps. They must fight a difficult battle against society's prejudices, traditions and dominant discourses to win this right.^{lxxxvii}

The case of the Chinese female swim team is indicative of the unwillingness of the Western sports community to listen to all peoples' stories. The Chinese swimming team was banned from participating in the Pan-Pacific swimming games because of claims made by other competing nations that it was involved in institutional drug use. This paper will investigate the revulsion felt both towards the female Chinese swimmers who engaged in steroid use, and those whose body shapes and/or performances made it necessary for us to believe that they had engaged in steroid use, evidence notwithstanding.

It is important to acknowledge at the outset that the issue of fairness is not central to the current presentation.^{lxxxviii} Rather than contribute further to that larger debate, the authors wish to concentrate on how the drug ban might contribute to one of the deleterious consequences of sport, a consequence that, ironically enough, arises out of the efforts of sport legislators to be 'fair'. That consequence is the maintenance of restrictive gender/sex boundaries in sport because of different penalties for female transgressors as compared to their male counterparts, and the effects these

restrictive gender boundaries have on the female's authority as a free speaker.

There continues to be, both in the general public and the athletic community, what Lavin refers to as 'a pervasive opinion' against the use of drugs in sport (1987). We will argue that the pervasive dislike of athletes using drugs is not explained entirely by the 'good' practice of sport and fairness. It also has something to do with the desire to maintain the socially constructed, gender boundaries in society through an opposition to anything that might reduce the overt differences between male and female athletic bodies and performances. This reduction in overt differences would produce the threatening idea, to male power at least, that the sexes exist as overlapping continuums rather than mutually exclusive categories, or, in MacKinnon's (1987:40) terms, that sex was a construction necessary to the maintenance of already existing hierarchies of power and rights. Simon, citing the American College of Sports Medicine, lists as one of the serious side-effects of steroid use, the '...masculinization of females' (1984:6). Why is this a serious side-effect? Masculinization and feminisation are social constructions, and not biological categories. Therefore, the serious side-effect of masculinization must be that females no longer fit the category which is socially constructed as suitable for their sex, that females with big muscles have begun to encroach on what was once exclusively male territory.

A second limitation of the argument relates to the political agenda it seeks. It hopes to produce nothing more than an increased capacity to listen; in other words, nothing more than extending the human right to be listened to at a fair trial to a group of people who have been denied that right. Should or could this listening lead to change? That is a question that this paper cannot hope to answer. This paper does not argue for any change beyond an expansion of our willingness and capacity to listen to others. Change will occur only if the sport community is touched by the stories it hears and is swayed to believe that the drug ban produces enough pain to warrant change.

Maintaining The Consensus Against Drug Use(rs)

As early as 1980 W.M. Brown located the ban on drugs as one of a group of rules, including amateur laws, weight categories and sex and age restrictions, which could be contrasted with constitutive rules. These former rules all limit *who* can play the game, as distinct from constitutive rules which limit *how* the game is played. The legitimisation of such rules exists within the democratic and socialised concerns of the public and ebbs and flows with changes in social, political and philosophical thought (1980:21).

Davis and Delano (1992) reviewed a number of anti-drug media texts and campaigns, which partly explained why this socially constructed boundary is currently drawn where it is in terms of the use of drugs by athletes. The authors suggest that the campaigns play on a number of unexamined western cultural assumptions such as: that bodies fit into unambiguous natural categories according to sex; that drugs are artificial substances which disrupt this gender dichotomization; and that the present (and appropriate?) gender order in sport and society is produced by these differential gender characteristics.

Davis and Delano question all three assumptions encouraged by the media campaigns. Social theorists have revealed how human bodies are socially and culturally constructed such that certain presentations of the body are favoured over others. To assume a 'naturalness' to body construction obscures the powerful social and political forces that create the body, its gendered shape, and its practices. This elevates to the status of essential and unavoidable 'truth' what is at most a contingent social construction. In addition, the campaigns assume and promote the idea that drugs are artificial. Again, this assumption obscures the question about who is to decide whether a technique is artificial (e.g. drugs, genetic engineering) or natural (e.g. training, diet).

Finally, Davis and Delano examine the assumption of physical gender dichotomization included in many of the texts. They argue: 'Certain characteristics, which many men and women possess without drug use, but which

are violations of notions of gender dichotomization, are presented as abnormal and disgusting in the campaign rhetoric' (1992:7). The characteristics include the commonly observable breasts on men, and facial hair and deep voices in women. In addition, impotency is seen as unmasculine and aggression as unfeminine. Such texts imply that any person who falls outside these bipolar categories, whether as a result of having taken steroids or not, is not really a person because they can be neither 'truly' male nor female. These socially constructed characteristics and categories of male and female, as produced and supported by the discourse of such media texts, are mutually exclusive. Yet, and as Davis and Delano argue, there is a significant overlap between the sexes on these characteristics. Some real men do have observable breasts. Some real women do have hairy faces.

While anecdotal, the members of my^{lxxxix} undergraduate Sport Ethics class were generally repulsed by the sight of the Chinese women swimmers. These swimmers displayed a body-type that did not fit into the socially constructed category of female. They had large muscular backs, narrow hips, small breasts and powerful legs, arms and shoulders. In the terms used by Davis and Delano, they were abnormal and disgusting (1992:7). They looked like men, but were labelled 'women'. Interestingly, the class was not similarly disgusted with Ben Johnson. The problem with Johnson was not that he was a freak, although many students had seen the changing configurations of Johnson's musculature over time. He remained a male, perhaps became even more of a male, with a strong, powerful, aggressive body. His sin was against a lesser god; he merely cheated. The problem with the Chinese swimmers was that they were gender freaks first, and cheaters a distant second.

Fairchild (1989:76) argues that we can appreciate athletic bodily refinements as exemplary even though these developments are considered abnormal in normal life. This is because we can demarcate sporting bodies from social bodies. We are suggesting that such demarcations are less likely with respect to female athletes, because athleticism, especially female athleticism, must be understood in the wider context of heavily

guarded, socially constructed gender categories.

What effect does this differential identification of athletes by gender have on gender roles in the wider society? Iris Young says, sarcastically, if a woman succeeds at sport, she is either not really a woman (i.e. has male characteristics) or it is not really a sport (1988:336). Sport remains an important area in western society for males to assert their traditional dominance through masculinity. Women's excellence in sport threatens this dominance. Therefore, muscularity, power, aggression and violence are described as natural for men, but as either abhorrent or eccentrically humorous in women athletes^{xc} (Davis and Delano, 1992:12,13).

Is this a dangerous or cruel description? In several ways it is. Women in sport are placed in the ambiguous position of participating in an activity which is 'perceived as gender inappropriate' (Davis and Delano, 1992:14). They may do several things to make it more appropriate, most of which seem to add to the problem of gender dichotomization. They might, for example, wear inappropriate and uncomfortable uniforms (body suits in basketball, skirts in hockey and netball), or flirt with the judges (ice-skating, synchronised swimming), or wear make-up (synchronised swimming), or produce 'girlie' calendars (golf, athletics), or agree to rulings in law which discriminate against them in terms of participation (ice hockey, football).

What they must not do is challenge the dichotomous construction of society by suggesting that the imposition of drug bans may be a patriarchal defence strategy. They must, in order to have a voice, say only that which the powerful in their sports community want to hear.

There is another cruelty perpetuated by these descriptions, which serves to split women as a political group. Davis and Delano argue:

'All of these texts imply that any person who takes steroids, or who happens to have any of the above listed characteristics [i.e. facial hair, deep voices, small breasts, and large muscles for women; large breasts,

small genitals, and baldness for men]^{xci} without taking steroids, is outside the categories of male and female and thus not fully human' (1992:9).

Thus, those who do not fit the dichotomous gender categories are rendered 'invisible' (1992:11). It is this cruelty that we will go on to discuss in terms of the importance of being male in some societies, and in some social practices such as sport.

Creating Humanity - The Work of Richard Rorty

David Rieff, a reporter on the Bosnian crises, wrote the following:

A Muslim man in Bosansi Petravac...[was] forced to bite off the penis of a fellow- Muslim. If you say that a man is not human, but the man looks like you and the only way to identify this devil is to make him drop his trousers - Muslim men are circumcised and Serb men are not - it is probably only a short step, psychologically, to cutting off his prick (in Rorty, 1993:1).

Rorty comments on the dehumanisation of Muslims by Bosnian Serbs. The perpetrators do not consider themselves guilty of violating *human* rights, because they do not consider Muslims to be human. It is the same 'rationality' which allowed the distinction made by the Crusaders between humans and savages, made by the Black Muslims between humans and blue-eyed devils, made by American white landowners between humans and black slaves, and made by the Nazis between humans and Jews. In all cases the use of the term *men* means *people like us* (1993:2).

For our argument, the most interesting distinction Rorty makes is between male as human, and female as sub-human or quasi-human. In certain cultures, and within certain practices, it is extremely important to be a male. Only men enjoy the rights gained by being human. So to be a non-male is one way to be a non-human. (1993:3) To be non-male is to be the Other; the one who *we* are not like

and would never reasonably aspire to be like. As men, we thank our respective lords that we are neither women, raped nor castrated.

One way of being non-male is to have your genitals shrink and your breasts enlarge. This is one of the fears that the popular media texts concerning drug use insidiously play upon; if you use drugs as a male athlete, you may be successful, but at the cost of becoming 'female'. How does this apply to females who use drugs in sport? This situation may create a great threat for the *we*, the community of males. For if *we* define ourselves in terms of what *we* are not (that is, female), and those that are not us, can become us, our identity is suddenly under threat. If females can become part of the community of *we*, either through the use of drugs, genetic manipulation, or by surgery, how can *our* superiority be maintained as central to our humanity.^{xci}

The point being made here is that gender transgression is not equally acceptable, because of power dimensions in society, which are very evident, and may even be exaggerated in, and defended by, sport. The powerful is an exclusive set; it is powerful both over, and in contrast to, the subordinate. Men who, through surgery, appearance, sexual preference or drugs, become more female-like, threaten neither the exclusivity nor the contrast-effect of the powerful. They may actually enhance exclusivity by reducing the size of the class. However, women who, through surgery, appearance, sexual preference or drugs, become more male-like, threaten both the exclusivity of the male class and the differences between the sexes. As the effects of steroid use are more visible in females than males, an ironic and gendered twist may be operating within the dominant response to the use of such drugs; a twist which has been discussed in terms of Johnson who, at least overtly, appeared to become more male. The Chinese swimmers, however, also became more male, less female. Through their appearance they may have threatened the exclusivity of the men's club. In sum, there may be good reasons why gender transgressions generally, and drug use specifically, does not cut both ways equally. One transgression, male to female, contributes to the exclusivity of the powerful elite, whilst

the reverse threatens this exclusivity and contrast.

This should make us wary of the dangers of a 'human rights' philosophy that purports to deal with a generalised human subject as if it was ungendered. Rorty, and others, hope to discredit views that suggest that we are capable of revealing a transcultural 'human' base that will expand the membership of our community and will result in new rights and freedoms for those who do not currently have them. Humanity, so understood, is useless in such an expansion because the *other* is considered neither rational nor human and is, therefore, not worthy of the rights bestowed by membership in our community. They are *them*, and this exclusion is a *heartfelt* sentiment (1993:13).

But neither will a contextualised Western rationality of human rights do the job of expanding our community because we are unaffected by the failure of the *other* to cohere with our community, and so do not feel any need or desire to listen to them. The *other* merely remains the irrational or immoral other; that important object who we define ourselves as different to, better than and more authoritative than. Expanding the *we* is the product of neither foundational rationality nor a new revelation within our current rationality, but of hearing sad and sentimental stories about the effects of our exclusions (Rorty, 1993:7).

What of women in sport, especially those women, like the Chinese swimmers, who appear to use drugs? Their situation sharpens our suspicion of two forms of revulsion towards drug takers: a mild, puritanical distaste of the act of deception and a stronger revulsion of the act of challenging gender boundaries. Are the Chinese swimmers threatening the security of the male-dominated practice of sport? Are we less comfortable about this threat in the West, where many other traditional male/female boundaries have broken down, than in the East, where many barriers remain? Will it work to label the Chinese swimmers as irrational, or sub-human, and thereby exclude them from the 'rational' discussion of this problem?

We think it is more important for our sport community to expand its breadth. It should be

noted that this is not the claim that all we believe should be dropped just so as to expand the community; that is, that drug use should be sanctioned simply because some previously excluded *others* use drugs. It is the stronger and more general claim that females should be listened to in this debate on drugs, while entertaining the possibility that their stories may encourage a sentimental re-education which might change both the dominant Western rationality about the issue of drugs and the dominant patriarchal rationality about dichotomous sexual categories.^{xciii} Once we listen sympathetically to their stories and appreciate the lack of security and dignity they may feel in their lives and sporting practise, our *we* may expand to include Chinese female swimmers who appear to use steroids. But this expansion can only happen if *we-the-sports-community* recognise the threat that this may pose to our self-understanding and history.

What might we hear if we listen rather than exclude? One example will be sufficient to display the complex stories that may emanate when other cultures are listened to. The Hong Kong national swimming coach, Chan Yiu Hoi, demonstrated a problem that confronts Chinese swimming officials. Holding up a dried deer penis, an enhancer of physical strength in China since ancient times, and more recently used by Chinese swimmers, he said: 'They tested this and found there were growth hormones inside' (McGregor and Jeffery, 1995). Such conflicts between subordinate Eastern society and rituals, and the dominant Western globalisation of sport should make us question who is the 'human' we refer to when we argue that the drug ban fits in with the United Nations' *Declaration of Human Rights*. Is the 'human' referred to male or female, Western or Eastern?

Why should *we* listen to the Chinese female swimmers and not simply demand that they listen to and agree with our rational community? Quite simply, because we are the more secure and have the power of a secure identity to cope with change. The Chinese swimmers are the 'Other' excluded from the dominant community. But this exclusion is far greater, and far more 'heartfelt', than we have so far described. We should recall that prior to their entry into sports, Chinese females are already part of two marginal groups - female

and Eastern sub-humans. They enter sports and are further marginalized, so that their identification with the sub-group *female* is now also threatened. Should we then demand that they risk their identification with the group *athletes* by speaking out against the ban on drugs? This position of insecurity and aloneness would not be a comfortable place from which to speak nor one that, with current deafness, is likely to be heard.

Rorty suggests that: 'Morality is as Wilfrid Sellars has said, a matter of "we-intentions". Most moral dilemmas are thus reflections of the fact that most of us identify with a number of different communities and are equally reluctant to marginalize ourselves in relation to any of them' (1985:218). Some people, at certain times, are secure and strong enough to tell their own stories, even though they conflict with the shared ideas of the community. But other athletes are not so secure; they may suffer at the boundaries and barriers of language, of poverty, and, for our argument, of race and sex. Should we leave the Chinese swimmers, in the insecure position of not being able to tell their stories without moral condemnation; of not having a chance to invoke sentimental sympathy?

As good liberals, we should be willing to listen to those less secure. The case of the black slave in America may be suggestive. The black slave was considered sub-human. This allowed Thomas Jefferson to produce large scale liberal freedoms, whilst retaining ownership of black slaves. How did the abnormal discourse that blacks were human, become normal? A popular story is that it may have been due to comfortable and secure 'Yankees' listening to the stories of black people, and finding something that allowed the blacks to be included within the community of humans. This exemplifies Rorty's position: that to expand *our* community we need to become people who are peaceful, secure and sentimental enough to develop the capacity to listen to the stories and hardships of others. Perhaps this is how we members of a safe, liberal society should approach the Chinese swimmers. It would seem to be a more tolerant position than the one calling for immediate suspension of the team from Pan-Pacific and Olympic carnivals, prior to any such listening.

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^{lxxxvii} This is not just an ethical matter. It is also a legal matter in sport. The IOC rules in relation to doping maintain that any individual with a banned substance in their system is guilty of doping, regardless of how the banned substance got there. The athlete may be punished even if unaware of the banned substance being administered (Bhuvanenda, 1999:30). This rule, claimed as necessary by the IOC to stem the flow of drugs in sport, contravenes the judicial principle of 'innocent until proven guilty'. In this case, the person is presumed guilty until they can prove their innocence. In the absence of any evidence to the contrary, the athlete is considered guilty (McLaren, 1998:5). McLaren goes on to discuss how steadfastly sporting bodies maintained this principle in the case of Jessica Foschi. The banned substance, which appeared in Foschi's post-race urine test, is administered as a small, easily dissolvable pill which is tasteless, colourless and odorless. Foschi's parents organised a body toxicology, performed nine days after the drug test, where she tested negative for steroids. A physical examination, performed one month later by a paediatric endocrinologist, concluded that Foschi had shown no traces of past or present steroid use. Foschi, her parents and her trainer all passed lie detector tests which revealed that they had not deceived the ruling bodies of swimming in saying they had no knowledge of how the substance entered her system. Yet in the face of all this evidence, the ruling body of swimming, FINA, imposed a two-year suspension of Foschi. The Court of Arbitration in Sport subsequently reduced

her punishment to a six-month suspension (McLaren, 1998:6).

^{lxxxviii} Arguments of fairness (whose fairness?) can and have been used both for and against the drug ban. There appears to be no general consensus on the issue: some have suggested that it is fair for all athletes if drugs are banned (Schneider and Butcher, 1993-94; Simon, 1984), and others have argued that it is fair for all athletes if drugs are allowed and equally accessible (Brown, 1980, 1990; Fairchild, 1989; Lavin, 1987).

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^{xc} There was a disparaging comedy skit at the time of the 1994 Australian Tennis Open, when the Melbourne zoo was trying to name a baby gorilla. The comic suggested they should name it Aranxta, after the champion female tennis player, Aranxta Sanchez-Vicario. What was disappointing was that Sanchez-Vicario, a champion tennis player, is derided for possessing a body which is muscular and strong; a body-type which makes up for an obvious lack of height.

^{xci} Our insertion.

^{xcii} It is interesting to note that the female-to-male sex change operation is largely an invisible one in our society. In contrast, the male-to-female operation is well known because of television programs, such as Chicago Hope, and because of athletes, such as Renee Richards. Why do we hear little about the other operation?

^{xciii} As Catherine MacKinnon stated when two women were appointed to the Supreme Court of Minnesota: 'My issue is what our identifications are, what our loyalties are, who our community is, to whom we are accountable. I think it is because we have no idea what women as women would have to say. I'm evoking for women a role that we have yet to make, in the name of a voice that, unsilenced, might say something that has never been heard...' (cited by Rorty, 1991:3).