Critical Commentary: Why athletes deserve second chances

Mikael J. Gonsalves
Western University

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In their recent JESS commentary, “Sport and second chances? All drug cheats should be banned for life, here’s why” (2019), Crisp and Sims argue that one-time Performance-Enhancing Drug (PED) users should be banned for life from competitive sport because of the life-long advantages that taking PEDs can give athletes, as compared to athletes who have never taken PEDs. Crisp and Sims’ commentary is an important contribution to the ongoing ethical debates that surround the issue of PED use in athletes. My response to their conclusion, however, is one of respectful skepticism. In what follows, I outline the important merits of Crisp and Sims’ argument, and contribute certain critiques that might add to the discussion that Crisp and Sims raise.

First, Crisp and Sims should be commended for coming forward with a truly original argument on what they rightly consider to be a “typically underdeveloped” topic in the ethical literature on PED use in sport. Certainly, sport philosophers, such as Robert L. Simon (1991, 2010) and Warren P. Fraleigh (1985) have commented on the idea in the past, but Crisp and Sims provide an original contribution that moves the debate forward. As they describe, the question of bans for PED use is grounded in an unfortunate inconsistency. It is apparent that the anti-doping movement both fights for clean sport and leaves ‘advantaged-for-life’ athletes to compete after their suspension on the other; it fights for a level playing-field, but allows ‘drug-cheats’ to keep the field decidedly unlevel upon their return from suspension.

In response to this observation, Crisp and Sims call for ‘consideration’ of a life-time ban for one-time PED users. They base this assertion on “emerging evidence” that proves one dose of PEDs gives an athlete life-long advantages over non-users. From an applied ethics point of view, which acknowledges that authors tend to neglect empirical data, this observation by Crisp and Sims is well appreciated, since it acknowledges new data sets. Indeed, if the “emerging evidence” does in fact prove the unfairness of a return to play, policy solutions should be revised and definitions of both “excellence” and “drug-free sport” should be correspondingly changed.

One particularly interesting aspect of Crisp and Sim’s commentary that needs to be additionally noted is that their employed term of “natural barriers to excellence” is unique in this literature. In particular, it starkly deviates from Simon’s (2010) definition of excellence, which has been largely accepted by the philosophy of sport community. Certainly, the possibility of a leveled playing field, and fairness as a concept in general, has been studied before (see Angela J. Schneider (1998), Mike McNamee (2011), and Sigmund Loland (2013)), but perhaps no one has done so in the way that Crisp and Sims have here with a ‘gut-driven’ argument intended to punish one-time users with the harshest possible ban. In this way, their commentary must be recognized as a bold and courageous effort to safeguard clean sport.

However, this does not mean that their argument does not possess, from my perspective, serious flaws that need to be further (and respectfully) challenged and debated. These include: a lack of distinction in their terms, overall evidence, and solutions, as well as an inadequate consideration for cases that prove more unclear and complex. What follows is a brief discussion on each of these issues:

Issue #1: The topic is introduced without distinctions

Realistically, the question of the bans cannot be introduced without some clarifying distinctions, the most important being the distinction between professional and amateur sport. The authors should have noted that both drug use and anti-doping interventions (in terms of athlete targeting or frequency of testing) vary according to

athlete status. For example, the doping scandals of American major league baseball are far different from those occurring during the Olympic Games, since the regulations of the private league, a corporate entity, are not the same as the International Olympic Committee's agreement between nations. Furthermore, Crisp and Sims should have noted distinctions between sports. Advantage gained from PED use depends on a sport's aim, whether its test is endurance, strength or overall performance. Weightlifters arguably gain more from testosterone than any other substance, whereas cyclists are known to favor EPO (Erythropoietin).

There are other possible distinctions that could have been noted, such as the ones between PEDs themselves. What are the athletes taking? Are we discussing the effects of stanozolol, amphetamines, beta 2-agonist inhalers or other substances? In micro-doses, cocaine can probably be as performance-enhancing as other amphetamines, such as concerta or ritalin. What are the advantages? If we are insisting on the long-term effects of PEDs (in broad terms) as an indicator of possible punishments, these questions are left unanswered. The reader has only a vague notion of "life-long advantage," without a concrete idea of how testing regulations (private league or international agreement), athlete's situation (professional or amateur) or substance being used (EPO or Testosterone) influence these outcomes, which Crisp and Sims do not clarify. Nevertheless, the notion of "life-long advantage" has enough implied meaning to hold the authors' position. They still show the sport contradiction of leveling the playing field by tilting it again soon after, when the suspension ends.

Issue # 2: The evidence of life-long advantage is "far from complete"

In fairness to Crisp and Sims, they recognize that the evidence for life-long advantage is "far from complete" (p.4). However, I would go a step further to suggest that their presented evidence does not fundamentally prove their case. For instance, if the authors feel confident using Pope et al. (2014) to argue that there is "current ignorance surrounding long-term adverse consequences of PED use, including the withdrawal symptoms associates with suppressed HPT function and mental health conditions" (p. 3), they should express similar reservations regarding the long-term advantages of PED use. The current gap in scientific knowledge regarding consequences of long-term PED use seems to suggest similar unawareness about long-term advantages of PEDs. In other words, if we are not fully aware of "life-long consequences," how can we prove "life-long advantage"?

The authors are quick to affirm that "using certain PEDs [...] confer lifetime advantages to any PED user in comparison with a 'clean' athlete" (p.4) and give the impression that scientific has affirmed only one side of research. However, nothing is introduced to explain this success. In fact, it would seem more plausible that, if has science effectively proven one side of the debate regarding long-term effects of PEDs, it has been on the damages side (i.e., liver damage), rather than the advantages side. More precisely, the use of Erikson (2006) does not prove the life-long advantage, since this study trusts athletes' self-reporting of non-use. Researchers cannot be sure that the subject never used PEDs. On the other hand, Crisp's (2016) recollections, even if the study makes a distinction between professionals and amateurs and between strength sports, do not prove it either. As interesting as the anecdotes may be, and as accurate as they may be, memories of past doping behaviors are not scientific proof and cannot be used as empirical evidence.

If the authors support the claim that "long term advantages [...] within humans remain inadequately studied" (p.5), they should not state that "enough evidence [exists to] [...] call into question any argument [...]"

that allows subsequent rehabilitation of offenders.” Indeed, either they are “inadequately studied” (p.5) or “enough evidence [exists].”

Issue #3: A method to determine athletes’ eligibility is missing

Even if life-long advantages for one-time users is scientifically proven, I can see three problems persisting. To start, Crisp and Sims overlook a method to determine athletes’ eligibility. Anti-doping authorities do not have a way to determine if athletes took PEDs before competing. Presently, there are no means to certify that an athlete has fully abstained from drug use in recreational play. For example, it is possible to hide from testers for years before registering to compete. Once registered, targeted athletes are tested in and out of competition, but an athlete is not tested before they decide to compete in sport. If PED users do not play any sport, they cannot not affect ‘clean’ sport and, in this sense, should not be tested. Thus, Crisp and Sims’ problem of method again persists.

Issue #4: Cases where athletes are tricked into doping are not considered

Similarly, the authors overlook the many cases where athletes are tricked by a system. Historically, centralized doping systems, such as the East-German system (Franke and Berendonk, 1997), are known to have targeted minors and tricked them into taking banned substances. For instance, anabolic steroids produced for national teams were purposefully labelled as vitamins (Fitsche, 2018). In theory, any reputed doctor, of any country, could change prescribed tablets, swap boxes, or print false labels to successfully dope an uninformed athlete. In such cases, especially regarding minors, I strongly refute further punishment of the victim. There is clearly no perfect answer for these persisting systems of coercion, but victims do not deserve the lifetime ban proposed by Crisp and Sims.

Issue # 5: It denies opportunities for changed individuals and conclusion

Lastly, the authors’ arguments deny human beings an opportunity to change. For the ones who should realize that competitive sport does not imply doping, we should maintain their right to express themselves on the field. This last criticism is more philosophical, since the authors’ proposition has deep ontological implications. Granting individuals only one chance, in any aspect of life, opens a complex discussion of human nature. While it is true that some will dishonestly plead a change of convictions, honest athletes who understand the nature of their transgression deserves a second change.

In conclusion, Crisp and Sims’ commentary is an important and fascinating contribution to the evolving philosophy of sport, and especially to the ethical quagmire of PED use. Yet, despite their argument’s originality, I contend that it falls short of their stated ambitions. Without proper distinctions, evidence, or solutions, too many questions remain yet unanswered. Through further clarification on the issue of ‘life-long advantages,’ and further discussion of coercive instances or allowance for rehabilitation, it could extend its reach on this important topic.