

## PRAGMATIC CONVENTIONALISM AND SPORT NORMATIVITY IN THE FACE OF INTRACTABLE DILEMMAS

### **Abstract**

*We build on Morgan's deep conventionalist base by offering a pragmatic approach ('transitionalism') for achieving normative progress on sports most intractable problems (e.g. performance enhancement restrictions, collision sport dangers, competitive classification discord). Our account picks up where Morgan suggests disparate normative communities 'default' to inferior yet functionally 'pragmatic' resolutions to conflict. Pragmatic resolutions, we contend, offer normative substance by providing the means to move beyond intellectual stalemates by re-orientating our normative efforts relative to the three cornerstones of Morgan's deep conventionalism: the nature and status of different sporting conventions; the difference between conflicts of an 'intramural' and 'extramural' kind; and what constitutes a resolution to sporting disagreements.*

**Key Words:** *pragmatism, conventionalism, normative, sporting problems, intractable dilemmas, sport ethics*

### **Introduction**

The thoughtful reintroduction of 'conventionalism' into the sport philosophy literature by Morgan (2012) aims at a 'genuinely acute and incisive' approach to 'make critical sense of the contemporary sport scene' (p.89). Morgan asserts that his socio-historical notion of 'deep conventions' provides a superior normative framework compared to the 'too abstract, too far removed' Dworkian-inspired 'realist' principles championed by interpretivist-minded

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3 philosophers of sport. ‘Deep conventions’, Morgan writes, ‘are better suited [than interpretivist  
4 principles] to do heavy normative lifting precisely because of their social and historical  
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6 situatedness’ (p.66) and thus possess ‘the key to normatively perspicacious inquiry *into* sport’  
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8 (p.79; emphasis added).  
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12 Morgan’s socio-historical normative account has elicited several critical responses (e.g.  
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14 Ciomaga 2012; Lopez-Frias 2014; Russell 2018; Moore, 2018). Instead of adding to critiques of  
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16 the ‘philosophical veracity’ of Morgan’s account, we build out from a deep conventionalist base  
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18 by offering a pragmatic approach for instrumentally achieving normative progress where Morgan  
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20 suggests ‘rationality’ stalls. In particular, our pragmatist insights offer another reasoned way to  
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22 arrive at meaningful ‘working resolutions’ to intractable, complex, and wide-ranging dilemmas  
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24 that inevitably confront sport.  
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28 Sport’s most vexing problems, including where to draw lines related to the use of  
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30 performance enhancement practices (e.g. limiting technologies including therapeutic drug  
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32 usage), how to define acceptable limits of physicality in collision sports (e.g. tackles targeting  
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34 the head in gridiron football), and when to exclude certain athletes from competitions due to  
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36 ‘unfair’ natural advantages (e.g. Caster Semenya’s exclusion from IAAF 800m events based on  
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38 abnormally high levels of testosterone), generally result in fluctuating, contested, and uncertain  
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40 rulings. Complexities and controversies in these instances arise because the issue is not merely  
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42 one of how to best realize the point and purpose of a particular sporting practice, but also these  
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44 dilemmas also relate to, for instance, wider and more complicated questions of economic and  
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46 political disparity (e.g. access to technology), health and well-being (e.g. long-term effects of  
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48 brain injuries), and human rights (e.g. gender classification and hyperandrogenism), and  
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50 subsequently bring non-sport considerations (and stakeholders) into the rational fray.  
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3 In such complicated and far-reaching instances, Morgan contends that disparate  
4 normative communities ‘default’ to supposedly inferior yet functionally ‘pragmatic’ and/or  
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6 ‘imaginative’ resolutions to their conflicts. In other words, the best a varied mix of stakeholders  
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8 can do when confronted by a vexing, multipronged impasse is to arrive at some merely  
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10 functional, rationally indeterminate, and ultimately unsatisfactory conclusion. Our alternative  
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12 pragmatic conventionalist account offers rich and meaningful normative resources to pick up  
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14 where Morgan’s conventionalism ends, where narrow inquiry *into* sport transitions to  
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16 multifaceted inquiry *in and through* sport. Far from being *arational*, our conventionalist offering  
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18 provides substantive means to move more complicated and intractable sporting dilemmas beyond  
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20 intellectual stalemates that arise with appeals by disparate normative vocabularies.  
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26 We develop our paper in three sections. The first provides an historical overview of  
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28 conventional thinking in relation to sport normativity. The second focuses on understanding  
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30 ‘third wave’ pragmatist philosophy as ‘transitionalism’ (Koopman 2009) – a contemporary  
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32 account of practical rationality that we suggest provides a useful philosophical tool for the  
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34 critical assessment of sporting conventions. The third section shows how transitionalism re-  
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36 orientates and transforms our normative efforts in the face of intractable sporting problems with  
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38 respect to the three cornerstones of Morgan’s deep conventionalism: the nature and status of  
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40 different sporting conventions; the difference between conflicts of an ‘intramural’ and  
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42 ‘extramural’ kind; and what constitutes a resolution to sporting disagreements. In the  
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44 conclusion, we briefly sketch out how pragmatism challenges customary criticisms of *laissez*  
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46 *faire* conventional accounts of sport: that they are more about describing than appraising norms,  
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48 conflate morality with membership, and accept ethical claims as arbitrary and relative (as  
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50 summarized by Ciomaga 2012).  
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## Conventional Theories of Sport

D'Agostino's (1981) introduction of conventionalism into the sport philosophy literature offers an alternative to the alleged rigidity and idealistic conception of sport presented by formalists such as Suits (1978). On his account, D'Agostino argues we can distinguish sporting games not only in terms of permissible and impermissible acts, but also in terms of what qualifies as *impermissible yet acceptable* behavior exemplified by strategic fouling in basketball; or *permissible yet unacceptable* behavior such as pressing for an advantage when an opponent is seriously injured in association football (e.g. Hardman 2009). In attempting to differentiate between the normative and descriptive realities of sporting conduct, D'Agostino's brusque distinctions provide a rationale for privileging a game's ethos over its formal, rule-based properties.

The main criticism, particularly from those who advocate an interpretivist (or broad internalist) perspective (e.g. Simon, 2000; Dixon, 2003; Russell 2018), is that conventional approaches to sport such as those advanced by D'Agostino allow 'wide-acceptance' from within a practice community as sufficient normative justification for commonplace sporting behavior. Dixon's (2003) summary, for instance, negatively links conventional premises with Burke's (1997) Rortyan inspired<sup>1</sup> claim that 'there is no deeper foundation to rationality than solidarity' (p.61). So if a sporting community, such as professional men's ice hockey in North America, widely accepts the use of fisticuffs to punish convention violators, then fighting in ice hockey is justified simply because the membership (or more likely the most powerful members) 'say so'. Ultimately critics like Dixon claim that conventional theories, particularly the laissez-faire populist kind attributable to D'Agostino, lack normative power for three related reasons: they are

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3 merely descriptive, cannot open critical space for normative change, and trend towards ethical  
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5 relativism.

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8 Morgan's (2012) re-introduction of conventionalism, largely in response to the  
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10 prevalence of ahistorical interpretivist accounts in the sport philosophy literature, presses his  
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12 view that the socio-historical contingencies that create sporting practices function to  
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14 conditionally (rather than inherently) furnish normative credentials in the form of 'deep  
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16 conventions'. Certain conventions, at particular times, for specific communities, qualify as  
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18 'deep' if they are 'historically embedded "first" principles' (Morgan, 2012, p.74). From such  
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20 deep resources, members of a practice community construct a particularized and privileged  
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22 normative vocabulary that defines a logic internal to that practice – a logic that is akin to the way  
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24 that interpretivists reason about principles that describe the point and purpose of social practices.  
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26 When confronted by a sporting dilemma, Morgan contends, practitioners must refer to these  
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28 historically tethered deep conventions if they want to arrive at rational, internally justifiable  
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30 normative solutions (p.74). Morgan, in effect, asks us to think about what is at the normative  
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32 core of sport from an historical and conventionalist, rather than a realist and broad internalist,  
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34 perspective.  
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40 Morgan's (2012) conventionalist account, citing the work of Lewis (2002), relies on  
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42 establishing distinctions between deep conventions and 'coordinating conventions', as well as  
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44 other social norms such as 'customs'. For Morgan, deep conventions are crucial for normative  
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46 (moral) discourse, whereas coordinating conventions are merely responsible for the prudential  
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48 (non-moral) regulation of sporting practices (e.g. baseball players running the bases in a counter-  
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50 rather than clockwise direction). Customs (e.g. athletes wearing white attire at Wimbledon,  
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3 Christians going to church on Sundays) merely denote simple regularities or aesthetic (non-  
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5 moral) preferences in behavior and action (p.78).<sup>2</sup>  
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8 While all three types of norms are socially and historically grounded, Morgan (2012)  
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10 acknowledges that coordinating conventions and customs are justified targets for interpretivist  
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12 criticism because their normative characteristics are 'shallow' (or non-moral) as 'the hold they  
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14 have on us is not owed to their intellectual force but rather their mere agreeability' (p.72).  
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16 Morally imbued deep conventions, alternatively, are 'rationally friendly social agreements' and  
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18 logically necessary to fuel a 'rationally defensible normative theory of sport' (p.77).  
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22 Morgan's conventionalist account impacts on the normative landscape of social practices  
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24 by determining what constitutes rational discussion, who can participate in this discourse, and  
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26 what kinds of resolutions can be reached. As Morgan (2012) contends, 'deep' rational discourse  
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28 about socio-historical agreements is restricted to points of view that reference core features (deep  
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30 conventions) internal to a practice. This also entails that only interlocutors who share a practice-  
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32 defined understanding of the internal logic of sport will be able to access the deep normative  
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34 qualities central to certain sporting conventions because only those engaged in 'intramural'  
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36 argumentation can say 'something intellectually compelling' that contributes to the 'rational  
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38 fray' (p.74). As a result, 'rational argument is a viable enterprise if, and only if, there is  
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40 agreement on the relevant social norms governing reason-giving, that is, if and only if such  
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42 reason-giving is moved to the 'interior' of a normative vocabulary' (p.74).  
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47 In the absence of rational resolutions, Morgan concludes, disparate normative  
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49 communities can default at best to inferior yet functionally 'pragmatic' and/or 'imaginative'  
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51 resolutions to their conflicts. Pragmatic resolutions are, therefore, often mobilized in order to  
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53 move beyond intellectual stalemates that arise out of appeals by disparate normative vocabularies  
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3 where the aim is to merely ‘get results’. Yet these pragmatic resolutions are, from Morgan’s  
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5 perspective, *arational* and thus incapable of securing justificatory status.  
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### 10 **Third Wave Pragmatism (Transitionalism)**

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12 Our contribution to the re-emergence of conventionalism is to pick up where Morgan  
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14 believes reason ‘taps out’ by presenting a version of pragmatism capable of doing ‘heavy  
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16 normative lifting’, particularly when social practices like sport are confronted by seemingly  
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18 intractable dilemmas that require references beyond the point and purpose of sport. In particular,  
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20 we contend Koopman’s third-wave pragmatism or ‘transitionalism’ offers a kind of rationality  
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22 well suited to address sport’s most vexing problems – the kind that resist agreements on the  
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24 normative materiality of certain conventions, who can participate in rational discourse, and what  
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26 solutions might be considered ‘justifiable’.  
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31 As a philosophical movement those considered pragmatists go beyond simplistic ‘get  
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33 results’ or ‘whatever it takes’ notions to robustly engage in normative inquiry. While sharp and  
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35 seemingly incommensurable divisions exist amongst pragmatic philosophers, what binds them  
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37 most is an anti-foundationalist approach to issues that arise from our daily lives, and a view that  
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39 resources temporally available to us through ongoing social interaction offer possible  
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41 instruments to develop incrementally better, or ‘melioristic’, resolutions rather than final  
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43 solutions to our contemporary problems. Pragmatists typically avoid ideologies, rigid systems,  
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45 fixed truths, and distrust absolutes when engaging in philosophical inquiry (e.g. Bacon 2012;  
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47 Putnam 1995; Bernstein 1991).<sup>3</sup> Subsequently, pragmatism shares many affinities with Morgan’s  
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49 historically charged account of conventionalism.  
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3 Traditional divisions of pragmatism tend to focus on those adhering to its ‘first wave’  
4 classical roots with an emphasis on experience and the empirical method (e.g. Peirce, James,  
5 Dewey), and those more contemporary ‘second wave’ instantiations focusing on the uses of  
6 language (e.g. Rorty, Putnam, Brandom). Koopman (2009) contends that ‘third wave’  
7 pragmatism at its best follows the lead of Emerson, James, Dewey, and Rorty by conceptualizing  
8 the philosophical project as ‘melioristic cultural criticism’ (p.5). Viewed in this light,  
9 pragmatism attempts to ‘[contribute] thought to our most critical moments’; it considers  
10 philosophy ‘as a means of orienting and adjusting our practices of critique and inquiry’ rather  
11 than as a system offering ‘explanations about everything’ (p.5). At the heart of melioristic  
12 cultural criticism, according to Koopman, is an emphasis on ‘transitionality’ understood as  
13 ‘temporally mediated development’. Contrasted with ‘temporally mediated difference’ (random  
14 or coincidental change), transitionalism enacts purposive, directed, hopeful development (p. 13).

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31 The point of third wave pragmatism, therefore, is to intelligently guide our social  
32 practices, to settle problems as they arise and foster conditions to meliorate (purposively attempt  
33 to make better) the complex web of social practices that shape our meaningful transactions with  
34 the (sport) world. Transitionality implies that our social practices tend to embody the kind of  
35 normative durability over time reflected in Morgan’s deep conventionalist account. At the same  
36 time, nevertheless, transitionality implies a constant dynamism and with it an appreciation for  
37 inevitable and ongoing normative transformation – a point also made by Morgan in his review of  
38 the changes to sports’ normative self-understandings throughout history. Normative features of  
39 social practices, from a pragmatic perspective, are therefore best understood as transitional. As  
40 Koopman (2009) writes, ‘instead of talking about certain practices as true or good, we should  
41 instead talk about them as truer and better’. ‘Instead of focusing on epistemic or moral  
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3 rightness', Koopman continues, 'we should instead focus on epistemic or moral melioration,  
4 improvement, development, and growth' (pp.11-12).  
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8           Rationality, from this pragmatic perspective, avoids pre-existing methods or logical  
9 formulations. Systematic, rigid, and predetermined forms of reasoning, pragmatists argue, fail to  
10 leave room for new forms of inquiry, for practices to make best use of the resources available to  
11 them at certain times and in certain places. To engage in inquiry from a pragmatic perspective  
12 therefore requires the use of any number of 'instruments' that cannot be fully determined as  
13 'useful' prior to the emergence of the problem-at-hand (Elcombe 2018). The socio-historically  
14 infused problems of a practice community must be addressed as they contextually arise, dealt  
15 with in the moment by using all available resources. 'In these conditions', Koopman contends,  
16 'pragmatists will freely avail themselves of resources offered up by their non-pragmatist  
17 colleagues, including not only philosophers inquiring in the context of other problems but also  
18 historians, anthropologists, policy analysts, and engineers' (p.5). As such, pragmatism is well-  
19 suited to provide the rational resources needed to address the complex intellectual stalemates  
20 Morgan infers inevitably arise in sport's normative landscape.  
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### 40           **Pragmatic Conventionalism in Sport**

41           Our pragmatic perspective broadly supports Morgan's historically and socially attuned  
42 normative account of sport. In particular, we concur with Morgan that deep conventions  
43 articulate the power of certain durable, historically derived social norms to maintain the 'smooth  
44 maintenance' of sporting practices by setting the backdrop for its temporal, ethical, aesthetic, and  
45 prudential self-understanding. Our account of conventionalism then picks up where Morgan's  
46 rational account ends: when deep conventions definitive of the current point and purpose of a  
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3 social practice fail to resource a clear response to a normative dilemma; when extramural discord  
4 erupts between communities of practitioners who enter into discourse appropriating alternative  
5 normative languages and merely ‘talk past’ each other; and when the inevitable ‘intellectual  
6 impasse’ results in the loss of ‘intellectual footing’ that offers no *justifiable solutions* to  
7 normative quandaries (Morgan 2012, p.75).  
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15 We argue for the addition of a ‘pragmatic turn’ (Bernstein 2010) to Morgan’s deep  
16 conventionalism. There are three aspects to this pragmatist approach. First, we contend *any*  
17 convention is potentially *meaningful or relevant* (our conception of *deep*) when existing social  
18 norms fail to illuminate clear solutions to sporting problems. Second, we argue for dissolving  
19 distinctions between intramural and extramural perspectives to encourage ‘problematization’ and  
20 a more open dialogue that goes beyond factional dissent between rival conventions. Third, we  
21 claim that normative inquiry informed by pragmatism and conceived as *meliorative conventional*  
22 *criticism* can provide a range of constructive resolutions to sporting practices’ most vexing  
23 problems. These three pragmatic suggestions are more fully presented below.  
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### 38 *Pragmatic Turn #1: Re-Considering Deep Conventions*

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40 Our first pragmatic turn proposes that in the face of an intractable problem, such as the  
41 inclusion or exclusion of hyperandrogenous female athletes in certain IAAF track and field  
42 events, the very nature of what counts as ‘deep’ itself becomes a matter of contention. Morgan  
43 acknowledges that rational discourse based on the mobilization of a definitive set of certain  
44 (deep) conventions at times fails to provide a clear resolution to a normative dilemma. In these  
45 instances, we argue, there is merit in considering the critical potential of *any or all* conventions  
46 that can make a useful contribution to address the issue at hand. This more pluralistic view is tied  
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3 to the importance and significance of what *distresses* or *matters* to practitioners rather than  
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5 judgments about the distinctive rational qualities used to demarcate sporting disagreements.  
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8         Morgan himself hints at possible complications in his normative framework where he  
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10 notes that though surface conventions in the shape of customs are normatively deficient (i.e. they  
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12 don't really address a sport's *point and purpose*), in practice, and for *good* reason, they may  
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14 obfuscate what is presumed, as Morgan would have it, 'deep' about sport. With regard to the  
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16 norm of athletes wearing white attire when competing at Wimbledon, for example, he notes that  
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18 'violating the surface convention meant one was also violating the deep convention about how  
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20 tennis and cricket ought to be played'. Nevertheless, he continues, 'the fact that sometimes  
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22 violating a surface convention corresponds as well to violating its deep convention . . . doesn't  
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24 change the fact that the former is parasitic on the latter rather than the other way around' (p.78).  
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28         What holds sway to demarcate what is 'deep' for Morgan here, both to tease apart and to  
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30 rank order reasoning, seems to be an understanding of the 'proper ends of sport' – or more  
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32 specifically a perfectionist ideal related to the pursuit of athletic excellence (e.g. Dixon 1999).  
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34 Violations of custom (or coordination), such as the expectation athletes will wear whites at  
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36 Wimbledon, must, regardless of how much they may outrage tennis devotees, give way to a  
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38 rational core upon which such a custom is considered parasitic. From Morgan's deep  
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40 conventionalist account, the colour of tennis clothing is normatively irrelevant because it stands  
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42 removed from the point and purpose of the practice.  
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46         Our suggestions here are pragmatic ones related to a restricted view of what it means to  
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48 conduct rational inquiry when complex dilemmas arise. By their nature such intractable  
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50 problems indicate that, in vital and irresolvable ways, at present there is either insufficient  
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52 agreement on what the proper ends of sport should be; or even if there is unanimity about such  
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3 matters, there is an impasse with regards to which course of reasoning and action best achieves  
4 the agreed ends. In such vexing instances, discourse oriented exclusively around the proper ends  
5 or point and purpose of sporting practices, whether historically defined or not, may provide  
6 limited benefit and potentially discount discussions about what, in a pragmatic sense, now  
7 *matters* most to a community's normative self-understanding. In the case of Caster Semenya, for  
8 example, communal values related to fair competition and athletic excellence are joined by non-  
9 sporting ideas related to gender equality and human rights to complicate and intensify the issue.

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12 Our pragmatist approach to such deadlock is that we widen our conventional backdrop  
13 and rather than attempt to locate a 'truer' version of *the* point and purpose of a game, we try to  
14 alight upon the practice community's own most accurate depiction of its socio-historically  
15 evolved (and deeply meaningful) values, beliefs, and ideas. So from this perspective a number  
16 of difficult debates (i.e. the inclusion of rules that prioritize attack over defense; the inclination  
17 for officiating decisions to advantage the offensive team; the protection of athletes from the  
18 repercussions of head injuries; an emphasis on a certain aesthetic look to the participants; and  
19 adjustments to sporting practices to heighten spectator experiences) should not be understood  
20 solely on the basis of whether they realize the proper ends or point and purpose of sporting  
21 practices. Instead, such disputes are to be seen as wholly social and historical reflections of what  
22 *matters now*; a view that means it is difficult to see a 'fix' solely in terms of what is deep about  
23 sporting conventions (and thus normatively primary) from what is surface or custom. In a  
24 pragmatic sense then, what is deep, what is superficial, or what is customary must be also  
25 considered alongside what matters to practitioners as there is no guarantee that such a rational  
26 blueprint will ensure normative disputes bottom-out at one and the same place.  
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3 Where it is possible to see regularities in action in the case of wearing whites at  
4 Wimbledon as normatively irrelevant and an example of a ‘surface convention’, for social  
5 practice members in a certain time and place such matters had significant contextual  
6 meaningfulness and subsequently noncompliers were subject to significant normative ire. Such  
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8 ‘customs’ or ‘surface conventions’ *may matter* to sport communities in defining what it means to  
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10 be, as Rorty (2007) argues, ‘one of us’, and thus *potentially* worthy of normative attention.  
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15 Drawing historically attuned distinctions between shallow and deep conventions is  
16 normatively useful. But when appeals to ‘internal logic’ fail to solve a sporting community  
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18 dilemma, it becomes critical to appreciate the thick temporally contextual characteristics of  
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20 ‘conventions’. As Morgan (2012) demonstrates when referring to the transhistorical relevance of  
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22 ancient Greek, 19<sup>th</sup> century British, and 20<sup>th</sup> century American sport, what matters most to a  
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24 social practice at a particular juncture is often dynamically unrestrained by historical precedent  
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26 or internal logic. A pragmatic extension of conventionalism therefore contends that *any socio-*  
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28 *historically constructed conventions may normatively matter to some degree at some point.* As  
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30 such, all conventions may contribute substantive measures constitutive of the social practice’s  
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32 moral self-understanding, and what is considered normatively ‘deep’ today may matter less in a  
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34 different socio-historical context (e.g. excluding professionals in the Olympics). Likewise, what  
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36 is now viewed as merely a custom or a shallow convention may emerge as materially important  
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38 in the future (e.g. medically informed changes to rugby scrum rules). When confronted by a  
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40 vexing sporting dilemma, such as the eligibility of naturally advantaged (e.g. hyperandrogenous)  
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42 athletes, it is crucial from a pragmatic perspective to leave normative space for conventions that  
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44 matter more to emerge and those that matter less to recede.  
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3 *Pragmatic Turn #2. Pluralistic Problematization of Material Conventions*  
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5 Most normative accounts in the philosophy of sport share an assumption that social  
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7 practices are comprised of ‘members’ committed to upholding the values, beliefs, and ideals that  
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9 frame its normative landscape. For a deep conventionalist like Morgan, it can be assumed that  
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11 participants gain ‘membership status’ by accepting the normative gravitas of the cluster of  
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13 inherited conventions at work within the social practice at certain times and in certain places.  
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15 And while Morgan (2012) is keen to stress that anyone ‘can enter into and contribute to the  
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17 rational fray’, interlocutor *legitimacy* is, for him, ‘confined to a particular community of inquiry’  
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19 (pp.74-75) identifiable in terms of those who share common grounds for rational discourse.  
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23 Morgan argues that those deep within a practice ‘talk past’ those considered beyond its  
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25 logical bounds, where the kind of language by which a practice community describes itself to  
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27 people on the outside is said to be utterly incomprehensible (p.75). Clear normative ground rules  
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29 are established whereby only those capable of speaking the ‘deep’ internal language of a social  
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31 practice can engage in ‘rational’ discourse. ‘Rational adjudication of normative conflicts  
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33 regarding the purpose of sport is’, Morgan (2012) concludes, ‘possible on my account only if  
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35 those conflicts are of the intramural rather than extramural variety. Once those conflicts extend  
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37 beyond the logical space of reasons authorized by the deep conventions of a particular  
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39 community of inquiry all rational bets are off’ (p.76).  
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45 As Morgan himself recognizes, however, practices and their conventions are always  
46  
47 already influenced by socio-historical factors from ‘within’ and ‘beyond’. The constitution of  
48  
49 social practices such as sport involve participants who are involved in a plurality of practice  
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51 communities and therefore intractable problems emerge from within an environment itself  
52  
53 subject to ongoing multi- rather than uni-vocal debates. The normative challenge often becomes  
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3 how to square overlapping practices and their most material conventions in ways that ‘fit’ with a  
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5 diverse range of beliefs and values. At times, considerations of what ‘we’ do go beyond the  
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7 particularity of the point and purpose of a sporting practice – sometimes what ‘we’ do in sport  
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9 conflicts with what ‘we’ do in other contexts.  
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11  
12 Normative frameworks from different social practices inevitably ‘bump into’ one another  
13  
14 – sometimes quietly, at times in sensational ways that draw attention to a normative  
15  
16 disequilibrium that exists between them. It took, for instance, cries for change by the media,  
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18 medical professionals, and the public-at-large following a rash of suicides by former North  
19  
20 American athletes later diagnosed with Chronic Traumatic Encephalopathy (CTE – a progressive  
21  
22 degeneration of the brain potentially caused by repeated head injuries) for gridiron football and  
23  
24 ice hockey policy makers to give any thought to reconsidering the normative legitimacy of rules  
25  
26 reflecting certain deeply defended conventions at work in their collision sports.  
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31 For this reason, when intramural discourse reaches its rational limits, those considered  
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33 ‘outside’ a practice’s inner sanctum, yet vested in some way with the normative influence of  
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35 certain conventions adopted by these communities, can bring to bear important conventional  
36  
37 insights. Therefore vested, yet ‘less deep’, participants (e.g. medical practitioners) can play a  
38  
39 crucial discursive role alongside those centrally engaged in a practice community who speak the  
40  
41 internalist language. When confronted by complex dilemmas, dissolving the internal/external  
42  
43 divide fully democratizes the ‘who’ and the ‘how’ of normative discourse.  
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47 While misunderstandings and ‘language barriers’ between those Morgan’s insiders and  
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49 outsiders are certainly possible and a potential complication, what matters most when an  
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51 intractable problem arises, we argue, is how practice communities initiate and respond to  
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53 criticisms levelled at them, and the lengths they go to allow for the potential normative  
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3 significance central to that dispute to emerge. Medical professionals certainly speak a different  
4 normative language than sport insiders and assess sporting practices through alternative  
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6 normative lenses; however, they still can make important contributions to sport's normative self-  
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8 understanding. It is a view that suggests we ought to allow significant latitude in the normative  
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10 process rather than seek to reject 'outsider' viewpoints because, in their supposed 'pre-' or 'a-  
11  
12 rational' state, they do not effectively and efficiently pass intellectual muster. So though  
13  
14 privileging internal expert members and their established language games can, at times, avoid the  
15  
16 emergence of complicated impasses, such privileging is potentially indicative of a practice's long  
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18 history of resisting change, avoiding normative self-examination, and limiting opportunities for  
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20 meaningful critical engagement involving a range of perspectives.  
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26 Subsequently, it is crucial that social practices not avoid the emergence of problems, even  
27  
28 complex problems, but instead engage in ongoing critical appraisals of a social practice's  
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30 material conventions. Koopman's (2009) third-wave pragmatic perspective refers to this  
31  
32 necessary feature of transitionalism as 'problematization'. The purpose of problematization is  
33  
34 not to 'subversively denounce' a social practice's material conventions as a Nietzschean might  
35  
36 suggest, but to instead 'throw light' on potential problems 'deep at the heart of who we are' as  
37  
38 they emerge in ever changing socio-historical contexts (p.539). Koopman takes his  
39  
40 'problematization' cue from Foucault (1997), who writes, 'My point is not that everything is bad,  
41  
42 but that everything is dangerous, which is not exactly the same as bad. If everything is  
43  
44 dangerous, then we always have something to do' (p.256). Vibrant practice communities from a  
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46 pragmatic transitionalist perspective not only remain open to criticism from all corners but *seek*  
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48 *out* and/or *intentionally intensify* problems to set the process of normative inquiry in motion.  
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3 We best initiate normative inquiry through the process of problematization and by  
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5 viewing conventions with many different lenses; problematization is therefore ‘multi-linguistic’  
6  
7 because we live our lives participating in (and/or responsible to) multiple, rather than unitary  
8  
9 practices appealing to a range of conventions in varying contexts. Crucially then, from a  
10  
11 pragmatic perspective, any stakeholder with a vested interest in the workings of a social practice  
12  
13 – including (but not limited to) experts, the media, educators, parents, and the medical  
14  
15 community – may initiate critical normative inquiry. This pluralistic and active approach to  
16  
17 problematization is in keeping with the social and historical realities of practice communities; it  
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19 is an account that demands in equal measure an on-going conforming to, and challenging of,  
20  
21 conventional norms. Viewing the normative role of conventions from our emergent pragmatic  
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23 perspective therefore opens and widens space to initiate melioristic cultural criticism by  
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25 problematizing a sporting practice’s material conventions.  
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### 32 33 *Pragmatic Turn #3. Pragmatic Responses to Problematized Material Conventions*

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35 The final step, from our pragmatic conventionalist perspective, considers the span of  
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37 possible responses to the problematization of material conventions. The complexity and  
38  
39 ‘messiness’ of vexing sporting problems, such as performance enhancement regulations and  
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41 accepted levels of physicality in collision sports, result in a resistance to polished, widely  
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43 accepted, and terminal normative conclusions.  
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47 From a pragmatic conventionalist perspective, problems of the intractable kind are better  
48  
49 understood as historical, temporal and continuous rather than disconnected, temporary, and  
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51 finite; and because of this shift in perspective in the way normative inquiry is seen, it also shifts  
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53 procedural expectations in terms of a remedy. Instead of pursuing bottomed-out *solutions* based  
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3 on the division between rational and arational, *responses* based on marginal gains, improvement,  
4 development, progress, growth and melioration suggest a way to process these obdurate, yet  
5 deeply meaningful problems. So where Morgan suggests that pragmatically derived conventions  
6 are inevitably fated to be of a shallow coordinating kind, we argue that the pragmatic process  
7 enacted in the face of an intractable dilemma provides the necessary conduit to a full range of  
8 possible responses and engenders hope within a sport practice community (and beyond) for  
9 meaningful problem melioration.  
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19 Thus, when the hard work of meliorative inquiry is initiated, one of three pragmatic  
20 responses will come about. The first possible response to an intractable problem will be a (a)  
21 **deferred response**. In this instance, melioristic inquiry results in no immediate and definitive  
22 action taken. Though responses are deferred, ‘no action’ is not akin to ‘inaction’ provided  
23 transparent meliorative inquiry and critical assessment takes place.  
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31 Deferred responses can be explained in a number of ways. It may be that those with  
32 important critical meliorative contributions view the timing to activate any kind of response  
33 challenging. Inquiry may suggest practice participants require preparation time to craft, trial, and  
34 embed changes to the operating convention – assuming changes are eventually deemed  
35 warranted at all. Consideration may be given to experiments with a range of alternatives or to  
36 engage further in dialogue with still more vested parties and experts. For example, despite  
37 increasing public demands in 2010 for ice hockey’s premier professional institution, the National  
38 Hockey League (NHL), to implement mid-season conventional changes to ban body checks  
39 targeting the head of an opponent, officials instead used offseason experimental sessions to craft  
40 a new rule and also collected empirical data from related rule changes recently imposed by the  
41 Canadian Major Junior hockey leagues. Institutions like the NHL regularly choose to defer  
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3 responses to a later point in time because the available alternatives now, after careful  
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5 consideration, appear more problematic than the current (and deeply historical and embedded)  
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7 conventional practice.  
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10 Secondly, practices may adopt **(b) working resolutions**. Such challenging, tentative,  
11  
12 experimental conclusions arising from meliorative inquiry never elicit universal assent, and the  
13  
14 complexity and messiness of a vexing sporting problem demands implemented resolutions  
15  
16 remain open for revision. However, as the process of problematization from any number of  
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18 stakeholders may introduce an overriding sensibility that something must be done to address the  
19  
20 obstinate issue, and that any adopted resolutions must be petitioned to do real work, such  
21  
22 ‘tweaks’ are considered to make a difference functionally and create space for more meaningful  
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24 practice participation as well as contribute positively to overlapping social practices.  
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28 When meliorative inquiry deems immediate action necessary, concerned inquirers can  
29  
30 collectively contribute to the drafting of resolutions that are subject to constant testing and  
31  
32 retesting from any number of vantage points. The working resolutions, therefore, remain open to  
33  
34 (and ideally encourage) the recurring process of problematization and continuing meliorative  
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36 inquiry. When evidence is available to suggest that a working resolution reduces the problem,  
37  
38 and as a consequence, downgrades the intensity and truncates inquiry, something more  
39  
40 definitively can be said about the value and justification of the resolution. Up to that point  
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42 judgment awaits as the problem persists, which is itself an ongoing invitation for amended or  
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44 new resolutions. The NHL, for instance, rewrote Rule 48.1 related to ‘illegal hits to the head’ on  
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46 several occasions after deciding in 2010 something did, upon reflection and in response to wider  
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48 social pressures, need changing regarding player safety.  
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3 Similarly, the Court of Arbitration for Sport delivery of an award on 30 April 2019 with  
4 respect to the challenges brought by Caster Semenya and Athletics South Africa to the validity of  
5 the IAAF's Eligibility Regulations for Athletes with Differences of Sex Development ('DSD'  
6 Regulations) can be viewed as a working resolution.<sup>4</sup> The panel came to a majority rather than a  
7 unanimous decision and found that the DSD Regulations are discriminatory and expressed  
8 serious concerns about their future practical application. So though on the basis of the evidence  
9 submitted by the parties, the panel considered the discrimination associated with DSD regulation  
10 a necessary, reasonable and proportionate means of achieving the legitimate objective of  
11 ensuring fair competition in female athletics in certain events and protecting the 'protected class'  
12 of female athletes in those events, they concluded that the prima facie proportionality may  
13 change in the future unless constant attention is paid to the fairness of how the regulations are  
14 implemented.  
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31 Third, the most radical pragmatic response to obdurate problems results in (c) **new or**  
32 **alternative conventions** that emerge out of existing practice norms. Sometimes new  
33 conventions arise from conflict within prevailing arrangements; disagreement serves as a  
34 meaningful, convention-grounded source for alternative ways of doing things. Deeply cherished  
35 conventions related to athlete vulnerability in gridiron football, rugby, and ice hockey, for  
36 instance, historically placed the burden of responsibility on the athletes receiving the hit to  
37 protect themselves. Following the highly public condemnation of collision sport practices, the  
38 National Football League (NFL), International Rugby Board (IRB), and NHL (eventually)  
39 changed several rules to reflect an alternative conventional norm whereby athletes delivering the  
40 hit took on most of the responsibility to ensure their opponent was not vulnerable. These new  
41 rules defining acceptable ways of initiating collisions significantly altered the tactics and  
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3 techniques for rugby, ice hockey, and tackle football, reducing the inherent degree of violence in  
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5 the games and subsequently making defensive play more challenging.  
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8         The possibility of new or alternative conventions may ultimately lead to the provision of  
9  
10 a range of similar but crucially distinct practices. As Koopman (2011) writes, ‘Problematizations  
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12 are formed at the intersection of a congeries of practices and in such a way that stabilized  
13  
14 problematizations themselves become platforms for the elaboration of newer practices.  
15  
16 Problematizations are made possible by the assembly of practices and in turn these  
17  
18 problematizations make further practices possible’ (pp.5-6). For example, in response to the  
19  
20 problematization of gridiron football conventions that codify collisions, flag football has  
21  
22 emerged as a new sporting practice with American youth (ages 6-12) participation rates  
23  
24 surpassing tackle football (Drape & Belson 2018). Flag football, regularly disparaged by those  
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26 ‘deep’ within the gridiron football practice, offers an alternative form of the game based on rules  
27  
28 that reinforce alternative conventions – namely the necessity of collisions. The game’s modified  
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30 rules make it safer and more inclusive (and cheaper), and subsequently is trumpeted as one of the  
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32 fastest growing sports in North America and beyond (Football Canada n.d).  
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38         In such cases, pragmatic inquiry nurtures a plurality of conventions emblematic of a  
39  
40 healthy and vibrant practice. While it is true that versions of a social practice can rightly be  
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42 identified and understood as similar and familiar, at the same time within the various  
43  
44 formulations critical conventions do significant work to mark-out each as a unique sphere of  
45  
46 action. The difficulty here, evidently, involves how best to respond to the various alternative and  
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48 new conventions that arise through this process. There can also be no presumption that only one  
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50 (established) convention *ought* to hold sway or that *all* engaged in the practice *must* go along  
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3 with any convention. This unitary nexus, therefore, can no longer be the predominant  
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5 perspective through which complex issues in sport are understood.  
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8 The important point here is that the more likely obstacle to meliorative normative inquiry  
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10 in sport is not *arationality* resulting from the emergence of a plethora of novel or reconstructed  
11  
12 conventions, but a paucity of alternatives and the cessation of imaginative thinking. In this light,  
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14 encouraging a plurality of responses to be seriously entertained becomes crucial for providing a  
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16 wellspring for the kinds of meliorating possibilities that intractable sporting problems practically  
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18 require.  
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22 The existence of divergent conventions grounded on a range of different ideas engage  
23  
24 practice community participants (and beyond) in meaningful meliorative inquiry. With the  
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26 possibility of a plurality of conventions, alternatives are always available for critical assessment  
27  
28 and reconstructive consideration. Over time, different conventions challenge one another when  
29  
30 problematized and, as a result, the existing convention may be reaffirmed, or else point to the  
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32 emergence of a different version as outdated conventions fade away. It is the critical process  
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34 initiated, more so than the resolutions proffered when normative issues arise, that creates space  
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36 for growth and meaning within (and beyond) a practice community.  
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### 41 42 **Conclusion: Addressing the Three Critiques of Conventionalism**

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45 In sum, a pragmatically-oriented, meliorative approach to problems and solutions offers  
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47 further normative resources to those Morgan suggests in his first presentation of deep  
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49 conventionalism. Agreement predicated in terms of Morgan's understanding of rationality  
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51 provides an historically-attuned way to justify solutions to intramural problems; but when they  
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53 become increasingly complicated, something more than an inferior or shallow resolution is  
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3 available. When confronted by complex, intractable problems, hard distinctions between moral  
4 (deep) and non-moral (shallow) conventions, internal and external languages and participants,  
5  
6 and rational and non-rational responses, must be dissolved. A pragmatic conventionalist  
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8 approach thus fully invests in the normative process – an ongoing process encouraging multi-  
9  
10 layered and integrated inquiry that aims for deeply meaningful melioristic responses when clear  
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12 intramural solutions cannot be found.  
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17         Although our intention is not to engage in intricate metaphilosophical analysis, we do  
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19 take the renewed discourse on the normative credentials of sporting conventions as indicative  
20  
21 that the first of three common criticisms regularly lobbed against D’Agostino’s laissez faire  
22  
23 populist version of conventionalism – that such accounts offer little of relevance for critical  
24  
25 normative inquiry – is evidently contestable. Morgan compellingly demonstrates that certain  
26  
27 conventions in certain contexts play crucial normative roles within social practices, including  
28  
29 sporting communities. Our first pragmatic ‘turn’ reaffirms, and we feel extends, the normative  
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31 significance of conventionalism by pointing to the potential meaningfulness of any/all social  
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33 practice conventions.  
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38         Normative frameworks that shape sporting practices, understood from a conventionalist  
39  
40 and transitionalist perspective, are at-once durable and hard won – not ‘mere’ social agreements.  
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42 Conventions develop over time in the thickness of practical life, moving along an ‘Emersonian  
43  
44 staircase’,<sup>5</sup> concurrent with the larger sociohistorical forces practice communities are enmeshed.  
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46 Some of these conventions, we contend, work quietly in the background and have less normative  
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48 import; others, by degree, matter more to the moral life of the practice community at a certain  
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50 time and in a certain place to define what *we* do and who *we* are and thus engage those with a  
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52 vested interest in a social practice’s normative framework more deeply. These more normatively  
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3 material conventions, woven into their practice's socio-historical context, draw participants to  
4 the community's activities and often provide the meaning for investing a significant degree of  
5 their personhood and sense of authentic being to its workings.  
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10 Furthermore, our second pragmatic turn forcefully addresses the supposed inability of  
11 social practices to initiate, engage, and make use of criticism of the conventions informing the  
12 community's normative framework by encouraging and democratizing material convention  
13 problematization. For practice communities to meaningfully 'transition' in the ever-changing  
14 contexts they are situated within, members and stakeholders alike must constantly activate the  
15 normative process by scrutinizing here and now material conventions. The most vibrant sporting  
16 practice communities embody the spirit of democracy, shedding the 'need for certainty' and  
17 instead encourage transparent critical and reconstructive efforts from within its membership and  
18 beyond. And as Koopman (2009) contends, 'the actual practices constitutive of [our political  
19 realities] as well as the potential practices latent within them, are the only well-springs of critical  
20 force' (p.175).  
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35 This holistic and active approach to problematization, we argue, is more in keeping with  
36 the social and historical realities of practice communities. Increasingly sport practices are held  
37 accountable by wider socio-political forces, with an expansion of those considering themselves  
38 as 'stakeholders' in the present and future of sport. Some critical instances begin informally (and  
39 maybe less articulately), eventually invoking a groundswell of support that challenges sporting  
40 institutions to respond. Others are more formalized, with organizations such as the Government  
41 of Canada's 'Safe Sport for All' initiative created to open and widen inquiry related to  
42 harassment, abuse, and discrimination in sport. Such a pluralistic account requires an on-going  
43 challenge to conventional norms that demands accountability to, and beyond, the inner sanctums  
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3 of sport communities. As Peirce (1998) argues, ‘upon this first, and in one sense this sole, rule of  
4 reason, that in order to learn you must desire to learn and in so desiring not be satisfied with what  
5 you already incline to think, there follows one corollary which itself deserves to be inscribed  
6 upon every wall of the city of philosophy, Do not block the way of inquiry’ (p.48).<sup>6</sup>  
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12 Finally, our third pragmatic turn dismisses a final critique levied against conventionalism:  
13 that it trends towards ethical relativism. The charge of relativism is only valid from an  
14 *instrumental perspective* if norms at the heart of an intractable dilemma are considered ‘relative’  
15 to some fixed, objective idea of ‘true practice’ rather than at-once durably and dynamically  
16 emerging conventions in permeable and overlapping social practices. As Bernstein writes  
17 ‘[Those who claim moral certainty] make use of the grand Either/Or when they attack their  
18 opponents. For they claim that the only alternative to solid foundations and moral certainties is to  
19 be lost in the quagmire of relativistic opinions’ (Bernstein 2005, p.28). Conversely, by focusing  
20 on the meliorative process engaged in by a community of inquirers and vested participants, the  
21 problem of relativism in effect fades away.  
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35 Therefore the final step in the normative process, understood from our pragmatic  
36 conventionalist perspective, considers the span of possible responses to the problematization of  
37 material conventions. Such situations matter deeply to a plurality of people investing in a range  
38 of ways in a sport practice’s meaningful functioning, and thus ‘stand in need of reconstructive  
39 responses – that is why we experience them as problematic’ (Koopman 2009, p.560). The  
40 justified concern related to ‘moral relativism’ is that practice participants will not be normatively  
41 accountable to one another and insulated from critical judgements when formulating responses to  
42 these kinds of intractable dilemmas. However, communities engaged in a fully normative process  
43 that constantly assesses the materiality of certain conventions in certain contexts, that open space  
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3 for whom and how meaningful conventions might be problematized, that work together toward  
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5 critically-oriented meliorative responses, will ultimately encourage more participant  
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7 accountability and moral commitment. Relatedly, Rorty writes, ‘my strategy for escaping the  
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9 self-referential difficulties into which “the Relativist” keeps getting himself is to move  
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11 everything over from epistemology and metaphysics to cultural politics, from claims to  
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13 knowledge and appeals to self-evidence to suggestions about what we should try’ (Rorty 1998,  
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15 57).  
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19 Pragmatism, therefore, offers effective resources to expand and develop a conventionalist  
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21 framework for understanding sporting practices and how they might deal with complex  
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23 problems. By focusing on processes that may lead to normative growth in the face of intractable  
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25 dilemmas, rather than solutions that seek normative certainty, a pragmatic conventionalist  
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27 account is more than ready to aid in the kind ‘heavy normative lifting’ our sport practices  
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29 require.  
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38  
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40  
41

### 42 43 44 45 **Disclosure Statement**

46  
47 No potential conflict was reported by the authors  
48  
49

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## Notes:

<sup>1</sup> It is common in the sport philosophy literature to critique the work of Richard Rorty based on secondary interpretations, particularly those offered by Michael Burke and Terence Roberts. We are not suggesting Burke and Roberts get Rorty 'wrong' but that they use his writings in a particular way, emphasizing a subjectivist reading of the pragmatist's work.

<sup>2</sup> These classifications mirror Morgan's (2007) descriptive separation of moral and non-moral (aesthetic, prudential) types of values (xvii-xviii).

<sup>3</sup> Hilary Putnam (1995) suggests that the basic insight of pragmatism is that 'one can be both fallibilistic and anti-sceptical' (p.21); Richard Bernstein (1991) argues that pragmatism deeply influenced twentieth century philosophy and beyond by dismissing the need to 'give strong foundational justification in any area in human inquiry' while at the same time distinguishing between 'better from worse reasons . . . even if what are to count as "good reasons" are themselves historically conditioned and contestable' (p.277); Michael Bacon (2012) concludes that pragmatists of all stripes 'focus on the importance of taking seriously the particularities of human practices' (p.9).

<sup>4</sup> See [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Executive\\_Summary\\_5794\\_.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Executive_Summary_5794_.pdf)

<sup>5</sup> As Emerson (2014) writes in his essay "Experience", 'Where do we find ourselves? In a series of which we do not know the extremes, and believe that it has none. We wake and find ourselves on a stair; there are stairs below us, which we seem to have ascended; there are stairs above us, many a one, which go upward and out of sight' (p.341).

<sup>6</sup> Peirce (1998) continues: 'Although it is better to be methodological in our investigations...there is no positive sin against logic in *trying* any theory which may come into our heads, so long as it is adopted in such a sense as to permit the investigation to go on unimpeded and undiscouraged' (p.48).