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## Free Play: Removing Barriers to Athletic Self-Expression in Sport

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A thesis submitted in partial fulfillment of the requirements for the degree in Doctor of  
Philosophy

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## **Abstract**

The choices of what sport to play and the manner in which a person plays it have moral content and represent values that are personally meaningful to the individual athlete. However, due to the hegemonic influence of the concept of fair play, athletes do not have control over, or freedom of expression within, their chosen sports. This has additional and harmful ramifications for those currently excluded from communities of sport practice because the rules of sporting contests have very little flexibility to allow for participant directed change. A rights-based conception of sport encourages athletes to engage in 'civil disobedience' within sport to bring about, or at least draw attention to, necessary rule changes, and for sport to tolerate such disobedience so as not to compromise the autonomy of those who dissent to current standards of excellence or practice. This implementation of rights-based sport will be examined in the context of para-sport since individuals with disabilities are one possible group who would benefit significantly. Finally, the ethical arguments and their implications for sport will be practically tested within the context of the Canadian University Rowing Championships and the creation of a unified sport opportunity for 'able-bodied' athletes as well as para-athletes alike.

## **Key Words**

Fair Play, Disability, Human Rights, Paralympic Games, Olympic Games, Rowing

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Appendix A: Function Tests for Athlete Classification in Rowing

Appendix B: FISA Advanced Classifiers and National Classifiers in Canada



## **Glossary of Abbreviations**

AS - Arms and Shoulders (Para-Rower Classification Category)

CISS - International Committee of Sports for the Deaf (Comité International des Sports des Sourds)

CPIRSA - Cerebral Palsy International Sports and Recreation Association

CURA – Canadian University Rowing Association

CURC – Canadian University Rowing Championships

FISA - Fédération Internationale des Sociétés d'Aviron (International Rowing Federation)

GMS – Gold Medal Standard

IBSA - International Blind Sports Federation

ICC - International Co-Ordinating Committee

IOC - International Olympic Committee

IPC - International Paralympic Committee

ISMGF - International Stoke-Mandeville Games Federation

ISOD - International Sports Organization for the Disabled

LTA - Legs, Trunk and Arms (Para-Rower Classification Category)

OUA - Ontario University Athletics

TA - Trunk and Arms (Para-Rower Classification Category)

# Introduction

## Research Question

“For what reasons and by what means can the rights of individuals with disabilities specifically, and marginalized persons or communities more generally, best be promoted and upheld by the rules of sporting competitions?”

## Chapter Overview

Sports, by virtue of what conduct their governing rules encourage and prohibit, have cultural, social, and ideological content. Because sporting performances communicate ideas and values amongst participants and, in the case of spectator sports, to observing audiences, the content of these contests should be subject to moral judgments about both the quality of their character and whether they represent, communicate, and teach ideas and values that could be considered beneficial, important, or good. Since sporting games and contests can possess content that has meaning beyond the practices themselves, it is important that this content be subject to the same critique and discussion to which we subject all forms of expression. In general, it is desirable for values and ideals represented within sport to either uphold what is generally recognized as good, or offer a valuable and critical perspective on ideas that otherwise enjoy widespread acceptance.

Human rights in general, as well as rights that recognize and protect vulnerable individuals and communities specifically, have important moral content and should govern sporting rules and practices in the same way that they influence other aspects of our societies, cultures, and lifestyles. Of primary significance to this project are the

similarities between the laws and moral understandings that protect freedom of speech and my suggestion that they should be extended to cover sporting performances as well.<sup>1</sup> This should be done in the same spirit that allows even harmful or unruly forms of expression, generally classified as civil disobedience. Civil disobedience and individual expression in sport should be tolerated and even promoted in the same way it is in most democratic societies: for the benefit of autonomous self-expression in general and the protection and advancement of minority groups and communities in particular.

I will argue that the effective promotion of human rights through sport requires changes to our current understandings of the concepts of 'fair play' (as defined primarily by Schneider & Butcher and discussed further in Chapter Two) and the standards of excellence by which we judge the winners and losers of athletic contests. By supporting the creation of level playing fields, the application of fair play can tend to ignore and even work against individual expression within sport, as well as possibly exclude individuals who have needs that differ drastically from those of the majority of current participants. Therefore, emphasis on fair play in sport can create rules and institutions that operate primarily for the benefit of current practitioners and lack flexible, rights-based methods of negotiating individual complaints. I propose that fair play should be modified, based on a model of sport that focuses on its interpretative and educational potential. This would involve reassessing the priority we accord to considerations of whether a game was played fairly in comparison to whether or not the act of playing and outcome of the game spoke to values personally meaningful to the participants. Sporting institutions fail both

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<sup>1</sup> Although it could be argued that there is a strong and meaningful distinction between rights that govern freedom of speech and those that would protect freedom of action, I intend to argue that sport is a unique category of expressive action with the same content as an act of speech, and should therefore be governed in the same manner.

their current stakeholders and society when they disallow access to the intrinsic goods of the practice to specific individuals or groups in a way that could be described as discriminatory.

To establish a moral case for inclusive sport as well as a potential model with which to adjudicate hard cases, namely by favoring individual expression through the medium of sport, this project examines the case of one particular identifiable community, which might wish to take advantage of this alternative conception of sport: individuals with disabilities and para-athletes. I will argue that many currently existent models and definitions of disability are flawed, especially in relation to the suitability of sport for individuals with disabilities and the manner in which they can participate when compared to able-bodied athletes. By establishing the flaws inherent in these models, I can open the door for alternative interpretative lenses. I will draw on the vulnerability thesis (McKenny 2002) and cyborg theory (Haraway 2000), both of which undermine the categories of able-bodied and disabled by positing the existence of a universal vulnerability that all individuals share and explore in sport.

Applying the arguments developed in the first three chapters to an analysis of a historically documented relationship between two organizations attempting to create an inclusive sporting environment featuring both able-bodied athletes and athletes with disabilities, the Olympic and Paralympic Games, offers an opportunity to test these assertions against the lived experience of sport people. An investigation of the primary documents found in archival research at both the International Olympic Committee and International Paralympic Committee facilities revealed the negative consequences for athletes when their autonomous choices about the manner in which they will participate

in sporting opportunities are restricted. Although co-operation between the organizers of the Paralympic and Olympic Games has brought significant financial and marketing benefits to the Paralympic Movement, the continuance of a parallel event structure also: reinforces myths about the distinction between ability and disability; devalues Paralympian achievement; and places athletes in the paradoxical position of striving for athletic excellence while having their performances qualified by the separation between their stage and that occupied by 'normal' or able-bodied competitors (Howe 2008; Peers 2010 and 2009). Although the Paralympic Games does good work in promoting causes on behalf of individuals with disabilities, such as the need for inclusive social policies and active methods of rehabilitation, I will argue that there should no longer be limitations on the competition class within which athletes with disabilities can pursue their chosen sport(s).

In service to this conclusion, the last chapter of this dissertation tackles the philosophical and practical objections to creating para-rowing events at the Canadian University Rowing Championships, and therefore examines a potential avenue where the findings of this project can be applied in the future. An inclusive model that would feature both individuals with disabilities and able-bodied athletes with as few restrictions on competitive participation as possible is proposed and explained in detail. It is notable that this model would be integrated with the overall event and provides a practical roadmap for the progressive implementation of some of the ethical and philosophical considerations this dissertation addresses.

### **Statement of Ethical Issue and Purpose**

The impetus for this topic originally came to me from a curiosity about what democratic sporting institutions might look like, and why the rules governing sports change over time. Within this idea of change in sport were questions about who had the authority to direct such change, and on what basis might it be justified. Sports as practices struck me as lacking methods of collecting, understanding, or responding to rightful or wrongful criticism from both current participants and members of the larger society that the sport operates within. Historically, there have been individuals disadvantaged or even harmed by this state of affairs, as they had legitimate grievances against the standards of the practice they either were engaged in or wanted to join, with little or no recourse to address their concerns. Examples of such individuals whose situations inspired me to investigate this issue more deeply include: Caster Semenya, the South African middle-distance runner who was subjected to forced gender testing by the International Association of Athletics Federations, and Oscar Pistorius, the double-amputee who successfully fought to compete in the 2004 Summer Olympic Games despite allegations that his prosthetics gave him an advantage over 'able-bodied' athletes.<sup>2</sup> Both of these athletes, and many others, have lacked flexible, rights-based methods of challenging existing rule structures and the ability to advocate for change within their sport itself.

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<sup>2</sup> The term able-bodied will be used throughout this dissertation to distinguish between individuals who have been labeled or categorized as disabled, or eligible to compete in para-sport events, and those who have not. The term itself is loaded with potentially discriminatory implications about the natures of disability, normality, and individual difference (Peers 2009). The direction of inquiry that this research follows, especially the lines of argumentation contained in Chapter Three, will attempt to rupture flawed conceptions of disability/ability and what it means to be 'able-bodied,' especially in a sport setting (Clapton 2009). However, in order to critique harmful theories of what it means to be able-bodied, the term (no matter how potentially offensive its content may be) must be referenced, debated, and, hopefully, dismissed as morally suspect.

Historical changes in who has been able to take part in sport and at what level have changed dramatically over time, as have the purpose of sporting activities and the range of conduct acceptable within them. Examples of such change include the inclusion of women (Smith 1998), individuals with disabilities (Bailey 2008), and cultural/racial/ethnic minorities (Paraschak & Forsyth 2011); varying attitudes towards the acceptance and promotion of violence in sport (Young 2012; Jewell, Moti & Coates 2011), as well as the type of harm that athletes can ‘acceptably’ experience or receive (McKenny 2002); the permissibility of performance enhancing substances and technologies (Hoberman 2007); and the respectability of attitudes or conduct characterized as amateur or professional (Bale 2014). Despite these varied changes in rules and attitudes, the narrative surrounding many of these shifts has been one of changing attitudes within larger society becoming reflected in sporting practice. For a practice as important, celebrated, and valuable as sport, it is natural that it should be a site of intense disagreement, and potentially conflict, over the values upheld by or represented within sporting rules. It is therefore logical that some sort of provision should be made for the rules that govern sport to change with the sensibilities of its players and stakeholders.

Morally speaking, it is desirable to make not just sporting institutions, but also the rules that govern sporting practices themselves, move towards greater accountability to individual human needs and desires. However, in order to do this a reasonable definition of how these needs and desires can be conceptualized is required. The legal and philosophical concept of human rights fills this need perfectly. Human rights are both the basis of by which we create rules and laws that can apply fairly to the diverse individuals that make up Canada’s population (Government of Canada 1982), as well as the means

with which we adjudicate philosophical or value-based conflicts between competing individuals or groups (Dworkin 1977; Nickel 2007). Despite the applicability of human rights and freedoms to sport contexts and the moral primacy we accord them in the legal, social, cultural, and political realms of democratic societies, it is nevertheless a set of concepts that we do not often see in sport. The humanistic mission of the Olympic Games, as stated in the Olympic Charter, is as a significant and notable exception (International Olympic Committee 2015). Despite strong and rights-based foundational documents in the form of the Olympic Charter and Paralympic statement of vision and mission, even the organizers and administrators of Paralympic and Olympic Games have been accused of being insufficiently responsive to athlete desires and upholding their rights to autonomy (International Paralympic Committee 2003; International Olympic Committee 2015; Peers 2009).

Overall, the ethical issue investigated within this paper is whether the rule structures that govern sport competition that do unjustifiable harm to the autonomy of persons, both within and outside of sporting practices. Presuming that this harm is taking place, the next logical question becomes what changes in sport are necessary to reduce or eliminate these negative impacts.

## **Methodology**

The methodology of philosophical analysis used in this project applies ethical theories and perspectives to the rules governing sporting competitions as part of an “investigation into the nature of moral judgment and reasoning” (Gorovitz, Hintikka, Provence & Williams 1965, 161). This particular ethical study involves the application of systematic critical reflection and logic to assess whether the arguments or actions put



forward by a particular organization or individual are both valid and representative of the moral positions they are basing those actions/arguments upon. Furthermore, contrasting theories of ethical and moral value are compared within the sport setting in an attempt to propose criteria against which actions and reasoning can be evaluated. The use of this philosophical methodology is necessary for the subject of this project as the questions asked by this research cannot be empirically answered. Within the context of philosophical analysis, objectivity is pursued by considering all possible arguments with an open mind and accepting the potential for alternative positions that differ from the author's own intuitions.

Within this paper, two chapters do not fall neatly into the category of philosophical analysis: Chapters Four and Five. Chapter Four complements the philosophical argumentation developed in preceding sections with a historical document analysis, or instrumental case study, of the Paralympic-Olympic relationship through documents found in the archives of both the International Olympic Committee (IOC) and International Paralympic Committee (IPC) (Creswell 2013, 99). IOC documents were collected during a week-long visit to their archives in Lausanne, Switzerland during the spring of 2015. Electronic copies of all relevant documents were made for later analysis. Although the IPC could not offer me the same hospitality at their facility in Bonn, Germany, their staff shared some documents over email. To ensure that primary sources collected for this research were equally representative of the intentions and actions of the IPC, as well as the IOC, I sought out Dr. David Legg who had in his personal possession an extensive collection of former IPC President Dr. Robert Steadward's personal correspondence. Through his sharing of some of these documents with me, I was able to verify that I was using a balanced cross-section of sources from both sides

of the Paralympic-Olympic relationship. The complete set of documents collected were limited in dates from 1978, which was the year of the IOC's and the IPC's first recorded correspondence, and 1992, after which document embargoes and a 2012 flood affecting newer sections of the IOC's archive made potential resources extremely scarce.

A potential weakness of the data collection method employed for Chapter Four is that I failed to collect "many forms of qualitative data," and the complexity of my representation of the Olympic-Paralympic relationship may have suffered as a result (Creswell 2013, 98). Nevertheless, it is hoped that this may be compensated for slightly by the variety of documents stored in the archives that were consulted. These ranged from correspondence between administrators of both the IPC and IOC, to internal communications, meeting minutes, competition summaries and reports, and even relevant magazine articles and other publications.

Once the necessary documents had been collected, thematic analysis began. During this process I searched for relevant themes within each of the documents that linked them to others as well as transcended the case itself and spoke to the larger issues of inclusivity, conceptions of ability/disability, and fairness in sport (Creswell 2013, 101). Although it is usually suggested that data from the analysis process be coded for representation in figures, charts, or tables, I decided that this would be both out of keeping with the style of the other chapters as well as the conventions of my own primary discipline of philosophy, and opted not to do so (Creswell 2013, 180).

Chapter Five does contain some philosophical analysis of specific issues and considerations that I judged to be relevant to the proposal to create para-events at the

Canadian University Rowing Championships (CURCs), in the style of previous chapters. However, it also outlines a proposal of how the integration of these events could be accomplished in the medium-term. As a practicing coach at the University of Western Ontario, it was important to me for some of the results of this project to be useful to the rowing community, and perhaps other varsity sports as well. For the second half of Chapter Five, a more accessible style was employed to highlight the practical purpose of the information. Futherore, the inclusion of a chapter dealing with administrative realities was judged to be necessary in a discipline, philosophy, where too often practitioners are left without real guidance on how to implement research findings.

# Chapter 1

## 1 Human Rights and Sport

### 1.1 Rights for Individuals with Disabilities and Sport

In his article 'Sport and Human Rights', Peter Donnelly, a Canadian sport sociologist, questions the ability of persons to seek out the “achievement of human rights through sport,” specifically noting that “competitive sport is based on principles of social exclusion; ... sport may be used to promote ideological conformity, ... [as well as] inequitable attitudes about gender, race and disability” (Donnelly 2008, 381/394). Donnelly (2008) is correct in noting that sport should not be lauded as a “universal panacea” and represented only in positive terms (Donnelly 2008, 382). It is not an unambiguously positive vehicle for the advancement of human rights, but to critique it for failing to be so misses the point. Sport is not necessarily a vehicle for anything. It is “an intrinsic good ... to which we ascribe that primary seriousness which provides such things as factories, armies, and governments ... the derivative seriousness to which they are entitled” (Suits 2007, 19). As Bernard Suits, a famous game theoretician whose works are foundational in the field of sport philosophy, correctly observed: in a society in which we do not need to be continually working in order to survive, “to play so that one may work seems silly; but to work in order that one might play seems right” (Suits 2007, 17). Sport can therefore be classified broadly as an activity that we may choose to engage in at our pleasure or convenience. As an intrinsic good, the pursuit of sport is valuable in and of itself and requires no further justification or meaning (McFee 2015)<sup>3</sup>.

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<sup>3</sup> There are relevant objections to the viewpoint of sport as being an intrinsically valuable activity, however these arguments rely on establishing an extrinsically valuable version of sport in which it remains a proving ground for moral values/virtues (Culbertson 2008, 308). Because the reason I center my argument around autonomy and freedom of

Therefore, Donnelly's criticism of the ambiguous ideological content of sport is misguided. Sport can be, and indeed is, informed by a variety of political, social, and cultural assumptions that are disseminated through its practice. These assumptions can be negative or positive in their content, as well as absent entirely. It is the responsibility of sport organizers, administrators, and, most importantly, practitioners to decide which ideas should be represented in sporting contests. These ideas are secondary to and separable from the practice of sport itself, however they can be inferred from the obstacles that an individual chooses to challenge themselves against, or the means that they allow themselves to do so. The rules governing sport, whether written or implied, are not immune to criticism and should be subject to the same questioning that all discourses undergo when presented in the public sphere. Furthermore, these rules should reflect the same values we uphold in our laws, governments, and wider societies. What Donnelly's criticism highlights is not the failure of sport to enact positive social change, but rather sport's potential to be a vehicle for that change if used properly.<sup>4</sup>

In 2006, the United Nations General Assembly authorized the creation of a Convention on the Rights of Persons with Disabilities which was meant to both "recognize the inherent dignity and worth ... of all members of the human family" and that individuals with disabilities frequently face "attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others"

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expression in sport is due to its nature as an expressive tool or arena, and this characteristic is shared across both the intrinsically and extrinsically definitions of sport value, both definitions effectively support my position.

<sup>4</sup> The question of whether sport is the ideal tool, or even a good tool, with which to enact social or cultural change is beyond the scope of this study. As an intrinsic good, there is no question that sport will continue to exist as a practice; therefore we may as well ensure that its ideological content is broadly positive, or at least not harmful.

(United Nations General Assembly 2006). Commenting specifically on the convention, P. David Howe, a sociologist who specializes in sport and disability, argues that “the problem with disability specific ... [legislation] is that it singles out ‘the disabled’ as a group in need of being helped. Many people with disabilities ... do not require or accept their status as universally vulnerable people” (Howe 2009, 26). Other rights-based documents, including both the Canadian Human Rights Act (1982) and the Canadian Charter of Rights and Freedoms (1985), have specific provisions that are meant to protect individuals with disabilities from discrimination. Although both of these instruments reference the term disability directly, they do so in the context of a variety of unacceptable justifications for discrimination, including “race, national or ethnic origin, color, religion, sex, [or] age” (Government of Canada, 1982). Given such an extensive list, only a small number of people might presumably not qualify under one or more of the aforementioned categories. These examples of Canadian legislation circumvent Howe’s criticisms by recognizing vulnerability across a wide spectrum of individuals and the importance of protecting all individuals from discrimination or exploitation within the context of a multicultural and pluralistic society. Although my argument that the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act assert the existence of universal vulnerability would seem to be susceptible to Howe’s criticism regarding specific individuals with disabilities disputing being labeled as vulnerable, Howe and I are employing the term ‘vulnerable’ in different ways. Howe argues that individuals with disabilities can and do take offence to being labeled exceptionally or additionally vulnerable as compared to individuals recognized as being ‘able-bodied.’ I am employing the term ‘vulnerability’ in a sense that recognizes that an inescapable aspect of being human is to be physically vulnerable or fallible. This universal vulnerability is distinct from Howe’s exceptional or specific version of vulnerability as it

applies to all persons and will be relevant the argumentation presented in Chapter Three.

Being physically vulnerable/fallible is essential to the practice of sport as without it, many sports would no longer be challenging, and therefore cease to be sports entirely.<sup>5</sup> This is supported by Suits' definition of sport, wherein he asserts that it requires an element of physical skill (Suits 2007, 14). Since physical skill involves the execution of a difficult task, the possibility of failure is a necessary aspect of both demonstrating and acquiring skill. Within sporting contexts, this failure can often be traced to a physical deficiency or vulnerability on the part of the athlete. For example, the losers of swimming races can likely trace the cause of their defeat to their inability to execute a specific stroke as well as their opponent, or perhaps a lesser ability to withstand the pain or discomfort that comes with extreme physical exertion. By reframing the activity of sport as an exploration and testing of the limits of our own embodiment, it can serve as a powerful tool linking communities that have historically been separated by discriminatory conceptions of ability and disability.<sup>6</sup>

Whether one believes that the negative human outcomes surrounding the concept of disability are best tackled through initiatives that target identifiable and marginalized communities, or rather approached as equality/equity problems among individuals in a larger society, it is clear that the recognition of the importance of rights

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<sup>5</sup> Further discussion of the concept of vulnerability in sport can be found in Chapter Three.

<sup>6</sup> This implication requires significant unpacking and will be further explored in Chapter Three.

for individuals with disabilities is relatively uncontroversial. In *A Transformatory Ethic of Inclusion*, Jayne Clapton notes that:

Rights are demanded as the currency by which self-determination and equal opportunity are sought, and equality is commanded. ... [A] rights-based approach conflicts with hegemonic and paternalistic views, and rejects the authoritarian power of medical and professional frameworks by asserting the ideals of autonomy and independence (Clapton 2009, 220).

To possess autonomy is a universal desire according to the definition of personhood proposed by Immanuel Kant, who was a German philosopher and is a central figure in modern philosophy (Kant 1964, 69). What separates humans from other living creatures that likely possess degrees of self-awareness is a Kantian ethos of reciprocity (Kant 1964, 74). The same faculties that allow us to perceive ourselves as autonomous moral agents enable us to see other human beings in the same way. Although defining the aspects that make up personhood is a very challenging enterprise, the application of an ideal of reciprocity can function as a limited substitute since we can infer that certain values, autonomy for example, that are important to us are important to others as well. The primary limit of reciprocity as substitute for understanding the value systems of other moral agents is that it is unable to fully respond to diverging interests between individuals, unless you argue for the existence of a universal morality that we all share. Nevertheless, the existence of divergent systems of moral thought further reinforces the universality of autonomy, since without autonomy personal expression and disagreement between individuals on the subject of morality would be impossible.

Unfortunately, justifying the value and existence of rights, especially when linking the importance of upholding those rights to individuals with disabilities, on a reciprocal basis is insufficient. James Nickel, an American academic who teaches both philosophy and law, refers to such arguments as being “prudential



reasons for human rights” since they rely on individuals perceiving that their interest in preserving their own autonomy is best served by allocating the rights that they themselves desire to all individuals (Nickel 2007, 54). Nickel proposes that justifying the importance of human rights on this basis risks having the principles upheld by those rights violated if “a powerful group of people” were able to “create a system that serve[s their] interests while victimizing a less powerful group” (Nickel 2007, 57). Human rights are too important to be “dependent on one’s bargaining power or ability to influence the welfare of others” (Nickel 2007, 57). Indeed, one of the primary purposes of having universal or community-specific declarations of rights is to protect the most vulnerable, being those who presumably have the least amount of power and are therefore more vulnerable to exploitation. Nevertheless, Nickel acknowledges that even if prudential arguments for the value of human rights are, individually, an insufficient proof, they do constitute a convincing partial proof (Nickels 2007, 57). In fact, Nickel recommends against the pursuit of a complete proof of the necessity of human rights, stating:

Simplicity is a valuable aspiration in some theoretical contexts, but if we adhere to it while trying to justify human rights the result may be that they seem less justifiable than they actually are. When one pushes good ways of justifying human rights off the stage and puts one’s own single favoured way in the limelight, one’s justification may look thin and vulnerable. Alone under the spotlight, its weak spots are apparent. Readers may think that if this is the best justification for human rights, those rights are really shaky (Nickel 2007, 54).

By employing Nickel’s argument regarding the advantage of using partial justifications for the importance of human rights, we can safely assume that the variety of partial justifications for their existence suffices to prove that they deserve to be represented, upheld, and advanced in sporting contexts. The other

partial justifications presented by Nickel, other than the argument from prudence, are utilitarian/pragmatic reasons, as well as an appeal to secure moral claims. Utilitarian/pragmatic reasons include the idea that the creation and promotion of human rights serves to create societies in which the average quality of life is quite high, which is a desirable goal (Nickel 2007, 59). Secure moral claims are those that are reliably found to be appealing by “rational, reflective, and morally sensitive people” and, since human rights are an idea that makes moral sense for a large number of people, they are therefore valid (Nickel 2007, 61).

It may be tempting to view Nickel’s argument for partial justifications of human rights as being unfair, since it sets a standard of proof for human rights at a much lower bar than we might expect of other philosophical or ethical constructs. However, in the context of this argument it is important to remember that the initial appeal for the place of human rights in sport in general (and the argument for the primacy of autonomy in the design of sporting rules for para-athletes in particular), comes from the reasoned position that in the absence of a way to solve disagreements based on conflicting ideas of how to implement or realize shared values then respect for autonomy is the best alternative. Therefore, this appeal to autonomy is the result of significant scrutiny and consideration of all possible alternatives. It is with the application of scrutiny that Amartya Sen, noted economist and philosopher, suggests the importance of human rights is both proven and expanded (Sen 2004, 355). An emphasis on human rights in sporting rules, and the right to autonomy in particular, is not necessarily a claim to its enduring power. Rather it is proposed as the most ethically acceptable means of governing accessible sporting competitions

available to date. It is expected, and encouraged, that this primacy accorded to autonomy be questioned and hopefully improved upon.

Although many potential justifications could be added to the list of reasons by which human rights are considered valuable moral content, and therefore deserving of representation in sporting rules, they fall outside the direct scope of this project's argument, which aims to prove that human rights form a type of ideological content worthy of representation in sporting rules. The burden of proof necessary to sustain this argument only requires that their inclusion be shown to be generally positive in nature, rather than critical or integral to practice of sport itself.

## **1.2 The Ethical Primacy of Self-Expression in Sport**

Having established the importance of human rights, the potential role sport has in their promotion, and the value of rights that protect individuals with disabilities as either a subset or integral part of the rights that apply to all individuals, it needs to be decided what the specific content of human rights should be within a sporting context. Nickel asserts that the "recognition of a human right ... is more likely to start with the experience, direct or indirect, of indignities and injustice" (Nickel 2007, 70). Therefore, in order to isolate what the content of human rights in a sporting context should be, my analysis will focus on what potential threats to the dignity or integrity of a person exist within sport as a practice. In an ideal scenario, the intrinsic value of engaging in sport is linked to the personhood of the individual participant. As an intrinsic good, the pursuit of sport is valuable for the gratification it provides to individuals and the autonomy it

grants them to measure, express, and define themselves. By engaging in competitive play, athletes receive access to a “form of self-discovery, just as the preparation to compete is a form of self-creation” (Delattre 2007, 197). Edwin Delattre, whose work in the field of sport philosophy is recognized to be of a foundational nature, theorizes the process of competition as an opportunity to test oneself against another and, in the process, learn more about one’s own capabilities (Delattre 2007, 199). Therefore, if sport offers the opportunity for individuals to engage in self-definition or creation, then the moral goods accessed through sport can be thought of as either the search for or achievement of concepts that are in agreement with the value systems of the athlete.

Given the advantages and opportunities that participation in sport can provide, offering all individuals the chance to participate, and therefore adopting a policy of inclusion at all levels of sport, but especially in high-performance sport where stratification is likely to be greatest, is highly desirable. Clapton argues for a move away from a dichotomous model of representing disability, namely our current categories of those able to contribute versus those not able to contribute, or individuals who are normal/able-bodied versus those who are atypical/disabled (Clapton 2009, 43). The reason for this is that such categories emphasize the improbable reality of ‘what might have been,’ the tragedy of an individual who could have been ‘typical’ but is instead disabled. By being inclusive, Clapton argues that this narrative can be reversed into a conversation about what abilities and manners of contribution that individuals with disabilities can express, as opposed to focusing on ways in which they cannot (Clapton 2009, 248). Clapton theorizes inclusion as an ethic of friendship which:

evokes a socially powerful relationship capable of being an instrument of transformatory socio-ethical change. Not contained to a private/public dualism, friendship represents a form of socio-ethical relationship which is radically committed to the acceptance and flourishing of an other (Clapton 2009, 25).

This definition of inclusion is particularly suited for a sporting context because of how closely it resembles the types of values that are recognized as being an integral part of sport, namely: sportsmanship and the concept of co-questing. By engaging in competitive play, athletes receive access to a “form of self-discovery, just as the preparation to compete is a form of self-creation” (Delattre 2007, 197). Similarly to Clapton’s ethic of friendship, Delattre theorizes the process of competition as an opportunity to test oneself against another and, in the process, learn more about one’s own capabilities through a fundamentally co-operative activity that is as much about helping yourself as it is about encouraging the athletic development of another (Delattre 2007, 199). In this way, competitors are actually working together to achieve excellence and inspire a passion for athletic achievement in each other, as much as they are actively attempting to defeat the other. They are, in a sense of the term, friends. This specific expression of a positive relationship between individuals is valuable and desirable in the context of a sporting contest and should not be denied to individuals who voluntarily choose to seek it out on the basis of disability.

In contrast, within the scope of the argument presented in this dissertation, unethical sporting practices are those that use athletic performance to achieve ends that do not involve expressions of individuality meaningful to the participant. In his article *The Vulnerability Thesis and Use of Bio-Medical*

*Technology in Sport*, Sigmund Loland, a prolific Norwegian sport philosopher, argues that:

As the political and commercial significance of sport success has increased, competitions have turned into struggles between total systems of human, economical, technological and scientific resources. The image of athletes competing against each other conceals the true picture. ... What is being measured in international sport is not primarily individual athletic skills but system strength. ... The increased significance of expert-administrated technology can be seen as problematic ... [because] when, in any human practice, insight in, control over and responsibility for conduct move from the individual to external expert systems, moral problems arise. What is at stake here is individual autonomy and the risk of individuals being treated as a means towards system ends (Loland 2005, 159).

Although Loland is defining the danger posed to sport by bio-technological performance enhancements, his test of whether a potential addition to sporting rules creates the potential for individuals to be treated as means rather than ends is useful and can be applied to a variety of potential changes to sport practice, including the evaluation of whether rights for individuals with disabilities should be incorporated into rules governing sport participation.<sup>7</sup> What would make these rights unethical is if they subordinate the interests of the individual participants to the interests of an extrinsic good that the event is being held to achieve. This would reduce participants to instrumental status, which may cause a devaluation of both their own sense of self-worth and their perceived worth when viewed by relevant others. When sporting contests are justified or sporting practices

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<sup>7</sup> Although Loland's test is a reformulation of Immanuel Kant's categorical imperative, Loland's account of the 'Golden Rule' is being used here, as opposed to Kant's, because it is designed for and applied to situations occurring within the context of sport. Many of the objections to Kant's account of what constitutes moral behaviour stem from his attempt to apply rules-based formulations of morality to the entirety of human life and all its inherent complexity. Loland avoids many of these criticisms by restricting his application of the categorical imperative to moral quandaries arising only within sport (Loland 2005, 159).

legitimized by instrumental rationales, rather than used to give individuals an opportunity to achieve or express personally meaningful values (values which might include competitive excellence), persons become secondary to determinations of victory or defeat. The pursuit of more skillful or exceptional athletic performances is meaningless from the perspective of the participants whose efforts are enabling these performances without an individual morality that ascribes intrinsic value to those goals and many others. The determination of whether rights for individuals with disabilities in a sporting context are ethical becomes a question of whether they enable or override our ability to pursue our personal actualization as moral agents.<sup>8</sup> Therefore, the most important human rights that require protection within sporting environments are those that sanction individual participation and autonomy for all participants, including those with disabilities.

### **1.3 How to Protect and Promote Autonomous Self-Expression in Sport?**

Having argued the case for why the creation of rights for individuals with disabilities in sport specific contexts actually furthers the aims of the practice of sport itself, I must now define what the specific content of these rights should be. How can rights that protect and promote autonomy for individuals with disabilities be best put into rule, practice, and play? This problem is not unique to the

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<sup>8</sup> As the introduction of this section made clear, the value interchange occurring between the participants and the sport as a practice is not uni-directional. Athletes use sport to define themselves while also being actively shaped by their participation. The mechanism through which athletes receive or are taught specific values/ideals by sport will be further explained with specific reference to Alasdair McIntyre in Chapter Two. For now, it is sufficient to have established that sport is an activity through which individuals can achieve self-actualization and treat sport as beneficial because it is a practice whose meaning they have the ability control and shape.

sporting context, nor is it unique to the creation of rights for individuals with disabilities specifically. The translation of abstract statements or formulations of rights into their practical application in situations of conflict or confusion is considered by Ronald Dworkin, a philosopher and legal theorist whose works form some of the most influential contemporary theories on the nature of law and morality. In his differentiation between ‘moral conceptions’ and ‘moral concepts’ Dworkin defines these terms as:

a difference not just in the *detail* of the instructions given but in the *kind* of the instructions given. When I appeal to a concept of fairness I appeal to what fairness means, and I give my view on that issue no special standing. When I lay down a conception of fairness, I lay down what I mean by fairness, and my view is therefore the heart of the matter. When I appeal to fairness I pose a moral issue; when I lay down my conception of fairness I try to answer it (Dworkin 1977, 135).<sup>9</sup>

Dworkin defines all types of rights as “political trumps held by individuals” and argues that “individuals have rights when, for some reason, a collective goal is not a sufficient justification for denying them what they wish, as individuals, to have or to do, or not a sufficient justification for imposing some loss or injury upon them” (Dworkin 1977, xi). His concept of rights as a “theory of adjudication, which emphasizes the distinction between arguments of principle and policy,” as outlined in the distinction between concepts and conceptions, is a good fit for providing guidance on how to adapt specific rights to sport environments because it provides methods for balancing the competing, justified needs of diverse individuals and addressing the practical challenges that come with creating and running events with finite resources and real-world limitations

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<sup>9</sup> The distinction between conceptions and concepts has been applied to the concept of Olympism, and the practice of sport in general, by Jim Parry (Parry 2006, 191).



(Dworkin 1977, xii). Dworkin's model of adjudication is meant to apply to issues of jurisprudence, defined as "the ethical problem that is presented when a lawyer asks, not whether a particular law is effective, but whether it is fair" (Dworkin 1977, 1). The problem posed by this question is that:

critics of law accept ... the principle that a judicial decision is fairer if it represents the application of accepted standards rather than the imposition of new ones. But they are unclear what counts as applying established standards, and they express this uncertainty by asking whether judges are really following rules, in some sense at least, even in novel cases (Dworkin 1977, 5).

Although Dworkin's criticisms of the model of jurisprudence that existed in his time, and his proposed solutions to these problems, are meant for a judicial setting, they apply to any situation where a person or persons of power or authority must weigh the competing needs of individuals. This is because what they are truly describing is a moral framework within which laws are created by democratically elected legislatures, altered or interpreted by non-democratically elected judiciaries, and then ultimately accepted or disobeyed by individual members of a nation-state.

Most sports lack a democratically elected legislative branch of government that regulates the rules under which the sport is conducted; however, they all feature individuals and groups in positions of authority with powers of arbitration over how a sport can and cannot be played, as well as individual athletes who have a limited amount of freedom with which to abide by or disobey the rules imposed upon their sport. Fundamentally, Dworkin is responding to and elaborating upon the problems created when individuals assert the power of normative rules (whether they are the laws that he envisioned, the

human rights that form the subject of this chapter, or the rules that define permitted conduct in sports) that enjoy common acceptance to solve specific dilemmas. The manner in which one individual may present specific articulations of those normative rules can differ in scope and detail from the opinions of others, thereby creating situations of disagreement and potential conflict.

Dworkin refers to situations in which there is potential conflict between how individuals might choose to instantiate a specific set of values as 'hard cases' and defines them as times in which a judge has the "discretion' to decide the case either way ... [but also the] duty ... to discover what the rights of the parties are, not invent new rights retrospectively" (Dworkin 1977, 81). However, despite the restraints that Dworkin is arguing should be put upon judges in hard cases, he concedes that there is no "mechanical procedure ... for demonstrating what the rights of parties are in hard cases" (Dworkin 1977, 81). At most, Dworkin states, we can define "the questions that judges and lawyers must put to themselves, but it does not guarantee that they will all give these questions the same answer" (Dworkin 1977, 81). Dworkin responds to criticisms that the judgment being made by individuals in such hard cases is too arbitrary or personal to be true by arguing that such an:

... objection presupposes a controversial thesis of general philosophy, which is that no proposition can be true unless it can, at least in principle, be demonstrated to be true. There is no reason to accept that thesis as part of a general theory of truth, and good reason to reject its specific application to propositions about legal rights (Dworkin 1977, 81).

Essentially, Dworkin is highlighting the practical realities of judgment in hard cases and the difficulty of overcoming the subjective nature of decisions made by individuals with powers of arbitration over them. Therefore, any system that

proposes to provide just outcomes in cases of disagreement, within sport contexts or more generally, must allow for the existence of divergent interpretations of the correct instantiation of shared values.

Returning to Dworkin's model of conceptions and concepts, what he is proposing is that written law, whether in the form of legislation or precedent, can only establish the concept of rights, which is defined as the types of questions that should be asked in hard cases (Dworkin 1977, 135). Whenever these concepts have to be applied to the real world, they become conceptions, which are the necessarily personal instantiations of how a given concept might be used to resolve a hard case (Dworkin 1977, 135). Returning to our original definition of the purpose of sport, the primary question that I am suggesting should be asked at all times is: "What best promotes the autonomy of the individual athletes?"<sup>10</sup> Therefore it is this right of autonomy which must be advanced and protected. The reason this right is given primacy is because without the autonomous choice of the athlete to participate in sport, ethical sporting practices cannot be taking

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<sup>10</sup> The only potential rights that could exceed autonomy in importance are those that protect the safety and security of a person's physical body, and their health in general. However, within a sporting context specifically, the relative unimportance of this family of rights as compared to those that protect autonomy can be demonstrably proven with reference to the widespread acceptance of dangerous sporting practices. Some sports, such as boxing, willingly embrace violence, and the accompanying physical harm, as a key component of the sport itself. Even non-violent sports however, practiced at a sufficiently competitive level, unquestionably damage the physical integrity of their participants through the inevitable injuries that take place whenever an athlete is placing their body under the stresses of high-performance training. For further discussion of why we should prioritize individual liberty over the harm of violence in sport, see Robert L. Simon's article *Violence in Sports*. For further discussion of the physical harms inherent in high-performance training, see John Hoberman's *Listening to Steroids*.

place.<sup>11</sup> Furthermore, it should be noted that the term ‘athletes’ in the aforementioned question is referring to all potential participants, not merely those actively engaged in the sport at present. The reason this definition of athletes must be so broad is to prevent the harmful effects of exclusion, which were touched on earlier in the chapter and represent a threat to the dignity and personhood of all individuals, including those with disabilities.

Despite the relative vagaries surrounding the specific implementation of individual rights and the seemingly complicated and unpredictable system of judgment that Dworkin proposes to use to arbitrate hard cases, the inviolability of rights within Dworkin’s model of legality and morality should be specifically stated. The case for the importance of rarely, if ever, violating a human right such as the right to autonomy begins with Dworkin’s observation that there is an insufficient “distinction between individual rights and social goals” (Dworkin 1977, 89). The reason the lack of this distinction is troubling to those who would seek rights-based remedies to social or political problems is because both goals and rights, in the abstract, seem to have similar weight. In fact, in applied situations in which rights and social goals conflict, it can seem that rights should be justifiably curtailed. For example, we have accepted the legitimacy of both the right of all individuals to privacy and the social goal of keeping all members of Canadian society safe. Terrorist threats have, on occasion, prompted the Canadian government to attempt to curtail privacy rights in favor of implementing surveillance programs meant to prevent threats to the security of Canadian

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<sup>11</sup> The primary importance of autonomy to ethical sporting practices was established earlier in this chapter.

citizens, such as during the October Crisis.<sup>12</sup> Although, in abstract, both the right to privacy and social goal of public security are accepted as important, in practice the individual right to privacy can seem much less valuable than the clear social goal of promoting safety. However, for the concept of rights to be taken seriously, it is vitally important that this subordination of individual rights in favor of social goals never take place (Dworkin 1977). The concept of individual rights is specifically designed to protect persons in cases where the majority would clearly benefit from harming them in some way. For the concept of rights to have any weight or ability to protect persons from harm, they must be able to withstand challenges from social goals that have the support of an overwhelming majority.

Loland, in *Fair Play and Sport: A Moral Norm System*, has grappled with similar issues of how to prioritize goals vs. rights in the context of sport practices. Loland frames the ideal situation as one in which there is agreement about the rules of competitions, so that competitors can co-operate through competition to achieve mutually agreeable ends:

First, there must be a certain amount of common knowledge among the parties concerned about how the basic rules are to be understood. ... Second, competitors must mutually recognize their common knowledge of basic rules and act upon it. This calls for communication between them. Each competitor has to demonstrate in words and actions observable to others his or her acceptance of certain norms for rule interpretations. Then all competitors can recognize that each competitor has accepted a certain interpretation of the rules that they also accept, and each competitor can become aware of this recognition on his or her own part. We can now understand competitions as advanced forms of cooperation (Loland 2002, 7).

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<sup>12</sup> For more information about this event in Canadian history, see William Tetley's *The October Crisis, 1970: An Insider's View*.

Nonetheless, Loland also acknowledges the inevitability of disagreements and frames them as usually occurring on a second order of importance and at a level small enough where they would not threaten the overall viability of the competition:

On this understanding, norms are shared when two or more parties are aware that they are consenting to an interpretation of the basic rules. That is to say, there exists a consensual perception of the consensus, or a consensus of a second order, among the participants. This does not mean that sharing norms requires perfect agreement. ... Every sport, and every particular sport competition, can be seen as a verbal and embodied discourse in which shared norms for the interpretation of the rules are challenged, negotiated, and adjusted. (Loland 2002, 9).

Unfortunately, the shortcoming of Loland's model (and why Dworkin's has been chosen instead), is that it does not speak to two specific elements that are relevant to the experience of playing para-sport but could be expanded to include all athletes. Firstly, the ability to be included within sporting competitions is difficult to relegate to a status of secondary importance, since it strikes at the core of how a sport is constructed and what values are exhibited in its practice. Secondly, Loland makes his priorities clear when discussing the nature of rule disagreements when he states that: "Even if we ought to accept diversity in the interpretation of rules in a sport, the ideal must still be to minimize the number of accepted rule violations" (Loland 2002, 9). This viewpoint inescapably places the convenience and continuity of the rules above the needs of marginalized or excluded individuals whom the rules do not adequately include or represent. To prioritize autonomy within sporting competitions in the manner my argumentation requires to be logically consistent, especially in relation to para-athletes, the needs of individuals must be placed first.

Since I am using Dworkin to provide the model of rights being used in this argument, it is imperative that I deal with potential objections to both Dworkin's conclusions and, more broadly, the use of rights-based theories of morality in general. Joseph Raz, who has published significant responses to Dworkin's work, argues that "morality is not right-based" because, in part, the "ideal of personal autonomy is incompatible with moral individualism" (Raz 1990, 182/193). Furthermore, Raz criticizes rights-based moralities for offering only a "foundation of morality in the narrow sense" (Raz 1990, 198). What Raz means by this is that the overly individualistic focus of rights serves to erode or simply de-emphasize the importance of "personal friendships, marital relations, [etc.] ... [which] are among the most valuable and rewarding aspects of many people's lives" (Raz 1990, 200). Rights-based theories of morality overwhelm considerations of the collective good because they "pitch ... a person's own interests and goals as not only occasionally in conflict with his obligations to others but as deriving from independent and fundamentally difference sources" (Raz 1990, 200). This idea of disunity amongst moral motivations, which are phrased as being distinctly right, duty, or goal based, is abhorrent to Raz; however, it arises from a fundamental misunderstanding of Dworkin's theory of rights. Namely, Raz confuses Dworkin's emphasis on rights with a rejection of duty or goal based moralities. Dworkin does accept the legitimacy of goal or duty based conceptions of the good, however he does not allow them to overrule rights-based obligations if/when they come into conflict. Giving one aspect of morality primacy does not necessarily invalidate the others, it simply provides a road map for mediating and resolving hard cases.

Raz's assertion that rights-based moralities cannot explain, or provide for, the concept of autonomy is far more problematic for the purposes of this dissertation. One of the most fundamental rights is that of autonomy. Should it be impossible to justify the existence of autonomy through rights-based methods, then any systems of morality that use rights as a primary trump are necessarily false. Raz's proof that rights-based moralities cannot provide for the existence of autonomy hinge on his argument that "autonomy is ... construed as a kind of achievement" (Raz 1990, 191). "A person is autonomous only if he has a variety of acceptable options available for him to choose from and his life became as it is through his choice of some of these options" (Raz 1990, 191). By defining autonomy as a capacity for personal choice, Raz makes the existence of autonomy contingent upon a person's ability to exercise it, and therefore contingent upon the existence of choice. He goes on to define the existence of options in society as being "a collective good," and therefore turns autonomy into a condition that is only achievable in a community-based sense, when a society has provided enough of the necessities of life that individuals have the luxury to make choices about how they conduct their lives, rather than having to struggle to survive (Raz 1990, 193). However, I argue that by phrasing autonomy in this manner, Raz has actually undermined its significance and utility as a concept that can promote human dignity and welfare. Raz's model of autonomy requires quantification, namely that individuals possessing autonomy have a multitude of options regarding what they might choose to eat, how to secure their livelihoods, etc. But how many options are sufficient to say a person possesses autonomy? How far must a society rise above subsistence level living before it can bestow



autonomy unto its members? These questions are not possible to definitively answer, and therefore likely do not define autonomy at all. Furthermore, Raz's model of autonomy does not take into account potential problems posed by unequal distributions of wealth or privilege and whether it is possible for one person to possess more of his material version of autonomy than another. I argue that the reason that Dworkin's model of rights-based autonomy is superior is because it simply emphasizes the importance of the concept of autonomy, as opposed to attempting to permanently resolve hard cases dealing with individual conceptions of autonomy.

The final problem with emphasizing rights-based moralities in a sporting context that must be dealt with are the feminist critiques of human rights law in general. The reason I have chosen to base my suggested content for sporting practices on human rights is the supposed universality of the desire for autonomy. If human rights, and particularly the right to autonomy, was shown to be "not value-free, [but rather] ... deeply gendered and ... privileged[ing] a certain set of normative commitments" (Qureshi 2012, 41). Shazia Qureshi, an academic with research interests in the intersection between human rights law and feminist theory, argues: "the core theme of human rights law reflects a male viewpoint which may not necessarily resonate with the lived realities of women's lives" (Qureshi 2012, 41). If this is the case, placing human rights law at the core of my argument would be extremely problematic because it would be excluding, rather than including, a wide swath of potential para-athletes as well as reduce the applicability of my argument to transgender and intersex individuals as well as to women. Fortunately, I can show that on closer inspection the critiques that

feminist scholars, as represented primarily by Qureshi, frequently level at the concept on human rights do not deal directly with the concept of autonomy, which is my particular focus. Qureshi's summarizes feminist objections to human rights law as stemming from three main sources: a subjective bias in law, the public/private bifurcation, and the rhetoric wrestle between cultural essentialism and cultural relativism (Qureshi 2012). Of these, only the potential of a subjective bias present in the writing of human rights laws is relevant to the content of this dissertation.<sup>13</sup> Eva Brems, a human rights law scholar, is correct to note that the language of human rights law is "a product of the dominant male half of the world, framed in their language, reflecting their needs and aspirations" (Brems 1997, 137). I would, in fact, extend this argument to assert that sporting rules and regulations suffer from much the same bias both in the fact that men have primarily conceived of sporting practices in a way that has failed to adequately represent women and that these practices have been defined by the able-bodied in a way that fails to reflect the needs of individuals with disabilities. Therefore, my argument is in agreement with this criticism, and my emphasis on autonomy

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<sup>13</sup> The argument regarding public/private bifurcation can be dismissed as not being applicable to the situation of para-athletes because it objects to the fact that men dominate the "public realm in every part of the world and they are more often the major beneficiaries of civil and political rights" (Qureshi 2012, 45). Since my argument applies to a specific realm in which human rights should apply, being the sporting context, arguments about where rights apply in the larger world are mostly irrelevant. In reference to the issue of cultural essentialism vs. relativism, and whether a concept such as human rights can be universalized given that "substantive human rights standards vary among different cultures", I would remind readers that this is an issue I have already attempted to tackle in explaining why the right to autonomy was the one I have chosen to focus on (Qureshi 2012, 47). I agree that there is legitimate debate about what manner of inclusion or access to competitive sport that para-athletes might prefer, which is why I focus on according them and all sport participants the right to free choice.

in sporting practices is an attempt to help resolve this issue by giving control over the ways in which the rules are written to the athletes who are playing the game.

#### **1.4 Protecting Autonomous Self-Expression in Sport**

Assuming that it is morally justifiable for sports to emphasize the protection and advancement of autonomy for all persons who might conceivably wish to participate in sport poses two problems for sporting practices as they are currently formulated. First, the logical consequence of allowing individuals the choice of participation is the adoption of a policy of inclusion directed towards all potential participants, which appears to be significantly at odds with the exclusionary nature of high-performance sport. By definition, very few individuals can compete, let alone succeed, at the highest levels of competitive sport as they are currently structured. Proposing that international competitions strive for the inclusion of all potential athletes would be a radical shift away from current practice and practically impossible. The problems created by this contradiction will be further explored in the chapter on fair play.

The second issue posed by the adoption of an emphasis on autonomy is how to create a unified set of rules by which all participants can play if the autonomy of individual participants is paramount. Although this question is interesting on a philosophical basis, since it is a major consequence of the argument being advanced in this dissertation, it has specific importance to the creation of participatory opportunities for individuals with disabilities because significant differences amongst the embodied realities of athletes can necessitate the creation of alternative rules. Although this is a positive development since it

results in the accommodation of previously excluded individuals, the alternative practice created by the now divergent set of rules could be sufficiently separate from the original sport for it to be viewed as a distinct sport entirely. Therefore, allowing individuals with divergent capabilities and interests to participate under the same set of rules that emphasize personal autonomy is the most desirable outcome, despite these conditions being contradictory. This problem is not unique to the world of sport and an interesting parallel can be drawn between the requirements of inclusive sport and rules governing the freedom of speech. Much like the three criterion set out for ethically justifiable sport (autonomy, inclusivity, and shared rules), philosophical considerations of the powers and limits of freedom of expression are fraught with similar contradictory prerogatives.<sup>14</sup>

Academic study of the intersection between free speech and sport has focused upon the seeming oddity of sport not being generally recognized as being a form of expression. Genevieve Lakier, one of the few scholars to write about freedom of expression within sport (as exercised by athletes during play) albeit from a legal perspective, asserts that:

Today, nude dancing, begging, and making a movie or violent video game are all activities that trigger First Amendment scrutiny [under the Constitution of the United States of America]. Yet, playing football or baseball, or performing an artistic, non-team sport like gymnastics or figure skating is not (Lakier 2014, 1111).

Lakier continues to say that “the denial of free speech protection to spectator sports ... is wrong. ... Philosophically, it is wrong because spectator sports

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<sup>14</sup> The three criterion for ethically justifiable sport presented here (autonomy, inclusivity, and shared rules) were chosen based on the argumentation presented in sections 1.1, 1.2, and 1.3.

contribute to the democratic public sphere in much the same way as do other genres of mass entertainment” (Lakier 2014, 1111). She justifies this claim by noting that “the explicit orientation of spectator sports toward an audience establishes a strong presumption that something expressive is taking place” (Lakier 2014, 1116). Nevertheless, “art and sport enjoy very different status under the contemporary First Amendment [of the Constitution of the United States of America]” (Lakier 2014, 1114).

Arguments against why sporting performances should be considered to have expressive content, and therefore, be eligible for freedom of speech protection, have focused on the lack of a discernible message within the performance that is in need of legal protection. Lakier defeats this argument by noting that many messages that are conveyed in purposefully vague/confusing means, such as in the case of abstract art, have been “unquestionably shielded” from censure and enjoy legal protections (Lakier 2014, 1114). I would contend that any discernible action, that is the product of an autonomous decision, should be considered a form of expression and therefore be considered for protection under rules governing freedom of speech. The reason categorizing sport in this way is important is because it establishes another right possessed by athletes that sporting organizations and rules must respect: that their performances are the product of an autonomous choice to participate in sport and that the content of their performances should be free from any undue coercion or limitations.<sup>15</sup>

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<sup>15</sup> Athletic performances should be the product of autonomously chosen actions, as per the arguments laid out in 1.2. The concept of what limitations can be reasonably placed

Having established this point, we can now turn to determining what relevant considerations surrounding the laws governing freedom of speech should be present in sporting contexts. The aspect of freedom of speech most instructive to the practice of sport is how disagreement and conflict between individuals is treated. Societies with free and open discourses are generally able to facilitate peaceful co-existence amongst individuals with divergent beliefs and ideologies who are, at times, interested in expressing viewpoints through deeds or words that are objectionable or offensive to one or more relevant others. Within sport, when one is interested in expressing different values, the creation of divergent sets of rules is necessary. For instance, individuals interested in less violent or physical forms of American football might choose to play or watch flag football instead. Similarly, some sports engage in rigorous anti-doping programs, whereas others have more relaxed attitudes towards the use of performance-enhancing technologies/substances.<sup>16</sup> Although one could argue that individuals are free to participate in a variety of sports, and therefore can choose to align themselves with whatever sport suits their inclinations and temperaments best, or best allows them to express or observe an athletic performance meaningful to

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on the conduct of athletes in the context of sporting practices will be explained further in Chapter Two.

<sup>16</sup> A relevant example of cultural considerations surrounding the application of doping rules is the Lance Armstrong case. Although rules against doping have been present in cycling for decades, the actual enforcement of these bans has waxed and waned with changes in popular sentiment and media attention. Much of the commentary surrounding Armstrong's culpability in his own doping scandal and whether the severity of the punishment meted out to him was justified focused on the idea that there was a culture of permissiveness surrounding doping in cycling. Further information about this phenomenon can be found in Paul Dimeo's article: *Why Lance Armstrong? Historical Context and Key Turning Points in the 'Cleaning Up' of Professional Cycling* and in Angela Schneider's: *Cultural Nuances: Doping, Cycling and the Tour de France*.

them, this is still a restriction being placed upon their freedom of speech.<sup>17</sup> In the example of an individual choosing a sport that 'fits' them, it is not the individual who is being allowed to shape or experience their own sporting performance. Rather, they are being forced to choose amongst a variety of pre-determined and already structured 'opinions.' Assuming sporting performances represent a valid form of personal expression, the best way to promote autonomy and inclusivity within a sporting context is to allow individuals to take the rules that govern sport into their own hands.

The practical implications of each individual sport adopting an attitude of flexibility towards which rules individual athletes choose to follow are too numerous to go into here. Additionally, considerations of how this policy would impact the concept of 'fair play' that is ubiquitous in competitive sport will be dealt with in later chapters. However, there is precedent for this radical re-imagining of the weight that we should allocate to the rules that govern sport, and the consequences that we should impose upon individuals who choose to disregard those rules for reasons of personal expression or conscience. Using a rights-based model of morality to determine justifiable sporting values and rules, there are already practical examples of what happens when individual rights come into conflict with laws passed by governments. Dworkin defines civil disobedience as a right to disobey a law; however, he does not recognize this right as separate or independent, but rather a consequence of the original right which an overly

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<sup>17</sup> Throughout the rest of this dissertation I will be drawing upon Lakier's arguments to assert that sporting actions or performances have expressive content and should be defended as if they were speech.

oppressive law may be violating (Dworkin 1977, 217). This right to disobey the laws that a government passes makes the work of a government more expensive and inefficient, so it might seem important that it serve some purpose. However, the purpose of allowing individuals the right to disobey laws with which they disagree, and understand the consequences of doing so, is that to not do so violates the rights and dignity of the individual. The act of balancing the rights of the individual against considerations of governmental or organizational efficiency cheapens the importance of individual rights as it makes them utilitarian tools rather than intrinsically valuable manifestations of morality. A government that takes rights seriously accepts that citizens can be correct in breaking the law and must take the rights of the individual to be paramount at the times that doing so is least convenient (Dworkin 1977, 222). As Dworkin writes regarding his conclusion that a just society must respect, and not punish, those who disobey draft laws for reasons of personal conscience, “the simple Draconian propositions, that crime must be punished, ... have an extraordinary hold ... on the popular imagination [,] ... but the rule of law is more complex and intelligent than that and it is important that it survive” (Dworkin 1977, 222). Given that we are applying Dworkin’s model of a rights based legal system to a sport context, it makes sense that the concept of civil disobedience within a sport setting would be imported as well.

Although this model of allowing athletes the individual freedom to obey or disobey the rules of sport might seem radical, we treat far more serious matters than sport with far more liberality. Sport, as a form of play, is by its very nature absurd in that a necessary condition of participation in sport requires the



acceptance of voluntary obstacles to hinder the pursuit of an instrumental goal (Suits 2007, 16).<sup>18</sup> This is what Suits refers to as the “lusory attitude” (Suits 2007, 15). If we can tolerate individual expression, disagreement, and even disobedience in our societies when discussing issues of law and justice, then presumably they can exist in sport without undermining the entire practice. Although it is true that sport likely could not endure if it tolerated all disobedience, it does not follow that that it will “collapse if it tolerates some” (Dworkin 1977, 206). Orienting sport towards a rights-based model of governance would involve increasing emphasis on individual autonomy, encouraging individuals of diverse ideologies and beliefs to participate (especially para-athletes), and allowing for greater individual freedom to both determine the content of sporting performances and the rules that restrict or define them. This would represent a strengthening of the individual rights to self-determination and free expression, as well as be of particular relevance to members of vulnerable communities who may endure more violations of these rights than is typical. The increased likelihood for individuals with disabilities to be subject to violations of their right to autonomy is further explored and defined both philosophically in Chapter Three and historically in Chapter Four.

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<sup>18</sup> The lusory attitude was one of four conditions that Suits put upon activities to see if they could be defined as sports.

## Chapter 2

### 2 Fair Play and Shared Practices

#### 2.1 Fair Play and Rights-Based Sport

A rights-based model of sport that emphasizes the autonomy of individual athletes to define their own rules and the voluntary challenges they undertake in sporting contexts threatens a widely accepted component of sporting practice: namely, ‘fair play’ and the notion of the level playing field. The idea of athletes playing the same game, in competition with one another, while in pursuit of different objectives and choosing the rules to which they will be subject seems anathema to the nature of athletic contests.<sup>19</sup> It could be argued that without identical restrictions on permissible means of play, the “reciprocal ... interaction” that Paul Gaffney, current editor of the *Journal of Philosophy of Sport*, identifies as integral to the “intentional structure of competition” is compromised (Gaffney 2007, 113). Gaffney’s account of the symmetrical nature of the challenge of competition is important because it is the logical basis for why the value of fair play would be important. Gaffney’s model of the structure of athletic competitions relies on the conflicting desires of participants to be both ‘friends,’ as they are reliant upon each other’s desire to participate and effort in competition, and ‘enemies’ because within the structure of the contest they are making every effort to win and deny that same privilege to their opponent (Gaffney 2007, 113). Although Gaffney does not state this explicitly,

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<sup>19</sup> Although there are examples of athletes making rules alterations to suit their own ends, such as the imposition of handicap strokes in golf, these are all done primarily for the purposes of enhancing conditions of fairness within contests featuring mismatched participants. As will be explained further in the dissertation, the types of rule changes being encouraged here would be fundamentally difference because they may actually result in less fair competitions, however these competitions would also feature athletes acting more in accordance with their autonomously chosen forms of self-expression.

analysis later in this chapter will show that fair play is the ethical concept that regulates the viewing of an opponent as too much of a foe or too much of a friend by removing an athlete's individual interests and substituting them with a more generalized considerations about what is best for the sport they are participating in. However, this symmetrical view of sport as creating a fair contest between two individuals has the downside that it makes the activity of sport itself less responsive to individual needs, more exclusionary than necessary, and reduces avenues for individual self-expression. The goal of this chapter is to defend these claims.

Despite the downsides of symmetrical sport systems, simply allowing asymmetrical competitive conditions are not a risk free solution. Rule systems that place less priority on considerations of fairness could potentially undermine the ability of competitors to test themselves against each other and, through victory, "prove to themselves and to others that they are winners and deserving of esteem" (Gaffney 2007, 113). Given these concerns, without being subject to the same rules governing the athletic test, can competitors actually be said to be gaining anything through their mutual participation? And can they even be said to be participating in the same activity at all? According to current philosophical understandings of the nature of athletic tests and contests, the answers to these questions are mixed. Scott Kretchmar and Tim Elcombe, both notable sport philosophers, have defined tests as being "self-improvement challenges" which gradually evolve into:

interpersonal-normed tests to in-person comparisons of testing performances among two or more people to impersonal and potentially asynchronous contests in which commitments to surpass are in place but the progress of an opponent cannot be seen – all the way to robust, simultaneous in-person competition. The resources for meaning that are available in sport improve, if only gradually, from a first experience with a novel test to norm-references, face-to-face competition (Kretchmar & Elcombe 2007, 185).

The process of evolution that guides a practice from test to a contest occurs when:

The impregnability and vulnerability that produce the testing cut are 'lived,' modified, and recreated rather than encountered as analytical categories. ... Add[ed] complexity and potentially further meaning ... suggests that contents are not merely parasitic upon tests in a logical sense but also expand their experiential potential in a variety of ways (Kretchmar & Elcombe 2007, 185).

Therefore, for competitors to be involved in a mutually beneficial contest together, they need to be playing by the same rules. If they are not, they are engaged in two distinct tests at an earlier stage of their evolution into contests. This does not necessarily prevent the tests from being valuable or meaningful, but it does mean that the practice being explored is not a shared one. Kretchmar & Elcombe's model of evolution from tests to contests has significant potential to inform my model of rights-based sporting practices. When athletes are exercising their rights and changing the rules of contests, it could be said that they are then pushing their particular practice to an earlier stage of evolution, and therefore there is room for athletes to make autonomous choices about the sporting rules under which they play in current definitions of sporting practice.

Setting aside fair play, and the high priority we place on consistent rules for sporting practices, as a dominant consideration in sporting contests, or at the very least reducing the value we place upon it, does not necessarily mean that participants are not desirous of the same type of shared self-discovery available to athletes in sports with symmetrical rules systems. Arguing that strict reciprocity in terms of the competitive conditions athletic participants struggle against is necessary for this self-discovery to take place needlessly enforces harsh disincentives associated with cheating in sport in

place of a simple assumption of honesty and good-will on the part of all participants.<sup>20</sup> It is likely true that these harsh punishments are required to prevent cheating entirely, but I argue that the cost of these punishments is too high to bear in terms of both their exclusionary and silencing effects on athletes. This is analogous to how most democratic societies have opted to tolerate some negative or destructive expressions as part of an overall policy of free speech. Although a level playing field may be desirable, it is not the primary requirement for a meaningful and enriching sporting competition to take place. Unfortunately, the establishment and maintenance of a level playing field has taken on an out-sized importance in sport relative to its contributions. This negatively impacts the ability of athletes to engage in autonomously chosen forms of self-expression in sport. The advantages of allowing individual disobedience towards or disagreement with some rules of sport have been discussed in the previous chapter. The next step of this argument involves proving that sport can continue while tolerating this disobedience, thereby demonstrating that the rights-based model is both viable and potentially advantageous given that it demonstrates an increased respect for the autonomy of sporting participants.

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<sup>20</sup> This assumption of honesty would carry some risks. The phenomenon of cheating in able-bodied sport, especially at its most competitive levels, is a frequent enough occurrence that it could be suggested that not guarding against it is not only overly trusting, but verges into negligence. Although the topic of disability and para-sport will be further explored in Chapters Three and Four, cheating is just as serious a risk in para-sport. One particularly flagrant example of this is the case of Spain's Paralympic basketball team at the 2000 Sydney Paralympic Games. A whistleblower inside the team revealed, after they had placed first overall in their event, that none of the team's members actually suffered from an intellectual disability, despite competing within that category (BBC News 2000). Despite the fact that cheating in order to gain material rewards may be potentially easier under a rights-based mode of sport, it still remains a prohibited behaviour. Questions of how effectively we could enforce bans against cheating behaviour under a rights-based model of sport are ultimately of secondary importance to the harm that switching away from rules-based sport would prevent.

The characteristics of rules-based sport are best explained by Bernard Suits since he asserts that games are “rules-governed activities” (Suits 2007, 9). Suits’ case for the necessity of rules in sport is based on the contention that the rules “set out all the conditions which must be met in playing the game” (Suits 2007, 11). According to this line of argumentation, without rules governing permissible and impermissible means of accomplishing the “specific achievable state of affairs” that forms the victory condition of the chosen game, then games would cease to offer any challenge, and therefore no longer appeal to any potential participants (Suits 2007, 10). Therefore, the case for the advantage of rules-based models of games, and by extension sports, is clear: without rules, games cease to be what they are. Unfortunately, although this is a logical conclusion, it relies on the premise that we can either follow all rules or no rules. In the analysis of rule breaking and civil disobedience in the previous chapter, it was shown that in democratic societies the choice to tolerate some civil disobedience conducted by dissatisfied citizens did not bring into question the rule of law, but rather served to reinforce its moral authority by demonstrating that it took seriously the needs of minority, even if doing would inconvenience the majority. The other problem with asserting that breaking some rules invalidates the game being played is that it is a position based on what is best for the game and its continued existence. In many cases, the interests of the game can be said to be in agreement with the interests of persons. The game exists to have a large number and wide variety of positive effects on its players, including: diversion/pleasure, moral development, physical exercise, etc. (Andrews 2006, 270; Austin 2013, 29; Sawangdee, Yousomboon, & Katewongsa 2012, 286). However, there are situations where the interests of a game and its players, especially potential players who are currently excluded by the rules of the game (such as para-athletes), diverge. In these situations, the rules of the game should no longer take precedence because they

are harmful to identifiable groups who, without the ability to participate, have limited means of creating or inspiring change. It is this allocation of precedence to the rights of participants that gives rights-based sport, as opposed to rules-based sport, its primary importance. Unfortunately, rules based sport can sometimes allow current participants and administrators to protect current standards of practice over the interests of disadvantaged minority groups. The concept that justifies these priorities, wrongly, is 'fair play.'

Fair play has been explained as actions that are consistent with an attitude of "respect for the interests of the game (or sport) as a practice" (Butcher & Schneider 2007, 127). This involves "honor[ing] and tak[ing] seriously the standards of excellence created and defined by ... [the] game" (Butcher & Schneider 2007, 129). Butcher & Schneider's definition of fair play has been used due to it being recognized as central to current understandings of the concept of fair play in sport philosophy. However, their definition has its roots in Alasdair MacIntyre's efforts to revive Aristotelian virtue ethics within modern philosophy.

Fair play prompts athletes to adopt the interests of the game in replacement of their own and thus allow the continued ability of sport to create intrinsic value for its participants (Butcher & Schneider 2007, 130). This intrinsic value is found in the performance of an activity that provides "experiences that are enjoyable and worthwhile" (Butcher & Schneider 2007, 130). The argument in favour of fair play holds that if one were to cheat and put their own interests ahead of those of the game then those intrinsic goods would no longer be accessible to the cheater, and perhaps other participants as well. The practice of sport has value, commonly recognized as the pursuit "of a difficult

goal” (Hurka 2007, 31). Since the definition of a game is a “voluntary attempt to overcome unnecessary obstacles,” then it is difficult to imagine what extrinsic good could be created from the pursuit of value in sport given that the most efficient means of accomplishing the game’s goal is not being pursued (Suits 2007, 14). Therefore, the good(s) created from participating in sport are intrinsic, rather than instrumental.

Accessing these goods is dependent upon the acceptance of and compliance with the rules of the sport because without these rules, sport becomes an instrumental practice that fails to produce any intrinsic value for its participants. Returning to Schneider & Butcher’s definition of fair play, it is clear that intentional cheating demonstrates a desire to place one’s own interests ahead of those of the game. Therefore, an important objection to rights-based sport that must be overcome is the suggestion that athletes choosing to change or disobey rules as a form of civil disobedience are simply cheaters that should be excluded from sporting practices.

## **2.2 Cheating and Fair Play**

If circumventing or disregarding the value of fair play is cheating, then it is useful to explore the concept of cheating in more detail. Oliver Leaman, whose contributions to the philosophy of sport and writings on cheating specifically have been controversial, defined the concept of cheating in relation to fair play in his article “Cheating and Fair Play in Sport.”<sup>21</sup> Leaman sheds light on the concept of cheating by analogy:

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<sup>21</sup> Leaman’s article “Cheating and Fair Play in Sport” has been the subject of significant debate, specifically by Warren P. Fraleigh who responded to Leaman in his article “Intentional Rules Violations – One More Time.” Although the alterations to Leaman’s arguments suggested by Fraleigh are important and relevant, they are not germane to my argument because they deal primarily with “intentional tactical rules violations” while the rule violating, or cheating, behaviour that I am discussing are intentional but not tactical in nature.



Cheating ... [can be explained by] the analogy of telling an untruth. There is nothing wrong with telling an untruth as such; the fault lies in intending to tell an untruth. If I intend to tell an untruth then my action may or may not deceive you. The falsehood may be so blatant that it is obviously not intended to deceive, but perhaps merely to confuse or gain time. Such a falsehood may nonetheless be called a lie since it seeks to place its author in a position of undeserved superiority vis-à-vis the audience, and this runs against a principle of justice, other things being equal, namely, that the truth ought to be told. ... Other things being equal, we have a right to be told the truth, and if we are lied to then we are not dealt with justly. The injustice is magnified if we are at the same time deceived, or if there is an intention that we be deceived, but the injustice is there whether or not we are deceived or not, and whether there is any intention to deceive or not (Leaman 2007, 202).

What is worth stressing within this definition is that Leaman accurately captures how cheating can vary in severity according to the intentionality behind the rules-breaking act. For Leaman, players who “undertake to play a game have understood and agreed to the rules of the game and the principles upon which any fair victory in that game must rest” (Leaman 2007, 206). Similar to Schneider and Butcher’s definition of fair play, athletes who cheat in too blatant a manner can hardly be said to be playing the game at all. However, Leaman compares cheating to telling an untruth, and not to lying, because there are cases where an athlete may break the rules of the game, or ‘cheat’, without the knowledge or intention of doing so.<sup>22</sup> Therefore, there are degrees of cheating which do not break the game. In fact, Leaman notes that players are incentivized to cheat “when that is perceived ... to be [to] the[ir] side’s advantage” (Leaman 2007, 206). It is for this reason that many sports employ referees, umpires, or other judges so that cheating “does not benefit one side more than the other except where one side is more skillful at

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<sup>22</sup> A potential response to a definition of cheating that does not take intentionality into account is that breaking the rules of the game without the intention of doing so is not cheating at all, but rather a separate category of action. This would mean that Leaman’s definition of cheating is too broad. Although this might be true in a philosophical sense, it is a difficult distinction to make in real-life situations. The intentions of athletes are often known only to themselves (Feezell 2007, 71). Therefore, a useful definition of cheating must allow us to make judgments about what actions qualify as cheating in the absence of any knowledge of the actual intentions of a potential cheater.

cheating than the other, and to see that the amount of cheating which takes place is not so great as to change the general form of a particular game” (Leaman 2007, 206).

Cheating therefore occurs when the constitutive rules of the sport being played are circumvented. Although cheating could be simply dismissed as an action which negates the rules of the sport, and therefore the game itself, this fails to “address ... the ways in which players and spectators perceive” the rules of the game, instead focusing on “an abstract idea of the rules themselves” (Leaman 2007, 206). Put simply, arguing that breaking the rules breaks the game involves taking an omniscient view of the practice of sport. A crooked game might not be a game at all from a hypothetical perspective, but if all participants and spectators (with the exception of the cheater) believe that a fair sporting contest has taken place, then this omniscient view is known by no one and of no good to anyone. An infraction of the rules, once discovered, has varying impacts on the game it occurs within, based on the context surrounding the cheating action. Of primary importance to the concept and severity of cheating are the motivations of the athlete(s) involved.

Based on the exercise of intentionality on the part of athletes, I will divide cheaters into two potential categories. Firstly there are cheaters who do not care about the intrinsic goods made accessible through sport and are cheating to earn victory for reasons external to the game, likely prize money or fame. This kind of cheater can safely be dismissed for the purposes of this discussion as Schneider and Butcher and myself are in agreement about how to treat them (Schneider & Butcher 2007, 138). Whether from the perspective of fair play or a rights-based model of sport, this type of cheater is both failing to use sport as a means of self-expression and not engaging in any sort of

adoption of the interests of the game in replacement of their own.<sup>23</sup> Within either model, they are not truly engaged in the practice of sport at all. The second type of ‘cheater’ is an athlete who might be interested in challenging, or cheating, the rules of their chosen sport for reasons of self-expression, as a form of activism for a cause such as accessibility for para-athletes. Schneider and Butcher account for this type of athlete by defining part of the attitude of respect for sport that fair play demands as the acknowledgement that “respect is a critical and reflective notion” (Butcher & Schneider 2007, 128). An athlete who respects their sport has a duty to make positive contributions to it and this includes a “duty to criticize” (Butcher & Schneider 2007, 128). This leads to the question: ‘What would motivate an athlete to take issue with the constitutive rules of their sport?’ One answer is that they could seek an intrinsic good within the sport that is currently prohibited by the rules.

Although some of the intrinsic goods available to participants in sport are identical across all athletic pursuits, the ability to attain the experience of ‘flow’ for instance, others are highly linked to individual types of sport or practices within sport (Butcher & Schneider 2007, 131). This is why we play sports and not a single, homogenous sport. There are similarities between hockey, basketball, rowing, running and any other sport you can name, but the experience of playing each of them is not completely identical.

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<sup>23</sup> It could be argued that prioritizing fame or wealth over the intangible rewards of a game played according to the rules is self-expression because actions that are compatible with this value system show clearly defined priorities. On the face of it, this argument is not wrong. However, what the athlete is expressing a desire to do is use an intrinsically motivated activity, in this case sport, to accomplish instrumental ends. In such a situation, either the person should be using more appropriate means to pursue their chosen ends, or the sport they are playing has become a practical exercise. In short, either they should pursue a job rather than a passion, or what may have once been a passion has become a job. Either way, they can be safely differentiated from those who are pursuing sport for intrinsic reasons.

Certain values that are central to a team-based, contact sport like football might not have easily identifiable counterparts in another, more individual, sport like golf, and vice-versa. This does not imply a hierarchy among sports, but the different values that athletes access as part of their sporting experience ultimately leads many individuals to focus their athletic pursuits into a single version of sport that speaks specifically to values they find appealing or meaningful. Within their chosen sport, individuals may further specialize into recreational or competitive leagues, leagues with certain rules (touch football versus full contact for example), etc. The existence of sport preference implies a meaningful difference in the intrinsic goods that individuals access across different sports and within variations of the same sport access as part of their athletic experiences. Assuming there are no coercive factors at work, an individual's preferred sport(s) to either play or watch represents an expression of their autonomously chosen value systems.

If the intrinsic value of engaging in sport is linked to the personhood of the individual participant, then the moral goods accessed through sport can be thought of as either the search for, or achievement of, concepts that are in agreement with the value system of the athlete. It can be argued that ethically justifiable sport offers the opportunity for individuals to measure, express, and define themselves. This definition of sport comes from Delattre who explains the process of co-operative and competitive learning through sport thusly:

the claim of competitive athletics to importance rests squarely on their providing for us opportunities for self-discovery which might otherwise have been missed. They are not unique in this ... but there is no need for them to claim uniqueness. They provide opportunities for self-discovery, for concentration and intensity of involvement, for being carried away by the demands of the contest and thereby in part for being able to meet them, with a frequency seldom matched elsewhere. It is in the face of these demands and with respect to them that an athlete succeeds or fails. (Delattre 2007, 197)

J.S. Russell, a notable sport philosopher, builds on this definition when explaining the value of dangerous sport in particular as consisting of:

an activity of self-affirmation because dangerous sport invites us to confront and push back the boundaries of the self by creating contexts in which some of the ordinary bounds of our lives can be challenged. Hence, we discover and affirm who we are and what we can be by confronting and attempting to extend these boundaries (Russell 2005, 2).

Using Delattre and Russell's definitions of the value of sport, we can suggest that unethical sporting practices are those that use athletic performance to achieve ends that do not involve expressions of individuality meaningful to the participant.

In reference to the increasing prevalence of performance-enhancing technologies in sport, Loland argues that "when, in any human practice, insight in, control over and responsibility for conduct move from the individual to external expert systems, moral problems arise" (Loland 2005, 159). Although Loland was writing about the ethical problems introduced into sport through the use of performance-enhancing technologies that obscure human agency, his test is applicable to the issue of fair play. Any time a rule or practice in sport would obstruct the ability of individuals, particularly those whose participation would be made impossible such as para-athletes, to make autonomous choices in sport, the ethical justifiability of that practice or rule should be questioned. This is because any system that shifts control away from human agents risks treating individuals as means, rather than ends, and violating their personhood and autonomy. What makes these practices unethical is that they subordinate the interests of the individual participants necessary for any sporting event to the interests of the extrinsic good that the event is being held to achieve. When contests are justified or practices legitimized by the pursuit of extrinsic goods (money, medals, etc.) rather than to give individuals opportunity to achieve or express personally meaningful values (values which

might include competitive excellence), persons become secondary to determinations of victory or defeat. Although it is true that “high-performance sport today inescapably involves the instrumentally rational, systematic, scientifically and technologically assisted enhancement of athletic performance in pursuit of victory,” as Rob Beamish and Ian Ritchie allege in their critique of high-performance sport, that pursuit is meaningless without an individual morality that ascribes intrinsic value to that goal and many others (Beamish & Ritchie 2006, 137). Therefore, the determination of whether a sporting practice is ethical involves the question of whether it enables or overrides our ability to pursue our personal actualization as moral agents. As I have argued, the intrinsic value of participating in sport stems from the athlete’s ability to use the practice of sport to identify and pursue individually relevant horizons of meaning. Although this is not a controversial position, according the autonomy of individual athletes a primary weight in considerations of sporting rules and allowing athletes to engage is principled rule breaking to prevent violations of their autonomy, and particularly to promote inclusivity, certainly is.

Since self-actualization and expression are two of the core benefits of participating in sport, it is pertinent to ask: what might prevent an athlete from accessing these goods in the course of playing their chosen sport? Certain sports and forms of expression complement each other naturally. Athletes inclined to experience and overcome tests of endurance might decide to take part in individual and grueling contests such as marathon running or Ironman competitions. A male choosing to become a football player could be doing so in order to express his agreement with gender normative masculine

behaviour (Veri & Liberti 2013, 227).<sup>24</sup> In contrast, a male athlete's decision to participate in a traditionally female sport such as gymnastics could be an attempt to redefine or reshape their concept of masculinity on a personal level (Chimot & Louveau 2010, 436). Unfortunately, there are also many examples of valid forms of speech which can find no logical outlet within an athlete's chosen sport, at least as within the rules as they are currently constructed. An athlete might decide that they wish to attain the highest levels of physical performance possible within their sport, yet be prevented from doing so by rules against the use of certain performance enhancing technologies (this category encapsulates a fairly broad spectrum of interventions from Human Growth Hormone to prosthetics and mobility enhancers).<sup>25</sup> Athletes who do not easily fit within the gender binary used to organize most sport teams may either be excluded entirely, or assigned to a gender that does not conform to their own self-image (Zeigler 2013, 467). Some of these categories of inclusion, such as sports in which the use of performance-enhancing or doping technologies are encouraged, are bound to be significantly more controversial

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<sup>24</sup> Both Maria J. Veri and Rita Liberti as well as Caroline Chimot and Catherine Louveau's empirical studies regarding conceptions of gender in sport demonstrate that there are real-world examples of the philosophical arguments being presented in this chapter.

<sup>25</sup> Although there are good reasons why many performance enhancing technologies are banned, especially ones that damage the health of their users; the rules against their use do not enjoy unanimous acceptance. The most relevant objections to anti-doping rules stem from the "culture of risk" that already exists within most high-performance teams (Nixon 1992, 127). Participation in sport, especially at a competitive level, carries with it the risk of injuries that could have short-term or even life-long negative effects on the health of athletes. Given that sport participation involves an acceptance of risk, differentiating the risks of doping from those already inherent in 'clean' sport seems to be a difficult or potentially impossible task. For the purposes of this chapter, the issue of whether athletes should be free to use performance-enhancing is simply one example among many of where someone's legitimate desire to athletic self-expression might be stymied by the rules of their chosen sport. For further reading on the issues involved in governing performance-enhancing technologies in sport, please see: W.M. Brown's *Paternalism, Drugs and the Nature of Sports*; *Sports and Drugs: Are the Current Bans Justified?* by Michael Lavin; and Robert L. Simon's *Good Competition and Drug-Enhanced Performance*.

than versions of sport that welcome para-athletes, for instance. It is for this reason that this dissertation focuses on the case of para-athletes specifically, although the philosophical arguments presented here could be reasonably extended to other marginalized groups whose autonomous desires are not currently represented in sporting rules.

### **2.3 Standards of Excellence**

Given the aforementioned situations in which athletes' ability to engage in self-expression through sport is thwarted by the rules of the sports they are playing, what is stopping the athletes themselves from changing the rules of their sport to be more favourable to their personal situations? To explore the answer to this question I will need to return to the concept of fair play. Schneider and Butcher's definition of fair play involves "honor[ing] and tak[ing] seriously the standards of excellence defined by that game" (Schneider & Butcher 2007, 129). In a vacuum, prioritizing the standard of excellence defined by the game as opposed to that of the players seems wrong. The interests of actual human beings should always be placed ahead of those of inanimate objects or social constructs for reasons of ethical necessity. However, Schneider and Butcher are not making their argument out of blind loyalty to the rules of sport over the interests of individuals. Rather, they are suggesting that player behaviour motivated by personal interest alone is ultimately counterproductive as it makes the intrinsic goods of sport unavailable to the player. Schneider and Butcher's fair play is a fundamentally cooperative venture. In the article "Fair Play as Respect for the Game", they defend the fact that it seems "a little odd to speak of the interests of a practice" as opposed to those of individuals by making an argument by analogy and referring to the "interests of philosophy" (Schneider & Butcher 2007, 129). The interests of philosophy are listed as



the creation or continuance of “innovative scholarship, lively and vigorous debate on contests issues, the study and analysis of historical work, a vibrant community of scholars”, etc. (Schneider & Butcher 2007, 129). Through this analogy, Schneider and Butcher are asserting that the interests of philosophy are, broadly speaking, the interests of most philosophers. This distinction between the interests of philosophy as a practice and the interests of philosophers as individuals is important for the definition of fair play because, according to Schneider and Butcher, excellence in philosophy sometimes demands negative outcomes for individual philosophers:

As philosophers, we are committed to following the argument, even if the argument runs against our most cherished positions. It is in the interests of a philosopher, as a philosopher, to see her or her own positions demolished in the name of truth (Schneider & Butcher 2007, 129).

Therefore, it holds that the interests of the game, according to Schneider and Butcher, are the interests of most players of the game. The transformation or substitution of interests from the individual to the practice as a whole is important must, supposedly, take place in order for the group of practitioners to attain a higher level of satisfaction with and excellence within their chosen craft.

The logical extension of this aforementioned definition of fair play is that without a unified set of rules that define the types of excellence athletes are striving to attain/exhibit in individual sports, the practices themselves would become less intelligible. A shared standard of excellence for co-operative and competitive athletic endeavours is clearly desirable both because it discourages selfish behaviour and promotes a co-operative attitude, even amongst competitors. These, and many other benefits, are what we often refer to when asked to define why we value fair play in sport so highly. It is therefore unsurprising that one of the sources cited in Schneider and

Butcher's definition of fair play is the author of concepts such as shared practices and standards of excellence, and who also rehabilitated Aristotle's virtue ethics in current philosophy: Alasdair MacIntyre. The utility of MacIntyre's models of shared practices and standards of excellence goes far beyond the sporting realm. In a general sense, MacIntyre defines a practice as:

Any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended (MacIntyre 1984, 187).

For MacIntyre, an applicable standard of excellence with which we can evaluate our attempts to engage in shared practices is a requirement of almost all endeavours we might undertake as communities of persons. MacIntyre deals with the issue of cheating in a manner very similar to my previously presented definitions. He posits that a practitioner who cheats out of desire for goods external to the practice they are engaged in will not be defeating their opponents, but rather themselves. MacIntyre proves this by providing an analogy of "a highly intelligent seven-year-old child whom [he] wish[es] to teach to play chess" (MacIntyre 1984, 188). Although the child "has no particular desire to learn the game," the child is given a candy reward each time they play and an even larger reward when they win (MacIntyre 1984, 188). Because "it is the candy alone which provides the child with a good reason for playing chess, the child has no reason not to cheat" (MacIntyre 1984, 188). This analogy very eloquently demonstrates how individuals motivated by material rewards have no stake in the practice, and therefore would not care if it were destroyed or compromised by their actions.

Unfortunately, MacIntyre is generally silent on the second category of cheaters that

I have outlined: individuals who would desire access to goods not currently encapsulated within the existent standards of excellence for reasons of self-expression. Unlike the first category of cheaters, these individuals are not necessarily participating only for an external reward. Instead, they are breaking or bending those rules that are in disagreement with their personal value systems. The conflict between individuality and standards of excellence come from MacIntyre's definition of how these standards of excellence are created. MacIntyre's concept of standards of excellence supersedes and exceeds almost all considerations of individuality:

A practice involves standards of excellence and obedience to rules as well as the achievement of goods. To enter into a practice is to accept the authority of those standards and inadequacy of my own performance as judged by them. It is to subject my own attitudes, choices, preferences and tastes to standards which currently and partially define the practice. Practices of course, as I have just noticed, have a history: games, sciences, and arts all have histories. Thus the standards are not themselves immune from criticism, but nonetheless we cannot be initiated into a practice without accepting the authority of the best standards realized so far (MacIntyre 1984, 190).

From MacIntyre's analysis, the concept of fair play is really just a sport-specific instantiation of his model of shared practices and standards of excellence. Both feature:

- 1) a co-operative framework within which competitors work together to achieve goods internal to the practice;
- 2) a requirement that practitioners place the interests and needs of the practice ahead of their own; and
- 3) a disqualification of all those who would seek to use the practice for the achievement of goods external to the practice.

The problem with the concept of fair play and standards of excellence within sports as presented up to this point is that the substitution or replacement of the interests of individual players by those of the game elides a significant portion of their autonomy. The rules of any sport that exists today, and the standards of excellence which adjudicate successful performances within those sports, are obviously possessed of

enough broad appeal to have attracted a number of players and supporters. However, partially because of the support that the conception of fair play has received within sporting contexts, athletes are only free to express themselves through sporting practices insofar as they are free to choose sports that epitomize values or virtues with which they already agree. Should athletes that desire an opportunity to participate in an already existent sport be excluded from the shared practice because of either an unwillingness or inability to abide by the standards of excellence as they are currently defined, then that, in most cases, is treated simply as tough luck for them. Being outside the community of practice, they have no recourse to offer criticism or help improve the standard of excellence that defines that community. It is this fact of being outside the 'feedback loop' present in the current definition of shared practices, and having no way to change that exclusion, that makes the exclusion of a potential athlete ethically problematic. This situation can be likened to that experienced by individuals with disabilities in many facets of life where their exclusion from social, political and cultural spheres becomes self-perpetuating (K. Mee Kim et. al. 2016, 761).

MacIntyre's defense against this allegation would be that the achievement of internal goods according to the standards of excellence proscribed by the practice "is a good for the whole community who participate in the practice" (MacIntyre 1984, 190). This is insufficient because it does not account for any individuals who might be completely or partially excluded by the standards of excellence as they are currently constructed. Both Schneider and Butcher and MacIntyre make allowances for criticism and growth on the part of the standards of excellence applied in individual sporting contexts, but this growth is often slow and requires a significant expenditure of effort on

the part of marginalized communities or persons to obtain access.<sup>26</sup> The reason that changes within any given sport's standard of excellence are difficult to create is because the very definition of 'standards of excellence' exhibits circular logic. MacIntyre argues that:

If, on starting to listen to music, I do not accept my own incapacity to judge correctly, I will never learn to hear, let alone appreciate, Bartok's last quartets. If, on starting to play baseball, I do not accept that others know better than I when to throw a fast ball and when not, I will never learn to appreciate good pitching let alone to pitch (MacIntyre 1984, 190)

MacIntyre's modeling of the creation and continuance of standards of excellence privileges the criticisms of those already inside of the community of practice. In order to criticize the practice, one must first adopt, master, and exhibit its virtues. Therefore, those most able to criticize any given shared practice are those already most benefitted by the standards of excellence as they currently exist and who have adopted those standards the most successfully. This means that the method by which criticism of a shared practice is supposed to be generated within MacIntyre's model actually serves to limit dissent to already existent standards of excellence and make changes towards inclusion that would benefit groups currently victimized by unfair discrimination, such as para-athletes, unlikely.

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<sup>26</sup> Specific examples of marginalized communities are too numerous to go into, and too complex as individual examples, to go over as part of a primarily philosophical discussion. However, the history of sport and its evolving 'standards of excellence' is replete with changes that were forced upon insular communities of practice from determined outside forces desirous of more socially just sporting institutions. Previously, and some currently, excluded communities from certain sport practices in North America include: 1) women; 2) persons of 'non-white' ethnic, racial or cultural heritage; 3) individuals with disabilities; and, 4) individuals unwilling or unable to subscribe to a binary view of gender. In many of these cases sporting institutions have mirrored wider societal norms as we have moved towards more universal and inclusive definitions of personhood, individuality, and human rights. However, this chapter aims to draw attention to the role that our philosophical definitions and models of sport play in maintaining athletic practices that do not need to be responsive to the needs of marginalized individuals.

## 2.4 Constitutive, Regulative, and Auxiliary Rules

A potential justification for why MacIntyre has constructed a model of practice that can be argued to disenfranchise outsiders is that he views practices as:

never just a set of technical skills. What is distinctive in a practice is in part the way in which conceptions of the relevant goods and ends which the technical skills serve – and every practice does require the exercise of technical skills – are transformed and enriched by these extensions of human power and by that regard for its own internal goods which are partially definitive of each particular practice or type of practice. Practices never have a goal or goals fixed for all time – painting has no such goal nor has physics – but the goals themselves are transmuted by the history of the activity. It therefore turns out not to be accidental that every practice has its own history and a history which is more and other than that of the improvement of the relevant technical skills (MacIntyre 1984, 190).

Therefore, according to MacIntyre's theory, to extend open control of the standards of excellence to those outside the current community of practice is to allow them control over the histories and traditions of the practice, which in turn inform the goals of the current and future participants. I argue that tradition is an amoral concept. Simon J. Bronner demonstrates, within the context of the sport of hare coursing, that tradition could be viewed as both a "positive or negative process" (Bronner 2007, 8). Within the context of hare coursing, a sport in which trained dogs are used to pursue and sometimes kill rabbits, both those in favor of the continuance of the sport and those who would see it banned as overly violent and cruel to animals appealed to tradition. Therefore, "the ethical basis of tradition ... was disputed with both sides claiming to advocate for the progress of civilization and constructing the other (either rural or urban) as barbaric" (Bronner 2007, 25). Bronner's analysis shows that we can see that tradition can actually be an amoral concept, and offers no insight on the value or suitability of a practice at all. Traditions can be anything between revered and worth preserving or despicable and deserving of condemnation. Therefore, the preservation of tradition as a

justification for exclusion should be given no particular ethical weight unless the content of the tradition itself has moral value, or is at least ethically justifiable. For instance, a tradition of “individual sacrifice for the benefit of the larger community,” which Heather L. Reid has studied in relation to the Olympic Games, is highly valuable (Reid 2013, 197). However, this value derives not from the age of the tradition, or the fact that that kind of behaviour is a tradition all, but rather its admirable content. In contrast, the racially disparaging team name of the Washington Redskins has been defended as being traditional and therefore exempt from laws that outlaw offensive trademarks (Nagel & Rascher 2007, 791). It is clear here that any respect we may have for tradition should be questioned given how it is being used to defend racial discrimination.

Despite this aforementioned objection, MacIntyre’s model of practice could still be useful. When applying MacIntyre’s definition of a practice to sport, I might charitably assume that his unwillingness to cede input on or control over the rules of practices might only be applicable to a certain subset of rules, rather than all of them. The category of rules within sport philosophy has been broken up into three sub-categories. Firstly, and among the most important of these categories to the practice of the game, are constitutive rules. These rules “determine the kind and range of means which will be permitted in seeking to achieve the ... goal,” and are constitutive because they delineate what actions can and cannot be permitted within the game (Suits 2007, 11). Klaus Meier explains the second category, regulative rules, as “sanction-invoking rules” “which specify the penalties to be applied when particular constitutive rules have been violated, intentionally or unintentionally” (Meier 1985, 69). Meier’s third category of rules, those that he refers to as auxiliary in nature, govern “eligibility, admission, training, and other pre-contest requirements” and are “of a different color or nature entirely than constitutive

rules and, as such, have nothing whatsoever to do with the essence of sport” (Meier 1985, 71). The primary objection with the concept of fair play that has been developed throughout this chapter is that it excludes potential participants while overriding the autonomy of those already within the community of practice. If the elements of the rules that have these negative outcomes were shown to be auxiliary, rather than constitutive, in nature, then they would likely be outside the direct purview of a concept such as fair play. This in turn would shield fair play against the criticisms that have been thus far leveled against it.

In order to prove that the allegations made against the concept of fair play, that it is a homogenizing and exclusionary influence, it would be necessary to demonstrate that auxiliary rules are somehow hived off or distinct from fair play and the act of playing sport itself. Christoph Lumer, a German professor of moral philosophy, characterizes one form of what Meier would have called auxiliary rules as the “law of sports associations,” as opposed to the laws of sport itself (Lumer 1995, 268). This distinction is extremely important when read in conjunction with MacIntyre’s view of institutions:

[They are] ... involved in acquiring money and other material goods, ... structured in terms of power and status, and ... distribut[ing] money, power and status as rewards. Nor could they do otherwise if they are to sustain not only themselves, but also the practices of which they are the bearers. For no practices can survive for any length of time unsustained by institutions – and consequently of the goods external to the goods internal to the practices in question – that institutions and practices characteristically form a single causal order in which the ideals and the creativity of the practice are always vulnerable to the acquisitiveness of the institution, in which the cooperative care for common goods of the practice is always vulnerable to the competitiveness of the institution (MacIntyre 1984, 194).

Given MacIntyre’s position on the role of institutions in sport and Lumer’s contention that auxiliary rules have more to do with institutions than practices, it could be argued that the negative characteristics of rules-based sport so far identified are the fault of sporting



institutions, rather than sport itself. This argument aligns with Wray Vamplew's work on the history of rule development in sport:

Once competitions are organized, the rules auxiliary to those of the game are needed to determine eligibility to participate. Few rules of sport specify who can compete in a particular sport; it is the organizers of events who set such regulations. There is nothing in the nature of sport itself that determines who can and cannot play. In the purest form of sport only self-exclusion should apply. Small people may be at a disadvantage in basketball or high jumping, but in theory they are at liberty to compete, albeit probably unsuccessful. Exclusion is a cultural creation specific to sports in a certain domain at a particular time (Vamplew 2007, 851).

Vamplew's contentions are clearly problematic for the arguments so far presented, because they imply that most exclusionary elements of rules-based sport can be removed without having to adopt a rights-based model. The problem that Vamplew's analysis raises is how to separate the 'nature' or 'purest form' of sport from its present or past instantiations and all of their 'cultural creations.' Appealing to an ideal of sport or its inner nature, as Vamplew suggests, would only be helpful if that ideal were commonly shared amongst all people, even those currently outside of the sport, so that it could be referred to during disagreements. It could be argued that this shared understanding is encapsulated in the rules, however I have already demonstrated that they cannot serve this purpose. This is due to the non-universal nature of the rules that govern sporting contexts. Although it is certainly possible that the rules of any given sport as currently conceived are universalized among current participants, this is an unhelpful form of universalism when it comes to remedying problems of exclusion, especially in the case of para-athletes.

Unfortunately, constitutive rules, much like regulative and auxiliary rules, are just as vulnerable to individual or community-wide interpretations that are morally objectionable. An example of just such a case can be seen in the sport of boxing where

19<sup>th</sup> century rules permitted, and even encouraged, bare-knuckle prizefighting despite the fact that there was a known relationship between participating in these fights and dying young and “punch drunk,” which described such varied conditions as deafness and neurological impairments associated with brain damage (Sheard 1998, 76). The objection that this example illustrates could also be stated, perhaps more accurately, as an argument that holds that what rules any given person views as constitutive as opposed to regulative or auxiliary depends strongly on their value system and what they perceive as being virtuous within sport. In short, Vamplew’s assertion that auxiliary rules can be cleanly cut from constitutive rules is faulty. We can best examine this issue by means of an example. If I were a basketball player, the constitutive rules of my sport would include statements about how the object of my game is to shoot a ball into a basket more times than my opponent, that I have to move the ball up and down the court by dribbling, etc. If I were a male basketball player playing in an all-male league, and held particularly sexist beliefs regarding the ability of women to safely or successfully participate in sport, or perhaps especially if I associated playing basketball with masculine characteristics or virtues, I would likely regard it as a constitutive rule of basketball that only men should be allowed to play. If I were to see women playing, I would likely argue that they are playing a completely different game, or unable to appreciate what I regard as the true nature of basketball. This example demonstrates that the line between the core, or constitutive, rules of a sport and those that are viewed as auxiliary can depend strongly on the personal viewpoints or biases of the player(s).

The aforementioned example might seem facile to readers who live in a society where we accept the rights of women to play sport, and therefore who can easily imagine a basketball game played by women. The ideal or ‘true’ nature of basketball is

likely genderless to anyone who believes in gender equality in sport, and therefore rules governing gender can be easily categorized as auxiliary and dismissed. Similarly, although Vamplew may believe that no rules governing the exclusion of individuals from sporting pursuits are natural to sport itself, history demonstrates that sport simply reflects our society's prevailing values regardless of their moral content. What we perceive as natural to sport is in fact simply a reflection whether a particular rule contains bias that we identify as harmful or, conversely, may agree with. Examples of this phenomenon include longstanding provisions in many sports leagues that discriminated against women. Although rules governing eligibility for sport have been the most direct tool used to enforce discriminatory attitudes in sport, these attitudes can be also shown to exist in the rules that lay out the way the game itself is played. Many sports have rules that define "women's events that are shorter in duration and distance than the men's events impl[ying] value judgments about women's skill and fitness" (Teetzel 2011, 390). The application of "different game rules to women's sport contents" on the justification that they require 'gentler' or less physically taxing forms of sport has been widespread throughout sporting practice, although growing increasingly less common as sport rules are revised to fit changing assumptions about the capabilities of women in relation to their male athlete counterparts (Nafziger & Ross 2011, 260).

Given our ability to recognize past bias in sport rules, it is likely that there are current examples of rules that we take to be constitutive due to what might, in the future, be recognized as discriminatory biases. Although the right to gender equality in sport between men and women is generally accepted in most democratic societies, transgender and intersex individuals have the potential to rupture the gender binary upon which most competitive sports are based. Similarly, athletes with disabilities are, often

with the aid of performance enhancing technologies, challenging conceptions of ability/disability and what it means to be 'disabled' vs. able-bodied. Specific examples and the consequences of this phenomenon will be further explored in Chapter Three and Four. In summary, what rules any given person or people consider to be constitutive to a specific sport is highly dependent on their specific vision of what that sport stands for or provides. Determining the nature of a sport on an *a priori* basis, and therefore in absence of actual players, is impossible. Because of the ability players have to define sport, it is important for the widest possible group of people to have access to the sport so that the constitutive rules can be exposed to as much challenging and questioning as possible. In this way, it is hoped that potentially discriminatory beliefs can be rooted out, or at least subject to a thorough discussion.

## **2.5 Fair Play and Hegemony**

Despite this need for diversity amongst those with the power to change constitutive rules, McIntyre's definition of standards of excellence in a shared practice serves to block the achievement of this goal by restricting the ability to criticize sport practices to those already within the community of practice. By placing limitations upon the changes that individuals outside of the community of a practice can demand of a specific standard of excellence, the legitimacy of that standard is placed above question and made to seem natural or universal by virtue of the philosophical justifications behind the concepts of shared practices and fair play themselves. The circular logic of MacIntyre's standards of excellence, that those fit to criticize them must be those already capable of approaching them, almost entirely invalidates the process of criticism itself. There are significant parallels between the conception of fair play as a stifling influence on freedom of expression and hegemony theory, developed initially by Marxist theorist Antonio

Gramsci. Hegemony theory holds that ruling groups obtain and enforce consent for their leadership through the use of pervasive ideological norms, which are presented as natural or pre-existing truths (Bones 2014). The social structures created and maintained by these norms help those with power remain in power at the expense of the disenfranchised or marginalized (Olsaretti 2016, 343). The repetition and recreation of these power structures over time reinforces their legitimacy, especially in the minds of those they exploit, to the extent that the current and unequal distribution of power in a hegemonic society is presented as universally and eternally valid (Howson 2008, 109).

Explaining hegemony, Gramsci wrote that:

What we can do, for the moment, is to fix two major superstructural 'levels': the one that can be called 'civil society', that is, the ensemble of organisms commonly called 'private', and that of 'political society' or 'the state'. These two levels correspond on the one hand to the functions of 'hegemony' which the dominant group exercises throughout society and on the other hand to that of 'direct domination' or command exercised through the state and 'juridical' government (Gramsci 1971, 12).

The superstructural level that Gramsci is referring to is that of an ideology or philosophy. In the case of sport, this would be occupied by received and accepted definitions of fair play and standards of excellence which only either masterful practitioners or those with power over the relevant practice's institutions have the capacity to define, yet must apply to all potential participants for the practice to function. The second level of Gramsci's theory, that of direct domination, would be, in the sporting context, rules and punishments surrounding cheaters, even those who are motivated not by external goods but a desire to autonomously access internal goods not currently supported by received standards of excellence. Unlike MacIntyre, Gramsci grasps the need for change to come from the outside of current communities of practice:

The state is the instrument for adjusting civil society to the economic structure. But it is necessary that the state *will* do it, that is, that the representatives of the change in the economic structure lead the state. To wait for civil society to adjust

itself by means of persuasion and propaganda to the new structure ... is ... a new form of vacuous and inconclusive ... moralism (Gramsci 1971, 266).

By applying hegemony theory to concepts of fair play in sport, I argue that it is necessary for criticism from those outside of current communities of practice to be heard. For the autonomy of all potential participants to be respected, and their freedom of speech in athletic endeavours to be respected. The means to accomplish this is to allow the rules governing the acceptable forms of expression or excellence within sport must be loosened. This is the best means to accomplish these two previous objectives within the context of sport practices because to do anything else would mean moving the responsibility for ensuring that shared sporting practices respect the autonomy of participants to a mechanism outside of sport itself.

Bringing together the arguments presented in this chapter so far, I am left with a picture of the athlete as a character stuck between competing imperatives. I have argued that the primary benefit of participation in sport is to be able to engage in autonomously chosen activities that promote self-expression and discovery in a setting that is both competitive and co-operative. However, despite my criticisms of the concept of fair play as being hegemonic and oppressive to excluded persons and communities, without a common standard of excellence to refer to, how can athletes be said to be participating in a shared practice at all? This question was partially answered in Chapter One, albeit by analogy. By linking athletic participation to freedom of expression, and explicitly comparing behaviour that is contrary to the rules to civil disobedience (as long as that cheating behaviour is motivated by reasons of conscience, not the achievement of external goods), I surmise that sport could likely tolerate more 'civil disobedience' than it currently does without falling apart entirely. However, since my criticisms strike directly at

the concept of fair play and, if accepted by a majority of sport participants, could potentially destabilize the practice of sport, this concern should be dealt with in more thorough detail.

## **2.6 Sport: Education or Indoctrination?**

The conflict set up so far between supporting my conception of fair play and prioritizing self-expression is dealt with extensively in the book chapter ‘The Olympic Athlete: Hero or Mediator?’ by Otavio Tavares, a South American Olympic scholar. Tavares argues that athletes are caught in “a net of complex relationships between the universal and the specific and/or between control and self-determinism,” which is very similar to the tension between fair play and athletic self-expression (Tavares 2002, 342). These concepts of control and self-determinism are the conflicting duties an Olympic athlete has of both representing the Olympic ideal to spectators and, perhaps more relevantly, sponsors, and actively engaging with and learning from it. There is a significant tension in these two roles that an Olympic athlete is asked to accept. On one hand, they are a role model, an exemplar, and an embodiment of Olympic virtues and values. On the other hand, they are the student, actively practicing and critiquing received ideas about proper sporting values in order to update and re-evaluate their own perspectives. The student cannot always serve as exemplar, given that they can be hardly said to typify virtues with which they are still experimenting. Similarly, it cannot be claimed that an exemplar of Olympism could be truly engaged in a critically reflective dialogue with the values they supposedly typify. There are significant similarities between the conflicts Tavares encountered while examining the dual role, both hero and mediator, of Olympic athletes and those encountered in the process of examining the hegemonic influence of fair play. Fair play demands participating athletes to be both

exemplars of the received standard of excellence unique to their sport and students of that same standard.

Tavares resolved the conflicting duties placed upon athletes by appealing to the “eclectic characteristic of Olympism” as a positive that allows it to be “understood as an attempt for equilibrium between two opposite sides” (Tavares 2002, 342). In defining fair play, Schneider and Butcher take a different approach by rightfully pressing upon participants a “duty to criticize” the practice they are partaking in (Butcher & Schneider 2007, 128). This resolves the conflict of participants being asked to both be exemplars and students since the concept of fair play contains within itself bi-directional learning. Unfortunately, this duty to criticize is undermined by the philosophical underpinnings of the concept of a standard of excellence, which is both a necessary premise of fair play and of rules-based sport itself. Under MacIntyre’s model, the freedom to criticize any given sport’s standard of excellence is not extended to those unable to live up to it in competition because they are not already masters of the practice. Therefore, unlike in Tavares’ model, one cannot be both a student and exemplar at the same time. This is problematic because if one is unable to criticize their received education, it risks slipping into indoctrination.

Similarly to the concept of fair play, Tavares’ definition of Olympism has qualities that would appear to be positive and their fostering an activity to be encouraged. Tavares attempted to list the characteristics of Olympism and produced the following, that it: 1) prioritizes mutual respect, mutual understanding, and peace; 2) encourages harmonious physical and intellectual development through education, beauty, and rhythm; 3) demands fair play, chivalrousness, and nobility; and 4) encourages the



pursuit and achievement of excellence (Tavares 2002, 348). Of course, many of these qualities are not unique to Olympism, as they are widely viewed as the internal goods that we access and virtues we develop through sporting activities in general. However, all educational pursuits tread a fine line between pedagogy and indoctrination. Pedagogy is the study of educational techniques and instructional theory. Indoctrination involves a similar inculcation of ideas and attitudes as education does, but it lacks an element of critical examination or reflection. The reason that the inclusion of this element is so important is because without it the autonomy of the educand (the individual being educated) is not respected. Within the contexts of sport and the technology of gene doping, Claudio Tamburrini, an Argentinean philosopher who fled his native country after being persecuted and kidnapped by the dictatorial Pinochet regime, provides a deep examination of morally defensible educational practices. He distinguishes those processes that are educational, and therefore respect the autonomy of the student, as follows:

A good education instills in the child a variety of skills, giving the child the necessary self-confidence to make free, autonomous decisions. Far from preprogramming or predisposing the child to adopt a particular path in life, the good pedagogue allows the educand's personality to flourish and, when the time comes, to freely choose the abilities he or she wants to reassert by following a particular professional career (Tamburrini 2005, 84).

Sport as a shared practice can be easily adapted to fit Tamburrini's description. It provides participating athletes with skills frequently associated with growing self-confidence. Some of these skills, such as diving off a platform or kicking a soccer ball, are fairly limited in their use outside of the sporting arena. However, many of the other skills are widely recognized to have value anywhere in society. These skills include: cooperation, teamwork, and sportsmanship, among others. Athletes who successfully embody and adopt these skills are more likely to succeed at their chosen sports and

thereby grow in confidence and ability (Fraser-Thomas, Côté & Deakin 2005, 20).

When waning interest causes an athlete to cease competing, the values taught to them through their sporting experience will supposedly enable them to succeed at future challenges posed by their newly chosen pursuits. Therefore, to be educational, the teaching process must be bi-directional. The educand must be able to inform the teaching process with as much as their individuality as the teacher does. Given this bi-directionality, the question can still be asked, does sport participation therefore constitute a good education, or could it be rather an indoctrinating influence? The answer to this question should consider whether or not athletes, in the course of their participation in sport, have been free to make autonomous decisions about the nature and meaning of their expressions of athletic prowess. When it comes to the cases of athletes unsatisfied by the constitutive rules of their chosen sport, the answer is a resounding no. For athletes who have successfully competed within their chosen sport, the answer is much more complicated.

A strong case can be made that the standard of excellence forced upon an athlete within any given sport, and especially those of high-performance sports, constitutes an indoctrination and not an education. This allegation is inherent in my previous criticism of the concept of fair play as being hegemonic in nature. Through the use of concepts such as fair play and current standards of excellence being presented as inextricable pieces of the shared practices that are athletic endeavours, athletes are discouraged from questioning the standard against which they are being judged. The logic of sport, and especially elite sport, is that any failure to reach or otherwise exceed the standard of performance is a failure on the part of the athlete and never the sport itself. There are

many examples of civil society intervening in sporting practices on behalf of participants, such as to reduce violence and harm to athletes; for instance, changing the rules of boxing to enforce the use of gloves and other safety equipment (Simon 2007, 379). Sometimes, these societal interventions can involve practitioners within the sport as they did in the case of Kain Colter, Northwestern University student-athlete, who advocated for stricter policies protecting athletes from injuries with the help of his teammates (Wolverton 2014). However, these cases are rare and it would be desirable to increase the ability that athletes have to have input on the rules of the game, so as to make broader interventions unnecessary in most cases.

The dissenting viewpoint to the argument that athletic pursuits feature an ideology of indoctrination, which violates the autonomy of athletes is best expressed by Hans Lenk, a notable German sport philosopher as well as Olympic gold medalist in rowing. Lenk argues that:

athletic achievement cannot renounce extraordinary motivation, initiative, effort, personality, and devotion. ... A top grade athletic achievement remains a very personal act and individually prepared action. Within a system it may be facilitated and promoted, but it cannot be deterministically or mechanically generated. ... The athlete is not a characterless producer of records; he is [*sic*] a personality - with all heights and depths and abundant interesting variations. (Lenk 1994, 338)

Lenk's vision of the intensely personal nature of any athletic endeavour involves a transference or translation of an athlete's individuality into the way in which they play their chosen sport. Lenk is proposing that the standards of excellence involved in any sport are expressed in, through, and by, individuals in a process reminiscent of virtue ethics. Virtue ethics also form the basis of MacIntyre's model of shared practices (Holowchak 2005, 73). Virtue ethics are primarily concerned with the characteristics of the actor (Holowchak 2005, 74). They do not presuppose a standard of conduct or action

in given situations. Rather, they presuppose a standard of conduct given the character of the individual who the situation calls upon to act (Aristotle 2004, 27). Virtue ethics attempt to bring about a state of *eudaimonia*, which translates to human flourishing (Zowislo 2009, 92). This flourishing is possible when individuals live their lives to their fullest and engage in complete self-development. Aristotle saw human virtues as those that allow individuals to fulfill their purpose, their purpose being specific to their own individual identity (Aristotle 2004, 186). However, in a broad sense, it is everyone's purpose to exercise reason. The exercise of that reason in challenging situations is what makes individuals virtuous as it is through the exercise of this reason that they develop the ability to choose the proper course of action (Hardman, Jones & Jones 2010, 350). This ability is known as practical wisdom, or *phronesis* (Kristjánsson 2014, 152).

Applying virtue ethics to shared practices, fair play, and standards of excellence would define the role of individual athletes as students of the game as well as themselves. Athletes would be meant to critically analyze the content of their sporting activities and learn, through trial and error, when to apply which of its tenets, thereby gaining practical wisdom. The athlete as student is therefore a figure for whom a variety of influential moral considerations present themselves. First and foremost is the standard of excellence of their chosen sport, but they must balance the considerations inherent in that ideal against those of their native culture, personal upbringing, past experience, etc.. I would suggest the athlete is therefore a deductivist. They take the broad generalizations taught to them by their varying educational influences and use practical wisdom, or *phronesis*, to apply them to the challenging ethical dilemmas they may face both within and outside of the sporting arena.

Two different, but somewhat complementary, views of the role of the athlete in relation to their community of shared practice and the standards of excellence applicable to it have now been established. First is that which holds that athletes should reject hegemonic attempts to have their performances co-opted and transformed by rules they do not willingly accept. The second, more charitable, interpretation is that which focuses on the ability of standards of excellence to teach and guide conduct in an educational manner. Although this does not speak to athletes excluded from participation entirely by the standards of excellence employed in specific sports, it remains broad enough to be a convincing representation of the process through which athletes engage with the standards of excellence applicable to their practice. Nevertheless, both of these possibilities pose significant problems to the integrity of the concepts of fair play and standards of excellence. Should standards of excellence turn athletes into paragons of its own values, then it could be argued that the ideal itself is without intellectual merit. After all, an idea that cannot stand against scrutiny and criticism cannot be regarded as useful or, potentially, 'true.' Conversely, should the standards of excellence that govern sports be opened up to individual definitions made by athletes actively engaged in sport as well as those excluded by current rules, their integrity could be put at risk. Virtue ethics encourages individuals to find their own mean when it comes to moral action. It is ultimately a theory rooted in subjectivity and individuality. If fair play and standards of excellence are truly open concepts that desire to be reflexive of current and future participants, then a more refined concept of how they can respond to individual athlete exploration and feedback should be established.

## **2.7 Sport as Ethos**

Concepts such as fair play and standards of excellence can be made more

responsive to individual participants by treating them, and the rules of sport that they govern, as more malleable concepts than they currently are. Fred D'Agostino first theorized the process through which this might be accomplished in a challenge to the formalist account of the rules of games contained in his article "The Ethos of Games." He demonstrates the failings of a formalist account:

According to the formal rules of basketball, basketball is a 'noncontact' sport: in general, physical contact between players is prohibited by the rules of basketball. But any game of American professional basketball is filled with (one might almost say consists of) incidents in which players (accidentally or deliberately) make contact with another. Of course, only some of these incidents are observed by game officials. But only some even of these observed incidents actually result in the invocation of penalties. Why is this so? This is so because the players and game officials have, in effect, conspired to ignore certain of the [*sic*] rules of basketball, at least in certain situations, in order to promote certain interests, which they share, for instance, with team owners and spectators – e.g., to make the game more exciting than it would be if the rules were more strictly enforced (D'Agostino 1981, 14).

D'Agostino's concept of the "ethos of a game" effectively encapsulates the flexibility that is being asked of rules-based sport to make it both more responsive to individual desires for self-expression as well as less exclusionary (D'Agostino 1981, 15). Jim Parry, a world renowned sport philosopher specializing in Olympic studies and ethics, built upon

D'Agostino's definition of sport as an ethos, by asserting that it is:

based on experienced interdependence, at the team level or beyond; inclusive, moving out from the experience on the field to the wider community of supporters and stakeholders; always being tested, either by problems on the field or by potential value conflicts with related groups (Parry 2010, 319).

Conceptualizing sport as an ethos responds to the fact that the individuals engaged in a popular practice, such as sport, must always be testing and modifying their assumptions about ethical/moral conduct according to the Aristotelian model of practical wisdom and virtue ethics. Unlike the concepts of fair play and standards of excellence, the definition of ethos features an acknowledgement of persons outside of current communities of practice and offers an avenue for their potential inclusion. Unlike standards of

excellence, which are envisioned as criteria against which performance can be adjudicated, the concept of ethos is presented as being perpetually in flux. An ethos “is not in itself fixed or settled, but ... it provide the basis of embodied values that are and always must be tested” (Parry 2010, 319). It is fitting that sport, often regarded as a physical and mental test, should be explained and defined by values that are constantly being tested themselves.

Looking at sport as an ethos, rather than through the prism of fair play, brings it more in line with a rights-based model of sport because it allows for meaningful disagreement with accepted practices and alterations to the rules where necessary. However, if the argument developed up until this point has been that looking at sport as an ethos is more defensible than a rules-based, fair play model, then it is pertinent to ask why D’Agostino or Parry did not highlight fair play or standards of excellence as aspects of concern when explaining what viewing sport as an ethos entails. Returning to D’Agostino’s illustrative example above, of contact rules being relaxed in professional basketball, it is obvious that this continues to take place on a day-to-day basis. Furthermore, despite these ethos-based modifications to the rules of sport, few if any people are alleging that the end result of these modified contests are not somehow fair or played in accordance to the standards of excellence applicable to basketball. This potential counter-argument can be answered by asserting that viewing sport as an ethos does not completely preclude the existence of concepts such as fair play and standards of excellence. Rights-based sport does not feature no rules or a complete lack of fairness, it simply places those rules and considerations of fair play below the autonomous needs of individuals to seek out meaningful forms of self-expression.

Bringing together concepts from Chapter One with what has been established here, I argue that it is through comparing sport to freedom of speech and expression that the understanding of sport is enhanced, not diminished, by a multiplicity of perspectives. This applies even when those perspectives generate controversy and perhaps even conflict, although not violence. There is no way to empirically prove that a loosening of our understanding of how to judge and recognize excellence in sport will still allow excellence to be recognized at all, but it can be argued that this idea will work by analogy. Democratic societies value pluralism of opinion, on ethical issues and otherwise. Shackling a prominent institution, such as sport, to a single understanding, or even the shared understanding of a large but still exclusive community, of how excellence within it can be defined is damaging to the autonomy of persons both included and excluded from the practice. The practice of sport can be improved by becoming more responsive, flexible, and self-critical. The concepts of fair play, shared practices, and standards of excellence are not uniformly bad. They have much to contribute within any sport setting, and it is not possible at this current moment to imagine a sport setting bereft of them entirely. What needs to be done more often is, in defining these concepts, acknowledging that they have as much potential to erase the individual as they do to enhance them. Therefore, the priority that sport participants and administrators place on considerations of fair play should be tempered with a respect for other participants and a desire to extend our communities of practice to those not currently able to participate, even if that means accepting changes to the community's standards of excellence at the same time.



## Chapter 3

### 3 Ability and Disability as Universal Vulnerability

#### 3.1 Disability and Autonomy<sup>27</sup>

Up until this point, the question of who may wish to engage in principled rule-breaking or ‘civil disobedience’ in sport has been left relatively vague. Although the argument in favour of removing or reducing any limitations on self-expression through sport has been developed in such a way that it could benefit any and all person(s) who feel stifled by sporting rules and the necessity of playing under the same assumptions and value systems of others for reasons of fairness, increasing the usefulness of the conception of rights-based sport to others should involve the exploration of an in-depth and illustrative example. A community of persons suitable for such a study, given their history of exclusion from sport and instructive intersections with concepts of fairness, are athletes or individuals with disabilities. Analyzing the reasons why conceptions of fair play, shared practices, and standards of excellence have led to the exclusion of individuals with disabilities from sport, and the ways that para-sport<sup>28</sup> can promote an

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<sup>27</sup> The term ‘disability’ and, especially, the label ‘disabled’ are highly fraught due to the divisive nature of identity politics (Mollow 2004, 274). Certain groups, especially those who feel that their autonomy has been compromised or personhood diminished by discriminatory labels placed upon them, reject being identified as ‘disabled’ since it replicates harmful conceptions of what disability means to individuals and communities (Putnam 2005, 188). Despite potential objections to their use, I chose to continue to refer to both disability and the label ‘disabled’ where appropriate in this dissertation because the negative connotations carried by them are, unfortunately, an active component of our current understanding and practice of para-sport. To not use these terms would limit the extent of the ethical analysis that I can subject these concepts to, and ultimately both the quality and usefulness of my research.

<sup>28</sup> The term para-sport is often mistakenly identified as being a derivative of paraplegia, which is medical term that refers to the condition of having motor or sensory impairments in the lower extremities due to an injury or condition affecting a person’s spinal cord. The logic of the mistaken, but commonly presumed, link between the two terms is that para-

agenda of productive disobedience that results in further inclusion, will shed light on the ways in which rights-based sport can withstand rule-breaking in a manner that is superior to rules-based sport.<sup>29</sup>

Before turning to how the concept of disability has been implemented or interpreted in a sport setting, I will first establish a definition of the concept of disability, as well as my understanding of its impacts within larger society. Disability is a multi-faceted phenomenon to which one can apply many interpretive lenses. In many ways it is predominantly seen as a negative ‘condition,’ however this is not true in all situations. Colin Barnes and Geof Mercer, both sociologists, explain its negative connotations as being a “particular threat of ‘biographical disruption’ in a society that values an active, independent lifestyle” (Barnes & Mercer 2003, 74). In other words, there is an understanding and acceptance of the idea that individuals with disabilities endure a loss of autonomy as a result of their ‘condition.’ However, this is only truly the case if the individual in question actually suffers a lack of choice or opportunity as a result of their

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sport would be a practice for those disqualified from able-bodied sport due to a disability related to their spinal cord function. The prefix ‘para’ in the case of the term para-sport actually derives from the Greek preposition ‘para’ which means alongside (International Paralympic Committee 2016). Therefore, para-sport is sport conducted alongside sport and the Paralympic Games is a portmanteau of the terms ‘para’ or parallel and Olympic Games.

<sup>29</sup> Although there are practical reasons to consider barring individuals with disabilities from sport participation, especially at any poorly resourced level of sport participation, this chapter deals primarily with the philosophical arguments surrounding this issue. The reason these philosophical issues are judged to be of greater importance is that it is difficult to imagine a practical issue that should take precedence over the damage done to the rights and dignity of any individual excluded on the grounds of disability. Finding creative solutions to any practical challenges should be separated from questions of whether or not efforts should be made to make sport more inclusive of individuals with disabilities. To attach questions of disability rights to practical challenges related to costs, resources, and feasibility forces individuals with disabilities to bear an unfair social burden. For more information on the challenges faced, and solutions to consider, when implementing a program of para-sport, please see Chapters Four and Five.

particular circumstances. If, instead of being regarded as a fundamentally damaging condition, disability were to be seen as another type of difference between individuals, with no inherent value judgment attached, there would be no stigma associated with being disabled so long as individuals with disabilities had similar opportunities as all others. This type of interpretation has limits, in that certain types of disability impose tremendous amounts of physical and psychological pain that would be trivialized if it were categorized as a mere individual difference. Therefore, it is necessary to regard disability as a contested term since it defines or categorizes difference as oppositional concepts: an individuality or shared identity that should be celebrated and respected, as well as a medicalized condition that should be ameliorated wherever possible.<sup>30</sup>

Since disability is, when viewed negatively, conflated with a loss of autonomy, it has the potential to diminish the personhood of an individual. Heikki Ikäheimo, a philosopher who focuses on theories of recognition and personhood, explains the damaging potential of the label of disability being imposed on a person. Ikäheimo defines personhood as fundamentally reciprocal, therefore involving “being seen as a person by relevant others” (Ikäheimo 2009, 79). Ikäheimo’s definition of personhood highlights that other individuals, and society as a whole, has the ability to either accord or deny us

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<sup>30</sup> Disability, as well as similar but much more pejorative terms, have frequently been labels applied to individuals and communities, as opposed to freely chosen. Therefore the concept of ‘celebrating’ such categorization may seem strange. However, many individuals in diverse communities that experience forms of marginalization have been able to take harmful or discriminatory language, especially labels, and re-appropriate them as a statement of both resistance and empowerment. In a study of stereotypical labelling amongst individuals with disabilities, investigators found examples of persons “actively claiming ... [disability symptoms] as integral parts of who [they are]” (Green, Davis, Karshmer, Marsh & Straight 2005, 204). For a more specific study of this phenomenon, see Gaucher, Hunt, & Sinclair’s *Can Pejorative Terms Ever Lead to Positive Social Change? The Case of SlutWalk*.

many of our rights as persons simply by virtue of how we are perceived. Combining this concept of reciprocal personhood with disability introduces the harmful potential of exclusion. When describing the negative consequences of exclusion, Ikäheimo writes:

People will remain socially excluded simply because of a lack of adequate recognitive response by relevant other people in their social environments. It is only when this form of exclusion becomes the explicit part of the public imagination that effective remedies can be expected (Ikäheimo 2009, 88).

When (for reasons of disability, gender, socio-economic status, etc.) individuals are excluded from specific pursuits or options, the lack of reciprocity between themselves and others made evident by that exclusion compromises their personhood.

By grounding the importance of values such as autonomy in a reciprocal framework, I argue that it is in the best interests of all individuals to accord rights of self-determination to all other persons, and thereby assure their own freedom at the same time. For reasons of reciprocity, rights concerning individual freedom and participation/access are valuable ideas worthy of promotion through sport.<sup>31</sup>

Canada ratified the United Nations Convention on the Rights of Persons with Disabilities (2010), which includes clauses regarding:

respect for inherent dignity, recognition of individual autonomy, protection from discrimination, full and effective participation and inclusion in society, respect for difference and acceptance of persons with disabilities, equality of opportunity, accessibility, and equality between men and women (Steinstra 2012, 3).

Despite these protections, there is still a significant gap between what rights have been accorded to people with disabilities as a matter of law and which are actually being

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<sup>31</sup> For further information on the advantages and limitations of reciprocity in the context of autonomy and human rights, see Chapter One.

enforced, promoted, and experienced in practice.<sup>32</sup> Some people accept in many areas of life that individuals with disabilities will not participate at the same level as those who are regarded as able. This gap between rights and reality stems from conflicting models of how disability, its causes, and its effects are understood.

### **3.2 Defining Disability: Medical and Social Models**

The earliest, and in some ways still most prevalent, model of disability is the medical model. This first attempt to create a theory of disability comes from the World Health Organization's 1976 document: *International Classification of Impairments, Disabilities, and Handicaps*. Unfortunately, the document spoke primarily to the "dimensions of health-related experience complementary to those embraced by the concept of disease," but was nevertheless widely accepted as a guide to social and cultural understandings of disability as well (World Health Organization 1994, 7). Although the medical model is now generally discredited as discriminatory when applied outside of clinical contexts, its seemingly convincing logic can still commonly be found as a rationale for many disability policy decisions because of the embodied nature of disability as a concept. Judging by the earliest efforts made to define it, disability is primarily understood as a physical/medical issue, especially in the minds of those not directly linked to or part of a community of individuals with disabilities. It is for this reason that decisions, outside of medical contexts, on issues impacting individuals with disabilities can sometimes be made on the basis of the medical model and often with harmful results. More recent scholarship on the medical model by Steven R. Smith, a

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<sup>32</sup> As an example, Canadian government reports have found that, despite laws protecting and promoting their status in the workplace, individuals with disabilities remain underrepresented in the work force (Government of Canada 2008, 17).

political philosopher, explained that:

... [The medical model has] been commonly regarded by the Disability Rights Movement as an inaccurate representation of disability, forming the basis of oppressive and exploitative relationships between non-disabled and disabled people. The argument is that focusing on individual medical conditions as the causes of disability, the medical model, first incorrectly defines disability as a fixed condition related to the severity of the medical impairment. Second, it also incorrectly assumes that it is this medical condition, often defined as a 'handicap,' which inevitably causes 'dependency' between disabled and non-disabled people (Smith 2009, 15).

Using an illustrative example, the medical model of disability would hold that hearing-impaired individuals are disadvantaged due to the specific nature of their impairment.

There are audible conversations going on around them that, due to their medical condition, they cannot participate in. The reality of the situation is much more complicated. Impairment can only be expressed as a difference or abnormality when an individual is compared to an idealized norm. Therefore hearing loss is only truly a disability in situations where there is some relevance or value associated with being able to hear. For instance, if all communication took place visually, then hearing loss would not be regarded as a disability. The consequences of the application of the medical model are that individuals with disabilities have become associated with deficiency, abnormality, tragedy, and dependence (Clapton 2003, 540). Although such discourses and attitudes may be appropriate in a clinical setting geared towards curing illness or enhancing quality of life, they are inappropriate and damaging when expressed in wider society.

Disability is often only noted and remarked upon when it is the perceived cause of exclusion. What is actually taking place, however, is an exclusion mandated by customs, among which could be counted the rules of a sport or standards of excellence applicable to a practice, and not often by the nature of an individual's disability. Therefore how we

structure our relationships, environments, and societies has just as much of an effect on what types of disabilities are recognized and imbued with negative importance as the medical conditions of the individuals themselves (Oliver 2013, 1024). This is not meant to take away from the suffering that certain types of disability cause, but rather highlight that some of the pain that individuals with disabilities experience as a result of their conditions can be alleviated through societal or environmental, and not strictly medical, means (Anastasiou & Kauffman 2013, 446). Therefore, moral persons and societies have a responsibility to recognize when they could make their institutions and practices more inclusive so as to diminish the negative impacts that strictly medicalized instances of disability have on the lives of members of our communities.

The link between the manifestation or recognition of disability and the structure of our environments, relationships, and societies was originally developed by Mike Oliver in his text *Social Work with Disabled People*. Building upon the World Health Organization's medical model, Oliver proposed a distinction between "the causes of ... impairment (individual limitation) and disability (socially imposed restriction)" (Oliver 2012, 56). This distinction has been further developed by academics into the social model of disability. Thomas and Corker explain that:

The great significance of the social model of disability ... resides in its redefinition of disability as a social relational, as opposed to biologically determined, phenomenon. ... Impairment is [not] 'the cause' of ... disablism (in a medical model sense) ... because disablism (discrimination, exclusion, prejudice) often expresses itself in direct response to the features of impairment of the individual disabled person (Thomas and Corker 2002, 18).

The social model of disability holds that disability is created in situations of interaction and communication between individuals and groups and, specifically, when individuals suffer the imposition of some manner of exclusionary practice(s) (Anastasiou &

Kauffman 2013, 442). Under the medical model, the rationale for exclusion, or at least lack of inclusion, focuses on what about an individual's disability makes him/her unsuited for a certain activity (Goering 2015, 134). By focusing on the physical characteristics of the disability, the blame for an individual's inability to integrate is redirected upon the individual with the disability, or at least the medical condition they are mostly powerless to change, since s/he is ostensibly limited by their own inherent characteristics (Shyman 2016, 367).

The distinction between exclusion and lack of inclusion might seem to be semantic, but it actually has very important practical ramifications. Exclusion, especially to those inside communities of practice and not directly exposed to its harmful effects, can imply actions that are actively targeting identifiable communities in harmful ways. Oftentimes exclusion, or lack of inclusion, is simply a negligent process rather than an active one. Gustave Gingras describes this issue as "less a problem of overt and intentional exclusion or specific physical or organizational barriers and more a reflection of apathy to and ignorance of the needs and capacities of the handicapped on the part of the total society (Gingras 1977, 35). It is not necessary for someone to be purposefully excluded for harm to be done to his or her sense of personhood and value. Instead, if actions that foster inclusion could have been reasonably undertaken but were not, then exclusion or discrimination has taken place. Looking at disability through a social lens shows that the causes of the exclusion felt by an individual or community can instead be explained as the manner in which institutions and practices are structured. If practices, environments, and relationships were altered to allow all individuals to participate, many forms of disability as we currently know them would be significantly mitigated or disappear entirely. Therefore, the fault for any current lack of integration can often be



assigned to a lack of accommodation, rather than the physical symptoms of disability itself.

Despite the useful perspectives on the causes and impacts of disability that the social model offers, there are also significant critiques that have been leveled at the model and should be noted. According to Barnes and Mercer, the primary flaw noted in the social model of disability is that it mimics the:

... minority group approach, common to North American disability movements, [and] recognizes that disabled people are an oppressed group. However, it is seen as ... somewhat weaker ... because, whilst it focuses on power politics and identity politics, it does not necessarily problematize disability itself (Barnes and Mercer 2003, 44).

By redirecting attention away from the medical diagnosis of disability itself and towards the mechanisms of exclusion that serve to diminish the quality of life of individuals with disabilities, the social model of disability provides a useful framework through which we can evaluate and potentially reform our institutions and practices. However, the social model of disability problematically places much of the onus for that reform on the 'able-bodied majority' and replicates damaging stereotypes about individuals with disabilities being a helpless minority, requiring the beneficent aid of 'normal' society. This is the product of the social model's inability to identify "who defines disability and for what purpose," thereby remaining silent on important considerations of who is empowered in its realization (Owens 2015, 389). Additionally, taken too far, the social model tends to overlook "the oppressive aspects of impairment, ... [namely] that the experiences of ... [disabled] bodies can be unpleasant or difficult" in ways that no amount of social reform can hope to alleviate" (Barnes & Mercer 2003, 68). Therefore, in searching for non-medical means of redressing the damage that inaccessible practices and environments do to individuals with disabilities, we must be careful not to marginalize the physical

suffering that some may be experiencing. It is for the problems noted above that more appropriate models of how to conceptualize disability in sport will be introduced later in this chapter.

### **3.3 Conceptions of Disability and Ability in Sport**

Although the aforementioned models of understanding disability offer some perspectives on how to recognize, appreciate, or ameliorate disability, they both suffer from several aforementioned weaknesses. As sport is a physical medium and whatever gains are possible through its practice are inextricably tied up in corporeal function, it stands to reason that sport should, wherever possible, not discriminate against any types of bodies that could be able to participate.<sup>33</sup> If sport is valuable as a practice, then institutions governing that practice should make that value available to all individuals. It is naive to assume that not allowing individuals with disabilities access to sport opportunities does not negatively impact their autonomy and personhood. This rejection of discrimination should also apply to philosophers attempting to construct, define, or describe 'ideal', or hypothetical, models of sport. Philosophical understandings of sport should be challenged to be inclusive of all manners of bodies in much the same way that we must accomplish this task within our actual sport environments. A change towards inclusiveness towards individuals with disabilities would take into account the embodied nature of sporting experience, as well as the diversity between actual bodies and the problematic nature and perhaps disputed existence of the ideal/normal/able body or participant.

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<sup>33</sup> See Clapton (2009) and Delattre (2007) in Chapter One for a more in-depth explanation of the importance of inclusion for individuals with disabilities in a sporting context

Given the moral necessity of adopting attitudes of active inclusion towards individuals with disabilities, and perhaps shedding the label of disability itself, why is the sight of able-bodied and individuals with disabilities playing together, especially at the most competitive and visible levels of sport, not more common? Stated differently, what problems does the concept of disability pose to sport as it has been currently constructed or theorized? A potential starting point from which to answer these questions is to examine the ‘inverse’ of disability: ability and its role in sport philosophy and practice. In “Disability or Extraordinary Talent - Francesco Lentini (Three Legs) Versus Oscar Pistorius (No Legs)”, van Hilvoorde and Laurens theorize that “concepts of disability and super-ability are based upon deviations from standards of normality ... [and] built from a bio-statistical notion of normal functioning” (van Hilvoorde & Laurens 2008, 98). They summarize the problems of including or representing the concept of disability within sport as follows:

Both the concept of ‘sport’ and ‘disability’ have their own specific distinctions and internal differentiations, such that a combination of both gives rise to all sorts of complexities and new issues, in particular regarding definition and fairness. The distinction between different disabilities ... is only relevant for disability sports. There is no medical categorisation of disabilities that fits smoothly and logically into the context of sport. What is considered a disability in regular life may even become an advantage in the context of elite sports.... A huge sumo wrestler may have problems travelling on a bus, but at that same time be celebrated as a Japanese sports hero. A genetic mutation that corresponds to extreme muscle growth can be classified in one case as a high-risk potential for disablement and in another as a precondition of being exceptionally talented. It appears that in many ways the scales on which one ranks human traits are not value-neutral, or are at least established from a very specific (albeit hidden) perspective. This poses the question of whether one can neutrally or objectively define what should count as disability (or impairment), what is a trait within a normal variance and what is a super-ability (van Hilvoorde & Laurens 2008, 99).

In the preceding quotation, van Hilvoorde and Laurens point to issues of fairness as being the primary consideration influencing the problematic treatment of the concept of

disability within sport. One of the purposes of sporting contests is to award victory to the most deserving athletes. An athlete earns victory, in part, by having the most talent or ability for their chosen sport amongst their competitors. Although human rights, as discussed in Chapter One, require that sport institutions make efforts to include individuals with disabilities, treating them according to current definitions of fairness would almost certainly mean that would rarely have a realistic chance of winning.

The concept of para-sport, as it currently exists, relies on the ability to meaningfully distinguish between able-bodied athletes and athletes with disabilities. If disability in sport is, as van Hilvoorde and Laurens suggest, a division between categories on the larger spectrum of athletic ability, then the current practice of para-sport implies an inferiority of performance or competitiveness to able-bodied sport. This replicates many of the failings of the medical model of disability in a sporting context by associating para-sport, and therefore athletes with disabilities, with abnormality and deficiency.<sup>34</sup> This is clearly problematic from the perspective of respecting the dignity of individuals with disabilities since they are being evaluated and categorized by a medical lens in an area of their lives where such judgments would be unwelcome and unaccompanied by the prospect of rehabilitation or treatment that one might find in a hospital or doctor's office. This perceived inferiority of para-sport to able-bodied sport could be rationalized as a necessary consequence of treating all athletes fairly, and therefore equally, through the creation of categories appropriate to their skill level. However, the assumptions and premises underlying the category of para-sport are not logically coherent.

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<sup>34</sup> More detail about the specific failings of one of the most well-known celebrations of para-sport, the Paralympic Games, will follow in Chapter Five.

### **3.4 The Questionable Basis for Para-Sport**

The creation of para-sport categories would seem to be, at first, a reaction to quantifiable differences in ability between able-bodied and athletes with disabilities. However, where can this line between able-bodied and disabled be accurately drawn? If the two concepts are actually points on a spectrum of dis/ability, then the distinguishing line would have to be quantifiable in nature. This suggests that an identifiable measurement of ability would serve to divide those who must compete in able-bodied sport from those who must compete as para-athletes. However to define the point at which someone, for the purposes of sport, is either able-bodied or disabled, implies the likely existence of borderline cases that are only marginally located in one category or another. Someone slightly above or below this point of distinction might, quite reasonably, appeal that everyone else in their category of competition significantly exceeds or falls short of their own capabilities. Contests against edge case participants by individuals more clearly within the limits of their category would be landslides in favour of one party over the other, and hardly represent a satisfying or educational experience for either participant. It could be argued that these borderline individuals can plausibly seek out other borderline athletes to engage in athletic contests with, but such a process results in the near-endless fracturing of the sport community into smaller and smaller communities of practice. This is not, in and of itself, problematic, but if individuals within para-sport are to be divided from able-bodied sport by measures of ability as well as divided between each other by those same measures, then this would call into question the necessity of the original disabled/able-bodied distinction in a sporting context.

One of the most defining features of para-sport competitions today, and an

example of the flaws of attempting to quantifiably distinguish ability and disability, are their use of a classification system. Classification is meant to group athletes “by the degree of activity limitation resulting from the[ir] impairment” to counter “the threat of one-sided and predictable competition, in which the least impaired athlete always wins” (International Paralympic Committee 2016). Despite these good intentions, the process of classification has been criticized strenuously, notably by Danielle Peers who is both a disability and sport scholar as well as former Paralympian. Peers describes classification for Paralympic athletes as “one of the earliest and most binding forms of authority” that impaired individuals are subject to (Peers 2009, 660). It involves medical experts determining “the level of an athlete’s (dis)function” and assigning them “to an appropriate category of competition, assuming such a category exists” (Peers 2009, 660). Encapsulated in Peers’ objections to classification are the problematic and contradictory motivations that guide the current structure of competitive sport categories for individuals with disabilities. Autonomy and the ability to determine or explore one’s own limitations, which is a central purpose of able-bodied sport, are both violated in the process of classification. Athletes are made to be passive mechanisms laid out for inspection by authorities, albeit those with medical qualifications, who claim to be capable of defining what constitutes ‘normal’ for individual categories of disability (Peers 2012, 306). Furthermore, discriminatory divisions between normal/abnormal, able/disabled are replicated at the micro level by a process that sorts athletes into categories that determine if their disability is suited or unsuited for participation in competition.

Inclusion through classification ostensibly provides an opportunity to access competitive sport for individuals who may not have otherwise had that experience. However, sport administrators and coaches are paradoxically motivated by the

classification system to find individuals who are as minimally disabled as possible while still qualifying for participation in a given para-sport category of classification (Howe 2011, 870). These athletes are those who are still able to qualify for competition, but only barely, so that their disability has the least possible impact on their performance. Para-athletes who are most likely to either be significantly disadvantaged in, or completely excluded from, able-bodied sport by virtue of the magnitude of their impairment(s), and therefore most in need of the opportunities that para-sport affords, are paradoxically also those least likely to win, or even be represented, in an instantiation of para-sport that utilizes a classification system. Furthermore, the classification system assumes that bodily function in athletic contests can be measured or sorted in a way that is compatible with established standards of athletic conduct and excellence. Delattre's explanation of the relationship between athletic competitors, already cited in Chapter One, includes an appeal to the significance and beauty of "moments [in athletic contests] when no let-up is possible, when there is virtually no tolerance for error" (Delattre 2007, 196). Seen in this quotation is an appeal to the manner in which sport encourages participants to exceed their known capabilities and challenge themselves to achieve new heights of physical prowess and skill mastery. This idea of exceeding embodied limits is central to conceptions of able-bodied sport, but comes with a significant asterisk in the contexts of classification and para-sport (Lavin 2007, 266). A necessary assumption of the classification process is that para-athletes are limited in how much they could possibly surpass the delineations of the competitive category they have been sorted into, otherwise the process of classification itself would be rendered pointless. This is an especially significant observation given that many of the individuals in any given category of classification are likely to be 'minimally disabled' for reasons already described, and therefore may exceed the limits of their category in the midst of an

exceptional performance. Classification is also mostly blind to the impact that serious athletic training has on functioning and capabilities during competition. Athletes who have been placed in a category for which they are 'minimally disabled' are perversely incentivized to limit their performance improvements through training, for fear of exceeding the classification limits of their category and becoming a 'maximally disabled' individual in the context of the newly reduced level of classification they now qualify for.

Classification, and the problems attendant in defining disability in sport on a quantifiable basis, are key features of the current conception of fairness applied in para-sport competitions. The demonstrated failure of internal logic behind the attempt to impose a quantifiable distinction between ability and disability in sport leaves me with the possibility that it is a difference best represented in qualitative terms. To qualitatively distinguish ability from disability, other than requiring a feat of linguistic gymnastics since they are antonyms, would require a discernible separation between the two by type or category, and a convincing basis or test to which we can refer. A promising starting point might be that there are examples of recognized disabilities which are clearly not on a spectrum of ability that could be recognized or interpreted within the context of an athletic contest. For example, an individual diagnosed with paraplegia and unable to run cannot meaningfully participate in a contest governed by a strict interpretation of the constitutive rules of foot races.<sup>35</sup> In a challenge to the suggestion that disability can be located on a spectrum of ability, it isn't so much that athletes who require the use of a wheelchair as mobility aid are lacking in their ability to run, or are very slow runners, so

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<sup>35</sup> For further information on constitutive rules, their relationship to fair play, and a proposal that they be made more open to interpretation or even outright change by athletes, see Chapter Two.



much as they are unable to run at all. Although allowances could conceivably be made for individuals who require the assistance of a wheelchair to 'run' a foot race, for instance by letting them race their wheelchair alongside the runners, their use of assistive technology would seem to provide a potential qualitative basis for dividing able-bodied athletes from those who would be eligible to compete in categories for individuals with disabilities. Therefore, the 'test' of eligibility for para-sport contests would be if an individual athlete is unable to physiologically complete the requirements of a sport as defined in its constitute rules. The type of athletic challenge being undertaken or excellence/virtue on display in a wheelchair race as opposed to a foot race is sufficiently different for it to potentially merit its own category of competition, under the broad heading of para-sport. However, it could be questioned whether this example either proves the rule or is not adequately representative of the broad case of how to distinguish para-sport from able-bodied sport.

If a qualitative division between able-bodied and para-sport could be drawn in situations where athletes are unable to participate according to the constitutive rules of a specific sport, and therefore requiring different rules entirely, this would represent a conception of para-sport very different from that in force today.<sup>36</sup> Attempts to use this theory to legitimize and explain current divisions between para-sport and able-bodied sport would fail due to the prevalence of the classification system. The process of classification replicates the illogical attempts of a quantifiably-based attempt to understand dis/ability in sport, which were discussed earlier. Therefore, although the

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<sup>36</sup> The implications of current practices within para-sport for athletes with disabilities will be further explored within the context of the Paralympic - Olympic relationship in Chapter Five.

qualifiable model of distinguishing between able-bodied and para-athletes on the basis of their use of assistive technology in situations where they cannot participate according to the constitutive rules of the sport (as opposed to being able to compete but at a presumably less proficient level) is demonstrably superior. Since the adoption of this model of distinction would require changes to the rules of para-sport practices, and is not currently represented in those rules today, it should be tested thoroughly before being further endorsed.

### **3.5 Therapy vs. Enhancement and the Impossibility of Normal Functioning**

The starting assumption of a qualitative division between able-bodied athletes and those with disabilities is that there are athletes who, due to physiological factors, cannot participate according to the constitutive rules of any given sport.<sup>37</sup> Therefore, the constitutive rules of a sport must presumably be changed to accommodate them, which in turn would result in the creation of a new sport practice that could be accurately referred to as a para-sport or a sporting practice for persons with disabilities. However, this suggested definition of para-sport fails to successfully navigate several of the same issues encountered by the quantitative definition. Because the capabilities of our embodied selves are dynamic systems capable of change, to fail this test of being able to play by the constitutive rules of a sport once does not guarantee that that failure would be permanent, or even lasting. Although this is not true for every single case, the

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<sup>37</sup> For the purposes of the sport-specific analysis of the concept of disability being presented in this chapter, individuals with diagnosed mental impairments or disabilities are not considered or addressed. This decision was made due to the existing differences and divisions between the Paralympic movement and The Special Olympics and other similar organizations. The athletes and interest groups represented by these two organizations have sufficiently different histories, challenges, and concerns that they merit separate research projects with different premises, background research, and potentially even methodologies.

possibility of physical training, rehabilitation, or surgery allowing an athlete who previously failed to be able to fulfill the requirements of the constitutive rules of a sport to discover or regain capabilities that enable them to participate is realistic in enough cases to make it a significant threat to the viability of this model. Since the barriers between levels of classification are being shown to be highly permeable, this threatens the perceived fairness of its use as a tool to prevent “one sided ... competition” (International Paralympic Committee 2016). However, these concerns can be at least partially mitigated. Unlike under the classification system, which divides athletes into classes of competition, this model would simply divide them between sports that they are physically able to compete in. There would be no reference to ‘lesser’ or ‘more competitive’ versions of sport since they would possess different constitutive rules entirely. Furthermore, athletes would no longer be perversely incentivized to restrict developing their own talents or capabilities since they would not have to fear being bumped ‘up’ into a more competitive sport, like they do under the classification system.

Despite the issue of the permeability between categories that a definition of para-sport based on tests of a dynamic property, namely our embodied physical limits, suffers from, it is also further complicated by the irresistible presence of technology in the realm of sport and its relationship to present understandings of disability. The medical model of disability, due to its emphasis on amelioration of bodily function, irrevocably ties technology and disability together because technology would be the primary means through which disability could be ‘cured,’ or at least reduced (Hahn & Belt 2004, 453). The development, distribution, and use of assistive technologies are an unavoidable consequence of the medicalized desire to see individuals with disabilities ‘improved’ or brought closer to ‘normal’ functioning. In some cases, these assistive technologies will

undoubtedly end up allowing individuals with disabilities to exceed not only the discriminatory and stereotypical limitations of capacity or function imposed on them by being labeled as disabled, but also what is thought of as 'typical,' 'normal,' or even exceptional levels of human ability (Burkett, McNamee & Potthast 2011, 644). Examples of medical technologies used by individuals with disabilities include wheelchairs, prostheses, orthotic devices, hearing aids, etc. Once adopted, these devices become part of the embodied capabilities of an individual involved in sport in the same way as any other piece of sporting equipment that enables athletic performance, such as running shoes in athletics or shells and oars in rowing. When defining para-sport, and also the entire practice(s) of sport itself, according to human capabilities, the question of whether or not we should, or even can, prevent the enhancement of these capabilities through technology is a fraught but necessary one. Technology is a critical mediator in any definition of disability in sport given that the practice of sport relies on tests of physical capability, so as a consequence the moral and logical implications of its role cannot be ignored.

John Hoberman is a historian with a demonstrated interest in sport, doping, and languages. His conception of the relationship between doping and considerations of whether a particular technology represents enhancement or therapy, as explored in the article 'Listening to Steroids', notes that:

The rise of the therapeutic ideal has made the stigma attached to performance-enhancing drugs seem increasingly implausible. In the therapeutic model, the distinction between enhancement and the treatment of specific disorders is blurred. Therapy aims at human improvement, not necessarily the curing of a specific malady. Precisely because we now treat the legitimacy of 'therapy' as self-evident, we overlook its expanded role in modern life. Drugs in particular have a vast range of applications that extend far beyond the treatment of organic diseases. Drugs now in wide use help people cope with such 'normal' challenges of daily life as work performance and mood control. The elastic concept of therapy easily

accommodates the physiological conditions and psychological stresses experienced by high-performance athletes, and the fusion of everyday stress and extreme athletic exertion makes it difficult to condemn doping in sport on a priori grounds. We simply do not employ a typology of stressful experiences that distinguishes on a deep enough level between the pressures of everyday life and sportive stress. The modern English (and now internationalized) word 'stress' homogenizes an entire spectrum of experiences and simultaneously implies the need for 'therapies' to restore the organism to its original healthy state (Hoberman 2007, 240).

Hoberman argues that the concept of doping hinges on the assertion that there is a fundamental dichotomy between the 'natural' versus the 'artificial,' therapy and enhancement, etc.. These distinctions are primarily cultural, and therefore have no logical basis that would necessitate that they continue to impact sporting practices. This is not meant to denigrate the basis of anti-doping rules or argue for their abolishment, rather it highlights their negotiable nature. The commonplace use of pharmaceutical and, more broadly, technological interventions in our daily lives is justified by the widespread acceptance of the legitimacy of therapy, which is defined as processes that have as their aim the general improvement of human capacities. Because we use, in a fairly unquestioning manner, technological advancements to make our lives as easy as possible, it can be very difficult to distinguish between pain or inconvenience that we have a moral right to reduce or eliminate simply because it is inconvenient and similar ills that we are forbidden from interfering with in order to maintain the value, purity, fairness, or integrity of the sporting experience. Nicholas Agar describes the difference between these two categories as being one of value:

Radical enhancement greatly increases the instrumental value of human capacities. There is, however, another kind of value that we attach to our capacities which follows the anthropocentric ideal. This mode of evaluation assigns increasing intrinsic value to enhancements of our capacities across and somewhat beyond the normal human range. Somewhere beyond that range it assigns decreasing intrinsic value (Agar 2014, 33).

Agar is point out that to use technology to make our lives better in a specific, functional

area is a permissible, instrumental good. However, there is significant and justifiable concern that similar application of technologies in a sport may cause participants to “lose racing, ... the possibility of the test, the challenge, the celebration that athletics represents” due to the fact that the limits these challenges are based on would be eclipsed entirely by the technological-enhanced abilities of post-humans (McKibben 2003, 3). Without a granular understanding of what would make the use of certain technologies impermissible in sport, the case to ban any of them will be understandably weak and likely to continue to erode. Should this take place, then the risk to sporting practices that McKibben points out would remain, and may come to pass.

Extending Hoberman’s conclusions about the impossibility of logically coherent anti-doping policies beyond the realm of pharmacology and into the wider category of performance enhancing technology is justified because the increasing possibilities or impacts of technology-assisted doping has been recognized as a threat to fairness in sport by the World Anti-Doping Agency as well as many other international sport federations (Institution of Mechanical Engineers 2012, 16). In order to plausibly relate Hoberman’s arguments to the issue of defining para-sport I will have to prove that the same therapeutic directive that partially legitimizes, or at least problematizes bans against, performance-enhancing drugs also motivates the use of technological aids in sport, especially those used in cases of diagnosed medical disability. Therefore, the question can be asked: does ‘curing’ or medically addressing causes of disability qualify as therapy? In many ways, the answer is yes. Exact restoration of any impairments associated with or symptoms of a disability is frequently complicated, so individuals with disabilities are often given therapy or enhanced in ways that create an approximate simulation of whatever capacity medical expertise has deemed that they lack or is

atypically weak. Although the original impetus for whatever medical or, more broadly speaking, technological intervention is being attempted is undoubtedly rehabilitative and not therapeutic, it is impossible to establish whether or not an individual using assistive technologies is being returned to a 'normal' capacity or is instead being enhanced (Wolbring 2012, 51). The technology being used is limited, or perhaps enabled, by many more factors other than strict mimicry of biological function, including considerations such as: cost, design and engineering, materials available, and practicality within manufacturing processes (van der Woude, de Groot & Janssen 2006). This means that in the context of para-sport, assistive technologies make separating rehabilitation, enhancement, and therapy from each other in a meaningful way is extremely difficult in most cases, and impossible in those that would already be close to the borderline. Without these terms to refer to, there is no authority which can be appealed to in order to limit the amount of enhancement individuals who qualify for para-sport are allowed to undergo or engage in through technological means. Therefore, any strictly performative basis, which both quantitative and qualitative models of para-sport would refer to, that I could use to distinguish para-sport from able-bodied sport is destined to be broken given sufficiently advanced and accessible technology.

The term 'normal' in the context of sport is, in and of itself, highly questionable due to the previously established necessity of considering human performance or potential within sport as being a dynamic, rather than static, capacity. A handful of examples of these technologies that rupture the distinction between therapy and enhancement are: 1) wheelchairs for individuals with mobility issues, so that they can roll but not walk or run; 2) sighted guides, either trained service animals or human assistants, for those with visual impairments; 3) prosthetic limb replacements that do not exactly replace the same

functioning of biological limbs, but are rather the nearest approximation that current technology allows, and occasionally are judged to be superior in some contexts. Perhaps the most well-known example of an individual using prostheses that were alleged to be an improvement over 'typical' biological limbs is Oscar Pistorius, whose case will be briefly examined later in this chapter. It is important to note that all of these aforementioned technologies are in use in both day-to-day life as well as within sporting competitions.

In a similar manner to how Hoberman suggests we lack language to distinguish between athletic stresses and those of everyday life and are therefore hard-pressed to argue against the technological reduction of stress in both, we do not have accurate tools able to distinguish between the 'normal' capacity of an individual with a disability and the level to which they may have been enhanced by assistive technologies. The acceptance of the acceptability of human improvement is a cultural understanding that exceeds sport, and indeed informs it although with certain moral limitations, while undermining any attempts to meaningfully encapsulate or represent the concept of disability within sport. With the aid of technology, and especially its limitless scope for potential advancement in the future, there is no reason to believe that the previously proposed qualitative test to distinguish between able-bodied and para-sport as determined by their constitutive rules is legitimate. If there is no useful or logically coherent test upon which we can depend to distinguish the practice of para-sport from that of able-bodied sport, or sport in general, then there is no convincing basis upon which to keep para-sport distinct. Removing conceptions of disability from sport, however, will require the use of new unifying lens that can bridge gaps between the artificial communities of 'disabled' and 'able-bodied' sport.



### 3.6 Universal Vulnerability

Since defining a reliable and logical test to distinguish between para-sport and able-bodied sport, or at least be able to sort individuals into eligibility classes, has been impossible to this point, I suggest that sport should instead attempt to draw on the commonalities that could bring them closer together. Para-sport often unfairly carries with it the baggage of being recognized as being representative of tremendous athletic accomplishment, but with an asterisk.<sup>38</sup> The individuals who play para-sport are congratulated for striving for higher levels of athletic excellence, while having any results of those efforts be qualified as somehow 'less-than' or hived off from the wider community of able-bodied sport. Para-athletes are therefore trapped between the sporting challenge of exceeding physiological limitations, and the fact that they are competing within a practice that is in part defined, or at least seen as being defined, by a reality or perception of their physiological capabilities as being less than 'normal' (Brittain 2010). However, if we abandon problematic attempts to define or delineate normality and simply focus on the physical nature of sport, and specifically the concept of embodied limitations or vulnerability, attempts to differentiate able-bodied sport from para-sport on a physical basis fall apart entirely.

As Suits argued, the playing of games involves a physical and mental struggle against voluntary obstacles (Suits 2007). Taking the example of the Tour de France, I argue that it is a difficult sporting event is because it features a gruelling series of long-distance bicycle races in varied and challenging terrain. The 'hidden' obstacle of the

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<sup>38</sup> This will be explored later in Chapter Five, with reference to the concept of 'super-crip.'

Tour de France is that human beings in general are not adapted to completing that sort of activity easily, let alone doing so at the speed that the top competitors do. Sports do not have as their voluntary obstacles challenges that are intrinsically demanding or hard to complete. Instead, they have challenges that are hard to complete given our nature and the limitations of our embodied capabilities. The vulnerability of our bodies to fatigue, pain, injury, and a host of other 'negative' conditions forms an integral part of sport. Without vulnerability, there would be no challenge. If humans had the bodies of birds rather than our current ones, it is highly unlikely that long jump or high jump would retain their status as meaningful sporting contests, or would have even been created in the first place. Similarly, if we lived underwater as fish do, the sport of swimming would likely be structured in a manner that would resemble track & field rather than the practice of swimming we know today. The fact that there is a vast array of sports in existence today is evidence of the creative manners in which we can choose to challenge our own embodiment.

The variety of challenges, as well as means to overcome these challenges, available to athletes interested in engaging in sporting pursuits means that we are free to pursue whichever ones appeal to our personal value systems or which our physiological capabilities allow us to attempt. The types of voluntary obstacles we choose to face in sport, and what strengths, abilities, or virtues we exhibit while confronting them, should be an autonomously made decision that qualifies for protection as a statement of free expression, as was argued in Chapter One. Therefore, I argue it is imperative that we enable the most number of people to make the most free decision possible about their chosen sporting pursuits. The method through which this can be achieved, especially in the case of individuals with disabilities, is the relatively unrestricted use of assistive and potentially performance-enhancing technologies. However, without a meaningful

conception of disability in sport, we have no means to regulate or restrict their use between individuals. Furthermore, without a definition of normality in terms of our physiological limits or function, we have no means by which to restrict the scope of their use or the extent to which they impact or influence performance.

The permissibility of physical enhancement in a sporting context, especially through the use of technology, is key to unifying para-sport and able-bodied sport. Without enhancement, potentially harmful divisions between ability and disability become less permeable because technology would no longer offer the possibility that they can be breached. If we accept the universality of human vulnerability as evidence for the unimportance of divisions between able-bodied and para-sport, then the only remaining hurdle to overcome for inclusion for individuals with disabilities to be achieved is to allow for the use of assistive technologies in sport to ensure their participation.<sup>39</sup>

In *Enhancements and the Ethical Significance of Vulnerability*, McKenny argues in a manner similar to Hoberman that:

The modern commitment to overcoming fortune [, and the potential of unlucky events to compromise our bodily functions or capacities,] is part of a broader tendency to grant moral primacy to securing the conditions that preserve and enhance human life (McKenny 2002, 231).

The basis, according to McKenny, for the moral primacy of self-preservation and even enhancement comes from the assumption that:

... we are all fundamentally self-interested beings who seek to secure our place in a competitive world, and who therefore begin with a prima facie justification for

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<sup>39</sup> This does not include considerations of fairness which were partially addressed in Chapter Two. Ultimately, allowing inclusivity and freedom of speech in sport may come partially at the expense of fairness. This is a trade-off that I have attempted to prove is justified in both Chapters One and Two combined.

enhancing our bodies in order to do so (McKenny 2002, 234).

The tradition of conceiving of human nature or the human condition as being characterized by self-interest and competition has a long history in philosophy and in such foundational works as Thomas Hobbes' *Leviathan* (Hobbes 1950). However, my task here is made significantly easier than McKenny's since I do not need to argue that humans are competitive and interested in personal betterment in social, political, or cultural life. Instead, my arguments and conclusions are limited to the world of sport. Sport clearly possesses a competitive element that justifies the arguments that McKenny is making regarding a moral justification for relatively unrestricted bodily enhancement.

On the subject of establishing guidelines or limits on the types or scope of enhancements that can be pursued, McKenny further explains that:

Our contemporary preoccupation with enhancements, then, recalls those historical periods in which medicine - whether in cooperation or competition with philosophy and religion - was the centre of highly contested ethical debates about what kind of activities or way of life one should cultivate. So far, then, it appears that the chief difference between the ancients and ourselves is not the attention we give to enhancing the body but the fact that medicine, philosophy, and to a large extent even religion have, in our world, largely abandoned the task of articulating and debating views of the good life. Hence we and the ancients seem to be alike in our practice of enhancements, differing only in that we, unlike them, have no framework or discourse within which to judge which enhancements will contribute to a morally worthy life and which will detract from it (McKenny 2002, 224).

McKenny's point here about whether the permissibility of enhancements in sport serve to improve it or undermine it as an activity is a good one. His suggestion that we cannot rely on teleological conceptions of morality to guide whether we should reject or accept certain performance enhancing technologies is in keeping with the arguments put forward in Chapter Two, which problematized the priority we accord to fair play in sport, as compared to the more important priorities of respecting athletic self-expression and autonomy. Fair play is a concept that has its roots in virtue ethics and therefore

McKenny's dismissal of the ability of teleological value systems to aid in the question of whether or not we should accept any or all enhancement technologies is valid.

If I dismiss the usefulness of virtue ethics to help regulate the use of performance enhancing technologies in sport, how can I decide if their use improves or undermines the ability to play or enjoy sport?<sup>40</sup> This is an important question, but it misses the point presented in previous chapters of this dissertation. Whether enhancement does or does not undermine sport is a decision that is best left to the individuals with the option of using those enhancement technologies. I do not accept the guidance of teleological value systems when answering this question because they contain the hegemonic influence of fair play and presume the ability to dictate the value found within sport to others who may not share those beliefs. The answer to this question instead needs to be determined on an individual basis and subject to public discussion, disagreement, and perhaps protest through freely chosen rule-breaking actions in sporting contexts.

### **3.7 Cyborg Theory and Para-Sport**

As a tool to explain and understand disability, a model that complements the idea of the permissibility of enhancement technologies outlined in the previous paragraphs is cyborg theory (Butryn & Masucci 2009, 286). Due to the previously demonstrated problems with conceptions of 'normal' functioning, disability is only a relevant concept in

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<sup>40</sup> Given the reliance of the line of argumentation presented so far in the chapter on the universality of embodied vulnerability being the key characteristic that enables meaning in sporting performances, a corollary to this question is: 'If technological enhancement is pursued to a sufficient degree, could it compromise the embodied vulnerability required for sport to function?' In the absence of technologies that would render their user immortal, the answer is no. As long as our physiological capabilities are finite in nature, then they can always be challenged and considered 'vulnerable' (Agar 2014, 35).

sport for as long as we lack technology able to allow an individual with a diagnosed disability to fulfill the constitutive rule requirements of their chosen sport. Cyborg theory, based originally on Donna Haraway's *A Cyborg Manifesto*, defines a cyborg as a "cybernetic organism, a hybrid of machine and organism" (Haraway 2000, 291). Haraway goes on to argue that the figure of cyborg is created through "three crucial boundary breakdowns" (Haraway 2000, 293). These are "the boundary between human and animal", the "distinction ... between animal-human (organism) and machine", and "the boundary between physical and non-physical" (Haraway 2000, 293). It is this second class of distinction that is especially relevant for the previously presented critique of the current interpretation of disability within sport since it rejects distinctions between human and machine. This fits our purposes of legitimizing the exercise of autonomy in sport, and therefore by extension the use of performance-enhancing technologies in sport if their use is desired by individual athletes and especially if they are para-athletes. However, despite these superficial similarities, more work needs to be done to explain the relevance of cyborg theory to sport, and particularly sport for individuals with disabilities (Butryn & Masucci 2003, 141).

The focus of Haraway's *A Cyborg Manifesto* is the use of the metaphor of the cyborg to urge feminists to move beyond current conceptions and limitations of gender and identity politics through the understanding and adoption of the transgressive figure of the cyborg. According to Haraway, the cyborg responds to the crisis represented by the fact that:

It has become difficult to name one's feminism by a single adjective - or even to insist in every circumstance upon the noun. Consciousness of exclusion through naming is acute. Identities seem contradictory, partial and strategic. With the hard-won recognition of their social and historical constitution, gender, race and class cannot provide the basis for belief in 'essential' unity. There is nothing about being

'female' that naturally binds women. There is not even such a state as 'being' female, itself a highly complex category constructed in contested sexual scientific discourses and other social practices. Gender, race or class consciousness is an achievement forced on us by the terrible historical experience of the contradictory social realities of patriarchy, colonialism, and capitalism (Haraway 2000, 295).

The cyborg breaches identity politics that have been built up around the concept of disability in much the same manner as Haraway is suggesting it does for feminism. The concept of disability in sport, as will be shown through the historical analysis in Chapter Four, is equally or perhaps more so a group or community of heterogeneous individuals created by a history of inequality, inaccessibility, and discrimination. There is nothing that necessarily binds individuals labeled as disabled together except a common history of being excluded or exploited by the application of that label upon their unwilling bodies (Bishop & Sunderland 2013, 184).

By permitting the use of performance enhancing technologies in sport in order to promote accessibility for individuals with disabilities, as well as freedom of expression for all athletes, I would be actively inviting the characterization of athletes as cyborgs as a result of their use of both human and mechanical means to compete. The application of cyborg theory as a framework to explain disability or, perhaps more accurately, a shared right to enhancement in the face of universal vulnerability, is necessary due to the failures of the medical and social models to sustain a viable vision of inclusive sport for individuals with disabilities. The medical model cannot adequately explain disability or the need for para-sport because it is, at its best, part of a dialogue of normative ability and the search for 'cures' for individuals with atypically low capacities in certain quantifiable tests (McDermott & Turk 2011, 2). The medical model is crucially constrained by conceptions of a measurable 'baseline' for athletic performance that has no place in a sporting context. To apply the medical model as justification for para-sport

results in the replication of issues of exclusion through the isolation of individuals with disabilities into seemingly distinct categories that cannot be logically separated from each other. Furthermore, the social model does not function in a sporting context because the competitive disadvantage of some disabilities in the midst of such an embodied activity is not merely a social phenomenon. The terms of sporting contests evaluate which athletes are deserving of victory according to ability and cannot do so without some reference to their physical capacities. It could be argued that this means sport is inherently unfair, or favours those with high 'natural' levels of skill or fitness. However, given the ubiquity of what might be termed performance enhancing technologies, which includes sports equipment, specialized nutrition plans, and advanced training methods enabled by sport science, there is no reasonable definition of 'natural' that can be appealed to. Athletes involved in sport today are, by and large, cyborg figures already due to their reliance on technology and the collapse of the natural/unnatural dichotomy in reference to competition and training methods (Triviño 2014, 82).

Since the widespread adoption of performance-enhancing technologies in sport is already complete, and the cyborgification of athletes already started, distinctions between para-sport and able-bodied sport are clearly non-functional leftovers of a defunct model. As Moss E. Norman and Fiona Moola, a sociologist and psychologist, respectively, demonstrate in their article *'Bladerunner or Boundary Runner?': Oscar Pistorius, Cyborg Transgressions and Strategies of Containment*, the collapse of distinctions between able-bodied sport and para-sport has already begun. The ability of Oscar Pistorius to compete successfully at both the Olympic and Paralympic Games demonstrates that individuals with disabilities need the ability to determine their own



limits, sporting pursuits, and horizons of meaning. Strict considerations of fairness were already put aside in favor of Pistorius' autonomous decision to compete at the Olympic Games when studies concluding that "Pistorius enjoyed considerable advantages over athletes without prosthetic limbs" were put aside, or at least prioritized at a lower level than respect for Pistorius' choices and personhood (Norman & Moola 2011, 1271).

Although Pistorius' personhood was respected under a rules-based model of sport, there is no guarantee that that will be the case for all individuals who attempt to erase divisions between damaging conceptions of ability and disability in sport. Without a rights-based conception of sport that does away with distinctions between able-bodied and para-sport and that prioritizes athletic self-expression over fairness, the rights of marginalized individuals will continue to be put at risk.

## Chapter 4

### 4 Paralympism and Olympism

#### 4.1 'A Good Name Needs to be Found'

The following chapter represents a fairly significant departure in terms of style and content from those previous, as was mentioned in the section on Methodology. This chapter includes a case study of the historical relationship between the Olympic and Paralympic movements within this dissertation, to add to the validity of the philosophical arguments and conclusions presented will be enhanced by reference to supporting empirical and thematic evidence. Many of the philosophical arguments presented in previous chapters are difficult to conceptualize in terms of why the changes they propose are needed without the historical context that I am to provide in this chapter.

On January 10th, 1985 the International Olympic Committee (IOC) and International Co-ordination Committee (ICC) met in Lausanne, Switzerland to discuss further co-operation between the Olympic Games and the organization that would later evolve into the International Paralympic Committee (IPC). The ICC delegation consisted of: Jens Bromann, Vice-President of the International Blind Sports Federation (IBSA); Guy Princivalle, Technical Director for the International Sports Organization for the Disabled (ISOD); Joan Scruton, Secretary-General for the International Stoke Mandeville Games Federation; and Guillermo Cabezas, President of ISOD. The IOC was represented at this meeting by President Juan Antonio Samaranch and Sports Director Walther Tröger. Towards the end of the meeting, Samaranch repeated a common point of contention between the two organizations, that: "the ICC was expected to refrain from

using the word 'Olympic' ... [as] the 'Olympic Games' were a unique event and the IOC was duty-bound to protect them" (IOC 10.01.85). Bromann, Scruton, and Cabezas replied that "a good expression (name) has to be found for the event 'Olympic Games for the Disabled' which will express this unique happening once every four years" (ICC 10.01.85).

The difficulty in naming the event that would later become the Paralympic Games came not just from the IOC's interest in protecting the Olympic brand, but also in labeling, and therefore actually defining, an event that was meant to showcase para-sport to the world. Since the IOC-ICC meeting in January 1985 there has been tremendous growth and change in the relationship between these two organizations and, in the case of the now defunct ICC, their successors. Starting with the 2002 Salt Lake City Olympic and Paralympic Games, the IOC and IPC have enforced a 'one bid, one city' policy that insists on the same city hosting both events while also working towards "creating similar principles for the organization of the Olympic and Paralympic Games" (IOC). This co-operation is remarkable given that preliminary negotiations between the International Stoke Mandeville Games Federation (ISMGF), predecessor to the ICC, and the IOC were characterized by a significantly more antagonistic tone. For example, Dr. Ludwig Guttmann, founding president of the ISMGF, wrote in letters to Monique Berlioux, director of the IOC from 1969-1985, that "[as of November 1978] we have received absolutely no co-operation whatsoever from the host Olympic Committees" and that this lack of support was "contrary to Human Rights" (IOC 1978a, 2).

The dramatic shift in the character and functioning of the relationship between the IOC and the international para-sport movement that occurred between their initial

contact in 1978 and today was the product of a wide variety of societal, organizational, and personal factors. Although examining the root causes that produced this change in the IOC's stance towards the place of para-sport in the Olympic Movement would be a fascinating subject of inquiry; undertaking an investigation into the history of IOC/IPC co-operation is also important within the context of providing a valuable case study for any organization wishing to introduce new para-sport competitions, or alter existing ones. The furtherance of para-sport at all levels and in all countries is important because significant issues of discrimination still plague individuals with disabilities today; access to sporting opportunities for individuals with disabilities is both an important step in achieving equality as well as being a potential stepping stone for broader and more impactful societal changes.

Within this dissertation primary documents from both IOC and ICC/IPC sources are utilized to illustrate the advantages that the move towards co-operation brought both sporting organizations, with some additional commentary from historians and philosophers. The documents examined will be primarily from the years between 1976 and 1992. This period was chosen because 1976 was when the ISMGF first began a serious dialogue with the IOC about the prospect of co-operation, and perhaps even integration, between itself and the IOC. After 1992 primary document evidence concerning the IOC-IPC relationship begins to become scarce due to a combination of document embargoes and records lost in the 2012 flooding at the IOC archives in Lausanne, Switzerland.

The twinning of the Olympic and Paralympic ideals, as evidenced by the growing ties between the two organizations, has allowed the Olympic movement to present itself

as a more inclusive and morally responsible organization while the Paralympic Games have benefitted from increased legitimacy in the eyes of an international sport audience as well as both current and future athletes and supporters. Furthermore, for the IPC, IOC co-operation and support has filled very practical infrastructural and promotional needs, as the primary documents presented later in this chapter will show. However, this growth exhibited in the IPC-IOC relationship did not come without some struggle and conflict. Correspondence between the two organizations clearly exhibits the types of problems endemic to sporting contests/organizations that feature both able-bodied and para-events. Some of these disagreements were routine and practical in nature, often regarding the allocation of funds or perceived encroachment by the IPC on IOC intellectual property and the negative impact this could have on Olympic corporate sponsorship and marketing. The more important conflicts, and those upon which will be the focus of this chapter, were questions that spoke directly to the purpose of having two separate Games for able-bodied and para-athletes. Due to the close relationship between the Olympic and Paralympic Games, and the vast power difference between them, the Paralympic Games have struggled to establish a viable identity of their own. The aforementioned examination of the challenges encountered by the IOC and IPC will be complemented by a philosophical examination of the importance of inclusion and how the current model of hosting distinct competitions with shared facilities and infrastructure could be altered for the benefit of both athletes and wider society, primarily by encouraging a shift towards a fully inclusive model of high-performance sport.

#### **4.2 Increasing Co-operation and Unexpected Challenges: The IOC and Para-Sport**

Early contacts between the international representatives of able-bodied sport, as represented by the IOC, and para-sport, as represented by the ISMGF, took place in the

form of correspondence between Dr. Ludwig Gutmann, founding president of the ISMGF, and Monique Berlioux, IOC Director. Their letters provide an invaluable glimpse at the motivations of both organizations as well as the points of conflict that would bedevil their relationship for decades to come. The ISMGF had three major objectives that they desired IOC help to achieve:

- 1) That the IOC would provide “patronage” to the ISMGF in the form of recognition that they were the “international governing body of sports for the spinal cord paralyzed” as well as a place within the overall Olympic movement (IOC, 1978a).
- 2) That the IOC would help the ISMGF obtain cooperation from Olympic host committees to give para-sport organizers access to Olympic facilities for the purposes of hosting competitions (IOC, 1978a).
- 3) That the IOC would “include ... disabled sportsmen and sportswomen of high standard as special sections within the Olympic Games of the able-bodied” (IOC, 1978a).

The thrust of all of these aforementioned objectives is a clear desire for para-sport athletes to be integrated into international sporting competitions with their able-bodied counterparts. Although the IOC was receptive to these suggestions, they also had conditions of their own: The IOC wished:

- 1) To have all sport organizations advocating for sporting opportunities for individuals with disabilities to be “under one umbrella” and spoken for by one individual or representative body (IOC, 1976).
- 2) That the ISMGF would immediately cease any use of the term ‘Olympic’ or any symbols/crests claimed by the Olympic Movement (IOC, 1980b).

The primary motivation for the earliest engagement by the IOC with the ISMGF was as a means to control the use of registered Olympic trademarks by unauthorized agencies (IOC, 1984). Lord Killanin, Honorary President for Life of the IOC, recognized that pursuing a legal battle against the ISMGF over their use of the Olympic trademarks would be extremely unpopular due to both public sympathy towards organizations advancing the cause of individuals with disabilities and, more specifically, the Dutch royal family’s patronage of the ISMGF (IOC, 1980a). In light of this, the IOC opted

instead for a policy of support, providing that the ISMGF agreed to certain conditions in return. Although the recorded rationale for insisting on the creation of one representative body that would be charged with negotiating with the IOC on behalf of all international sport organizations advocating for individuals with disabilities was to promote administrative efficiency, it is likely that this would have also been desirable for the IOC because it would create a situation in which they could be guaranteed no further violations of their Olympic trademarks in return for one set of concessions. The alternative to this situation would have been the IOC working to prevent violations piecemeal by engaging in individual negotiations with the multiple organizations advocating for persons with a variety of categories of disability. Although the ISMGF was certainly the most well known of these organizations, also in existence at the time of Guttman and Berlioux's correspondence were: the International Sports Organization for the Disabled (ISOD), International Blind Sports Association (IBSA), Cerebral Palsy International Sports and Recreation Association (CPISRA), and the International Committee of Sports for the Deaf (CISS) (Brittain 2012, 330). Practically speaking, individual accords with all of these representative bodies would have been, at the very least, time-consuming for the IOC representatives. Although pragmatic, the IOC's insistence on a single negotiating body was also problematic due to the diverse nature of disability. Their insistence on dealing with one body is indicative of a perception that all athletes with disabilities could be accommodated in a similar manner, and easily represented by one organization. In fact, there were several conflicts within the para-sport movement itself due to the diverse desires of various interest groups representing specific categories of disabilities. For example, the ICC as an organization was not always responsive to the needs of its individual member groups, as illustrated when it did not agree to "assume the costs of expenses for interpreters and escorts" for

representatives of the International Committee of Sports for the Deaf (CISS) during the negotiations that hoped to incorporate the “CISS as a full member of the ICC” (IOC, 1986c). Given that the President of the CISS, Jerald M. Jordan, was himself deaf, without the help of these interpreters the meetings would have been a practical impossibility. Mr. Jordan noted at the time that this discriminatory policy could have resulted in “the participation of CISS in these meetings ... be[ing] restricted in the future” (IOC, 1986c).

With the establishment of the International Co-ordinating Committee in 1982, the IOC finally had their singular negotiating partner (Bailey 2008, 46). The ICC proposed to represent all sports organizations that were campaigning for Olympic recognition on the part of athletes with disabilities (Bailey 2008, 43). Unfortunately, their reach was not truly global as the CISS, among others, elected to remain independent (IOC, 1986c). Nevertheless, the creation of the ICC paved the way for a series of face-to-face meetings between ICC representatives and Juan Antonio Samaranch, IOC President, and Walther Tröger, IOC Sports Director assigned to the para-sport file. These conferences took place on February 15<sup>th</sup> 1983 and again on January 10<sup>th</sup> 1985. Minutes from these meetings offer a glimpse at how the relationship between the ICC and IOC had progressed since their preliminary discussions in 1978. The IOC was now willing to offer: 1) space for demonstration events within the Olympic programme; 2) funding for the ICC to organize their own competitions outside of the Olympic Games; and 3) consideration of an application by the ICC to become a member of the Olympic family (ICC 1985). In return, the ICC agreed “not to use the word ‘Olympic Games’ for their four-yearly games” (ICC 1985). This concession did not come easily as several ICC delegates stressed their “desire to be treated on equal footing as the non-handicapped



... [and that] the disabled athletes would not easily understand this restrictive use of the word 'Olympic'" (ICC 1985). From the initial establishment of two distinct identities for the Paralympic and Olympic Games, it is clear that any division between them was going to cause problems of perception among the athletes and organizers involved. The ICC giving up their claims on the term 'Olympic' in return for IOC recognition was a compromise that still causes perceptions of inferiority among some supporters of the para-sport movement to this day (Howe 2008). The denial of the use of the Olympic name represented a reminder of the public perception that athletes with disabilities were of a second-tier status. Nevertheless, despite these reservations, the overall support promised by the IOC was too substantial to be declined by the ICC. Overall prospects for future co-operation between para and able-bodied sport were promising, although Samaranch "stressed that the integration into the Olympic movement should go gradually to give the world of able-bodied sports time to accept and adapt" (ICC 1985).

By the July 14<sup>th</sup> 1986 meeting between their organizations, the IOC and ICC had enough practical experience in working together that they were able to undertake some revisions to their prior agreements. Although the previously established levels of financial support for ICC hosted competitions were appreciated, "many national federations of sports for the disabled ran on very small budgets and could simply not afford to send competitors to international competitions" (IOC 1986b). The ICC proposed that the solution to this problem could be for the IOC to lean on able-bodied International Sport Federations to make "sports for the disabled ... become an integral part of ... World Championship [events]" (IOC 1986b). The IOC tentatively agreed, but also noted that "this would be a future aim for ICC, ... for the present ICC should concentrate on taking part in as many major sports competitions as possible, therefore benefitting from media

coverage, to familiarize the world with the sporting capabilities of the disabled” (IOC 1986b). The IOC also proposed that if finding appropriate hosts for para-competitions was difficult for the ICC, then “the IOC could approach Olympic candidate cities with such a request ... [, which] might even perhaps result in the Paralympics being part of a package deal for the candidate cities” (IOC 1986b). These steps towards Paralympic-Olympic integration were further capitalized upon when, as part of their June 2<sup>nd</sup> 1987 meeting, “The [IOC] President [Juan Antonio Samaranch] ... agreed that the disabled athletes could take part in the Opening Ceremony of the [1988 Olympic] Games, as part of their national team, provided that they wore the same uniform as their compatriots, and provided that the ... [National Organizing Committee] in question was in agreement” (IOC 1987b).

Unfortunately, not all of the aforementioned steps towards the appearance of para-sport at the Olympic Games were well-received within the able-bodied sport community. As a result, by the time of the June 14<sup>th</sup> 1988 IOC-ICC meeting, several of the previously made commitments had to be back-tracked:

The IOC raised concern over the future inclusion of disabled athletes within the teams of the National Olympic Committees (NOCs). Prior to the ... [1988 Calgary Olympic Games], Canada and the United States had agreed to include disabled athletes within their team contingent, providing them uniforms and allowing them to parade in the Opening Ceremony. This had placed great pressure on the other NOCs to take similar action. As a result the IOC Executive Board had decided that following the Games of the XXIV<sup>th</sup> Olympiad in Seoul, the two categories of non-Olympic sports, i.e. exhibitions for the disabled and demonstration sports, would be treated as honoured guests at the Olympic Games, but would not be able to join the NOC delegations or to parade in the Opening Ceremony (IOC 1988b).

This step backwards was slightly compensated for by Samaranch’s stated desire, once again expressed at this meeting, “to oblige future Olympic organizers to host the Paralympics” (IOC 1988b). When ICC representatives expressed a wish to see further

integration within the Olympic programme itself, IOC Sports Director Walther Tröger responded by expressing the:

feeling of the IOC that disabled athletes formed a very important part of the sports world, however, problems would arise if ICC insisted on complete integration into the Olympic Games. When the IOC had offered the possibility for an exhibition of sports for the disabled within the context of the Olympic Games, the motive was to show the capabilities of the disabled whilst leaving ICC to develop its own worldwide competitions with financial assistance from the IOC. ... [This policy of arms-length support was done because] if it was to avoid gigantism the Olympic Games could not be a reflection of the full programme of every sport (IOC 1988b)

Guillermo Cabezas, on behalf of the ICC, replied to Tröger by saying that “he felt the ICC had achieved a great deal in the four years it had been associated with the IOC and was in favour of maintaining an honoured position for the disabled within the Olympic Games while keeping a separate identity for ICC’s own competitions” (IOC 1988b). This statement was significant because it foreshadowed both the large amounts of institutional support the IOC would provide the ICC/IPC in the future, as well as the separation of identity that the two organizations would cultivate between the Olympic and Paralympic Games.

Although Walther Tröger’s aforementioned reluctance to include para-events at Olympic Games due to time constraints is understandable, it does not explain why a para-programme, no matter how small or large, was not an integral part of the Olympic Games itself, rather than a demonstration event. The exclusion of para-events based on the same practical considerations used to dismiss exotic able-bodied sports is not acceptable because differences between Olympic and non-Olympic able-bodied sports, such as rowing and dragon boat racing, are differences in kind. In comparison, differences between able-bodied and para-sport as categories are differences in type, and the exclusion of one represents discrimination. This is similar to a hypothetical

situation in which all female sports were removed from the Olympic Games for reasons of limiting the Games' duration. Such a decision would be criticized as unfair to women, and rightly so. Overall, the difficulties between the ICC and IOC, as documented in their meetings and correspondence, are representative of the struggles of two well-intentioned organizations to be representative and inclusive of the exceedingly complicated concept of disability. As the primary documentation demonstrates, the question of whether individuals with disabilities should have access to or be represented within the Olympic movement were never seriously in question. What frustrated organizational institutions such as the IOC and ICC/IPC were ethical and administrative questions about how much overlap was appropriate between able-bodied and para-sport at their highest respective levels.

#### **4.3 Integration or Separation?**

Although considerations of the extent of integration that should be pursued between the ICC and IOC were at the forefront of both organizations' minds, the IOC's commitment to continued practice of para-sport was demonstrated by its significant logistical support. This came in the form of advocacy, financial aid, and the benefits to Paralympic marketing efforts that Olympic recognition brought, as the primary documents will show. Additionally, the IOC used their position within the world of international sport to encourage international sport federations to forge closer links with their para-sport counterparts. In 1985, IOC President Juan Antonio Samaranch mailed letters to eight different sport governance bodies asking them to include "exhibition competitions for handicapped sports in their main championships ... [in order to]

promote the cause of handicapped sportsmen” (IOC 1985b).<sup>41</sup> As previously mentioned, the IOC provided yearly payments to the ICC in support of these initiatives, however this funding was conditional on the ICC continuing to respect IOC decisions regarding marketing materials that potentially infringed on intellectual property claimed by the Olympic movement (IOC 1992a). There were several documented cases of marketing clashes between the IOC and ICC, or their intermediaries; notably, in 1992 when marketing agents working for Esso Jamaica attempted to use misleading advertising promoting their sponsorship of the Jamaican Paralympic team to create confusion regarding the identity of the real Olympic fuel sponsor, which was their competitor Texaco (IOC 1992b). The exploitation of public confusion regarding the relationship between the Paralympic and Olympic Games, given their similar appellations, slogans, and logos, was a target of ambush marketing strategies by unscrupulous companies (IOC 1991).<sup>42</sup> No matter how thoroughly the IOC policed ICC use of their marketing material, it is clear that exploitation by private third parties was an inevitable consequence of their relationship. In this context, their continued support of the para-sport movement was laudable.

Despite good intentions on the part of the IOC, the committee’s help occasionally did more harm than good to the para-sport movement’s overall objectives. Samaranch’s speech to participants and volunteers at the 1988 Seoul Paralympics highlighted how the

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<sup>41</sup> The persons, and their respective federations, contacted by Samaranch were: Robert Busnel (International Basketball Federation), Marc Hodler (International Ski Federation), Robert H. Hemlock (International Swimming Federation), Ruben Acosta (International Volleyball Federation), Thomas Keller (International Rowing Federation), Francesco Gneccchi-Ruscione (World Archery Federation), Gottfried Schodl (International Weightlifting Federation), and Primo Nebiolo (International Amateur Athletic Federation).

<sup>42</sup> Ambush marketing is defined as a rival company’s attempt to associate its products, for financial gain, with an event that already has official sponsors.

“demonstration [para-sport] events during the Olympic ... Games ... have enabled us to put pressure on other sporting organizations to get them, in their turn, to face up to ... [the] issue [of a lack of inclusion for athletes with disabilities]” (IOC 1988a). However, Samaranch also noted that “while it is desirable that in certain cases disabled and non-disabled athletes compete side-by-side, nothing to my mind could replace these Paralympics” (IOC 1988a). He credited the irreplaceable nature of the Paralympic Games to its ability to demonstrate “that accepting oneself and one’s limitations in no way means giving up” (IOC 1988a). Samaranch’s contention that the separation of the Olympic and Paralympic Games had positive impacts on the development of a unique identity for participants and supporters of para-sport is borne out within the primary evidence. As early as the 1992 Barcelona Paralympic Games, “the [opening] ceremonies [were] ... especially conceived and designed as the opening and closing of the Paralympic Games, ... [as opposed to] the tradition of previous games where the Paralympic ceremonies were a repetition of those of the Olympic Games” (IOC 1992c). The cultivation of a unique identity for para-sport is an important part of both increasing its appeal and reach as well as removing the damaging stigma that it was an ‘Olympic Games for the disabled,’ and therefore simply an inferior version of the real article. However, the tone of his statement, that the Paralympic Games are meant to demonstrate an acceptance of personal limitations, is problematic. In comparison, Samaranch opened the 1988 Calgary Olympic Games by noting that the Games represent the “largest global festival of youth, friendship, sporting excellence, and peace” (IOC 1988b). These sorts of values would transcend Olympic/Paralympic participation, and such feelings could have easily been expressed at the Paralympic Games as well. Therefore, his statement focusing the 1988 Seoul Paralympic Games on the individual limitations of the participations reestablished and promoted (perhaps unintentionally) a

negative perception of the Paralympic Games as being an event defined by disability. As I have shown, Samaranch was, on the whole, a remarkable supporter of the para-sport movement. However, it is telling that even he could not construct a positive vision of the purpose of the Paralympic Games that was able to see the athletes as sportspeople, rather than individuals with disabilities.

The view that the Olympic Games were a more serious level of athletic competition than the Paralympic Games was not just restricted to IOC officials. In a 1990 letter from Nancy R. Gustafson, US Disabled Ski Team Member, to Jean-Claude Killy, Co-President of the Albertville Organizing Committee of the XVI Winter Olympic Games, she wrote:

Disabled alpine skiing was an exhibition sport in both Calgary and Sarajevo Olympics. As an elite athlete, we dedicate ourselves and strive to be the best in the world. The Olympics is also for us, the ultimate competitive sporting event in which to achieve one's goals. Therefore, to continue to participate in the Olympic Games is all-important to us as athletes. In addition to our athletic ambitions, the focus gained from the Olympics would contribute to our individual efforts in helping the sport grow (IOC 1990).

Although Gustafson's views may not be representative of the feelings of all athletes with disabilities, she was an influential figure in para-sport having been lauded in 1995 as "arguably the best disabled skier - male or female - of all time" (Hancock 1995, 144). It is therefore notable that she would see the Olympic Games, and not the Paralympic Games, as the highest stage on which she could demonstrate her athletic skill. In agreement with Ms. Gustafson was ICC member Hans Lindström, who wrote in a 1986 letter to Samaranch that:

The deletion of the word 'Olympic' in sports for the disabled is still not accepted by many national associations in our movement, and the same goes for many individuals in the international committees in the ICC. They value the word 'Olympic' even higher than support from and affiliation to the IOC. Thus, it is very important, ... that disabled athletes are given space in the Official Olympic Programme in a few events (IOC 1986d).

Lindström was expressing the reality that, for some of the most competitive para-athletes in the world, the status and cachet of the Olympic title meant a level of equality with able-bodied competitors that Paralympic Games participation could not match. Furthermore, it is unlikely that the fact that the Paralympic Games was an event subsidized and supported by the IOC, while the Olympic Games existed and flourished on its own merit and ability to draw the public's interest, was lost on para-athletes. This served to make participation at the Olympic, and not just Paralympic level, more desirable.

Much of the discussion surrounding whether Paralympic or Olympic participation should be the goal of the most competitive athletes with disabilities could, perhaps, be answered more conclusively if a more compelling vision of what the Paralympic Games could or should be was presented by its organizers. In reference to the first International Stoke Mandeville Games, Guttman argued that the primary purpose of sport “for the physically handicapped ... was its curative, recreational and psychological significance, as well as its value in reintegrating severely paralyzed people into the community” (Guttman 1974, 7). The potential conflict inherent in aligning a participatory and rehabilitative event such as the International Stoke Mandeville Games with the internationally competitive and nationally-sponsored Olympic Games became obvious when Guttman, as president of the International Stoke Mandeville Games Foundation, was forced to confront the boycott of the South African Olympic team due to the racially segregationist policy of apartheid enforced in their country.<sup>43</sup> As part of Guttman's negotiations with the IOC in pursuit of Olympic recognition, the IOC asked the ISMGF to

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<sup>43</sup> For further information regarding the Olympic boycott of South Africa during the apartheid era, and the intersection of this policy with issues related to sport for individuals with disabilities, please see Ian Brittain's article *South Africa, apartheid and the Paralympic Games*.



enforce the Olympic boycott and therefore ban South African athletes from competing at the Stoke Mandeville Games (IOC 1978b). Given the financial and ideological links between an Olympic team and the country it is representing, the boycott of any given team due to its country's objectionable social or political policies can be an understandable, and sometimes useful, exercise of forceful diplomacy. However, especially during the early stages of the Stoke Mandeville Games, this policy becomes much less sensible. Para-athletes receive demonstrably less funding and media coverage than their able-bodied counterparts, especially in 1978, and in the case of the Stoke Mandeville Games it is much more questionable if the potential political gains achieved by a boycott of the South African para-team outweighed the human costs exacted on these particular athletes by their potential exclusion, which Guttmann strenuously opposed and refused to uphold (IOC 1978b). Nevertheless, this was to be just the first example of how an attempted Paralympic-Olympic alignment would cause the Paralympic Games to suffer from a severely divided mandate. In an attempt to align with Olympic practices and make the Paralympic Games a more competitive and internationally representative event, a system of quotas based on geographic location was established for the 1992 Barcelona Paralympic Games. This was the source of some conflict. A letter protesting the decision was sent by Galina Atanassova, President of the Union of Disabled People in Bulgaria, and Vladimir Kalaydjiev, President of the Bulgarian Federation Sport Among Disabled, to the ICC, in which they wrote:

We address you on the occasion of the quota, accepted by you concerning the participation of our delegation of 3 persons in the individual disciplines at the 9th Paralympic Games in Barcelona '92. We know that the quota system for the participation of each separate country is based on the sports results achieved at the World Championships in Olympic sports. It must be the justest and the most precise settlement of the problem for you, but it's not the case with us and some other countries set under the same conditions. For many years, the Bulgarian Federation 'Sport among Disabled' has been carrying out its activity under quite poor financial and technical conditions. Since our country is facing now a profound

economic crisis these problems have deepened even more. Because of this reason we are forced to cut down the number of our participants in the World sports events for disabled. ... Your decision for the participation quota deprives [athletes] of the opportunity to attend the Paralympic Games in Barcelona. For all Bulgarian sportsmen as well as for the sportsmen all over the world the Olympic Games are the most distinguished and authoritative sports event, a final goal for their many yearred preparation. Guided by this idea, we have been saving money for the training and participation of the best disabled sportsmen in Barcelona '92. In the name of this goal and because of shortage of money we did not attend many important international sports events (IOC 1992d).

The reason the quota system was controversial was because it precluded the kind of participatory mindset upon which earlier iterations of para-sport competitions had been based. Clearly, Olympic standards and practices did not always translate perfectly into Paralympic events. It is also notable that within their own letter, Atanassova and Kalaydjiev used the terms Olympic and Paralympic almost interchangeably.

The ICC recognized the problem posed by their stakeholders expecting the Paralympic Games to both be a demonstration of elite athletic ability as well a way of supporting, rehabilitating, and advocating for individuals with disabilities. Several proposals were put forward to the ICC membership at a meeting in Arnhem, the Netherlands in March of 1987 in order to frame the issue of divided Paralympic expectations. The most relevant recommendations, and their vote tallies, were as follows:

- 1) "Do you want the future structure [of the ICC] to deal only with the Paralympics and elite sports?" 25 For/81 Against
- 2) "Olympic [demonstration event] programme to be limited to elite athletes." 89 For/11 Against
- 3) "We recommend to work towards signing an agreement with international sports federations for the able-bodied." 104 For/2 Against
- 4) "The structure [of the ICC] must allow for the development of organizations according to sport rather than categorical disability." 82 For/7 Against (IOC 1987a)

It is clear from the voting that a strong majority of ICC members wished the Paralympics to continue in its socially-oriented and participation-based format and viewed the

Olympic Games as the proper venue for high-performance sport featuring both able-bodied and para-athletes. Furthermore the ICC membership was clearly resistant towards the idea of the para-sport movement continuing to be defined by a concept of disability that divides high-performance para-athletes from their able-bodied counterparts. By supporting the development of organizations that were sport, not disability, oriented the voting tally shows a clear preference for broad integration between able-bodied and para-sport practices. The only exception to this policy of integration, according to the voting results, would have been in cases where there would be no obvious able-bodied sport equivalent, such as the more recreational forms of para-sport focused on rehabilitative and participatory opportunities. It is therefore clear that a coming together of high-performance sport featuring both able-bodied competitors and their para-sport counterparts has been both desired and appropriate for some time.

#### **4.4 The Inclusive Competition: The Paralympic Paradox**

Given that it was the desire of the ICC to create inclusive competitions, it is worthwhile examining what potential obstacles prevented this state of affairs from developing. One of the primary difficulties to be overcome when creating sporting contests that are completely inclusive of all individuals, regardless of ability level, is that they cease to be recognizable as contests at all (Kretchmar & Elcombe 2007, 182). For sport to be meaningful for audiences, especially sporting events with as high a public profile as the Olympic Games, there must be an obvious barrier to entry or standard of ability that is enforced. This both preserves the competitive tension of the event, by ensuring that the athletes are evenly matched, and makes it an attractive spectacle. In such a situation, athletes of lower skill or ability are excluded from participation until such

time as they meet whatever standard is applicable to their particular sport.<sup>44</sup> The concept of disability significantly muddies the waters of what would otherwise appear to be a meritocracy of participation.<sup>45</sup> It is exceedingly difficult to adjudicate what constitutes ‘fair’ treatment for individuals with disabilities in sporting contexts, given that it may not be physically possible for some individuals to even participate in specific sports without performance aids such as wheelchairs or an alteration in the rules governing the sport. Integrated able-bodied and para-sport events potentially need some kind of rubric against which to evaluate the performances or relative fitness of all competitors, in order to judge who should be able to participate and their performance within the competition itself. This is further complicated by the role of performance enhancing technologies, which have the potential to bridge the boundary between ability and disability, most recently in the case of Oscar Pistorius (Norman & Moola 2011, 1265). The concept of disability as a medical condition in need of intervention and amelioration, and therefore the permissibility of performance enhancing technologies like the carbon blades Pistorius used in replacement of amputated lower legs in order to compete at both the Paralympic and Olympic Games, calls into question the fairness of excluding any individuals from competitive sport given that most of the physical limitations that have prevented them from attaining the standard of excellence required could likely be addressed with the use of specific performance-enhancing technologies. To take this argument to its logical

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<sup>44</sup> Quirks of the Olympic quota system have, at times, resulted in woefully under-qualified athletes appearing in competition. Recent examples of this phenomenon include Eric ‘The Eel’ Moussambani at the 2000 Sydney Olympic Games, Hamadou ‘The Sculling Sloth’ Issaka at the 2012 London Olympic Games, and Eddie ‘The Eagle’ Edwards at the 1988 Calgary Olympic Games. Given the exceptional amount of media attention these athletes received, it is clear that they are outliers in what is otherwise an exceptionally competitive contest, rather than proof that the Olympic Games are more recreational than I am asserting.

<sup>45</sup> The question of whether the exclusion of certain athletes represents justified meritocracy, or unfair discrimination, is considered in more detail in Chapter Five.

extreme, it would be possible to assert that an individual without the muscle mass or body size required to be an Olympic weight lifter should be permitted to take human growth hormone or anabolic steroids to address these deficiencies, in the same way that an individual with a missing limb could use a suitable prosthesis. The consequence of this argument is the highlighting of the fact that the perceived meritocracy of able-bodied sport competition is reliant on an impossible appeal that all participants possess a 'natural' level functioning, which the concept of disability effectively demonstrates does not exist. There are spectrums of ability in all sports that are simply impossible to standardize, therefore demonstrating that the line between able-bodied and 'disabled' in the sporting world is a mostly arbitrary distinction clumsily imported from medical practice.

Reflecting the shakiness of the categories of disability and ability in sporting contexts, the history of Paralympic/Olympic co-operation demonstrates two organizations that have progressively moved towards closer to integration, but the full joining of their two events, and therefore the complete inclusion of individuals with disabilities at the Olympic Games, has yet to take place. Evidence of the tension this causes within the Paralympic Games is provided by the figure of the 'super-crip,' which Ian Brittain defines as a portrayal of "disabled athletes ... who courageously overcome their disability and the issues that come with it to achieve [an athletic performance] and to be 'normal'" (Brittain 2010, 79). Para-athletes competing at the Paralympic Games are often defined by this media trope due to the event's emphasis on disability as a requirement of participation. A potential solution to this tension would be to create

sporting environments in which disability was simply not a defining factor.<sup>46</sup> Parallels might be drawn to the gender or weight class-based categories of competition that exist in some sports. Both of these examples attempt to create fairly played contests by enforcing strict eligibility rules within the context of a larger, inclusive sporting event. It is important to note that although these categories distinguish the qualifying competitors as ‘abnormal,’ they do so as part of a spectrum of difference not recognizing normality, but rather differences in kind (man/woman, lightweight/heavyweight, etc.). This type of separation is very different from the kind that takes place between Olympic and Paralympic competitors due to the latter’s emphasis on a dichotomy of ability and disability, as illustrated in the perceptions of inferiority that Paralympic athletes felt in the decision to keep their competitions off of the Olympic stage. The issue of the appropriateness of classification, examined in more detail in Chapter Three, illustrates what can be referred to as ‘the Paralympic paradox;’ namely, the conflicting nature of the multiple missions of the Paralympic Games. It is further exacerbated by their close, organizational proximity to their able-bodied equivalent, the Olympic Games. I have argued that the Paralympic Games are, at once, meant to be: inclusive, high-performance, and serve a rehabilitative role in the lives of competitors. Unfortunately, being both completely inclusive and highly competitive is a practical impossibility. Therefore, the Paralympic Games and its organizers remain stuck between the conflicting demands of their stakeholders. What is required to break this impasse is, I argue, an understanding that a competition cannot adequately serve both athletes requiring a highly competitive opportunity to demonstrate their skills, and those needing

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<sup>46</sup> An attempt at the creation of such a sporting environment is attempted in Chapter Five, but it is limited by how much change currently existing sport organizations will support and how progress towards this philosophic ideal will likely be slow as it will involve an educational and evolutionary process.

inclusion and perhaps rehabilitation due to their comparative physical capabilities. To create the change in Olympic rules necessary to allow the Olympic Games to become the stage for high-performance, and the Paralympic Games to better accomplish their aims of rehabilitation and social inclusion, sporting practices need to be more permissive towards constructive rule breaking and civil disobedience in play.

#### **4.5 Bringing Civil Disobedience into the Paralympic/Olympic Relationship**

The opening sections of this paper used primary sources to illustrate the monumental task that faced the IOC and IPC in attempting to make international sport accessible for para-athletes. Although, I conclude based on the correspondence reviewed, the IOC's desire to help the ICC and, by extension, para-athletes was genuine, laudable, and largely successful, it unfortunately pulled the ICC and its successors in two conflicting directions. As Olympic recognition brought increased funding, publicity, and legitimacy to para-athletic competitions, the regular appearance of para-athletes on the international stage ceased to be a novelty and became something expected of the IOC to either host or at least support. As part of the IOC's overall humanistic mission, and under the leadership of Juan Antonio Samaranch, the administrators generally warmed to this task and demonstrably worked to increase the level of co-operation between themselves and the ICC counterparts. This, in turn, created a need for increased centralization on the part of the ICC and brought more para-sport organizations under their umbrella. The competing needs of these sub-organizations, and their constituent athletes, occasionally resulted in conflicts over the types of accommodations appropriate for different forms of disabilities and it became difficult for the Paralympic Games as an event to remain responsive to their now

extremely heterogenous group of stakeholders. Nevertheless, the IOC expected the ICC to speak with one voice on the issue of para-sport, which became exceedingly difficult given the varied nature of the different forms of physical embodiment we capture under the blanket term of 'disability.' Attempts to solve this issue and standardize forms of competition with the classification system yielded mixed results, and some vocal opposition while doing nothing to resolve lingering disappointment on the part of some para-athletes due to their continued inability to compete as Olympians, and not Paralympians. Overall, the Paralympic Games became defined by their paradoxical mission of needing to be both rehabilitative and highly competitive.

A solution to the 'Paralympic paradox' is to retain the Paralympic Games as a sportive form of expression that stands for the values of inclusivity, participation, and the self-learning that takes place when individuals and teams struggle against voluntarily undertaken physical challenges. Sport offers a tremendous opportunity to bridge harmful divisions between arbitrarily defined communities of 'the disabled' and 'the able-bodied.' By virtue of sport's testing of the universal fallibility of our physical bodies, and its celebration of the inspirational feats that athletes manage to achieve in the face of formidable challenges, pre-conceived and discriminatory notions of ability and disability can be ruptured in a lasting fashion. These positive outcomes are possible when athletes are given the choice to freely participate to the greatest extent possible. Restricting para-athletes to the Paralympic, rather than the Olympic stage is damaging to the rights and dignity of individual competitors in a way that should not be tolerated in morally defensible sporting practices. I argue that athletic self-



expression must form the core of any laudable or admirable sporting achievement. It is from this primary right of all athletes to unencumbered self-expression that all other goods associated with sporting competition/participation flow. As the parallel with civil disobedience shows, the rights of athletes to express themselves in whatever sport they choose and on whatever stage they choose should trump all other organizational considerations.

It is time for the relationship between Paralympic and Olympic sport to take another step forward and either do away with the distinction between the two events, or re-imagine them. The Olympic Games are clearly the pinnacle of athletic accomplishment and should be open to the best athletes of every gender and nationality, with specific categories for the recognized community of individuals with disabilities. Where possible, para-athletes should be able to compete alongside able-bodied athletes, even if the assistive technologies involved would create questions of fairness. Meanwhile, the Paralympic Games have served an indispensable role in bringing public attention to the cause of social justice for marginalized individuals, as well as encouraging significant research and effort into the improvement of the lives for individuals with disabilities. Their work in this regard can and should continue, since it falls outside the scope of the Olympic Games and their mandate. In sum, the Paralympic/Olympic division must end to better allow all athletes to express themselves and their autonomy within their chosen sport.

## **Chapter 5**

### **5 Para Rowing at the Canadian University Rowing Championships**

#### **5.1 Why Should We Pursue Inclusive Sport at the Canadian University Rowing Championships?**

The purpose of this dissertation chapter is to lay out a framework for the inclusion of para-rowing in the Canadian University Rowing Championships (CURCs) and other university rowing competitions in Canada. Previous chapters have already made the case for why athletes should be able to exercise more self-determination in setting the rules governing their sporting performances. This suggested change in the way in which we view the concept of fair play in sport was applied to the concept of disability in general as well as the specific example of the relationship between the Paralympic and Olympic Games. Divisions between able-bodied and para-sport were shown to reinforce negative conceptions of disability and dehumanize those either put in secondary classes of participation or excluded entirely. In order to demonstrate that the proposed changes to how we conceive of fair play in sport are positive, they need to be tested in practical applications. Although the alterations to the competitive framework of the CURCs suggested here are not originating from the autonomous desires of specific athletes, and therefore do not speak to or include concrete methods of how to measure or conceptualize athletic self-expression in a way that would lead to rule changes, the addition of para-sport categories of competition would still serve to broaden the avenues of self-expression available to university rowers in Canada by including an entirely new segment of athletes within varsity competition. Therefore, the spirit of this proposal is still represented within the philosophical argument outlined by previous chapters.

The rationale for the changes I will outline is actually contained within the published documents of the Canadian University Rowing Association (CURA). The constitution of CURA states that “CURA promotes and celebrates excellence in Canadian University Rowing by crowning national rowing champions in a spirit of fairness and inclusiveness” (CURA Constitution 2014). The introduction of para-rowing into all university rowing championship events speaks directly to the value of inclusiveness. However, as has been noted in previous chapters, the concept of inclusiveness can be at odds with the necessities of competition (in this case, the ‘crowning’ of a national champion). The act of recognizing one athlete as superior or more deserving of victory than others is an exclusionary act. Nevertheless, the exclusion taking place in this example is only partial. Although the losers of the competition have been denied the opportunity to be recognized as champions, they still participated in the event and likely had a fair chance of succeeding in the same manner as the eventual victor. Therefore, the most important aspect of inclusiveness is not that everyone be awarded the rewards of victory, but rather that all participants be accorded the same opportunities to win. In this sense, competitive sport does not feature strict equality, but is rather:

a meritocratic scheme of distributive justice. Goods, such as competitive advantages and victories, are distributed based on distinction in performance. Burdens, such as competitive disadvantages, penalties, and losses, are distributed based on lack of performance or violation of performance standards (Loland 2010, 117).

Sigmund Loland’s ideas regarding the meritocratic nature of justice in sport account for, and excuse the fact, that in an activity which seems to prioritize fairness above all else, athletes appear to receive fundamentally different outcomes. Elements of sport such as amount of playing time, recognition from coaches and peers, accolades

from audiences, etc. are all received by athletes in fundamentally unequal amounts. This inequality between athletes is rationalized by their demonstrated skill at or fitness for their chosen sport. Due to the accepted legitimacy of organizing sport as a meritocracy, a fair outcome in sport does not require that all athletes receive the same rewards for participation.<sup>47</sup> Instead, the distribution of these goods is considered to be done justly so long as athletes receive the same opportunity to compete for the privilege of receiving the lion's share of those rewards. It is in ensuring that athletes receive the same opportunity to compete that inclusiveness becomes important. The goal of winning a rowing race (or any other sporting activity) is, in one sense, highly arbitrary. There is no instrumental value in propelling a boat faster than one's competition outside of a situation in which goods are being transported (which they most definitely are not). As an audience, or even as participants, for us to care about who wins at such an activity, and therefore receives the majority of goods associated with victory, the result must have some kind of bearing on the character or nature of the participants. There must be meaningful differences between them that make for a 'story' of why certain athletes have succeeded and others have failed. This mirrors what Gunnar Breivik, a Norwegian philosopher and sociologist, argues in "Against Chance" constitutes a successful sporting competition: "What leads up to ... [a sporting] event should be as many-sided and complex as possible, with variations in all relevant facts. ... Athletes of all builds and types should have the chance to excel in as many sports as possible" (Breivik 1999, 152). According to Breivik, divergent pre-game factors between athletes allows for the greatest possible variation in skilled competitors which, combined with "minimum

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<sup>47</sup> For further discussion of the types of rewards available for participants in sport and their just allocation, see Jane English's article *Sex Equality in Sports* and her concepts of basic and scarce benefits.

variation of in-game factors” results in a sporting event featuring a variety of intriguing competitors whose differing pre-game factors have gifted them highly individualized skill sets (Breivik 1999, 152). A combination of a variety of skill sets and minimum variation in non-skill based factors during the contest results in a winner whose victory is a result of their unique skill set. Recognizing a victor under the aforementioned circumstances is both satisfying for the spectators and educational for the competitors.<sup>48</sup> Given that the sense of fairness in a competition comes from the meritocracy of participation, it is logical to argue that a broad base of athletes must be included in the contest for the result to be meaningful or valuable, and for the requirement of inclusivity to be satisfied. Without policies that promote inclusion, it will be impossible to maintain the diversity among athletes that satisfying competitions demand.

## **5.2 Incentives for Inclusivity**

Having established that sporting contests featuring competitors from diverse backgrounds are desirable for reasons of fairness, inclusivity, and promoting educational outcomes; I will next examine how this plurality of participation can be established and encouraged should be examined. In general, the coaches of teams competing at the CURCs are incentivized to select teams of athletes that are as homogenous as possible. The reason for this is that there are a limited number of characteristics that lead to success in rowing. Currently, the national governing body for the sport of rowing in Canada, RowingCanadaAviron, looks for the following characteristics when identifying individuals who could become successful competitive rowers: 1) Height, 2) Wingspan, 3) Strength, and 4) Aerobic Endurance (RowingCanadaAviron, 2016). These

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<sup>48</sup> For more on the subject of educational outcomes through sporting participation, refer to Chapter Two.

characteristics are fairly general, and could conceivably be possessed by fairly diverse spectrum of individuals. There is also a certain amount of flexibility in the importance of each of these characteristics that could result in competitions that are still satisfying for spectators and educational for participants, even if only athletes who fit these criteria are featured. For instance, a rowing race between equally tall individuals one of whom is strong, and therefore a talented sprinter, and another one of whom is exceedingly aerobically fit, and therefore good at maintaining a steady racing pace, could be very exciting. Nevertheless, with only these aforementioned characteristics to go on, it is obvious that taller, larger males would be favoured in any kind of athlete selection.

Physiologically speaking, most women have reduced oxygen carrying capacity in comparison to most men and therefore as a group are at a competitive disadvantage in sports where aerobic fitness is a primary determinant of success (Lewis, Kamon & Hodgson 1986, 357). Similarly, lightweight rowing was first introduced in international rowing competitions to allow “nations with less statuesque people” to perform well in international competitive rowing (DK Publishing 2013, 263). This reflects the importance of height and wingspan in rowing, and the desire of event organizers to allow shorter individuals to participate and succeed. In both the cases of lightweight and women’s rowing, we see that without these categories being identified and maintained as distinct from those of heavyweight and men’s rowing, it is unlikely that teams would seek out or attempt to include many female or shorter competitors. The performance inducements in team selection to only focus on athletes best able to meet the requirements of the sport are simply too high for coaches to make sub-optimal team selection decisions in favour of inclusion. Therefore, we cannot rely on the desire of coaches and athletes to achieve victory to ensure the diversity of competitors in sport. Instead, the concept of victory

within any given sport must be redefined or reframed in way that rewards diverse team composition. In the case of the CURCs, these incentives are enshrined in the system by which the overall championship is awarded. There are two championship banners, which recognize “the highest ranking Men’s and Women’s teams” (CURC 2014, Playing Regulations). By tracking the success of female and male athletes separately, university rowing teams are encouraged to provide adequate resources to athletes of both genders. Furthermore, each of the individual team banners (for men and women) count cumulative success across both lightweight and heavyweight categories, once again incentivizing teams to include athletes of varying physical sizes.

Taking CURA’s playing regulations and constitution together shows an organization that has already taken strides towards inclusivity and accessibility, as well as provides a model under which other identifiable groups can be accommodated. However, such accommodations are only possible if the conditions under which victory is achieved or rewarded at the CURCs can be changed sufficiently to motivate participating teams to include athletes that would not be considered ‘typical’ or ‘desirable’ by the current standards of performance. In the case of para-athletes, it would be necessary to either offer a third championship banner for a para category, or have para categories count for points towards the current men’s and women’s team rankings that decide the winners of the championship banners for each gender.

### **5.3 Philosophical Objections to Para-Rowing at the Canadian University Rowing Championships**

If CURA is bound by the terms of its constitution to seek out ways to broaden the diversity of athletes playing at its championship event, then it is relevant to ask why

efforts have not been made to include para-athletes up until this point. Setting aside the fact that CURA's constitution as a document is relatively new, it could be argued that the call for "inclusiveness" contained within it is not actually meant to speak to individual diversity at all (CURA Constitution 2014). After all, it is an idealistic and exceedingly impractical vision of sport that would attempt to give all interested athletes an opportunity to learn about themselves and each other not just through competition, but at a single competitive event.<sup>49</sup> Selection activities that determine the individual composition of each university's team occur well in advance of the CURCs and it is simply not possible for an event to be both a highly competitive national championship and open to all comers. Interpreting CURA's constitutional call for inclusiveness as being meant for implementation on an individual level places an impossible burden on event organizers in terms of the number of athletes that must be included. In response to this potential argument, the case for why competitions must maintain incentives for inclusion once again show their worth. Although, for reasons of practical necessity, competitions such as the CURCs feature a limited number of participants, each team attempts to bring the athletes that will be most able to succeed at the athletic tasks featured in the competition. To make determinations about who will be included in each team, coaches and team organizers must run competitive selection processes. Therefore, any athletes excluded from participation at the championship level still receive access to the same opportunity to be athletically tested and learn from the experience, simply at a 'lower' or less competitive level. In this way the best athletes of each representative category (lightweight/heavyweight, man/woman, and potentially able-bodied/para) are still participating at the highest levels, with less skilled athletes being eliminated at earlier

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<sup>49</sup> For a more in-depth explanation of this learning process, please refer to discussion on Edwin Delattre's theories of personal discovery through competition in Chapter One.



stages of university rowing season (provincial or local regattas, early season team selection, etc.).

The argument that individuals who do not appear at or participate in CURCs still receive the same opportunity to win as long as their representative categories of competition are offered and well-attended, might at first seem illogical. How can someone be said to be gaining the benefits of inclusion when the potential participant is not present at the event? To answer this question, I draw on Jane English's concepts of "scarce benefits" and "basic benefits" in sport (English 2007, 304). English defines 'basic benefits' as those:

to which it seems everyone has an equal right: health, the self-respect gained by doing one's best, the co-operation to be learned by working with teammates and the incentive gained from having opponents, the 'character' of learning to be a good loser and a good winner, the chance to improve one's skills and learn to accept criticism - and just plain fun (English 2007, 304).

In contrast, 'scarce benefits' are those which practicality limits to a select few athletes, since "it is simply not possible for prizes and publicity to be attained equally by everyone at once" (English 2007, 304). Similar to Loland's argument about the meritocracy within the assignment of sporting benefits, English noted over thirty years previously that "having the skill involved in the sport" is the relevant factor which decides how scarce benefits are to be allocated. In applying English's conceptualization of the difference between scarce and basic benefits to Canadian University Rowing, I argue that participation at a championship event itself is not necessary for the criteria of inclusiveness to be satisfied, or for potentially marginalized groups to enjoy the basic benefits of sport participation. By establishing rowing categories for lightweights and women, CURA has incentivized teams to provide opportunities for lightweights and women and extend to them the basic benefits of sport participation through their

selection processes and other championship preparations. The existence of categories of competition for women and lightweights at the highest level has prompted rowing teams across the country to include athletes that could fit into those categories into open try-out processes as well as preparatory regattas. Even if only the fittest and most skilled athletes in their respective categories end up participating at the CURC event itself, the impact of its competitive incentives for inclusion are felt by athletes of all levels of ability.

#### **5.4 Meritocracy and Discrimination**

Given that the value of inclusive principles is predicated upon respecting the personhood of the persons being accommodated, it is important to be able to defend the assertion that individuals not receiving the scarce benefits of sport participation are not being demeaned or diminished as a result. This is especially true of those individuals who are not even being allocated the opportunity to compete at CURCs due to their inferior skill or ability as demonstrated in try-out processes, but simply receive the admittedly more marginal benefits of having the option to participate in team selection processes. Torbjörn Tännsjö outlines potential harms suffered by the losers of athletic contests in his article “Is Our Admiration for Sport Heroes Fascistoid?”

When we base our interest in sports on a more direct fascination for the individual winners of these events - we move ... [to] a contempt for weakness. ... It is one thing to admire the person who wins the victory, who shows off as the strongest, but another thing to feel contempt for those who do not win (and turn out to be weak). I believe, however, that in doing the one thing, we cannot help but do the other. When we celebrate the winner, we cannot help but feel contempt for those who do not win (Tännsjö 2007, 433).

Tännsjö’s argument regarding our interest in or fascination with the winners of sporting events is very similar to Breivik’s points, cited earlier, about how maintaining diversity among competitors helps to ensure an interesting contest with a satisfying outcome.

However, it is within this outcome that Tännsjö identifies the potential for discriminatory

attitudes towards others. This is problematic for the general thrust of this paper, which is in support of human rights and autonomy. By looking for differences between athletes in an effort to discover the individual characteristics that enable them to win, anyone who attempt to interpret sporting outcomes is searching for what makes victorious athletes:

... excellent, and their excellence is what makes them valuable; that is why we admire them. Their excellence is, in an obvious manner, based on the strength they exhibited in the competition. ... So if we see a person as especially valuable, because of his excellence, and if the excellence is a manifestation of strength (in a very literal sense), then this must mean that other people, who do not win the fair competition, those who are comparatively weak, are less valuable. The most natural feeling associated with this value judgement is – [*sic*] contempt (Tännsjö 2007, 433).

As a whole, Tännsjö's criticism relies on the ability of an audience to establish identifiable differences between competitors. Although Breivik supports encouraging diversity among competitors in order to create more meaningful competition, Tännsjö would warn that any increase in the level or intensity of competition carries the risk of increasing the prevalence of discriminatory attitudes and actions as well. The type of discrimination that concerns Tännsjö, however, is not entirely typical. Tännsjö would not suggest that including para-athletes in the CURCs might result in discrimination among identifiable communities, for instance between able-bodied and para-athletes. Instead, Tännsjö is arguing that audiences of sporting events discriminate against all losers, in whatever category they compete in. Extrapolating Tännsjö's concerns yields the conclusion that including para-events in the CURC might, paradoxically, increase discrimination against individuals with disabilities from audiences and other spectators.

It is easy to see how, in a search to identify the unique qualities of the victor that enabled them to be successful, spectators of sporting contests could carelessly express or accept attitudes of contempt towards those who do not have those qualities. The

process through which this could take place is well documented in human rights law and is called ‘indirect discrimination,’ as described below. Human rights law is applicable to this issue because the premise of this paper requires establishing a view of sporting practices through a human rights perspective. Indirect discrimination “involves the application of some practice or requirement that is neutral on its face ... but which has the effect of treating an individual or group differently” (Mize 2007, 28). Within a sport context, it would likely be argued by Tännsjö that the standard of excellence by which the winner is determined is the neutral requirement that ends with unfair treatment for the losing party.<sup>50</sup> Therefore, the questions that Tännsjö is truly asking is how can we distinguish between discrimination and meritocracy? And are the competitive principles we are using to award victors harming losers in any way?

Examples of discrimination and meritocracy, in the context of human rights, have been studied in the workplace (Martin et. al, 2014; Wilson 2014; Castilla & Bernard 2010). Working environments, especially in capitalist societies, and sport settings have much in common. Returning to English’s basic and scarce benefits in sport, one could argue that all employees receive certain considerations for their time (a salary, a safe working environment, etc.) that would classify as basic benefits, while at the same time are in competition with each other for those benefits that are necessarily scarce (promotions, pay raises, etc.). The problem of differentiating meritocracy from discrimination can be summarized as follows:

Put simply, the ideal of meritocracy presumes that opportunity is awarded based on individual merit rather than inherited status. The meritocracy ideal is congruent with other fundamental American values: upward mobility and individualism are

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<sup>50</sup> For more information about the concept of ‘standards of excellence’ in sport, see Chapter Two.

both core values of the American Dream; they legitimate our democratic ideal of equal opportunity for all. In the employment context, the meritocracy ideal is founded on two interconnected beliefs: that employment discrimination is an anomaly and that merit alone determines employment success. (Power 2008, 2158).

The appeal of viewing sport as a meritocracy follows many of the same patterns as those noted as being highly persuasive in the workplace. In the article “On Winning and Athletic Superiority”, Nicholas Dixon reflected on what makes for a satisfying or unsatisfying contest, and what causes athletic contests to fail to achieve their comparative purpose. He asserted that athletes and spectators wish to believe that:

in the ideal contest, victory is determined primarily by the qualities that are central to athletic excellence: skill, strategy, effort, and psychological toughness. This requires that competitive sport exemplify equality of opportunity - athletic meritocracy - by enacting those rules that reward those qualities that constitute athletic excellence (Dixon 2008, 254).

The belief in the prevalence of a meritocratic system in sport, much like in the workplace, legitimizes our belief in the value of the activity, and especially the fairness of the result. If sport were not meritocratic, then winning would lack any value since it would not reflect well on the abilities of the participants. Defeat also would be stripped of its educational significance. Unfortunately, the persuasiveness of the ideal of meritocracy makes determining whether or when it verges into discrimination extremely difficult. Many people possess a “cognitive desire to view our society, the organizations of which we are a part, and ourselves as just and legitimate” (Power 2008, 2157). This is known as the “just world phenomenon” and it is a convincing pattern of thinking, and also a known fallacy, because it allows individuals to rationalize negative events that would otherwise be very disturbing if they were thought to happen randomly (Power 2008, 2157). By convincing ourselves that victory or defeat in athletic contests is arrived at in a just fashion, we can accept and understand our disappointment with poor results, or

excitement with good ones, much more readily than if the outcome of the contest was entirely random. However our inclination to believe in the justice of outcomes, in order to better understand our own lived experience, means that it may be practically impossible to distinguish between meritocracy and discrimination except in very egregious cases. Therefore, I suggest that athletes are incentivized to ignore certain elements of unfairness within their contests, because by having participated they have a vested interest in believing that a just outcome has been delivered otherwise their time in playing the game has been wasted. This is especially true for the victors of any athletic contest, or even those who have simply enjoyed themselves or derived some other positive benefit from it. Applying this situation to Tännsjö's arguments yields the interesting idea that not only is it difficult to disprove his assertion that audiences are inspired by the meritocratic nature of athletic contests to discriminate against the loser(s), but also that the loser(s) are likely inclined to believe that audiences are correct in doing so. Therefore, completely dismissing Tännsjö's potential objections to my arguments is not possible and it is likely that there is some element of contempt intrinsic in the spectatorship of competitive sport, even if it was oriented around respecting autonomy as I am suggesting.

### **5.5 Discrimination in Sport and 'Contempt for Weakness'**

Despite my demonstrated inability to directly contest Tännsjö's claims that meritocratic principles in athletic contests lead to discriminatory attitudes among audiences towards losers, I argue that the creation of these attitudes is not a particularly

serious concern.<sup>51</sup> Tännsjö argues that the attitude fostered in audiences in relation to the losers of athletic contests is “a contempt for weakness” (Tännsjö 2007, 432). He expresses this contempt as the reversal of our admiration for the winner, since “we would be inconsistent if we did not feel any kind of contempt for the losers” (Tännsjö 2007, 433). Tännsjö compares this contempt to the core of the nazi ideology, and cites Harald Ofstad, by asserting that in mind of Hitler and other leading nazis, the German defeat in World War Two demonstrated the fundamental weakness of the German people (Ofstad 1998, 24). For Tännsjö, the same contempt that the leaders of the German Third Reich felt for their defeated people and nation at the end of the war is analogous to that which audiences feel when regarding their defeated sportspeople. Tännsjö may be correct that the meritocracy at work in sport promotes some level of discrimination towards those athletes that are unsuccessful. However he is wrong in equating this kind of discrimination, or contempt for weakness, with nazi ideology. The reason Tännsjö’s comparison between nazi contempt for the weakness of the German people and an audience’s possible disdain for unsuccessful athletes fails is because it is an overextended analogy. There are fundamental differences between the manner and context in which nazi contempt for weakness became manifest and those in which audiences might choose to express their own scorn for individuals who fail to win athletic contests.

The consequences of the nazi contempt for weakness, perhaps better stated as contempt for their perception of weakness, were extremely destructive. The most well-

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<sup>51</sup> It is important to highlight that the cause of eliminating or reducing discrimination in all its forms is not being belittled here. Tännsjö’s argument makes reference to a very particular and limited form of discrimination, specifically of audience members against losing athletes.

known result of this ideology was the program of genocide known as The Holocaust, in which approximately 11 million persons were systematically killed (Nicosia 2000, 45). It is clear by the severity of their actions that the despicable beliefs of the leaders of the nazi party were clearly discriminatory in nature. Furthermore, due to their position as the governing party of Germany during the Third Reich, nazi administrators had the power and opportunity to transform their theories about 'Aryan racial superiority' into action. In comparison, audience members who may feel some form of contempt for those who fail to secure victory in sport have no demonstrable power over their lives or ability to negatively impact them. At first, the distinction between the ability of the nazi government to turn its ideological principles into law as compared to the powerlessness of a spectator's opinion of a defeated athlete might seem secondary to the question of whether or not they both share feelings of contempt for the weak. However, in this chapter I have already examined how an ability to distinguish between meritocracy and discrimination, especially in borderline cases, relies upon quantifiable results and actions, rather than inferred attitudes. If Tännsjö could point to audiences at sporting events acting in a way that is consistent with their logically established, but not necessarily proven or confirmed, attitudes of contempt towards the weak, then his argument would be significantly stronger. Unfortunately, his article fails to do so and leaves the question of whether or not audiences are unfairly discriminating against athletic failure, or properly awarding and reacting to a meritocratically earned athletic success, ambiguous. This leaves me with the convincing possibility that the only difference between meritocracy and discrimination is whether or not the ability, trait, or skill being evaluated is a prohibited form of discrimination.<sup>52</sup> In the case of the extreme

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<sup>52</sup> For more information on unacceptable/prohibited grounds for discrimination, see



racial/ethnic/cultural biases shown by adherents to ethos of nazism, these are rightly condemned as unacceptable reasons upon which to base the rewarding or punishment of one individual over another. However, in the case of the relatively tame separations that audiences might draw between classes of athletic losers and winners on the basis of their sporting prowess, such distinctions are significantly less problematic or illegal. Therefore, we are perfectly comfortable awarding those who demonstrate a greater ability in a non-prohibited field and to place them above those with lesser abilities is recognized as meritocratic, rather than discriminatory.

Despite all this prior analysis, Tännsjö would likely have one potential response to this line of argumentation. He concludes his article by noting that “if we are to grow as moral agents, we need to cultivate a distaste for our present interest in and admiration for sports” (Tännsjö 2007, 440). Although the previously presented objection to Tännsjö relies on athletic capacities or competitive success as not being prohibited grounds for discrimination, therefore demonstrating that sport contests are meritocratic, our understanding of the legal grounds for discrimination are not permanent.<sup>53</sup> Arguments that appeal to our current understanding of ethics and morality are persuasive, but only for as long as these understandings enjoy popular acceptance. An example of a potential shift in the line between grounds for acceptable discrimination (meritocracy)

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Chapter One.

<sup>53</sup> By referring to legal understandings of discrimination, rather than moral ones, it could be argued that this argument suffers from the fallacy of appeal to authority. However, the premise of this argument is actually that our legal definitions of discrimination are in agreement with our moral ones, and therefore can serve as useful stand-ins and reference points. By virtue of the law’s nature as a collaborative project undertaken within democratic societies, referring to legal rather than moral definitions can have the advantage of correcting for individual biases and perspectives. For further discussion of the relationship between law and morality, please see Ronald Dworkin’s *Taking Rights Seriously*.

and those which are illegal is the emerging concept of gender identity. Only recently in many countries has “human rights legislation ... [prohibiting] discrimination against transgender people, such as transsexuals and intersex people, including discrimination based on gender stereotyping” been proposed or considered (Polster 2003, 157). Since such legislation may have been inconceivable to many people ten, twenty, or fifty years in the past, it is possible that discrimination on the basis of athletic prowess may become unacceptable in the future, as Tännsjö is proposing. Setting aside all disagreements up until this point and assuming that Tännsjö is, in fact, correct about the fascistoid nature of watching competitive sport, his conclusion about the need to reduce the focus on winning and losing in sport in order to make it more ethically justifiable as a practice is in agreement with the focus of this project. Liberalizing rules regarding fair play and standards of excellence in sport, as outlined in Chapter Two, would have the likely outcome of making concepts of victory and defeat less important. This would, in turn, reduce the presence of any fascistoid attitudes or tendencies within competitive sport.

In summary, it is very difficult to disagree on a philosophical basis with policies that support the inclusion of para-athletes at the CURCs, since it would only serve to increase the quality of competition at the regatta by supporting diversity among participants. Although it may be questioned whether or not sport in general uses meritocratic or discriminatory systems to adjudicate between victory and defeat, this is of less concern within the context of an argument that would de-prioritize the concept of victory in general. Given these issues, the only logical alternatives for why the creation of para-rowing categories at the CURCs should not be supported are practical in nature.

## 5.6 Practical Objections to Para-Rowing at the Canadian University Rowing Championships

For many coaches, the obstacles necessary to be overcome before para-rowing can be added to the CURCs have to do with functional, rather than philosophical, considerations. To help allay potential opposition and concerns, a list of potential questions as well as helpful answers has been compiled below:

- 1) What funding sources can teams access to pay for equipment or accessibility issues?

Several funding bodies provide grants for the purchase of para-sports equipment. In addition to helping teams start accommodating para-athletes, these purchases can serve a dual purpose. For instance, the trainer singles can be used both by para-athletes and to introduce novices to sculling and small boat skills. Likewise, funding for an accessible athlete's dock/ramp can replace an older, worn out dock/ramp and help masters or recreational athletes with minor mobility concerns. Potential funding bodies that teams can apply for grants from are the Canadian Paralympic Committee (<http://paralympic.ca/funding>), Ontario Trillium Foundation (<http://www.otf.ca>) and Petro-Canada Para-Equipment Fund (<http://www.petro-canada.ca/en/olympics/1057.aspx>)

- 2) Where can coaches learn more about para-rowing?

University coaches unfamiliar with coaching para-athletes can: 1) seek out trained provincial and national-level coaches for advice; 2) take National Coaching Certification Program workshops; and 3) attend para-rowing oriented sessions offered at the RowingCanadaAviron Coaches Conference.

3) How can a coach know if they have an athlete who qualifies for para-rowing?

Coaches can employ a simple decision tree that uses two physical tests to determine athlete classification (see Appendix A). When convenient, coaches can invite their local classifier to confirm the results of their classification tests (see Appendix B).

4) How will classification rules be implemented at the CURCs?

At this early stage of para-rowing's introduction to university rowing, the enforcement of classification rules should not be too strict or overbearing so as to limit participation and growth. Getting a potential athlete who first joins the sport in August or September officially classified by the October/November racing season may be difficult for some programs depending on their geographical proximity to the appropriate experts. Similarly, the classification system itself relies on highly technical testing that creates borderline cases of extreme complexity. The functional tests provided in Appendix A provide common sense approaches for how to tell if an athlete should compete in the Legs, Trunk and Arms (LTA), Trunk and Arms (TA), or Arms and Shoulders (AS) class, and the use of these is judged to be sufficient. At this stage of the sport's development, official classification status will not be demanded of potential competitors and we will instead rely on the honesty and goodwill of all competitors and their coaches. The highest priority should be placed on beginning work on establishing day-to-day training, racing, and development opportunities for para-athletes. In the future, when the participant pool is larger and coaches are more familiar with para-rowing, it may be appropriate to revisit this decision.

5) What do I need do to make my rowing facility accessible?

The vast majority of para-rowers currently training in Canada do not require any

significant changes to boathouse, bathroom, or dock facilities at their home clubs. Most disabilities that would qualify an individual for para-rowing would not prevent them from navigating traditional boathouse or dock set-ups. The one known case where accessibility became an issue was in Ottawa, where a program that helped wounded soldiers with their rehabilitation through rowing was introduced. Many of the participants required wheelchairs, and the Ottawa docks were usable but very inconvenient, as they required athletes to leave their wheelchairs and then come down the dock to their boats by hand. Ottawa was able to access funding targeted at solving accessibility concerns to purchase a new, accessible dock. Most accessibility issues can be solved by common-sense and good faith attempts to understand and accommodate the needs of any given para-athlete.

6) How should I provide coaching for para-athletes within my team?

This depends significantly on the skill level of the para-rower in question. Some LTA athletes are fully capable of training with an able-bodied crew and can be embedded wherever in the program there is room for another person. In contrast, TA and AS athletes would likely spend the vast majority of their time in small boats and you may wish to structure your program such that the primary practice slots for para-athletes take place during small boat training sessions. Either way, coaching para-athletes is not significantly different from the way that you would coach any group of single, pair, and double shells.

7) Why are we pursuing an integrated model of para and able-bodied rowing, as opposed to the divided format you see at the Olympic and Paralympic Games?

The history of the Paralympic and Olympic Games is of two organizations that evolved

very much separately, but have been moving towards increased co-operation due to their overlapping goals and mandates. The Paralympic and Olympic Games remain distinct competitions because they are both more than just high-level international competitions; they are also cultural fairs with significant ideological components. The Paralympic and Olympic Games are meant to be celebrations of human accomplishment and have organizational considerations that go above and beyond being a 'championship' event. The more accurate comparison point for the CURCs would be the International Rowing Federation's (FISA) World Rowing Championships. Both the CURCs and the World Rowing Championships are held to crown the fastest athletes and teams from within a large field of competitors. The World Rowing Championships offer para-events side by side with able-bodied events as part of one championship event, and this inclusive/integrated model was chosen as the model to emulate when proposing how to introduce para-rowing to the CURCs

8) What insurance considerations do I need to take into account?

Para-athletes should be registered with RowingCanadaAviron and your provincial rowing organization for liability insurance coverage like all other athletes on your team roster. They are covered in the same manner as able-bodied athletes are.

9) How will para-rowing impact the CURCs hosting?

It will be important to ensure in advance of CURA competitions that the facilities being used are accessible. However, given that the number of participants will be quite small early on, and only a small number of those participants will be vulnerable to accessibility barriers, any concerns can likely be solved on a case-by-case basis as long as participating teams communicate with the host institution about the concerns of their

athletes.

10) How will para-rowing impact team roster sizes?

In order for participating para-athletes to be properly insured, it will be important for them to be fully rostered competitors. The initial suggestion is to allow two roster spots for para-athletes specifically, and having those athletes only eligible to compete in the designated para-rowing events.

11) How can I ensure that para-athletes are getting appropriate treatment in the event of a sports injury?

Any sports-related injury suffered by a para-rower will likely have a similar cause and cure to what is experienced by the able-bodied athletes with whom you work. Therefore, they can be safely recommended to whatever service usually provides your team's athletic therapy and care. Health issues related to any specific para-rower's disability should be dealt with through their chosen medical care provider, similar to how able-bodied athletes consult their family doctors or local student health clinics in the event of illness.

## **5.7 How to Get There**

The following timeline presents a staged plan over which para-events could be introduced into the CURCs over the course of four years. The rationale for potentially controversial decisions is included where appropriate.

### Year 1

Para events are offered at Ontario University Athletics (OUA) Development Regatta,

which is run by coaches and features no overall team winners, and therefore is flexible enough to accommodate para-athletes with very little notice. Events are run on a demonstration basis, because many teams will not have had an opportunity to recruit para-athletes yet.

- Categories Offered (for Men and Women)

- AS 1x

- TA 1x

- LTA 1x

- Race Format

- Head to Head

- 1000m, which is based on the current para-rowing World Championship race distance

- Competitors from all categories race together seeded according to category specific Gold Medal Standard time (GMS) as set by RowingCanadaAviron

## Year 2

Para events are to be offered at the OUA Development Regatta, Western Canadian University Championships and Canadian University Rowing Championships. Events are to be run on a demonstration basis and are worth no points.

- Categories Offered (for Men and Women)

- AS 1x

- TA 1x

- LTA 1x

- Race Format



- Head to Head
- 1000m
- Competitors from all categories to be raced together seeded according to category specific Gold Medal Standard time
- Athletes are awarded finishing placement based on their proximity to their category's Gold Medal Standard time. Therefore only one gold medal is awarded to the best performing athlete in the entire para group; this decision was made to prevent the significance of victory becoming diluted due to the potential to have a large number of categories because of the quirks of the classification system  
(Percy and Warner 2008, 186)

#### Year 3 & 4

Para events are to be integrated into the OUA Championships, Western Canadian Championships and all other regional championships. Para events are to be worth points according to the same scoring model that governs the one person (single) boat class event in these aforementioned regattas. The only exception to this is that points and medals are awarded according to a para-athlete's placement amongst all para entries (both men and women and all boat categories), not just entries in their competition category. If a school has more than one entry, they shall only receive points for their top finisher. Should the category become popular enough that multiple entries per school is an issue, we can look at restricting entry numbers at that point (this decision was made to encourage teams to develop multiple para-athletes, without giving teams with unusual depth an unfair advantage while the recruitment process for para-rowers at the university level is still becoming established).

## Conclusions and Opportunities for Further Research

What sport we choose to play and how we choose to play it speaks to the values that individuals wish to develop or represent, and is a form of expression worthy of protection under freedom of speech rights. Upholding the rights of individuals to autonomous and free expression entails working towards allowing more people to participate in sport, and to create sporting practices that are accommodating of and responsive to the ability of individuals to freely choose which values they might wish to explore or express in a sporting context. Just as we choose the challenges to undertake in sport, so too must we be able to choose the means that are available to us to overcome these challenges. Elements of sport that would limit the ability of athletes to choose their own ends and means should be reduced or eliminated where possible, starting with providing an avenue for individuals with disabilities to participate. This would require a reduction in the importance or priority assigned to fair play, which is partly hegemonic in its construction and influence, and increasing the regard paid by sporting rules, institutions, and administrators to the value of individual expression. Actions in disagreement with or protesting against current rules, if they are morally motivated, must be given special attention by any who would seek to either punish or prohibit constructive rule breaking. For the expressive rights of individuals to have any value, they must be able to prevail in situations where the majority would benefit by harming the minority or curtailing their liberties in some fashion. The limits upon acceptable means of playing a sport placed upon participants by fair play constitute exactly such a situation. By setting aside, or at least assigning less priority to, considerations of fair play, we enhance the moral authority of our sporting institutions by demonstrating that they take

seriously the needs of excluded or marginalized individuals. Concern for the needs of others can be demonstrated within sport by making its rules flexible, permissive towards civil disobedience, and representative of sport as an ethos. This means our individual and shared understandings of sport are to be constantly tested and modified according to lived experience.

The advantages of a rights-based model of sport are especially clear in the context of how it would remove barriers to participation laid in front of individuals with disabilities. The circular reasoning of the concept of standards of excellence within rules-based sport means that those individuals who cannot participate according to constitutive rules are often permanently excluded from having input on the discriminatory standards of that practice. Rights-based sport does not presume to dictate to athletes an understanding of or limitations to their own capacities, nor does it allow for constitutive rules that would prevent a person or community of persons from participating to stand unchallenged. It enables us to move away from damaging conceptions of disability and towards communities of freely chosen enhancement/ability in which we identify where and under what terms we wish to compete. Discriminatory conceptions of normality are disregarded in rights-based sport in favour of a shared desire to explore our universal vulnerability and physical embodiment. The application of cyborg theory to sport, and the impossibility of preventing sport's infiltration by performance enhancing technologies, results in a less harmful understanding of the wide spectrum of human capabilities and attributes.

Currently, athletes with disabilities attempting to compete within the limitations of the Paralympic Games suffer from their practice's oppositional missions of being both

encouraging of the exceeding of physical limits and defined by the labeling of its participants as atypical or less able. The Paralympic Games, and para-sport in general, are harmed by the requirement of being a rehabilitative opportunity and a high-performance sport competition as shown by the perceived feelings of inferiority evident among para-athletes. In the short term, moving towards integrated and inclusive models of competition in which all athletes compete together, or at least have their contributions be equally recognized, would reframe how able-bodied athletes perceive disability and broaden individuals' perceptions of their peers' capabilities. An example of just such a model was provided in Chapter Five in the context of the CURA. In the long-term, this may allow us to move away from discriminatory conceptions of disability not just in sport, but also in our larger communities and day-to-day lives. Ultimately, the recognition of specific rights for individuals with disabilities is insufficient without institutions that possess explicit methods of rectifying discriminatory outcomes. For this reason, sporting contests that purport to uphold distinctions between able-bodied and para-sport, especially at the high-performance level, should be pushed towards adopting a rights-based approach to sport and inclusive policies where possible. In pursuit of this objective, a significantly edited version of Chapter Five, with both some additions and deletions, was submitted for consideration to the Canadian University Rowing Association (CURA) in November 2015 and will be up for voting at their bi-annual general meeting in February 2017.

Future research should attempt to apply a model of rights-based sport to more communities of individuals than just those labeled as disabled. There is significant potential for many other marginalized groups to have their causes of accessibility to sporting opportunity advanced through rights-based sport, especially intersex and

transgender athletes. Learning how rights-based, as opposed to rules-based, sport would succeed or fail to respond to their needs would help with universalizing the advantages of the concept and developing more robust and effective plans for implementation. However, with the introduction of new participants, and especially those likely to challenge current standards of excellence accepted by the previous community of practice, heated disagreements and potentially conflict are likely to result. Therefore, strategies that advance compromise and effective problem-solving within sporting institutions would likely be useful. Finally, the solutions proposed to bring the Paralympic and Olympic Games as well as university rowing in Canada in closer agreement with a model of rights-based sport are likely bounded in a way that is unique to those individual events/competitions. Any shortcomings or deficiencies in the model would be revealed through further application to as yet unconsidered forms of sporting practice.

The highly individualistic and expressive version of rights-based sport argued for in this dissertation is significantly different from the rules-based sport we watch and play today. The change of priorities necessary to bring about rights-based sport may be jarring and disturbing, especially to those currently invested in existent standards of excellence within communities of sport practice. To manage those changes will require dialogue and compromise between many different individuals and groups invested, or desiring access to, in individual sports. However, as the model of rights-based sport presented here suggests, it is this process of criticism, learning, and improvement that is valuable and results in the moral betterment of both ourselves and our practices. Individual input, potentially resulting in change, into the rules governing sport practices should be encouraged and embraced, if only for the reason that to listen to the suggestions and criticisms of others demonstrates respect for their personhood.

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## Appendices

### Appendix A: Function Tests for Athlete Classification in Rowing

Coaches may use the following tests (Squat Test and Sit Test) to determine the class an athlete fits into. For official status in one of the three sport classes athletes must be assessed by a panel of National Classifiers.

#### Squat Test

The purpose of this test is to assess whether a rower has enough functional strength of the quadriceps and other leg muscles to perform the sliding motion in the boat and provide enough power to propel the boat through the water.

1. The rower will stand without external assistance.
2. The rower will perform a squat, with both or one leg as able, flexing the knee(s) to a 90-degree angle.
3. The rower will then return to a full standing position.

Minimal balance assistance may be given for safety.

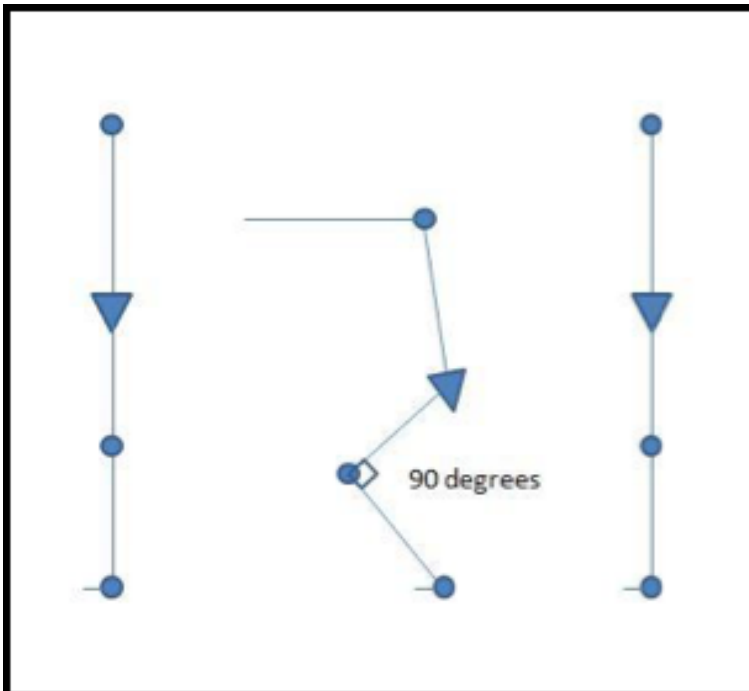


Figure 1.0 – Squat Test

If the rower is able to complete this test, this is considered a pass(yes), and his/her place as an LTA-PD rower is likely to be confirmed.

If the rower is not able to complete this test, (including a rower in a wheelchair or with significant leg weakness who cannot participate in the test at all) this is considered a fail(no), and he/she may be considered for the TA or AS class, and should be asked to complete the Sit Test.

### Sit Test

This test is used to assess whether the rower has enough function to lean forward and return to an upright position and enough strength to assist with boat movement through the water.

1. The rower will sit on the floor, or on a table with legs as straight as possible.
2. The rower will lean the trunk forward to approximately a 30-45 degree angle without using the arms for support.
3. He/she will hold this position for 3 seconds then return to the upright position without using the arms.
4. The rower will then lean backward to approximately a 30 degree angle at the trunk without using the arms.
5. He/she will hold this position for 3 seconds and then return to upright position without using the arms.

If the rower is able to do the tests above, repeat while providing minimal resistance. If apparent hamstring tightness exists, the rower should repeat the test on the rowing ergometer to eliminate the effects of hamstring tightness.

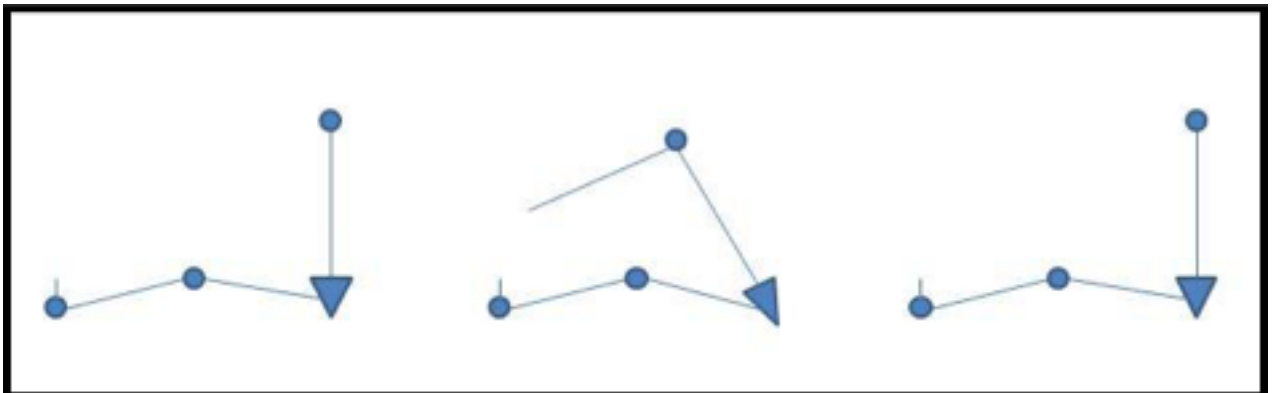


Figure 2.0 Sit Test

If the rower is able to complete all of the above, it is considered to be a pass(yes), and he or she will likely be in the TA sport class.

If the rower is not able to complete all of the above, it is considered to be a fail(no), and he or she will be considered for the AS class.

### Test Summary

Use the following decision making tree to provide preliminary guidance on what class an athlete is likely to qualify for:

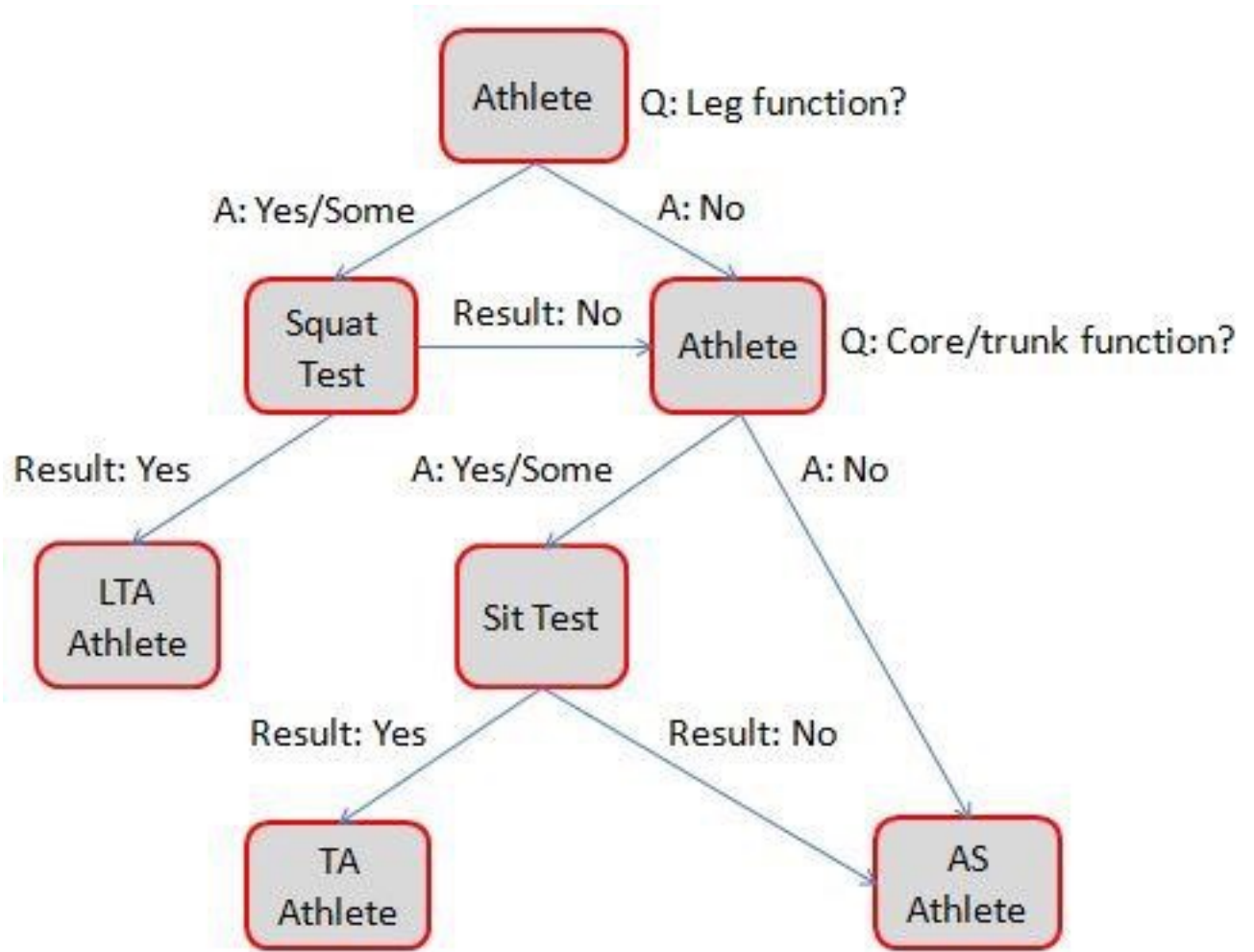


Figure 3.0 – Test Summary

## **Appendix B: FISA Advanced Classifiers and National Classifiers in Canada**

To get athletes officially classified, please consult the following individuals:

### FISA Advanced Classifiers

- Rebecca Orr, Technical, Toronto
- Courtney Pollock, Medical, Burnaby
- Martin George, Technical, Vernon (FISA Classifier in Training)
- Katherine Harman, Medical, Halifax

### National Classifiers

- Heather Griffiths, Medical, Victoria
- Darlene Sorel, Technical, Vancouver
- Edson Lizarazo, Medical, Vancouver
- Karen Orlando, Medical, Toronto
- Josh Droppert, Medical, St. Catharines
- Jane Jarvis, Technical, St. Catharines
- Peter Webster, Technical, Halifax

## VITA

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**Surname:** Waddell

**Given Names:** Matthew Robb

**Place of Birth:** Ottawa, ON

**Year of Birth:** 1988

### SECTION II - *Education*

#### **Post-Secondary Education:**

Ph.D. (Philosophy of Sport), ABD  
School of Kinesiology, The University of Western Ontario  
London, ON  
2016

Master of Arts (Coaching Specialization)  
School of Kinesiology, The University of Western Ontario  
London, ON  
2012

Bachelor of Arts (English Language and Literature, Honors)  
School of Arts and Humanities, The University of Western Ontario  
London, ON  
2010

### SECTION III – Selected Awards

2014 PhD Students Research Grant Program  
International Olympic Committee Olympic Studies Centre  
Research Topic: Olympism and Paralympism: Is Unified Sport Possible?

2009 Avie Bennett Essay Prize in Canadian Literature  
University of Western Ontario – English Department  
Research Topic: Questioning Empathy