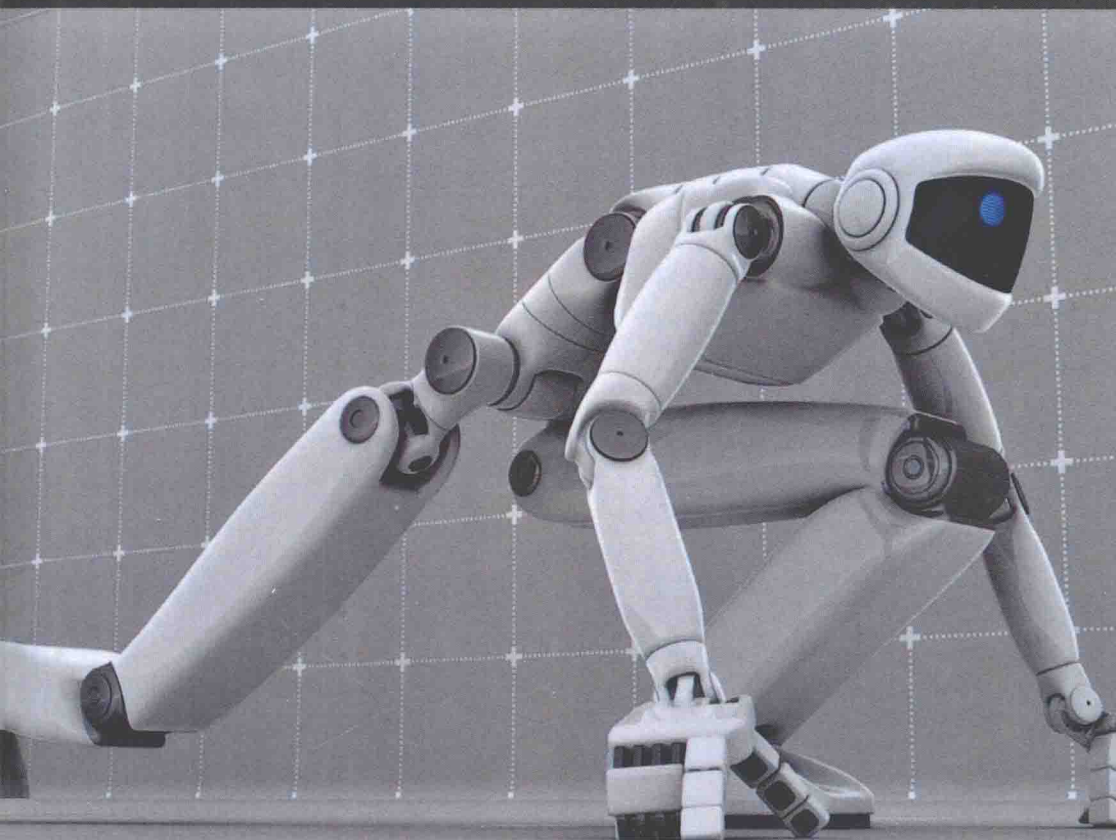


# THE CHALLENGES OF MODERN SPORT TO ETHICS

FROM DOPING TO CYBORGS



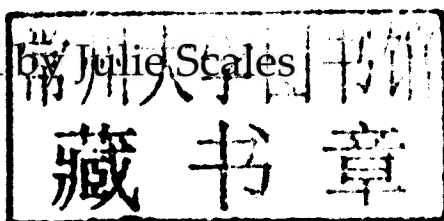
JOSÉ LUIS PÉREZ TRIVIÑO

# The Challenges of Modern Sport to Ethics

*From Doping to Cyborgs*

José Luis Pérez Triviño

Translated by Julie Scales



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# The Challenges of Modern Sport to Ethics

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# Introduction

Everything I know about morality and the obligations of men, I have learned from football.—A. Camus

The concept of ethical concerns within the field of sport has sprung up relatively recently, and although this concept has seen great development until current times, moral reflections about the body and the activities that we generically call games or athletic tasks can be found in writings from ancient or modern times. Seldom do those reflections look kindly on physical activities. Take for example Platonic and Cartesian dualism. For Plato, the soul must struggle with the demands and passions of the body in order to finally attain harmony, moderation and awareness. In a similar way, Descartes made a precise distinction between the body and the mind. Even though both entities were connected at some point through a problematic union, they were different from each other with the physical body having an inferior range. This point of view has survived through current times. In spite of the relevance of sport and the virtues associated with it in current society, particularly the relationship between health and personality development, sport in general continues to be seen as an activity that is not related to reasoning and is, therefore, inferior. Additionally, another recurring theme in relation to sport is that sporting activity engenders further objectionable elements by promoting certain personality traits that are considered negative: competitiveness, aggressiveness and nationalism.

But the analysis of ethical questions themselves did not arise until the twentieth century. This century also witnessed the extremely wide and varied development of distinct sports which came to be an important activity in the daily lives of individuals, a money-making business of enormous dimensions as well as a not insignificant factor of political cohesion in current societies. In this way, countless hours are devoted to practicing some sport or to watching it on various media devices. Several years ago, a report on Americans' attitudes to sports indicated that 96.3 percent of the population plays, watches, or reads articles on sport on a frequent basis or identifies with a particular team or player (Morgan 2007). In addition, it is well known that at least some disciplines of sport are "heavy weights" in terms of their economic activity. It suffices to mention the budgets of football clubs or racing teams, the amount of money spent on trades, and also the great number of companies devoted to providing clothing, supplies and accessories for sport. And let us not

forget the astronomical prices paid for television broadcast rights. Lastly, the social-political importance that sport plays does not go unnoticed. John Carlin's book *Playing the Enemy: Nelson Mandela and the Game That Changed a Nation* (Carlin 2008) on the role of rugby in the reconciliation between whites and blacks in South Africa provides one of the best examples of the role of sports in this area.

In this book, my aim is to offer an overview of the diverse areas of ethical reflection regarding sport that have developed over the course of recent decades. I am aware that this approach is not exhaustive (for example, I will not analyze the relation between sport and animals, sport and disabilities or matters of meta-ethical character), nor do I intend to offer a static picture of a changing phenomenon. Thus, the objective will be to offer a synthesis of the main ethics-related topics that are found in sport: values (fair play), doping, sport, and violence, sport and matters of sex, and sport and nationalism. Lastly, I will present the main moral challenges that arise in sport through the latest technological developments: gene doping, cyborgs, and the possibility of creating transgenic athletes (hybrids and chimeras). But before analyzing these matters, some conceptual notes are necessary about the phenomenon of sport. This is needed due to the fact that a large part of the philosophical discussion concerning sport has specifically revolved around definitions. In other words, it is important to note the features that distinguish sport from other similar activities: 1) the distinction between play and sport; 2) the role of rules and values in the rule system of sport; and 3) the competitive and recreational nature of sport.

## PLAY AND SPORT

Limiting of the concept of sport can be done to a large extent by focusing on the notion of play. In his seminal essay "Homo Ludens," Johan Huizinga (Huizinga 1955) began to define the path which would lead to characterizing the nature of play. This characterization can then be used to refine the concept of "sport." According to Huizinga, games make up a basic element in all cultures throughout history. He characterizes play as a phenomenon that does not form part of "daily" life or life "in and of itself." It is rather a voluntary activity that develops at the edge of the sphere of activities that make up work and ordinary life. It is an activity that flees from the sphere of homo faber (Man the Maker) and possesses a tendency of its own: "[P]lay presents itself to us in the first instance: as an intermezzo, an interlude in our daily lives. As regularly recurring relaxation, however, it becomes an accompaniment, the complement, in fact an integral part of life in general. It adorns life, amplifies it and is to that extent a necessity both for the individual—as a life function—and for society by reason of the meaning it contains, its significance, its expres-



sive value and its spiritual and social associations, in short, as a culture function" (Huizinga 1955).

But the debate quickly became heated regarding the difficult task of differentiating "sport" from "play." It was Wittgenstein who pointed out the difficulty in characterizing the term "play" by using precisely this word as an example of the vague nature of linguistic terms (Torres 2000). It is common knowledge known that "play" consists of things like board games, soccer, war games, childhood games, rugby, boxing, juggling, solitary, the lottery, etc. What do all these have in common? The answer, according to Wittgenstein, is not easy because even though certain similarities and some relationships can be found, it is unlikely that there is a feature common to all of them: they are not all fun, not all of them have winners and losers, not all have competition, not all of them are related to skill or luck, etc.

In spite of the semantic hardships alluded to by Wittgenstein, Bernard Suits highlighted the need to analyze the relationship between sport and play. Curiously, Suits laid out the two great alternatives in the characterization of sport based on the notion of play. In his essay "The Elements of Sport" (Suits 1995 [1973]), he claims that sport is a type of play, while in his later essay "Tricky Triad: Games, Play and Sport" (1988) he argues that some sporting practices exist that cannot be integrated into games. Let us examine both alternatives.

In his first treatment of the relationship between game and sport, Suits advocates that the core (but not the only) characteristics of sport are the same ones that games possess. In this way, he concludes that all sports are games, but not all games are sports. He defines games as any activity that proposes achieving a specific state of affairs using the means allowed by the rules, wherein these rules prohibit the most efficient means of reaching the goal of the game in favor of less efficient ways (constitutive rules) and wherein these rules are accepted, the game becomes possible. As long as a sport is assimilated as part of games, its definition includes these four big-picture elements or traits. However, what distinguishes sport from games are these other characteristics: 1) it is a game of skill; 2) specifically, of physical skill; 3) it is an activity that enjoys a large following by those who take part in it; 4) it is an activity that has enjoyed a certain level of institutional stability.

In his latter approach to the relationship between game and sport, Suits revises his initial theses and proposes a distinction between "athletic events" and "athletic games." Among the former, gymnastics, swimming, and skiing can be found, while in the latter soccer, basketball, and baseball, for example, can be seen. The former are characterized by being guided and shaped perfectionist practices; they constitute ideal ways of carrying out the activity and are not greatly influenced by rules that limit the means to be used in this activity. That is, what is relevant is to approach an ideal perfectionist realization. These practices are not games

and do not need referees, but rather judges. On the other hand, athletic games are practices governed by rules that establish the most difficult ways to attain sought-after goals in their practice.

The debate about the characterization of sport has been expanding beyond the initial contributions made by Bernard Suits, and has been, in any case, trying to provide a better profile of the defining traits of sport. By way of example, another interesting discussion related to the characterization of sport is its relationship with fairness (Loland 2002), as well as the role played by luck in defining victory (Breivik 2000).

## THE ROLE OF RULES AND CONVENTIONS

The discussion about the role of the rules and the conventions in sport makes up another one of the great philosophical controversies that has kept scholars busy over recent decades. Once again, it was Suits (Suits 1995) who provided the foundation for the discussion by maintaining that the formalist focus, in which great emphasis is placed on the importance of written rules created through established procedures, should guide the purpose and sense of sports. That is, previously determined and specified rules of the sport in question convey what counts as a valid move or corrective action within the framework of the practice of sports, whether this move be scoring or committing an infraction. Based on this approach, a significant part of the study of sporting phenomenon has revolved around the distinction between the types of rules valid in sports and their distinct functions (Suits 1988).

But soon, and not without sound arguments, objections regarding this formalist characterization of sport arose. The main critique directed at the formalist focus of sport is that it gives little consideration to the fact that sports have, in addition to the formal rules laid out in their basic rule framework, something that can be called “ethos.” The “ethos” of a sport would be the set of empirically identified social conventions that govern the interpretation of codified rules in particular cases. Morgan (2007) maintains that sports (just like games) rest on the existence of constitutive rules which are the ones that define moves as valid in practice. But in the analysis of sports, “ethos” can always be included, and while the primacy of the rules that champion the formalist focus is maintained, these “ethos” are what confer meaning on the practice of the sport.

As has occurred in other social environments (as is the case of Law, where there has also been a debate between formalist and conventionalist theses), recent decades have seen the appearance of a third way that has chosen to defend a conception of sport that goes beyond the written rules and conventions. It alleges the need to appeal to principles and values that are critical in giving meaning to the practice of sport. This conception

is called interpretativism and will be the subject of further analysis in the section devoted to strategic intentional fouls.

## RECREATIONAL AND COMPETITIVE NATURE

Another one of the topics garnering philosophical debate regarding the nature of sport revolves around the juxtaposition of two elements that are frequently predicted based on the sport: its recreational nature and its competitive nature. As mentioned above, Huizinga highlighted the recreational character of sport as one of its core features. In terms of this characteristic, sport would be an environment where free choice, cooperation and personal effort of the athlete to achieve personal bests are that factors at play. From this standpoint, the connection between the athlete and his or her rival is not adversarial. Rather it can be understood that the other athlete compels the rival to go beyond and find the best in him or herself (Loland 2002). It is from this perspective that some authors highlight the pursuit of excellence as a core feature of sport.

However, this thesis is not unanimously accepted by the experts. In effect, there is another characteristic: competitiveness. Whether this competitiveness stems from the individual or from competition with others, it is for some unquestionably the most important aspect. This is the case concerning elite and professional sport above all. The competitive characteristic of sport is being reinforced due to the way current societies behave, especially Western ones. The individualist and competitive way of life are all the order of the day. One cannot keep from reflecting on sport and how its recreational and cooperative nature has faded away (López 2010). What's more, for some, the practice of sport has stopped having its main goal be pursuit of excellence in the display of physical skills. Rather, external goals are pursued (economic earnings, fame, etc.) and in this way it stops being a proper sport. The choice or preponderance of one of these extreme opposites is important, not only in theory in its characterization of sport, but also in practice. This practical application is important since every one of them constitute different (and sometimes opposing) "ethos" which lead to results being interpreted very differently, as will be seen in the chapter on strategic intentional fouls.

To round out this introduction, I would like to highlight two points: 1) the plan of the book, the analysis of certain ethical questions in sport, primarily concerns elite or professional sport, and not amateur sport; 2) under the heading of "ethics in sport," two topics of descriptive nature and educational nature have developed historically. In the former, the studies have been mainly sociological in nature. In the latter, there were attempts to focus on which virtues sport generates among practitioners and which strategies should be followed in order to foster this transmission of values. However, what is characteristic of this philosophical-mo-

ral reflection in recent years has been a systematic conceptual analysis of characteristic terms relating to the sporting phenomenon and the ethical-normative problems. This is the focus that I have followed in this work.

# ONE

## Moral Value of Sport

### *Fair Play, Cheating, and Strategic Intentional Fouls*

Some people think that football is a question of life or death. It's more important than that. — Bill Shankly, FC Liverpool Manager

The analysis of so-called “strategic intentional fouls,” as well as the discussion of their validity in the rule systems of sports, has a long track record. While a more detailed explanation will be provided below, for now it will suffice to mention that these fouls can be characterized as rule violations committed in order to be detected and accept the corresponding sanction. However, there is actually a concurrent goal of obtaining an advantage or subsequent benefit in the competition. In fact, this practice is not infrequent, and it is even accepted by the players themselves, referees, judges, sports authorities, and spectators. An example is the deliberate foul in basketball (e.g., grabbing the rival player who has control of the ball) at the end of a game, taking the free throws in order to interrupt the opposing team's possession and take the shooter inside the three-point line. Another example, quite commonly used in the world of soccer, is known as “self-booking”; here a yellow card is intentionally provoked in order to draw the following red card, thus completing the penalty-card cycle and the resulting suspension from a match against a minor rival. This allows the player to be available for a match that is considered more relevant at a later stage of a tournament.

This discussion is about the moral acceptability of strategic intentional fouls (SIFs), which is not only of interest for the players of sports themselves in the debate on the tactics used in sports; it is also of interest at the philosophical-moral level since accepting these strategies would involve, at least according to some theorists, accepting a strategy that is contrary to the principles and values that are considered part and parcel of sports

themselves. Likewise, the acceptance of these fouls would constitute an example of how the emphasis on winning has debased the most profound and fundamental values which make sport a morally attractive business (Simon 2007; 216). In particular, critics fear and suspect that accepting strategic fouls would imply prioritizing a thirst for victory over other valuable characteristics of sport. In effect, for the critics of SIFs, what is relevant about the sport is that it is in its essence a physical test of the competitors' abilities, not the search for triumph or victory over a rival. Only when the comparison of abilities is carried out in line with the structural values of the sport will victory have any meaning. This is not the case if these structural values are infringed upon. A disproportionate emphasis on results and external compensation (e.g., fame and fortune) which go along with victory should not lead participants to lose sight of the integrity of the activity itself.

There is another discussion concerning whether these fouls contradict the spirit of the game, the conventions or the principles that govern the practice of sport, or rather, if their use can be considered legitimate since using this strategy is not explicitly prohibited by the system of rules governing sports. Additionally, this thinking seems to be accepted in certain sporting disciplines, that is, it is taken as forming part of the game. Some of them are accepted in the conventions (ethos) of the diverse sport practices and others are not considered entirely acceptable; that is to say, it is debatable whether they are recognized by the sport ethos. The question is similar to what happens with other sport phenomena (and legal practices)—these fouls demonstrate or are expression of the existing tension between a normative dimension and an applicable dimension. According to the first dimension, rules define some acts or plays as valid or not valid. But the second dimension asserts that the procedural rules are those that establish that the decisions of judges and referees (even with the acceptance of players and spectators) on the validity of plays are final and must be carried out. They express a convention (or ethos) about how to apply sport rules. On occasions, these decisions become generally accepted even though they are contrary to the content of the rules, which leads to an explanatory tension according to the point of view adopted on the sport phenomenon, sometimes nearer to the rules or sometimes closer to the conventions.

For this reason, the examination of strategic intentional fouls provides a touchstone for examining the moral significance of sport and especially its premier internal value: fair play. The analysis of fair play will be the object of the first section of this chapter. Later, I will take a close look at the structure of these fouls as well as how they differ from the similar phenomena of cheating and fraud. Finally, I will contemplate the legitimacy of strategic intentional fouls.

## FAIR PLAY

One of the reasons that has driven sport to constitute one of the main activities of human beings lies in its moral function regarding individuals and society as a whole. In this way, it has been historically considered that sport allows individuals not only to better their physical and mental health, it also constitutes an arena for self-expression and self-development. But perhaps the most outstanding moral characteristic of sport is what has been called fair play.

Fair play is considered by most to represent the moral nucleus of sport. In spite of the difficulties that there may be in nailing down the precise meaning of this expression, it has a clear and powerful effect on rules and emotions. It displays its effects on the interpretation of the rules of the game as well as in the behavior that should be shown by athletes on the field of play (being a "good sport"). Fair play is the standard with an overarching reach over sports as a social practice and has a number of distinguishing traits: collaboration, equality, respect, recreational intent, etc. These traits are generally opposed to other ways of understanding sport, among which are competitiveness and the desire to win as primordial goals.

However, scholars have not been able to reach a consensus on the exact meaning of this expression. At different times fair play has been characterized as: a) a set of values; b) respect for the rules; c) respect for the agreement (or contract); or d) respect for the game. In the following sections, I will present on these meanings and end with a potentially more complete (and complex) reconstruction of the moral structure of fair play, which was put forward by the Norwegian philosopher of sport, Sigmund Loland.

*Fair Play as a Set of Values*

According to the first characterization of fair play, there may be a bag of virtues or attitudes that would apply to sport. According to some others, the list would contain virtues like compassion, equity (or justice), sportsmanship, and integrity (Butcher and Schneider 2001) which would come about as a result of moral reasoning applied to sport. Other characterizations include virtues like justice, honesty, responsibility, and charity on their lists of virtues.

The problem with this interpretation of fair play, according to Butcher and Schneider, is that it runs the risk of relativism since each author (or the culture of each sport) can offer a list of different virtues due to the fact that they start with a different conception of morals. By way of example, Kalevi Heiniläs has studied different interpretations of fair play in the sporting cultures of England, Sweden, and Finland. But perhaps the clearest point is explained in the anecdote told by Loland and MacNamee

(Loland and McNamee 2000) about a match between Arsenal and Sheffield. It was here that after one of Sheffield's players had recovered from a blow, an African player who had recently been signed by Arsenal intercepted the ball that an Arsenal player was returning to the Sheffield defenders. Instead of returning the ball, he took it downfield and scored, much to the astonishment of the Sheffield keeper. The surprise of the African player in the face of this reaction was clearly due to the fact that this player did not have the sense of fair play as the rest of the players in this type of situation who act differently: they try to resume the state of the game that was taking place prior to the injury. The question then arises how these discrepancies which arise from different historical traditions and social contexts should be dealt with. Thus, Butcher and Schneider's focus:

It is dismissed, as argued above, because it offers no defensible method of deciding which characteristics or actions should fall within the relevant definitions and no method of arbitrating between competing claims (Butcher and Schneider 2001; 24).

### *Fair Play as Respect for the Rules*

A completely different focus than the one seen in the previous section is the one that maintains that fair play should be characterized by respect for the rules of the game, by the adaptation of the participants in a sporting competition to the "letter of the law," or the rules, in this case. This justification is usually based on the idea that sports are institutional creations and activities guided by rules. Without rules, there would be no games or sports.

However, the principle objection to this method of understanding fair play is that it does not offer an appropriate characterization of sport. Our shared intuitions on the phenomenon of sport do not make light of written rules. One way of expressing this could be through the famous example of a squash player. Let us imagine that a squash game will be played and one of the participants, Josie, has forgotten her racket, which means according to the rules that she will lose the game. However, her opponent uses the same model, type, and size of racket, and she has two. But Josie is a great competitor who could beat her and make her lose the championship. What should the rival do? The rules do not oblige her to lend the racket . . . but fair play seems to suggest that she should. In this way, this second conception of fair play cannot explain those actions that happen in the interests of fair play but that are not directly covered or regulated by the written rules.



*Fair Play as an Agreement or Contract*

One subsequent way of understanding fair play in sport is to explain it as based on a contract or agreement. Undoubtedly, the participants' agreement is one fundamental element in the aspect of competition: the participants tacitly (or expressly) agree from the outset to the way the respective skills will be measured as well as to what actions and tactics are allowed in the game. One way or another, the athletes consensually accept being bound by the rules of the game. In this way, they freely accept the authority of these rules and whatever arbiter or judge that the competition has to settle conflict between participants in a competition.

However, this characterization does not offer a complete overview of fair play, beyond what is entailed by the topics examined in previous sections. And this is the main objection to this approach: it is similar to the conception of fair play as respect for rules; that the idea of sport guided by contracts or agreements leads to reducing fair play to the literal notions laid out in contracts. This does not seem to have anything to do with the "spirit of the game." This is the vision of Butcher and Schneider.

*Fair Play as Respect for the Game*

Butcher and Schneider advocate an interpretation of fair play based on respect for the game. In spite of the fact that both terms are far from being easily defined, both authors highlight the fact that when respect is referred to, it should be understood in the sense of "honor," "value," and "esteem" of the game. That is, it represents a moral attitude regarding a particular object that goes beyond formal obedience toward the rules that comprise sports. Thus, given that games are created and governed by rules, they deserve to be honored, esteemed and valued (Butcher and Schneider 2001; 32).

It should be now clear that sport cannot be boiled down to written rules. It is also a set of social practices, in the sense of the MacIntyrean expression, which means that there are internal goods which are precisely the main object of respect and honor. For this author, a (social) practice is

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 (McNamee 1995; 233).

It does seem rather astonishing that, in order to give an example of a social practice, MacIntyre resorts to sport, specifically chess and soccer