

Is There a Steroids Problem?

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WITH ALL THE HULLABALOO about Barry Bonds and Jason Giambi and the recent drug testing agreement in Major League Baseball, it may be time to really look at the issues involved in steroid use by athletes. The seemingly simple question of what is the proper treatment of steroids in professional athletics is, in fact, highly complicated. That complexity reflects a mix of controverted justifications, enforcement mechanisms that implicate privacy interests and feature an inverse relationship between expense and reliability, and historically untrustworthy national and international enforcement authorities.

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At the core of the debate, though, is the matter of rationale. What are the justifications proffered for a ban on steroid use? Probably most common is the “unnatural” performance-enhancing quality of the substances. But this apparently simple rationale is not free of difficulty. Over the past several decades, the ingestion by athletes of a broad range of supplements and “restorative” substances, the use of novel training methods and diets, and advances in equipment have all enhanced performance. A difficulty lies in articulating a convincing distinction between “acceptable” enhancers and steroids. If the claimed difference is rooted in a notion of “naturalness,” we presently have no convincing explanation of why some substances, including synthetic vitamins, are considered “natural” and others, including naturally occurring hormones, are considered “unnatural.”

The task of differentiation may be impossible. Debates on this topic among philosophers of sport suggest that composi-



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tion of a satisfying distinction between permissible and impermissible substances may be beyond our powers of conception and articulation. The absence of such a distinction underlines the ambiguity of a moral evaluation of drug use (and of the meaning of our cultural notion that the “right” way to obtain success is through “hard work”).

A second justification for banning steroids rests on a concern for the athlete’s health. But this rationale is problematic, at least for competent adults. The athlete is in the position to make a decision about what behavior is in his best interest, to weigh the risks and benefits according to his own values. A paternalistic rule that attempts to prevent him from making this decision freely for fear that his choice might lead to self-harm runs counter to important values of independence and personal choice. Moreover, it is likely that the feared harm from many banned performance-enhancing substances is neither life-threatening nor irreversible. Indeed, one might wonder about the disingenuousness of this justification in a universe in which the risks of competing in the sport itself often far exceed the risks of the drugs causing concern.

A third justification for banning steroids is more promising, though also more intricate and less-often voiced. This justification is rooted in a concern for a form of “coercion” in the athlete’s decision-making and his inability to coordinate a response without outside intervention. If one athlete is perceived to have an advantage in using a drug, other athletes

may feel compelled to use it in an effort to try to stay even. That decision is not necessarily troubling, any more than the initial decision to engage in a risky sport; after all, the athlete can choose to forego the opportunity and any attendant risks. However, if a large percentage of participants in a particular sport would choose not to use steroids if left to their own independent decisions, but they feel pressured to use the substances in order to remain competitive with users, a case can be made for intervention in the form of a rule banning (or limiting) use.

In light of the large number of potential users, the costs of individuals contractually establishing an advance arrangement that would serve the collective interest of assurance of non-use would be prohibitive. Thus, a rule here could be seen as a response to a problem of coordination that the interested parties cannot resolve themselves. Under this justification, the athletes’ situation can be seen as analogous to that of the fishermen who will “overfish” and excessively deplete the stock in the absence of a legal rule limiting the permitted catch.

The coordination function, though, need not be effected by public intervention. In the case of all the major professional sports leagues, a private mechanism—the players’ union—exists to effectuate the players’ interests. And the union and management can adopt a rule by contract. But even if this coordination justification is theoretically persuasive, there remains the empirical question of whether the assumption about participant attitudes is accurate.

Methylmercury Madness

BY SANDY SZWARC AND HENRY I. MILLER

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ENVIRONMENTAL ACTIVISTS CLAIM that some fish contain high levels of methylmercury that threaten human health. Unless human consumption of fish is limited, say the activists, pregnant women could be endangering their unborn babies and mothers could be harming their children’s developing nervous systems.

The only cases in the scientific literature of mercury poisoning from fish, and subsequent neurological problems, were the result of an industrial mercury spill in Japan in the 1950s. The methylmercury levels in fish resulting from the spill were 40 to 1,000 times higher than the levels found in fish consumed by Americans.

Methylmercury has always been found naturally in fish and in our bodies. The trace levels humans are exposed to have not

increased in centuries—in fact, they are dropping. Measurements of 200-year-old fish samples at the Smithsonian Institution and of 550-year-old Alaskan mummies found methylmercury levels many times higher than they are today.

Still, endeavoring to take every precaution to assure the health of babies and children, scientists recently completed two of the most comprehensive, state-of-the-art studies on methylmercury ever conducted. After nearly 15 years, the researchers were unable to find evidence that the amounts of methylmercury in fish eaten by American pregnant women and children put them or the women’s newborn infants at risk. Even among populations eating 10 or more times the amount of fish consumed by Americans, scientists have found no credible evidence of neurotoxicity, let alone brain damage, developmental delays, retardation, or learning disabilities.

SAFE LEVELS? Although the evidence should provide reassurance, activists and government officials remain unconvinced. They persist in telling women that there is real risk in exceeding U.S. Environmental Protection Agency—established thresholds of methylmercury exposure that were set with extremely conservative safety margins.

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To determine acceptable levels of methylmercury, the EPA began with an amount at which there was no observed effect at all in the most sensitive of the population with a lifetime of exposure—a methylmercury level nearly 10 times that found in American women. The EPA then added another 10-fold safety cushion. The resulting safety margins are the most restrictive in the world: On the basis of the same available data, most other scientific agencies in the United States and around the world have established much higher minimum exposure levels. The EPA routinely uses highly conservative (and often dubious) assumptions of safety and extrapolations from high-dose animal testing to very low chronic exposures in humans, then applies a safety margin of several orders of magnitude to allow for differences between animals and humans, and for possible enhanced susceptibility of pregnant women and children.

When the U.S. Centers for Disease Control and Prevention studied mercury levels in American women of childbearing age and young children, it found not a single woman or child with levels anywhere near those theorized to be unsafe. The U.S. Department of Agriculture's Human Nutrition Information Services (HNIS) also analyzed the diets of American women of childbearing years using several surveys. They then considered every possible circumstance that could raise exposure, including heavy fish consumption, eating fish with the highest methylmercury levels, repeatedly eating the same fish (such as canned tuna), and the amounts of methylmercury in a range of commercial fish samples. But try as they might, they found that it was inconceivable for an expectant mother to eat quantities of fish sufficient to harm her baby. According to Dr. James Heimbach, former associate administrator of the HNIS, American women "simply are not exposed to levels of methylmercury that would place the newborn children at risk."

BEYOND THE MADNESS If methylmercury in fish is not a bona fide public health issue in the way that activists and regulators are spinning it, what is the hubbub really about?

The methylmercury issue is merely a surrogate for broader issues relating to emissions from coal-fired power plants. Environmental groups advocated Maximum Achievable Control Technology regulations that would have required utility plants to install available emissions control devices immediately. Selecting the lesser of two public policy evils, the Bush administration EPA opted for a cap-and-trade approach under which regulators set overall emissions goals and let markets and human ingenuity figure out how to achieve the target. Individual facilities are permitted flexibility to determine the best technology to meet the restrictions. (See "Auctioning Pollution Rights," Winter 2004–2005.)

But how cost-effective will the new regulations be? How much will those emissions regulations reduce the methylmercury levels in the fish we eat? Certainly much less than con-



sumers are being led to believe. Even the most optimistic estimates suggest that the proposed plans will reduce average methylmercury levels in seafood by no more than 1.7 parts per billion. The insignificance of this reduction, which will have virtually no impact on public health, illustrates just how removed from reality this issue has become. (See "The Political Economy of Mercury Regulation, p. 26.)

In his excellent book *Breaking the Vicious Circle*, Supreme Court Justice Steven Breyer cites a similar example of expensive, non-cost-effective regulation: the EPA's ban on asbestos pipe, shingles, coating, and paper. The most optimistic estimates suggested that getting rid of asbestos construction material would prevent seven or eight premature deaths over 13 years—at a cost of approximately \$250 million. Breyer notes that such a vast expenditure can be expected to cause more deaths than it would prevent from the asbestos exposure simply by reducing the resources available for other public amenities. Also, perversely, the very act of removing asbestos from existing structures poses greater risk to human health than simply leaving it where it is. During removal, long-dormant asbestos fibers are disturbed and spread into the ambient air, where they expose workers and bystanders to heightened risk.

At the time the EPA banned asbestos, it was an old product, the risks and benefits of which were well understood. Nevertheless, political pressures from so-called safety activists still pushed the EPA to make a risk-increasing decision.

It has been said that we get the government we deserve. If so, we, the public, must demand that regulatory decisions be based on sound science and common sense, not on politics and fear-mongering by special interests. Only in that way can we ensure that public policy serves the public interest. **R**