

Institution: The Open University		
Unit of Assessment: D30 Philosophy		
Title of case study: Shaping the ethics of global anti-doping and transgender sport regulations		
Period when the underpinning research was undertaken: 2016-2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Jon Pike	Senior Lecturer and Staff Tutor Philosophy	1998 to present
Sean Cordell	Lecturer and Staff Tutor Philosophy	2013 to present
Period when the claimed impact occurred: 2017-2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact		
<p>Pike's research on the ethics of doping has had a demonstrable impact on the world of sport. His work has influenced the World Anti-Doping Agency (WADA) to tighten its regulations on the use of Therapeutic Use Exemptions (TUEs), which allow athletes to use otherwise prohibited methods or substances on medical grounds. The revised WADA code was unanimously approved on 7 November 2019 in Katowice, Poland.</p> <p>Pike has also shaped ethical policy approaches to transgender inclusion in sex-segregated sport. His research was influential in developing World Rugby's controversial Transgender Guideline which recommend the exclusion of transwomen from women's Rugby Union, on considerations of safety and fairness. This policy was adopted by World Rugby on 9th October 2020.</p>		
2. Underpinning research		
<p>Pike is a leader in the field of the ethics of sport, and Chair of the British Association for the Philosophy of Sport. Since 2016, his work has focused on the nature of sport, ethical dimensions of performance enhancement, and transgender people's participation in competitive sport.</p> <p>His primary research presents the first thorough, ethical analysis of Therapeutic Use Exemption (TUE) regulations [O1 - O4]. These exemptions allow athletes to use otherwise prohibited methods and substances, such as performance-enhancing drugs if that use is therapeutic. TUEs' use is controversial. British competitive cyclist Bradley Wiggins' use of a corticosteroid asthma treatment during his preparations for the 2012 Tour de France, for example, attracted criticism from the media, sports leaders and the UK parliament, with many suggesting it had unfairly enhanced his performance.</p> <p>Pike's research shows that the World Anti-Doping Agency's (WADA) 2016 regulations overlooked professional athletes' and coaches' intentions in applying for TUEs for medical treatments. Justifying TUEs against critics, Pike argues that the regulations should look at these intentions, as well as substances' potential impact on performance, and assess their permissibility with reference to the Doctrine of Double Effect.</p> <p>Pike's ethical analysis of TUEs stems from his essentialist theory of sport [O2, O3] which develops a 'non-conventional' account of doping. From this perspective, he argues 'doping' is not merely a transgression of arbitrary rules, but constitutes a fundamental change to the nature of a sport, in the same way as using a hidden motor in a bicycle race [O2]. With Cordell, Pike argues for the standard characterisation of Lance Armstrong as a cheat, against the view that "it's not cheating if they all do it" [O4]. He argues that sport is much more than "just a bunch of rules" (Savulescu), and it is possible to systematically address challenges to the integrity of sport, such as mechanical doping, transhumanist approaches to enhancement, and transgender inclusion according to gender identity, in sex-segregated sport [O2, O3, O5].</p>		

3. References to the research

- O1. Pike, J.** (2018) 'Therapeutic Use Exemptions and the Doctrine of Double Effect'. *Journal of the Philosophy of Sport*, 45(1), 66-82. <https://doi.org/10.1080/00948705.2017.1416621>
- O2. Pike J.** (2018) 'Doping, "Mechanical Doping" and Local Essentialism in the Individuation of Sports' in (ed,) Morgan, *Ethics in Sport (Human Kinetics)* 321-335. <https://uk.humankinetics.com/products/ethics-in-sport-3rd-edition>
- O3. Pike J.** (2019) 'Action Theory and the Value of Sport'. *Journal of the Philosophy of Sport* 46 (1), 14-29. <https://doi.org/10.1080/00948705.2019.1574585>
- O4. Pike, J. and Cordell, S.** (2020) 'Armstrong was a Cheat: A Reply to Eric Moore'. *Sport Ethics and Philosophy*, 14(2), 247-263. <https://doi.org/10.1080/17511321.2018.1561747>
- O5. Pike, J.** (2020) 'Safety, Fairness, and Inclusion: Transgender Athletes and the Essence of Rugby' *Journal of the Philosophy of Sport*. Online and Open Access <https://doi.org/10.1080/00948705.2020.1863814>

Four papers are published in peer-reviewed scholarly international journals in philosophy. **[O2]** was an invited contribution and was published with an introduction, commentary, and study questions, in the leading anthology of sport ethics world-wide.

4. Details of the impact

Influencing WADA to change its rules on TUEs

In November 2017, WADA embarked on a comprehensive review of its World Anti-Doping Code (WADC) and invited Pike to contribute research insights to enhance its International Standard for TUEs (ISTUE), based on his 2017 paper **[O1]**. At the same time, the UK's national anti-doping organisation, UK Anti-Doping (UKAD) asked him to consult on its submission to the WADA review.

In July 2018, Pike welcomed fourteen experts from the world of sport and academia for a private one-day symposium at The Royal Society of Medicine in London, to discuss improvements to the TUE system. The event was attended by representatives of WADA and UKAD, the Union Cycliste Internationale (UCI) and the International Paralympic Committee (IPC). Pike used his research to argue for the reordering of the regulations and clarification of the logical relationships between them **[C1]**. In December 2018, WADA published a draft of its revised ISTUE for consultation. In February - May 2018 Pike responded to this consultation with detailed recommended changes to the revisions, based on his research **[O1 - O4, C2]**. Pike also used his research to guide UKAD's February 2019 submission to the review process, which endorsed his arguments regarding the order and logical relationships between the regulations. In its evidence, UKAD called for WADA to "[...] commission a global research study to investigate the intentions (capability, opportunity, and motives) of athletes, doctors, and coaches regarding the TUE system" **[C1]**.

In November 2019, WADA announced changes to its WADC, including a revised ISTUE, at its World Conference in Poland. The new code came into force on 1st January 2021. The headline change to the TUE Regulations is that "*Article 4 (obtaining a TUE) [has been] restructured and clarified*". The influence of Pike's research on intentions is evident in four critical changes to the regulations:

1. The new WADC reorders regulations and clarifies logical relations between them. Pike's argument, which was endorsed by UKAD, was crucial to this change.
2. Athletes will now only be granted TUEs for 'diagnosed' medical complaints if they can provide relevant clinical evidence.
3. TUEs can only be granted when therapeutic use of a prohibited substance or method will not, 'produce any additional enhancement of performance beyond what might be anticipated by a return to the Athlete's normal state of health following the treatment of

the medical condition.’ This is the change necessary to make it unlikely that Bradley Wiggins would have received a TUE in 2012.

4. The new code includes ‘expanded discretion to grant retroactive TUEs’, to athletes who can prove they required an emergency medical intervention using a prohibited substance or method which did not allow them time to apply for a TUE [C4].

In a 3rd January 2020 email, the Head of Science and Medicine at WADA, acknowledged “*the important contributions*” of Pike’s work to the review process. He also welcomed Pike’s “*specific and detailed reviews on numerous iterations of the draft ISTUE 2021*”, which “*included valuable requests and suggestions for clarity on the key 4.1 - 4.3 articles and the need for specific diagnoses*” [C4].

In a 15th June letter, the Head of Science and Medicine at UKAD wrote that Pike’s input “*assisted UKAD in presenting well-informed arguments from an ethical perspective to WADA*”. He also confirmed “*the 2021 version of the ISTUE contains revisions that have been guided by Dr Pike’s research on the ethics of TUEs*” [C4].

Shaping ethical policy approaches to transgender participation in sex-based categories of sport

Based on Pike’s expertise in sport ethics, the governing body of Rugby Union, World Rugby, invited him to be the only expert witness on ethics at its February 2020 workshop on transgender sport in London [C5]. The two-day event brought together more than 30 experts from the fields of performance science, medicine, risk, law and social sciences to discuss the issue. Drawing on his work, Pike argued for a decision tree or ‘lexical priority’ approach to the question of transgender participation. This approach prioritises the duty to minimise essential risk rather than an over-simple ‘balancing’ approach. Pike’s evidence provided a philosophical context to two critical pieces of scientific evidence presented at the event. The first study found female rugby players are at 20-30% higher risk of injury playing alongside transgender women, whose birth sex predisposes them to be physically stronger and faster. The second suggested transgender women who undergo hormone treatment retain male sporting advantage due to androgenisation (male puberty). Pike argued that considerations of safety, then fairness, should come first and second in the decision-making process, above consideration of inclusion into the women’s game [C5].

After reviewing his evidence, later published, World Rugby concluded that:

“[...] safety and fairness cannot presently be assured for women competing against transwomen in contact rugby [...]. As a result of this process and based on the available evidence, it was concluded that a balance between safety, fairness and inclusion could not be provided for transwomen playing women’s contact rugby” [C6].

On 9th October 2020, World Rugby published guidelines which excluded trans women from those women’s rugby competitions that it directly organises. The guidelines represent the first clear break with popular identity-based arguments for transgender participation in sex-segregated sport [C6]. In a letter dated 21st December January 2020 Professor Ross Tucker, research consultant to World Rugby wrote “*Pike presented a compelling case that was ultimately influential in how the World Rugby working group weighed the various arguments. In particular, he introduced a concept of lexical ordering, and contrasted two approaches, one where various values must be balanced, and another where they should be prioritized by a sporting organization in order to arrive at a decision*” [C7]. He adds:

“Much of the content of his arguments to that workshop are now found in a paper he has had published in the Journal of Philosophy in Sport, titled Safety, fairness, and inclusion: transgender athletes and the essence of Rugby.” [O5] These arguments, and the way of thinking, were then foundational to how the World Rugby Working group considered evidence in the domains of performance, biology, injury risk, legal risk and social

considerations. Ultimately the position was reached based on that evidence and expert input, contextualized through the philosophical framework that Dr Pike presented to the group” [C7].

Pike’s research [O5] has had a more informal impact, including a broadcast interview on Sky Sports [C8]. Within 30 days of online publication [O5] had been downloaded over 4,000 times and tweeted over 300 times. MBE, the twice Olympic gold medal-winning decathlete, commented on 21st December 2020 in two tweets [C9]:

“It’s a long read but Persevere, you will like me get there in the end even if I did have a doughnut break in the middle! Makes a lot of sense and I love the doughnut”

“Jon, you seriously need to send it to the IOC and all of the people in charge of the international sports federations. Good job by the way”

[Text removed for publication]

5. Sources to corroborate the impact

C1. TUE symposium evidence:

- Agenda and papers for the event, jointly organised by Open University and Swansea University 19th July 2018.
- UKAD presentation to the symposium, 19th July 2018.

C2. Evidence of Pike’s contribution to the development of the new ISTUE:

- Pike’s redline comments version of WADA International Standard for Therapeutic Use Exemptions draft, issued December 2018, comments 18th December 2018.
- UKAD submission to WADA Phase II review, 15th February 2019.

C3. Final WADA International Standard for Therapeutic Exemptions (ISTUE) for 2021 code. Adopted by WADA world conference Katowice, 26th November 2019. Link:

https://www.wada-ama.org/sites/default/files/resources/files/2021_wada_code.pdf

C4. Testimonials from WADA and UKAD to evidence the impact of Pike’s work on the development of the new ISTUE:

- Testimonial from the Head of Science and Medicine at WADA, 3rd January 2020.
- Testimonial from the Head of Science and Medicine at UKAD, 15th June 2020.

C5. Evidence of Pike’s participation at World Rugby Symposium on transgender sport, The Lensbury, London 25th - 26th February 2020:

- Invitation to Dr Pike for the event.
- World Rugby news item detailing the event. Link: <https://www.world.rugby/news/563437?lang=en>
- World Rugby website video of the event: <https://www.world.rugby/video/563746>
- Pike: PowerPoint presentation to World Rugby Symposium on Transgender Sport “The Ethics of Inclusion in Rugby: The Case of Trans Athletes” (London February 2020). <https://playerwelfare.worldrugby.org/?subsection=84>

C6. World Rugby Guidelines. <https://playerwelfare.worldrugby.org/gender> and announcement <https://www.world.rugby/news/591776/world-rugby-approves-updated-transgender-participation-guidelines>

C7. Letter from Prof. Ross Tucker, Researcher for World Rugby, 23rd January 2021.

C8. Interview on Sky Sports website with Jon Pike.

<https://www.skysports.com/watch/video/sports/rugby-union/12062756/rugby-ethics-adviser-outlines-safety-risks-in-transgender-debate>

C9. Tweets from Daley Thompson @Daley_thompson.

https://twitter.com/Daley_thompson/status/1341082463993475074

https://twitter.com/Daley_thompson/status/1341082974696189961

C10. [Text removed for publication]