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Pre-Game Cheating and Playing the Game

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ABSTRACT

There are well-known problems for formalist accounts of game-play with regards to cheating. Such accounts seem to be committed to cheaters being unable to win—or even play—the game, yet it seems that there are instances of cheaters winning games. In this paper, I expand the discussion of such problems by introducing cases of pre-game cheating, and see how a formalist—specifically a Suitsian—account can accommodate such problems. Specifically, I look at two (fictional) examples where the alleged game-players cheat prior to a game-instance in such a way as to cast doubt on whether the alleged game-players are truly playing the game. To escape the worries brought about by these examples of pre-game cheating, I will appeal to the concept of nested games. This concept will give us the needed tools to explain how the alleged players are cheating and how the alleged players are players. On the whole, this discussion should help illuminate some important issues with regards to cheating and rules on a Suitsian account of game-play, and help give support for formalist accounts more generally.

KEYWORDS

Games; suits; cheating

1. Introduction

Bernard Suits' view of playing a game has an interesting consequence with regards to cheating. His highly influential definition of game-playing has the result that when someone is cheating, that person is not at that time playing the game. Coupled with the idea that one must be playing a game to be cheating at that game, we are left with a significant problem for the Suitsian, and any other formalist, account of game-play.

While such consequences of Suits' view on playing a game have been significantly discussed, I want to explore a potentially more problematic case that has yet to receive proper attention. In this paper, I will look at the implications for the Suitsian view that arise from cases of cheating prior to a particular game-instance, where such cheating will lead to constitutive-rule-breaking throughout the entire time of apparent game-playing. There are two main sorts of cases I will explore.

The first are cases where the cheater took banned performance enhancing drugs in a time sufficiently close to the alleged game-playing, such that the drugs were in his system for the entirety of the time of alleged game-play, contra the rules of the game. The second are cases where the cheater altered some game equipment in such a way as to render it in non-compliance with the constitutive rules of the game for the duration of the alleged game-play.

Given Suits' definition, one might conclude that in these sorts of cases the alleged game-player is never engaged in playing the game. This is a worrying consequence!

The following section will discuss two major problems for a Suitsian account—the logical incompatibility thesis and the paradox of cheating—and will show why these aren't as problematic as they might seem. That background will give us the tools to investigate the issue of pre-game cheating, which will be introduced in section three. Sections four and five will help to flesh out the situations, by appeal to nested games (section four) and constraints on rules (section five), before wrapping up with some avenues for future exploration in section six.

2. Preparing the Field—the Logical Incompatibility Thesis and the Paradox of Cheating

While most all of you are aware of the Suitsian account of playing a game, it's worth restating for clarity, as well as for any new Grassophers¹ who are just now joining our little game.

To play a game is to attempt to achieve a specific state of affairs [prelusory goal], using only means permitted by rules [lusory means], where the rules prohibit use of more efficient in favor of less efficient means [constitutive rules], and where the rules are accepted just because they make possible such activity [lusory attitude] (Suits 1978, 41).

For all that the Suitsian account may have going for it, it gives rise to two significant problems having to do with the formal constraints related to rule following: the logical incompatibility thesis and the paradox of cheating. Arguably the best take (though hopefully a mistaken one!) on this family of issues is from Papineau's wonderful new book, *Knowing the Score*:

Some philosophers say you can't win a sporting contest by cheating. Their idea is that games wouldn't exist apart from the rules that govern them, and so someone who ignores those rules isn't even competing, let alone winning.

This is the kind of thing that gives philosophy a bad name (Papineau 2017, 53).

In what follows, I will stand by the view that you cannot win, or even compete, in a game by cheating. Sorry, philosophy!

2.1. The Logical Incompatibility Thesis

Since shortly after Suits (allegedly) demonstrated Wittgenstein's famous folly, significant ink has been spilled discussing problems for a formalist account of games, where we 'use the term "formalism" to refer to an account of games according to which various game-derivative notions are defined solely in terms of the formal rules of a game' (D'Agostino 1981, 7). One, though certainly not the only, such problem is the logical incompatibility thesis. 'The logical incompatibility thesis holds that one cannot win, let alone compete, in a game if one resorts to cheating' (Morgan 1987, 1).

While the logical incompatibility thesis is certainly an interesting problem, I think that significant confusion about critical issues has made the logical incompatibility thesis seem more problematic to the Suitsian than it needs to be. While I will not fully address that issue here, it does deserve some significant attention.

There are two major points of confusion at play in discussions of the logical incompatibility thesis. The first concerns whether *any kind* of rule-breaking leads to not playing the game, and the second concerns whether rule-breaking leads to not playing *at that time* or *at all*. Let's start with the first concern.

On a Suitsian account of game-play, it is the constitutive rules which are of the utmost importance. These rules dictate what moves count as playing that game and rule out other actions as not truly moves in the game. For example, the constitutive rules of chess dictate that a bishop can only move diagonally; a bishop cannot move diagonally and then up one square and have that still count as a move of chess, despite this being a physically possible move (and one that might make it easier to checkmate the opponent). But there is another sort of rule that is also quite important: regulative rules.

Regulative rules are 'rules one can violate while still playing the game, but which are such that whenever one violates them, one is subject to certain penalties' (Ridge 2015, 10). For example, there is a regulative rule in football (the real kind, played largely with foot and ball) that dictates how possession of the ball should change if a pass is made to a receiver who is offside. We would not want to say that the passer was not playing the game while passing the ball offside, even though he was breaking a (regulative) rule. Indeed, an offside pass that then leads to a change of possession is a series of moves that follow the constitutive rules of (real) football; the constitutive rules determine what it means to be offside and what actions must be taken in response.²

If the logical incompatibility thesis is going to have any plausibility, it must refer to breaking constitutive rules.

With regards to the second issue—the issue concerning whether any rule-breaking leads to not playing *at that time* or *at all*, let me present two formulations of the logical incompatibility thesis from Lehman's 1981 paper on the topic:

the thesis that it is logically impossible to win, or even compete, in a game while at the same time breaking one of its rules

The thesis that cheating in a game is logically incompatible with winning that game (Lehman 1981, 41)

These formulations, which occur within the same page, are clearly not identical.

The first of these formulations says that if you are breaking a rule at some time, *t*, then you are not playing the game (and therefore cannot win the game) at that time, *t*. This formulation is much less problematic, and also seems much more plausible, and will be discussed as the paradox of cheating in more depth below.

The second formulation does away with the 'at a time' part. On this formulation, cheating means that you cannot win (presumably because you cannot play) the game, regardless of when or how much you cheated. This is clearly a much stronger claim. I will take it that this formulation—that any breaking of constitutive rules during the course of a game is enough to make it so that you are never playing, and therefore can never win, that game—is the formulation we should use when discussing the logical incompatibility thesis. (This is because breaking regulative rules, as discussed above, is not the sort of thing that causes one to not play a game, and because we are differentiating the at-a-time formulation as the paradox of cheating, to be discussed below.)

On this view, the logical incompatibility thesis would be quite problematic. Fortunately, however, this formulation of the logical incompatibility thesis needn't pose a problem to Suits' formulation of game-play. To be fair, Suits *does* seem to directly support this formulation of the logical incompatibility thesis at times—'If the rules are broken the original end becomes impossible of attainment, since one cannot (really) win the game unless he plays it, and one cannot (really) play the game unless he obeys the rules of the game' (Suits 1967, 150)—but this needn't be a consequence of Suits' definition of game-play. This is because Suits' definition is of what it is *to play* a game, not a definition of *a game* itself.

If he did instead give a definition of a game in which a game must only use means permitted by the rules, etc., then this logical incompatibility thesis would hold, and would be a good enough reason for many of us to reject such a definition of a game. But that's not what Suits' definition is; his is a definition of what it is *to play a game*. This distinction is crucially important. On a definition for *a game*, if the rules are broken then it—whatever it is—is not a game. But on a definition for *playing a game*, if the rules are broken then *whatever action it is that is breaking the rules* is not also *playing a game*. This result does not entail that there can't be some act of rule-breaking in the middle of some game-playing, it merely entails that at the time of rule-breaking that (alleged) player is not also game-playing.

This brings us back to what I think is the most applicable formulation of the cheating problem for a formalist theory like Suits, which we shall call the paradox of cheating.

2.2. The Paradox of Cheating

The paradox of cheating, as presented by Ridge's 2015, is as follows:

- (1) If someone plays a game at time t then she follows the rules of the game at t .
- (2) If someone cheats at a game at time t then she violates the rules of that game at t .
- (3) If someone cheats at a game at time t then she is playing that game at time t .
- (4) Cheating is possible (Ridge 2015, 3 – Parentheticals removed)

Clearly not all four premises can hold. This would be problematic for the Suitsian, so let's look at the plausibility of the premises.

The Suitsian account is clearly committed to the first premise. The second premise seems almost definitional; whatever the correct, complete definition of cheating, violating the (constitutive) rules seems like a necessary component, at least for the formalist.³ The fourth premise is similarly unquestionable. The options that are left are to reject the Suitsian account or to reject the third premise.

While some take this sort of argument to show that the Suitsian account (or other formalist accounts) must be mistaken, for many it's quite plausible that one is not playing a game at some time t if they are not following the constitutive rules at time t . However, it's hard to argue one way or the other beyond merely appealing to one's intuitions. To me it seems obvious that a golfer who uses her foot to nudge her golf ball 1mm closer to the hole at some time, t , is not playing golf at time t . She may be playing golf immediately before and after time t , but it seems obvious that she is not playing golf exactly at time t .

While Ridge admits that one might want to hold the above position, he rightfully points out a more difficult case, that of the inveterate cheater: ‘The inveterate cheater cheats throughout the game. If, though, to play the game one must follow the rules, then the inveterate cheater never played the game to begin with. This is an implausible conclusion’ (Ridge 2015, 2). But is it really so implausible?

If a golfer not only uses her foot to nudges her ball at time t , but also uses her foot to nudge the ball at all times throughout the alleged game of golf, it is quite plausible that the golfer never played that alleged game of golf. If anything is implausible, it is the conclusion that the golfer was ever playing that alleged game of golf.

That said, one such example doesn’t show that it is not possible for an inveterate cheater to play the alleged game; the example above merely gives one instance where she does not play the alleged game. While no set of examples can show the impossibility of an inveterate cheater playing the game, a rejection of Ridge’s chosen example should cast doubt on his view. Here is the example he explicitly finds convincing:

Suppose someone is playing a game of tournament chess and her first two moves are both illegal. ... Under the current FIDE rules (FIDE is the international governing body for chess), if you make two illegal moves then you thereby lose the game. ...

Nor is the distinction between a loss and a default a nominal one. If you lose a game of chess then your rating goes down; if you default then your rating is not adjusted. Unless we want to say you can lose a game you never played, it seems to follow from the fact that he lost the game that my hypothetical ... chess player did indeed play a game of chess (Ridge 2015, 8).

There are at least two worthwhile responses we can give here to avoid the paradox of cheating.

The first is to appeal to regulative rules, which is an issue that we discussed in the previous section. If there were a constitutive rule that says back to back illegal moves is punished by a loss, then not starting with legal moves would be to break a regulative rule (the rule against back to back illegal moves). This is analogous to there being a constitutive rule in basketball that explains how certain fouls lead to possession changes in certain cases. The rule against such fouls is a regulative rule, not a constitutive rule, and can be broken without it being the case that the player is not playing basketball. (Indeed we often see basketball players breaking such regulative rules on purpose; this is known as the professional foul.⁴) If this response holds, Ridge’s example would be no paradox at all. The player in the situation made those two initial moves, lost the game, and was playing the game.

However, not everyone is convinced that regulative rules are a distinct sort of rule. And even if everyone does become convinced, it’s not obvious that this is the best interpretation of what’s going on in chess example. Fortunately, even a rejection of this interpretation allows us another, arguably more plausible, interpretation of what is going on. Specifically, it’s the case that the chess-player never played the game of chess in the first place.

Ridge tries to justify the view that the chess-player did play the game of chess, because only with a loss will a rating go down, as opposed to what happens with a default. But using this as evidence that the game was played is misplaced. Rather what we have here is tournament or institutional or some other such larger regulation that determines how points in FIDE are distributed. The distribution of points is determined by games, or

attempted games, of chess. (It's possible for FIDE to change their distribution procedure so that defaults have some impact on ratings, as losses do.) Just because the FIDE regulations call a default caused by two initial illegal moves a loss doesn't make that the same thing as a loss by checkmate or forfeit (that is, a loss of an actual game of chess).

An analogy here might be useful. Take a semi-final heat of the 100m dash at a championship event, where eight players are entered into this semi-final heat. The first four players cross the line 'win' and advance to the finals; the other players 'lose' and do not qualify. One of the players never enters the stadium, so is a DNS (did not start). For the purposes of qualifying, that player 'loses,' and does not qualify. But clearly it's not the case that the DNS-ing player played that particular game of 100m dash! Instead, it is just one of those oddities of a system where qualifying (like ratings) must be determined after every alleged game-instance. The qualifying (/rating) system needs some way to determine the qualifying (/rating). In the 100m dash case, a DNS is counted as a 'loss' for the purposes of qualifying. In the FIDE Chess case, two illegal moves are counted as a 'loss' for the purposes of ranking. But that doesn't entail that the sprinter or the chess player played those particular games.

All this being said, it does seem like there is something problematic going on in these cases of inveterate cheating. While I stand my ground in thinking that the inveterate cheater is not playing the game, I admit it is quite different from the way in which I am not currently playing a game of baseball. Fortunately, an explanation of this odd situation will become clear after investigating an even more problematic sort of cheating: pre-game cheating.

3. Pre-Game Cheating

There are two main sorts of cases I wish to address here. While both examples are sports examples, I will be using the term 'player' to stress the view that all sports-play is game-play. This is not to say that sports are nothing more than athletic games—many hold that sports are institutions, involve some sort of ethos, depend on their history, or in some other way are more than mere athletic contests—but rather that each competitive-instance of a sport is a game-instance. While not universally accepted, it will be taken for granted for the purposes this paper.⁵ However nothing deeply important to this paper's investigation of these game-phenomena should hinge on this stipulation.

The first are cases where an alleged game-player takes a performance enhancing substance so as to never be eligible to be a player under the constitutive rules of the game at issue. The second are cases where an important piece of equipment is modified so as to not be within the confines of the rules. Below are two fictional examples to illustrate each sort of case. We will start with an example of the first sort, where an alleged player is, in virtue of his prior use of performance enhancing drugs, breaking a constitutive rule during the alleged instance of game-play.

3.1. PED-fueled Gold

Justin is a 100m sprinter, and is competing in the Olympic Games. The path to the gold involves four rounds of games of 100m dash. The first three rounds are qualification rounds, where players must finish high enough in their game of 100m dash to advance to

the next round. The final round is comprised of a single game of 100m dash, with medals for the Olympic Games awarded based on finishing position in that round only. Justin is the first person to cross the finish line in each of the four games of 100m dash, including the final game of 100m dash that is to award medals. However, prior to the first of these four games of 100m dash, Justin began taking banned performance enhancing drugs (PEDs), and some of the substances from these PEDs are still in his system. Thus, Justin has been breaking the rules during the entirety of the Olympic Games.⁶

What should we say about the status of Justin's game-play during these two days?

It is true that, on four occasions, he lined up in his blocks with seven other players, and, upon the crack of the starter's pistol, sprinted his way down the track towards the finish line, crossing first on each occasion. Each time he stayed in his lane and started only after the gun fired, not because he was physically forced into doing so, but because doing so is a necessary component of playing 100m dash (that is, he followed those constitutive rules because they made playing the game possible). However, despite following all of those constitutive rules, his body chemistry itself was contra the rules, due to his unacceptable use of PEDs. Did Justin play the 100m dash game at all?

Before we rule on that question, we should differentiate the question of whether Justin played the 100m dash game from that of whether a game of 100m dash was played at all. As briefly discussed in the section on the logical incompatibility thesis, there are some who think that any (constitutive) rule violation mean that no game has been played. While this very strong view seems clearly false, it does seem plausible that sufficiently many (constitutive) rule violations should entail that no game was played.

Assuming sufficiently many other sprinters in each game were following all the constitutive rules, it seems clear that there were instances of 100m dash games being played, regardless of what we say about Justin. If seven of the eight players played the game, but one other individual was on the track doing cartwheels between the lanes (but not getting in the way of or otherwise distracting those other seven), we would have a case of a game of 100m dash, albeit with some non-player acting oddly on the track at the same time.

It's reasonably clear that there were many games of 100m dash, as well as it being reasonably clear that Justin broke the constitutive rules of the game during the entirety of the Olympic Games. Should we then conclude that, while games were being played, Justin never played a game of 100m dash? Before we reach any conclusions here, let's move to our second sort of case, the sort of case where a necessary piece of equipment is in violation of the constitutive rules.

3.2. Getting a Firm Grip

Tom is a quarterback, and is competing for the Nationalists in the NFL Playoffs. The NFL Playoffs involve four rounds of games of (American) football, with the losing team of each game of football being eliminated from the NFL Playoffs. The final round is a single game of football, with the winning team of that game winning the NFL Playoffs. In the second to last round of the NFL Playoffs, Tom changes the pressure of the footballs used when he is quarterbacking. This change is sufficient for Tom to believe that he has a marginally better grip on the football, but is not sufficient for other players to notice a change in how the football moves. Nonetheless, the pressure change is large enough so

that the football is not in compliance with the rules. The Nationalists win this game of football, as well as their next game of football, and therefore win the NFL Playoffs.⁷

Even if all of the above is clear, what is unclear is who, if anyone, was actually playing the game.

3.3. Who's Playing Games?

An initially plausible response in the 100m dash example is that Justin never played a game of 100m dash, but that there were many instances of 100m dash games with other players. The rationale is that, while Justin broke the constitutive rules by his use of PEDs, the other players did not, and a game of 100m dash does not require that there be eight players. However, this sort of reasoning is much more problematic in the case of Tom.

Having the games of 100m dash occur without Justin playing still allows for the games to occur, but the same cannot so easily be said of Tom, the Nationalists, and the game of football. In that example, it is the football used when Tom quarterbacks which is non-compliant, and this has a much broader impact. Whenever Tom throws the football to a teammate, or runs with the football, a rule about the qualities of the football used by players is being broken. This leads to the conclusion that, whenever someone is touching the football used during the Nationalists' offense (we can assume that the opposing team's quarterback used regulation footballs), *that player is not, while touching the football, playing the game of football but everyone else is playing the game of football*. This conclusion is clearly absurd, but it seems to follow from the line of reasoning in which we can say that, while Justin wasn't playing the 100m dash game himself, there were games of 100m dash being played. Who is actually playing games?

To answer the question of who is actually playing games, we must first differentiate between different sorts of games. As the next section will justify, I claim that it is the case both that Justin did play games of 100m dash, but also was breaking constitutive rules in such a way as to make him a non-game-player. A similar, but slightly more complex, response will be given in Tom's case. These seeming contradictions will make sense once we explore the concept of a nested game.

4. Games in Games

I claim that, in both examples above, the players in question were both playing some game and also breaking a constitutive rule, and therefore not playing some game. While this sounds problematic on the surface, once we disambiguate which games were being played and which were not, the result should be quite natural.

In the Justin example, it seems true that Justin played four games of 100m dash over a two-day period. On four occasions he, along with seven other players, settled into his blocks, awaited a starter's command, and upon hearing the crack of the pistol sprinted down the track—always staying in his lane—and slowed as he crossed a finish line. He did this to compete in the 100m dash, not to run away from a murderer or to be first in line for some hot new product. Justin clearly played the game 100m dash.

However, Justin *did not* play the game Olympic Games—100m Dash, and is therefore ineligible to be the Olympic 100m Champion. This is because all Athletics events at the Olympic Games, which include Olympic Games—100m Dash, follow regulations of the IAAF

and WADA,⁸ and such rules of Olympic Games—100m Dash clearly ban (many) performance enhancing drugs. If it's discovered that a player has used a banned substance, that player is expunged from results, because that player did not follow the rules for what it is to be playing Olympic Games—100m Dash (or IAAF—100m Dash or WADA-Approved-100m Dash as the case may be). The results aren't expunged because of a penalty for violating a regulative rule, but rather because the results were inaccurate to begin with.

But what exactly is this other game, this Olympic Games—100m Dash? Contrary to what the name might suggest, this game is *not* a game of 100m dash. Instead, Olympic Games—100m Dash is a game in which the *moves* are games of 100m dash. Olympic Games—100m Dash is composed of many games of 100m dash, which are grouped in various numbers into different rounds, with rules for who advances from which games of 100m dash based on the results of those games. These games of 100m dash are therefore *nested* inside the larger game of Olympic Games—100m Dash.

Avery Kolers, in a nice exploration of the true meaning of *The Grasshopper*, claims that 'games can be *nested*: playing one game can be the lusory means of a second, larger game. The lusory goal of the inner game is a constitutive rule of the larger game' (Kolers 2015, 731). This does not mean that the larger game is nothing over and above a collection of nested games, but rather that the nested games are a necessary component of the larger game. The relationship is similar to the possibly more familiar relationships in baseball between an out and an inning, or an inning and a game. A game of baseball is more than just a collection of innings, as there are rules about relationships between innings that only apply to the complete baseball game and not merely to each inning. Baseball actually seems to be a natural example of nested games (though we needn't accept that claim for present purposes).

Let us now rephrase what happened over those two days at the Olympic Games. Justin competed in four games of 100m dash, following the rules of 100m dash, and won each of those games of 100m dash. However, contrary to what your eyes might have told you, Justin *did not* win the game of Olympic Games—100m Dash. Indeed, Justin did not even *play* Olympic Games—100m Dash! To play that game, a player has to abide by, among other things, anti-doping regulations, which is something Justin failed to do.

Similarly, with the concept of a nested game in hand, it seems perfectly fine to say that Tom did play that particular game of football, but he and/or the Nationalists did not play a game of NFL Playoffs. This is because the rule about football pressure is not a rule of just any old game of football, but rather a rule of NFL Playoffs (which arguably has this rule because it is nested in the game of NFL Football, though this exact relationship needn't hold for present purposes).

One potentially counterintuitive consequence of this is that both Justin and Tom did win those individual games of 100m dash and football but such wins did not count for advancement in the larger games of Olympic Games—100m Dash or NFL Football. While this might seem counterintuitive to some, I suggest that we are already familiar with similar situations, and fully accept this result in those cases.

Take an amateur club basketball league. While an amateur league, there are still ongoing standings determined by individual game results, with overall season rankings and a post-season playoff. However, the league is rather recreational, and teams need not declare their on-the-court roster before any particular game; they merely must field five players from their overall roster at all times during a game.

In such a league, it is not terribly uncommon for a team to fail to field a full five-person roster for every game; these things just happen in amateur leagues. We can imagine such a scenario, where Team A only has four players and Team B has eight (they were expecting to be able to substitute players, as is standard practice) for some game. All twelve players like to play basketball, so one of Team B's players spends the game playing for Team A, so that a full game of basketball can be played. Team A* scores more points than Team B, and wins this particular game of basketball. Nonetheless, Team B is recorded with the win for the purposes of the league standings. With regards to the larger, season-long game, Team A broke a constitutive rule—they didn't have five players for this game, and therefore didn't even play the larger, season-long game as the individual basketball game was being played.

If we are comfortable with such a story in recreational leagues, we should be comfortable with the claim that Justin and Tom won their individual games, but didn't even play the larger games at issue.

Let us now briefly go back to Ridge's example of the inveterate cheater in chess. As you may recall, the chess player's first two moves were not legal moves, therefore earning a loss to their FIDE ranking. With what I've said above, we can now say that the player never played the individual game of chess—playing chess requires moving pieces as the constitutive rules of chess dictate—but did make a move in FIDE. The FIDE move is the back-to-back 'illegal moves' in the particular (quasi-)game of chess, to which the response is a change in one's ranking.

This result is importantly different from my examples, where the player in question did play the nested game and not the larger game. This is because in the chess example there is a rule that dictates what happens when a player's first two 'moves' in a particular (quasi-)game of chess are illegal moves. This would likely be considered a regulative rule of FIDE Chess, where the breaking of the rule of always starting with 'legal moves' dictates a penalty of a loss to one's FIDE ranking. The constitutive rules of FIDE Chess are followed, even while the constitutive rules of that particular game of chess were not.

But going back to my examples, you might be thinking it's a bit too convenient that the rules about pressure are only rules of the larger game, not of the nested game. You might be similarly skeptical of the rules for PEDs. I don't blame you; you should be skeptical when a new concept seems to magically solve a serious problem. But there is a plausible justification for this convenient result, and it has to do with the nature of rules.

5. Knowing the Rules

The reason that the rules for PEDs and ball pressure cannot be rules of just any game of 100m dash or football, respectively, is that breaking such rules cannot be detected from within the game. It can be determined if a player runs out of his lane or a team takes a fifth down, but this is not the case when it comes to PEDs and minor changes in football pressure. If a rule is such that no violation of that rule can be detected, then that rule cannot be a legitimate rule.

During a game of 100m dash, it cannot be determined if a player has or has not used PEDs. It is not obvious in the way that a player going outside the lane lines is, nor can a player be tested in the middle of a 100m dash—such testing just isn't a move in the game, and frankly would unacceptably increase the time it takes to play a game of 100m

dash. Similarly, a small change in a football's PSI could not be noticeable to other players, and again such testing does not seem to be part of a game of football.

If we accept this, it becomes clear that the rules violated by Justin and Tom could not be rules of the individual games of 100m dash and football, respectively, but rather must be rules of the larger games in which they were nested.

That said, while I think this is an important conceptual point, in practice there might be cases in which it is unclear if some action is or is not possibly detectable. While I built the football example in such a way as to make it that no one could notice a PSI difference during the game, that's an easy case. There can be a continuum of PSI values for a football, and it is unclear at what point the pressure is low enough for people to be able to detect a change, and it would likely vary by a wide variety of factors, from personal tactile sensitivity to local temperature. I cannot hope to solve that practical problem, but that needn't be a problem for the conceptual view that rules of a game must be such that violations of those rules are detectable within that game.

But even if all of the above is acceptable, there's still an important worry: why is the fact that Tom—even if Tom alone—can determine the difference in the football's pressure not sufficient to say that this is breaking a constitutive rule? If Tom, and Tom alone due to his role as quarterback, can physically detect a difference in pressure during play, it's not obvious that using the slightly deflated football isn't a rule violation. Since Tom could feel a difference, and Tom is a player himself, then one could argue that this should be considered a (constitutive) rule violation for the individual game of football.

While the above might want to make us say that Tom is indeed cheating if he could physically detect a difference in pressure during play, even if no one else possibly could, it's less clear what to say if he cannot physically detect such a ball modification, but has other reasons to believe a modification has taken place. Perhaps, through trial and error during years of practice, he has reason to believe that he is more accurate with balls in a certain PSI range that is slightly below the allowable NFL limit, and, during this game, he is throwing slightly more accurately than normal. He might then have reason to believe the ball is modified, even if he couldn't feel any modification during game-play.

There are clearly some important issues left to be resolved, and I don't know the correct response to such worries. On such points, I must punt.

6. Conclusion—Knowing When to Punt

In this paper, I've tried to introduce and address an interesting problem of pre-game cheating. In doing so, I've aimed to explore some interesting issues around the relationships between different sorts of rules and game-play, at least within a formalistic account of game-play in the tradition of Bernard Suits. But even those who have rejected a Suitsian account may have benefited from such exploration, and maybe even realized that their concerns about such a formalist account can be sufficiently addressed.

As seen in section five, there are still important issues that need significant exploration. In addition to those mentioned, there are some other interesting avenues for future exploration that connect to the discussions in this paper.

A major area of exploration is the relationship between games. Not only is the relationship between nested games and the larger game in which they are nested interesting, but the relationship between different games of the same ‘kind’ is something that must be investigated. In addition to being a fascinating topic on its own, it directly bears on the issues at play here, specifically with the above football example. Suppose for some reason that the only balls available for a game of football are deflated in such a way that all players do notice a performance difference, but that they still fly through the air in a somewhat similar fashion to a standard football, but perhaps not quite as far or quite as precisely. The players could play a game with such balls that is similar to the game of football that they’d play with a standard ball, but is not an identical type of game. If this is the case, then one might wish to say that all the players failed to play the standard football that they intended to play, but instead played some other game of football, football*, which is similar to the standard football.

An obvious consequence from the above line of reasoning is an extreme proliferation of games.⁹ It would be a significant cost to accept that any change in the game—even barely-perceptible differences such as the PSI of the football, acceptance of some certain PED, dimensions of the field, etc.—leads to a new game. However, it’s important to note that the views expressed in this paper don’t necessarily commit me to such an extreme proliferation of games. The nested view can accept that many variations of rules of some game are acceptable options for one type of game, while still having individual games (e.g. of football) be nested in some larger game (e.g. NFL Playoffs) depending on context. After all, the larger game of NFL Playoffs is not merely a different sort of football, but a game in which individual games of football count as moves. Nonetheless, I realize that the views expressed in this paper might be undermined by a mature theory of relationships between games, and that much more can (and should!) be said about the relationship between games. Alas, such a discussion would take me too far out of bounds of my current project to adequately explore here.

While I appealed to constitutive rules in nested games to solve the pre-game cheating problem in this paper, there might be a different account of rules that proves useful. Perhaps the rules that were being violated were some sort of *auxiliary rules* (Meier 1985, section VI), rules which determine eligibility (e.g. rules of weight classes in boxing, rules of age in youth sports, etc.). While appeals to these—and possibly other—sorts of rules, as well as investigations into whether or not they are legitimately different sorts of rules, would certainly be interesting, the clock is ticking on this paper, and such exploration must wait for another day.

In addition to avenues for future research due to potential worries with the discussion herein, there are also future opportunities due to the successes of the argument. For example, the discussion of PED use should not only apply to the (unfortunately very real and expansive) (alleged) problem of doping in sport, but also to any sort of body modification issues in sport. For example, similar reasoning could apply to player with prosthetics. So too could this impact issues around sex and gender in sport, for example by having implications for a player whose gender and sex don’t ‘agree’ being able to play some nested game but not the larger game, though there are of course many other important issues surrounding that topic.

Similarly, discussion of equipment modifications we explored in our slightly deflated football case could have implications for other sorts of equipment issues, such as issues with swimsuits or golf-balls. Players may indeed be playing a game of 50m fly while not playing FINA swimming due to the characteristics of their suits, or not be playing PGA golf while still playing golf with a differently-dimpled ball.

One final interesting consequence of our discussion here is that my title is misleading. Supposedly I was to investigate issues of pre-game cheating, and while in a sense I did, in another sense I could do no such thing. With respect to the individual games of 100m dash and football, my above cases were not cases of cheating, though they were pre-game. With respect to the larger games of Olympic Games—100m Dash and NFL Playoffs, my cases were cases of cheating, but not pre-game. While this might not entail much interesting about games generally, hopefully this insight can benefit you the next time you find yourself playing at philosophy.

Notes

1. Entymology: *Grass*, from that glorious guardian of games himself, the Grasshoper, and *sopher*, from the Greek *sophia*, or ‘wisdom’.
2. It is worth noting that not everyone is in agreement about different sort of rules, specifically with respect to this view of how regulative rules relate to constitutive rules. While an interesting topic, I won’t be able to address it more deeply here. For some worthwhile discussions, see D’Agostino (1981), Wertz (1981), Loland (2002) Chapter 1, and, for some foundational reading, Searle (1969), Chapter 2 Section 5.
3. For some further discussions on other accounts of cheating in games, see Feezell 1988, Wertz (1981), Lehman (1981), Simon (2016) chapter 2, especially pp. 40–48, Leaman (2018) chapter 9, and of course Chapter 4 of *The Grasshopper*.
4. For some quality discussions see Fraleigh (2003), Simon (2005), and Papineau (2017) chapter 4.
5. For some discussions on the relationship between sports and games, see Suits (1988; 1989; and, 2004), Meier (1988), and Berman (2013).
6. Note that this is a fictional example. No person named Justin has ever finished first in four games of 100m dash during one Olympic Games.
7. Again, note that these examples are fictional. There is no team in the NFL named the Nationalists.
8. The International Association of Athletics Federations (IAAF) is the international governing body for what the Yanks call Track & Field, and has strict anti-doping regulations. It, along with many other sporting governing bodies, associates with the World Anti-Doping Agency (WADA).
9. Or should I say ‘should-be-obvious,’ as it took the prodding from a helpful referee for me to explicitly address it!.

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