

Fair Play in Sports: Analysis of Anti-Doping Policies and its Effect on Rights of Athletes

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Abstract

Though PED usage has long been accepted within the sports community, it wasn't until the late 1960s that governing organisations began to take action in response to the problem. "Doping" refers to the use of illicit chemicals and practises by athletes to enhance their athletic performance. However, these PEDs are increasingly commonly utilised by sportsmen to improve physical abilities including strength, speed, and stamina. Athletes benefit unduly from these medicines. Many high-profile athletes and athletic events in the 21st century have been marred by doping controversies. Many sports fans have a tainted, mystical memory of events like the Olympic 100-meter final in 1988, where Ben Johnson won gold with a stunning start. However, the Festina cycling squad's doping scandal at the 1998 Tour de France brought attention to the necessity for more concerted international action against doping. In November 1999, the World Anti-Doping Agency (WADA) was created as a private organisation under Swiss law to promote, manage, and oversee the fight against doping in all sports at the national and international levels.

WADA has been a prominent figure in the fight against doping in sports, despite the persistence of doping scandals in the athletic world. The World Anti-Doping Agency's (WADA) World Anti-Doping Program, centred on the World Anti-Doping Code ('Code'), has been pivotal in these initiatives.

Doping in athletic competitions dates all the way back to antiquity. However, in the current context, a broader variety of artificial chemical substances are available than in the past, and their use has drastically expanded. Since it creates an unfair playing field, doping in sports is universally condemned as unethical and tantamount to cheating. Competitions in sports are intended to be accurate barometers of an athlete's innate talent. The very foundation and ethics of sports would be undermined if such abilities could be altered through the use of artificial medications that increase efficiency and the body's general functioning. It is however undeniable that some artificial chemicals are properly utilised as medications in the field.

Keywords: *Doping, Fair Play, Athletics, Competition, WADA,*

Introduction

"Doping" refers to the use of illicit substances and methods by athletes in order to improve their athletic performance, this use of Performance Enhancing Drugs has always been a part of the sports fraternity, in the modern era of sports, governing bodies respond towards this issue started only in the late 1960s. But now a day, these Performance Enhancing Drugs is frequently used by athletes for physical traits such as power, speed and endurance. These drugs give unfair advantages to the athletes.

In the 21st century saw many doping scandals concerning the major issue in sporting events and leading athletes. Events such as the Olympic 1988 100m final where a Ben Johnson who's won the gold medal in starting fashion are etched in the sporting memories of many sports fans as discoloured magic moments.² Though, it was the doping affair concerning the Festina cycling squad, which occurred during the Tour de France 1998, which highlighted the need for more coordinated global action against doping. The foundation of the WADA, which was established as a private foundation under the laws of Switzerland in November 1999 to encourage, manage and keep an eye to the fight against the doping in all form of national as well as international sports.

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While doping scandals continue in the sporting world,³ WADA has been a highly visible player in efforts to battle doping in sport. The World Anti-Doping Program introduced by WADA, which has the World Anti-Doping Code ('Code') at its centre, has been at the heart of these efforts.

The usage of drugs in sporting events has been in practice since antiquity. However, in the existing scenario, an extensive ranges of Artificial chemical substances are available than before, and their use has increased melodramatically. Using drugs for performance enhancement in the sports events is justly considered to be unethical and equivalent to cheating as it creates an inequity in any competitive event. Sporting events are supposed to measure and test the natural skills of sportsperson. If such skills are manipulated by using Artificial drugs that enhance efficiency and functioning of the body artificially, then the fundamental basis and ethics of sports are defeated. Some Artificial substances are however legitimately used as medicines in the field is undeniable.

The World Anti-Doping Agency is a foundation created through a collective initiative led by the International Olympic Committee (IOC).it was established in 1999, with the objective of protecting the rights of athletes and create awareness among athletes. Similarly, to counter the Doping issue, the Indian Government under the Societies Registration Act formed national anti-doping Agency.

Legal Framework of Doping Sanctions

More than a century ago at the beginning of modern Olympics, the human race expanded motivation not only to play sports actively but also to look at it submissively for entertaining. In addition to the freshness, fervour of nationalism and passion generated by sports competitions, it has led to numerous calls for strict regulation and behaviour in the economic activities that it involves. Cricket, for instance, is considerate to be the most popular game in India, despite the fact that it isn't the national sport of India. But in India there are two main walls of sport regulations: first, In order to tackle any reform of sport law, the State legislature must initiate it ⁴; Secondly, it is not pleasing, according to IOC, to interfere with national governance in any Olympic sport.⁵

Sports as a law can be considered as a range of legal issues which may be encountered both in amateur as well as professional international sports. Such issues may overlap with concerns surrounding labour law, competition law, contracts Law, tort or criminal law between players, agents, sporting governing bodies or government regulators organisation. This nascent but emerging inter disciplinary field requires suitable knowledge concerning the rules and regulations of every sports. 30 functioning of professional leagues and other sports related statutes. With the advancement in techno lies and the lucrative monetary nature for participation in sports, athletes in today's days are willing to put ethics aside for gaining a competitive advantage or enhance their physical performance over others by using Performance enhancement drugs" In order to prevent such cheaters from engaging in anti- sporting practices, there was a requirement for certain legal based presumptions to be.

The principle of "strict liability" applied in cases of certain sport-related offenses lies in a number of regulations governing sport. While this principle also applies to scenarios for betting, play and match fixing, this chapter will focus mainly on analyzing and criticizing doping's legal framework and then making a comparative study with the application in the other sports sectors.

Doping and its legal framework

Doping was officially illegal following the identification of a practical practice based on equal opportunities in competition by some of the sports associations. Doping, however, does not form

part of a criminal or civil offense and therefore does not concern criminal law. Even in civil law it is not a crime because an athlete is entitled to treat his body as he wants, but not as he wants.⁶

It is stressed that the removal of drug abuse performance in sport even requires certain actions by Sport Governing Authorities, each operating within their sphere of competence in the Council of Europe's Charter against Doping for Sport. The Anti-Doping Council of Europe recommended that the member state governments implement effective anti-doping regulations, establish and operate doping control laboratories, promote and promote adequate research in such centers and develop and implement educational programs to combat the misuse of drugs. Finally, the governments were responsible for funding the movement for doping controls. Some national and international sports organizations shall use the doping control centre, and shall take part in obligatory drug trials by each of their national members, by the Council of Europe and WADA, to adopt IOC anti-doping rules and regulations and procedures, and to list the prohibited drugs in sports. Moreover the Council of Europe has stated that athletes found responsible for improving their performance in drug use and their assistants are punished by national sport organizations⁷

Doping is regarded as an increasing issue by the Anti-Doping Convention, which threatens the health and the future of sport by athletes. This issue, as stated by the Council of Europe, jeopardizes the code of ethics and educational values contained in the Olympic Charter, in the UNESCO International Sport Charter and the Sport for All charter of the European Union. Doping in sport, pharmacological classes of dopers or doping methods and sportive men and women were the themes of the Anti-Doping Convention of Strasbourg⁸. In 1989 there were many countries in Europe, among others the United Kingdom, France, Switzerland, Italy and so on, that were Anti-Doping Convention in force. In order to combat doping, the contracting States assumed various responsibilities. According to Article 7, the countries must promote harmonization among their various sports organizations: "disciplinary practices, internationally recognized codified principles of suspected players and sportswomen' The right to a fair hearing and an appeal from a domestic court judgment against the athlete of any sport is two important principles⁹.

Rules usually include chemically or pharmacologically related substances with a familiar relationship. More often than not, this ensures that the athletes' representatives do not differentiate from the drug(s) found in the schedules. One way to find abnormalities in samples would be to look for the always cumulative list system. There has been a suggestion that a group of medical and legal experts should compile a world lead body to examine the presence of samples for irregularities, decide whether they are performance improvements or not and therefore sanction the participants irrespective of whether they appear on the lists of prohibited substances.¹⁰

The IOC and other sporting federations demand simple testing procedures for participants. Tests are usually performed randomly during major global sporting events while administrative bodies introduce out-of-random drug testing plans. Carries out three test functions following:

1. "It is relied upon athletes to protect them from other athletes who break the rules",
2. "it can be the means by which an athlete's reputation as a drug free athlete is confirmed"
3. "it may also be the way that the athlete is found to have broken the rules"¹¹.

According to Jean-Philippe¹², in doping there are two fundamental legal problems. There has been a very complex way to develop judicial systems and anti-doping measures. The IOC and other sporting bodies have a conflict of interest. The introduction of anti-doping regulations and the organization of international conferences are similar in conflict among the state legal systems. The reproduction of the rules and regulations on anti-doping inevitably leads to confusion

between players. Only through harmonization of anti-doping rules will rational campaign management be possible¹³.

Sanctions and Doping

The WADA, together with governments, governments, governmental and non - governmental bodies, IOC, pp. 17 - 18 in the Olympic Review, Vol. XXVI, 25 (Lausanne Declaration, 2 to 4 February 1999)¹⁴, "the world federations for sport, the National Olympic Committees and the unions of sportsmen indicates the compulsory sanctions in the structure of controls during the sporting events but out of sport as well. According to the sportsmen's claims, the National Olympic Committees and the majority of world federations, the lowest sanction for the main doping substances and forbidden methods will be a two-year ban from every sporting event for the athlete who had been found guilty. However, the exceptive conditions are to be taken into consideration by the world federations and there is a possibility for the amendment of the two-year ban. Additional sanctions will be possibly valid and stricter sanctions for the coaches and officials for the violations of the Anti-Doping Code"¹⁵.

According to the IAAF regulations,¹⁶ disciplinary action is composed of:

- a) suspension of Player ,
- b) hearing before the court of law,

Before an eligibility judgment is reached, the athlete has the right to be heard before the relevant court of his national bodies. The athlete will be informed with a message and a presentation notice. Furthermore, when an athlete has committed a doping crime, and the confirmation is given after a hearing or the athlete waives the right to a hearing, he is declared not eligible. Finally, from the competition, the athlete will be ineligible and his disqualification dates would be the date of the provision by the sample¹⁷.

The IAAF has a strict liability system. The reason behind strict liability regulations is that otherwise coaches and horses could be expelled by the policy that lays down the rules: an absolute prohibition on the use of substances that give one competitor an unfair advantage over the other. It would be necessary for the appropriate sports authority to establish mens rea¹⁸. Strict doping liability allows a governing body to prohibit a therapist without demonstrating that the athlete intends to take the substance on the basis of the positive test. The IAAF rules exceptionally enable athlete to be found "not guilty" by the governing body, if enough evidence exists. Without such evidence, however, it would not be enough for an athlete to support his / her failure to realize how the matter entered its urine. The High Court, in the case of Gasser vs. Stinson, took the view that a strict rule on responsibility was legal, inasmuch as it could be the only way to treat the doping problem¹⁹. According to Ken Foster, "this language allows a perception, that normal legal safeguards to protect the victims of this war, the innocent athletes who suffer injustice and the destruction of their careers, can be ignored or compromised". However, criminal law is involved when the IAAF has confirmed bans against British athletes who have been detected as positive for nandrolone. So athletes who have been charged with committing a crime will be treated as innocent in any reasonable doubt until they prove themselves guilty..

The disagreement of IAAF with the Athletics UK about the doping case of Linford Christie and Dougie Walker shows that the IAAF has taken an extreme location according to which a positive test shows guilt and there are no valid reasons as to why that should not be punished. This position causes Athletics United Kingdom further problems for having to practice the IAAF policies while reconciling that policies with its own unwarranted financial position. The IAAF

insisted that the regulations were followed strictly in countries which are incompatible with national laws. In the case of Linford Christie, the IAAF, unsatisfied by the reluctance of Athletics UK to act on the positive test, followed its own policy. The ban on Christie seems unreasonable because the suspension deals with Christie's ability to compete, not to coach an Australian athletic team. Moreover, until the IAAF conducted its hearing, Christie could not have been guilty of any offence.

The growing legal doubt on the outcome of chemical analysis and of the authorities' decision-making demonstrates the need for harmonization between anti-doping federations and national agencies. Greater harmonization would reduce legal doubt and reduce appeals on the grounds of insufficient federal rules²⁰

*"Sports like Football and cycling were already loath to accept a two-year ban, which was introduced in 2004. Any change to tougher sanctions is expected to meet with opposition, including arguments that such penalties will not stand up in civil courts. While doping scandals have centred on cycling and baseball, athletics has suffered too. Justin Gatlin, the double-gold sprint star of the world championships in Helsinki, Finland, two years ago, was not in Japan. Gatlin, also the 100-meter gold medallist at the Athens Olympics, tested positive for testosterone and steroids in April 2006 and is fighting charges that could see him suspended for eight years. Moreover, Russian world record holder Tatyana Lysenko and a fellow hammer thrower tested positive for doping in out-of-competition tests on 2007 and Russia's team coach was suspended. Finally, Jolanda from Slovenia, the 800-meter indoor race world record holder, has been suspended after testing positive for the blood booster EPO. The IAAF promised to carry out the sport's most rigorous anti-doping plug-in to date with more than 1000 tests during the championship"*²¹

Criticism of Sanctions

Procedural safeguards for athletes are based on the agreements between the governing body of sport and the athlete. The rules and regulations in many instances attempt to give the athlete the right to those presented at a national court. There is, however, no guarantee since "the athlete facing doping charges in many cases not able to invoke the rules of procedural fairness, unlike his fellow citizens in proceedings before governmental bodies, if the regulations of the International Federations in force of in his particular branch of sport do not provide these" Willem Soek indicates. This can only differ in the process of doping initiated by a national federation or country that is a party to the Treaty on European Union Anti-Doping Convention. In order to fill that void and monitor developments in civilization including sport, the internationally organized sport must establish rules and regulations. The variety of regulations and rules results in a wide range of sports. The differences between these variants are the result:

1. *"The national regulations and the rules and regulations of sports unions",*
2. *"The rules and regulations of different international sports federations, counting IOC"*
3. *"Rules and regulations of different national sports unions".*

Finally, somebody might talk about a 'patch' of regulations that demonstrates the need for harmonization. Harmonization of national and international ORG sanctions. Is a problem to be resolved. There is a doubt that all sports are being handled in the same way and the medical substances are distinguished in two or three fundamental classes by improper harmonization. Specific characteristics of each sport should have been sensitive to penalties. The punishment is a mix of mandatory sanctions and penalties in most legal systems that depend on the judgment of the court and on the law guidelines. Sports such as biking, road and field sports are available in the field of doping, with federations adjusting the IOC penalties²². Some federations wish to

adjust the IOC sanctions, which is not an undertaking. This will reflect, for others, the awareness and safety of hazards linked to existing sanctions against athletes and the practice of sanctions based on legislation established by the IOC in conjunction with basic federations. The IAAF is particularly important as an important Olympic Athletic Federation. Their decision to impose their sanctions closer to the IOC could undermine the specialisation. So the imposition of penalties that overwhelm the IOC line is very different for the other federation²³.

There are the following benefits to the idea of harmonisation:

1. *“athletes competing in different sports will receive the equal treatment in different nations”,*
2. *“if an athlete changes sport then the ban can be transferred with the athlete”,*
3. *“players who compete abroad will be treated equitably irrespective of jurisdictional competence”.*

However, the special characteristics of different sports may not be taken into account. Therefore, because of differences in the nature of sports, it is not possible to survive one doping regulation and regulation system that is also applicable to all sports. *“A 2 Year ban on competitors in some sports may effectively be a life ban while in other sports, where competition is less recurrent, the 2 Year ban would represent the loss of a few competitions. Also it is inevitable that harmonization will lead to the preference of national laws instead of the international regulations. Presently there are important differences in the rules and regulation of the governing body since some of them follow the concept strict liability while others follow the sanctions suggested by the IOC. The current system could lead to little satisfaction of the competitors, if that system does not address the problem of concept strict liability or an improved system of sample testing or hearings procedure”*²⁴.

There is a contractual relationship between an athlete and the governing agencies. Doping as an offense by a competitor is essentially an infringement of the contract and subjects the competitor to the contracted doping penalties. In order to criminalize such doping offences, a criminal punishment is required for a contractual breach. Furthermore, it would be difficult for sportsmen to compare others. If the list of forbidden substances remains the same, a competitor can be limited to excessive coffee consumption, whereas his non-athletic companions will not be punished. For example, if the criminal act omits caffeine, athletes who have been positive about caffeine may have difficulties refuting the allegation that their fellow citizens are responsible for the concept of strict responsibility²⁵

Strict Liability and Vicarious Liability

The overall idea of strict responsibility implies that a person is legally obliged without any evidence of a person's fault. This can be reworded to enable a person who causes danger to someone else but must consider the potential obligation to indemnify for defaultless damages²⁶. *“This rule firstly introduced in the case of Rylands v. Fletcher”*²⁷, where it was held that no mens rea was required in order to prove the actual liability²⁸. Thus, there is no finding of fault, which can be in negligence or tortious intent. Similarly this rule was later extrapolated in other common law jurisdictions as well. More so, even civil law jurisdictions like France also have similar principles”. In *“France, until the end of the 19 century, fault as a pre-requisite to liability was not questioned till 1896, when a French court ordered the payment of compensation to the widow where no liability on part of the factory was proved with regards to the accident which took place”*²⁹. Similarly, this was introduced in other jurisdictions like Germany as well in 1838 with the passing of the Prussian Railways”.

Not only is anti-doping case law perfect. A system of rigorous liability can lead to injustices at the individual level while promoting honesty among athletes. Although the notion of strict

responsibility lies with the athletes to ensure that their bodies do not become intoxicated with prohibited medicines. In order to clean up the sports from doping, the institutions of international sports have to be conscious of the serious impact that such a system will inevitably have. It is important for the authorities to encourage a fair, trustworthy and transparent system to impair the livelihood and reputation of athletes by levying doping allegations³⁰.

Strict liability has also in some respect overlapped with vicarious liability, which is normally an area which is covered by faulty liability ; however, when we examine the legal system of common or civil law we can see the need for the acquitted parties to pay for the damages of the other person.³¹

Therefore there are certain relations between parties in which one party is liable for the acts of another, because one party is not apparently responsible, and this is reflected in the laws of England and Wales, Australia, Canada, France, Germany and many others such as the United States, New Zealand and Spain.³². Such an assistant principle will also be examined in the next sections in the context of sports law.

Furthermore, each athlete accepts his or her constitution, statutes and regulations by participating in sports and by being affiliated with a sporting federation. And this sport's rules. This shall constitute an agreement between the actors and the concerned federation and must therefore comply by virtue of an institutional affiliation with the terms and conditions. Thus, by membership, accreditation or contributions to such organizations or sports events which fall under the code the association automatically entails adherence to anti-doping rules³³.

Strict Liability in Anti Doping Laws

In sports, the use of drugs that improve performance is not just a new phenomenon. Back in ancient Greece 3,000 years ago, naked athletes are reputed to be in the starting line after ingesting anything from seed extracts to potions.³⁴ The current doping control regime, however, has its roots in the contemporary Olympic movement. Like any competition rule, anti-doping principles are sport rules that regulate certain conditions in which any sport is really to be played. The fight against doping in sport became a reality after the criminal investigation carried out during the 1998 scandal of the Tour de France and the 2002 Olympics of the Salt Lake City which showed the players systematic drug use³⁵ There seemed to be no active involvement from other sports organizations in the fight against doping, as were the international sporting authorities, such as IOC, in drug use. The judgment of the Anti-Doping Court of the Olympic Movement in 1999 did, however, lay the foundations for the regulation against doping. It explained that the following two circumstances were doping in sports.³⁶:

- A. *“The use of an expedient (substance or method) which is potentially harmful to an athlete’s health and/or capable of enhancing their performance.”*
- B. *“the presence in the athlete’s body of a prohibited substance or evidence of use thereof or evidence of the use of prohibited method. 37”*

The need to address the threat of doping in sports is more dynamic. This has been remedied by the IOC’s Lausanne (1999) and Copenhagen (2003) World Doping Conferences to create a strong framework preventing athletes from engaging in doping.³⁸ These conferences involved participation from all main sports federations and around 80 government bodies in order to ensure that doping rules and regulations were applied uniformly in sports. These conferences have led to the establishment of the WADA as the main organization to regulate and effectively curb the issue of doping in sports. The World Anti-Doping Code is one of their main features, A code to harmonize rules and regulations concerning sport anti - doping policies, science

based doping research, education and training for athletes, the monitoring of emerging sport technologies, the updating of the list of prohibited drugs in sports etc. The code aims to harmonize regulations and regulations.³⁹

“Further, the UNESCO has facilitated the expansion of the first truly global anti-doping instrument i.e. the International Convention against Doping in Sport, and has played a vital role in actively promoting its application by supporting governments in the development of national anti-doping programs.⁴⁰ It has also contributed heavily to development of anti-doping education and prevention programs aiming at encouraging sporting values and increasing awareness among the athletes on the moral, legal and health consequences of doping activities.”

Likewise, NADA formally adopted the WADC in India to address doping in its efforts. India is the leading specialist in implementing and introducing anti-doping rules, in directing samples collection, test results management and hearing performance at national level.⁴¹

Inconsistency in the WADA Code Application

The WADA Code should be applied evenly, the implementation of the code is considerably different, and the International Federations and the National Anti-Doping Organizations are largely responsible for enforcing it. However, each organization must test the competition's athletes, for example the IOC. The international competitions should test the athletes. The CAS and the WADA institutions therefore have a duty to ensure that the application of the WADA code is harmonized and complied with.

In the next two instances, some irregularities arising from the implementation of the WADA code will be examined.

1. The first case was concerned with that of *“Alberto Contador, who was a Spanish cyclist and also one of the few athletes to win the ‘grand tours’ of France, Italy and Spain. During the 2010 Tour de France, he however tested positive for Clenbuterol, which was a substance which could be used as a fat-metabolizing agent.⁴² Alberto did not deny the positive finding but attributed it to the eating of contaminated meat.⁶⁷ Clenbuterol occurrence is completely prohibited by the WADA and does not have a boundary to which it can be tolerated, therefore Alberto was temporarily suspended by the Spanish Cycling Federation (RFEC). The RFEC decided in the course of the hearing that Alberto had committed a doping violation but that he had no fault, which meant a minimum 1 year suspension as well as stripping him of the Tour de France title. This was in difference to the WADA penalty, which would mean stripping Alberto off his Tour de France title along with at 2 year suspension. Alberto decided to fight the RFEC accusations and was successful in proving that the meat had indeed contained the substance and that Alberto was without fault. This was because Alberto had been successful in proving the source of the contaminated meat. Thus, the disqualification which was given under the code was ignored by the Spanish Cycling Federation. This did not go well with WADA which decided to appeal the decision citing that Alberto had not meet his burden of proof. The CAS's gave their final judgment which was opposite to the 1 year ban given by the REFC, holding that Alberto had not sufficiently proved that contaminated meat was more likely than other sources from which the clenbuterol could have originated. This is because clenbuterol was banned for usage on the livestock in Europe and the contaminated cases were rare and too far in between. Furthermore, evidence related to the fact that the supplier of the beef had indeed fed the cattle with clenbuterol was solid to prove. Consequently, the Spanish cyclist was stripped of his title and became unentitled for the standard two-year period associated with the first time doping fault”.*

2. Second case was *“Dwain Chambers, who was handed over a lifetime ban for playing from Britain in the Olympics by the British Olympic Association, which had in place a by-law which prohibited any athlete with a doping record to represent Britain in the Olympics.⁴⁴ This BOA regulation was in pari materia with an apriori rule of the IOC which authorized a lifetime ban from the Olympics for any athlete who’s convicted of doping; which had been struck down by the CAS, for levying a stricter fine than that prescribed under the WADA.⁴⁵ Dwain had been a sprinter who had clocked in the fastest time in the 100 meter dash at Sydney for a European team, but was implicated in the Bay Area Laboratory Cooperative scandal where Dwain was tested positive for a designer steroid. According to the erstwhile IOC rules & regulations, life time banned imposed on Dwain. Prime facie, it seemed like clearly was in violation of the WADC, which mandated a 2 Year suspension”*.

In sharp contrast to the Alberto case, the BOA has punished clean athletes against the competition in the Olympics. It appears unlikely that the BOA would uphold the WADA rule and overturn the IOC rule, which is why the CAS held that the bylaw was actually a twin sanctions and that the WADA code for punishment could not be avoided uniformly adopted. We can therefore see that the Sport Governing Body is implementing substantial changes which contradicted the WADA and CAS objectives in order to have a uniform approach.

Education and Awareness program for Doping among Athletes in India

Anti - doping education with national and international athletes has always been carried out to date. Athletes in high - level national or global contests are the most experienced doping controlled by digging athletes⁴⁷; Athletes therefore believe that anti-doping does not apply mostly. In order to understand doping as part of the sports rules, however, the national and international sports agencies should implement anti-doping education procedures with all athletes. Understanding and respect for anti-dope rules, regardless of their events, is important to all athletes.

Anti Doping Awareness Programme under WADA Code

As an important step towards compliance with the 2015 WADA Code, anti - doping research has been divided into particular areas such as education, science, medicine and psychology.⁴⁸ In addition, the priority was given to reaching agreement on the WADA Code 2015 implementation strategies. With regard to the national and international conduct of anti-doping training, anti-doping education is advised, as a defensive approach to achieve a doping-free environment, that is to begin as early as possible. This training should emphasize value-based sport anti-doping education. In particular, the 2015 Code also stated that, before participating in international sports and national competitions, athletes required to undergo doping control must receive anti-doping education.

Historically, anti-doping education based solely on the national and international athletes tended to be based mainly on the prevention of doping, based principally on anti-doping education, which is focused on medical reasons for not doping. WADA Code 2015 has meanwhile focused on defensive approaches to anti-doping education under the direction of the WADA. In conjunction with the Anti-Doping Code, education programs to help athletes fully identify the intrinsic value of sports are needed as a preventive approach to doping.

ALPHA is moderately useful to understand the Code as a universal anti-doping program that allows all athletes to learn various anti-doping methods. Athletes can gain appropriate knowledge of anti-doping by learning the contents of ALPHA and evaluate, based on a code, their anti-doping knowledge. ALPHA contains 12 question-based tests both before and after e-learning that determine how much athletes know the eight learning rudiments covering the Code about anti-

doping. Although there were few surveys contained in previous research, the scope of that survey is limited to the content that is included in the WADA Code and has been primarily limited to top international athletes. Furthermore, the anti-doping knowledge of players covering the whole code is not measured by such means, a test or questionnaire. However, since it has been developed by the WADA researchers, Social Science Research Programme, the ALPHA test has not been enough, it recommends the presence of content. Therefore, there is limited arithmetical validity and sufficient scope for future test reorganization. Since the knowledge of the entire code does not exist, the ALPHA is considered effective in measuring the knowledge of anti-doping.

WADA programme to make Indian athletes aware about doping substances prohibited by WADA.

In India, NADA has launched the various programme to make the Indian athletes aware about the drugs which are prohibited by WADA. With cumulative awareness among athletes regarding these matters number of such cases are likely to go down. NADA deals with matters relating to awareness programme of doping in sports including distribution of information, educating the Athletes , their coaches and support personnel on the ill effects of doping through training sessions, seminars, workshops and organizing dope tests on athletes both in or out competitions

NADA has launched the “Program for Education and Awareness on Anti-Doping in Sports” (PEADS)⁴⁹ in October 2014 with a main objective to deal with the fight against doping across the nations. this programme has been conducted at various places across India during sport events or training sessions conducted by national School federation , Association of all Intra Universities, Sports Authority of India(SAI) centres, SAI training centres, School Games Federation and Services Sports Control Boards. Further, to broaden the outreach program, Government of India has also decided to establish 5 regionals outreach centres to increase the education and awareness of anti-doping at all different levels of sports in India. Under this inventiveness, a total number of 64 such educational program/anti-doping workshops were conducted along with shareholders in association with sports administrations, state sports authorities and physical Education Departments, Colleges and Universities etc⁵⁰. also, the anti-doping has issued a brochures has been got translated and printed by NADA in 14 different region languages like Hindi, English, Punjabi, Tamil, Telugu, Kannada, Malayalam, Bengali, Assamese, Gujarati, Marathi, Oriya, Kashmiri and Manipuri languages to ensure the best communication of anti-doping awareness amongst the athlete belonging to various regions of India.

Importance of educating coaches in relation to anti-doping

Coaches play very important role in anti-doping education, coaches in relation to doping actions. Qualitative research⁵¹ illumined the potential power of coaches in anti-doping when they found that international athletes not only viewed coaches as encouraging and knowledgeable person , but also identified them as person “obeyed without question”. So, it is not very surprising that coaches found to play an effective role in a number of doping instances⁵². For instance, coaches were complicated in sourcing and supplying drugs. In USA, the involvement of coaches in doping actions among cyclists⁵³ was definite via the United States Anti-Doping Agency’s (USADA) investigation into the alleged doping of American Cyclist player, Lance Armstrong. Investigators uncovered a systematic doping system involving coaches, who were then sanctioned for the part they played⁵⁴. After the Armstrong case, many other coaches have disqualified from working in sport for their involvement in doping⁵⁵. In contrast to the coach as a doping helper, research with Athletes has supported the protective inspiration of coaches in relation to doping due to their ‘closeness’ or ‘importance’⁵⁶. It is possible that power of coaches in

'anti-doping' corroborated through their self-reported belief that they should use their positively to create awareness in doping prevention⁵⁷.

The impact of a coaches on the doping actions of athletes is also indirectly known in existing theories in the sports field. For instance, the Sport Drug Compliance Model draws consideration to the impact of 'reference group opinion', and highpoints coaches as a primary contact groups⁵⁸. The possible influence of coaches through their coaching climate is further armour-plated by investigation indicating that the 'moral atmosphere' the coach creates and the relationship they have with their athletes has the possible to influence morality-related factors among athletes⁵⁹. Consequently, coaches are centrally situated to impact individual morality moral intellectual⁶⁰ or moral disengagement⁶¹ in relation to doping behaviours.

Results of Anti-Doping Awareness

The WADA results show that 2.54 percent of athletes have been doped controlled, as is shown by the research. In addition, at least once, 30,10% received anti-doping training and more than once 20,82% were received. When the ALPHA scores of athletes with or without doping tests have been related, no significant difference has been observed. However, it does.⁶²

Conclusion

The history of doping in modern international sport and how it compelled the creation of an international governing body. The practical and theoretical underpinnings of the fight against doping in sports were helpful in framing the discussion of athletes' rights, maintaining that current working law allows for inconsistent punishment for negligent ingestion of banned substances it is the need of the hour to make sure that the reality of modern era of sport, the nature of performance enhancement, and the factual impact of sanctions are not lost on those who make the rules and regulations, and support them in law. the definition of doping in should be narrowed—WADA's definition is excessively broad, resulting in sanctions that do not sit well with notions of proportionality. Only by analysing the theoretical definition of doping can begin to be narrowed. the legal background used by the CAS advisory opinions to assess proportionality, we need to focus on "necessity:" that there are no less intrusive restrictions that are equally suitable to achieve the aim. The "aim & objective" is to be to catch "cheaters," and while defining the offense is a vexing task, a good starting point is presented by journalist Malcolm Gladwell: "we want the relation between talent and achievement to be transparent, and we worry about the way ability is now so aggressively managed and augmented. Steroids bother us because they violate the honesty of effort: they permit an athlete to train too hard, beyond what seems reasonable."

An appropriate direction should be given to the athletes which is focusing on actual performance enhancement through the lens of health effects. We should ensure that our reasons for exterminating doping are clear, rest on sound assumptions, and are fully informed by reality—whether it is the reality of sports training, the rates of abuse, the extent of harm, or the accurate impact of sanctions. With regards to those caught in the net of anti-doping, WADA would do well to recall a CAS opinion:

*"There may be innocent victims in wars where bullets fly, but the Panel is not persuaded that the analogy is appropriate nor that it is necessary for there to be undeserving victims in the war against doping. It is a Hardwar, and to fight it requires eternal vigilance, but no matter how hard the war, it is incumbent on those who wage it to avoid, so far as is possible, exacting unjust and disproportionate retribution."*⁶³

Endnotes

- ¹ Johnson v Athletics Canada and IAAF case (Ontario Court of Justice) (1997) No. 3201
- ² Oscar Pereire Case. For a summary of the decision, see Chapter 5, pages 107–11 below
- ³ “Cycling have, perhaps, been most prominent in the media. In cycling, the Tour de France in 2007 saw several positive tests and the withdrawal of the holder of the yellow jersey by his team. The decision by the American Arbitration Association that Floyd Landis had committed an anti-doping rule violation after Stage 17 of the 2006 Tour means that, pending the hearing of the appeal to CAS, the winner of the 2006 Tour is now not Mr Landis but. Recently, the detailed report by Senator Mitchell into the use of prohibited substances in the sport of baseball in the US (which is not a Signatory to the WADA Code) has highlighted the apparently widespread use of steroids and other prohibited substances by players in the major leagues”
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- ⁷ T. & Johnson, N. “Foul Play: Drug Abuse in Sports. Oxford”: “Blackwell” (1986, p. 134).
- ⁸ Id
- ⁹ Wise, A. N. & Meyer, B. S. (1997). International Sports Law and Business. Volume1. Hague: Kluwer Law International(1997, p. 247-248)
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- ¹¹ Verroken, “A Time for Re-Evaluation: The Challenge to an Athlete’s Reputation. In O’Leary, J. (Ed.) Drugs and Doping in Sport. Socio-Legal Perspectives”. “London: Cavendish Publishing. (Verroken, 2001, p. 31)”
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- ¹³ Supra Note 23.
- ¹⁴ “Olympic Movement (1999) ‘Anti-Doping Code’ Lausanne, 28 May, 1999”
- ¹⁵ “Tzima, E. & Tzanetopoulou, H. Pagkosmia Epiritropi kata tou Doping, World Anti-Doping Agency(WADA). In Panayiotopoulos, D. (Ed.)” Publications. (2003, p. 221-222)
- ¹⁶ [IAAF Handbook 1996/7, Rule 59)
- ¹⁷ Id.
- ¹⁸ Id.
- ¹⁹ Id.
- ²⁰ “In O’Leary, J. (Ed.) Drugs and Doping in Sport. Socio-Legal Perspectives. London: Cavendish Publishing(Beloff, 2001, p. 309)”.
- ²¹ Id
- ²² “ESPN Track and Field (2018). ‘IAAF seeking for four-year bans for some first- time doping offenders. 23 August, 2018. Online. Available Gopher: <http://sports.espn.go.com/oly/trackandfield/news/story?id=2987778&campaign=rss&source=OLYHeadlines> (ESPN Track and Field, 2007)”
- ²³ Gardiner, S. (2001). Sports Law. London: Cavendish Publishing Ltd. Second Edition.
- ²⁴ “Ferstle, J. (2001). World Conference on Doping in Sport. In Wilson, W. & Derse, W. (Eds) Doping in Elite Sport. ”
- ²⁵ “The Politics of Drugs in the Olympic Movement. Champaign, Illinois: Human Kinetics”
- ²⁶ “Vieweg, K. (2004). The Harmonization of Anti-Doping Rules and Regulations-Different Approaches on the Basis of a Cybernetic Model. In Panagiotopoulos, D. (Ed.) Sports Law(Lex Sportiva) in the World. Regulations and Implementation. Athens-Komotini: Sakkoulas Publications.”
- ²⁷ Supra note 4
- ²⁸ “Janno Lahe, Regulation of Strict Liability in the CFR and the Estonian Law of Obligations Act, XVII JURIDICA INTERNACIONAL (2010), http://www.juridicainternational.eu/public/pdf/ji_2010_1_167.pdf.”
- ²⁹ Rylands v Fletcher. Rylands v Fletcher [1868] UKHL 1
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- ³² “Ryan Connolly, Balancing the Justices in Anti-Doping Law: The Need to Ensure Fair Athletic Competition Through Effective Anti-Doping Programs vs. the Protection of Rights of Accused Athletes, 5(2) VIRGINIA SPORTS AND ENTERTAINMENT LAW JOURNAL (2006)”.
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- ³⁴ IDIB
- ³⁵ Id. “Annelize du Pisani, A contractual perspective on the strict liability principle in the World Anti-Doping Code, DE JURE (October ,23,2018), available at <http://www.dejure.up.ac.za/index.php/volumes/46-volume-4-2013/36-volumes/46-volume-4-2013/217-a-contractual-perspective-on-the-strictliability-principle-in-the-world-anti-doping-cod>”
- ³⁶ “Australian Sports Drug Agency, History of Drugs in Sport, available at <http://www.asda.org.au/media/history.htm> (on file with the Virginia Sports and Entertainment Law Journal); Mark Stuart, The war on drugs in sport – a perspective from the Athens Olympics, 273 PHARMA CEUTICAL J. 320 (2018), http://www.pjonline.com/pdf/articles/pj_20040904olympic.pdf.”
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- ³⁸ “International Olympic Committee, Olympic Movement Anti-doping Code, Lausanne: IOC (1999)”
- ³⁹ Id.
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- ⁴² NANCY MCLENNAN, TOGETHER AGAINST DOPING, UNESCO (2018).
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- ⁴⁴ “Michael S. Bahrke & Charles E. Yesalis eds., 2002”
- ⁴⁵ Ibid note 2

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- ⁵² Press Information Bureau Government of India Ministry of Youth Affairs and Sports, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=142588>
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