

An Analysis of the Inefficiency and Immorality of Sanctions in the Current Anti-Doping System and the Need for Fundamental Reform

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Abstract: Doping by athletes is a serious problem plaguing competitive sports around the world. Reviewing history, the traditional British endurance race is the source of doping in modern sports. Science and technology is the main driving force of social development. The competitive level of human beings has reached the height close to the limit of human potential, and it is difficult to improve sports performance by using conventional training methods, which makes athletes seek external and powerful means to improve their performance, and the achievements of natural science just meet this demand. This has also become a seemingly unavoidable phenomenon. On the one hand, this practice has been condemned by the public, on the other hand, it has become a serious problem in sports.

Keywords: Anti-Doping; Inefficiency; Sanctions

Introduction

Anti-doping has always been a very controversial and complex issue in sport. As scholars Mottram & Chester (2022) state defining doping is very difficult but everyone knows exactly what it means, so the use of performance enhancing substances is seen as a threat to the integrity of sport itself and doping in sport is banned to ensure the values and spirit of modern sport (Beamish & Ritchie, 2006). For this reason, doping is seen as a serious moral issue in many Western countries and anti-doping is considered a necessity along with severe penalties for athletes who dope (Sandvik, 2019). This study will therefore critically assess whether the existing anti-doping system is ineffective and unethical in punishing athletes who have doped and whether a fundamental reform of sanctions is needed to restore confidence in athletes and the public at large.

1. Reasons Why the Current Anti-doping System Imposes Severe Penalties on Doping Athletes

The World Anti-Doping Agency (WADA) was born out of the crisis caused by the 1998 Tour de France doping scandal and the long-term loss of legitimacy of the International Olympic Committee (IOC) on the issue, as the IOC had proven to be very unsuccessful in testing athletes for drugs and had not taken any action on the issue at previous Olympic Games (Hoberman, 2004). WADA is arguably at the heart of the anti-doping policy, with its main purpose being to regulate and enforce anti-doping policies across sports and countries. Its aim is to create a drug-free world of sports by establishing a binding legal framework and monitoring compliance with the WADA Code in the form of the World Anti-Doping Code (Houlihan, 2014; Jedlicka & Hunt, 2013). As a result, WADA is now commonly seen by athletes and academics around the world as the face of all anti-doping efforts (Savulescu, 2004). As noted above, although the definition of doping is difficult, WADA has fundamentally defined doping in accordance with its policy that a substance is prohibited because it is considered to have the potential to harm the health of athletes and its use is considered to be contrary to the 'spirit of sport'. Based on this definition, it can be seen that the two main reasons for banning performance-enhancing drugs in the high-level competition are to protect the health of the athlete and to ensure a level playing field (Waddington & Møller, 2019).

Currently, WADA's means of detecting doping is mainly biological testing, and its most easily understood violation is a positive

biological test for a prohibited substance. Deterrence theory suggests that legal sanctions and honour withdrawals can act as a preventative measure for athletes using performance enhancing drugs and go some way to deter athletes from breaking the law (Monston et al., 2014). Therefore if an athlete is tested for a banned substance then they will face a four year ban or even longer. If elite sport is about showcasing the strengths, skills and abilities of natural, healthy athletes, then an anti-doping system that includes bans, tests and penalties is essential, as artificially enhanced athletes should not be the ultimate winners of elite sports (Gleaves & Christiansen, 2019). This is also shared by a large number of athletes, with a qualitative survey by McNamee and Bloodworth (2010) finding that British athletes overwhelmingly expressed a strong anti-doping stance, believing that the anti-doping system is essential to maintain a level playing field in elite sport and that the majority of elite athletes in global elite sport do not believe that the current penalty system is "too harsh" (Efverström et al., 2016).

2. The Unreasonableness of Harsh Penalties in The Current Anti-doping System

Despite the above list of arguments in favour of tougher penalties for doping, there are some arguments that question the effectiveness of WADA's testing of athletes and the justification of the penalties. Firstly, with regard to the effectiveness of WADA's approach to testing, the lack of innovative testing methods, most notably the increased reliance on traditional biological testing, has led to biological testing being and remaining at the heart of modern anti-doping policy (Waddington & Møller, 2019). However, not only have many researchers expressed doubts about the effectiveness of bioassays as a means of detecting and controlling drug use, but WADA itself has acknowledged the lack of effectiveness of its bioassays, with evidence suggesting that up to 40% of positive bioassay tests are the result of unintentional use (Hon & Bottenburg, 2016). However, even though many athletes do not consider the testing system to be efficient, they still believe that it is an effective deterrent to a certain extent (Overbye, 2016), which is similar to the deterrence theory argument mentioned above. However, deterrence of individual athletes is not sufficient, as some athletes are coerced into doping by political and competitive forces, and biometric testing is also limited in that it does not tell us who provided and administered the prohibited substances to the athletes, and therefore cannot be used as evidence against anyone other than the athletes, so it can be argued that biometric testing is not sufficient to identify those involved in 'doping networks' (Rider & Witherspoon, 2018).

Secondly, some scholars have questioned the justification of harsh penalties for doping athletes. WADA has adopted a zero-tolerance approach to positive doping tests based on the principle of strict liability, whereby individual athletes are responsible for any prohibited substances detected in urine or blood samples, regardless of how they were produced (Dasgupta, 2019). However, while doping is an intentional act of cheating, the WADA Code disregards the intent and enforces a strict liability principle. This approach not only seems unjust but also poses a significant threat to the careers of distance athletes who might unknowingly consume contaminated food or supplements and get tested positive for banned substances (Gleaves & Christiansen, 2019). A first-time violation of the Code can lead to a ban of up to four years or more, making it unlikely for athletes to return to their sport or pursue coaching or related career opportunities. Even for those athletes who are allowed to return after a short ban or a successful appeal against an anti-doping agency's positive decision, some may face forced retirement. Furthermore, sports enthusiasts often associate positive doping results with cheating and remain sceptical of returning athletes. In any case, these athletes who are sanctioned by anti-doping rules suffer from significant mental health stress, as the sanctions not only cost them the opportunity to train and compete but also suddenly ruin their reputation and livelihoods, such as sponsorship, club and team contracts (Hong et al., 2020; Williams & Krane, 2015; Aibel & Ohl, 2014). A case in point is Diane Modahl, a British track and field athlete in the 1990s who was wrongly accused of using testosterone and banned for two years, but despite appealing her case and winning, she was left bankrupt due to the loss of financial resources and the huge financial costs of her complaint. In her autobiography, she recounts that she was filled with depression, despair and suicidal thoughts during this period (Modahl, 1995). In addition, another British player, Dwain Chambers, was also involved in a doping scandal, and when he returned to the sport after a two-year ban he was vilified by other athletes and was unable to find work in the sport after retiring (Chambers, 2009).

Therefore, given the length of suspensions for anti-doping rule violations, the social stigma attached to dopers and the lack of advice and support available to offending athletes during their suspension, some athletes do not support the strict liability principle of anti-doping rules, especially when they believe that the doping charge was caused by unknown contamination, as it was not their fault. This partly reflects the general view of athletes that the focus and responsibility for policy sanctions should not be placed exclusively

on athletes (Dimeo & Møller, 2018). And because athletes represent the largest stakeholder in the anti-doping system, even though athletes are generally supportive of anti-doping, the athlete community will feel a strong sense of unease if the anti-doping system makes serious punitive decisions without regard to fairness or the intentions of athletes. This will in turn reinforce the athletes' community's feelings of mistrust of WADA and the perception that anti-doping agencies are not managing this area well.

3. Discussion

This essay attempts to analyse whether the current penalties imposed by the World Anti-Doping Code need to be reformed by analysing the reasons why WADA imposes severe penalties for the use of prohibited substances and the unreasonableness of the current penalties. It is clear from this analysis that the current WADA World Anti-Doping Code was originally designed to protect the health of athletes and maintain fair play in sport, with the aim of creating a drug-free world of sport. And elite athletes are generally supportive of anti-doping because they understand the importance of fair play and the risks of PEDs use and generally believe that athletes who use artificially enhanced drugs should not be the ultimate winners of elite sporting competitions. However, there are concerns that the current WADA sanctions for the use of prohibited substances are too harsh and need to be reformed.

Firstly, one of the most noteworthy and major criticisms is that the current WADA doping controls are too homogeneous, relying solely on biological tests such as urine and blood samples to detect the use of PEDs, resulting in results that do not identify the rest of the 'doping network', which not only puts the individual athlete at a disadvantage but also does not allow for fundamental eradication of doping. It also penalises athletes who unwittingly ingest banned substances, which not only fails to ensure fairness but also exposes them to underserved problems such as social discrimination, bankruptcy and even serious psychological disorders, which can have devastating consequences for the athletes' families and wider social networks. Furthermore, the biometric testing methods currently implemented do not focus on the individual athlete's privacy, the sampling process and the obligation to submit whereabouts reports can be intrusive and athletes may feel uncomfortable with the level of scrutiny they are subjected to (Ulrich et al., 2017). In addition to this, the very harsh decisions to punish athletes based solely on the results of biometric testing are inherently unreasonable, as their bans can be for up to four years or more, which for most high-level athletes amounts to a direct sentence of the end of their sporting career and consequently the loss of their source of livelihood.

Another problem with current WADA sanctions is that they do not take into account the circumstances surrounding the use of PEDs by athletes. While erroneous test results may occur, most athletes who use prohibited substances are coerced by national political or other external pressures, but it is highly unethical for WADA to impose penalties solely on individual athletes based on the principle of strict liability. Although the premise of anti-doping is to promote the health of athletes, this paternalistic and "one-size-fits-all" approach to punishment ignores social and sporting realities and makes the athlete community suspicious of WADA's fairness and efficiency.

4. Conclusion

In summary, the question of whether the penalties in anti-doping policies are unreasonable or unethical has been a matter of debate in sport in recent years. While doping itself is considered to be an unethical practice and the current doping regime does have a deterrent effect on such unethical behaviour, WADA's sanctions are in need of fundamental reform. The main reasons for this is that the current testing methods are too homogeneous and aggressive, and the harsh penalties are not justified. This is largely due to the fact that through a single testing method, it can only be used as evidence to impose sanctions on individual athletes, without the ability to hold others accountable for causing athletes to use prohibited substances. WADA should therefore innovate its doping testing methods and to abolish the principle of strict liability, as well as impose sanctions that are reasonable in the unique circumstances of each individual athlete's case. For example, an athlete who is coerced or mistakenly consumes a prohibited substance may not be subject to the same penalties as an athlete who knowingly violates the law. This is not at all discernible by current WADA biological testing methods. In addition, WADA needs to develop a policy of follow-up support and care for sanctioned athletes to increase trust and contact with the athlete community. Only by reforming these issues can we continue to improve the fairness of sports, ensure the legitimate rights of individual athletes and create a truly drug-free sporting world!

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