



The road to hell is paved with good intentions—A critical evaluation of WADA's anti-doping campaign



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ARTICLE INFO

Article history:

Received 25 February 2016

Accepted 18 May 2016

Keywords:

WADA

Anti-doping policy

Health

Fair play

Equality

ABSTRACT

In 2012 following a foundation board meeting a working group under the World Anti-Doping Agency (WADA) was established in order to investigate the lack of effectiveness of the anti-doping testing programs. The working group identified a number of weaknesses with lack of compliance with the anti-doping code by central stakeholders, as the essential problem. According to the working group human and political factors are the reason why anti-doping has been unsuccessful. There is no critique of WADA and the purpose of anti-doping as such. So the aim of this paper is to measure if world anti-doping – its inadequate harmonization, coordination and effectiveness with regard to detection, deterrence and prevention of doping aside – is generally sound and successful. It does so by exercising a critical examination of the purpose as stated in the World Anti-Doping Code: “To protect the athletes fundamental right to participate in doping-free sport and thus promote health, fairness and equality for athletes worldwide”. After a brief introduction to the background for the foundation of WADA followed by an explanation of political success it goes on to evaluate the stated purpose step-by-step. Based on the working groups finding and illustrated by exemplary cases the paper demonstrates that anti doping does not offer any protection of athletes right to participate in doping free sport; that it does not offer significant health protection; and that it does not protect fairness and equality for athletes worldwide. This leads to the conclusion that anti-doping under the auspices of WADA has been unsuccessful and counter-productive.

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1. Introduction

The World Anti-doping Agency (WADA) is a remarkable organisation. Before its formation in 1999, anti-doping regulations were in the hands of the respective sports organisations and their approach to the phenomenon differed markedly. Some organisations enforced harsh penalties, others were lax. The International Association of Athletics Federation (IAAF) for instance applied four-year bans for serious first time offences, whereas the International Cycling Union (UCI) found warnings and bans the length of weeks or a few months appropriate.

The disparity between the sports organisations anti-doping regulations indicate that doping was understood like other sport-specific infringements such as tackles, false starts, holding, hacking, dress, equipment, verbal abuse etc. So it was not more peculiar that different sports organisation had different doping regulations than there was dissimilar sanctions of physical contact in basketball, football, rugby and boxing. With the French authorities' intervention in the Tour de France in 1998 this perception changed.

The moment it was made public that custom officers at the France-Belgium border had pulled the soigneur of the Festina-Lotus team Willy Voet over and found his trunk loaded with performance-enhancing medical products, doping was instantaneously transformed from a sports problem to a political one. Consequently the perception of doping as simply a sporting rule violation became inadequate. This change of perception was underlined by the subsequent arrest of the entire Festina-Lotus team selected to race the Tour. The police raids and interrogation of riders in custody signalled that doping was a criminal offence in France and the implications of this was of great concern to the leading international sports organisations. The prospect of prestigious sporting events tarnished by images of athletes removed from competitions in handcuffs was nightmarish. The sports organisations understood that their independence was at risk. In an attempt to avert political interference and ensure that sporting organisations kept control of sports, the International Olympic Committee (IOC) reacted promptly by organising the World Conference on Doping in Sport, held at the IOC headquarters in Lausanne on 4th February 1999.

This convention was designed to consolidate political acceptance of the IOC as the leading authority in world anti-doping, but

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it had the opposite effect. The anti-doping program, drafted by the IOC ahead of the meeting, was opposed by a number of leading government representatives who expressed distrust in IOC's motives and called for the establishment of an independent United Nations like body in which national governments would have a significant say (Hanstad, Smith, & Waddington, 2008). The IOC had no alternative but to accept the government proposal of establishing a world anti-doping organisation, independent of the IOC. Given the circumstances – the magnitude of the doping use revealed in France during the Tour, the media furore it had caused, and the ineffectiveness of anti-doping efforts up to that point – it is understandable why governments wanted to see more effective measures taken and pushed for a solution that gave them direct influence on the development of international anti-doping policy.

It seems fair to suggest that the establishment of WADA was the right response to the doping crisis. This unique construction, equally funded by the IOC and the governments, was a statement of intent. It was an extraordinary initiative to secure (the re-establishment of) the integrity of sport and it was widely lauded. Since its very beginning WADA has enjoyed massive backing. Leading media representatives have generally taken the WADA premises for granted. Issues regarding athletes' legal protection and right to privacy have been more or less neglected.

The armoury WADA has evolved to catch doping athletes such as the strict liability rule and the 365 days per year testing availability and whereabouts requirement could hardly have been implemented had the agency not been endowed with special goodwill by international political and legal institutions. The political acceptance of the interpretation that professional sports are not professions in the ordinary sense of the word and athletes therefore are not entitled to the same level of protection as workers in other professions is crucial to the WADA cause. Even among the most staunch supporters of WADA we find recognition that anti-doping authorities is now equipped with powerful weapons. Dag Vidar Hanstad and Sigmund Loland acknowledge this in striking fashion:

Given that we accept the principal and moral basis of anti-doping work, the compulsory reporting system constitutes nothing more than a logical and effective extension of its methods. To use the earlier metaphor of [former Chief Medical Officer for the US Olympic team Dr. Robert] Voy, WADA is gradually moving from doing anti-doping work with unarmed weapons to shooting with live ammunition. (Hanstad & Loland, 2009, p. 6)

The backing of WADA and the acceptance of its armoury, that has the potential to destroy the career and reputation of athletes found to have committed a doping rule infraction, has root in a firm conviction that the organisation strives to achieve a morally sound goal which is in the best interest of the sporting community and clean athletes. The purpose of this paper is to critically examine if the WADA policy is indeed as successful and sound as its unwavering backing by media and politicians alike suggests.

2. Political inertia

A policy is successful if it fulfils its objectives. However, as Ross Coomber pointed out the very same year WADA was founded an "unintended effect of existing policy may be that it works against some of the principles upon which it is based and seeks to maintain" (Coomber, 1999, p. 103). Ideally, responsible politicians would not persevere with a policy that does not live up to its purpose but search for alternative measures better suited to solve the problem at hand and change the policy accordingly. But in the real world, it is not easy to change institutionalised policy (Hunt, 2015). This is

particularly true when it comes to international policies negotiated between multiple stakeholders with different attitudes and aspirations. When a compromise is reached and the policy set in motion, appetite for change is small even if the chosen path proves suboptimal or even counterproductive. Those who have vested interest in the policy whether as proponents, ambassadors or officials with prestige, livelihood or both at stake will typically fend off criticism by claiming that their critics are ill informed, do not see the bigger picture, or suffer from tunnel vision.

Admittedly the line of thinking in the present paper does not take into account all the obstacles, challenges, and difficulties that anti-doping employees are faced with on a daily basis. However, references to the complexity and intricate nature of the global anti-doping campaign do not justify persisting with a deficient system. If Coomber's observation, quoted above, accords with the development of global anti-doping policy it is a problem for the integrity of the enterprise that needs to be exposed and criticised. The best way to check if the principles upon which anti-doping were founded have been sacrificed is to evaluate its stated purpose and its practical outcomes. So what is the purpose?

3. WADA's purposes

The purposes of anti-doping as presented in the World Anti-Doping Code (WADC) are:

To protect the athletes' fundamental right to participate in doping-free sport and thus promote health, fairness and equality for athletes worldwide, and

To ensure harmonized, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping. (WADA, 2015, p. 11)

This formulation cited from the latest revision has remained unaltered since the first version of the WADC was published in 2003. The rationale appears clear and sober. Few would disagree that protecting fairness, equality, and the health of athletes through harmonized and effective anti-doping programs is a good idea. A testing and penal system that on the one hand catches cheating athletes, and on the other hand deters other athletes from resorting to doping, is hard to argue against so long as the extra demands it puts on the athletes are fairly reasonable. Of course, if athletes in order to make out of competition testing efficient were requested to accept surveillance via tagging like criminals who serve their time at home it would probably be considered disproportionate and meet resistance. But the system as it is now where athletes are requested to provide whereabouts information and give urine and blood tests would be hard to criticise if the purpose to protect health, fairness and equality for those subjected to the system was achieved. Sadly it is not. Even WADA recognises that the system is dysfunctional. Thus in the preamble for the working group on the (in)effectiveness of testing, appointed in spring 2012, the WADA Foundation Board admits:

Over recent years it has become apparent that traditional anti-doping testing programs are not catching many cheats. The latest available laboratory statistics (for 2010) indicate a mere 2790 adverse analytical results were returned from more than 258,267 tests analyzed; a meager 1.08%. In addition, a significant portion of those results were for cannabis only. The likely figures for 2011 show little change. Such statistics might appear to suggest that doping is not a major scourge for international sport, yet the intelligence otherwise gathered points strongly in the direction that it is still a huge threat, and that many are

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