

ISSN: 2582 - 2942



LEX FORTI

LEGAL JOURNAL

VOL- I ISSUE- VI

AUGUST 2020

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**Changing Dimensions of Sports Laws; Doping and Unethical Practices in
Sports**

Steeve James

ABSTRACT

"I was not a doper, I told myself - I just injected myself to recover and needed pills to sleep."

-David Millar

When competitive nature of human beings increases, they tend to look for easy solutions. The solution for suppressing competitiveness is unethical practices. Doping is a serious malpractice which athletes do to maintain their performance in the field of sports. Drugs and illegal substances which athletes use will make them competitive and winners, but this is unethical and it is against the moral of sports. Drug testing was introduced in the year 1968 by the International Olympics Committee. There are different types of doping such as, blood doping, human growth hormone doping etc. Agencies like World Anti-Doping Agency tests the blood and urine of athletes, if they found doing unethical practices, a ban for certain period and compensation is imposed on them.

This research paper is trying to bring out the legal remedies and ways to prevent the tendency of doping and unethical practices in the world of sports.

HYPOTHESIS

How to reduce unethical issues in sports like doping by uncompromising Law policies?

WHAT IS DOPING?

Doping is definitely bad for business and that's used as an illegitimate excuse to brush it under the rug or ignore it completely. Doping is not a nation problem but it's a global problem. Doping is not a new practice in sports. The first known case is from 1889. From ancient time onwards there are a lot of evidences which suggested the use of performance enhancing drugs (PED) among the competitors. "The term "doping" has its roots in the Dutch word dop, which was the name of an alcoholic beverage made of grape skins. It was supposed to act as a stimulant and to enhance the prowess of the South African Zulu warriors who drank the elixir. While the term "doping" was not introduced as part of popular vernacular until the late 19th century, the concept of using artificial means to gain an advantage in battle or competition has existed since ancient times"¹.

Dating from the Roman period to the East German Olympic swimmer to the baseball scandals in steroids all are about performance enhancing drugs. One popular definition of doping defines it as "an act or instance of giving a narcotic, usually a steroid, to an athlete to unfairly boost performance in a competition"². Mushrooms, plants and mixtures of wine and herbs were used by ancient Greek Olympic athletes and Roman gladiators competing in Circus Maximus dating back to 776 BC. Various plants were used for their stimulant effects in speed and endurance events as well as to mask pain, allowing injured athletes to continue competing³.

By using performance enhancing drugs the athletes get more vigour and energy to run and showcase their performances with an extra boost. Back in 1889 when blood serum and extract from testosterone was used a performance enhancement was obtained. Use of strychnine, heroin, cocaine and caffeine as a PED were used by athletes world-wide for name and fame in sports or rather as abuse. With the use of doping agents there will be an increased red blood cells in the body which in turn enhances the oxygen carry, increases the aerobic capacity and endurance. It is said that cardinal performance of athletes during competition is at maximum thus altering its capacity by PED is not possible. So, increasing oxygen content in body by PED and blood doping is practical but this is illegal in nature.

¹ Antonio Buti & Saul Fridman, *Drugs, Sport and the Law* 27 (Scribblers Publishing 2001)

² Dictionary.com, found at <https://www.dictionary.com/browse/doping>

³ Drug screening in the athletic setting. Landry GL, Kokotailo PK *Curr Probl Pediatr*. 1994 Nov-Dec; 24(10):344-59.

ETHICAL OR NOT? FOR SURE, NOT ETHICAL

Winning or losing is part of every competition. Winning in right manner is ethical. Today in the competitive world people always look forward to win. No matter how they win it's the price what matters form them. So, as a result of this competitive nature the unethical practices has increased in our world. In India cricketer Prithvi Shaw was banned from playing cricket due to doping. "The Board of Control for Cricket in India (BCCI) has put out a timeline of events that led to India opener Prithvi Shaw's doping ban. The apex body of Indian cricket said in a release that it has done so as per directives from the Supreme Court-appointed Committee of Administrators"⁴. So, ethics is lacking in these modern sports and its high time we solve these issues. Ancient Olympic athletes attempted to boost testosterone by eating sheep testicles, a prime source for testosterone. Some studies also suggested that the ancient Norse warriors also adopted doping to fight battles by taking hallucinogenic mushrooms. So, ancient Greeks and Romans used these frequently to gain competitiveness.

HISTORY OF MODERN SPORTS AND DOPING

In modern sports, commercialization of sports made some chaos. Winning became the only perspective of sports and even they tend to use unethical practices. But the first case of doping was documented way back in 1865 where Dutch swimmers used stimulants. Even European cyclist started using stimulants in 19th century, those drugs were of multitude types ranging from caffeine to either-coated sugar cubes to Vin Mariani, a cocaine-laced wine. It was used to attenuate their pain and exhaustion which they incurred from their sports. PED such as codeine and strychnine was used widely even from the first Olympic games, which is also known as summer Olympics.

"In 1904, St. Louis hosted the Olympic Games as part of the World's Fair—and produced a spectacle that incorporated all the mischief of the midway. Seven miles from the finish, his handlers fed him (Thomas Hicks) a concoction of strychnine and egg whites—the first recorded instance of drug use in the modern Olympics. Strychnine, in small doses, was commonly used a stimulant, and at the time there were no rules about performance-enhancing drugs"⁵. The doctors who examined Hicks stated that if there was an additional dose of strychnine he would have passed away. 20th century didn't register much doping cases. It was mainly because the people were afraid of the ill effects of such malpractices

⁴ India Today, India Today Web Desk, August 8, 2019, <https://www.indiatoday.in/sports/cricket/story/bcci-prithvi-shaw-doping-case-bcci-wada-anti-doping-prithvi-shaw-drugs-ipl-1578846-2019-08-08>

⁵ Karen Abbott, The 1904 Olympic Marathon May Have Been the Strangest Ever, August 7, 2012, <https://www.smithsonianmag.com/history/the-1904-olympic-marathon-may-have-been-the-strangest-ever-14910747/>

even though a ban or trail was not issued. Since, the stories of death and ill effects due to doping, cautious use by athletes lead way to no or considerably negligible amount of public harm hence, this resulted in very few cases.

ANABOLIC STEROIDS

In 1930s by the arrival of Nazi German rate of development of PEDs increased. By this time Nazi doctors created anabolic steroids. These steroids are testosterone which could be injected to body by a syringe. In 1936 Olympics was held in Nazi German and Germany won the overall medals (86 gold medals) sending USA to second position with 56 gold medals. Even though there is no conclusive evidence on use of PED its suspected that its with the help of steroids German achieved this landmark. After the cold war Russia with the help of captured German doctors created new anabolic steroids and participated in 1952 summer Olympics which was held in Helsinki, Finland. Russia without having the previous experience of participating in an Olympics won 71 medals and secured second position. By 1960s steroids found their way to every field of sports which in brought chaos in whole world.

FIRST STEPS TOWARDS ANTI-DOPING

International Amateur Athletic Federation (IAAF) in the year 1928 took the steps to prohibit doping. But it was the death of Danish cyclist, Knut Jensen triggered the promotion of doping testes. It was this incident held in 1960 Olympic Games, which traced out the content of amphetamines in his autopsy tests, promoted the international sports community to take the use of PEDs in athletes very seriously. International Olympics Committee realised the importance of doping test. Subsequently in the 1964 summer Olympics held in Tokyo established the testing of stimulants such as amphetamines, in the cycling events. Further, testing of players in the championships conducted by Federation International de Football Association (FIFA) was also seen profoundly.

In 1970s anti-doping regimes took a great momentum. In the year 1971 IOC released the first list of banned substance in the field of sports. If these substances were detected in sports personal's then this will serve as a ground of disqualification or ban. PED use got a great recognition during the 1988 Olympic Games held in Seoul, South Korea. In this event Ben Johnson, a Jamaican-born Canadian was caught using restricted materials. He was a 100-meter sprinter from Canada and is awarded the Order of Canada, it is Canada's highest civilian award. In 1988 Olympic Ben Johnson ended up defeating Carl Lewis with a record timing of 9.79 seconds. But the urine samples of Ben Johnson showed the presence of stanozolol, which is powerful anabolic steroid. Hence, he was disqualified and Carl Lewis was crowned first position.

WORLD ANTI-DOPING AGENCY

Established in the year 1999, World Anti-Doping Agency (WADA) is an international independent agency to do comprehensive studies and testing of athletes to trace out use of banned substance in their body. WADA is funded equally by sport movements and governments of the globe. "Its key activities include scientific research, education, development of anti-doping capacities, and monitoring of the World Anti-Doping Code (Code) – the document harmonizing anti-doping policies in all sports and all countries. A world where all athletes can compete in a doping-free sporting environment" ⁶ is their vision. Tour de France doping scandal of 1998 played a major role in establishing WADA.

According to WADA 2018 Anti-Doping Testing Figures it's been stated that;

- There was a slight increase in the percentage of total findings (AAFs and ATFs - combined) from 1.48% in 2017 to 1.49% in 2018.

⁶ Who are we, WORLD ANTI-DOPING AGENCY play true, <https://www.wada-ama.org/en/who-we-are>

- In addition, the data shows a slight decrease in the percentage of AAFs – more commonly known as positive tests – from 1.43% in 2017 to 1.42% in 2018.
- In 2018, the proportion of ATFs reported (223 ATFs in 344,177 samples) is relatively similar to 2017 (201 ATFs in 322,050 samples).⁷

Tour de France Doping Scandal

French Festina team of 1998 Tour de France was notable for major doping scandals. In this particular Tour the champion Marco Pantani and runner-up Jan Ullrich were diagnosed of using banned products that helped as a blood booster to fuel their performance. “But then the 1998 Tour de France – dominated by the Festina Affair – was hardly a bike race at all. Sometimes it was more like being caught up in a 'happening', a cultural event, characterised by serial stand-offs and sit-downs, police raids and petulance, finger-pointing and four-letter words. It was the lead story on French TV news bulletins for the best part of three weeks”⁸. The incident was coupled with police raids in the hotel where participants stayed and raid brought in light the banned products which were in use by them. At first PEDs were found from the Festina Cycling team. This was even stated by their director that some of players were given banned substances to fuel their performance. Hence, Festina team was expelled from Tour. This tour will be always remembered for this great doping scandal.

NATIONAL ANTI-DOPING AGENCY

With a motto “Play Fair” National Anti-Doping Agency (NADA) was set up in the year 2005 and is affiliated to Indian Olympic Committee. Its headquarters is in New Delhi, India. NADA is solely responsible for supporting, monitoring, promoting and coordinating doping control programs in India. NADA organisation adopts, implement and foster anti-doping rules, regulations and policies which is harmonized with WADA. NADA also promotes and support field of study and research in unethical practices prevailing in sports. According to the guidelines of WADA, NADA tests the blood and urine samples of sports personals in India. For testing two samples are taken sample A and sample B. Sample A is tested first, if the result is negative then sample B is not tested and hence, he is not

⁷ WADA 2018 Anti-Doping Testing Figures, https://www.wada-ama.org/sites/default/files/resources/files/2018_testing_figures_report.pdf

⁸ Jeremy Whittle, The 1998 Tour de France: Police raids, arrests, protests... and a bike race, March 03, 2017, <https://www.cyclingnews.com/features/the-1998-tour-de-france-police-raids-arrests-protests-and-a-bike-race/>

using banned products. If sample A is positive, then sample B is also tested to find the banned chemical and player is given a notice about this illegal activity. At a further move if found serious, player is banned from matches according to rules and regulations.

“India ranked 7th in the world in 2019 when it came to committing doping violations, with the list being topped by France and Russia. In 2019, India’s doping violations were more than double (187) its own tally in 2018 (74). The biggest violators consist of athletes in the sporting disciplines of bodybuilding (70), followed by weightlifting (60), athletics (55), powerlifting (40), and wrestling (20). Even more shocking are the figures of the positive tests from India’s premier national youth games, Khelo India; The 2019 edition witnessed 13 cases of doping, one more than in 2018”⁹.

⁹ Suheil Tandon and Antony CJ, Getting a Kick: The Scourge of Doping in Indian Sports, February 17, 2020, <https://thebastion.co.in/politics-and/getting-a-kick-the-scourge-of-doping-in-indian-sports/>

CASES IN INDIA

- Prithvi Shaw

Prithvi Shaw was banned for a doping violation. Urine sample which was taken from him during Syed Mushtaq Ali Trophy match on February 22, 2019. Sample tested found the presence of terbutaline. Terbutaline, is one of the in and out substance which is prohibited according to WADA guidelines. He was given a ban only on July 30, 2019. During this period, he played for Delhi Capitals in 2019 Indian Premier League. Board of Control for Cricket in India (BCCI) anti-doping manager confirmed that there was a delay in sending back testing reports from National Dope Testing Laboratory (NDTL). NDTL is accredited to WADA. His back dated ban was lifted on November 15, 2019. He missed only India tour of West Indies and India tour of South Africa. Was justice delivered properly? According to me it's a big no!

- Sarbjeet Kaur

National Anti-Doping Agency banned professional Weightlifter Sarbjeet Kaur for failing doping test. She was the winner of women's national weightlifting championship in 71 kg category for the year 2019. During this championship her blood samples was tested by NADA and it found the presence of banned substances in her blood. Few years back she was also tested positive for some uncatagorised banned substance. She is banned for four years for violating doping rules. "According to NADA, the sample of Sarbjeet has been tested positive for prohibited substances such as Di-hydroxy-LGD-4033 (LGD 4033 METABOLITE), Selective Androgen Receptor Modulations (SARM), and Ostarine (Enobosarm). The sample was collected during 34th Women Senior National Weightlifting Championship held at Vishakhapatnam"¹⁰.

- Narsingh Yadav

Few days before Olympics 2016, held in Rio de Janeiro Narsingh Yadav was tested positive of using banned substances. Freestyle wrestler was diagnosed for methandienone, which is a banned anabolic steroid according to the guideline of WADA. He was banned from sports game for a period of four years.

¹⁰ Riya Das, Doping Violation Case: Weightlifter Sarbjeet Kaur Banned For Four Years, January 8, 2020, <https://www.shethepeople.tv/news/doping-violation-weightlifter-sarbjeet-kaur-banned/>

He was an opinion of that he was drugged and it was not his fault. having a clear past there was cases on this matter in Delhi High Court where the High Court dismissed his petition and was clearly given a ban of four years. “But that’s not entirely true. According to CAS report, this wasn’t just a one-time ingestion. Ayotte, the head of World Anti-Doping Agency’s Montreal lab, said the concentration of the long-term metabolite in the second sample was too high to be consistent with one-time ingestion. “The expert evidence was that this was not a one-time ingestion (the reading of the long-term metabolite in his second test was consistent with a second ingestion towards the end of June 2016),” the report states”¹¹.

According to Annual Statistical Report of National Anti-Doping Agency (April 2018 to March 2019), a total of 187 Anti-Doping Rule Violation cases have been reported. Highest number of violations in bodybuilders with 60 cases, weightlifting with 41 cases and athletics with 18 cases leading the table. A total of 4348 samples were tested¹².

Sports personals who is found guilty of the Anti-Doping Violations are given a chance to present themselves before the Anti-Doping Disciplinary Panel and to explain their cases. This panel held 9 sitting during the month of March 2020 and issued 7 orders.

1. Mr. Vishal Gawade, Bodybuilding, 4 Years ineligibility period w.e.f. 07/05/2019
2. Ms. Rajni Navgire, Bodybuilding, 4 Years ineligibility period w.e.f. 25/04/2019
3. Mr. Anmol Singh, Athletics, 4 Years ineligibility period w.e.f. 12/04/2019
4. Mr. Ashwin Kumar, Weightlifting, 4 Years ineligibility period w.e.f. 01/03/2019
5. Mr. Manraj Singh, Para-Powerlifting, 4 Years ineligibility period w.e.f. 08/03/2019
6. Ms. Priya K, Athletics, 4 Years ineligibility period w.e.f. 14/06/2019
7. Athlete (Minor), Badminton, Reprimand with no period of ineligibility
8. Ms. Neeraj, Boxing, Hearing was held on 19/03/2020. Order is reserved
9. Ms. Vandana Thakur, Bodybuilding, Hearing was held on 20/03/2020. Order is reserved¹³

¹¹ Mihir Vasavda, Narsingh Yadav doping case: Story of half-truths and contradictions, August 31, 2016, <https://indianexpress.com/article/sports/sport-others/narsingh-yadav-doping-case-story-of-half-truths-and-contradictions-2991255/>

¹² Annual Statistical Report, National Anti-Doping Agency (April 2018 to March 2019), https://www.nadaindia.org/upload_file/document/1564572411.pdf

¹³ Monthly e-Newsletter, National Anti-Doping Agency April 2020 (Issue-XXX), https://www.nadaindia.org/upload_file/document/1587020358.pdf

HOW TO OVERCOME THIS CHAOS

Overcoming these issues in sports, is a main concern for many sports groups and organizations. At present sports personals who violates doping rules are punished as,

1. A ban for certain period of time.
2. Disqualification of the resulted sports activity.
3. A lifetime ban for practicing, coaching or competing in particular or in every sports activity.
4. A fine of certain amount.
5. Review panel to assess the anti-doping violations.

But will it serve the purpose? According to me its no. sports personals tend to repeat the same mistakes after their comeback too. The involvement of unethical practices in this competitive world is increasing day by day. As a result, punishments which are stringent should be imposed.

SO, WHAT CAN BE IMPLEMENTED?

- A trial court should be set up: the people who violated the anti-doping rules should be both heard in Anti-Doping Disciplinary Panel as well as in the court of law. Anti-Doping Disciplinary Panel can impose ban and financial penalties on the individual. Court of law should impose an imprisonment for certain period of time which can be for a duration of 6-months to 7-years.
- Fraud and Cheating, both interpreted in Indian Penal Code (IPC), imposes punishments for people who committed these crimes. Anti-Doping violations are also a form of Fraud, Cheating and Dishonest activities. Hence, these Anti-Doping violators should be punished accordingly.
- Increasing the minimum penalty and ban period: this increase in punishments will make violators more conscious about their mistakes and hence this to a certain level can bring down the number of violations.
- More testing of samples: testing of more than one sample will provide much more accurate results. Recently German doping specialist Mario Thevis explained more than 100 certain undetectable performance enhancing drugs. According to him these are very difficult to detect due to their structural characteristics¹⁴. So, testing more than one sample will be more accurate.
- If a sports personal is found guilty and he is punished, then after him return to sports, he should not be given government privileges and benefits. He should only be confined to his sports medals and awards.
- Increasing the number of CCTVs in the field of sports in order to monitor sports personals during the event, pre-event and post-event. A governing body should be constituted to monitor these.

¹⁴ Motilal C. Tayade et al, DOPING IN SPORTS: CURRENT REVIEW, April 2013,
https://www.researchgate.net/publication/259716501_DOPING_IN_SPORTS_CURRENT_REVIEW

CONCLUSION

Unethical practices in sports is always been a menace for the society. Doping is a serious crime in sports. It is cheating, a type of fraud and dishonesty. Taking necessary steps beyond the present existing ones is a key remedy for these violations. There are number of testes taken, but the capabilities of steroids being unidentified is getting increased. The complex structures and new technology make them invincible to the testing agencies. The medical side effects of these drugs cause chaos. Performance Enhancing Drugs are not a latest development, it is been in use from ages when society started giving importance to competitiveness. A world with zero doping and an ethical sport event should be our motto. Violators should be punished without granting any mercy. Let's join together for a Doping free and Ethical sports.

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