

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 7 | Issue 3

---

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Anti-Doping Regulations and its Implementation in India: A Critical Analysis

---

YERRAGUDLA VIKRANTH<sup>1</sup>

## ABSTRACT

*Athletes consume performance enhancers, to improve their performance and to achieve the spotlight of glory and to win medals. Sometimes athletes consume them without their knowledge of consuming prohibited substances. Doping has been considered as a sin with or without malice and violation of sporting-spirit globally. There are institutions that take care of doping tests, like World Anti-Doping Agency (WADA) at the international level and the National Anti-Doping Agency (India) which are set up under the aegis of UNESCO's International Convention against Doping in Sports. Globally, World Anti-Doping Code 2021 are the guidelines or rules that govern doping tests, prescribes a list which consists of prohibited substances and punishment for the violation of the code. In India, the National Anti-Doping Code, 2022 is the code that gives the authority for the setting up of NADA, testing athletes, prescribes punishment for the violation of code. This paper deals with the definitions of doping, the inception of the concept of anti-doping and a brief analysis of doping in the earlier times and the development of it, and an analysis of global anti-doping code and of the national code as well and an analysis of implementation in India, in the sense of punishing the violators and a brief analysis of whether criminalization of doping is possible or not.*

**Keywords:** *Doping, Anti-doping regulations, Anti-doping agencies, Criminalization of doping.*

## I. INTRODUCTION

Doping is not a new word or a word that belonged to the modern world. It has its origins or usage in the Norwegian mythology, ancient Greece and in the Roman Empire. Doping meant, usage of performance enhancers or strength-increasing substances. During those days, doping wasn't discouraged and people administering such enhancers from different sources were considered as medical specialists in sports. It was administered to animals as like to humans during horse races in the Roman Empire<sup>2</sup>.

In this modern age of sports, doping can be traced back to the 2<sup>nd</sup> half of the 19<sup>th</sup> century. An

---

<sup>1</sup> Author is a LL.M. student at Hidayatullah National Law University, Raipur, Chhattisgarh, India.

<sup>2</sup> Robert Alexandru Vlad, Gabriel Hancu, Gabriel Cosmin Popescu, Ioana Andreea Lungu, *Doping in Sports, a Never-Ending Story?*, Adv Pharm Bull, 2018, 8(4), Pg. 530

athlete (Tom Hicks) died during the St. Louis Marathon after he used a mixture of cognac and strychnine. In 1928, after several such incidents the International Athletics Federation (IAF) took an initiative to prohibit usage of certain substances in the competitions which enhances performance. In 1972, for the first time doping was banned in Olympics which were held in Munich<sup>3</sup>.

Though there are regulations promoting anti-doping have existed from 1972, there were many instances of doping by the athletes and even state sponsored doping. Through the passage of time, the regulations have become stricter and the methods of doping have always won the race by coming up with new methods to successfully nullify the testing and identification process of prohibited substances. Even though regulations against doping are robust still the deterrence against the usage is not created. This study is to find out whether the violations are happening because of lack of awareness or the athletes are using it intentionally to enhance their performances in India.

## **II. MEANING AND DIFFERENT WAYS OF DOPING**

### **(A) Meaning**

According to the National Anti-Doping Act, 2022, doping in sports means, “the occurrence of any Anti-Doping Rule Violations specified in section 4<sup>4</sup>”. As such there is no clear definition of doping in sports but a mere violation of certain regulations as specified in the act are considered as doping. The meaning of doping in sports is not defined in WADC, National Anti-Doping Rules, and the International Convention against Doping in Sports. The definition or the components have been taken from the World Anti-Doping Code as it is and interpreted in the same manner.

The definition of doping in sports according to WADC is, “Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample. It is the Athletes’ personal duty to ensure that no Prohibited Substance enters their bodies. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.<sup>5</sup>”

The definition of doping according to the act<sup>6</sup> was changed to suit the circumstances and

---

<sup>3</sup> Ibid.

<sup>4</sup> The National Anti-Doping Act, 2022, Section 2(O)

<sup>5</sup> The World Anti-Doping Code, 2021, Article 2.1 and 2.1.1.

<sup>6</sup> The National Anti-Doping Act, 2022

situations in the country to avoid ambiguity. Doping in simple terms can be considered as, “the use of performance enhancing drugs by competitors or sportsmen to increase performance in an unfair manner<sup>7</sup>.”

### **(B) Different ways of doping**

According to the National Anti-Doping Rules, 2021 an athlete is considered to be doping if the athlete contravenes certain anti-doping regulations. The regulations that are specified in the rules<sup>8</sup> are as follows;

- Presence of performance enhancing drug in a sample collected for testing from the athlete.
- An attempt to use or usage of a prohibited substance or method by the athlete.
- Refusing or failing to submit sample.
- Failing to give where about information of the athlete.
- Tampering the doping process in any manner.
- In possession of a substance or method which is prohibited.
- Trafficking of the substance by the athlete or the support staff which is prohibited.
- Administering a substance or usage of a method by an athlete which is prohibited<sup>9</sup>.

## **III. ANTI-DOPING REGULATIONS AND AGENCIES**

### **(A) Regulations**

The laws and regulations with regard to doping have originated from the United Nations Educational Scientific and Cultural Organization’s International Convention against Doping in Sport<sup>10</sup> and India became a signatory to the convention on 19<sup>th</sup> October, 2005 in Paris but it was ratified only in November, 2007 by the Indian Parliament. India recently in 2022 passed the National Anti-Doping Act which gives the authority for the establishment of the National Anti-Doping Agency with the support and backing of the Ministry of Youth Affairs and Sports.

The idea of setting up an agency to deal with the doping in sports originates from the World Anti-Doping Code, 2003 which took effect from 2004 and the latest one was adopted in 2021. The World Anti-doping Agency predates the UNESCO’s convention and was formed on 10<sup>th</sup>

---

<sup>7</sup> Bharti Sharma, *A Critical Analysis of the Impact of Doping in Sports Domain*, 4 INT’L J.L. MGMT. & HUMAN. 129 (2021)., pg. 132

<sup>8</sup> The National Anti-Doping Rules, 2021, Article 2.1 to 2.8

<sup>9</sup> Supra 7, Pg. 132

<sup>10</sup> International Convention against Doping in Sports, January 2003

November, 1999 after the initiative of International Olympic Committee. The committee after a year of deliberations, signed the “Declaration of Lausanne<sup>11</sup>”, to promote, coordinate, monitor fight against drugs in sports. The code specifies certain bodies or agencies for conducting tests and investigating issues. The regulations create a duty on the part of the athletes to know about the latest updates regarding the prohibited substances and athletes will be made strictly liable for contravening the regulations.

The National Anti-Doping Agency is a registered society which was set up in 2004 under the Societies Registration Act, 1860. The administration of the agency must be done by adhering to the National Anti-Doping Rules, 2021. The act provides with the authority to search and seizure athletes, conduct tests, establishment of test laboratories and to penalise athletes for contravening the rules and the act<sup>12</sup>. The regulations and rules are in place to discourage doping by creating a deterrence in the athlete community and to educate them of the negative impact of doping.

## **(B) Agencies**

### **a. World Anti-Doping Agency**

The anti-doping agency which controls and governs the administration of anti-doping agencies through respective governments world-wide is the World Anti-Doping Agency, an autonomous body situated in Canada. The agency directs all the national agencies with respect to anti-doping practices, sample collection, sample testing etc. and the agency also invests its time and resources in research to develop new methods of testing and identifying. They release a list of an updated prohibited substances, they also conduct awareness programs, monitoring programs. The agency has the authority over the handling of samples and declaration of sample results. The authority is extended to handing over of provisional suspension and further on giving the right of fair trial to the athletes. The updated list of prohibited substances as given by the WADC, 2021 is as follows, “Peptide Hormones, Growth factors, related substances and mimetics, Beta-2 Agonists, Hormone and Metabolic Modulators, Diuretics and Masking agents, Stimulants and Glucocorticoids.” There are certain policies on which WADA works, to conduct adequate testing, to release an updated list, follow-up testing to be done and to conduct night-testing to avoid doping<sup>13</sup>.

---

<sup>11</sup> Lausanne Declaration on Doping in Sport, February 2-4, 1999

<sup>12</sup> Supra 6, Chapter V, Sections 19 – 23

<sup>13</sup> Supra 7, Pg. 139

#### b. National Anti-Doping Agency

This agency has been established to regulate doping in sports in the country. The duties of the agency are to conduct tests, collect and handle samples, impose penalties and suspensions on the athletes who contravene the code. It also acts as a quasi-judicial body to determine the cases of doping and gives a fair opportunity to the athletes to represent themselves before the authority while they decide the cases of doping. This agency is a national level authority which has the power to conduct tests and to delegate it to the state agencies. The agency is regulated by a set of rules<sup>14</sup> which govern the management of the agency with respect to different aspects.

#### (C) Doping Control Mechanism

Doping in sports is controlled or regulated usually through the testing process in which the methods of testing are blood sample and urine sample collection. Generally a doping control officer has the duty to protect rights of athletes during the process of doping control. This process includes five stages, they are selection of athletes, notifying athletes, collection of samples, analysing samples and management of results.

Testing is usually done in and out of competition, to discourage use of methods which impact the performance in a long run. Choosing of athletes can be done randomly or for particular reasons. Testing an athlete out of competition can be done randomly without a notice<sup>15</sup>.

### IV. CRIMINALIZATION OF DOPING AND CASE STUDIES

The idea of criminalizing doping has been around for a while now and the agencies around the world and the countries have a different perspective. The world anti-doping agency considers that, the mechanisms that are in place are sufficient to mitigate or deter the usage of doping in sports. The WADC provides with a ban of an athlete for a period of four-year who use PEDs and the right of appeal to the court of arbitration for sports. These mechanisms are welcomed by the member nations and the agency considers there isn't a need to criminalize doping but the agency is actively seeking the criminalizing of trafficking and distribution of prohibited substances<sup>16</sup>. The international Olympic Committee has a similar opinion with respect to doping in sports.

The Indian government made an attempt to criminalize doping in the country but the government received a severe back-lash from the Indian Olympic Committee and the WADA.

---

<sup>14</sup> National Anti-Doping Rules, 2021

<sup>15</sup> Supra 7, Pg. 140

<sup>16</sup> Ilamparithi D. K., *Criminalizing Doping in India: A Critical Study*, 1 GLOB. Sports POL'y REV. 140 (2021), Pg. 144

The sports ministry even prepared a draft of the National Sports Development Bill to curb doping in the country, but it never came into light<sup>17</sup>. India is ranked 2<sup>nd</sup> in doping violations by the athletes according to a World Anti-Doping Program 2020, the Anti-Doping Rule Violation (ADRV) Report<sup>18</sup> released in May, 2023. There are certain aspects that cater to the raise of India's ranking in doping violations. They can be put as follows, lack of awareness on the part of athletes, support staff and medical officers who treat the athletes. The National Anti-Doping Agency should educate athletes, support staff and medical doctors by conducting seminars, workshops to create awareness.

There is a necessity to criminalize doping not only to protect the principles of the sport but also to protect the well-being of the athletes. Doping effects the basic principle of sports i.e. fair competition. But it will only be at the cost of sports, in many countries such as India, athletes, support staff and medical officers are not well aware of the idea of doping, sometimes athletes who just take medicines in a regular course violate the doping provisions just because the medicine they have consumed had prohibited substances in them<sup>19</sup>.

#### **(A) Case studies**

*Dutee Chand*<sup>20</sup> - The ace sprinter was recently handed over a 4-year ban after she failed in two out-of-competition doping tests. She admitted that she used certain medication for pain relief as she was suffering with 1<sup>st</sup> stage of testicular cancer. She requested the state and central government to lift ban on her and permit her to participate in different events. Her ban period is effective from 3<sup>rd</sup> January, 2023.

*Kamalpreet Kaur*<sup>21</sup> – The Olympian discus thrower was banned for a period of 3-years after she failed in the doping test. Her samples contained stanzolol, she admitted the use of prohibited substance which paved the way for reduction of the ban period by a year. Her samples were tested in Lausanne, Switzerland by an accredited lab of WADA. Her ban period started from March 29, 2022 after the WADA decided to reduce her ban period.

*MR Poovamma*<sup>22</sup> – The quarter-miler and Asian game medalist was handed over a 2-year ban

---

<sup>17</sup> Ibid

<sup>18</sup> World Anti-Doping Program 2020, *Anti-Doping Rule Violation (ADRV) Report*, (May 29, 2023), <https://www.wada-ama.org/en/resources/anti-doping-stats/anti-doping-rule-violations-adrvs-report>.

<sup>19</sup> The Case of Prithvi Shaw, Indian Cricketer who got suspended after he took a cough syrup which had Terbutaline.

<sup>20</sup> *Four-year dope ban, Dutee Chand requests Centre, State Government to help*, The Hindu, (Aug. 20, 2023), <https://www.thehindu.com/sport/other-sports/four-year-dope-ban-dutee-chand-requests-centre-state-government-to-help/article67215536.ece>.

<sup>21</sup> *Olympian discus thrower Kamalpreet Kaur handed three-year ban for doping*, Olympics.com, (Oct. 12, 2022), <https://olympics.com/en/news/indian-discus-thrower-kamalpreet-kaur-doping-ban-athletics>.

<sup>22</sup> Aarish Ansari, *MR Poovamma suspended for doping; to miss Asian Games, world athletics championships*,

after she failed in her doping tests. She was tested positive for methylhexaneamine. She was initially banned for a period of 3 months but later NADA appealed before the Anti-Doping Appeal Panel and it handed over a 2-year ban to her.

*Shivpal Singh*<sup>23</sup> – The javelin thrower was suspended from participating in events for a period of 4-years by the Anti-Doping Disciplinary Panel for failing doping tests. His samples contained metandienone. He will be out of action till October, 2025.

*Russia Doping Case Study*<sup>24</sup> –Russia has always been the front-runner in the area of doping in sports, we can consider it as a state sponsored doping instances. In 2015, when Russian athletes were suspended for failing doping tests in a large number, who were among the 2016 Rio Olympic team, only 70% of the strength of the original team went on to represent Russia in Rio. The International Olympic Committee took back its decision to issue a blanket ban to protect the clean athletes. It has been the case with Russia for a while now.

## V. CONCLUSION

The regulations with respect to doping are well in place and the agencies are implementing with respect to penalizing the athletes. There is a dire need for educating, creating awareness the sports fraternity with reference to the list of drugs and methods that are explicitly prohibited by the world organizations, if used would entail to a ban for a certain period. The ban period depends on each case and the acceptance of usage of prohibited substances by the athletes. The agencies working towards creating a doping free sport environment should not only think about penalizing athletes but also in educating the people involved with sports in regard to doping and its effects, be it ethical and physical. Sometimes athletes consume different kinds of medicines for the different ailments, to their surprise the medicines they consume have prohibited substances which lead to their bans.

The WADA should also prescribe a list of medicines which have the prohibited substances in it, to ensure that athletes doesn't have a scope to plead innocence. The agency provides a robust list of drugs that the athletes should avoid using or having it in their possessions. The WADA has launched a platform in 2018 named, Anti-Doping Education and Learning Platform (ADEL) to educate athletes, coaches, medical professionals, Anti-Doping Organization practitioners, researches about cleaner sport environment. This program is voluntary and bound to have fewer responses or learners. The agency should create an in depth program in order to ensure that most

---

Olympics.com, (Sep. 20, 2022) <https://olympics.com/en/news/mr-poovamma-indian-athlete-doping-banned>

<sup>23</sup> *Javelin thrower Shivpal Singh suspended till 2025 for doping*, Olympics.com, (Oct. 02, 2022), <https://olympics.com/en/news/indian-javelin-thrower-shivpal-singh-doping-ban-nada>

<sup>24</sup> Supra 6, Pg. 145



of the sports fraternity is aware of doping and the prohibited substances.

The responsibility is pinned over the athletes to be aware of the changes in doping regulations but the ground reality is different because they lack the access to the updates, data available, and appliances to educate themselves. The national agencies should take it upon their shoulders to minimize the usage of performance enhancers by educating the athletes of its ill effects with regard to health and how it damages the basic idea behind sporting events "fair competition". The agencies should concentrate on conducting workshops, seminars to educate the sports fraternity to create a better sporting environment around the world.

\*\*\*\*\*