

**The Changing Attitude of the IOC and the IPC Towards WADA and the
Governance of Anti-Doping**

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Abstract

The aim is to examine the changing attitude of the International Olympic Committee (IOC) and the International Paralympic Committee (IPC) towards the World Anti-Doping Agency (WADA) and the governance of anti-doping. Initially, the IOC was responsible for coordinating anti-doping efforts. However, in 1999, WADA was established as an independent agency responsible for bringing global consistency to regulations and anti-doping policies. Since WADA's establishment, WADA and the IOC have exhibited a tense relationship. Although the IOC is a primary stakeholder in the anti-doping regime, it has sometimes been highly critical of WADA and equivocal in its support for WADA activities. Despite the uneasy relationship between WADA and the IOC, the Olympic Movement provides equal funding (along with governments) for WADA and has equal representation on WADA's Foundation Board. Additionally, the IOC and IPC play a crucial role in Code implementation; their responsibilities include overseeing Olympic and Paralympic anti-doping programmes and suspending international federations and nations from the Olympic and Paralympic Games. Unlike the IOC, the IPC is relatively new to the issue of doping and, in recent years, has adopted a different response to the IOC. For example, the IPC banned Russia from the Rio 2016 Summer Paralympics. Qualitative document analysis was used to analyse primary sources, including WADA, IOC and IPC reports and secondary sources, including journalistic investigations. The findings identified an unresolved tension between the IOC and WADA as a key factor that is arguably undermining the effectiveness of anti-doping efforts. Additionally, WADA's Committees largely comprise Anglo-Saxon, North American and Scandinavian members. However, such countries are no longer pre-eminent; as the Far East hosts an increasing number of international sporting events, the centre of gravity in global sport is gradually shifting. Consequently, a key governing challenge for WADA is to achieve stronger global buy-in than is reflected in WADA's governing structures.

Introduction

Prior to 1999, the IOC was the primary actor within the anti-doping regime. Despite the IOC's position as the core organisation responsible for coordinating the fight against doping, during the 1980s and 1990s, the IOC expressed indifference towards doping developments and scandals. Notable examples of the IOC's passivity include the IOC's slow response to doping revelations regarding the former East Germany doping policies and the IOC's lack of attention to the Chinese doping scandal at the 1994 World Aquatics Championships (Hoberman, 2006). The ineffectiveness of the IOC's anti-doping efforts was emphasised through the 1998 Ben Johnson and the 1998 Tour de France scandals. Additionally, allegations of corruption during the bidding process for the 2002 Salt Lake City Winter Olympics severely undermined the IOC's moral authority and legitimacy as the core anti-doping governing body. Together, the incidents led to governmental mistrust of the IOC and contributed towards the IOC's eventual loss of formal leadership within the anti-doping regime (Ritchie and Jackson, 2014).

The increasing involvement of governments following the 1998 Tour de France scandal threatened the IOC's authority as a leading organisation within the anti-doping regime. In an attempt to affirm their authority and restore their integrity within the world of anti-doping, the IOC leadership convened and carefully planned the agenda of the 1999 World Conference on Doping in Sport (the Lausanne Conference). However, despite the IOC's reactionary efforts, the IOC was unable to control all outcomes of the Conference (Houlihan, 2002). The Lausanne Conference provided a forum for powerful North American, Australasian and European governments to unite and collectively challenge the leadership of the IOC. In particular, influential actor Barry McCaffrey, Director of the White House Office of National Drug Policy, spearheaded governmental mistrust of the IOC. Consequently, contrary to the IOC's proposal to create an anti-doping agency solely funded by the IOC, in November 1999, the World Anti-Doping Agency (WADA) was established as an independent agency (Hanstad et al, 2008). The IOC's decision to relinquish control and support WADA as an independent agency demonstrates the ability of powerful governments to challenge the transnational status of the Olympic Movement and International

Federations (IFs) (Houlihan, 2007). However, it is important to recognise that this represents one of the few cases in which governments have managed to obtain reforms from sport bodies. Another notable example includes the European Union forcing reforms on the Fédération Internationale de Football Association's transfer system (Parrish, 2018).

The Governance of WADA

WADA aims to bring global consistency to regulations and anti-doping policies within governments and sport organisations. Since 2002, the Olympic Movement and governments have provided equal funding for WADA and have equal representation on WADA's Foundation Board (the supreme decision-making body) and Executive Committee (the policy making body). Additionally, to ensure equal partnership between WADA's funders, the WADA Presidency is alternated between the Olympic Movement and governments. The organisational structure of WADA has raised numerous concerns regarding the governance of anti-doping (Chappelet and Luijk, 2018). First, the independence of WADA's Foundation Board has been criticised due to an overlap of personnel on the thirty-eight member Foundation Board and the twelve member Executive Committee; in 2018, nine members held positions on both boards (WADA, 2018a). For the Foundation Board to effectively fulfil its oversight role, personnel overlaps between the Foundation Board and Executive Committee should be eliminated (Ordway, 2016).

Second, many of the Olympic Movement representatives on WADA's Foundation Board simultaneously hold presidential or administrative positions within the Olympic Movement; in 2018, WADA's Foundation Board included active IOC and IPC members, in addition to presidents of the International Weightlifting Federation, World Archery, United World Wrestling, the International Skating Union and the World Rowing Federation (WADA, 2018a). However, there is a conflict of interest between elite sport development and anti-doping; rigorous anti-doping efforts that expose elite athletes have the potential to threaten relationships with commercial entities, alienate corporate sponsors and damage the image of the IOC, IPC, IFs, the Olympic and the Paralympic Games. Consequently, IOC, IPC and IF members on the

Foundation Board have a clear conflict of interest with WADA; they must protect their sports and income whilst simultaneously controlling doping. Such conflict has the potential to undermine the commitment of Foundation Board members to anti-doping policy (Sugden and Tomlinson, 2012). Travis Tygart, Chief Executive Officer at the United States Anti-Doping Agency (USADA), has frequently expressed his concern regarding the inherent conflicts of interest and has urged actors within the anti-doping regime to be ‘cognisant and honest about the tension between promoting and policing your sport’ (The Guardian, 2016).

The potential for conflicts of interest also exists at the presidential level. WADA’s inaugural president, Richard Pound, was also Vice President of the IOC. As a respected figure with an international profile, Pound enhanced the credibility of WADA (Wenn and Martyn, 2006). Furthermore, Pound strengthened the accord between WADA and the IOC. During WADA’s early years, the close relationship between WADA and the Olympic Movement played a crucial role in generating IF support for the World Anti-Doping Code. Adopted in 2003, the Code represents the core document that globally harmonises anti-doping regulations and policies across all sporting organisations and countries (Houlihan, 2012). Similar to Pound, WADA’s current president, Craig Reedie, simultaneously held the position of IOC Vice President. The IOC’s desire to maintain a strong relationship with the WADA President has been evident during the course of the WADA presidential elections; traditionally, the IOC has lobbied to ensure that the Foundation Board select a candidate acceptable to the Olympic Movement. However, such efforts may be perceived as an attempt by the IOC to manipulate the leadership of WADA and assert influence over the governance of anti-doping (Selliaas, 2018). Furthermore, Pound’s position as the IOC Vice President, combined with his responsibility for marketing the Olympic Games, conflicted with the goals of anti-doping. The conflicts of interest incurred by WADA’s organisational structure has been emphasised by Travis Tygart, Chief Executive Officer at USADA who likened Pound’s election to ‘putting the fox at the top of guarding the henhouse’ (Tygart, 2018). Additional stakeholders within the anti-doping regime have expressed similar concerns. For example, the independent foundation FairSport, conducted a survey with over 2100 athletes (85% of which competed at the international level), to determine athlete’s opinions on their current rights and the environment of cheating within sport. The results revealed that

54% of respondents felt that their leadership was subject to conflicts of interest (Bokel, 2018). Such findings indicate the need to restore stakeholder trust and confidence in anti-doping organisations and the governance of anti-doping.

Third, WADA's lack of geopolitical representation has been critiqued; the governance of WADA is largely influenced by Anglo-Saxon, Scandinavian and North American representatives. Currently, WADA's Foundation Board, Executive Committee and four of its five standing committees are chaired by European or North American members. Combined, the standing committees comprise fifty-seven members and five chairs, of which, almost two thirds are from English speaking or European countries (WADA, 2018a). However, the centre of gravity in global sport is gradually shifting; Far East countries, including emerging superpowers, are hosting an increasing number of major international sporting events (Cornelissen, 2010). Examples include the Beijing 2008 Summer Olympic Games, PyeongChang 2018 Winter Olympic Games, 2019 Rugby World Cup held in Japan and the Tokyo 2020 Summer Olympic Games. As a result, WADA faces the challenge of achieving greater geopolitical representation than is currently reflected in its governance structures. In recognition of the governance challenges within the anti-doping regime, in 2016, WADA announced the establishment of a working group to investigate strategies to enhance the governance structure of WADA. The findings are expected to be reported to the Foundation Board in November 2018 (WADA, 2018a).

Increasing Tension Between WADA and the IOC: The Russian Scandal

In 2014, WADA initiated an independent investigation to explore allegations regarding a sophisticated system of state sponsored doping in Russia. The Independent Person Report (henceforth the McLaren Report), found that a sample swapping methodology, which aimed to protect athletes who doped, was in operation at the Moscow laboratory. The report concluded that a widespread and 'deeply rooted culture of cheating' existed within Russia and confirmed the systematic and regular use of PEDs by many Russian athletes (McLaren Report, 2015; 10). Despite the severity of the findings, WADA does not possess the authority to impose sanctions

upon signatories that are non-compliant with the Code. Instead, WADA is dependent upon a network of actors, including the IOC, IPC and IFs, to impose appropriate sanctions. As a result, the IOC and IPC play a crucial role in Code implementation (Chappelet and Luijk, 2018). Informed by the McLaren report, WADA's Executive Committee put forward a clear recommendation to the IOC and IPC: Russian athletes should be prohibited from competing at the Rio 2016 Olympic and Paralympic Games. However, WADA's recommendation created a dilemma for the IOC and IPC. As one of the largest delegations to compete at the Olympic and Paralympic Games, Russia's participation contributes towards the competitive nature of the Games. The IOC also generates a significant amount of sponsorship and broadcasting revenue from the Olympic Games. For a long time, the USA and USSR sporting rivalry has been a significant ingredient in broadcaster's marketing of the Olympic Games, particularly in the USA. Consequently, to enhance the relevance and competitiveness of the Games, it is desirable for the IOC to have all member nations competing (Ordway, 2016). To further complicate the issue, McLaren's accusation regarding a state-dictated failsafe system conflicted with the IOC's position against the articulation of a corrupt government discourse (Wagner and Pedersen, 2014). WADA's recommendation therefore highlighted the tension associated with the dual responsibility of promoting and policing sport.

Following the evaluation of evidence, which included an opportunity for the Russian Paralympic Committee to put forward its case, the IPC Governing Board unanimously decided to suspend Russia from the Rio 2016 Paralympic Games. Although sympathy was expressed for the Russian athletes, former IPC President Philip Craven stated that Russia's corrupt system struck at the 'very heart of the spirit of Paralympic Sport' and emphasised that the IPC's decision was driven by the need for accountability (IPC, 2016). The IPC's response signified harmony between WADA and the IPC and conveyed a message of zero tolerance towards institutionalised doping. Throughout the IOC's decision-making process, numerous anti-doping stakeholders placed pressure upon the IOC to suspend the Russian Olympic Committee. Fourteen National Anti-Doping Agencies (NADOs) sent a letter to the IOC President, Thomas Bach, urging the IOC to exclude Russia from the Rio 2016 Summer Olympic Games (Inside the Games, 2016). Additionally, Claudia Bokel, Chair of the IOC Athletes' Commission, asked athlete commissions around the world their opinions on whether

the Russian delegation should be banned from the games. After the overwhelming majority expressed support for a blanket ban, Bokel presented her findings to the IOC (Bokel, 2018). Nevertheless, in contrast to the IPC, the IOC did not ban Russia from participating at the Rio 2016 Summer Olympic Games; at the IOC session in Rio de Janeiro, only Great Britain voted in support of the motion. Instead, the IOC delegated the decision to individual IFs. The International Association of Athletics Federations and the International Weightlifting Federation were the only IFs to ban all Russian athletes (Chappelet and Luijk, 2018). The IOC's decision has been criticised for conveying the message that 'Olympic goals, including supporting one of the IOC's strongest members, are prioritised over the aims of WADA' (Ordway, 2016; 1). Additionally, the IOC's failure to implement WADA's recommendation has placed strain on the relationship between WADA and the IOC. WADA openly expressed its disappointment in the IOC and stated that the decision signified a lack of harmonisation within the anti-doping regime and undermined anti-doping efforts. In particular, the fragmented responses of WADA, the IOC and the IPC raise questions as to whether the organisations responsible for the global governance of anti-doping are able to adopt a unified approach towards the doping threat (Girginov and Parry, 2018).

Although the IOC did not implement WADA's recommendation, the IOC responded to the McLaren report with the establishment of two disciplinary commissions. First, the Oswald Commission investigated allegations of doping amongst Russian athletes at the Sochi 2014 Winter Olympic Games; all available samples from Russian athletes who participated in Sochi were re-analysed. Forty-three athletes received lifetime bans from the Olympic Games and were retrospectively disqualified from the Sochi 2014 Winter Olympics (Oswald Commission, 2017). However, of those athletes, forty-two filed cases to the Court of Arbitration for Sport (CAS). In twenty-eight of the cases, the appeals were upheld due to insufficient evidence; the sanctions were declared invalid and the results of the individual athletes at Sochi were reinstated (CAS, 2018). Driven by their dismay regarding the decision, the IOC (with the support of WADA) is considering an appeal to the Swiss Federal Tribunal. The rift between the CAS and the IOC / WADA, combined with CAS's ruling, has elevated the levels of confusion and frustration amongst athletes. Second, the Schmid Commission concentrated upon the institutionalised doping in Russia, with a specific

focus upon the Sochi Games. The Schmid Commission confirmed numerous findings contained within the McLaren report, including the manipulation of the anti-doping system and sample tampering. However, in contrast to McLaren, Schmid did not find evidence to confirm state involvement in the system (Schmid, 2017). Informed by the commission's conclusions, the IOC changed its position; in contrast to the Rio 2016 Summer Olympic Games, the IOC suspended the Russian Olympic Committee from the PyeongChang 2018 Winter Olympics. However, the IOC invited individual Russian athletes to compete under the name 'Olympic Athlete from Russia' and stated that the suspension may be lifted in full or part from the commencement of the closing ceremony (IOC, 2017a). The IOC's desire to verify the findings contained within the McLaren report, combined with their unwillingness to impose a blanket ban based upon McLaren's findings, indicates a lack of trust in WADA and undermines the credibility of the anti-doping regime.

With regard to the reinstatement of the Russian Anti-Doping Agency (RUSADA), WADA has adopted an unequivocal stance; Russia must meet all criteria detailed in the Roadmap to Code Compliance. To date, there are two outstanding criteria. One, to publicly accept the outcomes of the McLaren report. Two, to provide access to the Moscow laboratory and provide the necessary data to investigate outstanding cases. The IPC has expressed its support for the Roadmap to Code Compliance, and, similar to WADA, the IPC has refused to reinstate Russia until the final two criteria are met (Inside the Games, 2018a). In contrast, IOC President Thomas Bach has expressed his desire to 'draw a line under this damaging episode' (IOC, 2017a). Although sanctioned for the duration of the PyeongChang 2018 Winter Olympic Games, the Russian NOC was reinstated by the IOC three days after the Winter Olympics ended (Inside the Games, 2018b). The IOC and IPC's conflicting stances have the potential to create tension between the two organisations. On the one hand, the IOC and IPC's recent long-term agreement, which established a partnership between the IOC and IPC until at least 2032, has strengthened the existing relationship between the two organisations. On the other hand, as part of the agreement, the IOC will provide financial stability to the IPC. The IPC's financial dependency upon the IOC has raised speculation as to whether the IOC will pressure the IPC to reinstate Russia. During a media briefing in PyeongChang, such speculation was addressed by Craig Spence, the IPC Media and Communications Director. Spence reiterated the IPC's support for

WADA's Roadmap to Code Compliance and stated that the IOC / IPC cooperation agreement 'does not mean we [the IPC] will change our stance on Russia' (Inside the Games, 2018a).

Organisational Restructuring in the Anti-Doping Regime

Recent doping scandals and revelations have significantly reduced public and athlete confidence in the organisations responsible for compliance with the Code (Wagner and Pedersen, 2014). In particular, the Independent Observer (IO) report for the Rio 2016 Summer Olympic Games raised concerns regarding the ability of major actors, specifically WADA, the IOC and IFs, to ensure that an effective anti-doping program is delivered. Of the 11,470 confirmed entrants, 4,125 (1,913 of which were from high risk sports) had no record of testing during 2016. Furthermore, the IO Report concluded:

'It was only due to the enormous resourcefulness and goodwill of some key doping control personnel working at the Games that the process did not break down entirely' (IO Report, 2016; 7).

Described by WADA as one of the most 'destabilising incidents for sports in recent memory' (WADA Annual Report, 2016; 5), the Russian doping scandal has further undermined the legitimacy and credibility of the anti-doping regime. The damaging effect of the Russian scandal was evident at the PyeongChang 2018 Winter Olympic Games; the IO report found that suspicion regarding the integrity of the anti-doping programme was prevalent during the Games (IO Report, 2018).

Throughout the history of the anti-doping regime, exogenous events, specifically doping scandals, have instigated anti-doping inquests, policy reappraisals and policy changes which aim to improve the effectiveness of the anti-doping regime. Prompted by the revelation of institutionalised doping in Russia, a number of organisational changes have occurred within the anti-doping regime. In 2015, WADA established the Compliance Review Committee (CRC), an independent body that comprises compliance experts from non-sporting sectors, in addition to athlete, government and

sport representatives. The primary role of the CRC is to provide advice and recommendations to WADA's Foundation Board on issues relating to signatory compliance. Where compliance problems are discovered, a taskforce is created to investigate and recommend corrective actions to the given Code signatory. Unresolved problems are forwarded to the CRC, which recommends that the signatory be declared non-complaint, or be placed on a watch list with a specific timeframe for resolution (Chappelet and Luijk, 2018). The independent nature of the CRC signifies WADA's attempt to alleviate concerns regarding conflicts of interest within WADA's Foundation Board. Simultaneously, the CRC contributes towards restoring WADA's credibility and trust in the anti-doping regime (Efverström et al, 2016). However, although WADA has endorsed the CRC's recommendations, harmonisation within the anti-doping regime is dependent upon the willingness of anti-doping actors to align their actions with the CRC and WADA's recommendations. This problem was emphasised through the fragmented responses to the Russian scandal. At the same time, the Russian scandal exposed WADA's weaknesses, particularly its reliance upon other anti-doping organisations and its inability to impose sanctions (Müller, 2017).

Despite repeated calls to enhance the independence of WADA, arguably, the IOC has been reluctant to weaken its influence within the anti-doping regime (iNADO, 2017). The IOC's continued position as a primary actor within the anti-doping regime and the power of the Olympic Movement is enhanced through WADA's constitution and funding structure, both of which are largely influenced by the Olympic Movement (Müller, 2017). As a consequence of WADA's composition, Travis Tygart, Chief Executive Officer at USADA, has argued that WADA is 'controlled by sport' (Tygart, 2018). The balance of power has also been discussed by Linda Helleland, WADA's Vice President, who stated 'it [WADA] needs a more equal partnership. Right now, the perception is that the Olympic Movement is the strongest partner' (BBC, 2018). Recently, the IOC indicated a change in attitude towards the governance of anti-doping. At the 5th Olympic Summit, the IOC recognised the need to enhance the independence of the anti-doping system and improve WADA's governance structure. In recognition of the inherent conflicts of

interest, the IOC stated that the WADA President and Vice-President must be neutral with no function in any sports or governmental organisation. However, at the same time, the IOC maintained that, as founding partners, the Olympic Movement and governments must maintain equal representation on the Foundation Board and Executive Committee (IOC, 2017b). Whilst the IOC refuses to relinquish its operational influence and involvement in WADA, the extent to which WADA can be empowered and made truly independent is questionable. The IOC also proposed the establishment of a new independent testing authority. Despite the IOC's emphasis upon institutional independence, the International Testing Authority (ITA) is funded by the IOC and three of its five Foundation Board members are representatives from the Olympic Movement. As a result, the ITA has been dismissed as an attempt by the IOC to drive the construction of the new system and regain greater control of international anti-doping efforts (iNADO, 2017).

The Future Direction of WADA

The scale of the current compliance problem has placed WADA at a crossroads in the fight against doping. As Craig Reedie's presidential era comes to an end in November 2019, the upcoming WADA President will play an important role in shaping the future direction of WADA and the anti-doping regime. To date, Linda Helleland (WADA's current vice president and Norwegian Minister of Children and Equality) and Witold Banka (Polish Sports Minister) have announced their candidacy for WADA President. Throughout her candidacy, Helleland has clearly expressed her vision for WADA, stating that the organisation 'needs more independence, more transparency and more democracy' (BBC, 2018). Currently, the IOC represents WADA's largest financial contributor; the IOC matches the financial input of governments. However, in an attempt to alleviate resource constraints within the anti-doping regime, WADA recently announced its efforts to pursue additional funding strategies that target private donor, corporation and foundation contributions (WADA, 2018b). Helleland's desire to increase WADA's independence from the Olympic Movement, combined with WADA's potential to secure alternative funding sources, threatens the IOC's leadership and influence within the anti-doping regime.

Tension between Helleland and the IOC has also developed during her current position as WADA Vice President. Helleland has been highly critical of the IOC, particularly the IOC's failure to ban Russia from the Rio 2016 Olympic Games and the IOC's 'confusing' response to the PyeongChang 2018 Winter Olympic Games (Inside the Games, 2018b). Alluding to the IOC's decision to reinstate Russia, Helleland reiterated the need to continue with the Roadmap to Code Compliance, even if 'some are intending to undermine its legitimacy' (BBC, 2018). The ongoing Russian scandal has also played a focal point in Banka's election campaigns. However, in contrast to Helleland, Banka has conveyed his desire to adopt a softer approach towards Russia. Similar to the IOC, Banka perceives the two remaining Roadmap to Code Compliance criteria as unrealistic and has argued that new reinstatement criteria are necessary. Banka's position aligns closely with the IOC's desire to resolve the Russian case. Consequently, compared to Helleland, Banka is widely perceived as the preferred candidate by the Olympic Movement. Nevertheless, if Helleland is successful in her bid for the WADA presidency, the governance of WADA and the relationship between WADA and the Olympic Movement could undergo significant changes (Selliaas, 2018).

Conclusion

In contrast to the IPC, the IOC has a long and well-established history as a primary actor within the anti-doping regime. However, the IOC's inconsistency towards the fight against doping, in addition to unresolved tension between the IOC and WADA, has undermined the effectiveness of anti-doping efforts. Furthermore, the scale of the recent Russian scandal has significantly weakened the credibility and legitimacy of WADA and its major partners. In particular, the fragmented responses of WADA, the IOC, the IPC and IFs has created doubt regarding their ability to adopt a unified approach towards the doping threat. With the anti-doping regime currently at a crossroads, significant efforts to reform the governance of anti-doping are essential to restore faith and trust in the anti-doping regime and the organisations responsible for the global governance of anti-doping. Key governing challenges include increasing the independence of WADA, removing the conflicts of interest from WADA's

Foundation Board and Executive Committee and achieving greater geopolitical representation than is currently reflected in WADA's governing structures.

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