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**ANTI-DOPING POLICY: A PARTIAL HISTORY AND REFINEMENT**

A Thesis in

Kinesiology

by

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**ABSTRACT**

Two individual papers comprise the general discussion of this thesis. Together these papers highlight the development and creation of international anti-doping policy. The first paper provides background. As a historical paper, it documents the development of international anti-doping policies by the Council of Europe. Specifically, I highlight how their efforts helped establish precedent for an international anti-doping system that came to influence today's largest international anti-doping agency, the World Anti-Doping Agency. The second paper offers a critical analysis of a more recent attempt to expand anti-doping policy by authors Larry Bowers and Raymond Paternoster. In this second paper, my collaborators and I take a critical look at their proposal for the establishment of moral communities, amongst athletes in elite sport circles, as an effort to increase athlete buy-in to anti-doping policies. In our critique, we acknowledge that establishing moral communities potentially represents an important step toward athlete buy-in. However, we also show how the authors undermine taking this important step by employing shame as a tool for deterrence without considering the ethical problems of such employment and promulgating a *us vs. them* mentality between anti-doping authorities and athletes. Their strategy only further hinders athlete buy-in and partnership. To foster athlete's buy-in, we, instead, argue for *athlete empowerment* as a step toward legitimating anti-doping policies in the eyes of athletes.

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## Preface

Two previously published works comprise the general discussion of this thesis. The paper titled “Moral Communities in Anti-Doping Policy: A Response to Bowers and Paternoster” is a multi-authored work. As the first author, I contributed the following ideas:

- The problematic nature of recruiting shaming as a tool for deterrence.
- The problem of adversarial rhetoric in anti-doping governance.
- The benefits of empowering athletes as stakeholders in anti-doping governance.

As multiple authors took part in writing this paper, written contributions were delegated to each person.

My direct written contributions included the following sections:

- Adversarial Rhetoric.
- Empowering Athletes.
- Friends with Benefits.

As the general discussion of this thesis involves the creation or development of anti-doping policy, the sections to which I contributed comment on anti-doping governance strategies and avenues for improving anti-doping policy. More importantly, the last two sections, “Empowering Athletes” and “Friends with Benefits,” discusses improving athlete buy-in to anti-doping policies by increasing moral legitimacy and rule adherence.

# **PART 1**

## Chapter 1

### Introducing the papers

The two individual papers that encompass the general discussion of this thesis provide commentary on anti-doping policy, its historical development, and a more recent attempt at its refinement.

#### **Paper 1: “The International Anti-Doping Movement and the Council of Europe: An Unexamined Influence”**

After the Second World War, the Council of Europe (CE) emerged as a response toward upholding human rights across the European region. As an international organization, the CE represented a political-judicial intergovernmental body that could enact legislation for the protection of human rights. These efforts came as a response for the much-needed establishment of peace across a European region that had been ravaged by the Second World War.

Part of its mission included efforts to facilitate cultural exchange among the many European countries that fell under its mandate. Cultural exchanges, it was hoped, would soften geo-political tensions of any kind, present and in the future, and help foster a united Europe (Grosjean, 1997, p. 4).

Sport represented one area that the CE sought to develop toward achieving cultural exchanges (Grosjean, 1997, pp. 83-87). The CE saw sport as a useful social tool for its institutional goals. It saw sport as a place to facilitate cultural exchanges imbued with messages of democratic values, such as fairness and tolerance. Sport would serve as a location for healthy social interaction. In other words, sport offered European citizens a space to test their ability to be fair, honest, and tolerant; and to learn about the people in their communities.

As such, the CE established commissions with the directive to develop sport across Europe. This included funding grassroots sports and building areas for play and recreation. It also meant dictating what

kind of sport needed to be emphasized. Character building approaches to sport saw great support, along with the development of sport safety and medicine that would allow citizens to benefit physically, culturally, and morally from their practice of sport (Royer, 2010, p. 52).

In trying to create an ideal mass sport system as a way for cultural exchange, the CE encountered doping at the elite levels of sport. They feared that doping would trickle into their sport system and that the desire to perform like top level athletes would drive people toward drug use, ultimately undermining their vision (Council of Europe, 1964, p. 35). That is, in their endeavor to promote mass sport, they needed to deal with the use of drugs to enhance performance at the elite levels of sport.

While the CE toiled with building a grass roots sport system across Europe, it also began to gather experts in medicine and sport to understand the extent of, in their view, the problem of doping and how to manage it. In 1963, a working party of sport medical doctors met, twice, to discuss this issue. These doctors intended to gather all the relevant information and to disseminate this information along with recommendations to the highest sport authorities, such as the International Olympic Committee (IOC), and national government interests related to sport.

This effort was largely successful, as these working parties would go on to influence the emerging anti-doping policies found across Europe, from sport authorities to national governments (Council of Europe, 1964, p. 15; International Olympic Committee, 1965, p. 79; Prokop, 1965, pp. 88-90). Moreover, the working parties put the urgency of the doping problem into plain view. That is, with every passing moment, the problem seemed to widen and to deepen, and fixing the problem required a concerted effort from all those interested in developing sport. The CE also knew that Europe was well endowed to handle the doping problem, since some of the largest sports authorities and international sport federations had headquarters in Europe, in the CE's member states.

After the results of the working parties established the need to tackle the doping problem head-on and with all available resources, the CE began to provide recommendations for its member states. Between 1960 and 2000, the CE enacted legislation aimed at eradicating doping. Some pieces of



legislation provided recommendations for member states to redirect funding to sports authorities. Other pieces outlined how to create drug testing laboratories and helped establish best practices at various levels of governance.

However, by the end of the 1980s, high-profile doping scandals demonstrated the anti-doping movement's failure to erode doping practices. As such, the CE decided to enact its strongest piece of legislation, an Anti-Doping Convention. As a compulsory piece of legislation, every member state required ratification. This convention went beyond the previous recommendations to member states, as countries implemented those recommendations to varying degrees. Instead, it stipulated one set of mandatory anti-doping rules for all members, in the hopes that a simplified and centralized document could garner the anti-doping goal.

This convention represented all of the CE's anti-doping work. It was the culmination of decades of refining. More importantly, due to the intergovernmental nature of the CE, the convention also took the form of an international instrument for anti-doping efforts; the first of its kind. As such, this convention laid the precedent for international anti-doping organization.

Such legislative progress gave anti-doping efforts an updraft. The elevation of anti-doping regulations to an international convention provided anti-doping rules a new level of authority, one that sports organizations, from international federations to the IOC, could never have enacted. Yet, the upswing in anti-doping efforts turned sour by 1998 when doping practices were uncovered at the Tour de France in what has been called the "Festina affair." Authorities discovered a cycling-team car with a trove of performance-enhancing drugs. The doping problem spiked up and created headlines. Riders protested the accusations and treatment from the media and fans. In response, the IOC decided to create an international anti-doping agency.

The IOC hosted the World Conference on Doping in Sport in 1999, where sport leaders could meet and discuss the framework for a new anti-doping agency. The CE forwarded copies of their Anti-Doping Convention, which became part of the working papers. CE members that attended the conference

gave speeches and offered sport leaders expertise and insights from decades of international anti-doping legislation in Europe. By the year 2000, the World Anti-Doping Agency (WADA) emerged, and several members of the CE filled seats in WADA. By and large, WADA grafted much of the CE's Anti-Doping Convention, benefitting from years of European national anti-doping policies and standards of intergovernmental cooperation. CE anti-doping legislation laid a roadmap for the kind of international anti-doping work that WADA planned to helm in the next millennium (United Nations Educational, Scientific and Cultural Organization, 2005).

By developing the first international Anti-Doping Convention, implementing their work in the creation of WADA, and serving as foundational members; it is safe to consider the CE's work as one of the greatest influences on international anti-doping policies in the world of sport, today. The CE's work set the precedent and established touchstones that define international anti-doping governance.

## **Paper 2: "Moral Communities in Anti-Doping Policy: A Response to Bowers and Paternoster"**

After more than twenty years of WADA, doping persists. Historical work and anti-doping legislative precedent, by the CE and other organizations, such as WADA and the IOC, continually undergo efforts of refinement. The second paper in this thesis responds to an attempt to improve anti-doping policy effectiveness. It is aimed at anti-doping restructuring that would increase athlete buy-in.

In their article, Larry Bowers and Raymond Paternoster (2016) presented the potential benefits of establishing moral communities, amongst elite athletes, as an avenue for increasing athlete buy-in to anti-doping policies. My collaborators and I acknowledge the important step moral communities can represent for anti-doping policies. However, we also take a critical look at the components of Bowers and Paternoster's proposal.

As Émile Durkheim (1992) posits, moral communities entail a group of people with a shared set of moral beliefs that shape their members' behavior. The primary idea being that the moral community demarcates a clear set of behavioral boundaries, along with reprimand for bad behavior, for the maintenance of the community. Applying this idea to sport anti-doping, Bowers and Paternoster propose that a moral community that establishes a strong identity centered on the norm of clean competition would disincentivize athletes from breaking the rules.

Bowers and Paternoster are correct here. That is, if athletes come to hold a moral sentiment that doping represents unethical behavior in the moral community, then they will be driven toward clean competition for the sake of being a moral person. This type of doping deterrence takes anti-doping strategy beyond its strict drug testing and harsh punishments as a means for preventing doping. Instead, the goal is to reorient athlete desires toward clean competition as a way to remain a member of the moral community.

Our criticism of Bowers and Paternoster's proposal begins with their support for athlete shaming. Bower and Paternoster found shame to be a potent emotion, one that could be recruited for the purposes of deterring athletes from doping by using it to maintain a moral community. That is, they proposed that athletes caught doping should have their names published and reputations impugned. However, they failed to discuss, to any serious degree, the problematic nature of such a proposal.

Research into shame consistently shows the damaging effects such a potent emotion can have (Gilbert, 1997; Ha, 1995; Stuewig and Tagney, 2007; Tagney, 1999). Athletes already undergo significant psychological harm from doping infractions, brought on by the existing shame associated with the practice. Supporting the mobilization of further shaming for deterrence could prove devastating in elite sport. Moreover, some studies call into question the idea that shame can lead to prosocial behavior outcomes. Research into shame also shows that it does not necessarily result in behavioral change, but rather can result in the behavioral tendency to withdraw or avoid blame (De Hooge, Zeelenberg, and Breugelmans, 2010). This means that the shaming of athletes can likely result in athletes withdrawing or

avoiding blame, over conforming to the social expectation. These findings make the recruitment of shame wholly unethical and impractical, given its harmful effects and unfounded deterrence quality.

We highlight a second undermining aspect of Bowers and Paternoster's proposal for athlete partnership, which involves their confusing evaluation of athletes as would-be rule breakers. Bowers and Paternoster continually refer to the relationship between elite athletes and anti-doping authorities in an adversarial vernacular, which is common throughout the anti-doping movement and its history. This rhetoric portrays athletes as potential cheats, and uncooperative. Such an adversarial binary is problematic in the effort to establish a moral community and to cooperate with athletes. Such a view undermines the entire project to garner athlete buy-in or to increase athletes' perceived legitimacy of anti-doping policies.

Even though Bowers and Paternoster remain committed to creating moral communities, their recruitment of shaming and upholding of an adversarial relationship undermines their mission. As such, we propose athlete empowerment as a way to increase athlete buy-in to anti-doping policies. Specifically, we use stakeholder theory to demonstrate the potential benefits of athlete partnership.

Stakeholder theory recognizes that certain people or groups are significantly affected by the actions of larger institutions. Moreover, this theory holds that the moral status of institutions, such as WADA, depends on the ability of those affected, by institutional policies or governance strategies, to deliberate and to exercise power on those decisions that affect them (Freeman and Reed, 1983). In addition, studies in rule compliance show that increasing stakeholder involvement, in institutional decisions and rulemaking, increases adherence to the rules ultimately put in place (Tyler and Blader, 2005). For anti-doping governance, this means that giving athletes an empowered hand in generating anti-doping rules or governance strategies can result in higher levels of rule adherence. Such a move betters the moral status of anti-doping governance, which currently employees no athlete voice in governance strategies, and it also has the practical benefit of increasing athlete buy-in. The greater buy-in comes, in part, from playing a direct and visible role in writing the rules; such circumstances increase rule legitimacy.

Our article builds toward the goal Bowers and Paternoster tried to reach. That is, they attempted to find an avenue toward increasing athlete buy-in to anti-doping policies. Unfortunately, their proposal for moral communities was littered with undermining details. Rather than go the route of shaming and upholding an adversarial relationship with athletes, we propose a model of increasing athlete empowerment in anti-doping governance. Such a move makes an ethical adjustment to anti-doping governance strategies and provides a practical benefit, namely including athletes as stakeholders in anti-doping decision making and in rule creation increases athlete adherence to anti-doping policy.

## REFERENCES

- Bowers, L., & Paternoster, R. (2016). Inhibiting doping in sports: Deterrence is necessary, but not sufficient. *Sport, Ethics and Philosophy*, 11, 132-151.
- Council of Europe (1964). *Doping of Athletes: A European Study*. Strasbourg: Council of Europe Publishing.
- De Hooze, I.E., Zeelenberg, M., & Breugelmans, S. M. (2010). Restore and protect motivations following shame. *Cognition and Emotion*, 24(1).
- Durkheim, E. (1992). *Professional ethics and civic morals*. London: Routledge.
- Freeman, R., & Reed, D. (1983). Stockholders and Stakeholders: A new perspective on corporate governance. *California Management Review*, 25(3), 88-106.
- Gilbert, P. (1997). The evolution of social attractiveness and its role in shame, humiliation, guilt and therapy. *British Journal of Medical Psychology*, 70(2), 113-147.
- Grosjean, E. (1997). *Forty Years of Cultural Exchange at the Council of Europe 1954-1994*. Strasbourg: Council of Europe Publishing.
- Ha, F.I. (1995). Shame in Asian and western cultures. *American Behavioral Scientist*, 38(8), 1114-1131.
- International Olympic Committee (1965). Minutes of the 63<sup>rd</sup> meeting of the I.O.C.. *Olympic Review*, 92, 79.
- Prokop, L. (1965). The problem of doping: Final report on the International Doping Conference. *Journal of Sports Medicine and Physical Fitness*, 5(2), 88-90.
- Royer A. (2010). *The Council of Europe*. Strasbourg: Council of Europe Publishing.
- Stuewig, J., & Tagney, J. P. (2007). Shame and guilt in antisocial and risky behaviors, in Jessica L. Tracy, Richard W. Robins, & June Price Tagney (Eds.), *The self-conscious emotions: Theory and research* (371-388). New York: Guilford Press..
- Tagney, J.P. (1999). The self-conscious emotions: Shame, guilt, embarrassment and pride. In Tim Dalgleish and M.J. Powers (Eds.), *Handbook of cognition and emotion* (541-568). Wiley.

Tyler, T. R., & Blader, S. L. (2005). Can businesses effectively regulate employee conduct? The antecedents of rule following in work settings. *Academy of Management Journal*, 48(6), 1143-1158.

United Nations Educational, Scientific and Cultural Organization (2005). *International Convention Against Doping in Sport*. Paris: UNESCO Retrieved from <https://unesdoc.unesco.org/ark:/48223/pf0000142594>.

## **PART 2**



## **Paper 1**

Macedo, E. (2020) The International Anti-Doping Movement and the Council of Europe: An Unexamined Influence. *Sport History Review*, 51, 102-124.

# The International Anti-doping Movement and the Council of Europe: An Unexamined Influence

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This study explains how the Council of Europe (CE) influenced the international anti-doping movement from the 1960s until the establishment of the World Anti-Doping Agency (WADA) in 1999. As a European regional intergovernmental organization, the CE endeavored to cultivate a unified Europe by guiding countries in harmonizing their laws and by facilitating cultural exchanges. This mission led the CE to recruit sport as a tool for cultural exchange and to in turn enact anti-doping legislation. Moreover, given its structure, the CE's work in anti-doping took the form of harmonized international legislation that helped lay the foundations for an international anti-doping movement. Ultimately, the CE's work served as a touchstone for many sport organizations, especially the International Olympic Committee and its efforts to manage doping in elite sport. This kind of involvement, including collaboration in the setup of WADA in 1999, makes a plausible case to consider the CE a main, rather than periphery, player in anti-doping history and one of the greater influencers regarding the international anti-doping governance structure and legislation.

**Keywords:** anti-doping history, international governance, Olympic Movement, sport governance, World Anti-Doping Agency history

In 2005, collaboration between United Nations Educational, Scientific and Cultural Organization (UNESCO) and the recently formed World Anti-Doping Agency (WADA) resulted in the International Convention against Doping in Sport.<sup>1</sup> The Convention was an impressive feat because it combined anti-doping rules with an international legal instrument that bound signatories with the force of international law.<sup>2</sup> This combination germinated from a history of anti-doping legislation that came from various organizations, over many years. In addition, neither the work of WADA nor the Convention was without precedent. Indeed, anti-doping rules date back to the 1920s and 1930s.<sup>3</sup> International legal reform against doping, too, came long before UNESCO's convention. In 1989, the Council of Europe (CE), an international governing body that upholds human

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rights in the European region, passed the first convention against doping in sport. In fact, UNESCO inscribed in its convention the recognition of the CE's work as the "origin of national anti-doping policies and of intergovernmental cooperation."<sup>4</sup> The CE's Anti-Doping Convention, since 1989, bound its member states (countries in Europe, but also voluntary signatories abroad) to implement anti-doping regulations and aid the anti-doping movement overseen by International Sports Federations (IFs) and the International Olympic Committee (IOC).

Much of the initial literature on the history of doping and anti-doping rightfully focused on sport organizations and their involvement with anti-doping, especially between the years 1960 and 2000 (when WADA emerged).<sup>5</sup> However, this focus has neglected a fuller examination of governments and international governing bodies, including the CE. Scholars have noted the CE's major milestones, such as the Anti-Doping Convention, and that the CE played some role in sport and anti-doping governance.<sup>6</sup> However, closer examination of the CE's work, especially through its digitized archive of legislation, meeting minutes, and correspondence, reveals an interesting connection between sport and anti-doping policies and the larger project of European integration that followed the Second World War. Indeed, tracing the line of legislation that the CE enacted with respect to anti-doping discloses a great amount of collaboration and legislative harmony between the CE and the Olympic Movement (IOC and IFs). Evidence points out that the CE aided the Olympic Movement with creating anti-doping regulation and later forming WADA. Such influence came from the CE's ability to gather experts in anti-doping, produce the relevant information and legislation, and disseminate that information to the relevant authorities (governments that controlled sport in their country and sport organizations of every level). As such, the largely unacknowledged CE may be one of the greatest influences in anti-doping work, especially regarding the push toward harmonized international anti-doping governance.

At first glance, it may not seem apparent why the CE, whose primary work centered not on sport but on upholding human rights and the rule of law across Europe, would come to pass anti-doping legislation. Understanding its venture into anti-doping regulation requires an understanding of its institutional goals as a regional intergovernmental organization and how these goals led to an involvement with sport policies in Europe.

## The Vision for an Integrated Europe

A united Europe, or European integration, points to the ideological and substantive attempts to create a European community that is united economically, socially, and politically. The European Union (EU) paradigmatically represents this aspiration, which has long stretching historical roots.<sup>7</sup> These visions, however, were shattered with the advent of the two World Wars in the first half to the twentieth century. But, with each war came a concerted effort to unify the region. The wars demonstrated the risk when nations fail to uphold human rights and the rule of law. After the First World War, political leaders established what would come to be the failed League of Nations. This organization sought world-wide peace and its presence on the global level inspired a renewal of a vision for the united Europe. Following the lead of the League of Nations, Count Richard Coudenhove-Kalergi published, in 1923,

a paper titled *Pan-Europe* which, according to historian Dan Vătăman, became “the classic work” of international organization.<sup>8</sup> This paper contained foundational elements of international governing bodies. Coudenhove-Kalergi explained that “Pan-Europe was to be equipped with a Council composed of delegates from the states, a Parliamentary Assembly composed of delegates from national parliaments and a Court of Justice.”<sup>9</sup> These elements would appear in intergovernmental organizations after the Second World War, especially in the CE. The classic work also emphasized the need to reassure states of their sovereignty and the necessity of cooperation, military alliances, and a common currency. However, international political conflicts stymied the progression of pan-Europe and the Second World War postponed any effort to create such international coordination.

The ravage of World War II only reinforced, in the minds of many prominent European politicians, the need for a harmonizing network of laws. Traumatized by the destruction, the aftermath of the War reignited the pan-Europe movement. In May 1948, advocates of the movement met for the Congress of Europe (also known as the Hague Congress) to discuss ways of unifying the region. Resolutions from the Congress underlined the necessity of unifying European countries “economically and politically in a structure capable of ensuring their security and social progress.”<sup>10</sup> A strong European movement emerged and so did three foundational organizations, the Western Union, the European Economic Cooperation, and the CE.

The Western Union emerged from the Treaty of Cooperation in Economic, Social and Cultural and Collective Self-Defense signed in Brussels, March 17, 1948. Signed by Belgium, France, Luxembourg, The Netherlands, and the United Kingdom, this treaty bound signatories to a commitment of defense if any members fell victim to armed aggression. The European Economic Cooperation, which was created by the Treaty of Paris, April 16, 1948, managed financial and economic policies to help the convertibility of currencies across Europe and facilitated free trade. The CE developed in response to the need for a political–judicial intergovernmental body that could enact legislation for the region of Europe and uphold human rights.

In the years following the Second World War, European integration began with reconciliation. The CE sought, first and foremost, to make Europeans aware of the possibility and potential of belonging to a common civilization. The violence and terror caused by extreme nationalism made it apparent in the minds of political leaders that national relationships needed a new foundation. The CE turned attention to the diversity of histories and cultures found across Europe, the very same differences that sparked the violence of the World Wars. These differences, however, needed to be presented as an enriching part of the European region. The CE knew that peace began with reframing diversity as a strength and that its strength depended on the cultivation of citizens who respect each other and interact. As such, cultural action in the form of programs and policies that helped preserve and spread this new notion of cultural diversity took the forefront of the CE project in the European region, with equal intensity to the upholding of human rights.<sup>11</sup>

The CE backed the importance of cultural exchange with the European Cultural Convention in 1954. This convention made it clear to signatories the importance of cultural exchange and the creation of cultural programs that encouraged and developed European unity. The CE supported nations in their efforts to

cultivate the study of history and language from the various nations of Europe. It also hoped that nations could infuse these programs with an emphasis on the democratic values of fairness and tolerance.<sup>12</sup> The CE thought these values would lubricate cultural exchange.

Indeed, the CE thought such cultural exchange would help bridge East–West relations in Europe as well. From the onset, the CE “never regarded the division of Europe into two blocs as fixed and final.”<sup>13</sup> Its original aim, again, included uniting all of Europe under one community. Inclusion, of course, required the ratification of the endorsement of the CE’s various legislation and, especially, democratic values. Because of the Cold War divide, bridging this divide would not be possible until the 1990s, when the CE welcomed the “new democracies” of the former Eastern bloc.<sup>14</sup>

Two veins vitalized the European integration project. On the one hand, the CE sought to establish the rule of law in the region of Europe. It hoped to facilitate democracy and protect human rights with these laws. On the other hand, the CE strongly held the belief that cultural cooperation would not only facilitate the first goal, but also represented a foundational element for integration and peace itself. As such, the CE sought to infuse as many social elements with this perspective, including education, public health, and, eventually, sport. Its vision was to create a system that cultivated generations of European citizens versed in the moral values associated with democracy and rule of law, including fairness and tolerance. They envisioned culturally literate and respectful people that would bring about a new era of peace to Europe.

To do this, the CE enacted various legislation that would recommend action to its member states and help in their implementation. The CE did and continues to contain two main legislative bodies. One citizen from each member state makes up the body of the Committee of Ministers, which acts as the CE’s executive branch. This executive branch ratifies recommendations and conventions and handles the budget. The second body, the Parliamentary Assembly, contains elected members from each member state’s parliament. This body mostly deliberates issues and proposes legislation to the Ministers. These members also facilitate and oversee the implementation of legislation in their native national government.<sup>15</sup>

Today, much of the credit for European integration goes to the EU. To be sure, the EU maintains a more substantive presence and influence over the European region. Since its inception in 1957 as the European Steel and Coal Community, the EU deals with the economic state of the European region. The progress of creating the single market and the Euro produces a tangible symbol that affords a special recognition. This social currency allows the EU influence in the domain of social policy within national sovereigns (the CE’s role in Europe). The EU arguably, as part of the European integration project, has the strongest pressure on both the sovereignty (i.e., legal authority) and autonomy (i.e., de facto capacity) of its member states with regard to social policy (the EU and CE do not share member states, states must subscribe to each separately).<sup>16</sup> Recently, the EU’s ventures into social policy, beyond the scope of economics and into areas such as human rights, have in fact welcomed a hand from the CE and United Nations (UN), which have greater experience in these areas.<sup>17</sup> When the EU decides to encroach within the field of other international organizations, the response typically involves either relinquishing leverage to the EU or becoming partners. The EU and the CE engage in the latter.

Whenever joint ventures occur, the CE typically provides the dedicated staff and the EU provides the financial resources, which the CE severely lacks. This interplay has led to tension, as the funders of joint programs typically receive the glory over the hardworking staff.<sup>18</sup>

In comparison with the EU, the CE has a less substantive influential pressure. Its numerous resolutions, policy recommendations, and declarations have no real enforcement mechanism. Instead, their goal is to provide coherent policy that aligns with the values of democratic sovereigns to pressure national governments to change their policies.<sup>19</sup> Nevertheless, given that the CE remains the dedicated upholder of human rights and democracy in Europe, the de facto first step in seeking entrance into the European community requires membership in the CE and adoption of its European Convention on Human Rights.<sup>20</sup>

## The Vision through Sport

On January 1, 1962, the CE established an institutional arm for advancing its cultural goals, the Council for Cultural Co-operation (CCC).<sup>21</sup> Under instruction from the Ministers, the CCC established three standing committees: the Committee on Higher Education and Research, the Committee on General and Technical Education, and the Committee for Out-of-School Education and Cultural Development: Youth, Physical Education and Adult Education.<sup>22</sup> The last committee would report to the CCC on matters associated with cultural cooperation and sport. In the early years of European integration, the CCC saw education as the ideal area for developing practical cultural cooperation.<sup>23</sup> Schools, especially for the youth, represented an activity sector that prepared citizens for life. In schools, the CE helped establish programs and curriculum that emphasized the importance of learning from experience and personal contact between families, local communities, peers, and cultural, political, and social institutions.

Indeed, the CE endeavored to influence every important aspect of education. It is here that the CE took a special interest in sport, specifically, mass- or grassroots-level sport facilitated through local community sport arenas and schools. The education of the youth is where the CE took cultural cooperation the “furthest” and sport represented a “cultural, social and economic phenomenon of prime importance.”<sup>24</sup> For the CE, a system of mass sport seemed the perfect tool. It could be infused with the values the CE wanted to promote across Europe, and it acted as a laboratory where people can interact and test their ability to be fair, honest, tolerant, intellectually curious, and healthy.<sup>25</sup> A mass sport system allowed people from different areas of Europe to meet under rules of respect, which allowed for the kind of cultural contact the CE wanted to create. From 1960 to 2000, the CE rolled out a plethora of policies related to sport with the hope of molding sport at all levels to advance its institutional goals.

In the 1960s and 1970s, the CE passed the first legislation in this direction. It made its interest in sport abundantly clear in a 1966 resolution titled “Physical Education, Sport and Outdoor Pursuits.” Though Europe was long past the boom of industrialization, this resolution reminded member states of the “constant increase in leisure” that resulted from urbanization and industrial progress and the need to “[Emphasize] the value for coming generations of the proper use of

leisure.” It added that sport had a “specific contribution to make for the development of the individual” given that “the practice of sport gives opportunities for the individual to exercise his capacity for leadership and acceptance of responsibility in a democratic society.”<sup>26</sup> As such, the CE passed a series of acts of legislation that enabled the mass practice of sport.

In 1970, the CE passed a resolution on the “Medical Aspects of Sports,” where it outlined to member states how to care for the health of every population that would participate in sport (children to older adults). Then, in 1972 and 1973, the CE ratified two resolutions that helped improve the hygiene of sports installations such as indoor arenas, outdoor fields, and swimming pools. These resolutions also pushed for government support toward sport medicine research. The CE helped generate a higher interest in sports medicine across Europe and recommended sport medical doctors on hand at the sports installations for therapeutic and preventative care.<sup>27</sup>

But, even though the legislation on sport installations and medicine helped facilitate the creation of sports programs, member states still varied in their implementation. The CE remedied this by enacting a “Sport for All Charter” in 1975. As a compulsory sports policy, member states had to implement the approach to sport dictated in the document. The CE meant to harmonize sport policy on a simplified base that all governments could implement and expand upon if they wished. It instructed member states to consider sport as an important policy instrument in areas such as art and leisure services, conservation, education, health, social services, and town and country planning. Above all, the Charter proclaimed that “every individual shall have the right to participate in sport.”<sup>28</sup> Looking back at the Charter, Aline Royer writes that

[The Charter] marked an unprecedented step toward democratizing sport. It declared that sport must be accessible to everyone (particularly children and young people), be based on such ethical values as fair play and tolerance, and respect human dignity—and it opposed all exploitation of athletes.<sup>29</sup>

As a huge step for sport in Europe, the CE continued to refine the document. This text was replaced in 1992 by the “European Sports Charter,” which was then revised in 2001. The revisions included segments on sustainable development for sport facilities and statements on the necessity for sport to be discrimination free, particularly for people with disabilities.<sup>30</sup>

These policies encapsulated everything the CE wished to accomplish through sport for the furtherance of its mission in the region of Europe. However, the history of the CE’s involvement in sport would come to be of a dual nature. On the one hand, it sought to promote its idealistic version of a mass sport system and encouraged member states to do the same. On the other hand, the CE also encountered doping and engaged in a drawn-out battle to eliminate the practice from elite-level sport. Its focus on elite-level sport came from a fear that doping would trickle into the general practice of sport and undermine the project for European integration through mass sport. As such, between 1960 and 2000, the CE passed sport legislation alongside legislation that hoped to eradicate doping from all levels of sport, but especially from sport at the elite level.

## Doping of Athletes: A European Study between 1960 and 1964

The CE's road toward doping legislation began in the 1960s, a decade when a bright public light shined on drug use in elite sport, especially in elite cycling. Up until this decade, at the professional ranks, doping did not raise many eyebrows. By the 1960s, doping practices and their moral assessment largely fell across amateur and professional lines.<sup>31</sup> Indeed, prior to the 1960s, the IOC aimed anti-doping measures at amateur competitions, which led to the expectation that amateurs would abstain from doping. Professionals did not necessarily fall under this anti-doping ethos, but events in the 1960s agitated and changed this state of affairs.

The Olympics, at this time, represented an athletic site dominated by the amateur ideal, even though it is well known that professionals began to fill the ranks of athletes surreptitiously. Nevertheless, during the 1960 Rome Summer Olympics, elite cyclist Knud Jensen's death sparked the necessity, in the minds of sport authorities, including those within the IOC, to manage doping across all levels of sport, whether it included professionals or amateurs. His death was linked to amphetamine use, although Verner Møller has convincingly proved this historical claim unfounded.<sup>32</sup> Later in the decade, clashes between the newly arrived anti-doping officials and professional cyclists only fueled the efforts to manage doping. For instance, Christopher Thompson explains how the first drug tests in the 1966 Tour de France ignited a rider's protest that "sparked considerable commentary among the press" at the Tour and "raised issues that have been central to the debate about doping ever since."<sup>33</sup> Moreover, in 1967, another cyclist's death, Tommy Simpson, added to the anti-doping cause and the public distaste of drugged athletes. TV cameras captured the British hero's demise and helped demonize the substances linked to his death. As a result, throughout the decade, European legislatures began to enact laws on doping. Countries such as Belgium and France passed national laws that banned substance use in the professional sport workplace.<sup>34</sup>

In the immediate aftermath of the 1960 Rome Olympics, heads of the CE turned to doping in elite sport as well. In 1962, the Committee for Out-of-School Education made a call for the examination of doping in elite sport and stressed the urgency of the matter.<sup>35</sup> The CE had plans to use sport at grassroots levels for the general population in Europe, as a tool for cultural exchange and to spread democratic values. But now faced with the very visible and public problem of doping at the elite levels of sport, the CE became concerned with the impact elite athletes as role models might have on the public, especially children and youth. It could not ignore the issue. If the CE wished to promote mass sport, it needed to sanitize sport, at all levels, for its use. However, the CE knew little about the problem. In response to the Committee's call, the CCC chose to set up special working parties to investigate doping and how best to manage it. These working parties laid the foundational understandings of doping, serving as a reference not only for the CE but also for sports administrators in the IOC and law makers in several countries in the early 1960s.

The working parties held two meetings, the first in Strasbourg in January 1963 and the second in Madrid in November 1963. In both meetings, the participants



were mostly medical experts that specialized in sport medicine.<sup>36</sup> With these gatherings, the CE hoped to consolidate the information and strategies for eliminating doping and to disseminate the findings to “appropriate authorities, national and international, private and public.”<sup>37</sup>

The first meeting established four “salient facts” about the doping problem. First, that the public remains ignorant of the gravity of the problem of doping in elite sport, often missing the dangers of doping. Furthermore, that statistics fail to accurately portray the extent of doping. Second, how “Much more research is required to establish the various forms of artificial stimulants.” At the time, sport medical doctors did not fully understand the various employable doping regimens and felt this knowledge was necessary to fight doping. Third, doctors often find themselves in “invidious” positions where conflicts of interest from commercial pressures coerce them to allow for doping practices despite basic principles of medicine that would condemn such use of drugs. Fourth, doping makes an impact beyond the realm of sport by affecting the integrity of, for instance, medicine, law, and morality.<sup>38</sup> These “facts” highlighted only problems in need of addressing. None, in fact, presented good news for the emerging anti-doping movement, only hurdles. The second and third facts remain unanswered fully to this day. Doping practitioners continue to beguile anti-doping enforcers and the pressures to win continue to plague the decision-making ability of doctors and athletes alike. Moreover, organizations in the anti-doping movement continue to hold the fourth “salient fact” as a fulcrum to gather public support from all sectors of society (e.g., law and medicine).

The first fact stems from the personal experience of some of the participants. Ludwig Prokop and Pierre Dumas both attended the special working parties and brought with them the first-hand experience of doping that the public often missed. For example, Dumas, as the Tour de France’s attending physician, once used a stimulant to revive an unconscious rider, thought to have suffered from overuse of amphetamines. After the rider lashed out and had to be restrained, Dumas later recalled that the event, “Chilled my blood.”<sup>39</sup> Prokop, on the other hand, who had been an advisor to the IOC throughout his tenure in sport, during the 1952 Winter Olympics, found leftover syringes in the locker rooms of speed skaters and witnessed a strychnine cramp in one athlete competing at the 1954 Weightlifting World Championships. Prokop repeatedly found athletes with drugs, but also researched the effects of these drugs and firmly held the belief that the drugs athletes employed did little to affect performance. Thus, in Prokop’s mind, athletes only risked their health with no performance advantage.<sup>40</sup>

From this first meeting, the participants resolved that the road to purifying sport of doping would involve a punitive approach that included drug tests and sanctions. The attendees recommended these measures for the CE’s anti-doping strategy, but also as practical action for sports federations and governments.<sup>41</sup> To sports federations, the group recommended a firm prohibition on doping and that they implement inspection measures for athletes’ clothes and luggage at competitions. In terms of implementing punishments for deterrence to governments, they asked for penal sanctions that would buttress prohibitions on doping, and supported government “propaganda” efforts to emphasize the harmful effects of doping. Last, they called for action on a global scale, to extend European

activities in this area to UNESCO and the International Council of Sport and Physical Education.

In addition to these “salient facts” and recommendations, the meeting supplied the CCC with a description of the extent of the doping problem. This description mattered since it would dictate how and if the CE could use sport, in light of the doping problem at the elite level, for the achievement of its institutional goals. First, the experts concluded that doping arises from an increasingly level playing field. They explained that as training methods became more widely known and adopted, the difficulty of gaining a competitive edge rose. As such, the working party claimed that “inevitably recourse is had to other methods of establishing superiority.”<sup>42</sup> With this statement, the experts related doping to a symptom stemming from highly competitive elite sports, specifically the emergence of a professional mindset and ethos at that level of sport. As a result of this finding, the CE cautioned that legislation passed to develop sport participation, at the mass or grassroots levels, should be aware of the potential negative impact this professionalized approach at the elite level might have. Second, the experts highlighted doping’s corrosive potential on the good the CE sought through sport as a pedagogical tool. They established that

This practice [of doping] is becoming more widespread and is involving an increasing number of different sports. . . . Experience shows that in those sports in which doping is already prevalent, the moral and physical consequences of the practice have already begun to undermine the whole structure of sport. If doping is allowed to grow unchecked, the time will come when all the benefits accruing to the individual and to the community from the practice of sport will be lost. The European community is particularly well endowed with the specialised technological, judicial and medical *savoir-faire* to abolish the practice of doping and thus protect its own peoples and give lead to the world.<sup>43</sup>

On the one hand, such a conclusion painted an alarming picture of the state of sport in terms of the role the CE foresaw for it in the emerging European Union. For the CE’s purposes, doping would sully sport’s potential for creating an integrated Europe. Indeed, experts, such as Dumas and Prokop, who witnessed doping spread across the sport of cycling, stressed how athletes threw out caution and risked their health to win while undermining fair competition. In the eyes of the CE, if it ever wished to infuse a mass sport system with democratic values such as fairness or tolerance, then it needed to stamp out doping at the elite level. In time, this would mean legislating recommendations to its member states toward practical anti-doping strategies.

On the other hand, this excerpt illuminates the hope of eradicating doping. That is, the CE was well aware of the fact that the largest IFs fell within its member states. It was also aware of the potential in facilitating a united front against doping between national governments and sports federations. Indeed, it is for this reason that the CE claimed, “the European community is particularly well endowed . . . to abolish the practice of doping.” As such, “practical recommendations” included an appeal to both national governments and sport federations to implement consistent anti-doping measures.<sup>44</sup> Moreover, the CE acknowledged the impact its efforts to

create this united front could have on the rest of the world. Its mandate fell within the region of Europe, but given the international reach of the Olympic Movement, the CE envisioned its reach beyond the continent of Europe, and thus it could not only protect its own people but also “give lead to the world.”

The time between the first and the second meeting allowed the participants to gather more information on doping and reflect on their previous resolutions.<sup>45</sup> This second gathering involved much more information on the scientific aspects of doping and sport performance and a plethora of examples of national anti-doping legislation. In the summary report of the second meeting, Austria, France, Italy, and Switzerland provided, as part of their working papers, national legislation that banned doping and their most recent research that could aid the growing anti-doping movement. For instance, Austria, Prokop’s home country, provided a ministerial decree from its Federal Ministry of Education that condemned doping. This decree provided a definition of doping and a draft convention toward the eradication of doping, to be submitted to relevant sports associations. This draft included instruction to inspect for doping materials, the possible penalties for infractions, and how to fund the anti-doping movement.<sup>46</sup>

Also in the summary report of the working parties, under a section titled “Problems of Definition: The Disabled or Sick Athlete,” the participants acknowledged that the first meeting had, indeed, establish the first internationally agreed-upon definition of doping. However, they acknowledged that this first definition did not account for the blurry line between enhancement and therapy. Their answer, though, did not satisfactorily resolve the query. They resolved to leave it up to a judgment of the medical doctor saying that doctors knew “When the prescription includes an agent or substance . . . which by its effect would modify artificially and in an unfair manner the performance.”<sup>47</sup> However, to aid the sport medical doctors who would eventually treat athletes, the experts saw it essential to maintain a list of substances that automatically counted as doping. From this arose, the first dedicated effort, at an international level, to maintain and update a substance list. Prepared by the CE Study Group, they were tasked with the job of gathering and consolidating doping substance information produced by various national organizations.<sup>48</sup> However, it is unclear whether this list ever fully formed or if this process ever occurred.

What can absolutely be established from this second meeting is the heavy emphasis on health. For instance, the experts dedicated a section to the “rational” preparation of athletes. This section intended to establish the acceptable means to enhance performance. In the eyes of these experts, preparation included only controlled training measures that can optimize performance without risking health. Preparation had to aim for “perfect health,” accident prevention, and good “hygienic and dietary habits.”<sup>49</sup>

It is important to note that the fourteen participants of both special working parties came from sport medicine backgrounds. This is important because it meant that all of the participants, who came from Western European nations, brought with them Western notions of health and medicine. As such, the CE’s vision of sport grafted this medical coloration, which added an emphasis on the avoidance of health risks. Moreover, athletes became subject to the regulative normative force of Western medicine. In other words, close analysis shows that this important time period also saw the intensified medicalization of sport whereby sport and

especially doping, received a medical framing that explained problems and solutions according to medical rationality and norms. Athletes from all over the world, whether they embraced Western medicine or not, increasingly found themselves under this authority. The history of anti-doping work, in many ways, reflects a mixture of Olympic amateur expectations coupled with Western medicine's perspective of sport.

Also, up until this point, the CE had a mission to promote democracy through cultural exchange and did not consider sport as part of its public health endeavors. Previously, public health initiatives dealt with legislation for injured war veterans, worker safety in factories, and establishing social security policies.<sup>50</sup> Even then, the CE mostly deferred to the European regional office of the World Health Organization, which was dedicated to issues of public health. Of course, the CE acknowledged the importance of the health of European citizens and in its recruitment of sport understood the potential benefits of physical activity. Despite this, the CE did not previously venture into promoting sport primarily for these health benefits. Instead, it sought to promote sport for its institutional goals of unity and peace through cultural tolerance and democracy.

However, the medical doctors in the special working parties added primacy to health alongside the ideas of democracy and cultural exchange. Health ascended from an ancillary benefit, to one of the fundamental rationales for engaging in sport, and in turn for eliminating doping substances. The decision to rely on medical doctors with a specialization in sport, such as Dumas and Prokop, predetermined that medicine, science, and health would play a pivotal role in the emerging anti-doping movement for both the CE and any institutions it sought to influence, in particular the Olympic Movement. This point is pivotal because the very (intentional or unintentional) recruitment of medical doctors meant that the largest sport venues now operationalized a predominantly Western conception of medicine and health. Policy going forward tilted toward Western medical norms. This shaped the expectation of athletic training and performance by dictating the probity of athlete practices in light of a Western approach to medicine and health. In other words, sport was being envisioned and impacted by a Western medicalized world view.

The CE disseminated the reports from these meetings widely. According to the 1964 summary report of the two meetings, "Public interest in the results of the first meeting [was] intense. [And that] The Secretariat has distributed some six hundred copies of the report, on request."<sup>51</sup> That same year, Prince Alexandre de Merode, the newly appointed head of the IOC Medical Commission, presented the CE's work on doping at the sixty-third IOC meeting in Madrid, where it was "warmly applauded."<sup>52</sup> Also in that year, Prokop issued his final report on the International Doping Conference to the International Federation of Sports Medicine, which had a strong relationship with the IOC. In that report, he proposed and recommended the adoption of actions against doping similar to those recommended by the working party's expert group on doping, in which he participated.<sup>53</sup>

These initial exchanges about the status of doping in elite sport and how to manage it were enormously important for the future of the anti-doping movement. First, the working parties acknowledged that their work influenced much of the early 1960s legislation on doping in both sport federations and governments. In fact, delegates of the second working party "stressed that the very specific

measures taken or in preparation in certain [CE] member countries would not have been possible without the authoritative conclusions of these two meetings.”<sup>54</sup> Here they refer to the Austrian, French, and Italian laws that prohibited doping in sports. Second, the working parties quite clearly influenced the language of the laws as well. For instance, the laws in those same three countries make repeated reference to the health dangers of doping as the primary justification for stamping out the practice from sport. Given that Austrian, French, or Italian lawmakers and sport federations did not share in the CE’s institutional goal to spread democratic values or facilitate cultural exchange across Europe, it is evident that the CE’s role in grafting health as the central justification onto anti-doping legislation cannot be overstated. In other words, the working parties helped cement that primacy of health in the cogs of the anti-doping machinery going forward.

As a result of these working parties, the CE perceived that doping in elite sport grew with every passing moment and that it threatened its mission with respect to mass participation in sport. Further, the inclusion of Western physicians on the working parties directed their recommendations toward the emphasis on health as the basis for anti-doping. After the working parties’ recommendations were disseminated, the CE continued to generate anti-doping recommendations and regulations to its member states while simultaneously staying the course of formulating a mass sport system for the betterment of Europe. Having gained the impetus to tackle doping head on, the CE began a march toward creating what would become the basis for an international anti-doping governing structure. Along the way, it consistently came into contact with the IOC, cultivating a partnership that would one day help establish WADA.

## **The CE and Doping after the Special Working Parties**

The CE’s influence on WADA traces to the CE’s earliest anti-doping legislation. Even though the CE came to pass the first international convention against doping in 1989, the proposal for a convention first arose in 1966. In that year, the deputies (representatives who meet on behalf of the Ministers) discussed the future of a preliminary draft of a convention against doping. From the minutes of the meeting, however, it seemed that the deputies were unsure about following through with a convention. The Danish, Dutch, and Irish representatives proposed sending the draft to the European Public Health Committee (the public health branch of the CE) for comment. The United Kingdom’s representative thought it best to send the draft to member governments as well. The Dutch representative also asked for the deputies to consider how the CE can play a role in anti-doping without drafting a binding convention.<sup>55</sup> In the end, the convention never germinated. Then, in May of 1967, the deputies decided not to “envisage” the creation of a convention, settling instead for a staid recommendation.<sup>56</sup> Whereas a convention would oblige ratification for membership in the CE, a recommendation only put political pressure on member states to follow its dictates.

By June of 1967, the CE’s executive branch (Committee of Ministers) inscribed its first official legislation on doping, which also made it the first international legal instrument in this regard. This resolution directly reflected the conclusions from

the working parties. It restated that the aim of the CE is to achieve greater unity among its member states and that sports “now play an important role in the protection of health, in moral and physical training and in promoting international understanding.” The resolution also proclaimed doping an “evil,” which jeopardized the health and dignity of those who engaged in it and offended against the spirit of fair play, which it saw as an essential experience for the European citizen.<sup>57</sup> In this regard, the resolution recommended that the governments of its member states “persuade” the sports associations and federations that organized competitions in their territories, to “take action if necessary with their international federations [against doping] and, if they have not already done so, to issue regulations.”<sup>58</sup> The Ministers recommended its member states to enact initial regulations by way of an official proclamation condemning the use of doping and the penalization of offenders by prohibiting them from taking part in or organizing sports competitions.

The next time the CE mentioned doping in a piece of legislation came in the 1976 “Sport for All” policy. It recommended member states safeguard athletes from exploitation for political purposes, commercial or financial gain, and from practices “that are abusive and debasing, including the unfair use of drugs.”<sup>59</sup> The CE, notably, bundled commercial gain, doping, and highly competitive sports, which reinforced a familial relation between the three and what they hoped to avoid in their vision for mass sport. The CE had in fact frequently collaborated with members of the Olympic Movement on policies related to all three. For instance, one of the leading propagators of the “Sport for All” campaign was Benito Castejon, who served as President of the Spanish Olympic Committee in 1976 and worked with the CE.<sup>60</sup> In short, the “Sport for All” legislation highlights the two-way grafting of policies that occurred frequently between the Olympic Movement and the CE. The CE passed legislation in light of its own goals for sport, but it was also influenced by values that harkened back to the foundational values of Olympism.

Having labeled doping an evil and recommending disciplinary action toward offenders, this initial legislation reflected a concerted effort to eradicate doping. However, by 1979, the CE recognized that it underestimated doping’s staying power. It acknowledged in a new recommendation to member states that “Many of the problems raised by the taking of illicit substances for the purpose of artificially improving sporting performances are still unresolved, and that in some respects this evil practice has become more widespread.”<sup>61</sup>

The ongoing evidence that doping was prevalent in elite sport doubtless frustrated the CE, who wished to use mass sport as an important tool for its institutional goals. The CE, of course, feared that elite-level competition would negatively impact lower level sport practices and felt the urgency to solve the doping issue as a result. For instance, this new recommendation in 1979 did not ask member states to “persuade” sports associations to take action against doping, as it did in 1967. Instead, it pressed member states to, “Give all the support in their power to the governing bodies of sport, athletes and all those associated with sport in their efforts to eradicate doping.” This change in language surely gained favor from IOC President Lord Michael Killanin, who attended the 1977 meeting of sport Ministers.<sup>62</sup> Killanin’s appearance marked the first time the leader of an international sports organization attended CE Ministers’ meetings, and this undoubtedly reassured the CE that it was not alone in the fight against doping

and had the full dedication of the Olympic Movement. Killanin made it explicit that he intended the IOC to establish contacts with all organizations whose aim was to develop sport.<sup>63</sup>

The CE also advised in its 1979 recommendation that member states take steps toward simplification and harmonization of the various anti-doping regulations adopted by the sports federations. The recognized need to harmonize anti-doping regulations would prove to be one of the main reasons for establishing WADA in 1999. Additionally, the 1979 recommendation included points about education. The CE told member states to coordinate with the governing sport bodies a campaign that would illuminate the health risks and that, “the way to success is not the use of doping agents but rather the development of each individual’s personal qualities of character, physique and mind.”<sup>64</sup> From this statement, it is apparent that the progenitors of this document had embraced the Olympic Movement’s notion of Olympism rather than the ethos that had dominated professional sports across Europe. Nevertheless, this statement aligned with the vision the CE had for sport in Europe.

Perhaps one of the largest practical steps in the direction of an international anti-doping governance framework came from the 1979 recommendation’s emphasis on anti-doping testing and research. The CE instructed member governments to encourage the development of testing centers and to harmonize high standards in these laboratories across the region of Europe. Further, the CE recommended more research into the effective methods for detecting illicit substances. In this same vein, it encouraged (where it had not already been done) the creation of anti-doping committees to liaise between all the necessary bodies for the eradication of doping. Indeed, the CE’s move to increase practical efforts such as appropriate laboratories and proper staff member training paralleled the IOC’s efforts. By this time, the IOC had taken steps toward approved laboratories, but only three such establishments existed within the member states of the CE.<sup>65</sup> CE Secretary General George Walker expressed support for the continued improvement of substantive anti-doping controls both through the CE platform but also directly through correspondence with Arnold Beckett, a longtime advisor to the IOC Medical Commission and scientific expert behind many advances in anti-doping drug tests.<sup>66</sup>

Despite robust legislation passed by the CE and other sport organizations, doping spread in the 1960s, 1970s, and 1980s. The 1980s saw some of the biggest and most influential doping scandals that would come to greatly influence anti-doping policy everywhere. Most notably, during the 1983 Pan-American Games, several athletes tested positive for performance-enhancing substances or failed to show up to the competition due to the threat of testing. For these Games, sport officials rolled out some of the strictest anti-doping measures at the time, which included state-of-the-art tests.<sup>67</sup> Also, 1988 saw the Ben Johnson scandal that dramatically impacted the Canadian sporting establishment and received worldwide attention. Even though both of these scandals were concentrated in non-European locations, by the 1980s, the CE had come to fully understand the widespread nature of the doping problem and the global influence of elite sports stars. As such, to the CE, doping in elite international sport anywhere threatened the stability of its mass sport enterprise at home. Furthermore, the CE had, since the 1960s, identified the European community as particularly “well endowed” to

abolish doping everywhere, especially since the largest sport authorities fell within its own member states. In other words, to an extent, the CE thought it could play a strong role in ending international doping scandals.

Indeed, during the 1980s, the CE continued its attempts to harmonize the anti-doping campaign as a united front. Such efforts helped generate legislation that would directly translate onto IOC anti-doping policy and eventually WADA. The first, called the “European Anti-Doping Charter,” came in 1984. Commissioned by the European Ministers Responsible for Sport (a group of CE Ministers that meet about every two years), this Charter outlined more of the same kind of recommendations in previous legislation. As a compulsory Charter, though, the document helped centralize the principles against doping for the European region. To member governments it recommended, once again, to take all appropriate steps toward eradicating doping. It stipulated that each member state should ensure effective anti-doping regulations in its territories and that funds go into anti-doping laboratories and detection research. In addition, the Charter specified that governments should cooperate with their sport organizations to harmonize their anti-doping regulations and procedures with those from the IOC and International Amateur Athletic Federation.<sup>68</sup> The IOC actively participated in designing this Charter and, in 1988, drew widely from this document to create its own international charter against doping at the First Permanent World Conference against Doping.<sup>69</sup> This IOC charter would, in turn, be used as the basis for the Lausanne Declaration that engendered WADA in 1999.<sup>70</sup> This collaboration highlights the kind of influence the CE had throughout the international anti-doping movement. The CE acted as a progenitor of bedrock legislation that would influence the Olympic Movement, which, in turn, informed and/or determined important parts of WADA.

Nevertheless, even though the CE’s Charter recommended abidance to the IOC regulations, the CE was not entirely satisfied with the IOC work in anti-doping. To an extent, the European Ministers Responsible for Sport did their best to act as a body that could liaise between all sectors of the anti-doping campaign, allowing international sports organizations to join their meetings. In their 1986 meeting, they resolved to, “Encourage the International Olympic Committee to include clearer criteria relative to the anti-doping campaign in its own eligibility rules and bye-laws.”<sup>71</sup> These statements reveal the nuanced relationship between the CE and IOC. The 1984 Charter’s recommendation to member states to harmonize their rules with the IOC indicates a high level of trust and coordination. Yet the resolution to encourage the IOC to clear its eligibility rules indicates the needed work at the international level between the forces against doping.

On the eve of their 1989 Convention on Doping and in the wake of the 1988 Ben Johnson scandal, the CE Ministers enacted one last piece of legislation regarding out-of-competition testing. In this recommendation, the CE acknowledged that many member states acted in accordance with the European Anti-doping Charter, but that in-competition testing would not suffice. Since the Charter did not provide stipulations in this regard, the CE recommended that member states provide support to sport organizations toward achieving out-of-competition testing that is simple (i.e., inexpensive and easy to implement) and equitable to athletes.<sup>72</sup>

The 1988 Ben Johnson scandal revealed, again, how little progress the anti-doping movement had made over the last three decades to abolish or turn athletes



away from doping at the highest level. For CE lawmakers, such realizations solidified their decision to create their strongest piece of legislation for doping. In 1989, the CE officially passed the Anti-Doping Convention, the first international convention against doping that obligated ratification for membership in the CE.

As a robust document, the Convention consolidated every piece of anti-doping legislation under one document. However, the Convention did not provide a lot of new information or strategies to manage doping. The language of the Convention is largely a rehashing of language from its previous resolutions and recommendations. But the significance of the CE's Anti-Doping Convention comes from its status. As a Convention member states were obligated to ratify, which also meant that every nation under the CE had one set of anti-doping policies. The Convention standardized the disciplinary action regarding doping at an international level for the first time. It established an international legalistic anti-doping precedent for national governments and sport organizations that the IOC or the IFs never could have enacted. The IOC and IFs could not oblige nations to alter their laws or redirect public funding in the way the Convention did. In fact, to ensure that member states ratified the Convention appropriately, the CE created a "Monitoring Group" that reported on the progress of the Convention's implementation. The Monitoring Group's members acted as the CE's official experts on international anti-doping governance, and, indeed, their expertise would later come to play a role in the establishment of WADA.

Throughout the 1990s, the CE focused on fully implementing its Convention. The work was doubtless multiplied by the sudden surge of "new democracies" from former Eastern-bloc countries throughout the 1990s. Also, while the CE did not pass further legislation on doping, it did frequently appear at the Permanent World Conferences on Anti-Doping in Sport held by the IOC. These conferences were essential as they helped centralize the talks about doping in elite sport.

Ultimately, the CE's efforts with respect to the implementation of the convention proved successful. The unprecedented document gained expedient ratification from the vast majority of its member states and various non-European states as well, including Australia and Canada.<sup>73</sup> The Convention received such great support that UNESCO renounced the creation of its own legal instrument in deference to the CE's effective tool.<sup>74</sup> Anti-doping international governance progress seemed on the upswing throughout elite sport. Even if the problem had not been eradicated, a legal instrument in the form of the Convention now existed. Moreover, across the sport community, steps toward a unified anti-doping movement began to take shape.

However, even though member states had a set of unified policies, the Olympic Movement did not. Many sport organizations had headquarters in countries under the auspices of the CE, but the organizations did not necessarily have to follow the Anti-Doping Convention. Thus, the IOC and IFs constantly overlapped in a complex web of anti-doping policies. Far from being simplified and unified, anti-doping regulations in elite sport failed to uphold in court appeals by doping athletes. The Court of Arbitration for Sport, which had been created by the IOC in 1984 as an alternative to public judicial venues that oversaw sport-related grievances, repeatedly decided that the IOC's system was impossible to enforce properly.<sup>75</sup> Athletes found it difficult to understand the system, and courts

ruled in favor of athletes who stood in this patchwork of anti-doping rules. In response to these decisions, Olympic officials understood the need to turn their efforts toward a simplified and unified system.

On the eve of the millennium, despite legislative progress and some improvements in harmonization, the anti-doping movement collided once again with the reality of doping in sport. During the 1998 Tour de France, the Festina team was expelled when border officers discovered a trove of performance-enhancing substances in one of the team cars. Officers and officials confiscated the paraphernalia and then clashed with the cycling community, which had a long history of using drugs to enhance performance. Instead of showing support for officials, the riders of the Tour protested the harassment they felt they were receiving from the media and officials alike.<sup>76</sup> As the world's greatest cycling race, this debacle painted a picture of anti-doping failure. Doping had not been eradicated, nor had it faded. Rather, it was pushed underground by the policies that emerged since the 1960s from both governments and sport organizations.<sup>77</sup>

The international sports community's coupling of the Festina affair with the ongoing attempts to unify the anti-doping system was the central motivation for the IOC to organize the World Conference on Doping in Sport in February 1999, in Lausanne Switzerland. It invited intergovernmental bodies such as the CE and the UN, and sports organizations to help establish a new anti-doping international governing body. Delegates of the conference hoped that an independent international organization could realize the end of doping in sport. This conference would culminate in WADA, the first independent nongovernmental organization to oversee anti-doping across all Olympic sport.

From the outset, the CE took special interest in the conference. For years, the CE passed legislation toward a harmonized anti-doping system for tackling the problem in elite sport, and now the larger sport community, that it sought to help, set a course toward an independent anti-doping organization. In fact, the IOC asked the CE to help with the preparations for the conference and invited the CE's Secretary General to speak in the opening session. In a 1999 memorandum, the CE stated that

The Conference will provide a timely opportunity to bring to the attention of the sports world the work of the Council of Europe in this field. Texts of the Anti-Doping Convention and the various Recommendations adopted by the Monitoring Group have been sent to the IOC secretariat for inclusion in the documentation for the Conference.<sup>78</sup>

The secretary general, Daniel Tarchys, attended the conference and provided valuable advice for the structure of the new organization. Much of the points he made mirrored the work already established by the CE in their Convention. For instance, he explained that the new organization, "Must develop, together with the IOC labs: [a] list of substances, standards for laboratories, framework of an anti-doping agency, which must be independent administratively and financially."<sup>79</sup> Much of this would come to fruition. To be sure, credit should not be given entirely to the CE. The sports community long held the idea of an international anti-doping agency independent of other sports organizations, administratively and financially, for the sake of preventing corruption. However, the CE did provide, especially with

its Convention, the basic structure for such an agency. Throughout its venture in passing legislation for mass sport and the doping problem in elite sport, the CE had come to establish a substantive international anti-doping governmental vision. It frequently gathered expert opinions and disseminated its findings to sport organizations such as the IOC and IFs. Many of the attendees of the conference, in fact, made it clear that the new international anti-doping agency should be transparent and have good relations with the relevant experts from other international organizations. Several attendees mentioned the CE as one of these expert organizations with which the new anti-doping organization should seek collaboration.

After a few days of deliberation, WADA emerged, and the CE would come to fill seats in the newly established organization. George Walker, head of the Sports Division at the CE, took the lead in the Standards and Harmonization Committee, a fitting position given the CE's disposition toward harmonization that goes back to its roots in European integration. In addition, Alain Garnier, chair of the Monitoring Group of the Anti-Doping Convention, filled a seat on WADA's foundational team. Their presence on the board indicated that the CE's work in international anti-doping gained recognition and respect within the elite sport community and that their influence was welcomed.

### **A Body of Work: 1963–2000**

In the end, sporting organizations may have arrived at WADA's structure without the CE. However, the CE provided important precedent to get governments and sporting organizations to collaborate on anti-doping in elite sport. The CE managed to establish anti-doping touchstones beginning with the special working parties in 1963. The culmination of its work in the Anti-Doping Convention gave the region of Europe one set of anti-doping policies and, at the very least, gave sport administrators the knowledge that international or global harmonization is possible.

Indeed, in analyzing the influence the CE had on the international anti-doping movement, several key points should be highlighted. First, the CE injected itself into an international anti-doping movement because it considered the European community particularly well poised to handle doping in elite sport. Of course, the plausibility of this claim comes from the fact that most of the largest sports authorities in the Olympic Movement had headquarters within the member states of the CE. This fact, combined with a coordinated network of government action, gave CE members the confidence the organization could be a leader in European, and international anti-doping. Indeed, to a great extent, the CE accomplished the goal of being a world leader. It provided the sport world with the Anti-Doping Convention, which largely translated into the anti-doping governance strategies seen in WADA and, as UNESCO posits, the CE acted as the "origin of national anti-doping policies and of intergovernmental cooperation."<sup>80</sup>

Nevertheless, doping remained a ubiquitous problem throughout the years of the CE's work. The European community seemed to have the necessary tools (sport authorities, coordinated government action, etc.), yet it still lacked the ability to fully stymie doping practices. Part of the ineffectiveness came from the

increasing professionalization of sport, such that athletes were motivated to push their abilities and performances to higher and higher levels. The plausibility of recruiting pharmacology was always a possibility within that environment, and it only grew during the years of the CE's work.<sup>81</sup> While the CE's anti-doping policies made some reference to professionalism, it did not target it with the same fervor as it did building up a framework and policies for fighting against doping. It identified professionalism as a potential root problem at many points between 1960 and 2000, but its central aim was developing strategies to improve doping controls, such as the science and technology of testing, the coordination of actions and policies between governments and sports authorities, and others. Root causes, however, were largely ignored.

Also, the CE's influence on the anti-doping movement in terms of its mobilization of a Western, medicalized view of sport should not be ignored. Other sport organizations, such as the IOC, created somewhat similar policies, based on many of the same assumptions, during the same period of time the CE was conducting its work. But the CE's status as an intergovernmental organization that could influence policy in Europe helped vindicate its reliance on Western medical expertise to regulate the doping problem. As a result, since the 1960s, the anti-doping movement has relied heavily on medical norms to justify anti-doping regulations, and Western medicalized assumptions of what a "healthy" body in sport is.<sup>82</sup>

Finally, the history of the contributions of the CE to anti-doping presented here should not obscure the CE's original institutional interest in sport—to unite Europe under the values of democracy through a practice of cultural exchange. It is important to remember that the CE endeavored to create a mass sport system across the region of Europe to further its own institutional goals. Sport seemed the perfect tool for such ends. Not only could sport, as a social tool, be infused with the values the CE wanted to promote, the CE also envisioned sport as a social laboratory where people would be able to interact and test their ability to be fair, honest, tolerant, intellectually curious, and healthy. However, doping at the elite level, according to the earliest investigations by the CE, threatened to undermine this project. As a response, the CE outlined anti-doping rules for its member states but also encouraged governments to aid anti-doping sport authorities in their territory. As a result of these efforts, from 1960 to 2000, the CE charted an international anti-doping governmental framework, which culminated in the Anti-Doping Convention. When the international sports community finally arrived at the decision to create an international independent anti-doping agency (WADA), the CE played an important role in that decision-making process. It transposed its knowledge and expertise onto the new agency and helped set the stage for anti-doping governance going forward. Given that the CE's anti-doping policies served as the touchstones for major anti-doping organizations, it is safe to consider the CE's work as one of the greatest influences on anti-doping policies and networks in the world of sport today.

## Notes

1. United Nations Educational, Scientific and Cultural Organization (UNESCO), *International Convention against Doping in Sport 2005* (October 19, 2005), [http://portal.unesco.org/en/ev.phpURL\\_ID=31037&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.phpURL_ID=31037&URL_DO=DO_TOPIC&URL_SECTION=201.html).

2. Scott Jedlicka and Thomas M. Hunt, "The International Anti-Doping Movement and UNESCO: A Historical Case Study," *The International Journal of the History of Sport* 30, no. 13 (2013): 1523–1535.
3. John Gleaves and Matthew Llewellyn, "Sports, Drugs and Amateurism: Tracing the Real Cultural Origins of Anti-Doping Rules in International Sport," *The International Journal of the History of Sport* 31, no. 8 (2013): 839–853.
4. UNESCO, *International Convention*.
5. Paul Dimeo, *A History of Drug Use in Sport 1876–1976: Beyond Good and Evil* (London: Routledge, 2007); Thomas Hunt, *Drug Games: The International Olympic Committee and the Politics of Doping, 1960–2008* (Austin: University of Texas Press, 2011).
6. Barrie Houlihan, *Sport & International Politics* (Hemel Hempstead, UK: Harvester Wheatsheaf, 1994); Barrie Houlihan, *Dying to Win: Doping in Sport and the Development of Anti-Doping Policy*, 2nd edition (Strasbourg, France: Council of Europe Publishing, 2002).
7. Dan Vătăman, "History of the European Union," *Lex Et Scientia* 2, no. 17 (2010): 107–137.
8. *Ibid.*, 108.
9. *Ibid.*, 109.
10. *Ibid.*, 112.
11. Etienne Grosjean, *Forty Years of Cultural Co-operation at the Council of Europe 1954–1994* (Strasbourg: Council of Europe Publishing, 1997), 4.
12. *Ibid.*, 2.
13. Aline Royer, *The Council of Europe* (Strasbourg, France: Council of Europe Publishing, 2010), 16–17.
14. Interestingly, this rise in membership paralleled the ratification of the 1989 Anti-Doping Convention. In other words, at the same time, it welcomed new members into democratic Europe, the CE also wanted to make sure former Eastern-bloc nations left all doping practices behind. These actions highlight the CE as a Western European institutional invention, which sought to bring, in its view, recalcitrant countries into the fold for the establishment of a peaceful region.
15. Royer, *The Council of Europe*, 10–12.
16. Stephan Leibfried and Paul Pierson, "Semisovereign Welfare States: Social Policy in a Multitiered Europe," in *European Social Policy: Between Fragmentation and Integration*, eds. Stephan Leibfried and Paul Pierson (Washington, D.C.: The Brookings Institution, 1995), 44.
17. Patrick Ireland, "Migration, Free Movement, and Immigrant Integration in the EU: A Bifurcated Policy Response," in *European Social Policy*, eds. Stephan Leibfried and Paul Pierson (Washington, DC: The Brookings Institution, 1995), 265–266.
18. Marina Kolb, *The European Union and the Council of Europe* (New York: Palgrave Macmillan, 2013), 38.
19. Ireland, "Migration, Free Movement, and Immigrant Integration in the EU," 248.
20. Cosmo Russell, "The First European Institution – (Post-War)," in *The Conscience of Europe*, ed. John Coleman (Strasbourg, France: Council of Europe Publishing, 1999), 39.
21. The sports program, initially entrusted to the CCC, changed guard in 1977 with the establishment of the Steering Committee for the Development of Sport (CDDS). This joint committee comprised representatives from governments and nongovernmental organizations and liaised between the executive body (the Committee of Ministers) and the Conference of European Ministers Responsible for Sport.
22. Grosjean, *Forty Years of Cultural Co-operation*, 37.
23. *Ibid.*
24. *Ibid.*, 83–87.
25. Health was not the primary goal of the CE's venture in sport, but it would rise to that level by 1970; more on this below.

26. Council of Europe, *Resolution (66) 38 Physical Education, Sport and Outdoor Pursuits* (Strasbourg, France: Council of Europe Publishing, 1966), [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016804cef55](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804cef55).
27. Council of Europe, *The Council of Europe's Work on Sport 1967–1991*, vol. 1 (Strasbourg, France: Council of Europe Publishing, 1992), 15–35.
28. *Ibid.*, 37.
29. Royer, *The Council of Europe*, 52.
30. *Ibid.*
31. John Gleaves, “Doped Professionals and Clean Amateurs: Amateurism’s Influence on the Modern Philosophy of Anti-Doping,” *Journal of Sport History* 38, no. 2 (2011): 242–246.
32. Verner Møller, “Knud Enemark Jensen’s Death During the 1960 Rome Olympics: A Search for Truth?” *Sport in History* 25, no. 3 (2005).
33. Christopher S. Thompson, *The Tour de France: A Cultural History* (Berkeley: University of California Press, 2008), 233.
34. Andre-Noel Chaker, *Study on National Sports Legislation in Europe* (Strasbourg, France: Council of Europe Publishing, 1999), 78.
35. Council of Europe, *Doping of Athletes: A European Study* (Strasbourg, France: Council of Europe Publishing, 1964), 3.
36. Council of Europe, *Doping of Athletes*, 3. Participants of the first meeting included: Dr. Ludwig Prokop (Austria), Dr. J. J. s’Jongers (Belgium), M. René Bazennerye (France), Dr. Pierre Dumas (France), Prof. Vittorio Wyss (Italy), Dr. M. R. Van Alphen de Veer (Netherlands), Dr. F. A. Nelemans (Netherlands), Prof. Fernandez Cabeza (Spain), Dr. Ramon Carbajosa (Spain), Dr. Ulrich Frey (Switzerland), Dr. John G. P. Williams (United Kingdom), Dr. Gunnar Malmström (CE Committee of Experts on Public Health member from Sweden), Dr. Necati Akgün (CE Committee of Experts on Public Health member from Turkey), and Mr. David W. P. Lewis (CE Secretariat Division for Out-of-School Education).
37. Council of Europe, *Doping of Athletes*, 4.
38. *Ibid.*
39. William Fotheringham, *Put Me Back on My Bike: In Search of Tom Simpson* (London: Yellow Jersey Press, 2003), 161.
40. Dimeo, *A History of Drug Use in Sport*, 94.
41. Council of Europe, *Doping of Athletes*, 7.
42. *Ibid.*, 5.
43. *Ibid.*
44. The recommendations from the first meeting include the following six elements: the prohibition of doping in competition coupled with the right to inspect athletes and entourage, the disqualification of first offenders and removal of repeat offenders, the promise of all sports people to refrain from using doping, the implementation of government sanctions and regulations to prevent and eradicate doping products, the documentation of therapeutic uses of drugs by athletes, and the creation of propaganda that emphasized the harms of doping.
45. Participants of the second meeting included: Dr. Ludwig Prokop (Austria), Dr. J. J. s’Jongers (Belgium), Dr. Pierre Dumas (France), Dr. P. Encausse (France), Prof. Antonio Venerando (Italy), Dr. Silvano Silvij (Italy), Comm. A. Travain (Italy), Dr. F. A. Nelemans (Netherlands), Prof. Fernandez Cabeza (Spain), Dr. M. Uriarte Rejo (Spain), Dr. C. Camunez-Pajares (Spain), Dr. Ulrich Frey (Switzerland), Dr. John G. P. Williams (United Kingdom), and Mr. David W. P. Lewis (CE Secretariat Division for Out-of-School Education).
46. Council of Europe, *Doping of Athletes*, 26–53.
47. *Ibid.*, 16.
48. *Ibid.*
49. *Ibid.*, 20.

50. Council of Europe, *Conclusions of the Seventy-Third Meeting of the Ministers' Deputies* (Strasbourg, France: Council of Europe Publishing, 1959), [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168092dd04](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168092dd04).
51. Council of Europe, *Doping of Athletes*, 15.
52. International Olympic Committee, "Minutes of the 63rd Meeting of the I.O.C.," *Olympic Review* no. 92 (1965): 79. In this meeting, the IOC gave credit to UNESCO for the working parties. However, in the following year, the head of the Department for Out-of-School Education and Youth, at the CE, Mr. Lionel de Roulet, pointed out the mistake ahead of approving the meeting minutes, informing the members that the important meetings on doping were held under the auspices of the CE.
53. Ludwig Prokop, "The Problem of Doping: Final Report on the International Doping Conference FIMS Congress," *Journal of Sports Medicine and Physical Fitness* 5, no. 2 (1965): 88–90.
54. Council of Europe, *Doping of Athletes*, 14.
55. Council of Europe, *Conclusions of the Hundred and Fifty-Third Meeting of the Ministers' Deputies* (Strasbourg, France: Council of Europe Publishing, 1966), [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808ff430](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808ff430).
56. Council of Europe, *Conclusions of the Hundred and Sixty-First Meeting*.
57. Council of Europe, *The Council of Europe's Work*, 11.
58. *Ibid.*, 12.
59. *Ibid.*, 37.
60. *Olympic Review*, "Spain and Olympism," *Olympic Review*, no. 107 (1976): 513–529.
61. Council of Europe, *The Council of Europe's Work*, 43.
62. Sport Ministers are members of the CE who discussed and reported on sport matters.
63. *Olympic Review*, "The Olympic Meetings—Lausanne," *Olympic Review*, no. 120 (1977): 602–604.
64. Council of Europe, *The Council of Europe's Work*, 44.
65. Houlihan, *Dying to Win*, 159.
66. Jörg Krieger, *Dope Hunters: The Influence of Scientists on the Global Fight against Doping in Sport, 1967–1992* (Champaign, IL: Common Ground Publishing, 2015), 191.
67. Frank Litsky, "Some U.S. Athletes Leave Games at Caracas amid Stiff Drug Tests," *New York Times*, August 24, 1983, A1.
68. Council of Europe, *The Council of Europe's Work*, 65.
69. *Olympic Review*, "An European Anti-Doping Charter," *Olympic Review*, no. 206 (1984): 970.
70. Council of Europe, 10<sup>th</sup> meeting of the Monitoring Group (Strasbourg, France: Council of Europe Publishing, 1999).
71. Council of Europe, 5<sup>th</sup> Conference of European Ministers Responsible for Sport (Strasbourg, France: Council of Europe Publishing, October 28, 1986), [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680923d33](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680923d33).
72. Council of Europe, *The Council of Europe's Work*, 77.
73. Houlihan, *Dying to Win*, 245–246.
74. Council of Europe, Committee for the Development of Sport (CDDS): 21st Meeting of the Steering Committee (Strasbourg, France: Council of Europe Publishing, 1998), [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016804be7a5](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804be7a5).
75. "History of CAS: Origins," Court of Arbitration for Sport, accessed May 1, 2018, <http://www.tas-cas.org/en/general-information/history-of-the-cas.html>.
76. "Cyclists Stage Protest as Drug Investigation Widens," *New York Times*, July 25, 1998, C1.
77. Dimeo, *A History of Drug Use in Sport*, 129–30.
78. Council of Europe, International Olympic Committee's World Conference on Doping in Sport—Preparation of the Council of Europe's Contribution (Strasbourg, France: Council of Europe Publishing, 1999), <https://rm.coe.int/16804d87d2>.

79. Olympic Review. "World Conference on Doping in Sport Summary of Delegate Statements," *Olympic Review*, 26, no. 25 (1999): 4–14.
80. UNESCO, *International Convention*.
81. Rob Beamish and Ian Ritchie, *Fastest, Highest, Strongest: A Critique of High-Performance Sport* (New York: Routledge, 2006), 136–144.
82. Dag Vidar Hanstad and Ivan Waddington, "Sport, Health and Drugs: A Critical Re-examination of Some Key Issues and Problems," *Perspectives in Public Health* 129, no. 4 (2019): 174–182.



## Paper 2

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## Moral Communities in Anti-Doping Policy: A Response to Bowers and Paternoster

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### ABSTRACT

This article argues that Bowers and Paternoster's emphasis on a moral community marks an important step towards a more ethical and effective approach to anti-doping. However, it also argues that the authors' proposed strategies undermine their stated goal of effectively engaging athletes as partners in anti-doping efforts and raise ethical concerns. Their proposed emphasis on exploiting shaming as a punishment and their general view of athletes as adversaries fosters mistrust between athletes and those who enforce the anti-doping rules. Instead, this article describes a model for empowering athletes as stakeholders in anti-doping policy as a means to provide anti-doping rules with increased moral legitimacy among athletes.

### KEYWORDS

Anti-doping; stakeholder; moral legitimacy

Across the spectrum of positions on the ethics of anti-doping policies, all seemingly agree on one point: an anti-doping policy characterized by athletes routinely flouting the rules is the worst possible outcome. For this reason, Larry Bowers and Raymond Paternoster's article on inhibiting doping deserves serious attention (Bowers and Paternoster 2016). Bowers, the United States Anti-Doping Agency's chief science officer, and Paternoster, a professor of criminology, suggest that improved deterrence methods and novel strategies for enforcement can improve athletes' adherence to anti-doping rules. Ultimately, Bowers and Paternoster conclude with an important call for athletes to participate actively through a moral community to assist in achieving compliance.

Bowers and Paternoster's emphasis on a moral community promises what we acknowledge is a step towards a more ethical and effective anti-doping strategy. However, we will argue that Bowers and Paternoster's outlined approach undermines the ability to effectively engage athletes as partners in anti-doping efforts. Their proposed emphasis on shaming and their general view of athletes as adversaries fosters mistrust between athletes and those who enforce the anti-doping rules. We argue that a durable moral community of athletes cannot be built upon a foundation of mistrust of athletes (by authorities and other athletes) and disregard for their interests. Rather, a successful moral community that effectively achieves compliance with anti-doping rules will be one in which the integrity of the athletes can be counted upon because athletes view the rules as morally legitimate. This moral

legitimacy, in turn, entails that the rules reflect the athletes' status as stakeholders with vested interests in fair and effective anti-doping policies.

### Moral Communities and Moral Legitimacy

Though anti-doping rules had spread throughout sport during the twentieth century, the 1998 Festina Affair illustrated for many sport administrators that athletes still violated the anti-doping rules (Hunt 2011). This acknowledgment led to the creation of the World Anti-Doping Agency (WADA) to oversee administration of a uniform anti-doping system including a banned substance list, testing, punishment, and education. Despite these reforms, athletes do not uniformly adhere to anti-doping rules. In light of this persistent rule-breaking, Bowers and Paternoster ask, 'what can anti-doping agencies do in order to strengthen trust and cooperation among athletes?' (Bowers and Paternoster 2016, 13).

Their solution is smarter deterrence, coupled with and enhanced by a moral community with an enforced creed or standard shared by members of the community. As developed by Émile Durkheim, the concept of moral communities describes groups characterized by social integration and a set of shared beliefs about morality that shape its members' behavior. As Durkheim writes, a moral community provides a set of standards that, 'curbs people, that marks the boundaries, that tells them what their relations with their associates should be, where illicit encroachments begin, and what they must pay in current dues towards the maintenance of the community' (1992, 14).

Bowers and Paternoster's proposed moral community hinges upon athletes adopting a 'strong group identity that supports the norm of cooperation via clean competition' (14). This norm results in the best possible outcome, where 'those who are inhibited by strong moral sentiments do not even consider the instrumental costs and benefits of non-compliance' (14). Athletes can then compete without using banned performance-enhancing substances or the perceived pressure to use them because the moral community not only provides a greater confidence that their colleagues are following the rules but also removes an instrumental incentive for the athlete to violate the rules.

Though Bowers and Paternoster focus on the informal sanctions associated with a deviance from the moral community, emphasis on athletes' moral sentiments is the more promising direction for anti-doping administrators to follow. If an athlete holds the moral sentiment that doping is unethical for a member of the athletes' moral community, then the athlete's actions will likely be driven by the desire to be a moral person and a sense of belonging to the moral community rather than the fear of being caught. This is the kind of reasoning that Korsgaard explains keeps most people from committing crimes such as murder: it is not the fear of a prison sentence or the perceived likelihood they will be caught but their belief that the act itself is ethically contradictory to their 'practical identity' as an ethical person (Korsgaard and O'Neill 1996, 101, 102). If athletes create such a moral community committed to anti-doping, Bowers and Paternoster are correct that it will be their strong moral sentiment rather than fear of punishment that inspires athletes to embrace and adhere to the anti-doping regulations.

Bowers and Paternoster assert that a moral community's commitment to anti-doping norms 'is not fear of sanction threats but a belief in the moral legitimacy of the rule and rule makers' (14). Although they do not discuss moral legitimacy any further, we believe the authors have introduced an important and neglected concept for ethicists considering

anti-doping policies. Broadly speaking, when applied to rules and rule makers legitimacy may refer to at least three distinct concepts: legal legitimacy, sociological legitimacy, and moral legitimacy (Fallon 2005). Legal legitimacy refers to whether a rule or a ruling is right according to the law (e.g. whether a law is constitutional) and is not invoked directly by this discussion. Sociological legitimacy, however, refers to how people view the rules that bind them. In the strong sense, as developed by Max Weber, sociological legitimacy requires an active belief by citizens to voluntarily respect and obey the rule or the rule maker for reasons other than self-interest (Fallon 2005, 1795). In its weak sense, Fallon notes that sociological legitimacy can simply describe people's acquiescence (out of fear of sanction, habit, or self-interest) but does not require any felt sense of obligation to obey (2005, 1796). Finally, moral legitimacy refers to a governing body's worthiness of its authority, and it is measured by the extent to which a rule or a regime meets ethical norms. Moral legitimacy may derive from unanimous consent of the governed, as in social contract theory, or it may emerge from the substance of the law actually being just—procedurally fair, contributing positively to social goods, etc.—irrespective of consent.

Most importantly, as Tyler and Fagan note, often people's determination of a rule or authority's moral legitimacy indicates whether they see it as sociologically legitimate in the strong sense or the weak sense (2008, 240, 241). People will not voluntarily commit themselves to a rule or regime that they see as unethical and thus will only acquiesce, at best, to such a rule or regime. For Bowers and Paternoster, the leap from a simple deterrence model to the moral community they envision appears to be an attempt to close the gap between the weak sense of sociological legitimacy athletes currently afford anti-doping rules and the strong sense that successful enforcement and compliance require.

### Downside of Shaming

Bowers and Paternoster are on the right track when they identify moral communities as a viable and sustainable model of anti-doping and further correct to promote athletes adhering to anti-doping rules on the basis of viewing anti-doping as both morally and sociologically legitimate in the strong sense, rather than only weighing the specter of sanction against self-interest. However, parts of their approach undermine the realization of a cooperative model. Of significant concern is their emphasis on shaming. Bowers and Paternoster, noting that shame is a 'potent' emotion, advocate shaming athletes who test positive by publishing their names and impugning their reputation (2016, 7). However, their article provides little discussion about how the community shames a person, shame's potent effects, or the appropriate limits of shaming.

Such discussion is needed because current research indicates that not only is shaming a morally problematic minefield of 'oughts', but shaming's supposed efficacy for anti-doping purposes is questionable. Psychological research on shame indicates that shame is not merely 'potent' but is in fact considered, 'one of the most powerful, painful, and potentially destructive experiences known to humans' (Gilbert 1997, 113). When shamed, people feel physically, psychologically, and socially diminished (Stuewig and Tangney 2007). It arises mainly after moral transgressions or incompetence and gives rise to feelings of worthlessness, inferiority, and a damaged self-image (Tangney 1999). Cultural identity and orientation also mediate peoples' experience of shame. For example, Asians may be prone to and more aware of shame experiences, and therefore shame is more deeply felt (Ha 1995). Therefore,

the experience of shame across cultures is not equal and a cultural-blind application of shame-based prevention or enforcement strategies would have differential effects.

Shame also should be separated from the emotion of guilt, as there are meaningful differences (Tangney, Stuewig, and Hafez 2011). Shame and guilt are distinct emotions with different implications for motivation and adjustment (Tangney and Dearing 2002). Lewis (1971) outlines that shame involves a global negative feeling about the self or one's core identity in response to some misdeed or shortcoming ('I am a bad person'), whereas guilt is a negative feeling about the specific event or behavior ('I did a bad thing'), rather than about the self. Tangney et al. (2011, 707) note that the 'differential emphasis on self ("I did that horrible thing") vs. behavior ("I *did* that horrible *thing*") sets the stage for different emotional experiences and different patterns of motivation and subsequent behavior'. Shame has been linked to distancing motivations and avoidance tendencies focused on escaping the blame-worthy experience or hiding from public view (Tangney, Miller, Flicker, and Barlow 1996). In contrast, though painful, guilt is less disruptive and more adaptive. People experiencing guilt consider their behavior and its consequences rather than needing to defend the self. They also consider making amends (Tangney et al. 2011).

Perhaps most morally troubling and disturbing in terms of real consequences, both shame and guilt are negative emotions that create intrapsychic pain, yet shame is considerably more painful because one's core self is at stake (Tangney, Mashek, and Stuewig 2007). 'Shamed people feel small, worthless, and powerless. Shamed people also feel exposed' (Tangney et al. 2011, 707). There is robust evidence linking shame to psychological problems such as low self-esteem, depression, and anxiety and to eating disorder symptoms, post-traumatic stress disorder, and suicidal ideation (see Tangney, Stuewig, and Hafez 2011). Even within contemporary sport, absent the emphasis on shaming that Bowers and Paternoster prescribe, the damage from shame associated with doping is obvious. Several suicides have been linked to athletes following positive tests for banned substances while other athletes have reported suicidal ideation and depression (Clemitson 2014). Increasing shame is likely to inflate these actual harms. Such harms—shaming individuals to the point of depression or suicide—would be an ethically unacceptable outcome in pursuit of improved anti-doping deterrence. For the athlete who intentionally violates anti-doping rules, their poor choice hardly merits such psychological damage. And for athletes who inadvertently fall afoul of anti-doping rules, the implications of the shaming Bowers and Paternoster outline appear devastatingly unfair. Whether it is through a tainted food product, failure to apply for a therapeutic use exemption, or a false positive, these athletes would receive the wrath of public shaming without bearing the full moral responsibility for doping.

Another important distinction between shame and guilt indicates shame's potential ineffectiveness. Though some evidence suggests shame may contribute to the desire for self-change, the optimal conditions in which this may occur are yet unclear (Lickel, Kushlev, Savalei, Matta, and Schmader 2014). Whether one experiences shame or guilt following a transgression is associated with the perceived deviation from expected moral and societal standards. Feelings of guilt often result in prompt apologies and reparation, whereas feelings of shame often prompt denial and escape. Further, people are able to empathize with others more when experiencing guilt than when feeling shame (Tangney, Mashek, and Stuewig 2005). Research also demonstrates that shame-proneness (the tendency to feel bad about the self) relates to a variety of life problems, whereas guilt proneness (the tendency to feel bad about a specific behavior) is more likely to be adaptive (Dearing, Stuewig, and Tangney

2005). Some research finds that shame motivates avoidance behaviors, such as a willingness to hide or withdraw, whereas others find that shame can motivate prosocial behavior and a willingness to make amends. De Hooge, Zeelenberg, and Breugelmans (2010) provide an explanation for these seemingly contradictory findings, noting that shame mainly motivates approach behavior to restore the damaged self, but that this restore motive decreases when situational factors make it too risky or difficult to restore. In the case of anti-doping violations, we should be wary that the risks associated with being publicly revealed as a cheat and a user of performance enhancing substances could motivate athletes towards undesirable avoidance behaviors rather than the prosocial ones.

Because shame is a painful emotion, Bowers and Paternoster assert that the anticipation of shame (as well as regret) should lead to decreased negative, immoral behavior. However, there is little empirical support for the idea that shame is an inhibitor of immoral or illegal behavior (Tangney, Mashek, et al. 2007). In a review of shame and criminal justice, Tangney et al. (2011) noted that research is solidly against sentencing that is used to shame and humiliate offenders, observing ‘shame is associated with outcomes directly contrary to the public interest—denial of responsibility, substance abuse, psychological symptoms, predictors of recidivism, and recidivism itself’ (716). If athletes perceive the stakes are too high for accepting responsibility for doping, then this fear drives them deeper into secrecy.

Indeed, studies of shame and alcohol and drug use provide some important parallels for anti-doping research. Shame is associated with increased substance use and abuse in adulthood (Tangney, Stuewig, and Mashek 2007). Further, evidence indicates that those who are shame-prone are, in particular, more likely to have problematic use of alcohol and drugs. Dearing et al. (2005) suggest that shame-prone individuals engage in drug use as a strategy for coping with feelings of shame. This raises significant questions about the efficacy of using shame-based prevention methods to reduce performance enhancing drug use in sport. If athletes follow the same pattern as recreational or habitual drug users, shaming may increase rather than decrease use. Dearing et al. (2005) and Wiechelt (2007) suggested that the use of shame *reduction* interventions might be a better prevention method to achieve a healthier outcome.

While shame is a potent emotion, its harmful effects suggest that its purposeful use as a tool to achieve anti-doping compliance would be unethical since its harms are disproportionate to the infraction. Moreover, evidence indicates that shaming would likely not support or promote the desired moral communities, since it would not dissuade those at risk for doping and might place those athletes at greater risk for substance misuse later. Further, because the harms associated with shame will be visited upon athletes unevenly and disproportionately, employing shame is unlikely to enhance athletes’ perception of anti-doping’s moral legitimacy. In their zeal to improve upon contemporary anti-doping policies, Bowers and Paternoster unfortunately have advocated ‘leveraging’ as part of ‘deterrence-based compliance regime’ a psychologically damaging emotion without appreciating either how it functions or the damage it inflicts.

### Adversarial Rhetoric

A second undermining aspect of Bowers and Paternoster’s approach involves how they view the problem they are solving. At times, Bowers and Paternoster equivocate over the true character of athletes: are they self-interested, ‘would-be rule breaker[s]’ (1), as the deterrence

model assumes, or do athletes, as the authors state later, share the goal of 'clean competition where no one cheats' (13)? At other points, Bowers and Paternoster adopt rhetoric that depicts athletes and anti-doping administrators as members of opposing groups. The authors cast athletes primarily as antagonists whose 'dominant strategy to cheat' (13) impedes progress towards achieving clean sport and whose 'inclination to break rules is presumed to be a given' (3). From this, it is difficult to imagine how a moral community of such corrupted persons can possibly be an effective enforcement mechanism.

Bowers and Paternoster's language reflects a disposition often held by other anti-doping administrators and anti-doping organizations. For example, Dick Pound, the inaugural WADA president, said in his book that the agency emerged to 'restore some sense of integrity in the fight against doping in sport' (Pound 2008, 93). He concluded his book saying,

In my view, nothing can justify such behavior [doping] and I will do everything in my power to make sure that the enablers, along with the guilty athletes, are exposed and punished. We will enlist the public in our fight. This is a war that we simply cannot afford to lose. The future of sport and of our children depend on it, (Pound 2008, 228)

adding in the afterword, 'This is a call to action—serious and concerted—by those who believe in sport' (Pound 2008, 237). This rhetoric depicts anti-doping as a constant fight, struggle, battle, or war. Furthermore, under the 'Strategy' section on the WADA website the organization maintains that its wide range of activities 'demonstrates the importance of a comprehensive approach to the fight against doping in sport' (WADA).

This language, both in Bowers and Paternoster's article and throughout anti-doping texts, depicts an inherently adversarial relationship between anti-doping agencies and 'the athletes they monitor' (Bowers and Paternoster 2016). In this view, athletes are either already cheats or are 'would-be rule-breakers' who cannot be trusted. Athletes' interests, it is assumed, do not align with the interests of those charged with enforcing the anti-doping policies. This view led one anonymous anti-doping administrator to contend that if athletes participated in writing the anti-doping rules, 'there would not be any regulations at all' (Pielke 2016, 269). The assumed difference in interests between the two groups means that the two groups exist in a perpetual state of 'us' versus 'them'. Even though anti-doping administrators often acknowledge the existence of clean athletes, whom they claim to serve, the fact that these administrators believe they never can be sure exactly who are the clean athletes, along with the assumption that even the 'clean' athletes have an 'inclination to break the rules', indicates that athletes as a group are not to be trusted.

This perpetuating cycle of mistrust may at least partially explain why anti-doping efforts have not achieved their desired results. In 2016, WADA President Craig Reedie reportedly said 'shut that girl up' and denied Beckie Scott, the chair of WADA's Athlete Committee, a chance to speak at the WADA board meeting as she pushed WADA to expand its investigation into Russian doping activities (Pielke 2016). This is not to accuse Bowers and Paternoster of such views, but rather it is to link adversarial rhetoric to attitudes that foster actions rooted in mistrust.

Bowers and Paternoster's final call for anti-doping agencies to see their role as that of a 'corporate compliance officer' (13), a position where someone within the company ensures external regulations are followed by employees, still conceives of anti-doping rules as foreign mandates. Athletes, in their model, may take a public pledge to follow these foreign rules, but the rules are nonetheless foreign and athletes still have reason to violate them. This is evident in Bowers and Paternoster's 'trust box' analogy, where riders of the train can benefit



from lower tickets if they simply deposit fares in a trust box located on the train. With no one to enforce the 'trust box,' Bowers and Paternoster predict riders will not pay out of rational self-interest unless a stable community of riders takes a public pledge to pay and then polices all riders through 'surveillance and informal censure' (13, 14). Bowers and Paternoster infer that a fear of public shaming coupled with rational self-interest will drive riders' adherence to the trust box, and they conclude a similar approach can support adherence to anti-doping policies in sport. Without this 'terror of punishments' (12) coupled with a public covenant, Bowers and Paternoster indicate that athletes would likely defect.

This view of athletes may be the reason that Bowers and Paternoster seemingly overemphasize threats of sanctions to deter athletes from violating anti-doping rules rather than strengthening the athletes' perceived legitimacy of the anti-doping rules and the rule makers. The authors clearly acknowledge that sanctions alone will not develop the requisite moral community yet appear unable to move past the use of fear and punishment—including informal censure imposed by athletes on other athletes—to force compliance. In the following, we propose that empowering athletes in anti-doping governance, rather than improving deterrence and enlisting athletes' help in this pursuit, is the path to cultivating moral communities.

### Athletes as Allies

While Bowers and Paternoster call for creating moral communities, they remain committed to a view of athletes as potential cheaters. Their adversarial model of unilaterally imposed anti-doping rules obscures an alternative cooperative model under which athletes and agencies alike work together to achieve mutually identified anti-doping objectives. This perhaps explains why the authors fail to acknowledge any currently established moral communities among athletes. This omission is a problem. Not only do many athlete and team-led moral communities exist but these moral communities have tellingly formed independent of anti-doping organizations.

For example, the Clean Sports Collective emerged in 2016 as a way for athletes to show their commitment to anti-doping efforts. They formed a non-profit with the mission to form 'a community of powerful voices comprised of athletes, brands, events, clubs, fans, and [the] public to support the pursuit of clean sport and athletics through the absence of performance enhancing drugs' (Huber 2016). This grass-roots community not only offers avenues for athletes to publicly pledge to clean sports but includes endorsements of brands, sponsors, coaches, and events to 'get clean sport certified' (Cleansport 2016). The Clean Sport Collective organizers hope that these pledges highlight their members' commitment to anti-doping values.

The Clean Sports Collective is a formal iteration of existing informal practices through which athletes and teams have demonstrated their commitment to anti-doping. A notably visible example began in 2010 when cyclists Phil Gaimon, Adam Myerson and Nick Waite had matching tattoos with the word 'clean' imprinted on their arm as a reminder of their anti-doping commitment. The three friends also formed a pact: 'if anyone doped, the others would come scrape the tattoo off with a cheese grater'. Gaimon explained later that the friends reasoned, 'If the sport can't keep everyone honest, we'll do it for each other' (Gaimon 2015).

At other points, athletes have identified ways to alter anti-doping policies to help achieve a healthier environment for them to do sport. For example, cyclist Michael Barry became concerned over his team doctors overprescribing the opioid Tramadol. Barry saw a troublesome moral gray area but also an easy solution: 'the team should maintain an inventory of the drugs given out at each race and pass it along to the doctor at the next race' (Wynn 2017). Team officials failed to act on his concern and the practice continued. Barry is just one among numerous instances in which athletes knew about questionable practices, objected to them, and identified strategies to prevent these practices but had no effective way to transmit these insights to would-be partners in solving the problem.

These examples indicate that at least some athletes are not inherently opposed to anti-doping regulations. In fact, athletes overwhelmingly cite a desire to do their sport without performance-enhancing substances. They want to be sure that when they do compete within the rules their opponents are also playing by the same rules (Morente-Sánchez and Zabala 2013). To be sure, history indicates that poor enforcement of anti-doping rules has led to widespread defection by athletes (Hunt 2015). Thus, Bowers and Paternoster are correct to assert that testing and enforcement will remain important features of anti-doping moral communities. However, they retain the view of anti-doping agencies as cops and the entire athlete population as would-be robbers. Until we adopt a position that respects athletes as cooperative allies who share in the mission to establish sport free from performance-enhancing substances, we will continue to miss important steps towards more effective and more ethical policies.

### Empowering the Athletes

When we view athletes not as would-be cheaters but as individuals with an interest in effective and ethical anti-doping policies, we must recognize that athletes should have greater input backed with specific powers in designing the anti-doping policies that will be at the heart of their anti-doping moral community. Empowering athletes is essential not only out of respect for the athletes as moral agents but also to ensure they consider the rules morally justified obligations.

Such a conclusion emerges from the acknowledgment that athletes are stakeholders. As Pielke explains, 'the most compelling argument for athletes to have a greater voice in governing sport is that they are the stakeholders who are most directly affected by decisions about sport'. (2016, 269). So if athletes are stakeholders, then they should have some say in governance. Having a voice in anti-doping is even more important because anti-doping policies ask athletes to waive rights normally afforded to individuals. Athletes submit to having their whereabouts tracked, having their blood taken, having to urinate in front of strangers, and they agree to arbitration and punishment if accused of violating anti-doping rules. Moreover, athletes have a vested interest in accessing fair competitions where all the competitors follow anti-doping rules. Ethical, effective anti-doping policies must enfranchise athletes, and stakeholder theory points the way to determining ethically proportional decision-making power with respect to their status as a stakeholder.

As indicated on the WADA's website, anti-doping institutions already assert that athletes are stakeholders in the anti-doping movement (WADA 2015). Although philosophers define stakeholders differently, consensus holds in stakeholder theory that organizations should consider the needs, interests, and influences of groups who impact on or may be impacted

by organizational policies and behavior (Freeman and Reed 1983; Ribeiro Soriano, et al. 2011). Stakeholder theory emerged from business ethics, which sought to examine the moral obligations of an organization. Before stakeholder theory, organizational strategy made decisions in consultation with a narrow pool of groups (Ribeiro Soriano et al. 2011). Organizations considered stockholders and external groups on who the organization depended on for survival to be the only bodies that needed to be consulted when making important organizational decisions (Freeman and Reed 1983; Ribeiro Soriano et al. 2011). After the work of Edward Freeman, a wider understanding of stakeholders expanded the consultation scope to ‘any identifiable group or individual who can affect the achievement of an organization’s objectives or who is affected by the achievement of an organizations objectives’ (Freeman and Reed 1983, 91; Ribeiro Soriano et al. 2011). In applying this stakeholder theory to non-governmental organizations, MacDonald asserts that these institutions’ democratic and moral status depends upon the individuals significantly affected by the organizations’ decisions having the ability to deliberate over the exercise of power and hold those who wield power accountable for their actions (Macdonald 2008).

Does WADA meet MacDonald’s ideal standards for including stakeholders in the deliberative process? To a certain extent, it does. WADA casts a wide consultation process for the World Anti-Doping Code (WADA 2017) that includes athletes appointed by WADA officials to serve as athlete representatives (WADA 2014). This process provides some avenue for athletes to contribute to policies and reforms. However, it falls short in two ways. First, athletes do not have the power to appoint their deliberative representatives, which undermines these representatives’ claim to speak for the athletes. Second, WADA’s Code does not provide any mechanism for holding those in power accountable, which is a central point in MacDonald’s thesis for equitable stakeholder inclusion.

WADA—and Bowers and Paternoster—should consider steps to supply athletes with more power in the anti-doping policy making process. Empowering athletes as stakeholders is both morally preferable and easier to achieve than many believe. For example, the International Olympic Committee (IOC) has its athletes from each Olympic Games vote for four representatives to serve on the IOC’s Athletes Commission. The Athletes Commission provides guidance on host cities and the Olympic Program while its chair serves on the IOC’s Executive Committee (IOC 2017). Another example exists in Major League Baseball, where the members of each team select a representative and those representatives then select who among themselves will negotiate with the league (MLB 2016). These examples indicate ways athletes can have democratic power to appoint representatives to speak as stakeholders. Such reforms would not only establish governance that is more ethical but might offer practical benefits that address the stubborn problem of anti-doping rule violations.

## Friends with Benefits

Adopting a model which not only sees athletes as friends or allies with anti-doping but also empowers athletes and grants them greater say in writing the rules has specific benefits that would help fulfill Bowers and Paternoster’s aspiration for anti-doping moral communities. First, such a disposition is more likely to foster an attitude among athletes that accepts the moral legitimacy of the rules and rule makers. Studies in rule compliance from the work place and law enforcement suggest that an instrumental approach of external costs and benefits to rule following, such as Bowers and Paternoster’s emphasis on shame and regret,

have minor influences on rule breaking behavior. For example, Tyler and Blader conclude that such approaches typically lead the rule enforcers to devote more resources to increase surveillance systems while the rule breakers simply go to greater lengths to hide their behavior (Tyler and Blader 2005). Ultimately, in the work place, such efforts 'communicate a sense to employees that the organization is their adversary (and vice versa)' (Tyler and Blader 2005, 1144).

On the other hand, individuals are more likely to comply when an organization goes beyond instrumental strategies and focuses attention on a self-regulatory strategy (Tyler and Fagan 2008). A self-regulatory approach understands that rule following flows from an individual's intrinsic desire to follow rules (Tyler and Blader 2005). In a study of this approach, Tyler and Blader found that intrinsic desires, 'may be linked to employees' judgments regarding their employer, such as judgments employees develop through interactions with their work organizations', such that, 'Perceived congruence of moral values between an organization and a person is one likely judgment that can instigate an intrinsic desire to follow organizational rules' (Tyler and Blader 2005, 1145). The authors concluded organizational practices that lead employees to view management as legitimate further encouraged rule following. People legitimate authorities through different avenues. For instance, 'the fairness of organizational procedures shapes legitimacy, suggesting that organizations can shape legitimacy by the way they structure and exercise managerial authority' (Tyler and Blader 2005, 1154). Furthermore, public (in political settings) or employee (in work settings) participation in the deliberation of policy and leadership fosters legitimacy (Tyler 2006).

In anti-doping, the proposal to empower athletes thus not only constitutes an ethical improvement but provides an avenue for anti-doping officials to employ a self-regulation strategy. Such a move would likely lead to increased perceptions of the moral legitimacy of anti-doping rules because athletes would have a greater influence in writing them, which in turn would lead the athletes to be more invested in the rules' success. Of course, these emerging rules may not look exactly like the current anti-doping rules, and anti-doping administrators may be challenged to accept reforms that they believe loosen anti-doping rules or divert resources away from areas that require attention. However, such changes would reflect what athletes see as pressing needs or what they consider appropriate policies. In any case, they will increase the moral legitimacy of anti-doping rules among athletes.

Second, a more cooperative arrangement can improve the exchange of information. While anti-doping administrators might point out that such an exchange is currently possible, such as through anonymous tip lines and other athlete outreach efforts, many athletes have not shared their information with authorities. Athletes, perhaps perceiving mistrust from anti-doping administrators, do not come forward in meaningful numbers. Others are perhaps deterred after witnessing the experiences of their peers. While some, such as Michael Barry with his concern regarding tramadol, were simply ignored, other athletes received repercussions for coming forward. For example, when Russian discus thrower Darya Pishchalnikova sent an email to the WADA in 2012 to inform them of her use anabolic steroids as part of Russia's widespread state-sponsored doping program, WADA, not trusting her allegations of state-sponsored doping, forwarded her email to the very people she accused of running the doping program (Ruiz, Macur, and Austen 2016).

A relationship between athletes and anti-doping administrators characterized by trust and cooperation would increase the likelihood of athletes contributing necessary information to attain anti-doping objectives. Instead, the existing organizational disposition towards

athletes as ‘would-be rule breakers’ encumbers athletes’ willingness to partner in the movement. Thus, Bowers and Paternoster’s previously mentioned depiction of anti-doping administrators as corporate compliance officers may be the wrong analogy. Instead, a better analogy is one where anti-doping administrators see themselves as employees of a credit union, which is a member-owned financial cooperative. A credit union requires employees who oversee the operations of the institution to achieve the aims of the credit union stakeholders, which include protecting savings and providing loans for its members. Following this model, rather than granting administrators unilateral authority to set the terms of anti-doping for athletes, sport would allow the athletes, sporting federations, fans, and the many other stakeholders in sport to set its agenda. Athletes could be expected to collaborate with anti-doping because the collaboration helps achieve their desired ends rather than the ends of an adversarial interest.

## Conclusion

We can be sure that athletes will continue to insist upon a level playing field. History has shown that if athletes believe they are competing at a disadvantage because their opponents are using prohibited performance-enhancing substances, some of those athletes will attempt to restore the level playing field by using the same banned substances (Waddington and Smith 2009). Thus, athletes must believe that other members of their sport continue adhering to the agreed upon anti-doping rules.

To do that, anti-doping testing and punishment for violations must remain part of any anti-doping rule enforcement. However, more transparent testing is but one step to increase athletes’ commitment to anti-doping. Other steps include empowering athletes by increasing their input in anti-doping policies and establishing organizational practices that treat athletes as mutually interested partners in effective anti-doping.

While Bowers and Paternoster identify an important goal—athletes intrinsically following anti-doping rules that they believe are morally legitimate—their proposed path of deterrence and shaming (as well as language throughout the article) remains rooted in an assumed adversarial relationship between anti-doping agencies and ‘the athletes they monitor’ (16). This, as we have argued, will not cultivate the moral communities needed to engender cooperation and athlete buy-in to anti-doping policies. So long as anti-doping officials view athletes as opponents, the athletes will continue to doubt the legitimacy of these officials and the policies they impose, and opportunities to partner with those moral communities already established among athletes will continue to be squandered.

## Disclosure Statement

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## References

- BOWERS, L.D., and R. PATERNOSTER. 2016. Inhibiting doping in sports: Deterrence is necessary, but not sufficient. *Sport, Ethics and Philosophy* 11: 132–151.
- CLEANSPORT. 2016. Clean sport certified. Available at <http://cleansport.org/get-certified/>

- CLEMITSON, S. 2014. Cycling's longstanding, predictable and troubling relationship with depression. *The Guardian*. 23 January. Available at <https://www.theguardian.com/sport/100-tours-100-tales/2014/jan/23/cycling-relationship-depression-doping>
- DE HOOGE, I. E., M. ZEELBERG, and S. M. BREUGELMANS. 2010. Restore and protect motivations following shame. *Cognition and Emotion* 24 (1).
- DEARING, R.L., J. STUEWIG, and J.P. TANGNEY. 2005. On the importance of distinguishing shame from guilt: Relations to problematic alcohol and drug use. *Addictive Behaviors* 30 (7): 1392–1404.
- DURKHEIM, E. 1992. *Professional ethics and civic morals*. London: Routledge.
- FALLON, R. 2005. Legitimacy and the constitution. *Harvard Law Review* 118: 1787–1853.
- FREEMAN, R., and D. REED. 1983. Stockholders and stakeholders: A new perspective on corporate governance. *California Management Review* 25 (3): 88–106.
- GAIMON, P. 2015. What does it mean to be a clean bike rider? *Cyclingnews*. 29 July. Available at <http://www.cyclingnews.com/features/phil-gaimon-what-does-it-mean-to-be-a-clean-bike-rider/>
- GILBERT, P. 1997. The evolution of social attractiveness and its role in shame, humiliation, guilt and therapy. *British Journal of Medical Psychology* 70 (2): 113–147.
- HA, F.I. 1995. Shame in Asian and western cultures. *American Behavioral Scientist* 38 (8): 1114–1131.
- HUBER, M.F. 2016. Can the clean sports collective actually do any good. *Outside Magazine*. 10 November.
- HUNT, T. 2011. *Drug games: The international olympic committee and the politics of doping, 1960–2008*. Austin: University of Texas Press.
- HUNT, T. 2015. Anti-doping policy before 1999. In *Routledge handbook of drugs and sport*, edited by V. Møller, J. Hoberman, and I. Waddington. London: Routledge: 209–218.
- IOC. 2017. Athletes commission. Available at <https://www.olympic.org/athletes-commission>
- KORSGAARD, C.M., and O. O'NEILL. 1996. *The sources of normativity*. Cambridge: Cambridge University Press.
- LEWIS, H.B. 1971. Shame and guilt in neurosis. *Psychoanalytic Review* 58 (3): 419.
- LICKEL, B., K. KUSHLEV, V. SAVALEI, S. MATTA, and T. SCHMADER. 2014. Shame and the motivation to change the self. *Emotion* 14 (6): 1049–1061.
- MACDONALD, T. 2008. *Global stakeholder democracy: Power and representation beyond liberal states*. Oxford: Oxford University Press on Demand.
- MLB. 2016. MLB joint drug prevention and treatment program. Available at <http://mlb.mlb.com/pdf/jda.pdf>
- MORENTE-SÁNCHEZ, J., and M. ZABALA. 2013. Doping in sport: A review of elite athletes' attitudes, beliefs, and knowledge. *Sports Medicine* 43 (6): 395–411.
- PIELKE, R. 2016. *The edge: The war against cheating and corruption in the cutthroat world of elite sports*. Berkeley, CA: Roaring Forties Press.
- POUND, R.W. 2008. *Inside dope: How drugs are the biggest threat to sports, why you should care, and what can be done about them*. Mississauga: Wiley.
- RIBEIRO SORIANO, D., M. PERIS-ORTIZ, E. WAGNER MAINARDES, H. ALVES, and M. RAPOSO. 2011. Stakeholder theory: Issues to resolve. *Management Decision* 49 (2): 226–252.
- RUIZ, R., J. MACUR, and I. AUSTEN. 2016. Even with confession of cheating, world's doping watchdog did nothing. *New York Times*. 15 June. Available at [https://www.nytimes.com/2016/06/16/sports/olympics/world-anti-doping-agency-russia-cheating.html?\\_r=0](https://www.nytimes.com/2016/06/16/sports/olympics/world-anti-doping-agency-russia-cheating.html?_r=0)
- STUEWIG, J., and J.P. TANGNEY. 2007. Shame and guilt in antisocial and risky behaviors. In *The self-conscious emotions: Theory and research*, edited by Jessica L. Tracy, Richard W. Robins, and June Price Tangney, 371–388. New York, NY: Guilford Press.
- TANGNEY, J. 1999. *The self-conscious emotions: Shame, guilt, embarrassment and pride*. In *Handbook of cognition and emotion*, edited by Tim Dalgleish, and M. J. Powers, 371–388. Wiley.
- TANGNEY, J.P., and R.L. DEARING. 2002. Shame and guilt. New York, NY: Guilford Press.
- TANGNEY, J.P., D. MASHEK, and J. STUEWIG. 2005. Shame, guilt, and embarrassment: Will the real emotion please stand up? *Psychological Inquiry* 16 (1): 44–48.
- TANGNEY, J.P., D. MASHEK, and J. STUEWIG. 2007. Working at the social–clinical–community–criminology interface: The george mason university inmate study. *Journal of Social and Clinical Psychology* 26 (1): 1–21.
- TANGNEY, J.P., R.S. MILLER, L. FLICKER, and D.H. BARLOW. 1996. Are shame, guilt, and embarrassment distinct emotions? *Journal of Personality and Social Psychology* 70 (6): 1256–1269.

- TANGNEY, J.P., J. STUEWIG, and L. HAFEZ. 2011. Shame, guilt, and remorse: Implications for offender populations. *Journal of Forensic Psychiatry & Psychology* 22 (5): 706–723.
- TANGNEY, J.P., J. STUEWIG, and D.J. MASHEK. 2007. Moral emotions and moral behavior. *Annual Review of Psychology* 58: 345–372.
- TYLER, T.R., and S.L. BLADER. 2005. Can businesses effectively regulate employee conduct? The antecedents of rule following in work settings. *Academy of Management Journal* 48 (6): 1143–1158.
- TYLER, T.R., and J. FAGAN. 2008. Legitimacy and cooperation: Why do people help the police fight crime in their communities. *Ohio State Journal of Criminal Law* 6: 231.
- TYLER, T.R. 2006. Psychological perspectives on legitimacy and legitimation. *Annual Review of Psychology* 57: 375–400.
- WADA. 2014. Athlete committee terms of reference. In World anti-doping agency. Available at <https://www.wada-ama.org/en/resources/athlete-committee-terms-of-reference>
- WADA. 2015. Anti-doping community. Available at <https://www.wada-ama.org/en/anti-doping-community>
- WADA. 2017. Code review process. Available at <https://www.wada-ama.org/en/what-we-do/the-code/code-review-process>
- WADDINGTON, I., and A. SMITH. 2009. *An introduction to drugs in sport: Addicted to winning?* London: Routledge.
- WIECHELT, S.A. 2007. The specter of shame in substance misuse. *Substance Use & Misuse* 42 (2–3): 399–409.
- WORLD ANTI-DOPING AGENCY. STRATEGY. AVAILABLE AT [HTTPS://WWW.WADA-AMA.ORG/EN/WHO-WE-ARE/STRATEGY](https://www.wada-ama.org/en/who-we-are/strategy)
- WYNN, N. 2017. Former sky rider michael barry 'questioned the use of tramadol' with team's management. *Cycling Weekly*. 20 February. Available at <http://www.cyclingweekly.com/news/latest-news/former-sky-rider-michael-barry-questioned-the-use-of-tramadol-with-teams-management-312553>