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“One of the Most Elaborate Doping Ploys in Sports History”: The Impact of the 2016 Russian Doping Scandal on Anti-Doping, WADA and Athletes’ Rights

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A thesis submitted in partial fulfillment of the requirements for the Doctor of Philosophy degree in Kinesiology

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Abstract

This dissertation analyzes the impacts of the 2016 Russian doping scandal from a philosophical and historical perspective. This dissertation's second chapter, the article entitled (1) "The Brave New World of Athletes' Rights: A Canadian Perspective on Significant Shifts for the World Anti-Doping Agency" in time for the World Anti-Doping Agency's (WADA) 20th anniversary, puts into words the new investigative reality of contemporary anti-doping. It explains a new attitude of anti-doping authorities in response to the 'game-changing' Russian manipulation of samples, what has been described as "one of the most elaborate doping ploys in sports history"¹ (Icarus, 2016). The third chapter, the article (2) "A Narrative of a Canadian Self-Diagnosis on Anti-doping Contributions" establishes the historical context in which the scandal emerged through the lens of Canadian experts and their respective contribution in anti-doping. Even if the article was written in the context of the country's 150th anniversary, it explains experts' scepticisms and concerns with current anti-doping. It finds that the International Olympic Committee's (IOC) governance is the source of many fears. The fourth chapter, (3) "The Role and Relationship of Science and Ethics in the Evaluation of Fairness in Sport" is another feminist critique of 'pure science'. It argues for the social problem-solving standpoint, in contrast to the impartial rational biotechnological scientific standpoint. Examples connecting the critiques to the Russian doping scandal are given in 'How chapter 4 concretely relates to the Russian scandal' (p. 95). The fifth chapter, the entitled (4) "Caring for Athletes in the 2016 Russian Doping Scandal" makes a novel philosophical distinction. Feminist theory, particularly the ethics of care, is used to distinguish women and men leaders' general reaction to the Russian scandal. The article nuances their proposed solution and finds that women leaders tended to suggest listening to athletes more than their counterparts. The themes of contemporary anti-doping, state-sponsored doping, athletes' vulnerability and sport corruption best summarized this dissertation. This exploratory doctoral study is one of the first, if not the first, in-depth analysis of the 2016 Russian doping scandal and it is argued that the controversy was as impactful to the world of sport as the 1970s East German state-sponsored doping system.

Keywords: Sport; Ethics; Doping; Anti-Doping; Russia; Rights

¹ See Dr. Grigory Rodchenkov's testimony in 'Icarus'. 2017. Dir. Bryan Fogel. Documentary.

Summary for Lay Audience

In 2009, Yulia Stepanova (née Rusanova), a Russian track and field athlete, fell in love with anti-doping officer Vitaly Stepanov. She was a successful member of the Russian national team and they shared many interests, including a passion for sport. They understood each other in a meaningful way. They were the two sides of the Russian anti-doping world. They were helping to construct the same façade together; the façade of clean Russian sport.

I was encouraged to study the unfolding Russian scandal ('the scandal') only a few months after the release of the first World Anti-Doping Agency independent person report. The 2016 Russian doping scandal was a worthwhile case of study for a multitude of reasons. First, it spread chaos in international sport at an overwhelming pace. Second, the press and officials involved lacked time to make profound conclusions about the scandal. Lastly, it was worthwhile to dig deeper than the press because gathered intelligence about the scandal was released in a sporadic fashion, on top of conflicting with past coverage. Recent news contradicted older news; the past contradicted the present.

The principal theme of this research project is 'institutionalized' doping. The expression 'institutionalized' doping refers to a distinct doping sport system, where performance-enhancement is assured by political and social structures. In such systems, institutions (pharmaceutical laboratories, police forces, legal authorities, universities, sport federations, ministries, etc.) are set forth to coerce national teams' athletes to dope and win Olympic medals.

Only twice in history have these systems been proven. German researchers had an opportunity to study the classified files from the 1970s after the collapse of the GDR in 1989-1990. In 2016, researchers had once again an opportunity to analyse classified documentation, which the author of this project took. The aim of this dissertation is to determine the impact of the most recent institutionalized doping system on Anti-Doping, WADA and Athletes' Rights.

Co-Authorship Statement

This dissertation was structured and written as part of the aforementioned Russian scandal doctoral research study. The information presented in this document is my own original work, while its richness is due to many. In particular, I must acknowledge my supervisor Dr. Angela J. Schneider's contribution and incomparable insight into the philosophy of sport world.

Parts of this dissertation are already published. Chapter 4, article 3, *The Role and Relationship of Science and Ethics in the Evaluation of Fairness in Sport* was published in 2018 in the international journal *Sport in Society*. Chapter 2, article 1, *The Brave New World of Athletes' Rights: A Canadian Perspective on Significant Shifts for the World Anti-Doping Agency* is currently in the process for publication in the international journal *Sport Policy and Politics*. Further, there are opportunities to publish both Chapter 5 (article 4) *Caring for Athletes in the 2016 Russian Doping Scandal* and Chapter 3 (article 2) *A Narrative of a Canadian Self-Diagnosis on Anti-Doping contributions*. As I trust it is an original contribution to the philosophy of sport literature and as it made a good impression at the 2019 International Association for Philosophy in Sport (IAPS) conference in Kyoto, there is much hope to publish the former. Likewise, the latter could find its place in many international journals, one of which is *Western's Olympika, The International Journal of Olympic Studies*.

Acknowledgements

This research would not have been possible without the support of my family and friends. My family went through rough times while I was writing this dissertation. Early in the morning, my brother and father scraped ice in a market counter with their bare hands. My mother managed tons of company projects. My partner saved lives and qualified for World championships. Of course, I needed a lot of patience and had my shares of personal doubts, but nobody around me ‘had it easy.’ They are inspiring and this dissertation is for them.

This research would not have been possible without the support of my supervisor Dr. Angela Schneider and members of my supervision committee Dr. Kirkwood and Dr. Hudecki. I haven't seen Dr. Schneider take a break in four years and would believe – if it was claimed – that she never took a break in her entire life. I know for a fact that she deserves every success she earned in life and that her “Drugs in Sport, The Straight Dope” is a sport ethics masterpiece. Dr. Kirkwood earned my respect with his critical papers on the harm-reduction approach, a necessary meticulous argument analysis. Lastly, many thanks to Dr. Hudecki for his philosophical eye. It is precisely critical sense that made this project so appealing and profound.

I would also like to thank the Graduate Kinesiology Program Chair and Members of the Kinesiology Graduate Affairs Committee for accepting my fast-tracking request and valuing the first two years of my research. I have always considered it as a generous gesture of support.

Finally, this is for athletes who were deceived during the scandal, including by their own governments. May their experiences be remembered for many years to come.

List of Abbreviations

CAS: Court of Arbitration for Sport

CCES: Canadian Centre for Ethics in Sport

CCDS: Canadian Centre against Drugs in Sport

CE: Council of Europe

DC: Disciplinary Commission (IOC)

FSB: Russian Federal Security Service

GDR: German Democratic Republic

IAAF: International Amateur Athletic Federation

IAPS: International Association for Philosophy of Sport

IC: Independent Commission (WADA)

IP: Independent Person (WADA)

IOC: International Olympic Committee

IWF: International Weightlifting Federation

NADOs: National Anti-Doping Organization

OAR: Olympic Athletes for Russia

PEDs: Performance-Enhancing Drugs

ROC: Russian Olympic Committee

RUSADA: Russian Anti-Doping Agency

Stasi: Ministry of State Security

SSHRC: Social Science and Humanities Research Council

TUE: Therapeutic Use Exemption

UNESCO: United Nations Educational, Scientific and Cultural Organization

WADA: World Anti-Doping Agency

WADC: World Anti-Doping Code

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Chapter 1: Introduction

“It’s one of the great chastening facts about working with systems that the part of a system that malfunctions is almost never the part in which *you notice* the malfunction.”

Edward Snowden, in *Permanent Records* (2019)

In 2009, Yulia Stepanova (née Rusanova), a Russian track and field athlete, fell in love with anti-doping officer Vitaly Stepanov. She was a successful member of the Russian national team and they shared many interests, including a passion for sport. They got married the same year and had one child in 2013, Robert. In time, Yulia explained to Vitaly the reality of Russian competitive sport, she meant what she would later explain to journalists: “they take any girl and feed them with pills.” (ARD 2014) Vitaly did the same. He explained the reality of the Russian anti-doping system: “this is not how [anti-doping] works in Russia” (ARD 2014). They understood each other in a meaningful way. They were the two sides of the Russian anti-doping world. They were helping to construct the same façade together; the façade of clean Russian sport.

When they thought about their child’s future, they were compelled to share their inside knowledge to the outside world. They feared for their life, but reached out to the German television station ARD to speak out against Russian doping nonetheless. This is where the 2016 Russian doping scandal begins.

I was encouraged to study the unfolding Russian scandal (‘the scandal’) only a few months after the release of the first World Anti-Doping Agency (WADA) independent person report. The kinesiology department felt that both my athletic and academic background provided insights on current events. I had participated in the Pan-American Weightlifting Championships, intended to take part in the World University Weightlifting Championships and had graduated in philosophy in the same year of 2016. At that point, no one of my committee members could anticipate that the scandal would last for many years to come. The first documentary alleging systematic doping in Russia, German television station ARD’s “Geheimsache Doping - Wie Russland seine Sieger macht” or

“Doping Top-Secret: How Russia makes its winners”, was aired on December 3rd 2014. The allegations were widely covered by the international press, since Russia had just hosted the Sochi Winter Olympic Games the same year. The New York Times published “Russian Insider Says State-Run Doping Fueled Olympic Gold” on May 14th 2016 to allege doping on a massive scale. It alleged doping across all Russian competitive sport. Therefore, just like it had mandated the independent commission (IC) on December 16th 2014, WADA mandated the independent person (IP), Western Professor and member of the International Court of Arbitration for sport (CAS) Richard McLaren to investigate on May 19th 2016. McLaren released two reports, one on July 16th and one on December 9th 2016. The two ARD documentaries and the four WADA reports (the two IC reports and two IP reports) constitute my introduction to graduate research.

The Icarus documentary (broadcasted on the streaming platform Netflix in April 2017) did not play a major role in this analysis, since other primary sources had uncovered most of its revelations at an earlier date. For example, the role of the former Moscow Laboratory’s director, Dr. Grigory Rodchenkov, had already been explained in the two WADA IP report (June and December 2016). Further, the corruption of Russian competitive sport had already been described in ARD’s Top Secret Doping series of documentaries, including Russia’s Red Herrings (January 2016), Show-down for Russia (July 2016) and The Protection Racket (July 2016).

The 2016 Russian doping scandal was a worthwhile case of study for a multitude of reasons. First, it spread chaos in international sport at an overwhelming pace. Political tension was felt and grew from the involvement of some of the most powerful individuals on earth: President Vladimir Putin, International Olympic Committee (IOC) President Thomas Bach, International Amateur Athletic Federation (IAAF) President Sebastian Coe, WADA president Sir Craig Reedie, influential oligarchs, candidates to presidencies, renowned lawyers and others. The climate was tensed and uncertain; it was an imperative to compile information and analyse the events that led to this panic. Second, the press and officials involved lacked time to make profound conclusions about the scandal. Indeed, at first glance, the compilation and analysis of information seemed assured by the international press, but journalists were asked to react at a much faster rate than myself or the committee members who have contributed to this research project. Some politicians’ choice to weaponize the media complexified in-depth analysis even more. They launched intimidation cam-

paigns against WADA investigators and Russian whistleblowers and their endeavors greatly contributed to the journalistic turmoil. Some critics opposed McLaren's terminology, but the most infamous moment is former head of the Russian Olympic Committee (ROC) Leonid Tyagachev's public statement that Dr. Grigory Rodchenkov "should be shot" (Walker 2017). This disturbance is without the mention of the known political partisanship of some media outlets and the online assaults of Russian hacking group Fancy Bears; the group successfully breached the IOC information system around 2017 (Ruiz 2018). Fancy Bears played a role of undetermined significance in the Russian doping scandal. Their secret operations, the extent to which they jeopardized anti-doping intelligence or electronically pressured AD investigators, gathered data and accessed confidential information from the IOC or WADA, are simply unknown. For instance, the author could not find any scholarly articles on the group's activity during the scandal.

Lastly, it was worthwhile to dig deeper than the press because gathered intelligence about the scandal was released in a sporadic fashion, on top of conflicting with past coverage. Recent news contradicted older news; the present – paraphrasing George Orwell – was changing the past² (Orwell 2008). Leaving the press aside, the news themselves were hard to digest; the winners were days away from disqualification and the well-organized Sochi Olympics were a few testimonies away from disaster. This confusion is explained in the fourth chapter of this dissertation. For instance, allegations were sometimes established as facts by rushed editorial boards, while some officials objected to the stance of their own sport organizations. Neither the West nor the East prevented incoherent public addresses from politicians or poor media coverage (see p. 72).

In my position as a researcher, I could afford reflection time on current events; I could step back from the facts when the agitated press – because of its tight deadlines – could not. In contrast to the press who could not offer more than reactions, this dissertation aimed to learn from the scandal and improve the anti-doping system. For instance, through philosophical analysis, it was shown that the blame of positive doping tests was often misdirected. Athletes were blamed and punished for their use of performance enhancement substances even if they were part of a system that made

² Orwell is known for his description of political power overlooking media. We owe him the quote: "who controls the past controls the future; who controls the present controls the past" (p. 37)

doping a requirement for their participation at the Olympic Games. Henceforth, it was worthwhile to find who is accountable for the scandal and to suggest solutions.

In terms of the analysis of the Russian scandal, the scope of this dissertation (its timeline) is approximately 10 years, from 2010 to 2020. The scandal became harder to follow after the Pyeongchang 2020 Winter Olympic Games and the author considered the discussion to be too advanced for this dissertation's aim. Indeed, the discussion on the accessibility of the Moscow Laboratory's data for WADA's investigators felt inadequate for the review Committees. It is the authors' belief that only a handful of sport official understood the specificities of WADA accredited lab's data and would be able to verify if it had or had not been tampered with in Russia, before the Agency got a hold of it.

The principal theme of this research project is '*institutionalized*' doping. The expression '*institutionalized*' doping refers to a distinct doping sport system, where performance-enhancement is assured by political and social structures. In such systems, institutions (pharmaceutical laboratories, police forces, legal authorities, universities, sport federations, ministries, etc.) are set forth to coerce national teams' athletes to dope and win Olympic medals. Only twice in history have these systems been proven. German researchers had an opportunity to study the files of the Ministry of State Security (Stasi) from the 1970s after the collapse of the GDR in 1989-1990. In 2016, the director of the formerly WADA-accredited Moscow laboratory, Dr. Grigory Rodchenkov, illegally turned over secret intelligence and classified Russian documents to the New York Times (Ruiz & Schwirtz 2016). Researchers had once again an opportunity to analyse classified documentation, which the author of this project took. The aim of this dissertation is to determine the impact of the most recent institutionalized doping system. In order to do so, the Russian case was compared and contextualized along many other doping scandals: the centralized GDR system, the Ben Johnson scandal, the Festina scandal and the Lance Armstrong case and others. The Russian case was a worthwhile case of study because of its new methodology. No one had ever been proven to have opened official Berek-Kits bottles to swap urine samples at the Olympic Games. The first steroid testing protocols at the 1976 Montreal Olympic games were long gone when the Russian Federal Security Service (FSB) started its operations for swapping around 2013.

Thus, every article in this dissertation aims to describe contemporary anti-doping, compares current issues with past controversies when needed, and foresees consequences for athletes' rights. What follows from the theme of institutionalized doping is the increased vulnerability of athletes used by such systems. This constitutes the second principal theme of this dissertation. The state's deliberation to dope its national teams for instance is fundamentally different from an individual athlete's deliberation. Thus, in the moral sense, it will be argued that the athletes' responsibility for doping consequently decreases.

Research questions

This research was exploratory, written in the midst of revelations and in contentious times, but managed to analyse the Russian doping scandal's impact on three distinct topics: (1) athletes' rights, (2) WADA and (3) the future of anti-doping.

The Russian doping scandal itself was very difficult to present to an uninitiated audience. Most of the research time was spent on finding and explaining the role of anti-doping institutions, instead of introducing philosophical theory. In other words, balancing the technical descriptions with philosophical reflections was one of the challenges of this dissertation. This research hoped for more conceptualization, but found itself limited by a pressing need for context.

An example of these challenges is seen in contemporary philosopher Alain Deneault's writings on the impacts of Tax heavens. Deneault inevitably has to set the stage for a philosophical discussion by introducing the technical financial opportunities of multinationals. Discussions about tax heavens require explanations on globalization and transfer pricing before a philosophical analysis is possible. For this dissertation, explanations on WADA laboratories and the ADAMs whereabouts system were required before a philosophical analysis of Russian doping scandal was possible.

Nevertheless, it was relevant to choose a philosophical framework to analyse the scandal because of the supervisor and researcher's academic background in philosophy. Aforementioned, the research questions on the Russian institutionalized doping system's impact rely on applied ethics and philosophy of sport arguments. Therefore, this dissertation's perspective is philosophical. Moreover, it was relevant to choose a philosophical framework of study because anti-doping always has a moral premise. One cannot comment on the appropriateness of sport officials' behaviors without a conception of what should be, or should not be, done. It logically follows that this

dissertation has an assumed premise concerning the scandal. It presumes that the impacts of any institutionalized doping system are regrettable for competitive sport and that presumption will be defended in this dissertation. This evaluation alone is a moral statement that could be, and has been, contested. Fortunately, generally speaking, it is a received view, which allows me to set it as context and suggest solutions. This dissertation finds that the Russian doping scandal had an extensive negative impact on fairness in sport, **forcing WADA to change its methods, and thus, darkening athletes' future.**

Methodology

This dissertation carefully analyzes a wide variety of scholarly articles, books, traditional media, printed reports, documentaries, legal documents, memos, public addresses, social media posts and news articles, in conjunction with highly valued cross-referenced accounts or testimonies from Russian whistleblowers, coaches and athletes. The list of printed documents include but is not limited to the four WADA reports, the IOC Schmid Commission reports, Grigory Rodchenkov's affidavit, the Dubin report and the Court Arbitrator of Sport's (CAS) jurisprudence. Cross-referenced whistleblower accounts include Yulia Stepanova, Vitaly Stepanov, Grigory Rodchenkov, Andrey Dmitriev, Dmitry Berestov, Dmitry Klokov, Hadzhimurat Akkaev and others.

Further, this research entailed the creation of narratives from discussions by the experts in the area of anti-doping. "Chapter 5: A Canadian self-diagnosis on anti-doping contributions: A discussion of Experts" was written throughout 2019 and 2020 with information gathered during and post a 2018 anti-doping roundtable. The Canadian Center for Ethics in sport (CCES) hosted many experts in Ottawa to discuss Canada's impact on anti-doping. The roundtable was organized in connection to the supervisor's Canada's 150 Social Science and Humanities Research Council (SSHRC) grant where I was invited as an independent observer. The arguments defended in this dissertation are grounded in my observations of experts' experience and both primary sources and secondary sources. With my observation from the Ottawa 2018 meeting, references on anti-doping history – notably the 2015 Routledge Handbook on doping in sport – and social literature on contemporary doping scandals, the article summarizes my assessment of Canada's impact in sport and a narrative of Canadian experts' concerns for the future. It takes into account many doping scandals in sport history, including the first deaths of cyclists in the 1920s, the scientific experimentations during the Second World War, the emergence of anabolic steroids in the West and the East, the East

German centralized doping system, the 1976 Montreal Olympics, the 1988 Ben Johnson scandal, the 1990 Dubin Inquiry, the 1999 creation of WADA, Lance Armstrong, the 2016 Russian doping scandal and, briefly, the International Weightlifting Federation (IWF) scandal. It is a thorough work of presentation and comparison to describe the Russian doping scandal's impact in sport.

“Chapter 4: Caring for athletes in the 2016 Russian doping scandal” was written entirely in 2019. It is based on feminist theory and news coverage analysis from 2017 and 2018. I tirelessly reviewed the press concerning sport officials' reactions to the scandal and certain patterns emerged. Some officials were trying to find a solution to the crisis in an impartial manner, while others suggested solutions in a more caring way. Often, factual evaluation came from distinguished lawyers. Athletes' representatives, National Anti-Doping Organisations (NADOs) and journalists, who had personally met Russian whistleblowers, on the other hand, kept insisting on the importance of human relations. Thus, the article uses feminist theory to argue that women, in general, supported caring solutions over impartial ones. It is an important argument since Claudia Bokel, former IOC Athlete's Commission Chair, and Becky Scott, former WADA's Athlete's Commission Chair, alleged they were bullied for their convictions during the scandal (Roan 2018). The article goes on to submit an explanation for these allegations. Women leaders expressed their moral beliefs in opposition to male leaders; they were both fulfilling their role and distancing themselves from the dominating discourse at WADA and the IOC.

“Chapter 3: The Brave New World of Athletes' Rights: A Canadian Perspective on Significant Shifts for the World Anti-Doping Agency” was written in 2018 and 2019 since the latter year marked WADA's 20th anniversary. Canadian anti-doping officials' post-Pyeongchang Games trending discussions revolved around “a significant shift” for the agency. The IOC had taken no actions themselves against Russia for Rio 2016. They had asked international federations to decide on the country's participation; only the IAAF and the IWF refused to send Russian athletes to Brazil. In 2018, the IOC allowed Russian athletes to compete under the ‘neutral’ delegation of “Olympic Athletes from Russia” (OAR) and were heavily criticized by NADOs and sport officials. Bokel stated it was impossible to know if Russian athletes sent to Pyeongchang 2018 were tested. Some were never tested. In brief, the research found a desire for WADA to shift its anti-doping priorities after 20 years of existence, along with concerns over the IOC's choice to reject their

recommendation to ban Russia. Apart from research editing, the “Russian Doping Scandal and Athletes’ Rights” section was my focus.

“Chapter 2: The role and relationship of science and ethics in the evaluation of fairness in sport” was completed in 2018. The research was focused on science and feminism with a section on postmodern feminism theory. The question of postmodern feminists is “what is women’s condition in a hypertechnological society?”; they analyze the life-condition and gender inequities inside a growing digital world, where artificial intelligence and cyborgs control human interactions. Most postmodern feminist authors agree that gender discrimination will persist in future technological society. In the context of this dissertation, “the role and relationship of science and ethics...” is meant as an introduction to the concept of fairness in sport. It presents the dichotomy of science, in some regards useful and disruptive of sport. Sports science conceives testing protocols and experiments to defy scientific experimentations; it is both problem and solution.

As a member of the review committee correctly suggested, the author of this research project had an insider’s perspective. Yet, it should be remembered that, as helpful as this perspective was for differentiating the role of sport bodies, agencies and committees – for making sense of the sport architecture if you will –, it was not necessary to lead research. The author was determined to make the Russian accessible to an uninitiated audience. Therefore, the insider’s perspective is not necessary to understand or to analyse the Russian doping scandal.

Findings

This research is a timely effort; it analyzed many events and testimonies as soon as they were released to the public domain from 2016 to 2019. In this sense, it is an exploratory work. It has been described as ‘cutting-edge’ since the scandal was too impactful not to cover, with a scale that could only be compared to the East German doping scandal. It should be remembered that the Russian case led to the retesting of 1100 urine samples, during which 106 cases returned a positive result for doping (IOC 2017).

This dissertation concluded on three distinct topics. On the Russian scandal’s impact on athletes’ rights, it finds that the scandal did not empower athletes, that athletes’ representatives were treated poorly for their convictions and that they already faced threats in the form of invasion of privacy before the scandal. On the topic of WADA, research shows that the agency felt the need to acquire

the right to lead their own investigations in 2015. From that acquisition, it invested in intelligence more than at any point in its history; the hire of new director of intelligence Günther Younger, former team coordinator at Interpol (WADA), is also noteworthy. On the Russian scandal's impact on anti-doping's future, the history of sports literature used in this project suggests that the future of anti-doping relies on athlete empowerment, which the IOC has been reluctant to concede.

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Chapter 2: Article 1 – Title: The Brave New World of Athletes’ Rights: A Canadian Perspective on Significant Shifts for the World Anti-Doping Agency

Introduction

With the twentieth anniversary of the World Anti-Doping Agency (WADA), it may be surprising that many elite athletes do not know how to pursue protection of their rights and have limited knowledge of the processes that affect them in the pursuit of ‘clean sport.’ Most athletes deal with their coach, their club leader, and perhaps the National Sport Organization (NSO) or National Olympic Committee (NOC) during their relatively short career spans, but very few come to understand the role of the World Anti-Doping Code (WADC), Court of Arbitration for Sport (CAS) and International Council of Arbitration for Sport. These are important considerations from an athlete’s rights perspective. The purpose of this paper is to: i) illuminate some of the important structures related to WADA that influence the lives and the rights of athletes; ii) explain why the tension with athletes’ rights is so significant; and iii) identify and explain a more recent shift in regard to athletes’ rights. This shift led them to the unprecedented action requesting the inclusion an official Charter for athletes’ rights to be included in the WADC.

The Formation of World Anti-Doping Agency

It has been argued that the formation of the World Anti-Doping Agency (WADA) was in part the result of two independent international scandals: the 1998 Festina doping Scandal at the Tour de France; and the 1999 International Olympic Committee (IOC) bidding and bribery scandal for the selection of the 2002 Salt Lake City Olympic games (Schneider 2015). The Festina Scandal was one of the most significant doping events since the former East Germany (GDR) scandal, described notably by Franke and Berendonk (1997), based on the Ministry of State Security (“Stasi”) files declassified in 1990.

It was the first time that civil authorities publicly stepped in and overrode sport authorities, arresting the driver (Willy Voet) of the Festina team car. Voet was caught during a routine border search in the town of Lille (between France and Belgium) with a significant number of doping paraphernalia inside the team car (Rosen 2007; WADA 2008). The entire team was banned and five more dropped out (Rosen 2007). The Festina Scandal was not, however, a case of institutional doping

orchestrated by a national government, as was the former GDR. (The significance of institutional doping for athletes' rights will be explained below.)

The second international scandal, hitting the world press shortly after the Festina scandal, involved the (IOC) itself. A respected Swiss IOC member (Marc Hodler) blew the whistle on corruption in the Salt Lake City Olympics bidding process. Hodler's accusations of fellow members soliciting and accepting bribes from senior members of the Salt Lake City bid committee resulted in the IOC banning its members from visiting bid cities. It also led to the IOC creating and tasking the IOC 2000 reform committee to review the entire structure and processes at the IOC (Nullis 1998). The resulting national and international responses to these two events were a significant part of the catalyst for the formation of WADA.

The IOC convened "the World Conference on Doping" on February 2-4, 1999 in Lausanne, carrying the concern that the civil authorities would take over anti-doping initiatives if the sport organizations did not demonstrate appropriate leadership and form an expert international anti-doping agency (O'Leary 2001; Schneider 2015). This concern could not be underestimated because the formation of CAS was also an attempt to keep sport-related disputes, including doping, in the hands of sport-related organizations with the same challenge of setting CAS up through sport and, at the same time, attempting to prove that it would be independent from sport organizations (McLaren 2001, Kane 2003).

The many varied interests (i.e. the IOC and IFs, public officials, politicians, federal governments, broader members of the Olympic movement and scholars) that were represented at this conference made reaching a consensus a challenge. The IOC and IFs wariness of governments (sharing different visions of sport and willing to harm it by boycotting Olympic games) versus the governments' wariness of the IOC and IFs (seeming lack of competence and leadership as evidenced by the Festina scandal and the Salt Lake City bid scandal) was overwhelming. In *Inside the Olympics: A Behind the Scenes Look at Politics, the Scandals and the Glory of the Games*, Canadian, Richard Pound (former IOC Vice President) explained that this problem was amplified by the alleged impropriety of the IOC hiding failed doping tests after the Salt Lake City Olympic games, and also by Samaranch's comments on the Festina Scandal (Pound 2004, p.69). Based on pressure from government representatives, the IOC agreed that an independent international anti-doping agency was required. Such a 'move out of sport' would have been difficult for the IOC to accept and the

cooperation needed to create this single, independent, international agency was a struggle to secure. Therefore, there was a significant modification of the proposed organizational model that was developed for the conference (Pound 2004).

The governments would not even consider participating in this new international agency unless they had at least 50 percent control of it, which the IOC then argued would also require them paying 50 percent of the funding (Pound 2004, p.36). Under Pound's leadership, urging the IOC to accept this offer, the IOC agreed to cover the costs of the new organization for the first two years. The resulting *Lausanne Declaration on Doping in Sport* (1999) led to the creation of the agency before the Sydney Olympic games in 2000. WADA formally came into existence on November 10 1999 with the mandate to promote, coordinate and monitor the fight against doping in sport in all its forms. Specifically pertaining to the discussion to follow, section "1. Education, prevention and athletes' rights," includes "... Complete transparency shall be assured in all activities to fight doping, except for preserving the confidentiality necessary to protect the fundamental rights of athletes...." (1999, p.1).

The World Anti-Doping Code

From this *Lausanne Declaration* (1999), one of the first priorities of WADA was the coordination and harmonization of standards and procedures around the world as the quasi-legal anti-doping legislation was in disarray. Pound, and the newly formed WADA team (which included 3 Canadians in senior positions), developed a three-level approach to deal with the harmonization challenge: i) create a universal anti-doping code that the world governments and sports federations could endorse; ii) create international standards to be followed by everyone; and iii) implement models of best practices and guidelines.

In March of 2003, the World Anti-Doping Code (WADC) was enshrined in Copenhagen with the goals of supporting fairness and justice through formalization and harmonization of rules. The just application of those rules and standards possessed flexibility based on the "*Fundamental Rationale*" of preserving "what is intrinsically valuable about sport"; namely, "the spirit of sport" (WADC 2003, p.3). "The Spirit of Sport," as the fundamental ethical rationale for anti-doping programs, came with the Canadians (CCDS 1992; 1996) to the WADA leadership and it is still in the WADC. Specifically, the WADC was created to "*protect the athletes' fundamental right to*

participate in doping-free sport and thus promote health, fairness, and equality for athletes worldwide; and to ensure harmonized, coordinated, and effective anti-doping programs at the international and national level with regard to detection, deterrence, and prevention of doping” possible (WADA World Anti-Doping Program, p.6).

The Code is specifically a non-governmental document that derives its legal force through contractual “Athlete Agreements” which lay out the responsibilities of the athlete, but also the responsibilities of the national sport organization (NSO) to the athlete (WADC 2009). In order to participate in the Olympic games, the IOC required all sports (through NSOs and IFs) to adopt the WADC, which then required the athletes of that sport to adhere to the provisions of the WADC, compromising athletes’ rights to privacy for a fairer playing field (described as the athletes’ rights to doping-free sport). To go beyond the very limited window of regulated testing during competition to enforcement out of competition, the role of the NSO and IF, interacting with athletes in all instances³, were vital because before an NSO could become a signatory to the WADC, its anti-doping policy must be compliant (UNESCO 2003).

During a convention of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2003, the governments of the international community sought to increase the legal power of the WADC (and WADA itself) by passing the International Convention Against Doping in Sport (UNESCO 2003). 75 countries had ratified it by the end of 2007.

From an athletes’ rights position, the strict *provisions* harmonizing sanctions was important and necessary for fairness. However, almost of equal importance is the idea of sufficient flexibility for justice because of individual circumstances. It is this latter idea that introduces one of the tensions for athletes’ rights; the tensions are due to the competing interests of catching dopers and the right to remedy.

Modifications to the WADC

WADC was written to give the arbitrators the power to apply it effectively, yet fairly. The goal was to produce decisions and sanctions that were fair, just and proportionate for individuals, while

³ Over 500 organizations are bound by the regulations of the WADC.

harmonizing punishment. The WADC was revised to give the arbitrators the power through ‘discretionary’ provisions. Arbitrators could use judgement and experience to weigh factors individual to cases, resulting in times where required imposition of sanctions below the minimum, when the strict application of the Code would give disproportionate sanctions (WADC 2009, article 2.1). Understandably, this remains a point of debate as these exercises of judgment (called “exercises of discretion”) are beyond the specific scope of the WADC. “Discretion” in this case operates as a power of judgment to be used for fairness, justice and proportionality.

Eight kinds of anti-doping rule violations were drafted, but the most relevant one to the discussion is the presence of a prohibited substance (or its metabolites or markers) in an athlete’s sample (WADC 2009, Article 2.1). Unless an athlete has a valid Therapeutic Use Exemption⁴ (TUE) for the prohibited substance, the process will proceed based on the WADC “strict liability” model, which states that an athlete is responsible for the substance’s presence, in his/her body. From an athletes’ rights perspective, this model is problematic because it says the athlete is guilty until proven innocent (Schneider 2009). Therefore, the athlete’s intent (or lack of it) became irrelevant at the first level. From a moral point of view, this is of great concern. An essential part of moral approbation is an assessment of intent and the assumption that the athlete freely chooses to dope or not.

The WADC did recognize that there may truly be events where the athlete was not at fault for an adverse finding. This flexibility was given with the ‘exceptional circumstances provisions,’ the options are ‘no fault or negligence’ or ‘no significant fault or negligence’ (WADC 2003, Articles 10; 10.5). Athletes required a very high standard for the provision to apply by proving both, how the substance entered their bodies and what significant care they took to prevent it (or demonstrate proof they were sabotaged).

⁴ TUEs had also generated a good deal of philosophical debate and accusations of corruption where some physicians have been bribed (or are in a conflict of interest- i.e. President of the sport organization and the team doctor or employed by the sport organization) to support an invalid TUE.

WADA's Treatment of Athletes' Rights

Athletes' Rights to Privacy, Fairness and Justice in the Code?

In 2009, new provisions for more flexibility for arbitrators were added. They provided for increases of the periods of ineligibility where 'Aggravating circumstances' were found (WADC 2009). Hereafter arbitrators could impose a ban for up to four years where they found an athlete more culpable as having been part of: a "doping plan or scheme;" a "conspiracy or common enterprise;" using multiple prohibited substances; or obstructing investigations (WADC 2009). The reasoning for these changes was to allow the arbitrators the flexibility to consider the athlete's intent when handing out penalties.

From an athletes' rights perspective, this is an improvement because the strict liability provisions limited consideration of intent. However, opponents could counter that, with flexibility, the judiciary process becomes too costly, time consuming and that it would grind the whole process to a halt. Further, increased flexibility risks inconsistency as different arbitrators would give different interpretations and might rule differently for the same sets of circumstances.

This relates to questions of fairness of treatment of athletes (often associated with harmonization in the WADC) and justice. Differential application undermines the standard, and predictability helps to secure fairness, at least in part, because it allows athletes to know what to expect.

Criticism that the WADC was too restrictive, too harsh and imposed disproportionate sanctions made the concern more relevant in the application of the WADC. Although it can be argued that doping can lead to the destruction of meaningful sport, there have been times when the focus on eliminating doping has caused clean athletes to suffer and all athletes to give up basic human rights to privacy (Schneider 1992; Schneider & Butcher, 2000). In other words, there have been cases where athletes have suffered from unfair sanctions and there have been cases where cheaters have escaped. For athletes' rights, trying to get the right balance is extremely difficult. As WADA and the NADOs announced their intentions to move on from just using analytical tests for doping towards gathering intelligence, the question of consistency, or balance between arbitrators' interpretation, takes on a whole new level.

Policy-Making and Philosophical Perspectives on Anti-Doping

Some philosophers have argued quite convincingly against doping in sport from the basis of fair play (Simon 1984, Morgan 2007). However, the methods used by WADA and the NADOs to implement these efforts to secure athletes' rights to fair play, is itself unfair for some (Morgan 2007, Schneider 2018). Thus, this raises serious questions of the professed aim of their anti-doping program to safeguard the moral integrity of sport and athletes' rights (Morgan 2007). William Morgan argues that drug tests "seem to be eminently fair" as a method for providing objective, impartial methods but that the known problem with them, "is that they are still relatively easy to defeat, which is why the significant number of false negatives they typically generate is something of a joke in elite athletic circles" (Morgan 2007, p. 12). Therefore, Morgan understands how frustrated WADA and the NADOs may be by those with the means to beat them.

Around 2016, this frustration will have been raised with the revelations of systemic and institutional doping conducted in Russia in a way that much of the public had thought died with the former GDR regime. The literature describes it in different ways; for example, Gray (2018), focusing her investigation on the notion of compliance, argues that "a series [of scandals] demonstrated the scale of non-compliance" and "highlighted the extent to which national cultures and interests may conflict with international anti-doping norms" (Gray 2018, p. 9). In her analysis, one recommendation is that "to prevent fragmented response to non-compliance" – a solution athletes may have reinforced after the scandal by requesting the inclusion of an Athletes' Charter of Rights in the WADC at the first WADA Global Athletes' forum in Calgary, 2018 – "WADA needs the authority to impose sanctions" (Gray 2018, p. 8).

Read *et al.* (2019), building on the notion of legitimacy, argues that, after the scandal, there was a "lack of legitimacy in WADA's regulatory performance due to inconsistent application of the Code" (Read *et al.* 2019: p. 6). Similarly, their evaluation can provide a partial explanation for both WADA's recent shift⁵ and the athletes' request for a Charter of Rights: "periods of potential institutional change can occur after exogenous shocks such as scandals, political change or technological innovation that disseminate new information to audiences [...] In such cases, audiences

⁵ Described in more detail in the last section: The Russian Doping Scandal and Athletes' Rights.

can actively debate and re-evaluate the legitimacy of an institution” (Read *et al.* 2019: p. 3). Therefore, after the revelations, stakeholders such as the NADOs and the athletes would have reacted, debating and re-evaluating WADA and the WADC, calling for “the ability to sanction non-compliant nations” or “began to push for an athlete charter of rights” (Read *et al.* 2019: p. 8).

On the philosophical perspective, Morgan claims the moral problem is that with this frustration, WADA and the NADOs have moved to more reliance on non-analytic methods (i.e. circumstantial evidence-- used IV bags, calendars with apparent coded notations seized in criminal investigations, and personal testimony from those that administer and distribute such drugs). These methods require professional police trained for investigations. Morgan expresses two concerns with this move, the first of which is related to the change of the standard of proof for doping offenses from ‘beyond a reasonable doubt’ to ‘comfortable satisfaction’ (Morgan 2007, p.13). Vagueness is a significant problem with this change of standard of proof for Morgan, and even if it were made clear, it still violates basic fairness (and, we would argue, basic rights) by utilizing a different, unusual standard of evidence that is far less stringent than ‘beyond a reasonable doubt’ “...making an arbitrary distinction of athletes that puts them at a distinct disadvantage to everyone else” (Morgan 2007, p.13).

It is this description of “arbitrary” that is of interest because the NADOs and WADA would argue that investigative operations are not arbitrary at all, but rather are required. The lengths athletes like Lance Armstrong⁶ and countries like Russia⁷ go to, in order to evade detection of cheating, are not easy to meet. However, Morgan claims this is a “classic case of treating similar cases dissimilarly” because the pursuit of justice for doping for athletes is treated dissimilarly from the pursuit of justice for everyone else in society; and “is a violation of the reciprocity that goes to the very heart of our conception of fairness” (Morgan 2007, p.13).

On the face of it, Morgan is correct, but he really begs the question (especially from the NADO/WADA perspective): ‘Are they really ‘similar’ cases?’ Are the standards to enforce ‘rules

⁶ Lance Armstrong’s final admission of guilt and his teammates’ testimony indicated such extremes as faking a flat tire on the US Postal bus so it could pull over without question for two hours while they performed blood transfusions.

⁷ Testimony from whistle-blowers has shown that Russia, using the former KGB, swapped out their athlete’s positive samples for clean ones during the Sochi Olympics through an incredible subterfuge that we only hear about in spy novels.

of sport' that may result in athletes being 'banned from sport' similar to the standards to enforce 'laws of the land' that may result in citizens 'going to prison'? Anti-doping agencies would contest Morgan's analogy. 'Sport is different,' they counter. Morgan says that coercing athletes' consent to be governed by weaker evidentiary standards is requiring them to do something that is manifestly unfair. They would never reasonably agree to it.

The second moral problem Morgan sees with this "more muscular approach to anti-doping" utilizing circumstantial evidence is that it makes athletes unsure of who they can trust because good faith efforts to construct circumstantial cases can easily degenerate into cases of "score settling;" or could lead to a "witch hunt" environment (Schneider 1993).

Arguments in favour of "whistle-blowing," which in many cases would count as circumstantial. Without whistle-blowing neither Lance Armstrong (who never produced a positive analytic test, even though he was one of the most frequently tested athletes in history) nor Russia, would have been caught. In fact, it was Gunter Younger, a former police officer trained in intelligence gathering and the current director for intelligence and investigations at WADA who worked with the Russian whistler-blowers⁸. Younger's presentation, along with those of the Russian athlete and RUSADA official that were also whistle-blowers, at this Global Athletes Forum demonstrate what we are calling the "Brave New World of Anti-Doping". In order to gain assurances for clean competition and remedies for violations, and why they need a specific bill of rights enshrined in the WADC, is the "Brave New World of Anti-Doping", based on investigations.

Notes on McLaren's mention of the brand new era of athletes' rights in 1998

In describing the emergence of the Court of Arbitration for Sport (CAS) and the evolution of its role at the Olympic Games, Richard McLaren (1998) explains that sport disputes were not usually resolved in sport judicial courts: "there is an inherent resistance to traditional courts in the realm of sports where problems have traditionally been resolved internally. If individuals seek redress in judicial courts, they will often suffer the condemnation of their peers" (p.3).

⁸ At the WADA Global Athletes' Forum in Calgary in June 2018, Gunter Younger presented the method of his investigation. The names of these whistler-blowers are not given here, although many may know who they are, they still reasonably believe their lives are in danger. One is under full witness protection and at least two others are in a safe location.

McLaren specifies two factors that led to the emergence of sport law and the CAS: sport commercialization (p.16) and athletes' rights. More precisely, "the emergence of Athletes' Rights has terminated (in-house disputes solving) and brought with it a new response to the use of law in sport." (p.1) With commercialization, the Canadian lawyer mentions that most sport principles refer to contractual agreements between organizations and athletes. "Most sports organizations are private, voluntary associations, as opposed to being governed by public authorities [...] and their relationships are governed by contractual principles." (p.2)

In the 1970s, athletes realized their importance in the new sport entertainment industries. Further, they understood that 'in-house' resolution of sport disputes generally favored the organizers, not the athletes: "This recognition brought an increasing clamor by athletes demanding more rights within a larger social order. 6 In-house resolutions to disputes by sporting organizations were no longer satisfactory" (p.2)

The 2019 controversy surrounding the International Weightlifting Federation supports McLaren's description that "the sports organisations in many countries of the world are undergoing a transition from the older model of dispute resolution ("in-house") without the law, to a more legally-based athletes' rights-focused resolution of problems and disputes".

In other words, what McLaren names "the brand new era of athletes' rights" (p.2) started when sport "embraced a business dimension because of its entertainment value" (p.2). Soon after, athletes realized their role in this new business model and "awareness of athletes' rights" grew.

In short, the CAS was built, in part, in a context of "growing awareness of athletes' rights", where the "exploding role of business in sport (was) likely to clash with the interest of athletes and result in more cases which are of a commercial nature" (p.17).

Further, after 'in-house' dispute solving was considered inadequate, many sport bodies differed in their stand on certain sport issues. The sport world required a structure to "balance the need to punish wrongdoers from gaining an unfair advantage, and the desire to maintain athletes' rights" (p.7)

The Court of Arbitration for Sport (CAS) was officially established on April 6, 1983. In 1993, The Swiss Federal Tribunal recommended "that the Court reduce its level of dependency on the IOC"

(p.4). At the time, the CAS was funded by the IOC. In response, the IOC created The International Council of Arbitration for Sport (ICAS) (p.4). On that note, when McLaren published the article in 1998, the Canadian believed that “many cases "underscored CAS’ independence from the IOC.” (p. 12)

Privacy and Athletes’ Rights

The best way to protect athletes is to ensure that their privacy rights are maintained and that proper consent has been appropriately collected (Schneider 2011, p.112). One of the challenges is that the concept of “privacy” can be ambiguous, multifaced and contested (Yeo 2004, p.112). For example, group privacy relates to information about an athlete that may also reveal, or be taken falsely to reveal, information about others (Munthe 2005, p.113).

There are at least two primary aspects of privacy relevant for anti-doping considerations: i) self-determination privacy which is tied to respect for persons; and ii) security privacy that is grounded on security resulting from access to, or use of, personal information (Schneider 2011, p.113). Another very important aspect of privacy is “informed consent” (Schneider 2011, p.119), not the least of which is due to the fact that the athletes expose their individual ‘books of life’ when they submit a biological sample (Schneider 2011, p.122).

Thus, although the concept and definition of privacy can be ambiguous and multifaced, it is essential, from an athletes’ rights perspective that we try to make distinctions about the used definition of privacy. If we fail to do so, there will be confusion and obfuscation in regard to the framed and resolved issues (Schneider 2009, p.196-197). There still remain some serious unanswered ethical questions in regard to athletes’ rights to privacy and confidentiality and the potential consequences of harm—minimally we morally require that consent is genuinely informed and not coerced (Schneider 2004, p.452).

Protecting Privacy and Methods of Doping Control

It is clear that vulnerable athletes need to be protected from a range of access threats to privacy through extensive demands by doping control methods (Schneider 2011, p.117). In particular, due to developments in genetics and genomics that have led to increased interest in access to genetic

information, information linkages have resulted in the formation of revealing composites of individuals⁹ and populations, as well as lifestyles, financial situations, and relationships. The risks associated with the release of this information are often understated because they are ‘potential risks’. They are indirect or speculative and are virtually impossible to assess with any precision.

Yet, the risks enabled by the extensive and concentrated collection of genetic information can be very great, even if their probability of harm is very low. DNA is a very stable molecule when stored properly, and DNA amplification technology (such as PCR) allows the analysis of minute amounts of material, a stored DNA sample is essentially an eternal and unlimited supply of genetic information about an individual.

This vastly complicates the “consent” process when ‘biobanking’ is involved. It is impossible to predict all of the uses the sample may ultimately have. For example, blood DNA collected to determine if a person has a higher probability of a false positive in the T/E test could be used in five years for another purpose. The collected blood could determine if a buccal sample provided by the athlete for an unrelated test actually is their tissue. Based on this premise, athletes are basically asked to sign a ‘blank cheque’ on their privacy rights. If DNA and genetic data are to be stored as part of doping control, a number of oversight and accountability controls are required. The use of the samples needs to be consistent with athletes’ consent.

For clarity and safety, it has been argued that any data that could potentially harm the individual, if it is released, should be considered private (Schneider 2011, p.118-119). There is insufficient scrutiny of (and strong fiscal incentive for) data collection and manipulation, and athletes are particularly vulnerable to these risks. In sport, the information flow is skewed in a privacy-invasive direction. Due to the direction of this flow, the current athlete consent (and contract) may well be insufficient for protecting privacy (Schneider 2011, p.120).

There are also issues of independence with respect to various interests, including research interests. Athletes are also more vulnerable because they are required to give information regarding their

⁹ *i.e.* hormone or blood cell analysis could reveal hidden a medical condition, developments in DNA analytical technology, computational power, bioinformatic data management, and increased understanding of the potential role of genetics in complex traits (including physical and psychiatric disorders, behavior, and susceptibility to disease) have brought these genes and genotyping to the forefront in discussions of biomedical ethics.

whereabouts, at all times, and will be tested for wide range of substances (as described above), including recreational drugs such as marijuana and cocaine (Schneider 2004, p. 441).

It has been argued that while the use of DNA analysis might be of immense value to doping control, with the laudable goal of keeping sport ‘clean,’ complex social issues such as biological-privacy loss, stereotyping or profiling, custody of samples, secondary use of genetic data, the intersection of athletes’ “doping gene profiles” data, their “medical gene profiles” and, above all, athlete and public education, must be addressed if genetics is to become a routine tool in the enforcement of fair play (Schneider, 2009). Careful attention to consent requirements for collection of biological samples from athletes can help to mitigate these concerns. With respect to the quality of the consent, provisions could exist to ensure that the consent is informed, or that dubious models of consent, bypassing autonomy to access information, are ruled out.

However, even assuming that consent is as respectful of autonomy as it can be, there may yet be reasons to limit which athletes are, and are not, permitted to consent. We need to rule out research that is privacy-invasive beyond a certain threshold or, at least, ensure that it is brought within that threshold. This may indicate that there are data that are not properly considered to be private.

If this is the case, the problem becomes less about consent and more about the limit. There is good reason to think that the existing framework is still inadequate to protect athletes. What is most at issue regarding the right locus of responsibility and authority is accountability. The answers to questions need to be debated and publicly addressed in the doping-control protocols. What provisions are in place to ensure that information flows only as authorized? Who has the right to do this authorizing? How transparent is the system? What oversight is there to hold data stewards accountable? Finally, we need to ensure that public processes exist to ensure that initiatives develop with due regard for the interests and rights of the athlete community.

Nevertheless, recent research on Danish athletes concluded that two-thirds of the athletes reported the national testing program in their sport to be appropriate (Overbye and Overbye and Wagner 2016; 2014). In fact, the most concerning aspects of anti-doping was how programs were administered in other countries. A majority of the athletes who had an opinion on the subject (85%) regarded testing programs in some countries as not extensive enough or believed that in certain

countries doping controls was downgraded to win medals (Overbye 2016). These results are associated with fear of “new forms of inequality between athletes,” which, one can argue, were confirmed by the 2016 Russian doping scandal.

Furthermore, for Danish athletes, the “majority [...] seemed to accept the [whereabouts] system as a necessity, a duty...” (Overbye and Wagner 2014, p. 407). This acceptance comes, again, with concerns for anti-doping controls in other countries, as athletes’ trust in them was remarkably low. There has not been a good balance of accountability in regard to doping control. The athletes have done their part, they have given up privacy in almost all forms to be able to have the assurance that they can compete in ‘clean’ sport. Yet, the anti-doping control agencies have not been as accountable to the same degree. For example, when the ‘whereabouts’ login platform server for WADA has been down, if the athletes cannot submit their location the manner required, they are automatically given a doping infraction.

The athletes are so worried about a false positive given in this manner, that they have offered and requested to use GPS locators. Overbye and Wagner (2014) explain it is a sacrifice of privacy and human experiences that should not be ignored: “the athletes’ voice (elite athletes’ attitudes and experiences) must be the main one even though it is difficult to separate from organizational decisions. Knowledge about athletes’ personal experiences [...] must be considered as important knowledge for organizations and one of the most plausible ways to decide whether the system can be justified” (Overbye & Wagner 2014, p. 411). This leads to the question of the athletes’ sacrifices and experiences in regard to the Russian doping scandal versus WADA and the NADOs’ accountability to them.

The Russian Doping Scandal and Athletes’ Rights

There are two important events that WADA has initiated in the 2010s in response to the ongoing Russian doping scandal. In the passing of the new Private Member Bill 238 to Quebec National Assembly, in 2018, Olivier Niggli, WADA director general, put into words WADA’s mandate shift from standardization and harmonization to investigation and whistleblowers’ protection¹⁰.

¹⁰ In the parliament session, whistleblowers’ protection was mentioned as the main reason, rationale behind the bill.

A few reasons can explain why WADA successfully passed the Bill. First, Quebec's legislation is based on French civil law, whereas other Canadian provinces are based on British common law. Since both codes of law vary in their written form and provided examples, it is possible that WADA generally benefits from the civil system. Common law is known to have many written examples; instead of writing 'one should not hurt', the law might indicate 'one should not attack, fight or injure'. It also changes the role of professionals in the system, notably judges. In simple terms, in the field of comparative law, there is a "commonly held belief that civilian jurists reason by deduction whereas their common law counterparts rely on analogy." (Lundmark 2012, p. Xiv)

Second, WADA may be in good terms with Quebec's provincial government. It certainly helps to pass any Bill, whether it is envisioned for common or civil law. Lastly, WADA may benefit from Quebec's versatile lawyers. Quebec law students graduate with a vast knowledge of legal systems because their universities' curriculum address the geographically near systems of Ontario and New-York. Besides, some may argue that versatility is the requisites of our times: "many lawyers feel the need to familiarize themselves with the American and English [...] legal systems because of the role that American and English law play in today's world, especially in the world of business." (Lundmark 2012, p. Xiii)

WADA did not have the power to carry out independent investigations before 2014. This newly acquired power has significantly changed WADA and marked WADA's responsibility to adopt new methods to fulfill its mandate. WADA investigated Russian athletics first with the Independent Committee (IC) in 2015, including Canadian members Richard W. Pound and Richard McLaren and Gunter Younger. The team reported that there was "a deeply rooted culture of cheating" and that "the acceptance of cheating at all levels is widespread and of long standing," (Pound *et al.* 2015). Nothing, however, had more impact than the investigative work of the Independent Person's (IP) reports of 2016, covering all sports and reporting that Russia's WADA accredited laboratory "was controlled by the state and acted as the failsafe mechanism to cover up doping," (McLaren 2016a, p. 9) a description that was never accepted publicly by the representatives of Russian sport and Russian Media (with the exception of the whistle-blowers).

Russian politicians reacted violently to the two IP reports. At times, "beyond reasonable doubt" evidence (McLaren 2016a, p. 6) was called "politically fabricated" by the United States (Butler

2018a) and the principal Russian whistleblower was described as having a ‘clear psychopathic deviation’ (Butler 2017), as Medvedev insisted Russia will never acknowledge doping responsibility. The worst reactions were a public death threat (Walker 2017) and public declarations suggesting that Richard McLaren was no longer standing by the conclusions of his own investigation (RT 2017a), which he refuted rapidly (RT 2017b, Etchells 2017).

Shortly after the publication of the IP preliminary report, the IOC formed two commissions (referred to as the disciplinary commissions (DC), to make an independent investigation that, it could be argued, seemed already complete. The IOC left the IFs to decide what to do with the revelations (and the reports) for Rio 2016. It is interesting to note that the International Association of Athletics Federations (IAAF) and the International Weightlifting Federation (IWF) banned the Russian teams (IWF 2016). Nevertheless, to anti-doping experts, including many in WADA, the IOC’s decision seemed insufficient.

Therefore, 2017 saw tensions build between the Anti-Doping community and the IOC. First, the retests ordered by the IOC in 2016 demonstrated that close to one out of ten athletes who considered ‘clean’ were in fact ‘dirty’ (IOC 2017a) in Beijing 2008 and London 2012. Second, National Anti-Doping Organisations (NADOs), trying to defend their own athletes’ rights to compete in ‘clean,’ were calling for severe punishments for Russia. Third, RUSADA’s deficiencies were reported (IAAF 2016, IAAF 2017a, IAAF 2017b, Butler 2018b, Giles 2018¹¹) and the DC’s investigations resulted in 43 life-bans (IOC 2017b, Morgan 2018b). The IOC then imposed a symbolic ban on Russia before Pyeongchang 2018.

Russian athletes – despite the IP and the DC’s work and IOC President Thomas Bach’s statement that it was an “unprecedented attack on the integrity of the Olympic Games and Sports,” (IOC 2017c) – were still allowed to compete under the ‘neutral’ (of which the true sense is unclear) delegation Olympic Athletes from Russia (OAR). The Russian Olympic Committee (ROC) was

¹¹ Sergey Shubenkov, a witness of the Irkutsk incident, said “36 athletes withdrew [...] after a surprise visit by drug testers from RUSADA” from the 2018 Siberian indoor championships on 17 January 2018. Out of the 36, 26 withdrew from junior or youth events and 10 athletes withdrew from senior-level events. The reactions of Russian politicians were similar to their supervisors’ when asked about the scandal. For example, Pavel Bogatyrev, Deputy Sport Minister of the Irkutsk region, “denied that athletes [...] avoided doping control” and Dmitry Shlyakhlin, President of the Russian Athletic Federation, “questioned whether the doctors [...] were legitimate,” asking if “these doctors [...] were from the dispenser.”

suspended from December 5 2017 to February 28 2018 and was immediately (three days) reinstated after the Closing Ceremony.

According to the official investigations, the Russian athletes were to use a steroid cocktail and medal contenders were provided with more protection (McLaren 2016a). The FSB successfully opened tampered-proof urine samples in 2013 and a secret urine-swapping operation was conducted at the FISU University Games in Kazan (RUS) (McLaren 2016b, p. 85) and the Sochi 2014 Olympic Games has been described as “one of the most elaborate [...] doping ploys in sports history” (Ruiz and Schwirtz 2016). The Russian state-sponsored institutionalized doping scandal had, and continues to have, very serious consequences for athletes’ rights. This is not about one rogue athlete like Lance Armstrong or Ben Johnson beating the system, but a deception at the height of the top levels of government and sport.

‘Institutionalized’ doping refers to the organizational end of the doping spectrum, as contrasted to “in the field” doping (i.e. Ben Johnson (Dubin, 1990)). When athletes decide to dope by themselves, forming a minimal team, to keep everything discrete, usually including a doctor/trainer and a coach. ‘Institutionalized’ doping refers to doping infrastructures helping or collaborating with teams, national teams through the national federations, coaches or doctors, to strategically and systemically dope athletes. In contrast to the first method, institutions organize a system of which the athletes are a part, and in some cases, as with the Russian whistle-blowing athletes, are forced or threatened. In other words, a doping system exists and shapes the country’s competitive sport no matter what athletes choose; many have no choice and limited understanding.¹² The undisclosed doping resources available to the national teams through institutionalized doping can significantly influence and shift the framework of competitive sport. The competitiveness of the teams, in many cases, becomes a question of the quality, production and distribution of prohibited substances; and importantly, also of doping protocol application process (hence the concern expressed by athletes in the Danish research cited above). In these cases of institutional doping, whether the athlete wants to dope or not, the teams break the WADC, and if enough intelligence is gathered by anti-doping authorities, he or she faces a life-changing ban. In other words, the athletes are the one blamed.

¹² Once again, we are reminded of the former GDR where the release of the Stasi files had revealed the almost complete lack of informed consent.

Within this rule-breaking culture, made available to entire teams, comes the rise of opportunities to violate athletes' rights – viz. *the brave new world*. For instance, when a state acquires a 'thirst for medals,' (Rodchenkov 2017, p.12)¹³, it is difficult to grasp all violation opportunities. More generally, when powerful institutions like the FSB, a nation's secret services agency, is involved, their impact on athletes' rights (Russian athletes and their competitors) can take on a life of its own, especially regarding what rules cannot be broken at all. Under the conditions of institutionalized doping, what was protected by the rules – including athletes' rights – become more vulnerable. The Russian scandal suggests that some Russian athletes are signing a different kind of 'blank cheque' in regard to their rights; not to the WADA or researchers wanting to use their samples, but to secret protectors, and a career filled with both the fear of being caught and the fear the protector will turn on them¹⁴. Thus, the athletes in this scenario are living and competing with the extreme stress of the constant fear of being caught, simultaneously with the fear of their protectors will turn against them. Team selection shifts to being more based on the effectiveness of PEDs on their specific body and the specific performance, or on their body's ability to eliminate substances rapidly, characterized as 'wash-out periods.' The investigations, reports and testimonies indicate that the control over athletes in an institutional doping system (reminiscent of the former GDR) can also include removal from the safety of friends and family and harder training programs, not possible without the use of significant doping (not just enhancement but pain tolerance as well), encouraging athletes to ignore their body's signs of fatigue and bad pain.¹⁵ Reports by the IC and IP indicate that training camps, exercises, diet, location, salaries and even price of PEDs some athletes were instructed to buy from coaches or doctors, were components where 'protectors' can use their authority and take advantage of athletes. However, the only one to be held accountable for a positive test is the athletes, especially so if the protectors feel the need to revoke their status in the scheme claimed by the Russian whistle-blowing athletes. The IC and IP reports suggest that instructions were given to athletes not to respond to WADA's call for testimonies.

¹³ This expression was used by the Russian whistleblower to describe the Kremlin's affection for Olympic medals.

¹⁴ This fear was expressed clearly by the Russian whistle-blowers at the WADA Global Athlete's Forum held in Calgary in 2018.

¹⁵ Athletes and coaches often refer to 'good pain,' which is working the muscles hard, versus 'bad pain' which pushes past that into injury.

Under these circumstances, it is easy to see why WADA asked for a bill granting civil jurisdiction immunity to their decisions in order to grant them more power to pursue this level of doping without unnecessary legal obstructions. The private members' bill 238, which was unanimously passed by the National Assembly of Quebec, seeks to stop lawsuits designed to impede doping cases and stop or slow down investigations against organizations and athletes. This represents a 'two-edged sword' for athletes' rights because, on the one hand, athletes want assurances that they can have the right to compete in a cleaner and fairer environment (they give up many rights to privacy to gain this assurance); on the other hand, if an innocent athlete gets caught up in this brave new world, there are fewer opportunities for protection of personal rights. This bill is intended to defend WADA – which has its headquarters in Montreal – when it is targeted by third parties who want to “disrupt or intimidate it from carrying out its mission” (Butler 2018c). This immunity from civil jurisdiction, only with regard to any decision and resulting activity made in connection with its mission applies to all WADA officials including directors, officers and employees. Olivier Niggli described this bill as an attempt to safeguard their activities and legally protect the organization in their mission because recent years, WADA “has carried out, and continues to carry out, complex and often high-profile investigations while also running a very active whistle-blower program (i.e. Speak Up!)” (Butler 2018c). Niggli also expressed the hope that this bill will help to limit the number of expensive and time-consuming legal challenges: “Attempts to derail investigations through civil cases affect WADA's capacity to lead the fight against doping in sport and to protect the rights of clean athletes” (Butler 2018c).

At almost the same time, at the WADA Global Athletes' Forum, the athletes demanded accountability and requested that an athlete bill of rights be formally put into the WADC (WADA Calgary 2018).

Notes on the relationship between WADA and the IOC during the scandal

Based on Ohl, Fincoeur & Schoch (2020), with the scope of public performance, it is possible to describe a conflict and political tensions between WADA and the IOC during the 2016 Russian doping scandal. Ohl et al. argue that “the Russian crisis [...] weakened sports organizations' credibility and fragilized their cooperation.” (p.8) For them, “The IOC and WADA were judged accountable for the situation: IOC, [...] had failed to control the IAAF and implement a trustworthy

anti-doping; WADA, due to its inability to react to indications of a widespread doping problem in Russia.” (p.8).

The authors note that the IOC and WADA did not perform or express themselves to the same audience: “each organization endeavoured to convince the audience of the legitimacy of its respective decisions.” (p.8) Further, in front of their respective public, both “justified their actions by staging themselves positively and displaced the fault onto other stakeholders.” (p.8)

Henceforth, it is possible to describe the political tension that existed during the 2016 Russian doping scandal. An ideological conflict opposed the IOC and WADA, because both entities “adopted publicly conflicting positions on the Russia ban.” (p.9)

Ohl et al. make a strong case that the IOC would have preferred a different recommendation from WADA before Rio 2016: “WADA’s decision (to call for a 2016 Rio ban) was mainly perceived by the IOC as a hostile act that was far beyond its prerogatives and challenged the IOC’s powerful position within the sporting field.” (p.9)

The authors go as far as suggesting that the Committee was put in a perilous decision: “WADA’s call for a blanket ban of Russian athletes (17 July 2016) threatened the IOC’s autonomy and its power over the selection of the athletes for the OG. On the one hand, it put the IOC in the uncomfortable position of having to decide just before the OG whether the Russian Olympic Committee (ROC) and Russian athletes should be banned. On the other hand, the IOC faced political, symbolic, and economic constraints”. (p.10)

In short, the IOC fought to restore its image by “(displacing) the fault onto WADA [...] [with] some of its members expressed strong criticism of WADA, threatening its legitimacy.” (p.11) In such, the IOC and WADA were not able to stage a convincing social performance in front of international sport audiences. According to Ohl et al., “their opposing positions, abundantly reported by the media, highlight their inability to cooperate in a social performance. WADA and the IOC’s independent displays fueled the divisions, damaged their image and reduced confidence in anti-doping.” (p.15)

Conclusion

This exploration and review of WADA, the WADC, athletes' rights, and reflection on the 2016 Russian doping scandal, indicates a negative shift, leading athletes to request the Charter for athletes' rights in Calgary in 2018. It seems clear in this *brave new world* of anti-doping in sport, that athletes' rights are not only complex, two-sided and comprehensive; but that they are more important than ever as the battle ground has shifted to a higher and more powerful level. The result has been increased tensions between the 'right to clean sport,' and the 'right to privacy of individuals,' on the one hand, and the 'right to due process' and the 'right to remedy,' on the other. There is work to be done in the area from the ethics perspective, from the legal perspective, and from the public policy perspective. No matter what perspective one takes, it is the athlete that bears the brunt of this brave new world and we all need to step up to support them.

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Chapter 3: Article 2 – A narrative of a Canadian self-diagnosis on anti-doping contributions

Introduction

The experts were introduced to the question from a perspective of Canadian's contributions in sport and the discussion was framed by Canada's 150th anniversary. Researchers were interested by the country's impact related to the advancement of human rights. More precisely, Schneider described the goal of new research in three parts: the past, the present and the future of Canadian sport impact.

The roundtable consisted of many sport officials, former athletes, government employees, chairpersons, physicians, lawyers, researchers, arbitrators and advisors from many sport entities, such as Olympic and Paralympic organizations, independent and private agencies, domestic and international, educative structures, foundations, councils and panels, from a wide range of responsibilities and mandates. Moreover, many experts had work experience with the CCES.

Briefly after the introduction, the participants agreed to remain anonymous in order to encourage participation and reduce reluctance. What follows is a narrative of the discussions based on a participant's observations.

Experts introduced themselves to start the roundtable discussion. After the introductions, experts were informed of the first topic to guide the conversation on anti-doping: the key milestones and/or individuals for Canada's impact in anti-doping. They were encouraged to discuss these 'road markers,' either national or international. Experts needed to explain their impact from a Canadian perspective. These 'road markers' are chronologically presented in this article.

Mentioning contemporary challenges and the World Anti-Doping Agency's (WADA), based on my observations, many experts seemed uncomfortable to reveal specific information. Legal restrictions could explain this apparent discomfort. My understanding is that a detailed account of these contemporary issues would reveal sensitive information. Therefore, some observation purposefully stay general in terms.

Before Canadian anti-doping, the 1960s and the 1970s

Before anti-doping

Briefly mentioned by the most-experienced experts of the group were the memories of an absolute absence of control over anti-doping. Prior and around the 60s, without concrete anti-doping regulations, sport environments came with notions of scepticism, confusion and frustration. There were no solutions to test, monitor competitive fields or to condemn athletes' doping. Accumulating frustration or disappointments, the need for structure was felt by Canadian administrators and organizers.

Doping became a large enough matter of public discussion for policy consideration “around the turn of the twentieth century” (Hunt 2015, p.209; Lopez 2015). Moore (2011) and Dimeo (2007) mention Arthur Linton's death as the oldest but Lopez (2015) believes the two authors lack “evidence to substantiate” (p.92) their claims. Reinold (2015) stipulates the first anti-doping rules was established for the 1908 Olympic Marathon “with medical [...] concerns” and with “the ‘cultural apartheid’ (Gleaves 2011; Hoberman 2005) between professionalism and amateurism” (p.70). At the time, doping was already common in cycling, with cyclists “confessing to their use of performance-enhancing drugs” (Brissonneau 2015, p.182) in the 1920s.

The International Association of Athletics Federations (IAAF) passed drugs bans before the International Olympic Committee (IOC) did in 1938 (Gleaves and Ilewellyn 2014; Hunt 2015). They were passed without “any method of implementation or enforcement” (Hunt 2015, p.210) and “without [...] indicating what substance counted as doping” (Reinold 2015, p.71). No suspensions were ever imposed on the basis of these rules. Between 1938 and the end of the 1950s, although doping systems were slowly being built, “international sports authorities refrained from serious consideration” (Hunt 2015, p.210).

Scientific experimentations during the Second World War were “a turning point for drug use in sport” (Houlihan 1999, p.317). The widespread use of amphetamines and steroids by soldiers proved the drugs' potential outside of the military context (Houlihan 1999). Further, the United States continued experimentations with drugs during the cold war (Houlihan 1999). The principal rationale was to maintain American teams' competitiveness when the Soviet team returned to com-

petition in 1952. Notably, Dr. Ziegler and the Ciba pharmaceutical company (Australian Government 1989) developed anabolic steroids for American weightlifters (Houlihan 1999; Brissonneau 2015). Similarly, the German Democratic Republic (GDR) had already “prioritized elite over recreation and mass sport” in the 1950s (Dennis 2015, p.171).

Cycling tragedies and the IOC’s reaction

Canada’s impact in anti-doping has its genesis in the 1960s, when a series of tragic deaths brought doping back into focus. Canadian experts and Lopez (2015) mentioned the Danish cyclist Knud Enemark’s death at the 1960 Rome Olympics and the British cyclist Tom Simpson’s televised death during the 1967 Tour de France, both linked to amphetamines. The media, commentators and international public were alarmed by the facts and ‘caused ripples’. The public considered these incidents as “‘proof’ of the health dangers” (Lopez 2015, p.93) of doping. Canadian experts had accumulated frustration from previous decades and were impatient to undertake actions.

In response to the tragedies, the IOC formed a sport medicine commission chaired by Prince Alexandre de Merode of Belgium “to establish a preliminary list of banned substances, drug-testing procedures and disciplinary actions for doping” (Hunt 2015, p.211). Involved Canadians remember that the organization’s methods were highly political. For a number of years, the group of doctors “met only sporadically” (Hunt 2011, p.13-15). An IOC policy strategy was to pre-empt state authorities involvement (Hunt 2015) in sport to preserve executive power over the Olympic movement. Even if the Commission’s work led to stimulant testing at the 1968 Mexico Olympics, some Canadian experts were appalled by how the IOC’s medical committee operated at this period. They intended a more scientific method even if the medical profession needed time to study anti-doping controls.

Since the first prohibited substances were stimulants, athletes turned to steroids. Particularly in the field of Athletics, sport performance escalated rapidly in the 1960s and 1970s (Reinold 2015). Athletes and coaches observed the trends and learned that steroid use was widespread. “Several scholars have indicated prevalent doping use in [...] the USA (Todd and Todd 2001; Yesalis and Bahrke 2005; Hunt 2011), Great Britain (Waddington 2005) [...] West Germany (Berendonk 1991; Singler and Treutlein 2012; Krüger et al. 2012; Meier and Reinold 2013)” (Reinold 2015, p.73),

East Germany (Franke and Berendonk 1997) and “the Soviet Union (Kalinsky and Kerner 2002; Kalinsky 2003; Riordan 1993)” (Hunt 2015, p.212).

The IOC banned doping in 1962 with a monitoring aim instead of a policy action one (Houlihan 1999). The committee introduced the first testing program ten years later at the 1972 Munich Games “with the belief that the introduction of in-competition testing would prove sufficient” (Houlihan 1999, p.318). IOC president Avery Brundage had concluded that “the costs of testing and enforcement (should) fall on someone else [than the IOC]” (Hunt 2011, p.23). Accordingly, Olympic officials were supporting the view that the Olympic movement is apolitical “and that it thus falls outside the regulatory authority of public officials” (Hunt 2015, p.210). The program did not yet test for anabolic steroids.

For Ritchie (2012), the presidency of Avery Brundage, from 1952 to 1972, was pivotal for the Olympic movement. Still within the context of the cold war, the IOC lead actions to create the first anti-doping regulations in history. He argues that this decision relates to the professionalization of sport: “The IOC was fully aware of the threats to amateurism, not only in terms of under- the-table payments in some sports [...] and indirect state support through militaries and universities, but also the increasingly professional approach to training and competition taken by athletes.” (p. 419)

One must recognize the significant contribution of Ritchie (2012) in the literature, particularly his description of the IOC’s decision to lead actions against performance-enhancing substances. His rich argument depicts how the IOC understood the 1960s and 1970s’ higher levels of sport competitiveness:

“The IOC was gradually losing control of the other practices that threatened the founding principles of the movement, however it could, in a relatively simple step, create a rule banning certain identifiable substances. After years of debate, the IOC irrevocably removed the amateur clause from its Charter but in doing so, the authors point out, ‘the IOC cast aside the Games’ fundamental principles [and] surrendered the philosophical grounds for justifying the prohibition of particular performance- enhancing substances” (p .419)

Governmental action

The Council of Europe (CE) initiates political action against doping in the late 60s (Houlihan 1999). In 1967, it adopted a resolution with “an explicit recommendation that the governments of

member countries should take [...] action against drugs” (Hunt 2015, p.211). Governments considered the IOC and international federations’ policies to be inefficient, while understanding that Olympic wins “impact international prestige” (Hunt 2015, p.212). Thus, governmental action, both for and against anti-doping started in the 1960s and 1970s.

Canada started to invest in both sport organizations and programs. After the task force report on sport for Canadians (Beamish 2015), the Canadian government established Sport Canada and Recreation Canada in 1970. Many programs followed including Partners in Pursuit of Excellence in 1979, the Challenge to the Nation in 1981, the 1980s Fitness and Amateur Sport, a subsequent task force report in 1988 and the Toward 2000: Building Canada’s sport systems (Beamish 2015).

The East German state-sponsored doping program is the most infamous example of governmental action against anti-doping. In quest for “sporting and political superiority” (Dennis 2015, p.170) the GDR had centralized athletes’ enhancement, in contrast to “the more diffuse organizational forms of doping [...] of the west” (Dennis 2015, p.170). Some estimate that 2000 athletes (junior and senior) were enhanced each year from 1972 (Dennis 2015). Instances of disorganized or ‘wild’ doping also occurred.

The 1976 Olympics

Canadian scientist Robert Dugal led the first anabolic testing operations at the 1976 Montreal Olympics. In the same decade, Abby Hoffman helped to form a Canadian combined sport medicine committee on doping in sport and worked on primitive event-based testing process. Canada had the ‘Game plan’ program for the Montreal games. It discussed strategies to help Canadian athletes, but never considered the use of performance-enhancing drugs.

The 1976 televised Montreal Olympics brought the GDR’s incomparable performances to the Canadian public. The most memorable being those of the GDR’s swimming team because the medal-intensive discipline had been “carefully selected” (Dennis 2015, p.174). The unparalleled athleticism of the East German women’s swimming team changed both sport and anti-doping history. The IOC accredited doping control laboratory in Kreisha founded in 1977 was a mere subterfuge, allowing the GDR to claim their commitment to clean sport.

Canadian ‘clean sport’ advocates feared central doping systems tremendously. Experts were concerned about the future of sport and questioned each other on athletes’ rights, fair play and sport

integrity. These topics were ‘in the air’. Even if athletes had a closer feel, the Canadian nation observed a central doping in action. They saw doped-sculpted bodies and developed a fear for their own children, registered in Canada’s sport system.

The 1980s and 1990s

Canada’s own doping problems

International sport competition continued to intensify in the 1980s and 1990s with drug use as the principal cause. Diffuse, central of ‘wild’ doping continued in most nations of the world with riskier protocols. In central doping systems, some coaches dismissed the national guidelines. In the United States, “steroids use had filtered down to the school system where coaches [...] recommended their use (Todd 1983)” (Beamish 2015, p.161). American Olympians, varsity and professional athletes were doping (Beamish 2015). Communist and non-communist countries, both claiming their commitment to anti-doping, were nationally experiencing drug abuse “of which the Canadian Ben Johnson was the most dramatic” (Houlihan 1999, p.324). Experts had realized that the doping pandemic was out of control.

It became clearer that nations needed to collaborate. Houlihan (1999) writes: the “necessity for greater cooperation meant that the questions of harmonization and compliance emerged as central issues in their own right” (p.324). In 1984, the Council of Europe replaced the 1978 Recommendation by the European Anti-Doping Charter (Houlihan 1999). Countries outside of Europe also showed interest in the charter for domestic policy. Canada was ‘an early supporter’ of it. Socialist states’ sport organizations, with “considerable hypocrisy [...] contacted the CE with a request for a set of internationally accepted rules” in 1987 (Houlihan 1999, p.322).

Canada used to be a big part of the doping problem as well, with physician Jamie Astaphan as a contributor. Many Canadian doping scandals also occurred in the 80s, most of which were in weightlifting. There was a case of urine substitution among others.

Even if the Montreal Olympic had an impact on the Canadian public, Ritchie and Jackson (2014) believe Canada received a shock in 1983, before the Pan American Games in Caracas, Venezuela: “a significant **shock** involving Canadian athletes prompted Canadian sport administrators to develop the country’s first anti-doping policy.” (p. 204) More precisely, the authors explain that Canadian athletes fled in fear of being tested: “Before the 1983 Pan American Games [...] officials

unexpectedly announced steroid testing, resulting in many athletes fleeing the village, not showing up to competition, or failing to show up for the Games at all.” (p. 195)

The scandal of these Games was the adrenaline shot, the “shock”, the Canadian nation needed to rapidly move into action concerning anti-doping: “Canada anti-doping policies evolved from being non-existent to being some of the most stringent in the world in just over two decades.” (p. 195)

Sport Illustrated described the Caracas Games as ‘the greatest sport scandal in history.’ At the time, both the American and Canadian population feared for their youth, which was highly intensified by the Ben Johnson scandal at the 1988 Seoul Olympics. These events had once again exposed the intensity of competitive sport to the Canadian public.

More scientific experimentations resulted in “new methods of artificial blood doping with [...] EPO” after “the blood transfusions of the 80s” (Hardie 2015, p. 194) and the emergence of human growth hormones. In cycling, Brissonneau (2015) believes the “riders became more specialized [...] [and] planned systematic use of doping products” (p.187). The American cycling team blood doped at the 1984 Los Angeles Olympics (Gleaves 2015) because the procedure was not yet banned (Hunt 2015). Yet, better testing existed. Out-of-competition tests entered the debate (Reinold 2015) and a detection method for testosterone was found. In the late 1990s, athletes’ blood became subject to doping control in addition to urine (Reinold 2015).

Despite some progress, it was still apparent to Canadian anti-doping experts that the IOC’s anti-doping decisions were arbitrary. For example, the committee once intended a ban against the most common compound oral contraceptive, Ethanol Estradiol, which would have significantly changed women’s health in sport. The scientific knowledge gained during decades provided no political leverage because scientists lacked “organizational capacity, money and [...] legitimacy [...] for an effective intervention in policy debates” (Houlihan 1999, p.332).

In the 80s, the Olympics had a “spectacularly successful commercialization” (Houlihan 1999, p. 318). The IOC were now “courted by international business, monarchs and prime ministers” (Houlihan 1999, p.318). In cycling, the increased “geographical diversity of competitors” (Brissonneau 2015, p.186) was a commercial decision to conquer the American market. The cycling federation reorganized cycle races to appeal to sponsors, allowed advertising space on team jerseys and promoted the sport with advertising agencies (Brissonneau 2015). Lance Armstrong would

emerge in this new commercial context. Up to the mid-80s, all sport federations had limited financial resources, making it difficult for them to allocate any to the anti-doping cause. Now in a better financial situation, only a few showed political will to tackle doping.

With some disciplines' commercialization, some Olympic athletes gained both popularity and disproportionate salaries for their performance. When questioned about drug consumption, these national heroes possessed enough resources to engage in lengthy juridical processes. They were powerful enough to intimidate and threaten anti-doping officials, which some took advantage of.

The Calgary Olympics

Prior to the Olympic games, Canadian government employees made diplomatic missions around the world, notably to Europe and the eastern bloc, to discuss anti-doping measures and form alliances. Experts comprehended from the previous decades that governments needed to be involved in anti-doping. Canadian politicians and diplomats held private 'closed' meetings with many sport countries during the 1988 Calgary Olympics as well. Many important meetings were held and many visions of competitive sport clashed. In a big 'general' meeting in Calgary, a minister suggested that Canada should host the first conference on doping in sport.

In June 1988, Canada held the 1st World Conference on Anti-Doping where an international anti-doping charter was adopted (Houlihan 1999). Holding the conference, Canada was seen as a leader. It was the result of the Canadian governments' political meetings and many Canadian sport officials' diplomatic work.

The Ben Johnson scandal

Even if the experts were aware of its limitations, event-based testing was the norm until the late 1980s, after the 1988 Seoul Olympics. Before these Olympics, the Canadian sport system had no guarantees on their athletes' pre-competition drug consumption.

In the single year of 1988, Canada lost both a sport icon and its anti-doping pride. Canadian sprinter Ben Johnson won the 100 metres sprint against the American Carl Lewis on September 24th 1988. Johnson was stripped of his gold medal on September 27th 1988, and the Honourable Charles

Leonar Dubin was commissioned to inquire in early October the same year. Dubin's report was released June 1990. Many Canadian anti-doping officials, such as Lyle Makosky and Abby Hoffman, were interrogated by Dubin.

The media expressed to Canadian experts that, in approximately 30 years of political population polls, the 'intensity of attention' to the Johnson affair (in terms of public knowledge and embarrassment) was unprecedented. For the Canadian government and public, it was as though all the country's anti-doping efforts in previous decades were lost. Understanding this 'intensity of attention,' the Canadian government created the Royal Commission of Inquiry into the use of drugs and banned practices intended to increase athletic performance (the Dubin Inquiry or Inquiry). The Canadian government was under considerable pressure to act.

The Dubin Inquiry

The Canadian government's decision to fund the Dubin Inquiry gave credibility and independence to the nation. Dubin argued for anti-doping independence and motivated the first independent Canadian operations. The Sport Medical Council of Canada was reformed, the Canadian Center against Drugs in Sport (CCDS) was established, the first independent protocols for out-of-competition testing were created and the first Canadian Policy against Doping in Sport was written.

Even if sport is largely organized by private interests, the Inquiry established that there is a public interest in both standards of integrity and anti-doping. It conceived doping as an 'erosion of the public good's soul.' Dubin's conception of competitive sport has deep moral implications. It implies that 'it is not merely the right, but the responsibility of democratic institutions' to project values and hold sport to some standards.

The Dubin Inquiry raised fundamental questions about sport; it asked on the nature, moral basis, value system and future of sport. More precisely, with its recommendation 33, the Dubin Inquiry was vouching for the establishment of an international independent anti-doping agency, 9 years before the establishment of the World Anti-Doping Agency (WADA).

Dubin documented that the Olympic movement had become professionalized and that the ideals of the Olympic Charter were "a far cry from [...] reality (Dubin 1990)" (Beamish 2015, p.168). He criticized the Canadian government for the funding of medals wins since the 1980s. Canada was not different from other western governments who invested in "more and more sophisticated, well-

resourced, scientifically based systems of athlete development” (Beamish 2015, p. 163-164) since the 1960s. For Dubin, “particularly since the mid-1970s,” Canada’s “the primary objective [had] become the gold medal” (Dubin 1990 in Beamish, p. 165).

Victor Lachance was the first CEO of the Canadian Center against Drugs in Sport (CCDS), before the Canadian Center for Ethics in Sport (CCES). The CCDS had independence as a priority, at variance with the prevailing governance systems in Canadian sport. Lachance’s leadership led to Canadian Paul Melia’s employment and contribution. He introduced Melia to the CCES.

Melia was to become a central figure in both the first Canadian educational campaigns and the Canadian concept of spirit of sport. The Canadian concept is still an important piece of the World Anti-Doping Code (Code). It grounds many arguments against doping in sport. Lachance and Melia adopted a value-based framework for sport. They ‘opened up the world view’ and ‘matured the perspective’ in anti-doping. Lachance understood that the culture needed to change to eradicate doping in sport.

Anti-doping innovated in the 1990s, in both governance structure and value-based sport programs. The CCES was one of the first National Anti-Doping Agency (NADO) to use values-based education in Sport. The values-based education system was taught in the United States in the late 2000s. The Canadian ‘True Sport’ program inspired the Americans and some nations to implement a similar system.

In the 80s and a portion of the 90s, the Fitness and Amateur in sport organization was a Canadian governance structure along with the ‘Sport, the way ahead’ program. In the 1990s, the CCDS became the Canadian Center for Drug-free Sport, merged with Fair Play Canada and formed the CCES. Experts affirm that anti-doping leaders were Canada, Norway and Australia. Progressively, they were impacting international sport by building international doping control systems. Some structures for the Code were also developed. Canada also chaired the UNESCO’s anti-doping convention where the Convention against doping in sport was drafted.

Polls and reactive journalism

The Canadian government polled the population during the Dubin Inquiry. It found that, for the first time in history, a majority of Canadians were hesitant to enrol their children into the Canadian sport system. The previous fear associated with some competitive sports had spread to all sports.

The public considered that the government could not control sport enough. The Johnson scandal took unmeasurable proportions and affected the nature and experience of youth sport. Some believe the Canadian scandal made an indelible mark on audiences' conscience.

Polling the Canadian population in the late 1980s and 1990s was essential to structure Canadian anti-doping. The CCES continues to poll the population to this day. It serves for funding and co-ordination of efforts. Today CCES' polls suggest that anti-doping standards should be 'very high.' Parents are still nervous about Canadian sport's safety.

Noteworthy is the type of journalism that existed during the Inquiry. Late 1980s to early 1990s Canadian journalism was mostly reactive. Since the coverage counted very few investigations, the press may have respected higher authorities' legal work more. In contrast, investigative journalism was key in the 2010s, notably the work of Hajo Seppelt and Rebeccas Ruiz. Journalists became new allies of the anti-doping movement two decades after the Dubin Inquiry.

The Festina Scandal

The Festina scandal occurred in 1998. Willy Voet, a medical personnel of French cycling team Festina, was arrested at the French-Belgian customs. Voet drove the Festina team's car and carried "hundreds of doping products" (Brissonneau 2015, p.183). It showed "the widespread use of new drugs" (Brissonneau 2015, p.191) and lead to open discussions with cyclists on the new competitive world of their sport. Lance Armstrong had just been diagnosed with testicular cancer in October 1996 in his fourth professional year (Hardie 2015).

The IOC lost credibility and a majority of officials considered it had weak governance. The sport world lost so much faith over the Olympic movement that Cycling's Festina scandal put some Canadian experts in a position to negotiate for WADA's independence in 1999. The IOC lost power as governments started to take doping matters in their own hands (Hunt 2015). The committee felt international effort was required but feared governmental invasions of *their* realm.

Oslo and Canadian coalitions

Governments and the Olympic movement came together for the first time in a 1999 Oslo conference. There, Canada steered the world towards an international independent agency. Canadian were worried that such agency's means to do 'what needed to be done' would not be enough.

American General Bernie McCaffey defended the institution of an independent agency as well. He is remembered as a preeminent contributor. A common set of rules were agreed upon in Norway even if some nations could not grasp the Code's rationale in its entirety.

Before the existence of WADA, Canada, New Zealand, Norway, Great Britain and Australia formed an informal anti-doping coalition. The Canadian officials were empowered by the Canadian government and the group was building capacity for an international anti-doping movement. The coalition established the International Anti-Doping Arrangement (IADA). The IADA is still active today. Because of its past impact on anti-doping, nationally and internationally, Canada had credibility and spoke with authority on the global sport scene.

WADA, the 2000s and 2010s

WADA

The end of the 1990s' anti-doping scrutiny levels were higher. Canadian athletes expressed their discontent over disparities between countries' testing protocols. It was a fair point. Anti-doping measures were not yet harmonized across their many competitors and they pled that testing treatment in Canada was disadvantageous. Since Canada was an anti-doping leader, their claims were relevant. Canadian officials already felt an urgency to create an independent international organization. They appreciated the unique governance of the CCES and wished the independent international agency would have a similar structure.

The World Anti-Doping Agency (WADA) was a global answer to the overwhelming factor of doping. Nations understood that "issues requiring resolution at the international level" rather than at the domestic level had "increased dramatically" (Houlihan 1999, p.311). Discrete national events had become "part of a common agenda that required concerted action and substantial resources" (Houlihan 1999, p.312).

The agency was formed in 1999 since the IOC and International Federations (IFs) had lost credibility in 1998. It was a timely effort to standardize anti-doping policy and harmonize the anti-doping movement (Koh 2015, p.129). The international public's reaction to the Festina scandal had forced the IOC to concede some power. For Hunt (2015), the 1999 Lausanne Declaration on doping in sport was many governmental authorities' way to oppose the IOC.

Many Canadian experts were central in the creation of WADA's governance structures and methods. With support from both the city of Montreal and the Canadian government, Canadian experts changed anti-doping history. Some believe the Canadian value-set led Canadians to play key roles in the constitution of WADA. Honesty and integrity in sport were listed as such values.

Wada's independence

Negotiations with the IOC were necessary for the establishment of WADA. Negotiations with Europe was also necessary for the establishment of WADA's headquarters in Montreal. Canadian lawyer and IOC member Richard W. Pound took part in those 'behind closed doors' negotiations. The committee desired a 75/25 share agreement of the agency during the 1999 negotiations and Pound had a decisive part in the 50/50 share agreement, a nightmare for the IOC. Therefore, the Canadian lawyer is perceived as a major contributor to WADA's independence.

The 50/50 share agreement is not ideal. The anti-doping movement should stand on more than equal footing with the IOC and the state parties. Moreover, it is 'poisonous' for anti-doping that democracies of the planet stand only equal to the IOC, a privately-owned organization, accountable to no entities. The IOC has the authority to ignore WADA's recommendations, which it used during the 2016 Russian scandal.

Canadians played an important role in the creation of WADA. They massively impacted international sport. Experts can't predict what sport would be without this independent organization. It promotes ethical and legal standards with powerful means, in a political context where 'democratic institutions are never strong, and strong institutions are never democratic.'

Anti-doping investigations

The topic of investigation emerged during the first two decades of the new millennia. Since the end of the 90s, many anti-doping forums and agencies "were created to exchange information or to investigate" (Houlihan 1999). For example, US investigator Jeff Novitsky built cases in both the 2003 Bay Area Laboratory Co-Operative (Balco) and the Lance Armstrong doping scandals (Hardie 2015). The Armstrong case was "a police investigation" (Hardie 2015, p.204). Armstrong's teammates were subpoenaed based on perjury and defrauding allegations, which allowed the United States Anti-Doping Agency (USADA) to collect evidence for its own case throughout

2012 (Hardie 2015). USADA's effort "set the stage for a new paradigm of anti-doping, based upon investigation rather than testing" (Hardie 2015, p.204).

WADA gained the power to lead investigations in 2015 after German television station ARD alleged national systematic doping of Russian track and field Athletes. With information provided by courageous Russian whistleblowers, the agency revealed that "the Moscow Laboratory [had] been involved in a widespread cover-up of positive doping tests" (WADA 2015, p.13). In 2016, a new WADA investigation revealed that "the [Russian] Ministry of Sport directed, controlled and oversaw the manipulation of athlete's analytical results or sample swapping" (WADA 2016, p.86). Anti-doping's operative norm has moved beyond testing to intelligence gathering. Whistle-blowers' evidence is more sought after now than ever before.

Nations' inconsistencies

The 2000s and 2010s showed many inconsistencies from nations who signed the World Anti-Doping Code. Coaches had serious doubts about China's compliance after Chinese swimmer Ye Shiwen's performance at the 2012 London Olympics (Koh 2015). Finland had six skiers test positive at the 2001 Nordic World Ski Championships in Lahti. The international cycling union "ensured that Lance [...] was protected" (Hardie 2015, p.196) when he had become the sport's icon. Some US anti-doping experts speculated that "there had been political pressure exerted on the US Attorney General's Department to make Jeff Novitsky's investigations on Armstrong 'go away'" (Hardie 2015, p.201).

Canada's *Own the Podium* funding program was an inconsistency as well, prioritizing medals for the 2010 Vancouver Winter Olympic games instead of spirit of sport (Beamish 2015). Canada's contribution or impact in anti-doping was paradoxically based on its leadership, 'leading charge' for sport integrity.

Yet, anti-doping leadership came at a cost. Some nations gradually developed resentment towards Canada; leadership creates a certain amount of antagonism against the nation. Stories exist of false fraud and corruption accusations, based on this antagonism.

One must value the description Ritchie (2006) made of competitive sport in the 21st century. As follows, he represents a world where everything is set to optimize the performance of athletes:

“World-class sport systems today include the systematic use of pure and applied scientific research to enhance physical performance; the early identification, streaming and specialization of athletic talent; professional coaching, the use of professional nutritionists, biomechanicians, exercise physiologists, and sport psychologists; carefully organized training facilities with state of the art equipment and instructional technologies; and financial reward systems and incentives for athletes and sport associations. [...] high-performance sport in the contemporary era is a complex whole with performance enhancement as one of its most central features.” (p. 138)

Financial successes and corruption

The corruption and financial successes of sport in the neoliberal age is best exemplified by the Lance Armstrong scandal (Hardie 2015). Armstrong represents both the American dream and the Eastern doping structure; he portrays both “American management, marketing and social control” and “the knowledge passed down from the former Eastern Bloc” (Hardie 2015, p. 193).

Armstrong did not respect Cycling’s tradition but promoted self-interest. He was bigger than the sport itself and did not fear to test positive. In 1999, only one year after the Festina scandal, Lance commercially saved the sport by winning his first Tour de France. He had inspired the whole world and thus was protected by “anyone with a financial interest in cycling” (Hardie 2015, p.199). When Lance Armstrong had fallen, the myth of ‘untouchable athletes’ was destroyed. It was reassuring that, even with considerable power, athletes could still be investigated and disqualified.

Revenues were sensitive subjects in many sports. The International Weightlifting Federation’s (IWF) president Tamas Ajàn was accused of mismanaging Olympic revenues in 2011 (CAS 2012). German journalist Grit Hartman’s (2013) investigation revealed “financial mismanagement” and bribes for election votes for Ajàn.

The younger International Paralympic Committee

Paralympics experts emphasized that anti-doping discussion mature over time. A younger sport organization like the International Paralympic Committee (IPC) has ‘a different scope’ on clean sport than its counterpart. Its short evolution, reduced development or restricted refinement explains its unequal pace to the IOC.

The paramovement distinguishes itself on equipment, resources and classifications, but follows the same evolution patterns than sport, with a delay. The IPC evolved after its 2000s' doping scandals. Experts argue the Paralympic committee changed on many fronts, including amount of testing. The IPC lived with a 40 year delay what the IOC lived in the 1960s, 1970s and 1980s. It lived the aforementioned intensification of sport a few decades later.

This delay explains why the IPC reacted differently to the 2016 Russian scandal than its Olympic equivalent, the IOC. In fact, with parasport's distinctive pace, experts agree that parasport was more impacted by the Russian scandal than the IOC. It had a distinctive position, 'incredible reverberations' from National Paralympic Committees (NPC) and induced leadership. During the Russian debates, the IPC hold its ground against political pressures. It successfully projected values into the international system through anti-doping.

Canada continues to have a significant impact on the IPC. Canadian Robert Steadward was IPC president. Canadian experts believe the IPC has sport integrity at its heart and reacts more firmly than the IOC in contemporary issues.

The IPC banned the entire Russian team from the 2016 Rio Paralympic Games. Brittain and Dos Santos (2018) indicate that the vote from the Committee was unanimous and that it was based on the "found evidence that the DPM was also used at the Sochi 2014 Winter Paralympic Games (IPC 2016a)" (p.538)

The IPC had bad coverage during the 2016 Rio Paralympic Games. Brittain and Dos Santos (2018) showed that the Brazilian political economy radically changed after winning the Olympic Games in 2009. These major changes led the Rio Organising Committee to "decided not to provide the funding needed to increase the number of Paralympic sports that were covered live at London 2012, because it could not afford the extra expense." (p.545)

As a consequence, the Olympic Broadcasting Services (OBS) "provided live TV feeds for just 13 of the 22 (paralympic) sports" (p. 545). Further, Kelner (2016) and Hales (2016) reported that journalists had to "contend with massively reduces services", that the Press Center "had no real staff" and that "the communication from the organizers inside the Main Press Center has been minimal", making it very difficult to cover paralympic events appropriately.

The decision of the IPC may have change its relationship with the IOC. Three reasons are given by Ian Brittain and Leonardo Jose Mataruna Dos Santos (2018); “the IOC were totally silent regarding the apparent use of money earmarked for the Paralympic Games, and the potential endangerment of the Paralympic Games”; “according to Butler (2016a) [...] IOC President Thomas Bach made absolutely no mention of the Paralympic Games during his Olympic Closing Ceremony speech”; and “Bach canceled his scheduled appearance at the Paralympic Opening Ceremony” (p.545).

In other words, The IPC banned the Russian team when the IOC let the IFs decide on the ban: “this difference in approach actually cast a shadow over the Rio 2016 Games.” (p.538)

The paralympic movement could have achieved more for their athletes if Brazil would have respected the promised fund instead of diverting the to the Olympic Games “even at the potential expense of having to cancel the Paralympic Games” (p.547). For Ian Brittain and Leonardo Jose Mataruna Dos Santos (2018) “the IPC is perhaps too reliant upon the IOC for its survival [...] This massively skewed power relationship will mean that the Olympic Games will always take precedence over the Paralympic Games. (p.548)

Journalist Sam Burne James (2016), in communication with two London-based sports professional relations firms, argued that the IOC “has been made to look weak” (p.1) after the IPC ban Russian athletes from the 2016 Rio Paralympic Games. More precisely, the IPC decided to suspend the Russian Paralympic Committee “with immediate effect due to its inability to fulfill its IPC membership responsibilities and obligations” (p.2).

According to James’ article, Former Bell Pottinger CEO Shimon Cohen, a seasoned official in sports integrity, “said of the IOC and IPC's respective decisions: ‘Both decisions are absolutely logical, you can argue for either or both, but with the two juxtaposed, the Olympic committee looks weak.’” (p.2)

Athletes and NADOs’ call for justice

After the 2016 Russian doping scandal, National Anti-Doping Organizations (NADOs), including Canada’s CCES, rightfully called for justice. They expressed that Russian abuses affected all athletes and could not remain unchallenged. NADOs had the responsibility to confront sport entities who were not ‘doing their job.’

Former WADA's athlete's commission chair and member of WADA's compliance review committee on Russia, Canadian Becky Scott was an athletes' leader during the 2016 scandal. Scott is still trusted by athletes in international sport. She is a strong voice for athletes' rights. Unfortunately, Scott reported that she was bullied by a member of the IOC during the scandal (Morgan 2018). The committee did not receive a serious answer from the Committee (Etchells 2018). A dishonest portion of the Olympic community may have used tactics to discredit both Scott and the drafting of the Anti-Doping Charter of Athlete Rights in 2018. The same year WADA had held the first Global athlete forum.

The future of anti-doping, the 2020s

Considering contemporary debates, some believe that the anti-doping movement is on the verge of a collapse. Some argue that it is already 'dead'.

Data collection and the code of silence

The 1997 to 2000 Berlin trials of East German doping officials proved that athletes are often victims rather than villains (Houlihan 2015). One challenge of the 2020s will be to dismantle the existing code of silence and encourage athletes to speak-out. In some sport, Hardie (2015) writes: the "omertà is still very much in place" (p.202). Whistleblowers need to be protected from the retaliation of powerful entities, including secret services. Most anti-doping efforts will focus on evidence gathering this decade. As Reinold (2015) states, the "most serious methodological problem [...] is the lack of exact data" (p.68). Researchers rely more on doping anecdotes than proof of 'wrong-doings'. For example, before the 2016 Russian doping scandal, the Moscow Laboratory deliberately destroyed 1417 samples prior to the WADA's 2014 onsite audit (WADA 2015, p.203). The Russian scandal wouldn't have existed if the documents wouldn't have been provided by the director of the Moscow laboratory himself Dr. Grigory Rodchenkov.

Canada's international influence

Some confirm that the Canadian government is developing a strategy for Canadian officials to become more influential in international sport. There is support for this initiative and there are description of it as an 'impactful project'. At present, the Canadian government doesn't empower

Canadian anti-doping officials at the international level. It is a missed opportunity that sport officials' actions are considered as the individual's own. The government has the chance to coordinate and support its defenders of sport integrity. Canada's 'good work' in anti-doping should continue to be shared with the world. Canadians in international committees, international federations' administration or global regulators should contribute to this goal.

There is also a problem of accountability in sport. The Canadian sport system and the similar ones around the world are flawed because they are run by volunteers. Volunteers are not accountable for their actions. On the same premise, international sport governing bodies are not required to account for their self-serving conduct. International federations or committees can inhibit the anti-doping movement without serious sanctions. Moreover, some sport counts an overwhelming quantity of sport organizations. Some sport officials are undeserving of their seat in sport committees, lose focus of their mandate and become uncritical of their group. Sport officials need leadership, but many Canadians 'sit back' and become passive.

IOC problems

Some believe the Olympic movement has always been 'about control.' In the IOC's desire for control, they perceive an attack on the anti-doping movement. The IOC has always preferred self-regulation over concession of power. Hence, the committee has and will strategize to minimize opposition. It is not prepared to forfeit its authority over the Olympic movement. Many institutions such as the IOC pretends government interventions lead to an 'unacceptable politicization of sport,' but interventions are based on the IOC's responsibilities not politics.

Moreover, a majority of IFs are funded by the IOC. The federations do not have interest to reject IOC demands. Despite efforts of many sport entities to reform IFs' governance, relative to integrity and transparency, they undoubtedly act to keep their funding.

Athletes as pawns

Some affirm that athletes are being used 'as pawns' in the Olympic movement, since they lack decision-making authority. Houlihan (1999) writes that "federations, the IOC and governments have long been reluctant to offer a role to athletes in policy making" (p.329) and it couldn't be more appropriate for actual debates. Some agree that the future of anti-doping lies in athlete's

engagement and empowerment. After WADA refused to recognize the Russian Anti-Doping Agency as compliant in November 2015 and after the many demands by both NADOs and athletes to ban Russia, the IOC allowed Russian athletes to compete at both the 2016 Rio Olympics and the 2018 Pyeongchang Olympics. Canadian athletes impacted the sport world as well by putting pressure on the IOC during the Russian scandal. They knew that they could make a difference, but felt that they were ignored for many years.

I observed a lack of trust concerning the IOC's political will to defend athletes' rights. Sport history supports this disbelief. Independent athletes' groups, such as Athletes Germany and Global Athletes, gave themselves the mandate to empower athletes in the late 2010s. Hopefully, they will be fulfilling it in the 2020s.

Funding and inconsistencies

Sport has a tremendous impact on the public good, which should motivate the Canadian government to fund sport organization appropriately. Government funding means support for institutions, including its employees. Some consider that the allocated funds to an institution should match its mandate, which is not the case for the CCES.

With programs such as 'Own the Podium' and 'Road to Excellence', Canada shift its focus from sport ethics to Olympic victories. The Canadian 'Own the Podium' program, the biggest federal investment in sport, supports Canadian medal contenders exclusively. It is funded close to four times more than anti-doping. Some have emphasized this inconsistency from the government by employing the expression 'money talks'. Furthermore, Canadian sport federations are allocated funding based on the same reasons. It encourages the organizers of each Canadian sport to adopt a 'win at all cost' mentality. It is an 'unfortunate tendency'.

Sport's many threats

Anti-doping is immersed in broader integrity themes. There are many threats to international sport: sexual abuse, discrimination, power abuse, violence in sport, corruption, commercialization, etc. Combined, they represent a considerable challenge for officials. Henceforth, some hope to strategize anti-doping's future, domestically and internationally, including the future of WADA. It is

evident that sport can be used to project state power, but they concluded that this method corrupts sport.

The Dubin Inquiry's heritage has its relevance in modern times. The anti-doping movement has philosophical roots. It is grounded into moral values and the essence of sport. The question "what sport do we want" is the beginning of anti-doping intervention. Sport's value and ethical basis should be re-enforced to protect the movement from all threats.

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Chapter 4: Article 3 – The Role and Relationship of Science and Ethics in the Evaluation of Fairness in Sport

Introduction

In the following paper, aspects of the interrelationship of science and sport with regard to: i) the rationalization and the quantification process; and ii) evaluation, grading and the logic of exclusion and inclusion, from the perspective of ‘fairness’ in sport¹⁶, will be analyzed. We will also examine the generation process of scientific ‘facts’ used for some of the formal rules that are used to authenticate fairness. The critical perspective will work from some of the traditional feminist critiques of science, and of sport.¹⁷ Feminist critiques of sport and sport science can provide very good grounds for analysis of the ways in which normative values can influence and even shape the content of the sport science that is investigated. This is particularly clear in the areas of gender verification, para-sport categories and doping, as sport sciences has been related to, and even developed for, attempts to maintain fairness in these areas of sport, including ‘scientific’ criteria for inclusion and exclusion.

Scholarship on sexist and androcentric bias in science, sport science and sport policy, raise hard questions about the extent to which reigning accounts of sport and scientific rationality can deal successfully with mounting evidence that gender ideology has had deep and extensive effects on many scientific sport disciplines and some of the resulting sport ‘fairness’ policies. This includes, of course, those developed with the intent to uphold some form of fair play. If we acknowledge that the context is important when a theory is generated in sport science, that then has normative significance; then, we may want to alter sport science policy in the light of new normative accounts of sport science theory generation. Recognizing that the content of sport science is affected by the

¹⁶ The term ‘fairness’ instead of ‘fair play’ is used here because in this article we are more concerned with formal fairness issues, and not so much with the behaviouristic side of the fair play concept. Although there are different uses of the fair play concept (Loland 2002; Butcher and Schneider 2007), and it is also concerned with formal fairness, but it is broader for the most part.

¹⁷ Although it is not possible in the scope of this article to include all feminist works on the philosophy of science, the seminal work of Okruhlik (1994) applied in the area of biological sciences is drawn on for the philosophy of science and feminist critiques of science utilized in the application to sport sciences. There are many other good sources as well, for example, feminism that originates from the thinking of philosophers such as Donna Haraway.

social arrangements that govern its practice and production gives those social arrangements epistemic significance, as do the fairness policies and other interventions undertaken to alter those social arrangements.

Some feminist critiques, both of science and of sport (cf. Okruhlik 1994 and Teetzel 2014) have been especially important in the political struggle for gender equality in sport because traditionally biologically determinist arguments, deemed to be based on 'science' have been so often cited to 'explain' women's oppression in sport and their status as second-class citizens. These traditionally biologically determinist arguments explain why it is so-called 'natural' for women to function in a subordinate role in sport, and why men are better athletes and more aggressive than women, why women are destined to be weaker. Genes, hormones, and evolutionary processes are cited as determinants of this natural order and ultimately as evidence that interventions for 'fairer play' and 'just sport practices' may be useless because it is believed that the hierarchy is biologically determined and not overcome just by adjusting policies. Many feminist criticisms of sport and sport science focus on the fact that male competition, and male aggressiveness are portrayed as the basis for progress in sport; namely, higher, swifter, stronger. So many of the discussions reach the conclusion that this is why men have ultimately become superior to women in sport. It will be argued that this theory functions as an auxiliary hypothesis in many other sport science disciplines.

The critiques of the bio-sciences (as opposed to the social sciences) in sport science are also important because of the often- perceived position that the bio-sciences occupy in the usual hierarchy of the sport science departments in academia - usually above the social sciences of sport.¹⁸ Thus, some feminist critiques, however devastating, are said to tell us nothing about the 'true nature' of so-called 'real science' (Okruhlik 1994) because they are not critiques of 'real science' only of 'pseudo-science.'

Interestingly, in science, to dismiss biology itself as a 'pseudo-science' (Okruhlik 1994) isn't quite so easy; therefore, the critiques in this area of sport science¹⁹ can take on an added significance. If we are to infer, in light of the feminist critiques, anything about the nature of sport and sport science (for example, its rationality, its objectivity, its degree of insulation from social influences, its

¹⁸ This is particularly true in North American Universities and Colleges.

¹⁹ Similarly, it can be argued that gender studies have also appeared to be pseudo-science to hegemonic disciplines within sport academia; which means that the reverse statement is hard to make (that biological science is pseudo-science).

character as an individual or collective enterprise), then the biosciences in sport science are a relevant starting point because they are also called upon to give us ‘objective’ criteria for inclusion and exclusion for fairness in sport, for example, gender verification processes, para-sport categories for competition and doping infractions. Historically, there have been individuals disadvantaged or even harmed by this state of affairs as they had legitimate grievances against the standards of the practice in sport, they either were engaged in, or wanted to join, with little or no recourse to address their concerns. Examples of such individuals include: Caster Semenya, the South African middle-distance runner who was subjected to forced gender testing by the International Association of Athletics Federations, and Oscar Pistorius, the double amputee who successfully fought to compete in the 2004 Summer Olympic Games despite allegations that his prosthetics gave him an advantage over ‘able-bodied’ athletes.²⁰

The Relationship Between Sport Science and Cultural Influences

One important question is whether we can develop an account of the relationship between the contexts of bioscientific discovery (regarding the body) and justification in sport science, that makes room for the sorts of ethical, social and cultural influences on sport science exemplified by the identification of, for example, gender bias. An account that would still allow room for stronger notions of objectivity, rationality and logic that have traditionally formed the basis of scientific exploration required for sport science (i.e. ‘good science’).

There are several case studies of gender ideology in the sport sciences, particularly in the areas of gender verification and fairness rules. These cases often provide a common stock of examples for discussion purposes and the opportunity to indicate how critiques from, for example, feminist theory and philosophy of sport, can provide us with some illumination of them. The possible epistemic significance of these case studies (and others like them) can be addressed in light of alternative conceptions of sport, and sport science, more available in some of this literature as will be explained below.

An analysis of this rationality and logic is important because historical shifts in who can take part in sport, and at what level, have changed dramatically over time; as have the purpose of sporting

²⁰ The work of Matt Waddell (2016) in the area of para-sport and human rights is drawn on for the application in sport sciences in this paper.

activities and the range of conduct acceptable within them. Examples of such change include the inclusion of women (Smith 1998), individuals with disabilities (Bailey 2008), cultural/racial/ethnic minorities (Paraschak & Forsyth 2011); and varying attitudes towards the acceptance and promotion of violence in sport (Young 2012; Jewell, Moti and Coates 2011), as well as the type of harm that athletes can ‘acceptably’ experience or receive (McKenny 2002), the permissibility of performance enhancing substances and technologies (Hoberman 2007), and the respectability of attitudes or conduct characterized as amateur or professional (Bale 2014). Despite these varied changes in rules and attitudes, the narrative surrounding many of these shifts, from a more general perspective, has been one of changing attitudes within larger society becoming reflected in sporting practice. For a practice as important, celebrated, and valuable as sport, it is natural that it should be a site of intense disagreement, and potential conflict, over the values upheld by, or represented within, sporting rules. It is therefore logical that some sort of provision should be made for the rules that govern sport to change with the sensibilities of its players and stakeholders. This is precisely one of the connections among sport science, ethics and fair play in sport.

There are good examples, particularly from some of the feminist authors cited above, of how the language used in case studies on gender theory and gender verification reveal the ways in which contemporary sport science research can still be shackled by outmoded models of the relationship between female and male characteristics, particularly when they get tied to roles in reproduction.²¹vi There are now new theories and critiques about gender, gender polarization, and gender verification in sport; but what is of most significance for the point at hand here is, not whether the newer theories are entirely correct (they are still controversial, in many circles and it is even viewed as politically incorrect by some to even discuss some of them), but that their very existence as a rival theory to the more established views (i.e. Barr Chromatin test in sex determination) throws into sharp relief the questionable assumptions of the older model.

This demonstrates how pre-existing theoretical assumptions in sport science have informed which questions we ask, which hypotheses we investigate, and which data we decide to ignore as evidentially insignificant. These considerations are sometimes dismissed to the inferior scientific rank of ‘the context’ of discovery process in science and are said to be epistemically irrelevant to the actual

²¹ See for example the work of Charlene Weaving on pregnancy and sport participation presented at the 2017 annual conference of the International Association for the Philosophy of Sport held in Whistler, Canada.

content of science (i.e. 'real science') (Okruhlik 1994). Perhaps an important question is not whether some data are evidentially significant at all, but which interpretation should be placed upon the same data as the result of differing theoretical and ethical commitments: this has been particularly true in the gender verification arguments in sport and sport science.

Feminism, Gender and the Assumptions of Sport Science

Some feminist criticisms of sport and sport science focus on the fact that male characteristics are portrayed as the basis for progress in sport that is why men have ultimately been viewed as superior to women in sport. This theory functions as an auxiliary hypothesis in many other sport science disciplines as argued below.

Again, what is important for this discussion here is not that new more gynecentric hypothesis in sport and sport science necessarily be true (although that is a very important discussion); but rather, that they reveal the extent to which the standard interpretation of the sport science evidence has been coloured by, for example, androcentric bias, historically. The cases examined in this regard are often instances in which attention to the theory of observation, and/or the underdetermination of gender theory by data, shed some light on the way in which pre-existing theoretical commitments (i.e. androcentric) regarding sex and gender may influence decisions about which questions get asked, which data must be accounted for and which can safely be ignored (Okruhlik 1994); as well as, which interpretation among those that are empirically adequate is actually adopted and then applied in the sport science community and resulting sport policy based on 'the scientific evidence.'

This process raises interesting questions about what factors (i.e. social, ethical, etc.) motivate decisions that are made to protect some hypotheses from falsification (Okruhlik 1994). It also draws attention to the important role played in theory assessment by our background assumptions, a role that is particularly crucial in the discussions on sport science, gender verification and fairness, since so few of our background assumptions about sex and gender have been subjected to systematic scrutiny in the past (i.e. 'a man is a man and a woman is a woman and never the twain shall meet,' meaning that the two things are too different to coexist).

In the critical literature of sport science, appeals have been made to explain how gender ideology has, and continues to, permeate sport sciences. One could argue that external values have been

imported into the science of sport science. Yet, the values are implicit in these cases and are revealed in light of a rival hypothesis embedding conflicting values (i.e. a gender continuum instead of gender polarity). For example, in the health, medical, and sport medicine sciences, values or norms are often quite explicit. When one has to ‘judge’ who is healthy and who is diseased, what body types are desirable and which not, the concepts involved are explicitly normative as well as descriptive (Okrulik 1994). (This kind of explicitly conflated normative and descriptive judgements have opened the door for other types of bias, i.e. racial superiority.)

In one type, different ideals are set for male and female; these ideals are said to be ‘complementary’ but really, only the male is seen to be the fully developed example, both mentally and physically. (This point is argued elsewhere when looking at the ideal male and ideal female versus the ideal athlete, the ideal male and the ideal athlete are often the same and the ideal female is quite contrary (Schneider 1996) by applying some of the historically ground-breaking findings from Phyllis Chesler in the area of mental health in 1972 on women and madness (Chesler 1972). Another type of bias occurs when a single norm has been adopted for both males and females, but is, in actuality, a male, rather than human, norm (or a ‘caucasian’ – white skinned of European origin, norm as opposed to another ‘race’ (Okrulik 1994); or a mentally healthy adult is a male adult – female is neurotic (Chesler 1972).

Some feminist authors in sport philosophy (Schneider 1996; Weaving and Davis 2010) have argued that it is wrong to think of the woman athlete’s body as a purely biological infrastructure onto which the socio-cultural unpleasantness of gender accumulate. Although the distinction between ‘sex’ as biological and ‘gender’ as socially assigned has in many respects served feminist theorizing in sport science well, it has sometimes led to the mistaken assumption that all biological attributes are given in some absolute sense (Okrulik 1994).

However, we could argue that ‘sex,’ as well as ‘gender,’ is socially constructed, at least in part (Butler 1990). Physical genetic givens, such as height, bone density, and musculature can be affected by cultural practice as was so clearly demonstrated by Iris Marion Young's (and by others) article on ‘Throwing like a Girl’ (Young 1980 (Human Studies); 1990 (Indiana UP); 2005 (Oxford UP).

The Relationship Between Sport Science and Social Components and Central Feminist Epistemologies

There are at least two interesting contexts in which this question of the social construction of scientific facts in sport science arises: (1) Are these examples in gender verification just examples of ‘bad science’ or are they, rather, demonstrating that sport science is intrinsically and irredeemably androcentric; and (2) Are these examples directly relevant to the philosophical critique of sport science? These two questions are related to each other and are answered differently for differing feminist epistemologies.

There are categories of feminism (that could also be addressed but is beyond the scope of this paper) to help to answer the first question on sport science and gender theory: i) feminist empiricism; ii) standpoint epistemologies; iii) feminist postmodernism (these three more generally categories first outlined in the seminal²² work by Sandra Harding (Harding 1987); and iv) feminist posthumanism²³ (Haraway 1987; Butler 1993; Braidotti 2006, 2009, 2012, 2013a, 2013b). It is certainly not always the case that only one of these categories is used in the relevant literature, but it is a good starting point for clarification. (Sometimes, authors have used more than one of these categories in one article and sometimes in one argument.)

‘Feminist empiricism’²⁴ would look at sport science and likely suggest that failures, such as those outlined above on gender theory, are cases of ‘bad science’ and, as such, are failures of sport science to live up to its own ‘good’ scientific ideals in its own right. In this case, the suggestion would be, for example, androcentric bias has gotten in the way of the rigorous application of the scientific method itself to gender theory; but if ‘good’ scientific method had been adhered to faithfully and correctly, problems such as those given above could have been avoided. Thus, for feminist empiricism, the standpoint of the knower is epistemically irrelevant to ‘good science,’ and any

²² Of course, from a feminist perspective, one understands the irony of using the term ‘seminal’ to describe ‘work that strongly influences later developments’ in this context or recognizing the significant authorship of women. However, the only analogous term would perhaps be ‘ovumal’. But, perhaps less exclusive is the use of ‘seed’ from Old French seminal or Latin seminalis, from semen (where ‘seed’ is the root) dating from the mid seventeenth century (OED).

²³ Posthumanism is sometimes used as a synonym for, and confused with, ‘transhumanism’ due to its proposal to transition to a ‘posthuman future’ by applying technological advancements to expand human capacities (Ferrando 2013). Dissimilar to ‘postmodernism’ because ‘post’ allows the category of ‘human’ to ontologically disappear, whereas postmodernism does not propose that ‘modernism’ disappear (James 2017). Posthumanism arose with the first wave of postmodernism and was developed by feminist theories in the Nineties within literary criticism, which was later defined as ‘critical posthumanism’ (Ferrando 2013).

²⁴ In this case, as generally described by Harding’s original work in 1987.

bias originating from that standpoint will be eliminated by proper application of objective methods (Okruhlik 1994).

This assumption of the knower being epistemically irrelevant is precisely the one that is denied by feminism ‘standpoint epistemologists’²⁵ who argue that the credentials of the knowledge claim depend, in part, on the situation of the knower. The argument runs as follows: just as an aboriginal, Canadian, homosexual, transitioned athlete could know more than the IOC policy-maker on gender verification, so women, in this case, may enjoy an epistemic advantage²⁶ over men. Sport science based upon the standpoint of women athletes would be an improvement over current sport science, according to standpoint epistemology. In this sense, it is still about creating ‘good science’ because its aim is to produce a better (that is, epistemically superior) account of the world (in this case of athletes and gender verification in sport). A number of problems have been pointed out with this approach, but the most damaging criticism for fairness policies (or logically, by extension, any general policy at all) that have been based on gender theory and ‘scientific’ evidence, has been the insistence that there is no single feminist standpoint. So, just as the standpoint of women athletes differs from that of men athletes, so also the standpoint of poor women athletes differs from that of rich women athletes, the standpoint of black women athletes from that of white women athletes, the standpoint of lesbian athletes from that of heterosexual women athletes, and so on.

In other words, the compelling question then becomes one about arbitration of the ‘truth’ (i.e. arbitration between all of the differing standpoints); on what grounds or criteria could one of these be more important or privileged over the other as a standpoint from which to describe the world of sport for women athletes? It can be argued that this is a very serious challenge for both science and ethics, for it leads to radical relativism in both areas. Thus, with this epistemological standpoint, communication to find an agreeable view of ethics and to justify ‘fair play’ policies in sport is impossible. We are left with solipsism (the theory that the self is all that can be known) and Humpty-dumptyism (the practice of claiming ‘When I use a word it means just what I choose it to mean – neither more nor less’ (Carroll 1866)). This is a problem for ethics because it leads to radical

²⁵ Once again, as generally described by Harding (Harding 1987).

²⁶ The term ‘advantage’ is used here, because, based on this standpoint, women know more than men on gender verification in women’s sport. This knowledge gives women more perceived reliability to critique the gender verification system, just as a black-skinned athlete would be perceived to have more reliable testimony on racism in sport. By contrast, men, or white-skinned people, are disadvantaged because they do not have the personal experience to draw on.

relativism and the conclusion that we could not communicate, nor cooperate with each other and would be left, without a common ground, with individual relative ethical ideas with no general applications.²⁷ So logically, it follows that there could be no general policy that is fair at all.

This extreme fracturing, in this case of women athletes' identities, and hence of standpoints, has led some theorists to embrace what Harding categorized as 'feminist postmodernism.' This entails giving up the endeavour of objective 'good science' altogether (i.e. to become more and more objective) and by just accepting the existence of an irreducible plurality of alternative narratives of women athletes in sport and about the way the world is in sport. The notion of a sport science method to adjudicate biological difference (a good example is also that of para-sport categories of competition) that might allow us to transcend the constraints of culture, time, and place is repudiated once and for all by postmodern feminist theory. Based on this theory, it can be argued that any trans-theoretical criteria for rationality and objectivity and logic for the rules of fairness (and consequentially, larger notions of fair play, as noted above) are established as products of a masculine mythology, and the idea of creating a 'better sport science' kind of project is abandoned.²⁸ Once again, like what we observed with the feminist 'epistemology standpoint,' this has very serious implications for fair play and the logic of the rules of sport, because how could there be any notion of agreed upon fair play criteria for policy makers?²⁹

Some forms of feminist posthumanism³⁰, for example, suggests the very notion of 'the human' 'is not only destabilized by technologically mediated social relations in a globally connected world, but it is also thrown open to contradictory redefinitions of what exactly counts as human' (Haraway 1987, p.197); which, of course, fits well with criticism of the gender binary. From this particular

²⁷ The history of western ethical theory has been filled with attempts to answer this kind of problem, is that, to find 'good ethics', we have to be able, by communicating, to understand something else than ourselves. 'Good ethics' is based on what everyone should do, it is based on a common ground. Therefore, it has been argued extensively that radical relativism breaks down our hopes for 'good ethics'.

²⁸ These implications have been drawn out from Okruhlik (1994).

²⁹ From an ethical theory perspective, we are unsatisfied with the feminist postmodernism theory because in fairness and in most accounts of fair play in sport, we are trying to find the common ground, what everyone should do, what 'good ethics' comes down to, and this theory makes it impossible to find. That is why postmodern analysis tends to obscure any promising possibility. In other words, it is bad news for 'fair play' policies or for fairness, if we can't find a common ground with the theory.

³⁰ Once again, there are many versions of posthumanism (i.e. transhumanism, new materialism, antihumanism, te-tahumanism, metahumanity), so the intent here is to try to select what could be deemed the most relevant. Posthuman discourse is ongoing, a process of divergent standpoints and movements resulting from modern attempts to re-define the human condition (Ferrando 2013).

position, the practice of science is not seen as narrowly rationalistic, but rather allows for a broader definition of the terms to include the play of the unconscious, dreams and the imagination in the production of scientific discourse' (Haraway 1987, p.198) supporting the call to examine sociological and psychological influences in the production of sport science 'facts.' The response here to biological determinism is that 'there is no natural *telos* or order, as distinct from technological mediation' (Haraway 1987, p.199) and it 'demands epistemological and political respect for critical thought' (Haraway 1987, p.206). Another difference in the perspective of feminist posthumanism is that 'Posthuman subjectivity reshapes the identity of humanistic practices, by stressing heteronomy and multifaced relationality, instead of autonomy and self-referential disciplinary purity' (Braidotti 2013b, p.193). The self-referential disciplinary purity of science and sport science is precisely one of the things being challenged in this paper. In particular regard to the ontology of gender verification, posthuman theory rests on a process ontology, which means it is always changing and would work better with a continuum model of gender, rather than a binary. This posthuman theory 'challenges the traditional equation of subjectivity with rational consciousness resisting the reduction of both to objectivity and leniency' (Braidotti 2013b, p.196). Some authors have argued that 'the main implication of posthuman critical theory for the practice of science is that the scientific laws need to be refined according to a view of the subject of knowledge as a complex singularity, an affective assemblage and a relational vitalist entity' (Braidotti 2013b, p.196).

Although this analysis can be very helpful in facilitating analyses of the diverse philosophical commitments of feminist critics of sport and sport science, it also tends to obscure any promising possibility -- one that would take into account the ways in which social structures (like the institution of gender) affect the very content of sport science and fair play without surrendering altogether the ideal of rational (Okruhlik 1994), and ethical, theory choices.

Sport science (for good or for bad, and regardless of disciplinary origin and epistemic setting) affects sport policy regarding issues of, for instance, fairness and fair play, and thus, affects the ethical evaluation and arbitration in sport. One aim here is to see if feminist theories can help us improve the conditions of the relevant sport science, and therefore, improve conditions of fairness in sport, and thus, ethics in sport.

The Social Component of Sport Science

Many authors have generally been quite willing to grant that social and psychological factors (including gender) play a role in sport science; but that role has been a somewhat delimited one, contained within the so-called context of sport science discovery, or alternately within those examples that could be called 'bad sport science' in which the canons of rationality were clearly violated in favour of other interests and values. Within the context of sport science discovery, or the generation of a particular theory, traditionally, anything goes: the source of one's hypotheses is epistemically irrelevant (take for example Harvey and the discovery of the direction of blood flow (Kearney 1971)); all that matters is the scientific context of the rational justification. If you arrived at your sport science hypothesis (or any scientific hypothesis) based on religious beliefs, for example, it doesn't matter, so long as the hypothesis is confirmed or corroborated in the context of scientific justification (the Copernican view of the universe i.e. heliocentric versus the geocentric view (Kearney 1971)). You test the hypothesis about the athlete's body in the context of physical nature and if it holds up, then you're justified in holding on to it - whatever its origins, religious beliefs or not.

The position held here is that, the canons of rationality in scientific theory choice supply a filter which is supposed to remove social, psychological, religious and political influences as a hypothesis passes from one context to the next. Yet, it would seem that these influences cannot be filtered.

This view may have made a certain amount of sense in some models of scientific theory evaluation where they held that hypotheses were compared directly to what happened in nature like, for example, biomechanics. But this account, which cuts the context of sport science discovery, or the generation of the particular theory, of all epistemic significance, makes no sense at all given models of scientific rationality that view theory choices as necessarily, and irreducibly, comparative (Okruhlik 1994).

We can now see that we do not actually compare the test hypothesis (i.e. on gender) in sport science to nature directly in the hope of getting a 'yes' or 'no' ('true' or 'false') answer; but neither do we compare test hypotheses to all logically possible rival hypotheses (Okruhlik 1994). We can only compare a particular sport science hypothesis to the other that exists - that is, to other hypotheses

which have actually been articulated to account for the sport science phenomena (i.e. gender) in the same domain and developed to the point of being testable in that sense.

There may be interesting sociological stories to tell about the generation of the various alternative hypotheses on, for example, gender verification or the biomechanics of para-sport athletes like Oscar Pistorius. Athletes who do not easily fit within the gender binary, or the para-sport criteria, that is used to organize most sport teams, may either be excluded entirely, or assigned to a category that does not conform to their own self-image (Zeigler 2013, 467). (The philosophical arguments presented here could be reasonably extended to other marginalized groups whose autonomous desires are not currently represented in sporting rules.) But the attempt to mitigate the sociological influences by attempting to effectively screen them from affecting the content of the scientific test (developed by sport science for example, for fairness policies) may be done by the decision procedure operating. The argument is that this procedure can tell us which theory is preferable to its extant rivals (for example, on gender verification) on as close as we can get to more traditionally scientific objective grounds (Okruhlik 1994).

The point is that, even if we only grant for the sake of argument that scientific method used in sport science may be itself free of influence of sociological factors, and that the decision procedure operates perfectly, nothing in this procedure will insulate the content of the sport science from sociological influences, once we grant that these influences do affect the generation of sport science theory. If our choice among rival theories is irreducibly a comparative one, as it is in this example on gender verification, then sport science methodology cannot guarantee (even on the most optimistic scenario) that the preferred theory is a 'true one' for something like gender verification - it can only help to ensure that it is epistemically superior to the other actually available contenders or options (Barr chromosome for example). But if all these contenders have been affected by sociological factors, nothing in the appraisal of the sport science machinery (i.e. Labs) will completely 'purify' the successful theory (Okruhlik 1994). Therefore proving, once again, that social influences are inseparable from sport science.

Moreover, for the sake of example, suppose that all of the proposals for gender verification represent the history of theories about female athletes' behavior. These theories may in many respects be quite different from one another; but if they have all been generated by males operating in a deeply sexist sport culture, then it is likely that all will be contaminated by sexism. Non-sexist

rivals will never be generated. Hence the particular theory of gender verification, which is selected by the canons of sport science appraisal, will simply be the best of sexist rivals; and the very content of sport science will be sexist, no matter how rigorously we apply objective standards of assessment in the context of justification. In fact, the best of the sexist theories will emerge more and more highly confirmed after successive tests (Okruhlik 1994).

It is important to note here that, methodologically, you can still have rational choice within this context because every choice among alternative theories may be a rational choice (Okruhlik 1994). This possibility of choice, of selecting, for example, the best of the sexist theories, shows that sport science can (in principle) get better and better in that they may be more rational.³¹ but this in no way guarantees that the content of sport science is insulated against social influences. Once you grant that social factors may influence the context of theory generation, then you have to admit that they may also influence the content of sport science itself. If, for example, gender theory generation is to be explained by the social sciences in sport science, then it cannot then be logically expected to be excluded at some later date through some sort of rigorous application of scientific method with more epistemic virtue (Okruhlik 1994).

In short, if this may be the case, it doesn't necessarily follow that the presence of androcentrism and sexism in sport science makes rational theory choice impossible, but it does follow that sport science method by itself, as currently understood, cannot be counted upon to eliminate sexist or androcentric bias from sport science.

Another way to describe this is to say that the sport science data cannot pick out a single theory which uniquely accounts for them. There are, in principle, a number of rival contenders that could do the job. So, if the sport science data aren't completely determining our theory choices for determining things like fairness policies and practices, then something else must be doing the work - and, the most likely candidates are going to be sociological in character (Okruhlik 1994).

But we should also be aware of the tendency in the recent literature to overestimate nebulous sociological factors. However, that would be a problem if there were many empirically adequate rival gender (or other) theories. Generally, we are lucky to get two credible ones. In time, we usually find good reasons (cognitive or rational) for preferring one option of these to the others;

³¹ For example, at least not being based on completely irrational assumptions like, for instance, 'the earth is flat'.

or, for example, the rejection of the gender verification process itself, when we see that there is not a good theory at all.

When Sport Science Ignores Social Theory: The Problem of Ignored Assumptions

There is a problem in attempting to say that the context of sport science discovery is normatively insignificant, and, at the same time, saying that sport science theory appraisal is comparative in nature. Once comparative appraisal is brought in, we must allow that factors affecting theory generation will have normative significance (Okruhlik 1994). The argument here is not that we should abolish the distinction between contexts of sport science discovery and the justification and evaluation of theory, but that we must recognize that, on a comparative model, factors that influence the development and generation of a theory must necessarily influence our confirmation practices and hence the very content of sport science. This argument applies not only to test hypotheses but also to the related assumptions that jointly constitute the relevant background theory.

‘How a particular piece of evidence bears on a hypothesis depends in large measure upon the collateral assumptions that come into play’ (Okruhlik 1994). It is here that the relationship between bio-sciences and the social sciences in sport science is particularly interesting because it can be argued that the interactions between the two is largely at this level. For instance, in the characteristics of the ideal athlete example, the relevant auxiliary assumptions are imported from the bio-sciences in sport science. In particular, it is the assumption that it is the traditional male strength and aggression that drives the performance principle in sport that dictates in large measure what should count as evidence and how it should be interpreted.

Since it is impossible to control for every possible variable in our sport science experimental designs, what we decide to take into account depends on what our background theory tells us may be relevant. If the components of that background theory are never called into question, our experimental practices will continue to embody potentially problematic assumptions. It is not that the auxiliary assumptions that interplay in the theory are not themselves (potentially) testable, but that they provide points at which biases (on gender or race or ability for example) from one discipline are easily transported into another (Okruhlik 1994).

Furthermore, because of the pervasiveness of gender ideology in sport culture, these assumptions generally are not called into question and are sometimes not even noticed, as has been often identified by the feminist authors. It is usually the case that they come to light only in the presence of an alternative rival hypothesis (i.e. gender continuum) because they are not tested by themselves but only in relation to their fellows within gender theory.

At this stage, one might ask ‘why is this all so necessary for sport?’ One answer is the logical extension of concepts of fair play in sport, that require the common ground necessary for consistent and fair rules (‘good ethics’) that seem unobtainable with the feminist postmodernism and the feminist standpoint epistemology. Without fairness and ‘fair play’ policies, or a unified set of rules that define the types of excellence athletes are striving to attain/exhibit in individual sports, the practices themselves would become less intelligible. A shared standard of excellence for cooperative and competitive athletic endeavours is clearly desirable both because it discourages selfish behaviors and it promotes a cooperative attitude, even among competitors. These, and many other benefits, are what we often refer to when asked to define why we value ‘fair play’ in sport so highly and these are behavioral in nature.

First, the arguments presented share some ideas with Harding’s definition of ‘feminist empiricism,’ especially in regard to the search for better or ‘good’ science that at least aims at increasing some form of objectivity and rationality through the use of established sport scientific methods. But it differs from this kind of empiricism because it also recognizes that current methodologies don’t account for the epistemic significance of the social arrangements that govern the activities sport scientists undertake and the products they produce. Adequate methodology, in this regard, has to control for biases introduced by social arrangements just as it has to control for other sources of bias (Okruhlik 1994).

Second, the feminist empiricism described by Harding does not appear to challenge the assumption in much traditional methodology that the rationality of the scientific community is just individual rationality writ large, a simple summation of individual rationalities (Okruhlik 1994). In the account above, it is the rationality of the sport science community that is enhanced by inclusion of diverse strategies at the individual level. The kinds of bias discussed above can be systematically addressed only at the community level; no adequate program of individual rehabilitation could be

prescribed in advance. Only the inclusion of diverse standpoints will bring about the conditions under which change is possible.

The parallel to the sport community is striking. For example, the rules of any sport that exists today, and the standards of excellence which adjudicate successful performances within those sports, are obviously possessed of enough broad appeal to have attracted a number of players and supporters. However, partially because of the support that the conception of fair play has received within sporting contexts, athletes are only free to express themselves through sporting practices insofar as they are free to choose sports that epitomize values or virtues with which they already agree (Waddell & Schneider 2017). Should athletes that desire an opportunity to participate in an already existent sport be excluded from the shared practice because of either an unwillingness or inability to abide by the standards of excellence as they are currently defined (i.e. they are the ‘wrong gender’ or the ‘wrong classification’ of ability), then that, in most cases, is treated simply as tough luck for them.

Being outside the community of practice, they have no recourse to offer criticism or help improve the standard of excellence that defines that community. It is this fact of being outside the ‘feedback loop’ present in the current definition of shared practices, and having no way to change that exclusion, that makes the exclusion of a potential athlete ethically problematic. This situation can be likened to that experienced by individuals with disabilities in many facets of life where their exclusion from social, political and cultural spheres becomes self-perpetuating (K. Mee Kim et al. 2016, p.761).

To return to our science example, even if we grant that the rational scientific standards of sport and gender theory assessment could be free of influence by sociological factors nonetheless, these values may permeate the very content of sport science itself. Stating the issue this way may seem useful because it avoided the messy controversy regarding the culture-bound nature of sport science method itself. Even granting the transcendence of method, in other words, the sport scientific product could itself be radically culture-bound. It is often the case, however, that what is granted for the sake of argument is probably not plausible in the final analysis of the practice (Okruhlik 1994).

Sport science method itself is developed and articulated by culture-bound individuals and so the arguments which applied at the object level of sport theory content will likely apply at the meta-level of theory evaluation as well. Although we may have good scientific reasons for making certain methodological changes (i.e. measuring for placebo effect in experiments), our methodological choices will be limited by the range of alternatives already actualized (Okruhlik 1994).

The implications of the preceding argument regarding the scope of models of rationality and its implications for sport science policy and fair play practices are: (1) We could simply acknowledge the reduced scope of models of rationality and make more modest claims for the objectivity of sport science and ethical fairness of the policies for fairness and fair play; or (2) We could attempt to enlarge our model of rationality so that it takes into account the context of the generation of a sport theory in sport science.

So, we have argued that, acknowledging that the context is important when a theory is generated in sport science has normative significance, which means we may want to alter sport science policy in the light of a new normative account of sport science theory generation. That the content of sport science is affected by the social arrangements that govern its practice and production, means then those social arrangements acquire epistemic significance; as do the affirmative action programs and other interventions undertaken to alter those social arrangements (Okruhlik 1994).

Changing Fairness Policies and the ‘Standards of Excellence’ in Sport

To apply this point to sport policy outcomes regarding standards for fairness and fair play, this understanding of social arrangements is required in order to make allowances for criticism and growth (particularly from those excluded) on the part of the standards of excellence applied in individual sporting contexts. Unfortunately, this growth is often slow and requires a significant expenditure of effort on the part of marginalized communities or individuals to obtain access.³²The

³² Specific examples of marginalized communities are too numerous to go into, and too complex as individual examples, to go over as part of a primarily philosophical discussion. However, the history of sport and its evolving ‘standards of excellence’ is replete with changes that were forced upon insular communities of practice from determined outside forces desirous of more socially just sporting institutions. Previously, and some currently, excluded communities from certain sport practices in North America include: (1) women; (2) persons of ‘non-white’ ethnic, racial or cultural heritage; (3) individuals with disabilities; and, (4) individuals unwilling or unable to subscribe to a binary view of gender. In many of these cases sporting institutions have mirrored wider societal norms as we have moved towards more universal and inclusive definitions of personhood, individuality, and human rights. However, this article also aims to draw attention to the role that our philosophical definitions and models of sport and sport science play in maintaining athletic practices that do not need to be responsive to the needs of marginalized individuals.

reason that changes within any given sport's rules and standard of excellence are difficult to create is because the very definition of 'standards of excellence' exhibits circular logic. Just as in the sport science example above, the creation and continuance of standards of excellence privileges the criticisms of those already inside the community of practice. In order to criticize the practice, one must first adopt, master, and exhibit its virtues (i.e. in science, you must be a scientist who accepts the possibility of objectivity and 'truth' first; in sport, you must already be an athlete in the practicing community of elite sport). Therefore, those most able to criticize any given shared practice are those already most benefitted by the standards of excellence as they currently exist and who adopted those standards the most successfully. This means that the method by which criticism of a shared practice is supposed to be generated can actually serve to limit dissent to already existent standards of excellence and make changes towards inclusion that would benefit groups currently victimized by unfair discrimination, such as women athletes and para-athletes, unlikely.

To extend the application of the concepts of this paper to para-sport a bit more, if we look at the concept of para-sport, as it currently exists, we see it relies on the ability to meaningfully distinguish between able-bodied athletes and athletes with disabilities. If disability in sport is, as some authors suggest (van Hilvoorde Laurens for example), a division between categories on the larger spectrum of athletic ability, then the current practice of para-sport implies an inferiority of performance or competitiveness to able-bodied sport. This replicates many of the failings of the medical and scientific model of disability in a sporting context by associating para-sport, and therefore athletes with disabilities, with abnormality and deficiency.

This is clearly problematic from the perspective of respecting the dignity of individuals with disabilities since they are being evaluated and categorized by a medical lens in an area of their lives where such judgments would be unwelcomed and unaccompanied by the prospect of rehabilitation or treatment that one might find in a hospital or doctor's office.

This perceived inferiority of para-sport to able-bodied sport could be rationalized as a necessary consequence of treating all athletes fairly with fairness and fair play policies, and therefore equally, through the creation of categories (based on the scientific medical model) appropriate to their skill level (Waddell and Schneider 2017). However, the assumptions and premises underlying the category of para-sport are not logically coherent. The creation of para-sport categories would seem

to be, at first, a reaction to quantifiable differences in ability between able-bodied and athletes with disabilities.

Where can this line between able-bodied and disabled be accurately drawn? If the two concepts are actually points on a spectrum of dis/ability (similar to the spectrum/ continuum argument presented by some authors on gender), then the distinguishing line would have to be quantifiable in nature. This suggests that an identifiable measurement of ability would serve to divide those who must compete in able-bodied sport from those who must compete as para-athletes. However, to define the point at which someone, for the purposes of sport, is either able-bodied or disabled, implies the likely existence of borderline cases that are only marginally located in one category or another. Someone slightly above or below this point of distinction might, quite reasonably, appeal that everyone else in their category of competition significantly exceeds or falls short of their own capabilities and that does not represent 'fairness' or fair play (Waddell & Schneider 2017).

In order to arbitrate these cases, we often turn to sport science. So, is the answer simply a kind of standpoint epistemology for sport science? Not exactly because epistemic privilege on this analysis does not attach to the individual para-athlete or woman athlete (or feminist) but to the community of women or para-athletes that includes her standpoint along with others. Some feminists have argued that pain (in this case the painful affects in derby culture) are 'inextricably linked with notions of community and difference that are vital to the embodiment of collective and individual belonging' (Pavlidis and Fullagar 2015, p.486). (The theme of pain speaks to all athletes, and in particular, para-athletes.)

The individual standpoints like for example, Caster Semenya's, on this account are starting points. Furthermore, it is important to stress that on this analysis nothing depends on women athletes having a different psychological make-up from male athletes (or para-athletes from non para-athletes) or different 'ways of knowing.' The distinctive mark of the work of some feminist critics is not that it is holistic, intuitive, subjective, emotional, nurturant, non-human, or non-linear, but the fact that it is informed by a social and political viewpoint different from that which has dominated sport science and sport science studies.

It is logically possible that male athletes or non-para-athletes could do the same work, but the connection here is not about necessary or sufficient conditions, but rather about contingencies

(Okruhlik 1994): about causal factors that operate, not from a global point of view, nor in the infinite long run, but here and now in sport. It is not a logical necessity, but it is also not an accident that the advent of certain sport science hypotheses and gender theories coincided with increased political power for women athletes (and para-athletes) and increased representation of women in the academy and sport scientific communities.

To return to feminist postmodernism and posthumanism in this regard, there is a limited overlap in that this position is compatible with the rejection of metaphysical realism (perhaps that it is even required that we reject 'T' kind of objective truths), but not with the rejection of some forms of objectivity and rationality for they are required for the logic of the rules of sport, for fairness policies and therefore, for fair play itself. The important point is that these two (metaphysical realism and objectivity) are separable, a point that can be obscured in the postmodern literature (Okruhlik 1994).

Feminist postmodernism and posthumanism are problematic if you believe that feminist theories in sport and sport science are better than their sexist rivals, not simply that they provide alternative narratives of sport experience. The emphasis on fractured identities that postmodernism entails, as well as on epistemic and ethical relativism, does not really provide an adequate basis for the political action feminism requires fairness and fair play in sport. But postmodernism and posthumanism's emphasis on the requirement of local community problem-solving in the sport community is very valuable for dealing with ethical dilemmas regarding fairness, and fair play, in sport. Gender (and other) bias manifests itself in many ways in sport and sport sciences, so therefore it will be unlikely that a single method (even if it is a 'feminist method') will reveal and eliminate that bias in sport. It is also unlikely that one paradigm (even if it is a 'feminist paradigm') that can be imposed from above and there is no reason to believe (as many postmodernists at least appear to believe at times) that gender (or other) bias in physics and bio-mechanics, for example, will be of the same kind, or degree of bias, as that in biology, physiology and anatomy, or even social sciences (Okruhlik 1994).

In summary, the changes that are needed to improve fairness and fair play in sport that are dependent on sport science for standards for rules, inclusions/exclusions, and for what counts as excellence, occur when specific rival theories about women (or e.g. race, ability) and sport and fair play

are developed by sport scientists who have both a thorough grounding in their own disciplines and a commitment to questioning biases introduced by social arrangements of sport and sport science.

Admitting the Bias

So, it may well be possible to do justice to the range and depth of gender (and other) bias in sport science without sacrificing altogether all of the traditional ideals of objectivity and rationality; but doing so will require that we take into account the social structure and psychological dispositions, of the sport sciences itself. Controversial case studies in fairness and fair play in sport show the necessity of dealing with the ways in which social factors can influence the development of sport science and testing, and they demonstrate the extent to which some standard philosophical tools can partially illuminate the origins and diversity of ideological biases in sport science and fair play policies. However, the cries to sport science from athletes pleading for objective, fair, criteria for upholding and enforcing rules for fair play in areas like gender verification; doping and para-sport classifications are not being met because of inadequacies for completing this task as they are embedded within an indefensible conception of the sport science process that limits the influence of social and psychological factors to only the context of sport and not sport science itself.

How chapter 4 concretely relates to the Russian scandal

As chapter 4 is a broader philosophical discussion on the bias of sport science in history and the feminist critiques, this section aims to concretely link the article and the 2016 Russian doping scandal. Two major connections will be drawn: (1) chapter 4 is a logical follow-up to chapter 3 in terms of feminist critiques and (2) chapter 4's nuances leads to better solutions to the Russian crisis for the anti-doping community.

On the one hand, chapter 4 is a logical follow-up to the feminist perspective and critiques of chapter 3. It was argued in chapter 3 that the key ideas of the ethics of care shed light onto a more caring attitude that was forgotten in the debates around the Russian crisis. Similarly, it was argued that the language of sport justice, namely the impartial problem-solving of the discourse for harmony between nations, was considered as the sole solution to the doping scandal. This was illustrated by the reactions of many women leaders including Becky Scott and Claudia Bokel.

With chapter 4, feminist critiques once again shed light into new perspectives – this time in sports science. Besides, chapter 4 demonstrates that normative values influence investigations of sports science, and that “we may want to alter sport science policy in the light of new normative accounts” (p.72) based on feminist critiques. This article supports the thesis of chapter 3 in the context of sports science when it defends that the social arrangement or biases of sports science give “epistemic significance” (p.74) to certain concepts in contrast to others. In other words, chapter 4 is in light with feminist critiques of chapter 3 since the scientific community of sport science favors a certain meaning over another which is the case for the meaning of fairness.

Thus, concrete connections can be drawn from chapter 4 to the 2016 Russian doping scandal. *The Role and Relationship of Science and Ethics in the Evaluation of Fairness in Sport* presents the biases of sports science since it is required to determine, for example eligibility of athletes (or fairness policies in sport). *Caring for Athletes in the 2016 Russian Doping Scandal* touches upon the biases of the media and the international sport community since the problem-solving skills and reaction of women leaders were required to determine, for example, the eligibility of Russian athletes (or fair competition at Pyeongchang 2018).

On the second hand, chapter 4 leads to better solution to the 2016 Russian doping scandal because it refutes the “often-perceived position that the bio-sciences occupy [...] usually above the social sciences of sport” (p.73). Moreover, the article sits well in an analysis of the Russian crisis because it dismisses the common belief that “some feminist critiques [...] are said to tell us nothing about the ‘true nature’ of so-called ‘real science’, because they are critiques of ‘pseudo-science’ (p.73).

Chapter 4 shows that the “pre-existing theoretical assumptions in sport science” bends the definition of the concept of fairness in sport; sports science’s preconceived notions influenced “which questions we ask, which hypotheses we investigate, and which data we decide to ignore as evidentially insignificant” (p.76).

In fact, chapter 4 relates to our analysis of the implication of the 2016 Russian doping scandal as the same assumptions may influence our standard interpretation of the Russian scandal’s evidence. Just like the discussion of chapter 4 is not meant to prove that the hypothesis of sports science are wrong; “but rather, [...] reveal the extent to which the standard interpretation [...] has been col-

oured” (p.76), the discussion of this dissertation on problem-solving or solutions to the 2016 Russian doping scandal is not meant to prove that sports justice’s impartial solutions were wrong; but rather, to reveal the extent to which they were seen as the only valid solutions.

The nuances made in chapter 4 also bring to the forefront the possibility that the scientists of sports science will take over (make their own) the problem-solving discussions of the 2016 Russian scandal. The most important point argument put forward in this section is this one: there are more solutions than the quantitative or empirical solutions that the scientist of the ‘real science’ will suggest. As a scientific community, and if our aim is truly to save the world of sport from doping, we cannot limit ourselves to the problem-solving methods of ‘pure science’. It is a reality that we must anticipate, since the sports science, as we have seen in chapter 4, in the name of rationality, carries its shares of biases and is not immune to philosophical critiques such as the feminist ones.

If we do forget about socio-cultural perspectives in problem-solving discussions about this Russian case, either philosophical, political or historical understanding of the scandal at hand, I sincerely fear that the fundamental question of institutionalized doping systems will remain unanswered and that History is deemed to repeat – and repeat – itself. When anticipating the quantitative or empirical solutions that ‘biotechnological’ researchers will suggest in sport science for the 2016 Russian doping scandal, four come instinctively to mind.

First, scientists from the ‘pure science’ may suggest the solution lies in the testing capacities of a laboratory when it comes to detecting performance-enhancing substance in urine or blood. Second, they may suggest that a better whereabouts system when finding athletes on the globe to provide a blood or urine sample would have prevented the Russian state to instore an institutionalized doping system. They may go as far as suggest that a GPS device would help with the localization of athletes. Third, they may emphasize that a better system for laboratory accreditation or perhaps a better technological data sharing informatic system between WADA and the accredited laboratories would have revealed abnormalities in the Moscow laboratory’s reports on Russian athletes’ tested samples. They may conceive better computer software, find an easier way to access the data of each laboratories and find quantitative solutions based on a better interface, a program, a code or a security system that would have given insights to WADA in the first place and suspend RUSADA sooner.

Finally, and this is the most interesting one, the scientific community of the ‘pure science’ side of sports science may insist that the solution lies in a better design of the Berek-kits, the very bottle that the FSB managed to open without leaving a trace visible to the human eye – what the entire anti-doping world believed were *unopenable* bottle to contain the blood and urine of competitors –. They may pitch new ideas on the locking mechanism of new bottles or engineer new pieces and tools to protect the samples.

The scientific community of the ‘pure science’ may suggest all of these qualitative solutions and many more, but they will never touch upon the most crucial question of the 2016 Russian doping scandal: ‘why did institutionalized doping exist in Russia?’. The bias of ‘pure science’ in sports science tends to hide the undeniable value of socio-cultural perspectives on the issue including the feminist critiques. The many social fields will suggest solutions to the 2016 Russian doping scandal that we cannot, as a scientific community, forget. Instinctively, two fields with their original problem-solving contribution come to mind: (1) an ethical and historical standpoint and (2) a political standpoint.

First, from the ethical and historical standpoint, it might be said that the worst thing that happened to integrity of sport is the globalization and commercialization of sport in the 70s (McLaren 1998). Moreover, ethicists might argue for their position by describing a historical shift in sport values at that time, in the same veins as discussions on the historical shift of sport from amateurism to professionalism.

In fact, this dissertation stands in this perspective by reflecting on the impacts of the 2016 Russian doping scandal on athletes’ rights and integrity of sport. It also stands in the philosophical realm when it describes the contribution of Justice Charles Dubin (1990), among others, the Canadian investigator after the Ben Johnson doping scandal who dared to ask the Canadian nation ‘what sport do we want?’.

Second, from the political standpoint, intellectuals might suggest that the question of the 2016 Russian doping scandal is about ideology. The intention behind the Russian institutionalized doping system was to win Olympic gold medals and to take a political stance in front of the world. Political scientists may present the scandal by describing two different ideologies: the political stance of WADA and all anti-doping authorities against the stance of the Russian government. The

practical solutions of ‘pure science’ will never solve the political tension or ideological conflicts within international sport. Russian researchers such as Altukov (2018) are right in the underlying political tensions surrounding the 2016 Russian doping scandal and draws connection to the cold war. It is even clearer from the political standpoint that, if all nations of the world shared the same ideology, the very meaning of anti-doping would be lost. Theoretically speaking, if everybody sincerely agreed with the clean sport ideology promoted by anti-doping leaders and the World Anti-Doping Agency itself, nations shouldn’t be investigated on the basis of integrity of sport and athletes shouldn’t provide their whereabouts. WADA was created to harmonize and standardize anti-doping efforts in all competing Olympic nations; WADA was built to promote the chosen anti-doping ideology worldwide; it was built to rally every nation to the same cause; or so, it may be argued from a political standpoint.

In summary, chapter 4 relates concretely to the 2016 Russian doping scandal for two reasons: it is a logical follow-up to chapter 3’s feminist critiques and its nuances leads to better solutions to the Russian crisis for the anti-doping community. Again, the most important argument put forward in this section is this one: there are more solutions than the quantitative or empirical solutions that the scientist of the ‘real science’ will suggest. The day the bio-sciences scientific community try to take over the problem-solving discussions around the Russian 2016 doping scandal, they will not be immune to socio-cultural critiques such as the feminist critiques discussed in both chapter 3 and 4 of this dissertation.

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Chapter 5: Article 4 – Title: Caring for athletes in the 2016 Russian doping scandal

Introduction

Due to the polarizing, high profile nature of doping scandals, many sport researchers are, at least in part, inspired to try to contribute to the ongoing debates³³. The 2016 Russian doping scandal possessed this kind of reaction and it inspired and generated thousands of reactions internationally. More precisely, this particular doping scandal has generated so many new types of reactions, particularly from the athletes' perspective, that many media critics, and philosophers of sport, have not had the time to analyze them thoroughly; an important opportunity was missed. This article aims to identify, differentiate and analyze two different discourses around the scandal. The first discourse is the '*discourse for international collaboration*,' which, in a general sense, dominated the sport community and media. The second one is the '*discourse for athletes' care*,' and it will be argued that it contains some of the key ideas from the 'Ethics of Care,' literature, in particular, moral theories that have been developed by feminist theorists. In this paper, the definition and analysis of the 'discourse for international cooperation' will be presented before the identification and analysis of some of the important ideas of the 'Ethics of Care.' It will also be argued that this latter discourse is the '*forgotten discourse*,' and is aligned much more with the reactions of some of the women leaders during the scandal as presented through the many examples of their testimonies. In brief, in most examples of the 2016 Russian scandal, men acted a certain way and women another. The aim of this chapter is to analyse this phenomenon.

Lastly, it will be concluded that a kind of philosophical certitude exists in the concerns raised by the athletes. Finally, it is proposed that separating the diverse reactions to the 2016 Russian doping scandal into at least two distinct ethical discourses can allow researchers a valuable and enriched moral perspective that, when considered together, can strengthen arguments and analysis around the stagnant debate on doping in sport.

A definition of discourse

Barker and Galasinski (2001) define the notion of discourse by emphasizing the lexico-grammatical resources a human being possesses in the communication process. By talking, communicators

³³ The author would like to thank Dr. Marie-Eve Beauchemin Nadeau for her contribution to this article.

make certain choices. They use the “language-system” in a particular way that provides meaning to the social researcher: “The focus is also on the social actions accomplished by language users communicating within social and cultural contexts” (p 63). In-text, written or spoken word analysis, Barker and Galasinski argues, “is interested in naturally occurring text (written) and talk (verbal). That is, 'real world data' which has not been edited or sanitized” (p.63).

Titscher and al. (2000) define discourse in the social meaning of participants’ dialogue-processes. As previously mentioned, a communicator make certain choices. The person has a “linguistic character of social and cultural processes and structures” (p.146). The authors insist that this linguistic character has a significant social impact: “Every single instance of language use reproduces or transforms society and culture, including power relations”. (p.146)

Wodak and Meyer (2001) define discourse in terms text linguistics and by analysis the relation between language and power. For them, discourse analysis “not only focusses on texts, spoken or written, as an object of inquiry [...] [but] require a theorization and description of both the social processes and structures which give rise to the production of text” (p.2-3)

The International Collaboration and Harmony Between Nations

From the international sport and anti-doping perspective, in its simplest form, the reactions that were generally expressed on the 2016 Russian doping scandal have one goal: harmony between nations. In particular, in the Olympic movement, the discourse for international collaboration reaffirms its goal by encouraging athletes to compete in the same sport competitions, asking nations to organize events and determining an international set of rules to ensure a relatively fair playing field. The defenders of this discourse, for instance, can emphasize the uniting qualities of sport or highlight the opportunities for peace that sport generates for nations. Comprehensibly, it is a discourse, often generated by the IOC and International Sport Federations, that conceptualizes sport as a global phenomenon, not frequently questioning the structure of lower levels sport organizations: national anti-doping agencies, national sport federations, national head coaches or doctors, national teams’ athletes, etc.

The corollary, and often critical, reactions to the discourse for international collaboration were ones of fear that athletes could no longer come together with an expectation of reasonably fair

sport competition after the Russian scandal, or perhaps even that this union had become meaningless due to corruption and systemic doping. Similar reactions, like the questioning of: the meaning of the Olympic Games; the integrity of competitors' testing; the existence of fair play; the establishment of records, etc., also relate to it, in the sense that they are essential components of the ideally desired harmony between nations. Accordingly, when officials, politicians or athletes asked "how can we have a meaningful international competition now?," thinking and meaning "we did not have meaningful competitions then [during the Russian scandal]", these questions and assumptions were still part of this discourse.

More than ever before, in 2016, anti-doping circles discussed intelligence services. In part, these discussions were to determine if athletes could still share the so-called 'Olympic dream,' if nations could still come together in unity for sport, what the discourse for international collaboration actually embraces? Thus, for similar reasons, reactions to: the nature of the corruption; the reliability of the evidence; the validity of testimonies; the intentions of whistle-blowers; the jurisprudence of the Court Arbitration of Sport (CAS); the appeals of decisions; or comments related to an uncooperative nation (disinclined to share sport opportunities or interest in peace with the rest of the world), are all also related to this discourse.

In fact, it was crucial, from a sport perspective, to have these types of discussions, to better understand how the anti-doping system had been tainted and to report that both the Russian Anti-Doping Agency (RUSADA) had failed to catch dopers for many years, and that the Moscow Laboratory was corrupted. The corruption was acknowledged by Russian highest sport officials (Kolobkov, Zhukov and Lukin 2018), including the president of the Russian Olympic Committee, when they wrote to the former president of the World Anti-Doping Agency (WADA) Sir Craig Reddie:

The serious crisis that has affected the Russian sports was caused by some unacceptable manipulations of the anti-doping system revealed in the investigations conducted under the auspices of WADA (Pound's Independent Commission, McLaren – Independent Person) and the IOC (the Schmid Commission).”
(p. 1)

Had this corruption not been reported, nor proven by the investigators, there would have been little compelling reason to fundamentally question the 'Olympic dream,' and/or the union of competing athletes, in this sensational international forum – but it was and that is good for a number of reasons as will be outlined below. Russian samples were swapped in multiple competitions by the Russian

Federal Security Service (FSB) (WADA 2016a) in Russia, including at Sochi 2014, allowing members of the national teams to compete *dirty*.

Therefore, during the media coverage of the 2016 Russian doping scandal investigations, the reactions to: the sport law; the juridical process of anti-doping; the authority of the CAS; the legality of coercing athletes to dope; the responsibility of national teams' doctors; the rights of athletes; and the personal information gathering in anti-doping; provided they were international measures, were part of the discourse for international collaboration. This discourse for international collaboration used a well-known analogy of the doping race; the 'good guys' are fighting 'the bad guys' and the latter seems to have the upper hand. For example, there were many reactions when, before Pyeongchang 2018, the Russian competitors of Sochi 2014, banned by the Schmid Commission, appealed the decision of the IOC to the CAS. Almost all Russian athletes used this right (Morgan, 2018b), with the exception of Maxim Belugin, the particular case in which, even if it was swapped, the athlete's sample tested positive (Palmer 2018a). Moreover, a number of officials responded to the premise that some appeals were financed by Mikhail Prokhorov, Russian Oligarch and President of Russian Biathlon Union (Morgan 2018e). Like the other examples, these responses, since they remain part of the "is a nation intentionally breaking international harmony?" question, are part of this discourse.

With this definition at hand, it is possible to explain why so many commentators criticized the role, mandate or actions of international organisations like WADA and the IOC. Both possessed the responsibility to prove Russia's uncooperation. Their investigations revealed that some competitions which the sport community wanted to be unifying were, in reality, orchestrated by a state. Correspondingly, this definition explains WADA's efforts to access the Moscow Laboratory's digital information. It was one of the two decoupled criteria in the Roadmap for Compliance, when RUSADA was reinstated (Associated-Press 2018; Palmer 2018b). The information in the laboratory was understandably crucial in the debates, since most reactors expected it to solve the question "is Russia breaking the harmony?."

When the corruption was finally proven and accepted, Russia, as a nation, had to search for accountable offenders; *viz.* scapegoats. Who was ultimately responsible for swapping samples at Sochi 2014? Was it the FSB (formerly known as the KGB), the commander-in-chief ordering the FSB's operations, Russian politicians who knew about the operations, the few doping doctors of

Russian national teams, producers of steroids, Russian sport federations, etc.? The Russian nation itself lived a crisis. Vladimir Putin made many public addresses, simultaneously apologizing to Russian athletes because he had failed to protect them (Giles 2018a) and affirming that the scandal was a conspiracy fabricated by the United States to undermine the Russian election (Butler 2017a).

In short, all of these examples are related to the discourse for international cooperation. It is the angle on the 2016 Russian scandal that the sport community, including the media, accepted, the one based on harmony between nations.

Before going further, one must separate the verb “to care” with the proper virtues associated with care theory. These virtues include, but are not limited to, empathy, humility and understanding, in a way that prioritizes human relations and communication. Therefore, it should be remembered that officials who defended the discourse for *international collaboration*, without any doubt, cared in the sense of the verb ‘to care’. However, it must also be taken into account that they may have done so impartially, without associating their moral actions to the virtues of care theory.

It can be argued that throughout this discourse on universal international cooperation, discussions about athletes’ experiences are lacking, with the notable exception of the Russian athlete whistleblowers. Its defenders, because of their global focus, morally judged the uncooperative nation in a specific manner. They did so according to universal principles, impartially, through the lens of sport justice, debates on evidence, arguments for defense, compliance criteria, intelligence, responsibility, bans, dates, etc., and never through a more ‘caring’ lens. Of course, athletes’ experiences were not ignored in debates, but the language, in terms of international standards, needed to remain impartial. It never truly prioritized personalities or athletes’ personal feelings. Officials were notably expressing their concerns for athletes during the scandal by insisting on the crumbling Olympic ideals, without directly asking “how do you feel?” or “what do you need?”

With this analysis of the first discourse in mind, it should be noted that, in its impartiality, it does not necessarily objectify moral agents. Experiences were not ignored in this approach but it never prioritized athletes’ feelings. This article aims to distinguish two approaches, but doesn’t aim prove the superiority of one or the other. In such, it should be emphasized that the more impartial reactions were necessary to report and prove findings.

In more concrete terms, on some views of applied ethics, this so-called impartiality could be named the *procedural approach* to the 2016 scandal, which, it will be argued, can be contrasted with the *caring approach*. Three key ideas from the ‘Ethics of Care’ literature allow us to draw this contrast: i) that women and men judge differently; ii) that women tend to care more; and iii) that women feel inferior in ethics, perhaps to a level of objectification.

The feminist theory and Ethics of Care

i) women and men judge differently

The *caring approach* revolves around the concept of a distinctive feminine moral judgment, it has been proposed as one of the first key ideas in the ‘Ethics of Care.’ Many feminist authors have argued that women’s moral reasoning is different than men. For example, James Rachel (2010) introduces the feminist literature on the question in these terms: “most feminists believe that women do think differently than men” (p. 146). Rachel, in his summary of this theory, adds: “women’s way of thinking is not inferior to men’s [...] On the contrary, female ways of thinking yield insights that have been missed in male-dominated areas” (Rachel 2010). This idea that the feminine “way of thinking” is not inferior but complementary in important situations like moral dilemmas should be remembered for a future argument below.

Nel Noddings is one of the earlier authors who distinguishes women and men’s moral reasoning. She writes: “it is well known that many women – perhaps most women – do not approach moral problems as problems of principle, reasoning, and judgment...” (Noddings 1984, p.8). In order to illuminate this difference between men and women, Noddings uses the Heinz’s dilemma. In this dilemma, when participants are asked if a husband should steal to save his dying wife?, Jake seemed inclined to steal the medicine and Amy to refuse the terms of the problem itself, thus illustrating, according to Noddings, this theoretical nuance. Noddings explains Amy’s answer:

“Women, perhaps the majority of women, prefer to discuss moral problems in terms of concrete situations. They approach moral problems not as intellectual problems to be solved by abstract reasoning but as concrete human problems to be lived and to be solved in living. [...] Ideally, [women] need to talk to the participants, to see their eyes and facial expressions, to size up the whole situation. Moral decisions are, after all, made in situations; they are qualitatively different from the solution of geometry problems. Women [...] give reasons for their acts, but the reasons point to feelings, needs,

situational conditions, and their sense of personal ideal rather than universal principles and their application. (p.23)

Noddings' contribution gives us the background foundation for one of the principal arguments in this article. Preliminary analysis, based on Noddings' theory, of the recorded reactions of some of the higher profiled women covered in the 2016 Russian scandal and its polarizing moral debates on doping in sport, indicates that the majority of them were different than men's reactions. In fact, it could be argued that the recorded reactions of men, in general, were more bound to the described discourse for *universal collaboration*, where the women were not. In the vast majority of cases, it seems that men acted one way and women another. This phenomenon needs explanation.

ii) women tend to care more

Among supporters of the 'Ethics of Care,' many authors are attracted to Carol Gilligan's claim that "the psychology of women that has consistently been described as distinctive in its greater orientation toward relationships and interdependence implies [...] a different moral understanding" (Gilligan 1993, p. 22). In Rachel's terms, women's moral orientation is one of caring (Rachel 2010), a second key idea in the 'Ethics of Care.' This second key idea represents an orientation to "taking care' of others in a personal way, not just being concerned for humanity in general" (p. 149). Noddings defined the caring attitude, characteristic of most women, by affirming that it has two essential feelings. The first one is the sentiment of natural caring, an instinctive desire to help others. The second one is the remembrance, the "memory of our own best moments of caring and being cared for" (Noddings 1984, p. 10). For Noddings, this second component in the act of care "sweeps over us as a feeling – as an 'I must' – in response to [...] our conflicting desire to serve our own interests" (p. 10).

Hence, based on this particular feminist theory and arguments, women generally distinguish themselves from men, particularly in situations of moral dilemmas. It is argued that they reframe debates from impartial, universal, abstract or objective conceptions, addressing impersonal groups, nations or agencies, to more personal ones, like asking individuals. Carol Gilligan explains the process with women's "overriding concern with relationships and responsibilities" (p. 150), which Rachel describes as a concern for the individuals' needs as a pertinent distinction for analysis. Along with Noddings' contribution, Gilligan's focus on individual relationships and responsibilities provides us with the framework for grounding another main argument in this paper; *viz.* that

it is possible to describe a previously unrecognized discourse on the 2016 Russian doping scandal, in particular one that seemed to be supported by women leaders.

iii) women are treated poorly or are made to feel inferior in ethics, perhaps to an objectifying level

It is possible to go a step further by noting the discrimination women face in male-bias fields, notably in philosophy. For example, Noddings deplores the conditions that led to women's affects:

If a substantial segment of humankind approaches moral problems through a consideration of the concrete elements of situations and a regard for themselves as caring, then perhaps an attempt should be made to enlighten the study of morality in this alternative mode.[...] If moral education, in a double sense, is guided only by the study of moral principles and judgments, not only are women made to feel inferior to men in the moral realm but also education itself may suffer from impoverished and one-sided moral guidance.” (p.9)

For Noddings, in morality and ethical education, women cross obstacles to expression, are not respected for their moral beliefs and feel inferior to men when suggesting caring resolutions to dilemmas. Further, as one-sided discussions, are dominated by men's judgment, the entire field of study weakens, and is “impoverished” and lacks female insight.

There are connections to be drawn between this description above and the interventions of two of the most influential women leaders in the scandal: Claudia Bokel, former member of the IOC executive committee, through her role as IOC Athlete's Commission Chair, and Becky Scott, former WADA's Athlete's Commission Chair and member of WADA's Compliance Review Committee on Russia. Bokel, after the IOC's decision to allow the Russian team to compete at the Pyeongchang Games in 2018, shared the disappointment with Scott who, the same year, stepped down from the WADA compliance committee after WADA's decision to reinstate RUSADA. Bokel, in an interview for ARD, affirms that the ban was not considered as an option by the IOC athletes' commission executive board: “We wanted there to be consequences for Russia [...] In the [IOC] executive, we were not allowed to discuss it (that Russia ‘would be excluded for Rio 2016 and Pyeongchang 2018’)” (ARD 2018). In an interview for *BBC Sport*, Scott reported that “she was laughed at when reading a list of athletes who publicly opposed RUSADA's reinstatement at the meeting in Seychelles” (Roan 2018; Diamond, 2018a). For Scott, WADA Executive Board's

reaction at the meeting was “indicative of a general attitude of dismissal and belittling of the athletes’ voice,” explaining her resignation from WADA's Compliance Review Committee.

Furthermore, Bokel joined Scott in alleging that both of them, as leaders of the athletes’ voice, were bullied by a member of the IOC during the scandal (Morgan 2018a), claims which did not receive a serious answer from the organization (Etchells 2018), according to Paula Radcliffe (women's marathon world record holder) and Travis Tygart (chief executive of the United States Anti-Doping Agency).

To their respective sport bodies, in the seat of athletes’ chairperson, Bokel and Scott had a similar role or mandate. At the time when both women leaders had the evidence to fight for athletes, after the IOC’s own disciplinary commissions had considered Dr. Grigory Rodchenkov as a truthful witness (CAS IOC v Alexander Legkov 2017; Pavitt 2017) and verified that the Russian secret services had swapped samples at Sochi 2014 (CAS IOC v Alexander Legkov 2017), they were to represent all cheated athletes, including Russian whistle-blowers.

It can be argued that this is a situation that relates to Noddings’ description, in the sense that both Bokel and Scott, mandated to represent athletes, did “[*approach*] *moral problems through a consideration of the concrete elements of situations and a regard for themselves as caring.*” In Noddings’ sense, both Bokel and Scott were acting as the defenders of an ‘Ethics of Care’. It would also follow that these women leaders expressed their moral beliefs in opposition to dominating male leaders from both the IOC and WADA.

It should be stated here that Bokel and Scott were participants in the Ethics of Care, not because of their professional occupation, not because of their jobs. They were such participants because their actions followed the virtues of the Ethics of Care. Indeed, within their jobs, they took actions to meet others and learn from the experiences of athletes. To be the voice of athletes did not come with a predetermined set of values. It was not their professional responsibilities to align their conduct with empathy or humility, but this is how they fulfilled them.

Every time they were fulfilling their role, listening to athletes’ feelings and needs, they were distancing themselves from the so-called impartial *procedural approach* of sport justice or what was defined above as the *discourse for international collaboration*. During the scandal, Bokel and Scott put forward the *caring approach*, in a context resembling that described by authors of an ‘ethics

of care' as biased and impoverished, "*guided only by the study of moral principles and judgments*", where "*women [are] made to feel inferior to men*". So too, were Bokel and Scott made to feel inferior to the men.

In more concrete terms, Noddings' contribution helps us to understand and to explain why the caring approach was forgotten in the anti-doping context and how the two women leaders felt during the scandal. Bokel and Scott were fighting against a biased field, where their view of morality – which included caring, and the fact that they were women, lead to them not being taken seriously. The results were precisely those indicated by Noddings: the women leaders "[felt] inferior" and the Russian 2016 debates "*suffer[ed] from impoverished and one-sided moral guidance*" from the male leadership of the IOC and WADA.

Some feminist authors go as far as describing this unequal treatment in biased fields as objectification, because women are denied opportunities to express their subjectivity. Martha C. Nussbaum and Catharine Mackinnon define objectification as "an existence in which women 'can grasp self only as thing'" (Nussbaum 1995, p. 250).

For Nussbaum, social phenomena resulting from the bias fields "[cut] women off from full self-expression and self-determination – from [...] their humanity" (p.250). From this perspective, women not only feel "inferior" in biased social contexts – to reiterate Noddings' term–, but experience something viscerally worse. It is a violation of their right to subjectivity and a form of objectification. In addition to Nussbaum, Andrea Dworking defends this argument:

it is true, and very much the point, that women are objects, commodities, some deemed more expensive than others – but it is only by asserting one's humanness every time, in all situations, that one becomes someone as opposed to something. That, after all, is the core of our struggle. (Dworking, cited in Nussbaum)

That the women, athletes or officials, were objectified during this scandal, relative to Nussbaum and Mackinnon's definition of objectification, is a defensible case. Objectification of women in sport is at least twofold, through doping (objects of performance) and sexualization (objects of desire), but the latter overextends the discussion.

More related to the topic of sport as a male-bias field are the arguments of Sarah Teetzel, critical of the IOC. She argues that the IOC's authority to determine "the eligibility requirements athletes

must fulfill to compete at the Olympic Games” (Teetzel 2011, p. 386), if used inappropriately, can “function to mandate and normalize the differential treatment of women and men” (Teetzel 2011, p. 387) in sport. For example, it is unclear why women are not eligible to compete in some Olympic disciplines like ski jumping (p. 389) and, even if they are contrary to the Olympic ideals of the organization’s charter, these rules still persist in time.

As a brief overview, these three ideas in the Ethics of Care and the contribution of its defenders simultaneously help to understand the experience of some women leaders and perceive a *forgotten* discourse. Feminist theory does not explain the whole scandal, but helps understand many reactions to it; the reactions that should be assembled under the *discourse of care for athletes*. Feminist theory notably explains that, for example, Claudia Bokel and Becky Scott, in their respective role as athletes’ representatives, may have “[felt] inferior” to their men counterparts and encountered much resistance when expressing themselves.

Further, this reasoning stands without the assumption that men did not care for athletes. If it assumes that men generally expressed their care differently, referring to impartial, objective or universal principles, and rarely to athletes’ personal needs, on the same premise that women’s inequity should be addressed, it also claims that men’s moral judgements should not be considered inferior. Without stating a preference for a discourse, one can argue that, almost without fail, men acted differently than women and that this phenomenon needs investigation.

The two discourses should be considered complementary in debates, since they, taken together, broaden what was previously a “*one-sided moral guidance*” around the 2016 scandal. The discourse for athletes’ care, grounded in feminist theory, helps to describe a new category of reactions: *caring reactions*, based on athletes’ experiences.

Caring for and Listening to Athletes

There is an inspiring case to be made that 2016 had more reactions from female officials and athletes than any doping scandal in history. The discourse they generally supported has fallen under the dominant reactive stream, possesses the notion of care at its core and should be named *the discourse of care for athletes*.

It revolves around the theoretical nuances of the Ethics of Care, where women lean toward *the caring attitude* and assess moral dilemmas as “*concrete human problems to be lived*” or “*in terms*

of concrete situations” (Noddings, 1984), based on feelings and personal responsibilities toward others. It calls for a personalized scope, situational understanding, an identification of particularities, traumas, disturbances, risks, desires, wishes, aspirations, ambitions, goals, dreams, etc. In opposition to the first discourse, it implies an understanding of human relationships, not of international ones. It considers relationships among persons, before agreements between nations, sport bodies or political organization and owns, at its heart, the question “what does this person feel?” or, in this case, “what do athletes feel?”; questions carried by many 2016 female sport leaders.

Henceforth, this discourse can be empirically demonstrated. It is observable in testimonies, notably in those of Russian whistle-blower Yulia Stepanova, cheated athletes, such a Canadian Olympic weightlifter Christine Girard, and high-ranked female officials like Linda Helleland. Examples of this discourse of care, their testimonies deserve some attention.

How Athletes Are Treated and Why Yulia Stepanova Left Russia

Yulia Stepanova was the first Russian whistleblower of the scandal. She had recorded and filmed both her coach and doctor in secret, before giving the footage to German television broadcaster ARD. In the first documentary made by ARD, *Doping top Secret: How Russia makes its winners*, in 2014, Yuliya Stepanova explains how the Russian competitive field of athletics treats female athletes:

“they take any girl, feed her with pills and then she runs. And tomorrow she will be suspended and then they say, we’ll find a new one. They feed her and say, take that, everybody takes it. Take these substances. And if one is caught, they throw away the athlete and take a new one” (ARD 2014a, p.8).

Part of one of her first testimonies on the scandal, this quote demonstrates that, initially, Stepanova’s moral reasoning was not based on integrity of sport, universal principles or responsibilities of sport bodies. She justifies her actions as a whistle-blower by detailing Russian female athletes’ experiences in competitive sport. When coaches or doctors “throw away the athlete,” women are not treated as subjects, but as objects of performance, a description that connects with Nussbaum, Mackinnon and Dworking’s definition.

However, simultaneously, Stepanova may have wished for the reform of RUSADA, punishment of her federation, the All Russian Athletics Federation (ARAF), arrest of her former doping doctor, Dr. Sergey Portugalov (ARD 2014b), former ARAF Head of Medical Commission and Deputy

Director General of the Russian Federal Research Center of Physical Culture and Sports (VNIIFK), from an angle corresponding to the *discourse for international collaboration*, but it is not the main focus. She focussed on the needs, feelings and experiences of her former teammates, friends or colleagues, Russian female athletes who were “[*fed*] [...] *with pills*”, objects of performance in a corrupted system and denounces this unjust situation.

Stepanova’s rationale when fleeing from Russia also points in this direction: “I think that if we would [have] stayed in Russia it would not have been safe. [...] I am thinking particularly about our well-being and our health” (ARD 2015). She and her husband Vitaly give their son’s future as one of the reasons why they decided to whistle-blow:

“*We have a son who is eight months old now and of course, we love sports and we hope that maybe one day our son wants as both of us [...] to be a football player or a runner or a Nordic skis or a biathlete*” (ARD 2015).

Similarly, in this explanation, her actions are grounded on relationships with others. She explains her responsibility *to care*, to facilitate the accomplishments of others, the respect of athletes as subjects, a *caring* attitude, and illustrates the different *discourse of care for athletes*.

The IWF and How Christine Girard Felt

Christine Girard is the first Canadian women medallist in Olympic weightlifting in history and another example of the caring approach. After the 2016 IOC re-tests, she was rewarded for her bronze medal at Beijing 2008 and gold medal at London 2012. Her case is unique, in the sense that she was respectively rewarded only 8 years after Beijing and 4 years after London.

In fact, female Canadian weightlifters all rose considerably in the rankings because of the re-tests. Marie-Eve Beauchemin-Nadeau, initially ranked 8th in 2012, rose to 6th and could get closer to the podium if the disqualifications continue; Daluzian from Armenia was only disqualified in 2018 (Diamond, 2018b).

Nevertheless, the Canadian weightlifting community, learning that they were robbed of their first medal in history, was shocked by the *new* positives resulting from the IOC’s investigations. Girard, ‘only’ a bronze medal winner in 2015, was actually an Olympic champion and double Olympic medallist. In an interview, she writes: “

To have my efforts and those of my trainers, family and supporters validated, means the world to me, even if it is after six long years. This gold medal is a testament to clean sport. It means even more to me now, than had I heard O Canada played that day in London” (Canadian weightlifter gets 2012 Olympic gold after top 2 stripped of medals 2018).

In this interview, the athlete thanked her family, friends and entourage. Girard understood her important place in the weightlifting community, thought about the experience of her teammates and considered human relationships more than her international sport federation. Further, it is unclear whether Girard’s testimonies were considered internationally. Severely criticized by the IOC (Oliver 2017; IWF 2017) and fearing their expulsion from the Olympic Games, the International Weightlifting Federation (IWF) itself was in crisis.

The federation’s coverage and public addresses were about the time-frames to reach anti-doping goals, status of testing or doping history, records to be erased, responsibility of the former Eastern Bloc (Jeffery 2016; Coffa 2016; Oliver 2014), accountability of national federations with the most positives and their possibility to appeal, expensive fees to be imposed to these federations³⁴, massive resignations³⁵ or the presidency of Tamas Ajan itself, formerly accused of money mismanagement (Hartmann 2013). The organization’s actions did not constitute the *caring* attitude, nor did they see the experience of cheated athletes like Girard and the majority of Olympic weightlifters who suddenly feared the loss of their Olympic dream as a priority.

About What Linda Helleland Would Have Liked to See for WADA

On the same note, arguably the highest women official during the scandal, Linda Helleland, vice-president and candidate for WADA’s presidency in 2019, had mainly *caring* reactions to the events. Helleland was the only official to publicly address her intentions to vote against the reinstatement of RUSADA in 2018 and, explaining her decision in an interview, she answered:

“The most important thing for me is that WADA has a President who stands for values such as independence, transparency and democracy and who fights for the athletes. [...] We are not where we should be - we need change!

³⁴ The IWF was criticized for imposing a fee that was 50 times more expensive than the international boxing federation by the Bulgarian weightlifting federation (BWF) in an argument for defence in front of the CAS (BWF v. IWF).

³⁵ See the Albanian case in particular, where, even if Albania was scheduled to host the 2018 European Weightlifting Championships, on the same day, the both Albanian Weightlifting Federation's President and its Executive Board resigned (Oliver,2018a).

[...] *If such values are [seen as] a nightmare, then we know why we have to fight.*" (Rowbottom 2018).

Moreover, after WADA's Executive Committee reinstated RUSADA in Seychelle in 2018, Helleland insisted that it was against the athletes' desire: "today, we failed the clean athletes of the world" (Morgan 2018g). Her testimonies often referred to the main ideas of the Ethics of Care.

In the light of these examples, the thesis of this paper, that women leaders suggested solutions to the Russian crisis with "a regard for themselves as caring" and while considering athletes' experiences as a priority, is defended.

They were expressing their concerns for athletes' needs and sport organizations' relationships with other individuals against the dominant discourse, against the biased field of sport.

Henceforth, it has been shown that there are at least two significant types of reactions to the 2016 Russian doping scandal: the reactions falling under the *discourse for international collaboration* and the reactions regrouped in the *discourse for athletes' care*. Both possess merits and weaknesses, cannot be identified as a superior ethical reasoning and, if philosophers of sport aim to find new variables in the stagnant debate on doping in sport, are to be considered as complementary.

The complementary of discourses and missing variables

On discourses being complementary

Objectively proving the superiority of an established moral theory over another is an unconceivable task. All theories worth studying possess strengths and weaknesses that an honest critical thinker alternatively explores. This fact influences interpretations of the reactions to the 2016 scandal. From a general standpoint, reactions frame themselves within established moral theories and, thus, should not prove to be superior to one another. The discourse for harmony between nations and the discourse for athletes' care possess their own strengths and weaknesses. One should not be considered better than the other, but, as this article establishes, should be differentiated and analyzed for what they are.

Experiences were not ignored in the *procedural approach* but it never prioritized athletes' feelings. The more impartial reactions were necessary to report, prove findings and bring corrupted sport institutions to justice. However, the *caring approach* was necessary to build relationships with victims. The two approaches were necessary and coexisted.

On the Missing Variables

With this in mind, even if the Ethics of Care doesn't prove itself to be better than other moral theories like Utilitarian or other deontological ethics, it is a meaningful exercise to analyze the Russian scandal from the perspectives of a multitude of theories. Feminist theory brings new ideas in the debate on doping in sport; there is an opportunity to find new variables in the *discourse for athletes' care*. For example, athletes who tested positive during the 2016 re-tests, if directly asked about their needs, have the potential to bring original information. With more of their words, new solutions may be proposed, new sides of events observed. Even more so that the doping theme is polarizing, brings out intense reactions from agents, generates more tangible memorable experiences and meaningful empirical data for philosophers of sport's analysis, researchers should not look further than feminist theory to strengthen their arguments.

There is a sound new reality in the Ethics of Care and, in the case of the Russian scandal, it has been forgotten. Perhaps, interventions of female leaders, such as Claudia Bokel and Becky Scott, was unjustifiably considered to be inferior to the dominant discourse. Elected officials may have cared for athletes, but did in a different way, speaking in athletes' names, in the impartial language of sport law, without directly asking "how do you feel about..." to the members of sport federations. Surely, it is a possibility that, without directly asking them, they truly cared.

If this is the case, in certain situations, it must also be true that cheating or cheated athletes are denied opportunities to express themselves to sport organizations, that some had a dismissive attitude or obstructed some subjects' freedom of speech. From an analytical perspective, the neglect of athletes' testimonies is a refusal of valuable empirical facts, variables to understand "what athletes want" and the responsibility of institutions. In other words, many arguments, like the one for sport integrity, have a chance to reach further. The concept of sport integrity itself, through a caring lens, could increase in social dynamism, lend as much space to athletes as concepts or sport ideals. Philosophers such as Schneider, insisting on the vulnerability of athletes in the anti-doping system, a necessary sacrifice for fair play in sport, and Teetzel, describing inequities between sexes in the Olympic Games (Teetzel 2011), following a more *caring* conception, shows this possibility that integrity becomes a question of feelings, respective needs or human experiences in sport.

In contrast, essentially focusing on the evidence in the WADA reports and choosing impartiality over athletes' experiences are works such as Parry's (Girginov and Parry 2018). In it, the arguments, as much as they belong to the *universal cooperation* discourse, misses both new variables about the experiences of athletes and opportunities to broaden the doping in sport debate. For example, in order for the debate to grow into new proportions, Russian athletes should be asked what they thought of the "*unacceptable manipulations of the anti-doping system revealed in the investigations*" to use the terms of the Russian officials Kolobkov, Zhukov and Luking (2018). The athletes may never have had this opportunity, since, for example, WADA had the impression that whistle-blowers feared reprisal for collaborating with investigators (WADA 2015), the IAAF reported abuse against whistle-blower Andrey Dmitriev (IAAF-Taskforce 2017), ARD saw whistle-blowers withdraw from scheduled interviews (ARD 2015), Grigory Rodchenkov received a public death threat from a Russian Olympic official (Walker 2017) and the Russian competitors under the neutral delegation in Pyeongchang 2018 were asked to restrict social media use "following concerns [that] they are being provoked by other users" (Morgan 2018d).

Notes on doping as a crisis situation for athletes

Poppel and al. (2020) find that the "publication of recurring doping cases should be harmful" and "calls high-performance sports from a values-based perspective in question as it thwarts the positive values of sports" (p.3). In such, doping "should be classified as a [...] crisis" (p.3)

Poppel and al. evaluate the relationship between sport recipients, "an umbrella term which includes sports fans and those recipients who only occasionally watch sports" (p. 5) have with the popular athlete. They outline that "recipients become vulnerable by spending money (e.g. for tickets, journeys to competitions, etc.) or by publicly supporting the athlete (e.g. via social media). (p.5)" and, therefore, are not ready to *let go* of their relationship easily. Concluding on three studies, the authors go as far as claim that the athletes are, to an extent, shielded from denigration: "athletes seem to be surrounded by a kind of protective shield in the public eye if they face doping allegations until they confess." (p.20)

Sport recipients trust the known athletes to cleanly but are particularly affected by crisis communication from them: "crisis communication statements of athletes facing doping allegations should have a profound impact on recipients." (p.7)

Athletes communicate with their fans during crisis. It is a crisis communication to preserve their public image and save their reputation: “facing doping allegations is a threat to an athletes’ reputation. As a result, they generally try to repair their standing by crisis communication strategies.” (p.2)

Today, athletes are more in control of their public image and reputation because of social media. There is more option than traditional media when it comes to communicating with sport recipients, some “(dissemination) channels can be controlled by the athletes themselves”. For example, Poppel and al. base their argument with the example of Maria Sharapova and Lance Armstrong, which “indicate that social media accounts are important channels to publish crisis communication statements in case of doping allegations. (p.8)

Based on Poppel et al., in the case of the 2016 Russian doping and the aim of this dissertation, it is to assume that the minister’s comment to reduce social media posts influenced the crisis communication of athletes with their sport recipients. Public statements from authorities, may have changed the Russian athletes’ crisis communication strategy (denial, scapegoating, justification, apology or others) (Poppel, p.3).

Notes on a geopolitical bias of researchers

In its criticism of sport authorities, Altukov (2018) is right in outlining the contemporary funding of the principal sport organizations. The funding or revenue of authorities can change our understanding of international sport. For instance, the IOC “sold a license to broadcast the Olympic Games in Europe during 2018–2024 years to Discovery Communications Inc. for €1.3 billion” (p.7). Today, sport organization entails “sports and entertainment production, travel, media, educational, informational and other services [...] with billions of dollars in turnover.” (p.5)

The author understandably asks for transparency in sport economics when accessing the role of the IOC, WADA and IFs. For Altukov, the management of billions of dollars gave a reason to these powerful sport entities to launch “a new round of cold war.” (p.6) against Russia.

Altukov is also right in bringing the scope of globalization. Whether in the financial, technological or sporting world, globalization makes it possible for companies and institutions to assert unjustifiable political pressure on other nations. There are attempts “to impose on the whole of humankind

a kind of universal model of the social order modeled on the neo-liberal democracies of the USA and Western Europe.” (p.2)

In other words, the author believes that both financial incentives and globalization lead international sport to chose Russia as a scapegoat in the 2016 Russian doping scandal. Some Russian researchers call it an undeclared war against Russian sport and ask authorities to promote a “global understanding between cultures” (p.10), which would create better competing climate for Russian athletes.

Some limits to remember are the geopolitical bias of Western researchers. In general, when describing the 2016 Russian doping scandal, they tend to insist on different facts than Russian researchers.

One of the most popular American narrative is that, with “the success Russia experienced at the Sochi Winter Games” and Putin subsequent *boost* in popularity, the President felt more confident to take “aggressive military action in Ukraine” (p.3). Another popular narrative concerns the announcement of the U.S. National Intelligence Council (USNIC) in January 2017, when the Council “announced that Russia had launched cyberattacks during the 2016 election year as a retaliatory action for high-profile doping allegations, among other factors.” (p.2)

In the United States, also noteworthy is the influence of the New York Times itself. Some researchers claim that the New York Times “serves as a ‘guard dog’ for U.S. interests (Donohue, Tichenor, & Olien, 1995)”. In fact, the United states were late to cover the scandal: “(the United States) offered almost no reporting” after the 2014 ARD documentary, when the allegations had “gained considerable attention in Europe”. (p.5) In other words, in the United States, “U.S. news organizations expressed little interest” in the Russian doping scandal until the issue affected them. Denham argues that American new outlets massively increase their coverage on the 2016 Russian doping scandal once, reported in the New York Times, “the information Rodchenkov supplied reflected behavior that posed a threat to the athletic success of the United States.” (p.6).

Similarly, Denham’s (2018) study of the New York Times 2016 coverage mentions that “in 2015, Putin ordered an increased military presence in Syria”, with an “apparent dismissal of U.S. concerns”, which “may have heightened tensions between the two nations.” (p.3) Further, Denham

details many retaliatory actions after the New York Times' coverage of the Russian doping scandal:

“Following the 2016 Rio Summer Olympics, Russian hackers gained access to WADA computer records, including medical files of prominent U.S. athletes (Ingle, 2016; Perlroth, 2016). Information on athletes' prescribed medications was eventually made public. Additionally, the USNIC stated in January 2017 that high-profile doping allegations against Russia were one factor in the election cyberattacks of 2016. Finally, in December 2017, U.S. officials warned Rodchenkov that Russian agents had entered the country and were searching for the former RUSADA director (Axon, 2017; Isikoff, 2017). Coverage of doping in Russian sport certainly did not go unnoticed. (p.19)

On the Details of the 2016 Scandal

It is unconceivable that researchers would not be interested to know how Russia felt when the nation *under-performed* at the 2010 Vancouver Olympics, a performance that, according to Rodchenkov, justified the beginning of the state-sponsored doping program in 2011 (Rodchenkov 2017). Further, the intentions of the Russian state should be opposed to the feelings of athletes. How did Russian athletes view their country's medal standings? What support and pressure did they face from their teams, coaches, sponsors and families?

Researchers would accept a deadlock, if they refuse to consider how Russian athletes (youth, junior or senior) felt when athletes ran away from testers at Irkutsk (Butler 2018b; Giles 2018b), training camps were held in closed cities like Trjochgorny (protected by the army) (Brown 2017; ARD 2016b), the FSB “was woven into the fabric of the [Moscow] Laboratory operations” (WADA 2016a, p.60) or when Head of RUSADA, Nikita Kamaev, and chairman of RUSADA executive council, Sinev Vyacheslav (Kramer 2016), according to Yuri Ganus (new head of RUSADA), died from questionable deaths (RUSADA chief questions death of his colleagues 2017).

During the scandal, Russian athletes or officials were not directly asked and institutions rapidly excluded blamed officials and representatives. There was no interruption to ask “how did you feel about working at RUSADA” or interpret what contractual disclosure clauses left unknown for years. Nevertheless, there is still this invitation from feminist theory to derail from the dominant discourse and ask those who are cared for.

Athletes deserve *a say* in sport, because they are a fundamental part of sport; every decision of the IOC or sport federations affect athletes directly. Moreover, if you acknowledge that Russian athletes deserve freedom of speech, researchers are forced to admit that they were supposed to have *a say* during the 2016 doping scandal.

On that note, to my knowledge, the IOC has never ventured to state what role the athletes should play outside of sports. Encouraging athletes to be more critical of their national sport federations, for instance, would create a lot of friction between the Committee and National Olympic Committees (NOCs). The same applies to nations' investments in sports; the Olympic community should never comment if Canada decides to fund winter sports more than summer ones.

Besides, it is not clear what role competing athletes have in sport politics. It does seem hard to be both an Olympic competitor and an informed critic of national sport institutions since the most outspoken athletes need to be selected by the institutions they criticize.

Selection can also mean indoctrination; some can diminish their chances of competing at the Olympic Games if they are judged too critical. Thus, sport institutions decide on athletes' roles; if a nation rewards victories with massive prize money, athletes may consider themselves as employees of the state; if a nation pays athletes' academic tuition, athletes may consider themselves as students; if a nation gives athletes prestigious political responsibilities, they may consider themselves as a member of a political party; if a nation builds a broad funding program in partnership with athletes, they may consider themselves as generous community leaders; etc.

Counter-arguments

The following section considers counter-arguments to the principal thesis of this chapter: there was a missed opportunity to distinguish discourses around the 2016 Russian doping scandal. It doesn't consider counter-arguments for the Ethics of Care itself of the author's analysis of the cross-referenced testimonies from women leaders.

The first counter-argument, on this chapter's burden of proof, states that the distinction is weakened by the unproven methods of the Russian state. It begs the question: 'on what common ground is the distinction viable?'. The second counter-argument, on assumptions, states that the distinction is only framed by distorted facts, reported poorly by the rushed editorial boards. Similarly, it begs the question: 'how can the testimonies and events be proven?'.
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On the Burden of Proof

The strongest argument against this article's distinction of discourses is its burden of proof. This thesis relies on many unproved assumptions, such as the Russian's method for the doping of athletes and sexual differences described by the Ethics of Care. For the doping itself, much empirical evidence is inaccessible, either protected by secret services or destroyed during the scandal. The argument is valid for classified governmental documents and for urine samples, since many of the latter were destroyed when WADA announced its intention to collect samples at the Moscow Laboratory in 2015 (WADA 2015, p.279). Many secret activities or competition standings remain uncertain because of these 'clean-up' operations. Among others, it is the case of the 2013 Universiade in Kazan, where sample swapping occurred (WADA 2016a) and confirmation by re-tests is literally impossible. Its standings may be labelled as suspicious, but any formal accusations against individual competitors lack evidence. Thus, discussions about the Russian's doping method or activity of the FSB that lead to an "*unacceptable manipulations of the anti-doping system*" carry assumptions, a burden that this thesis bears.

On the same note, in these discussions, many assumptions come from the presentation of allegations and facts in the media. In some regards, due to reported revelations and reactions, the scandal led to a communication crisis between sport organizations. Allegations were often distorted or treated as facts by agitated editorial boards, some officials' individual reactions did not reflect the ones of their organization, nations had their own debates, reforming institutions at a dramatic pace, certain events were treated poorly and, in the West and East, many public addresses from politicians contradicted each other. Henceforth, this paper does not entirely rise above these communication problems. It doesn't find much more empirical evidence than the one reported in a context of blurred information and, in some cases, needs to rely on assumptions.

A Solution to This Burden

Yet, one thing is certain. It is the credible testimonies of Russian whistle-blowers, validated by videos and sound-recordings of their coach and doping doctor, who initiated the WADA investigations in 2015 (WADA 2015). With the investigative work of ARD, recordings exist to prove that a doping doctor promoted drugs (ARD 2014a), that an anti-doping official informed athlete

of eventual testing and, among other evidence, that suspended coaches coached at Russian competitions (ARD 2016a; ARD 2016b). The initial reactions from whistle-blowers are the easiest to interpret and should be valued as a philosophical certitude. They prove that some Russian athletes felt coerced to dope by diverse pressures and had a poignant feeling of injustice, explaining their initial reaction to speak-out.

This feeling is the closest thing we have to certitude, a fundamental truth, in discussions about the 2016 doping scandal and this article dares to say that it has more value than some objective explanations. For example, only a few details can be proven to be fundamentally true in the explanation of the Kazak anti-doping agency, who couldn't properly target or test the 12 athletes that tested positive from the 2016 IOC re-tests (IOC 2017). When, for its five athletes, the Kazak weightlifting federation argued that they “had no possibility to detect any positive samples from the athletes concerned” (CAS WFRK v. IWF 2017, p.6), researchers should agree that, in comparison, there is more to be found by asking a penalized Kazak athlete (not selected for the 2008 or 2012 Olympic games) how he or she felt.

Further, the reason why RUSADA did not properly target or test their competitive teams is less important than how Russian weightlifters or track and field athletes felt when they were banned from Rio 2016 (IWF 2016). Their point of view was not asked, with the exception of some internet interviews, produced by athletes themselves. The most important ones are *the Klovov Interviews*, because they gave weightlifters an opportunity to express their own concerns on their Russian federation, suspicious qualifying system for the Games (Klovov 2013a), new national coach selected by the Ministry of Sport (Shilova 2012; The Ministry of Sport approved the successors of Rigert and Karakotov 2013) and national team's pharmaceutical prescriptions (Klovov 2013b). It is said, for example, that athletes were not properly informed on the selection process for the 2008 Olympic Games, a valuable and overlooked piece of information. In short, *The Klovov interviews* constitutes a multitude of testimonies that adds more empirical evidence to analysis than some objective explanation and nuances *Russia's* reaction to the scandal, an unconceivable generalization of the nation's many reactions and debates.

For these reasons, the initial reactions of whistle-blowers and testimonies of penalized athletes should be valued highly in research. They bring a philosophical certitude untouched by the communication crisis and previously-mentioned assumptions on Russian's method for doping and solve a portion of this article's burden of proof.

A Solution to Assumptions

For the purpose of this article, it should be understood that the distinction between discourses is only possible through the lens of Ethics of Care supporters, such as Nel Nodding and Martha C. Nussbaum. Consequently, critics of the theory, even if they should not accept the distinction based on their personal convictions, should concede that it is a plausible interpretation. The reactions of women leaders are interpreted according to the Ethics of Care and the distinction exists only within this frame of feminist theory. These supporters, for example, can consider the reactions to the 2016 scandal as a case study for the Ethics of Care's main ideas, some of them exemplifying a moral difference between the sexes.

It is true that a scientific demonstration of the equal moral judgment of sexes ends the discussion and the distinction. If it can be proven that women do not tend to care more than men in moral dilemmas, the reactions of women leaders in the scandal may be interpreted differently. Since it has not been proved however, the distinction stands. In fact, whether women generally judge differently or not, a male-bias has been established by the scientific community in many fields: social sciences and others. This fact alone supports claims of men's domination in specific fields, undeniably affecting women's expression. Rachel writes: "It is easy to see the influence of men's experiences in the ethical theories they have created. Historically, men have dominated public life, where relationships are often impersonal and contractual" (Rachel 2010, p.156). Notably, it supports the claims of Bokel and Scott, hurt by the dominant discourse.

Thus, since this article remains an application of theory, the distinction stays within theoretical boundaries and these moral judgments' equality has not been proven, the assumptions on several differences do not affect its main argument.

Conclusion

In conclusion, based on the main ideas of the Ethics of Care, this article has shown that there has been a missed opportunity to distinguish reactions to the 2016 Russian doping scandal in two discourses: the discourse for universal collaboration and for athletes' care. It has demonstrated that the reactions and testimonies of women leaders, such as Yulia Stepanova, Becki Scott, Claudia Bokel, Linda Helleland, Christine Girard and others, generally embraced the *caring* approach. For them, the conflict needed to be resolved by asking the athletes directly, understanding their experiences and listening to their needs.

Mainly, researchers should value the philosophical certitude inherent in athletes' credible testimonies and the fact that the *discourse for athletes' care*, because of the male-bias field of sport, was forgotten in debates. Further, the impartial approach, rooted in sport justice and generally conceived to be superior, with discussions on length of bans, possibility of appeals and arguments for defence, since it is impossible to prove the superiority of moral theories, was only shown to be complementary. Both discourses possess their strengths and weaknesses and, in order to strengthen philosophical arguments on polarizing events like doping scandals, both deserve the attention of the scientific community.

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Chapter 6: Conclusion

In conclusion, this dissertation finds that the 2016 Russian doping scandal had an unprecedented impact on the world of sport. Analyzed sources include investigation reports from the World Anti-Doping Agency and IOC, documentaries from German television station ARD, public addresses, news articles and press reviews; these sources were cross-referenced with testimonies from Russian whistleblower Yulia Stepanova, Vitaly Stepanov, Grigory Rodchenkov, Andrey Dmitriev and others. This project uses a philosophical frame of study with a focus on philosophy of sport and feminist literature, notably the ethics of care and postmodern feminism pieces. It defends that the Russian scandal affected athletes' rights, WADA policies and the future of Anti-doping. The examination of history of sport literature to compare current events with the Festina scandal, the GDR state-sponsored system or the lance Armstrong controversy is also noteworthy.

In terms of athletes' rights, the swapping of samples by the FSB at the 2014 Sochi Olympics, even if it consisted of a new methodology, was not the sole question to consider. The corruption of the formerly WADA accredited Moscow Laboratory led to the falsification of an unknown number of samples from all Russian sports. This scale of corruption raises the possibility of many other falsifications, such as age, student status, qualification process and individual performance. In the inspected *Klokov Interviews* examples, these falsifications possibilities were raised by Russian athletes themselves. Russian sport was corrupted, and athletes could not validate their performances or status as competitors. As demonstrated, no social contract guaranteed the respect of their rights:

“When powerful institutions like the FSB, a nation’s secret services agency, is involved, their impact on athletes’ rights [...] can take a life of its own, especially regarding what rules cannot be broken at all. Under the conditions of institutionalized doping, what was protected by the rules – including athletes’ rights – become more vulnerable.” (p.46)

In addition, this dissertation argued that the IOC did not take a clear stance against Russia before the 2016 or the 2018 Olympic Games. This claim is supported by interviewed Canadian experts and many athletes' leaders. Many athletes claim they were ignored by the Committee. Moreover, anti-doping's new focus on intelligence gathering and investigation could lead to serious concerns

for athletes' privacy. A demonstration has been made that athletes were already subject to a form of invasion of privacy before the scandal with the online whereabouts system requirements and their regular testing:

“A stored DNA sample is essentially an eternal and unlimited supply of genetic information [...] There is insufficient scrutiny of (and strong fiscal incentive for) data collection. This vastly complicates the “consent” process when ‘biobanking’ is involved because it is impossible to predict all of the uses the sample may ultimately have” (p.43).

In terms of WADA's policy, a strong case has been made that the Agency felt the need to shift its prioritized activities to investigation during and after the Russian scandal. The acquired right to lead their own investigation, the hire of Gunther Younger as director of intelligence and the private members bill 238 (unanimously passed by Quebec's National Assembly) granted civil jurisdiction immunity to their decisions are revealing examples of its new attitude. In 2016, the WADA Independent Person Richard McLaren reported that “the (Russian) Ministry of sport directed, controlled and oversaw the manipulation of athletes' analytical results or ample swapping” (p. 86, IP REF). The Agency had gone beyond the positive tests of individuals to take into account the responsibility of the Russian Ministry of Sport; it is this type of reflection that marks a new investigative interest. With this new interest, it is also important to mention that investigative journalists became allies of the anti-doping movement. The work of Hajo Seppelt and Grit Hartmann for instance was pivotal in the 2010s.

Lastly, this thesis defended that contemporary anti-doping revolves around athlete empowerment. Sport officials value whistleblowers' information more than ever and must spend considerable amounts of resources to protect them from retaliation. Both in the Armstrong and in the 2016 Russian case, some involved officials declared that a code of silence still exists in the world of competitive sport. The question of athletes' empowerment was notably discussed with the philosophical distinction between impartial and caring reactions to the scandal. With accounts from athletes' representatives Becky Scott and Claudia Bokel, former track and field athlete Yulia Stepanova and weightlifter Christine Girard, it was found that women tended to suggest caring solutions. It was argued that women, in general, insisted on human relations while men recommended

impartial solutions. Furthermore, this dissertation, based on feminist theory on the ethics of care, demonstrated that impartial solutions were considered by the higher sport authorities as the only valuable solution to the Russian crisis:

“these women leaders expressed their moral beliefs in opposition to dominating male leaders from both the IOC and WADA. Every time they were fulfilling their role, listening to athletes’ feelings and needs, they were distancing themselves from the so-called impartial *procedural approach*.” (p.64)

Under these conclusions, this doctoral study finds that the Russian scandal impacted empowerment and, in a more general sense, darkened anti-doping future. As the vulnerability of Russian competitors is clear inside the nation’s state-sponsored doping system, it is also clear inside the IOC’s weak governance measures. Based on history of sport literature and this dissertation’s presented experts’ interviews, it was discussed that the Committee has always been reluctant to concede power over the Olympic Games. In such, the future of anti-doping relies on athletes’ capacity to expose both corrupted systems and compliant rule-makers, to overcome their oppressors.

The topic and themes of this study provide many opportunities for future research. This study did not translate Russian primary sources or nuance the country’s news coverage *vis-à-vis* the English-speaking western press. Russian translators should be involved in further analysis of Russian governmental documents, politicians’ public addresses, athletes’ testimonies, news articles, reports and Russian intellectuals’ reaction to the crisis. On the same note, the Russian media coverage and public addresses from Russian politicians, oligarchs or sport officials seemed contradictory at times. A comparison of these addresses and coverage in their original form are required to confirm this impression. In particular, I must suggest the large amount of Russian public addresses on WADA’s Roadmap for compliance. It seemed to the western press that Russian sport officials persistently insisted on their fulfillment of the Roadmap criteria. Some Russian news outlets kept reporting that RUSADA should be allocated its compliance status rapidly based on statements from Russia competitive sport representatives. In such, what was not translated by the western press on the Russian politicians’ arguments could not be considered in this dissertation. Moreover, the comparison of the Russian press and the Americanized western press would reduce several

biases and nuance arguments. In this digital age, researchers should go as far as compile and summarize social media posts from influential Russian figures to reduce the number of linguistic barriers. As a French-Canadian philosopher, I learned that semantic challenges impoverish philosophical examination. Therefore, it is essential to dedicate time and effort to broaden the western frame of reference to reflect the subtleties of the Russian language.

Many research opportunities in political science are also noteworthy. Researchers could interpret Russia's coercion in blaming Grigory Rodchenkov for Moscow's Laboratory corruption or in defending charged Russian institutions such as the Ministry of Sport. Russian politicians surprisingly appeared to agree on certain pieces of information while, at time, making contradictory public statements on other details. Once again, I must admit that the core of these public figures' discourse, if it was covered, was lost in translation by the western press. The same applies to the reports of Russian independent investigation units who heavily criticized WADA's findings and could not be explored in this doctoral project. On a more general note, Russian's relation with the west, but especially with the United States in the sport context needs to be studied. Anti-doping is the most meaningful in a political science context.

Lastly, researchers should continue to follow the complications of Russian scandal. The crisis is effectively over, but Russia's tensions with WADA recently grew from the discharge of newly appointed head of RUSADA Yuri Ganus. At the end of 2020, the repercussions of the scandal are still creating conflicts in the sport world. Hopefully, all facets of "one of the most elaborate ploys in sports history" will be taken seriously in academia.

Curriculum Vitae

Mikael J. Gonsalves

French, English.

Summary

After an international career in Olympic weightlifting, I fast-tracked from masters to PhD program in sociocultural Kinesiology. As both head coach and lecturer, my research focussed on sport corruption, athlete's rights and the recent Russian doping scandal. I collaborated with the director of Canada's International Center for Olympic Studies and presented twice at the annual conference of the International Association for Philosophy of Sport in Norway and Japan.

Professional experience

Researcher in sport adaptation **2021**

*Sport Social Impact Group, Sport Social Humanities Research Council
In partnership with the Canadian Olympic Committee*

- Reach and interview Canadian Olympians and varsity athletes
- Translate and summarize discussions with athletes
- Strategize on solutions based on discussions with athletes

Researcher in sport integrity **2016-2021**

*University of Western Ontario, London
In partnership with the International Center for Olympic Studies*

- Write, edit and submit scientific articles
- Analyse, summarize and present an academic research
- Apply for national and international conferences and grants

Teaching assistant **2016-2021**

University of Western Ontario, London

- Supervise, guide, mentor and advise undergraduate students
- Revise, evaluate and grade academic projects
- Share online resources for and undergraduate course

Head weightlifting coach **2019-2020**

Mouvement Barbel, Mouvement Strength, London

- Coordinate competitive programs for regional to international athletes
- Guide and advise athletes on training programs and nutrition
- Communicate choices and results to shareholders

Weightlifting coach **2017-2019**

London Weightlifting, Hybrid fitness, London

- Guide and advise athletes on training programs and nutrition
- Foster team spirit and a healthy training environment

Sport Career

Member of the national junior and senior team in Olympic weightlifting 2012 & 2016

World Junior Championships of Antigua, Guatemala

World Senior Pan-American and Olympic Qualifier Championships of Cartagena, Columbia

Member of the national varsity team in Olympic weightlifting 2014 & 2016

World University Championships of Chiangmai, Thailand

World University Championships of Merida, Mexico

International invitations team Clermont-l'Herault and Villeneuve Loubet 2014 & 2015

International Denis Randon Tournament of Montpellier, France

France Cup by Regions of Villeneuve Loubet, France

Education

Doctoral studies in Kinesiology – Philosophy of sport 2016- 2021

University of Western Ontario, London, Canada

Bachelor's Degree – Philosophy 2012-2015

Université du Québec à Montréal, Montréal, Canada

Overseas studies – Philosophy 2014

Université Paul-Valérie Montpellier III, Montpellier, France

College Degree – Medias studies : Journalism 2010-2012

Cégep André-Laurendeau, Lasalle, Canada

Publications

Gonsalves, M. J. Schneider A. J & Hellal M. 2021. ‘Athletes’ Rights, Doping Control and Potential Affects of Covid-19’, *Frontier in Sport and Active Living, Anti-Doping Sciences*, [Under Review in 2021].

Gonsalves, M. J. & Schneider A. J. 2021. ‘The Brave New World of Athletes’ Rights and the Pursuit of ‘Clean Sport’: Significant Shifts for the World Anti-Doping Agency”, *Olympika. The International Journal of Olympic Studies*, [Under Review in 2021]

Gonsalves, M. J. 2021. ‘Why Athletes Deserve Second Chances; an Answer to Crisp and Sims”, *Journal of Emerging Sport Studies*, [unknown volume and pages] [Accepted for publication in 2020]

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