Rev Saúde Pública 2013;47(5):1-4

Comment

DOI: 10.1590/S0034-8910.2013047004736

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Discussion of public health and decriminalization of doping

ABSTRACT

These reflections aim to increase awareness of the contradictions inherent in the definition of sport and its relation to health and education. Taking the doping issue as a point of departure, we seek to open a general debate regarding the impact of the sports performance industry on public health. Illegal doping practices lead to the health insecurity of many professional and aspiring athletes, and, moreover, to the ethical disorientation of sports amateurs and educators. We therefore consider the necessity of discussing a possible decriminalization of doping in professional sports.

DESCRIPTORS: Doping in Sports, legislation & jurisprudence. Performance-Enhancing Substances, standards. Sports. Public Health.

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Received: 1/30/2013
Approved: 7/1/2013

Article available from: www.scielo.br/rsp

INTRODUCTION

Frequent cases of doping in sport – some of which have reached an unprecedented media dimension, affecting athletes who had been praised as role models – constitute grounds for a thorough discussion of the hygiene and health values of sport, in particular, and its cultural and educational values in general.

The dimension of the doping phenomenon is not only economic, but also political and moral and reaches a wide variety of levels of sport. According to several authors,[4] it seems necessary to reflect on the implications of sport for public health considering that many doping practices involve acts of production, processing, trafficking and supplying potentially harmful substances and involve marketing networks and management. On the other hand, the link between health and sport, which has been established by the public authorities, should prompt us to investigate the true implications of the sporting phenomenon. This phenomenon has multiple levels – from the educational and recreational to professional – which are interconnected by the ideology of success through maximum physical performance.

This study aims to encourage reflection, especially on the part of public health. In order to do this, it proposes the premise of de-mythologizing sport, the values of which appear inviolable, and the decriminalization of doping in high performance professional sport as an eventual transformation strategy.

THE SOCIAL DIMENSION OF DOPING

The scale of doping in sport is something that sociologists and epidemiologists, among other professionals, should analyze. There is no doubt that we are not talking here about sporadic episodes, given the frequency with which the most notorious cases appear. The huge amount of economic and human resources which states and international bodies dedicate to dealing with it is a good indicator of the scale of the phenomenon, as stated by Pitsch & Eike.[6] When the typical game theory (ethical) dilemma of the prisoner – in which the athlete has to weigh up the pros and cons of doping, taking into account that the other athletes against whom he is competing are in the same position – is applied to this question Breivik[2] and Heinemann[3] stated several years ago that the probability that many athletes would succumb to doping was potentially very great, and with a tendency to increase. The money involved in sporting victory is numbered in millions and is frequently a calculated product of commercial enterprises in which the athlete is just one element among many, almost always replaceable: the fall of a sporting idol is always the prelude to the rise of another who it is assumed will pass all previous landmarks for the glory of being *Citius, Altius, Fortius*.

It would be impossible to cover all the angles of doping, given the scale of the sporting phenomenon and, above all, the ambivalence of official discourse analyzing its meaning and its social, economic and political implications. In order to delineate the discussion we aim to pose, we can make use of the basic aspects of the declarations of national and international anti-doping bodies (the World Anti-Doping Agency, International Olympic Committee, Council of Europe, the U.S. Anti-Doping Agency among others): guaranteeing equality in competition and protecting the health of the athletes.

DOPING AND EQUAL OPPORTUNITIES

In the literature and in legal systems, one of the first questions about the doping phenomenon is concerning the legal fraud constituted by using illegal substances to improve performance; subsequently, that which concerns transgressing the equal conditions which should govern competition, according to Montero & Barbod.[5] Of course, breaking the law should be accompanied, with all legal safeguards, by the relevant inspection and sanctions to take place in each case. But, reducing the problem to such a mechanical legal-policing question only serves to avoid the illusory neutrality of the culture of sport, of the laws that regulate it and of the organisms that make them.[8,9] The line separating what is prohibited from what is permitted is as conventional as the rules of sports themselves.

The paradoxical role which States adopt concerning the regulation of professional sport should be pinned down. Perhaps, given the mythical halo of nobility with which sport has been endowed since its beginning, governments give this area[1] autonomy in regulation, which cannot be found in other environments and which, in addition to clashing with common professional regulations, often contravene normal civil and penal jurisdiction (for example, the assumption of innocence after a sporting victory) and even basic rights (such as equality and access to competition regardless of gender). On the other hand, these States show alacrity in constructing sporting facilities, organizing big events and in training, promotion and providing anti-doping resources. Sport is not an example of effective liberalization of human activities as it is the States themselves which support the enormous infrastructure (organizational, economic and legislative, among others) involved in the control policies and the "game" of catch up between the sciences of doping and anti-doping. This, perhaps, has encouraged the development of performance – by biological support systems, which could eventually prove harmful to health.

In order to undertake the proposed discussion, it is necessary to consider sport's situation of legal limbo in which general laws appear to be suspended to set up and ad hoc legislative framework which up till now has not led to a decrease in doping. On the contrary, the overvaluation of sporting success (socially and economically, among others) constitutes a growing incentive to look for means, including illicit means, to achieve triumph.

The official emphasis on equal opportunities among participants, as a deterrent argument, only masks the problem. It avoids dealing with great sporting events from the sociological and political perspective of the competition between state, commercial brands and biotechnological laboratories. Under the illusory glorification of the natural athlete, the self-made athlete, which was perhaps constructed paying more attention to models from the 19th century rather than to the conditions of the 21st century, it avoids the consideration that equality in sport, with or without doping, is a chimera. As sporting results are an economic – and political – issue, the scale of which is known, sporting performance, not limited to the use, or not, of banned substances, is always a variable resulting from factors that concern the availability of technological and scientific means (biomechanical, pharmacological, nutritional, materials, professional) that are not within the reach of just anyone who wants a career in sport.

Addressing the issue of doping with regards legal and ethical equality requires sport and the mystical halo surrounding it – which maintains the link between its very different social manifestations – to be de-mythologized. For the sporting (cultural, political and economic) industry, the reality check may not be as profitable as maintaining the *statu quo* in which the media controversy surrounding the honored/imposter, natural/artificial athlete may even end up making good money. Appealing to the non-specific sporting ethic of fair play, and to the principles of equality in competition in order to dissuade athletes from fraudulent practices form part of the mythological character, which envelops the official language and technical discourse of sport; it is exactly this that preserves it from any criticism which rationally lays out the distance between the supposed hygiene-health, cultural and educational values and the obdurate facts.

DOPING AND HEALTH RISKS

The second aspect that official anti-doping statements tend to deal with concerns the health vocation of the organizations that issue them, protecting the athletes' health. Despite the conventional character of the line between what is permitted and what is prohibited, most doping practices are, without a doubt, detrimental to health and the policies that provide information and raise awareness of the risks should ideally be effective. However, it escapes nobody's notice that high performance sport is itself extremely harmful to health. The athlete undergoes intense and exhaustive levels of physical and psychological overload, sometimes from childhood onwards in order to achieve – or not – success. Information policies are ambiguous: medical discourse tends to draw attention to this, but the media does not hesitate in presenting the most successful athletes as role models for the young.

It would also be necessary to demystify this discourse and break through its ambiguity. Professional and high performance sports are activities aimed at making a profit, as with so many professional activities with health risks; it is not the only one, and not even the most harmful. In most cases, it is an activity which the athletes choose to do of their own free will and few of them are unaware of the risks that professional sport involves. Likewise, few are unaware of the dangers of taking performance enhancing substances. There are many who advocate the professional liberalization of sport,[7] in such an atmosphere it would not be known as doping but rather as supplementary (ergonomic, pharmacological) help, the legally and professionally controlled administration of which would mean the health risks involved in clandestine use would decrease, especially at semi-professional levels and in those aspirants with fewer economic and technical resources. Nor has official propaganda proved effective in combatting unsafe practices from the point of view of individual and public health.

The transfer of meaning between high performance sport and educational and recreational sport means care must be taken when making decisions that could eventually lead to the legalization of doping in professional sport. Care must be taken, but the issue cannot be postponed indefinitely, as it produces the paradox of hyper-regulatory obsession and prosecution of doping probably being the cause of the health of athletes, at least many professionals and many aspiring athletes, being at risk due to clandestine nature of the substance use, at the mercy of the hand that rocks the cradle. The repercussions that the clandestine handling, distribution and administration of those who run the laboratories, of the clinics, the sport physicians, representatives and athletes involved has in the area of public health cannot be ignored. This clandestine operating makes appropriate medical follow up difficult, not to mention the ethical and legal considerations, and is detrimental to individual and public sporting health. Simplifying the issue to a question of cheating underlies the lack of information and the accurate assessment that those athletes at pre-professional levels can make of their genuine expectations of professional success, with or without supplementary help, to such an extent that it may ultimately have a dissuasive effect. Doping in high

performance sport is only the tip of the iceberg, the base of which extends into secondary levels of sporting sectors where, although no economic benefit is obtained for their results, do not fail to feel the effects of these harmful substances they take or are given.

FINAL REFLECTIONS

A process legalizing doping and the subsequent legal and health regulation are not free from difficulties, but the benefits should at least be considered. To conclude, we will point out two. One: until now, we have not touched on the consumers of sport – spectators and audiences, who almost never have a voice in this issue. The first effect of such a process would be ensuring that they were watching the sporting spectacle they had paid for, with no "falsifications". Two: we would be taking the first steps in a debate, perhaps more significant in the long term, on the social function and educational value of sport, which up until now have been puffed up with an idealism which has tended to blur the real cultural dimension of the phenomenon. In particular, we would be taking important steps in establishing the study of sport (also of educational sport) in the sphere of public health.

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The author declares that there are no conflicts of interest.