

Book Review

Doping in Sport and the Law

Ulrich Haas and Deborah Healey (2nd edn, Hart Publishing 2019)

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Doping scandals and cases have gained substantial attention in the media because they threaten considerably the universal appeal of sports. It is in this light as to why ‘Doping in sport and the Law’, edited by Ulrich Haas and Deborah Healey, is a timely book publication as it analyses the doping regulation of the World Anti-Doping Agency (WADA) code, and considers the history and policy rationale for the regulatory framework. The essays in this book cover the legal issues surrounding doping in sport, whilst also discussing the wider societal implications of sport and doping, allowing it to target a broader audience of non-lawyers. This book is certainly a valuable resource for those seeking an understanding on doping regulation predominantly on the WADA code. The essays provide a coherent and insightful analysis commenting on a large range of legal issues concerning anti-doping relating to sports such as rugby, cycling, cricket and baseball.

The book includes multiple essays which are grouped into five parts, with themes of the WADA and its evolution, the effect of WADA on athletes, procedural questions regarding the regulations and the obligations of the code and its governance. The first part, ‘The Evolution of the World Anti-Doping Code’, analyses doping in sport through the basic implementation of the code and the impetus behind the prohibition of doping. The second part, ‘The World Anti-Doping Code and the Athletes’, touches on the Lance Armstrong case on how contract law plays a part in the regulation of the WADA and how regulatory powers impact athletes. The third part, ‘The World Anti-Doping Code: Procedural Questions’, investigates evidence about prosecuting anti-doping charges in New Zealand and the Australian codes’ impact on

administrative law. The fourth part, 'The World Anti-Doping Code: Obligations and Liability', analyses employment law regarding the liability of employers and tort law looking at the accountability of sport supervisors. The final part of the book, 'The World Anti-Doping code as Regulation: Governance and Compliance', discusses the breadth of code compliance, dispute resolution and the evaluation of having 'clean sport'. The WADA is therefore discussed from various angles and across multiple jurisdictions such as Australia, New Zealand and America.

In the first part, Ulrich Hass discusses how the WADA code forms a backbone of a global fight against doping and whether this fight should also encompass the fight against social drugs such as cannabis. It is claimed that the number of athletes testing positive for cannabis ranks close to the top in most anti-doping organisations. This raises the reconsideration of the prohibited list on doping and further debate on the impact of cannabis on administrative law. This provided a thought-provoking start to the book, however it was a particularly short section of the essay and book. Due to the captivating nature and high appeal of the topic to younger readers, perhaps this debate could have been discussed in more detail and provide more information regarding the impact of regulation in this field.

In part four, Joellen Riley and David Weiler, discuss employment law principles requiring players to take responsibility for their own actions using illicit substances and clubs bearing accountability for their coaches and sports clinicians. They begin the discussion with a peculiar comparison of today's football stars to the gladiators of Ancient Rome identifying athletes as 'modern-day gladiators'. The comparison sheds light on the mass popularity and the extent of control over the gladiators and footballers' lives of training, diet, accommodation and exclusive ownership of services. This example is intriguing, creating a distinctive and interesting opening and analysis. The two writers also provide two hypothetical sets of facts concerning professional athletes which are used as examples throughout the essay. The two cases are applied to evaluate workplace health and safety, legislation player misconduct, victim of experimentation by coaches and conclude with the clubs significant duties of care which are engaged when players are involved in scandals. This approach on a complex topic ensures a deeper understanding.

Prue Vines' essay regarding doping as a tort discusses an interesting area of liability of sport supervisors' standard of care and athletes voluntarily taking of supplements. The position of an athlete who is harmed by doping that occurred because a coach advised the use of the

relevant substance creates difficult situations. In addition, as athletes range from children to amateurs to professional elites, the breadth of possible athlete and supervisor relationships are extraordinarily wide, and this marks the consideration of legal liability correspondingly complex. The ranging capacity of athletes alongside the withstanding pressures of elite sports and continued reliance on supervisors, creates an extremely difficult position which is explored in great detail within this essay.

Human rights values have also been actively imported into the regulatory sphere of anti-doping in sports. Andrew Byrnes discusses the relationship of public and private international law and the ways in which human rights norms and values have entered into the anti-doping regime. Byrnes examines the international anti-doping regulations as a structure which constrains the direct application of positive human rights law to the conduct of doping investigations and the imposition of penalties. States party to the UNESCO Convention are bound under human rights treaties and fundamental freedoms, including those engaged by the operation of the Code. Byrnes observes how while there is a significant regard for human rights values, it is second order in important respects and is largely focused on procedural rights, with little attempt made to address concerns about alleged substance infringements of human rights. This focus permitted an intriguing read raising concerns on human rights and anti-doping regulations. The book, however, provided an excessive focus on the Australian Sports anti-Doping Association (ASADA). Although this focus is probably due in part because Australian law principles are largely congruent with the regulations of the WADA and those in other common law jurisdictions, it would have been desirable to examine the Australian and New Zealand code less.

In conclusion, this collection of essays is a must read for athletes, coaches and sports administrators alongside those wishing to expand their legal knowledge on the WADA code and the complex web of legal and social considerations regarding its enforcement. It successfully examines the topical area of sports doping from a variety of distinctive but relevant legal perspectives. Issues including fairness, reason and the likelihood of compliance are explored in depth addressing corporate governance to human rights law. It is a welcomed addition to the literature on this complex area of law delivering an extensive evaluation and therefore recommended for those interested in harbouring a desire to deepen their interest and knowledge in anti-doping and sports ethics.