Legitimating the Fight against Drugs in Sport: The Australian Government and the Australian Football League

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Abstract:

Sport is often presented as a valuable social institution important for community wellbeing and athletes as positive role models for youth while use of performance-enhancing drugs (PEDs) is constructed as a danger that threatens sport. Less well considered are the relationships between dominant groups and the impact these have on the anti-doping debate. I consider whether a Weberian-inspired consideration of legitimacy applied to the anti-doping debate brings organisational power relationships between elite sports governing bodies into the analysis. Underpinning this discussion is the claim that legitimacy is multi-dimensional and includes the subjective component of the social audience influenced by organisational responses to particular issues or events (Pakulski 1986; Suchman 1995). This also highlights the dynamic social context in which social problems, such as doping, take place. I explore legitimacy in the debate around anti-doping policy between the Australian Federal government and the Australian Football League (AFL).

Keywords: Legitimacy, Weber, Australian Football League, anti-doping, policy

Introduction

Weber (1969) noted the interconnected nature of legitimacy and moral authority in the organisation of modern social life. He stressed the importance of legitimacy for legally formed and procedurally regulated types of authority characteristic of modern societies (Weber 1969). Any system of authority aiming to maintain social order requires that members of the community perceive claims to legitimacy to be valid. In other words, legitimacy refers to the extent to which an organisation is seen to be ‘duly constituted and to have valid authority in a relevant area’ (Donovan et al. 2002:276). Belief in the validity of claims is important as it confirms the authority of claim-makers to determine and control behaviour that is appropriate for the particular community concerned. However, the diversity of stakeholders in modern life, including in sport, means that there are different notions of how legitimacy operates in particular communities. As Pakulski (1986:37) points out, legitimacy is a dynamic analytical concept that is not necessarily clear or easily applied:

Legitimacy appears to be relative, gradational, dynamic and ‘multi-dimensional.’ The same rulers may be accepted as legitimate by some, and rejected as usurpers by others … Bases of legitimacy may change and they may be analysed on such ‘dimensions’ as credibility, prestige and deference and in such aspects as economic decisions, political activities, propaganda, etc.
In modern democratic political systems, legitimacy includes a subjective component influenced by the quality of governance and delivery of expected outcomes (Connor 2009; Pierre and Røiseland 2011). Modern sport governance, with elite groups such as FIFA and the IOC enjoying monopoly positions with their legitimacy rarely questioned, complicates the development of a legitimacy based explanatory model (Connor and Kirby 2011). Nevertheless, sports governing bodies (SGBs) must also address the subjective or ‘Janus faced’ nature of legitimacy ‘in that it must be both asked for and received (or denied)’ (Connor and Kirby 2011:8). Bette and Schimank (2001:52-3) suggest that in the commercial context of modern sport, continued doping scandals carry the potential to give elite sports a ‘bad reputation’:

… without the interest of the audience, neither mass media nor economic or political sponsors are interested in elite sports … For them, only the interest of the public is of importance which manifests itself as viewing figures, circulations, publicity value etc. [sic]. It is these environmental actors and the audience who pays to get into the stadiums where the money comes from. Sport associations need these resources to reproduce themselves and to grow … the doping problem could result in a crisis of legitimacy which seriously harms elite sports and its associations.

There is currently little evidence to suggest that audiences are turning away from sport due to continued doping scandals. Nevertheless, to ensure continued commercial gains from audience support, not to mention perceptions of organisational legitimacy, SGBs actively demonstrate a commitment to anti-doping. The growth in the number of sporting ‘choices’ also means that maintaining the image of sport as drug-free is increasingly important for SGBs to build participation rates and develop their sport.

This paper explores contested claims to organisational legitimacy using the tension between the Australian Federal government and the Australian Football League (AFL) over policy approaches to drugs in sport. This reflects the complex nature of modern sport, which is constituted by a range of stakeholders that bring with them diverse interests with not all sharing the same attitudes or objectives towards the regulation of performance-enhancing drug (PED) use (see Kidd et al. 2001). This paper focuses on the Australian government 1999 Tough on Drugs in Sport (TODIS) policy and the 2001 Backing Australia’s Sporting Ability a More Active Australia (BASA) (Commonwealth of Australia 2001a; Department of Industry Science and Resources 1999a; 1999b). The AFL policy discussed is the Illicit Drugs Policy 2005 (IDP 2005) (Stewart et al. 2008). Although the Australian government and the AFL implemented anti-doping policies much earlier (see Australian Football League Players Association 2008; Buti and Fridman 2001; Green 2007; Stewart et al. 2004; Stewart et al. 2005), the policies discussed in this paper are used to illustrate the contested nature of claims to legitimacy.

**Legitimating the Fight - Anti-Doping Policy in Australia**

In 1999, in the wake of the 1998 Tour de France doping scandal, the Australian Federal government introduced the Tough on Drugs in Sport (TODIS) policy. The TODIS took a ‘zero tolerance’ approach to doping and strengthened the existing requirement that national sporting organisations implement IOC-aligned anti-doping policies to access Federal funding (Australian Sports Commission 1999; Stewart 2006; 2007; Stewart et al. 2004). This policy also reflected the government’s zero tolerance to illicit drug use in the community under the 1997 ‘Tough on Drugs’ policy (AAP 2006; Howard n/d). Significantly, the timing of the 1999 launch of TODIS was directly concerned with ensuring that no drug scandals would
tarnish Australia’s reputation as a leader in anti-doping at the 2000 Sydney Olympics (Department of Industry Science and Resources 1999a).

As the first Olympics after the creation of the World Anti-Doping Agency (WADA), the 2000 Sydney Olympics took place during a time of heightened public and regulatory attention to performance-enhancing drugs (PEDs). By taking a proactive stance under the TODIS policy, the government exploited an opportunity to ‘push a strong “tough on drugs in sport” agenda’ and promote Australia as a world-leader in anti-doping (Department of Industry Science and Resources 1999a; see also Hanstad and Loland 2009). The Australian Federal government also claimed to be the legitimate representative of community expectations for ‘Australia to be seen as an achiever’ in sport (Australian Sports Commission 1999:8). Further illustrating the political dimension of the doping debate, the Australian government linked ‘clean’ sport to Australia’s national identity and values such as ‘mateship’ and an egalitarian tradition of a ‘fair go’ (Australian Sports Commission 1999; Booth 1995; Lenskyj 1999; McKay 1986:347; McKay and Roderick 2010; Stewart et al. 2004:9; Stoddart 1986:71). However, positioning Australia as a ‘clean’ sporting nation supporting the ideals of a ‘level playing field’ meant balancing marketing of their efforts as leaders in sports technology while downplaying any reliance on ‘technologies to enhance bodily performance’ (Magdalinski 2000:307). This required the Australian government to take a strong anti-doping stance.

Maintaining Australia’s reputation as a world leader against doping also had an economic dimension based on the significant contribution of sport to the Australian economy. With the government committed to ‘assisting the sport and leisure industry reach its export target of $1.3 billion a year by 2006,’ keeping sport drug-free was important (Australian Sports Commission 1999; Commonwealth of Australia 2001b:iii, v). Central to this process was the 2001 Backing Australia’s Sporting Ability a More Active Australia (BASA) policy. That policy linked Australia’s continued sporting success to a ‘thriving sport and leisure industry’ and included working with sporting organisations to ‘escalate the fight against drug cheats’ (Commonwealth of Australia 2001a:1-10).

The BASA policy also encouraged participation in organised club sports, particularly ‘… at the grass roots level … where sporting groups are often a vital factor in the cohesion of local communities’ (Commonwealth of Australia 2001a:1; Stewart et al. 2004). This increased participation was underpinned by a concern to maintain Australia’s status as a successful sporting nation (Stewart et al. 2004). As the BASA policy states: ‘The objective of our policy is twofold - to assist our best athletes to continue to reach new peaks of excellence and to increase the pool of talent from which world champions will emerge’ (Commonwealth of Australia 2001a; see also Toohey 2010). The BASA policy stressed the government’s zero tolerance approach to drugs and its commitment to WADA (Commonwealth of Australia 2001a). Emphasising this stance, in 2004 the Australian Federal government supported the World Anti-Doping Code (WADC) and agreed that both illicit and PEDs were cheating, against the spirit of sport and damaging to athletes’ health (Stewart 2007). The Australian government’s policy responses to PEDs highlight that structural factors, including political imperatives, are part of the wider doping debate. For the AFL, there were significant implications flowing from the government’s approach and support for WADA.

The AFL had recognised the implications for their legitimacy based on the potential for PEDs to negatively affect the code’s image and appeal (Stewart et al. 2008). Consequently, they instituted an Anti-Doping Code (ADC) in 1990 well before the establishment of WADA.
(Stewart et al. 2005), and resisted implementation of a WADC-aligned anti-doping approach. The AFL argued that as WADA was created with a focus on countering drug-taking in Olympic sports it was better suited for sports other than Australian football, which was not an Olympic sport (Demetriou 2005a). In contrast to reports that professional and Olympic athletes were testing positive for PEDs (see Stewart 2007), the AFL at this time successfully kept the appearance of Australian football as PED-free. A ‘clean’ image was important as the AFL pursued a commercial agenda, expanding into a 16-team national competition, raising match attendances and increasing broadcasting rights (Andrews 2000; Nicholson 2006; Pascoe 1997).

However, and illustrating how broader structural factors impact on the debate over doping, faced with the possible loss of government funding in 2005 the AFL agreed to become WADC-compliant for PEDs (ABC Sport 2005; Demetriou 2005b; Horvath 2006). Although the AFL is not an international or Olympic sport, the government linked the AFL’s WADC-compliance to Australia’s international reputation as a leader in anti-doping. As the Minister for Arts and Sport, Senator Kemp (2005), stated:

“The AFL now joins all major sporting codes in Australia in becoming WADA code compliant. Australia has been acknowledged as world leaders in fighting drugs in sport and will continue to pursue a sporting environment in which athletes are able to compete fairly.”

Although reluctant to recognise WADA’s authority to regulate Australian football for PEDs, the AFL publicly supported the principles underpinning WADA’s framework that PEDs were unfair and unethical and supported the government’s zero tolerance of illicit drug use in sport (Demetriou 2005a; Horvath 2006; Niall 2004). The primary area of disagreement between the AFL and the Australian government surrounded the AFL’s sanctions for illicit drug use.

Illicit drug use had been highlighted as an issue in Australian football in 2004 when two Carlton Football Club players attended training under the influence of recreational drugs (ABC Premium News 2004). The AFL recognised that addressing criticism of their anti-drugs regulations was essential for perceptions of their legitimacy and, in 2005, introduced the Illicit Drugs Policy 2005 (IDP 2005). The IDP 2005 operated in conjunction with the existing ADC and dealt specifically with illicit drug use (Davies 2005; Stevens et al. 2004). The policy emphasised player anonymity, the education of players and ‘the public at large in relation to the dangers of Illicit Drugs’ to ‘set a positive example for young athletes and others in the community’ (AFL 2007:3). It also involved rehabilitation, counselling and what came to be described as the ‘three strike’ ruling (Gleeson 2006; Horvath 2006; Smith 2006).

Under the IDP 2005, a first offence required private counselling, a second offence meant attendance at a rehabilitation program, while a third offence resulted in club notification, referral to a disciplinary tribunal and possible suspension. The AFL maintained a strong anti-PED approach with sanctions remaining at a two-year suspension for a first offence and a life-time suspension for a second offence (Stewart 2006). In contrast, WADA takes a punitive public naming and shaming approach and applies the same penalty to illicit and PED use, underpinned by the view that illicit drugs are equally contrary to what is ‘intrinsically valuable about sport’ (Horvath 2006; Stewart 2006). According to the AFL’s medical officers, after the introduction of the IDP 2005 there had been a ‘significant fall in cannabis detection and … none in the match-day testing’ (cited in Demetriou 2005b:6). From the
perspective of the AFL, these results suggested success in keeping Australian football drug free, bolstering perceptions of their legitimacy.

Illustrating the contested nature of claims to legitimacy, the Australian government and WADA argued that the IDP 2005 represented a ‘flawed policy … and testing protocol’ that failed to detect ‘doping cheats’ (Stewart et al. 2008:69). Of particular concern for the government and WADA was that the ‘three strikes and you-may-be-out policy doesn't send the right messages’ of the dangers of illicit drug use to the community (AAP 2007a; AAP 2007b; Wilson 2006). For example, WADA’s Director General David Howman complained:

Three strikes before you're out? That's like a wet bus ticket for the first (offence) and two wet bus tickets for the second … They just need to be a little bit more transparent and more aggressive in ensuring the players, who are well respected in this country, continue to be role models (in AP 2007).

Government criticism of the IDP 2005 included claims that the AFL’s sanctions and reporting arrangements were ‘out of touch with community expectations’ and that ‘athletes have a responsibility as role models’ (Magnay 2006; Masters 2007). The AFL’s anti-drug policy aimed to reduce rather than eliminate drug use while the government message was that drug use required a stronger punitive approach. Emphasising ‘zero tolerance’ under the TODIS policy (Australian Government 2007), the government challenged the legitimacy of the AFL and put pressure on them to ‘show leadership on this issue’ (Magnay 2006). Nevertheless, the AFL remained determined to enforce their authority to govern the Australian football community:

We believe it is our right to create rules and regulations … for the good of our competition, while being keenly aware of our social responsibilities and our responsibilities to our players; and not just players at the AFL level, but players at all levels (Demetriou 2005a:7).

These comments reveal how this debate is concerned with issues of governance and control. The AFL presented their right to authority in terms of a concern with player welfare, which is a central part of their claim to legitimacy under the IDP 2005. They that stressed their inclusive approach to drug use in sport did not simply focus on elite competition but incorporated all levels of the Australian football community. In other words, the AFL argued that they were concerned with building healthy communities, an element that was central to the Australian Federal government approach to sport policy.

Perceptions of legitimacy rest on an organisation’s demonstrated ability to meet and support community expectations (Habermas 1976). For the AFL, this included a regulatory framework of rational-legal rules that meet and support community expectations (Weber 1969), such as that drug use in sport is unacceptable while also safeguarding athlete welfare. However, these rules are under constant challenge from other authorities, such as the Australian Federal government, demanding their own rules are applied.

Conclusion

The debate over policy approaches to drug use in Australian football illustrates how issues of governance and control based on particular regulatory frameworks influence claims to
legitimacy. For the Australian government, claims to legitimacy around anti-doping consisted of the TODIS policy, which reflected a ‘Tough on Drugs’ law and order approach, and the BASA policy aimed at building participation rates in organised sport and identifying future elite athletes (Green and Houlihan 2006). The Australian Federal government focused on maintaining their status as a world leader in anti-doping and used WADA-aligned policies, such as the TODIS policy, to frame the AFL’s anti-drugs in sport approach as flawed. Clean sport was linked to national identity, strong national economic growth as well as community cohesion and healthy lifestyles. The Australian government argued that the AFL’s approach to drugs in sport undermined this message and had the potential to damage Australia’s international reputation as a leader in anti-doping. Along with other stakeholders, the Australian government challenged the AFL’s legitimacy based on claims that their regulatory framework failed to deal effectively with the problem of drug use in the Australian football community.

For the AFL, claims to legitimacy were underpinned by recognition that instances of PED use had implications for levels of community support, participation rates and development of the code. Accordingly, codes of conduct including the ADC were implemented to protect the image and appeal of Australian football. The AFL also responded to instances of illicit drug use by introducing, refining and strengthening an illicit drugs policy. This was important for perceptions of its legitimacy, which required regulatory mechanisms that meet and support community expectations over acceptable behaviour. These include identifying and sanctioning deviance such as use of prohibited substances (Ericson et al. 1991; Habermas 1976; Wuthnow et al. 1984). However, in contrast to the Australian Federal government and WADA the AFL viewed illicit drug use as a social issue requiring counselling and education rather than heavy sanctions.

The interactions between the AFL and the Australian government, particularly in relation to the issue of illicit drug use in sport, reveal the wider political dimensions of the anti-doping debate. Implicitly this contestation involved power relationships between organisational actors as they seek to secure and maintain the legitimacy to regulate and control sport. This discussion also highlights that claims to legitimacy do not go uncontested as elite groups manipulate the doping debate to meet outcomes relevant to their sporting community.

Footnotes

1. The only two players to appear before the AFL Tribunal for PED use were Justin Charles (1997) and Alastair Lynch (1998) (Lane 2006). Other instances of banned substance use were Ilija Grgic (1997) (Linnell 1997; Stewart et al. 2008), another player whose identity ‘remained a mystery’ (Johnson 1997; Murphy 1997) and Steven Koops (1999) (Stewart et al. 2008). Illicit drug use emerged as an issue in the AFL when Nick Stone (2000) tested positive to speed and ecstasy. Stone was the first player held accountable for illicit drug use under the ADC, which did not at that time include sanctions for illicit drugs (Stewart et al. 2008).

References
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