

ロシアによる組織的ドーピング違反に対する連帯責任

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Joint Responsibility for Systematic Russian Doping Violations

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抄録

最近の新聞報道では、2018年のピョンチャン冬季オリンピックに、ロシア選手を参加させるか否かが議論されている。その引き金は、リオ夏季オリンピック前の2016年7月に、WADAの独立調査委員会が公表した第一回報告書（マクラーレン独立委員会調査報告書）であり、それはロシアが組織的にドーピングを隠蔽工作していると断定された。その結果、2016年のリオ夏季オリンピック、パラリンピックにロシア選手を参加させるべきか否かが論議された。そして、現在では2018年のピョンチャン冬季オリンピックへのロシア選手の参加が問われている。

本研究では、ロシアの組織的ドーピング違反に対する連帯責任について考察した。その結果、現段階では、マクラーレン第一次報告書の結論の正否は確定できず、完全な真相究明に至っていない。選手の立場からすれば、連帯責任による参加不可とできるか。あるいはロシアで選手らに自己決定権が保証されているか。さらには国内外で活動しているロシア選手をピョンチャン冬季大会から排除できるか。現状において、IOC、WADA、IFs、そしてOCOGは、厳格にドーピング検査および複数(中立)検査機関による分析を実施し、さらには10年後に最終的メダルを確定することである。一方、オリンピックを応援、観戦する私たち自身も、オリンピックの価値を正しく理解し、愛国主義的なメダル獲得競争に加担すべきではない。

以上のことから、2018年のピョンチャン冬季オリンピックへのロシア選手の出場は、ドーピング違反による出場停止期間の選手を除き、すべてのロシア選手の個人による大会参加を認め、連帯責任を発動すべきではないと結論づけた。

Introduction

Today, the International Olympic Committee (IOC) faces three major threats; (1) the obstruction of the Olympic Games by terrorists, (2) doping violations, and (3) the intentional manipulation of the results through match-fixing or gambling. The incident

that involved all three of the aforementioned issues, namely, terrorism, doping, and match-fixing, was the systematic doping cover-up by Russia, which was revealed in 2016.

Today, I would like to focus on the issue of “Joint Responsibility for Systematic Russian Doping Violations.” Joint responsibility requires all concerned

members to take responsibility for illegal acts committed by one person or organization. The joint responsibility in question involves disqualification (or rejection of registration) from participating in the 2018 Pyeongchang Olympic Winter Games. It means that the athletes will not be allowed to take part in the Games. I will discuss the pros and cons of making Russian athletes take joint responsibility for the national and systematic doping cover-up.

Russian doping scandal and McLaren's first report

Dr. Grigory Rodchenkov, former director of the Moscow Laboratory, revealed the systematic doping cover-up conducted in Russia. To investigate his allegations, the World Anti-Doping Agency (WADA) appointed Dr. Richard L. McLaren, Professor of Law at Western University in Canada and mediator for Court of Arbitration for Sport (CAS), as the Independent Person on May 19, 2016.

Dr. McLaren's first report, published prior to the Rio Olympic Games on July 18, 2016, consists of three key findings (McLaren Report, pp.86–90);

1. The Moscow Laboratory operated, for the protection of doped Russian athletes, within a state-dictated failsafe system.
2. The Sochi Laboratory operated a unique sample swapping methodology to enable doped Russian athletes to compete in the games.
3. The Ministry of Sports directed, controlled, and oversaw the manipulation of athlete's analytical results or sample swapping, and the Federal Security Service of the Russian Federation (FSB), the Centre of Sports Preparation of National Teams of Russia (CSP), and both the Moscow and Sochi Laboratories were actively involved and assisted in the operation.

The first report concluded that doping violations by Russian athletes were systematically covered-up by the Ministry of Sports, the FSB, CSP, and the laboratories. Based on the findings, discussions were held as to whether it was appropriate to permit the

Russian athletes to take part in the 2016 Rio Summer Olympics and Paralympics.

Different measures taken by the IOC and IPC

The Russian athletes were divided into three categories depending on the extent of their involvement in the doping cover-up. These categories consisted of 1) athletes who participated of their own free will (self-determination), 2) those who were forced to do so against their will (determination by others), and 3) those who were not under state control due to taking part in domestic or international activities (non-subjects). Discussions about permitting the athletes to participate in the 2016 Rio Summer Olympic Games had to take into account that there were athletes with three different standpoints.

Just before the Rio Games started on August 6, 2016, the IOC entrusted the question of participation by Russian athletes to their respective International Federations (IFs). As a result, the International Association of Athletics (IAAF) suspended 67 Russian track and field athletes from competing in the games and, alongside the decisions made by other IFs, more than 100 athletes could not take part in the event. In contrast, the International Paralympic Committee (IPC) supported joint responsibility and disapproved of the participation of any Russian athletes.

Table 1 shows the rankings for the number of medals won at the 2016 Rio Summer Olympic Games (Wikipedia). Russia ended up in fourth place due to the suspension of more than 100 athletes. Due to the absence of Russian medal candidates, there was a relative increase in the number of medals awarded to other countries; Japan, which ranked sixth, was no exception to this rule. It is obvious that the rankings would have been different if joint responsibility had not been applied to the Russian athletes.

Discussion on Russian athletes to participate in the 2018 Sochi Olympic Winter Games

In the Rio Games, it was not the IOC but each IF

Table 1: The number of medals won by each country at 2016 Rio Summer Olympic Games

Rank	NOC	Gold	Silver	Bronze	Total
1	USA	46	37	38	121
2	GBR	27	23	17	67
3	China	26	18	26	70
4	Russia	19	18	19	56
5	Germany	17	10	15	42
6	Japan	12	8	21	41
7	France	10	18	14	42
8	Korea	9	3	9	21
9	Italy	8	12	8	28
10	Australia	8	11	10	29
11	Netherlands	8	7	4	19
12	Hungary	8	3	4	15

that decided on the participation of Russian athletes, while the IPC disapproved of the participation of any Russian athletes. How, then, should we deal with issue of participation of Russian athletes in the Pyeongchang Games to be held in 2018?

According to newspaper reports, major anti-doping organizations (NADO) in the world have proposed that the IOC not approve of the participation of Russian athletes. This is because corruption was denounced at the 2014 Sochi Winter Games and the Russian institutions concerned have not responded faithfully to the investigation results (JADA News).

- The Russian Team should be excluded from the Pyeongchang Olympic Winter Games
- Some of the Russian athletes should participate as independent competitors.
- The investigation related to Russian athletes in the 2014 Sochi Olympic Winter Games mentioned in the McLaren Report is not yet finished.
- Requirements for the Russian Team to take part in the Pyeongchang Olympic Winter Games:
 “Accept or refute, with sound evidence, the allegations raised by the McLaren Report”
 “Exert the fact-finding efforts, including interviews with athletes and parties concerned, mentioned in McLaren Report”
 “Approve of access to samples and electronic

data including e-mails preserved in the Moscow Laboratory”

- IOC and WADA demand Russia to fully respond by submitting further evidence.

Response by Russia and Order from the Russian Court

Yulia Stepanova, a Russian track and field athlete, accused her country of engaging in the systematic doping fraud in December 2014. However, Russia has not accepted the allegations to this day. A Japanese Asahi newspaper report (dated December 2016) said, “President Putin stressed in the year-end press conference that there was no such thing as a national system for doping and that Dr. Rodchenkov, the director of the anti-doping institute in Moscow who cooperated in the WADA survey, was manipulated by other countries.” In Russia, where state-controlled media dominates journalism, the doping scandal itself is widely regarded as a conspiracy plotted by opposing countries such as Europe and the U.S. The Russian people criticized the IOC and IPC for closing the door so that Russians were unable to participate in the Rio Games. Since many of them have not been informed about the report issued by WADA that reported the doping cover-up, ordinary Russians call Stepanova and Dr. Rodchenkov “traitors.” Furthermore, President Putin said that the whistle blowers were manipulated. On September 28, the Russian Court issued an arrest warrant for Dr. Grigory Rodchenkov, who denounced the systematic doping practiced by Russia in the 2014 Sochi Games. On September 30, 2017, the Asahi Shimbun ran a story titled “Arrest Warrant Issued for the Doping Fraud Whistle Blowers.” Dr. Rodchenkov subsequently fled to the U.S. The article also stated, per the AFP, that Dr. Rodchenkov, the former director of the Moscow Laboratory, accused Russia of committing illegal acts in a New York Times interview in May of the previous year. In response, Russia started investigating the case as misuse of authority.

What kind of organization is the IOC?

When we address this issue, we need to return to the starting line. In other words, we need to question the definition of the Olympic Games and what role the IOC plays in these Games.

The legal status of the IOC is stipulated in Chapter 2, Article 15 of the Olympic Charter as follows: The IOC is an international non-governmental not-for-profit organization, of unlimited duration, in the form of an association with the status of a legal person, recognized by the Swiss Federal Council in accordance with an agreement entered into on November 1, 2000.

The IOC has a significant impact on politics, society, economy, and education on a global scale. But it is a private agency with a corporate personality. In short, it is an organization established by sports-loving people. The IOC is like a sports club in our neighborhood. Therefore, state powers cannot intervene in regard to any trouble that may arise within the group, except in cases involving a social criminal offense. Such an act of intervention would be an arrogation.

Should a sports organization have the right to conduct an investigation?

None of the international non-governmental non-profit organizations like the IOC, WADA, and IFs have police authority power like a state. It is an open question as to whether or not this type of authority is necessary. Even in Japan, some people think that these organizations should have the right to investigate and gather specific information (intelligence) in order to prevent doping and ensure strict doping tests, especially for the 2019 Rugby World Cup and 2020 Tokyo Olympic Games. However, I am skeptical about the sporting circles equipping themselves with such police-like investigatory rights. All parties concerned should get together to discuss whether it is necessary for a sports organization to have the right to investigate, and whether it is good for a sports organization to be linked with power equivalent to a

police authority.

Should only the systematic doping cover-up of Russia be held responsible?

In the past, a systematic doping fraud in former East Germany (Hasegawa & Yamamoto) was also reported to have occurred. However, the statute of limitations for the retention of records at the IAAF expires after six years. Therefore, for the time being, the IOC has no intention of revising the list of Olympic records.

We tend to consider doping allegations as always coming from the East but the West was also accused of a doping cover-up in the past. The aforementioned doping scandal involved the doping examination room at the 1984 Los Angeles Olympic Summer Games (Rowbottom, p.322). A survey conducted ten years later, in 1994, revealed that an order was given to close the examination room after the Games. Due to this, the positive samples were not retested and the athletes concerned were not identified. Furthermore, a hearing survey revealed that someone walked away with the file and shredded the documents, including the list of codes identifying which sample belonged to whom as well as the list of athletes with positive results. It is safe to say that such unlawful conduct exists in all eras. We should bear in mind that there is always a possibility of fraud in the race for Olympic medals.

Number of medals won by each country at the 2010 Vancouver and the 2014 Sochi Olympics

Two charts follow. One lists the number of medals won at the 2010 Vancouver Winter Games (Table 2) and the other lists those won at the 2014 Sochi Winter Games (Table 3). First of all, do you know that the Olympic Charter prohibits the production of lists consisting of medal winners listed by country? We often see them due to the media but they are not produced by the IOC or the OCOG (Organizing Committee for the Olympic Games). The Olympic Charter, Chapter 5: "The Olympic Games," Section 57: "Roll of Honor" states, "The IOC and the OCOG shall not draw up any global ranking per country."

Table 2: The number of medals won by each country at 2010 Vancouver Winter Olympic Games

Rank	NOC	Gold	Silver	Bronze	Total
1	Canada (Host)	14	7	5	26
2	Germany	10	13	7	30
3	USA	9	15	13	37
4	Norway	9	8	6	23
5	Korea	6	6	2	14
6	Switzerland	6	0	3	9
7	Sweden	5	2	4	11
7	China	5	2	4	11
9	Austria	4	6	6	16
10	Netherlands	4	1	3	8
11	Russia	3	5	7	15

Table 3: The number of medals won by each country at 2014 Sochi Winter Olympic Games

Rank	NOC	Gold	Silver	Bronze	Total
1	Russia (Host)	13	11	9	33
2	Norway	11	5	10	26
3	Canada	10	10	5	25
4	USA	9	7	12	28
5	Netherlands	8	7	9	24
6	Germany	8	6	5	19
7	Switzerland	6	3	2	11
8	Belarus	5	0	1	6
9	Austria	4	8	5	17
10	France	4	4	7	15
11	Poland	4	1	1	6

We cannot deny that the media stimulates patriotism and nationalism by producing these kinds of global rankings. In 2010, Russia finished in 11th place with 15 medals in total, including three gold medals, five silver medals, and seven bronze medals. It is said that the unsatisfactory results of Russian athletes in the 2014 Vancouver Games triggered the systematic doping cover-up.

Now, please take a look at the other chart. Four years later, in the 2014 Sochi Games, Russia made a remarkable leap by winning a total of 33 medals, with 13 gold medals, 11 silver medals, and 9 bronze medals. Even when we take into account the advantage of being a host country, their success could have resulted

from the systematic doping cover-up. This doubling of the number of medals in such a short period of time was regarded with suspicion by other countries. This is just like when an athlete who sets a new world record is questioned about doping. We are obliged to have doubts about doping being behind such new records and outstanding results. It is sad to say, but skepticism looms over the world of sports today.

Significance of winning a medal in the Olympic Games

Strict punishment for doping by the IOC, IFs, and WADA may be an option to utilize to avoid tarnishing Olympic values. However, it is a separate question as to whether or not the Olympic Games themselves should be protected through the implementation of strict punishment.

We bear part of the responsibility because every time the Olympic Games are held, we unite as a nation, cheering for the athletes of our country to win medals. Medal-focused sports policies implemented by different countries also need to be reviewed. Philosopher Hans Lenk issued an alert more than 30 years ago against technical arms expansion (doping evil) (Hans Lenk, pp.72–76). In short, he stated that there are biological limits as well as ethical and cultural limits in our sporting ability and both have distinct roles. However, it is a matter of ethical judgment where sporting ends and how far we define the activity as a sport. Ethical guidelines are required to prevent the parties concerned from falling into a futile sports arms race motivated by patriotism. Human limits are narrower in range than biologically assumable limits. H. Lenk cautioned against medal supremacy and pointed out the importance of research on sports ethics (formulation of ethical guidelines)..

Conclusion: Joint responsibility should not be applied to Russian athletes

The first point is the legitimacy of the McLaren Report. As mentioned earlier, not all of the content of the report has been fully reviewed. In fact, part of

the report will also remain unverified in the future. This is because WADA does not have the investigatory right, like the police or prosecutors, to stand up to social crimes. Moreover, the entirety of the doping cover-up scandal cannot be clarified without Russia's voluntary presentation of the related data. In other words, unless Russia comes forward with all of the evidence associated with the fraud, the veracity of the conclusions stated in the McLaren Report cannot be determined, and the truth will remain unknown.

I have some simple questions here. Should the Russian athletes, who have been striving to reach the Olympic Games for four years, be jointly held responsible for the fraud? Do you think athletes are given the freedom to make their own decisions in Russia? Are they not forced directly or indirectly to be part of the illegal cover-up? Furthermore, is it fair to exclude athletes who have been practicing and performing in foreign countries from participating in the Pyeongchang Olympic Winter Games? We have to bear in mind the vulnerable position of the athletes as well as the principle of the benefit of the doubt.

In the meantime, WADA and the IFs should focus on the following procedures:

1. Conduct strict doping tests before the start of the Olympic Games.
2. Assign multiple doping inspection agents, not belonging to the host country, to conduct tests during the Games.
3. Preserve the samples collected during the Games for 10 years so that the IOC will be able to execute their responsibility of testing them at multiple inspection institutes to finally determine the veracity of the awarded medals after 10 years.

As for the spectators cheering for the Olympics, we should have a proper understanding of the Olympic values and not attempt to prompt a patriotic medal race.

For all of these reasons, I would like to conclude that, except for the athletes suspended due to doping violations, all Russian athletes should be allowed to take part in the Olympic Games without instituting

joint responsibility.

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付記

本研究報告は2014年度中京大学特定研究助成費（個人研究）ならびに2015年度科学研究費助成事業「挑戦的萌芽研究」課題番号：15K12637、同基盤研究（B）課題番号：15H03068の成果の一部である。また、2017台湾国際運動哲学研討会（台北教育大学、台北市、2017年11月4–5日）において口頭発表したものである。