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Chapter 7

The Socio-Economic Context of Africa and its Impact on Doping and Anti-Doping

Jean-Christophe Lapouble

Abstract

The fight against doping is organized at the global level under the aegis of the World Anti-Doping Agency (WADA) in application of the 2005 UNESCO convention which made the application of the World Anti-Doping Code mandatory for all countries wishing to participate and organize international sports competitions. In fact, it appears that for a variety of reasons, the application of the World Anti-Doping Code is largely theoretical in Africa. Indeed, if most African countries adhere to the system set up by WADA, it appears that very few are able to apply it effectively. The numerous difficulties that African countries may experience due to a degraded socio-economic context confine anti-doping policies to the rank of non-priority public policies. Thus, the difficulties experienced by different countries in terms of development, structuring of the sports movement through associations, public administration, public health and corruption must lead us to consider that the fight against doping in Africa cannot be free of the socio-economic context and must therefore be adapted accordingly. This adaptation must be based on the reality of the functioning of sports organizations in the countries and not on theoretical considerations that are far removed from reality.

Keywords: Corruption, development, doping, public administration, public health

8.1 Introduction

The fight against doping in Africa cannot be approached without placing this fight in the more global context of African countries, for which the issue of doping is only an epiphenomenon in the midst of all the challenges that these countries must face. Nor can the fight against doping be considered a priority within public policy, given a whole series of socio-economic factors. Even if the indices relating to economic development or human development can be criticized, it seems interesting to us to situate the African continent with some indicators in order to be able to describe the real situation of the fight against doping and not a situation based solely on the ratification by most African countries of the World Anti-Doping Code as required by the 2005 UNESCO Global Convention on Doping, which was adopted at the global level by 191 countries, including almost all African countries with the exception of Guinea-Bissau and South Sudan.

It appears that the fight against doping in Africa cannot be considered in a theoretical manner, that is, taken out of its socio-economic context. The experience of the Covid-19 epidemic in Africa has clearly shown that the response modalities of African countries cannot be the same as those of other countries. Indeed, the organization of the public health system and the public administration in general contributed to the effectiveness of the response. Therefore, there is no reason to believe that the fight against doping, which is as much a matter of education as of public health, is not influenced by such elements. So, we will look at the level of development in general, freedom of association, the state of the administration in general, corruption and public health. All of these elements are not without consequences on the fight against doping in African countries.

8.2 Development

In order to better understand the framework in which anti-doping policies should be conducted in Africa, we thought it would be useful to look at a few indicators such as GDP per capita, the poverty rate, the peace index and the human development index. These different indicators, imperfect as they may be, nevertheless allow us to understand that the fight against doping in Africa cannot be a priority but a policy carried out in a residual manner in certain states that have a particular interest in doing so, such as winning medals at the Olympic Games, because the registration of athletes can only be carried out insofar as the latter undertake to respect the World Anti-Doping Code.

It is very clear that the GDP per capita in Africa is the lowest of the five continents over the period from 1970 to 2019 even if this data conceals significant differences between countries. Thus, the average in Africa is 1884 dollars for 2019 while for the most favoured continent in North America it is 42796 dollars. The GDP in Africa varies from 17052 dollars for the Seychelles against 275 dollars in South Sudan. The latter country has recorded a 78% drop compared to the previous year. It thus appears that in Africa significant drops in GDP are not uncommon, which is certainly a peculiarity of this continent.

In 2019, countries with the highest poverty rate at the US\$2.15-a-day poverty line were mostly in Sub-Saharan Africa ((Word Bank, 2022, p. 37). Poverty remains highly concentrated in Sub-

Saharan Africa, with a poverty rate that is about four times higher than that of the second-poorest region in the world, and the evidence on the pace of poverty reduction in the region is unaffected (World Bank, 2022, p.38). If we address the question of the human development index (United Nations Development Programme, 2021/2022, p. 311), among the 66 countries that are listed as having a very high level of human development, there are no African countries. The highest index is obtained by Switzerland (0.962). The first African country is Algeria which is in 91st place (index 0.745). South Sudan is in 191st and last place with an index of 0.385 for 2021.

According to the Global Peace Index analysis, “Sub-Saharan Africa recorded a slight fall in peacefulness in the 2022 GPI, with the average country score deteriorating by 0.022 points, or one per cent. Of the 44 countries in the region, 21 improved in score, while 22 deteriorated and one remained unchanged” (Institute for Economics and Peace 2022, p. 21).

When reading these different indicators, it is clear that the fight against doping cannot be a major issue in Africa as there are other urgent matters to be dealt with. It is appropriate to ask whether such a fight is not an unattainable luxury whose social utility is questionable.

8.3 Associations

In the sports world, most clubs and federations are set up as non-profit associations. This legal form, which may seem harmless, does not appear to be a legal structure whose creation is free in many countries where the risk of creating an opposition political party leads to controls and provisions that sometimes make the creation of associations very difficult. Article 20 of Universal Declaration of Human Rights provides that everyone has the right to freedom of peaceful assembly and association and that no one may be compelled to belong to an association. The Banjul Charter guarantees in its article 10 the freedom of association in the following form:

1. Every individual shall have the right to free association provided that he abides by law.
2. Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association. » Article 29 of this Charter provides for a number of duties to be respected, including the obligation not to jeopardize the security of the State.

Moreover, freedom of association also includes the freedom to form a trade union. This freedom is also guaranteed by international conventions adopted under the aegis of the International Labour Organization. Thus, freedom of association is a strong marker of democratic development in general, but also of the reality of collective bargaining: The exercise of freedom of association and the right to collective bargaining is based on the defence of fundamental civil liberties, including the right to liberty and security of person, freedom of opinion, expression and assembly, the right to a fair trial by an impartial and independent tribunal, and the right to protection of property of employers' organizations and trade unions” (Bureau International du Travail, 2008, p. 5). ILO Convention 87 concerns freedom of association and protection of the right to organize. Convention No. 98 concerns the application of the principles of the right to organize and collective bargaining. As for the Banjul Charter, a large majority of African countries have ratified these two conventions (over 90%) since 1950.

What can be observed in both common law and civil law countries is that, in general, sports associations do not seem to have any particular difficulty in being legally constituted, even in

countries where the freedom of association is closely controlled. Indeed, the declared (if not proven) apolitical nature of the sports world in general and of the International Olympic Committee in particular, does not lead States to exercise close control over the creation and functioning of sports clubs. The list of National Olympic Committees recognized by the International Olympic Committee (IOC, 2023) shows that the creation of a structure of this type is not particularly difficult.

8.4 Public administration

The state of the administration in Africa can be understood with some international indicators. It should be noted, however, that the indicators never refer to the administrations in charge of sport. It is true that, depending on the country, if this type of administration exists, it may be attached to the education or health sector. Even if the Doing Business index is no longer published until another index is, data on the quality of the administration in each country can be mentioned, at least to give an overall state of the administration. Given that sports administration is rarely on the government's agenda, the indications given at the aggregate level can help to assess the state of sports administration in the various African countries. Overall, it is clear that some regions of the world are more favourable for doing business and it is clear that many African countries are poorly ranked (Doing Business, 2020, p. 32).

As a first step, it may be interesting to look at the overall score for the different indicators included in the Doing Business ranking, which gives an idea of the modernization and efficiency of the administration of the countries in question. For example, it is possible to analyse the data for Sub-Saharan Africa (Doing Business, 2020, , p. 5). Overall, few African countries are ranked in the top 100 (for the global indicator) although the first is Mauritius, ranked 13th with an index of 81.5, while most other Sub-Saharan African countries are ranked after the top 100. The last country ranked with an index of 20 is Somalia (ranked 190). In terms of sectoral indicators, on a maximum base of 100, the best score achieved is 80.1 for starting a business but other indicators can be much lower (Resolving Insolvency: 31.3).

If we take two indicators among others, such as the connection to electricity and the payment of taxes, this can give an idea of the state of the administration in general, which is certainly imperfect, but insofar as the administration in charge of sport is not a priority, it is difficult to imagine that the two indicators chosen do not constitute priorities for African countries, since they are markers in terms of development. In other words, if these indicators are not good, there is no reason to believe that the administration of sport in the country (with extraordinary exceptions) can be in a satisfactory state.

Thus, it appears that the time to obtain an electricity connection in the area concerned is longer than in the rest of the world. Moreover, this average reflects huge disparities between countries such as Liberia where the connection time was 482 days in 2020 compared to 37 days in Rwanda.

In terms of the number of payments to be made, the cumbersome nature of most African administrations is evident. Tanzania's index is 59, while South Africa's is 7 for a regional average of 36.6. It is also possible to take a more basic indicator of the functioning of administrations essential to the population, such as the registration of births, which therefore also concerns the entire population and not primarily the urban population. There was an increase of 2% in the proportion of under-five children whose births were registered in Africa from 49% in 2008 to 51% in 2020. Projection scenarios built on existing trend show that, unless progress is accelerated, the number of unregistered children in Africa will continue to rise and will exceed 100 million by 2030 (World Health Organisation, 2022, p. 114). These elements, which globally show a poor functioning of the administration in general, can lead one to think that the administrations in charge of the fight against doping are not very structured, nor very efficient. Information from the World Anti-Doping Agency corroborates this observation.

The provisions of the World Anti-Doping Code state that in each country an independent agency should be responsible for the fight against doping. Article 20.5 and following of the World Anti-Doping Code (WADA, 2021) govern the conditions for the implementation of such an agency. Thus, the agency must be independent and free of any conflict of interest with respect to both sports organizations and the government. In terms of education, this is the responsibility of national anti-doping agencies (WADA 2023). In terms of funding, even though Africa's contribution has been limited to 0.5% of the total budget, which represents 46 million dollars in 2023, each African country must contribute an amount that varies from 802 dollars for countries such as Malawi or Somalia to 5141 dollars for South Africa (WADA 2023). The total amount of these contributions is certainly modest (\$117,924), but given the lack of resources, it is difficult to see how such a small amount can help WADA's operations, even though, due to an under-resourced administration, anti-doping programs are almost non-existent. It is true that a distinction must be made between the contribution due and the contribution actually paid. Thus, for the year 2022 (WADA 2022), only 59541 dollars were actually collected by WADA for a total amount of 109189 dollars. It should be noted that South Africa is in a special situation in the fight against doping because not only does it have the only analytical laboratory on the African continent but also a local WADA office in the city of Cape Town.

However, it is important to qualify this observation, which suggests that anti-doping tests are not carried out. Indeed, the analysis of the controls carried out in Athletics in Africa allows to have a more nuanced vision. Obviously, athletics is the sport that brings the most medals to African countries.

The data provided by the World Anti-Doping Agency for the year 2021 (WADA 2021) shows that Kenya is ranked 8th in the world in terms of controls in this discipline (684 controls), just before Spain, which shows that at the level of controls, some African anti-doping organizations are doing real work. The other African countries that follow in the ranking are respectively Morocco, South Africa and Nigeria. However, at the global level, only 19 African countries have carried out controls in athletics. Some, like Burkina Faso, have done only one. The same applies to Ivory Coast. Given the political and economic situation of Burkina Faso, this figure is not surprising. On the other hand, it is much more surprising for Ivory Coast, whose indicators in terms of administrative efficiency are much better. This shows that if the global state of the administration of a state can be correlated with the state of the administration in charge of sport,

there are always particularities. Thus, Egypt has carried out 162 controls, which is the 5th rank among African countries, while this country is ranked 114 in Doing Business. However, the number of audits carried out in Egypt is just higher than those carried out in Norway, ranked 7 in Doing Business. However, these differences can be well explained. The population of the two countries is not at all comparable (110 million in Egypt versus 5.5 million in Norway). In addition, athletics is not a sport that is widely practiced in Norway.

Another indicator of the weakness of controls is the number of analyses carried out by the South African laboratory, the only one accredited in Africa, which carried out a little less than 1.65% of the world total in 2021 (WADA 2021). It should be noted that not all samples taken in Africa are necessarily analysed there. At the level of the anti-doping administrations themselves, one can only note that the obligation of independence from the sports movement as requested by the World Anti-Doping Agency is not always respected. This is particularly the case when tests are conducted by a national Olympic Committee, as in Botswana, Rwanda, Tanzania, Namibia or Madagascar. It is true that the principle of independence is not respected either when the test is requested by the Ministry of Sports, as in Lesotho.

Faced with these shortcomings, the aid proposed by the Olympic movement to structure African sport does not seem sufficient. The Olympic Solidarity Program does not provide for specific aid for the establishment of national anti-doping agencies. Even though Africa is the leading continent in terms of Olympic Solidarity (Olympic Solidarity and NOC Services, 2021) with 54 National Olympic Committees, there is no budget line that directly concerns the fight against doping and the support of national anti-doping agencies. In fact, the aid mainly concerns aid for teams so that they can participate in the Olympic Games or individual grants for athletes. However, there is a specific program designed to help structure national Olympic committees or local sports federations, such as the one in Cape Verde (Olympic Solidarity and NOC Services, 2021, p. 7). In terms of initiatives carried out specifically in Africa, it appears that the fight against doping is addressed through workshops or in some cases, the payment of the contribution due by some countries to the World Anti-Doping Agency (Olympic Solidarity and NOC Services, 2021, p. 30). There is a specific program aimed at structuring National Olympic Committees but which is not specific to the fight against doping: "Management and Knowledge Sharing" (Olympic Solidarity and NOC Services, 2021, p. 29) to ensure the implementation of good governance practices. The amount of this program at the global level for the year 2021 amounts to 18 875 000 dollars. Within this framework, 50 African Olympic Committees have been assisted (Olympic Solidarity and NOC Services, 2021, p. 53). At the level of the promotion of the values of Olympism, the Olympafrica Foundation for the support of community centres (Olympic Solidarity and NOC Services, 2021, p. 36).

8.5 Corruption

For Alina Mungiu-Pippidi "Corruption emerges when someone has monopoly power a good or service, has the discretion to decide who receives it and how much they receive, and is not accountable"(Mungiu-Pippidi, 2015, p. 116). However, it is clear that the sports world is essentially based on a series of monopolies entrusted to non-governmental organizations with little control.

Sport is not immune to corruption and it must be recognized that if the level of corruption in a country is high, there is no reason to think that the sports world will be spared. Thus, even in countries where corruption is the lowest, corruption cases can reach the sports movement (Sport, Transparency International, 2016). In the field of doping, there is no reason to think that corruption does not affect the sports world, especially since some cases have led to the exclusion of Russia from international competitions because of manipulations during the analysis of the Sochi Olympic Games. The Court of Arbitration for Sports recognized the non-conformity of the actions of the Russian Anti-Doping Agency in a decision of December 17, 2020. These actions are not isolated and had given rise in the past to other errors, particularly in terms of access to data from the ADAMS system. Cases relating to corruption in the fight against doping have thus affected African countries such as Kenya in 2015 or Senegal with the former president of the International Federation of Athletics in 2016 who was convicted by the French justice for corruption.

Overall, Africa's corruption ranking is clearly not satisfactory (Transparency International, 2021). Sub-Saharan Africa has the worst score, with an average score of 33, the lowest of all regions in the world. This score reflects a wide range of situations, none of which is satisfactory. The worst score is for South Sudan (11/100), while the Seychelles has the best score (70/100) (Transparency International, 2021, p. 14). We can notice that the two other countries that stand out are Cape Verde (58/100) and Botswana(55/100). If we look at the Middle East and North Africa zone, the global score is hardly better as it is 39, just after Eastern Europe and Asia.

The findings on the level of sports organizations are not very encouraging. According to Chris Tsuma, Africa remains stunted by a combination of talent drain (mainly to Europe), a lack of government investment and policy guidelines, corruption and gross mismanagement (Tsuma, 2016). He adds that major events are a main avenue of abuse and corruption in sport in Africa. Faced with such an observation, it is not surprising that efforts are being made to improve the functioning of African sports organizations, even if it seems illusory to want to make sports organizations function in a transparent manner in an environment that is not transparent.

Within the framework of the Olympic Solidarity Program, some actions are carried out in the field of integrity education as well as to promote the good governance of sports organizations (Olympic Solidarity and NOC Services, p.43). It is certainly no coincidence that the assistance given to the structuring of the Olympic Committee has been successful, given the low level of corruption in this country (Olympic Solidarity and NOC Services, p. 30). These elements are corroborated by the analysis of the number of controls carried out by Cape Verde in Athletics (18 controls) for a population of 562 000 inhabitants (WADA, 2021, p. 47). It is thus clear that the fight against corruption in Africa in the field of anti-doping must take on a transnational dimension (Hatchard J., 2014, p. 333).

8.6 Public Health

Insofar as the fight against doping is often presented as a public health problem, it must be noted that in the face of the health challenges facing the African continent, the issue of the fight against doping appears to be a marginal phenomenon. In fact, since the Covid-19 epidemic has severely tested all the health systems in the world, it is clear that African countries have only been able to

face such a challenge with limited means. Therefore, the African continent has a population that represents 14.4% of the world's people, but it accounts for only 1% of the global health spending (World Health Organisation, 2022). As the maps show, access to basic health services is still not guaranteed for a large part of the African population.

As the fight against doping is also a fairly sophisticated medical field, it is easy to understand that most African countries are not in a position to implement prevention and/or repression policies. The level of health emergency on the continent shows that doping prevention can only be a very specific policy, especially when Olympic medals are at stake. Moreover, the effective implementation of Athlete Biological Passport is a challenge for African athletes.

Currently only one anti-doping laboratory is accredited for the entire African continent. It is, namely the South African Doping Control Laboratory in Bloemfontein namely (WADA, 2023). Faced with a lack of equipment and limited road infrastructure, Africa may be an interesting fall back for some non-African athletes to carry out doping product cures such as anabolic agents whose effects persist over time, even though detection must be carried out within a limited period of time after taking them. Having made this assumption at the time of the generalization of out-of-competition testing with the implementation of the ADAMS system, it appears that some athletes have tried to take advantage of the difficulties of access to Africa to avoid testing. For example, a French athlete went to train in Marrakech where she failed to be tested, resulting in a four-year ban from competitions by Conseil d'Etat, the French higher administrative court.

8.7 Conclusion

At the end of this analysis, it is very clear that the ratification by almost all African countries of the UNESCO Convention on doping and therefore the adoption of the World Anti-Doping Code is, for many countries, a mere display measure, as much more important priorities remain to be addressed. Rather than questioning the countries, which are de jure forced to ratify a convention that they know they cannot apply in order for their athletes to participate in international competitions, we should question the blatant shortcomings of the World Anti-Doping Agency, which imposes legislation that it knows will not be applied. It is a pity that we prefer the display to the recognition of the enormous difficulties encountered in the field. As far as the fight against doping in Africa is concerned, one can only regret this inflation of normative texts, which are inapplicable considering the problems that this continent is facing. In other words, in view of the African socio-economic context, the application of the World Anti-Doping Code constitutes a legislative doping without real effect in most of the states.

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