

Sports Law in Nepal: Reference to Doping in Football

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Abstract

Doping is the misuse of certain substances to enhance sporting performance, however; there are lots of side effects to the health of the athlete and others associated with sports. Having a direct impact on fair competition of sports, various Anti-doping laws are being framed at both the National and International levels to preserve the integrity of sport. In a developing country like Nepal, this issue of doping is not very familiar in football but concerned bodies like ANFA, and NSC are making efforts to combat the problem by organizing awareness programs and medical tests before games. It is the authorities' responsibility to be aware of these sports crimes and to ensure their prevention to facilitate fair competition. This research paper aimed to apply the empirical research method for doping analysis and focus on the problem of doping, its impact, the actual application of doping whether it is appropriate or not, Nepalese laws dealing with doping, case laws, and international standards on doping and obligations of State as well.

Keywords: - Anti-Doping, Prohibited substances, WADA, ANFA, FIFA, AFC, NSC

I. Introduction

Doping is simply the act of consuming a banned substance that can affect the results of the fair game. According to the World Anti-Doping Agency WADA, doping refers to all those prohibited substances, Metabolites, or markers in an Athlete's samples¹ that amount to sports offense. Doping touches on the very essence of the principles of loyalty, integrity, and sportsmanship. These are the main things to be considered in football and other sports to comply with fair play.

Doping is strictly considered a sports crime by sports law. Football is one of the sports covered by this prohibition. In football, doping can be used to increase stamina or strength, which is a violation of the anti-doping rules. However, doping in football is not as frequently reported or discovered as it is in other sports. Doping contravenes the ethics of sport, constitutes an acute or chronic health hazard for players, and may

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¹ World Anti-Doping Code, World Anti-Doping Agency, 2021, art. 2.

have a fatal consequence which is vital for maintaining participant and stakeholder confidence.

This paper tries to understand the conceptual understanding of doping and its effect on football. Likewise, it also tries to identify those laws in Nepal that addresses and examine the prevalence of doping in Nepalese football. Furthermore, this paper tries to assess and analyze the implementation status of Anti-doping laws in Nepal including the National and International standards with the relevant cases.

This paper has been designed descriptively which precedes explanatory research. Being based upon empirical research, this study is done by using analytical, descriptive, and comparative design. This study consists of both primary and secondary sources of data that are used to obtain the information. Therefore, it involves a field study involving observation, questionnaire, and interviews whereas different foreign cases are referred. Similarly, different sources regarding doping in football are referred including books, and research papers found on the internet are also cited for this paper. This paper is only limited to the study of doping in Nepal where it sees the practice of doping in football specifically and this paper mainly focuses on the facts and disputes of Doping cases related to football and does not include cases from other sports activities.

If we see the Research Report **“FIFA’s Approach to Doping in Football”**²³, mentions that the incidence of doping in football seems to be low compared to other sports. Likewise, the Research paper **“Drug use in English Professional Football”** states that footballers are tested for drugs less often than many other elite athletes, this suggests that many players avoid drug detection. Similarly, the book **“Scientific, Philosophical and legal considerations of doping in sports”** mentions that doping not only affects health but beyond the scientific, legal, and philosophical considerations.³

Furthermore, the book **“A comparative study of the application of strict liability principle of sports: Critiquing anti-doping policies examining illicit crowd chanting and match, 2014”**⁴ mentions why athletes and WADA should have the proper balance of power between them and proper attention should be ensured in sports. In addition to this, the book **“The use of Performance-enhancing Drugs in European Football ”**⁵, states that the effectiveness of the deterrent posed by the anti-doping program is very much questionable.

Correspondingly, the article, **“Doping in Sports- Causes and Consequences”**⁶

² J Dvorak et al., ‘FIFA’s Approach to Doping in Football’, *Br J Sports Med* p.3, volume 40, 2006, pp.3-12.

³ Massimo Negro et al., ‘Opinion paper: Scientific, philosophical and legal consideration of doping in sport’, *European Journal of Applied Physiology* p.729, volume 118:4, 2018, pp.729-736.

⁴ Shivankar Sharma & Pranav Menon, ‘A comparative study of the application of strict liability principles in sports: Critiquing antidoping policies; examining illicit crowd , chanting and match fixing’, *Nirma University Law Journal* p.79, volume 4:1, 2014, pp.80-108.

⁵ Dominic Malcolm & Ivan Waddington, ‘The use of Performance-Enhancing Drugs in European Football’, *International Review of Modern Sociology* p.309, volume 32:2, 2006, pp. 309-331.

⁶ Enver Tahiraj & Erlinda Hakaj, ‘Doping in Sports- Causes and Consequences’, *Kondicijska Priprema Sportaša*, Zagreb, 2021, pp.531-535.

stated about doping is a specific problem for sports, specific socio-cultural and gender-specific. Likewise, the research paper “**No Systematic Doping in Football-A Critical Review**”⁷ mentions that there is relatively little use of performance-enhancing drugs in elite Football. Lastly, the article in “**Attitudes and behavior related to performance-enhancing substance use among elite Saudi football players.**”⁸ Mentions that, although to prevent doping in sports, many educational and awareness programs have been developed and implemented, the psychological behaviors, attitudes, and perceptions of athletes related to doping are not focused on these programs.

Many studies and research had been on the topic of doping in sports but researchers are unable to find out the actual scenario of legal perspective of doping in Nepal and that referring to specifically in football.

II. Findings

Sport has always encountered many problems to affect the fair game and integrity of the game. The construction of individual excellence and character has always been the role played by the sport since ancient Greece⁹, and it remains the same today. Sport has always been a part of lifestyle from ancient history to the current day which is going to be the future for the upcoming generation who always think, dream aim, and are passionate about sport. However, in the current scenario, sports law is the most needed but neglected part of Nepalese law.

Among various crimes under sports law, doping is also one of the major crimes that directly and indirectly affect the fair play, integrity, and sentiments of football and any other game. Since 2004, the World Anti-Doping Agency’s (WADA) definition in the World Anti-Doping Code¹⁰ has been accepted as the international standard where it regards doping when an athlete is proven doped and found playing by taking prohibited substances banned by WADA violating the rules of the game and the law.

III. Effects of doping

Doping not only hampers the sports integrity, ethics, and disciplinary act of the athlete but also affects the health, economic, and socio-aspects of the player. It has numerous negative medical consequences for athletes including hypertension, heart failure, certain cardiac arrests, illusions, and hallucinations. Socially, it also results in disrupted relationships, damaging the reputation, prestige, and career of the athlete. In

⁷ Dominic Malcolm & Ivan Waddington, ‘No Systematic Doping in Football-A Critical Review’, *Soccer & Society* p.198, volume 17:1, 2008, pp.198-214.

⁸ Mohammed Al Ghobain, ‘Attitudes and Behavior related to performance-enhancing substance use among elite Saudi Football Players’, *BMC, Sports Science, Medicine and Rehabilitation* p.1, volume 11:35, 2019, pp.1-8.

⁹ Stephen G. Miller, ‘*Arete: Greek Sports from Ancient Sources*’ University of California Press, London, 3rd edition, 2004.

¹⁰ World Anti-doping Code (n1).

addition, doping also affects economic aspects including a huge amount of money for purchasing substances, withdrawal from sponsors, and many more.¹¹

IV. Categories

Among the different sports activities, Football is the most encountering sport in terms of football and sport offense which has been mostly seen in European countries. There are some major types or categories classified by the WADA¹² as prohibited substances or methods which is also prohibited by FIFA itself for football including Androgenic Anabolic Steroids (S1), Human Growth Hormone (S4), Erythropoietin (EPO/Blood Doping) (S2), Stimulants (S6) and Diuretics (S5). These other prohibited substances mentioned by WADA include Narcotics (S7), Cannabinoids (S8), Glucocorticosteroids (S9), Alcohol (P1), and Beta Blockers (P2).

V. Interview

For the practical application and practice of Anti-doping in Nepal, Interview was done with the two respondents including Mr. Sandip Mishra, the Competition director of ANFA, and Dr. Gyanendra Bikram Shah, Medical head of Nepal Sports Council with the indicators including concept, cases, present scenario, preventive mechanisms and the applicable laws for dealing with doping in Nepal.

The interview was taken in the following indicators:

1. Defining Doping:

While defining doping, both respondents agreed that doping is the act of players taking performance-enhancing substances prohibited in sports. It is done to win the game by cheating. Various types of doping could be found like steroids, blood doping, gene doping, and many more.

2. Laws:

Regarding laws, both the respondents mentioned that Nepal truly lacks a proper Anti-doping law to control and prevent such activity in sports. The existing laws are not enough to tackle doping. Therefore, the state must focus on drafting and making new laws including the Anti-doping provisions in Sports law, and also establish an Anti-doping Agency/Cell to deal with such issues.

¹¹ John Mpondova Chilima Kaoche, *Evaluation of knowledge and attitudes on doping by football athletes, coaches and sponsors in Malawi*, Degree of Bachelor of Education, Kenyatta University, July 2019, p. 21-24.

¹² 'World Anti-doping Code International Standard Prohibited List', World Anti-Doping Agency, 2022, pp.5-15.

3. Regulation:

Both of the respondents accept that the concerned bodies of football like ANFA (All Nepal Football Association), FIFA (Fédération Internationale de Football Association), and AFC (Asian Football Confederation) have their Anti-doping codes and regulations including the WADA Code that are being followed to take actions for preventing doping in football. Further, Nepal Olympics Committee (NOC) which is the responsible agency to tackle doping in Nepal might involve suspension or ban such players, coaches, and officials involved in doping for 2 years. It also can take action through laws by the gravity of the offense mentioned in the related provisions of laws.

4. Practice:

A mandatory doping test is not conducted as it is very expensive which is mentioned by both the respondents. Very few tests are carried out for participating in International Games, but regarding the Domestic scenario, the tests are not carried out till this date. Additionally, Dr. Gyanendra mentions that the result of doping is still negative in other sports as well not only in football. Nepal Sports Council has been regularly conducting Anti-doping tests time and again for international tournaments to prevent such threats of doping. Regarding Anti-doping laws, the concerned bodies of sports like ANFA, FIFA, and AFC including the WADA Code are being followed and Nepal Olympics Committee (NOC) takes action based on these regulations.

Sandip Mishra¹³ mentioned, Doping is an offense that involves the act of players taking performance-enhancing substances that are prohibited in sports to take benefit. About actions that could be taken by ANFA, AFC, and FIFA is to ban such players involved in doping and make them legally liable by the gravity of the offense. Regarding laws, it has only superficially dealt with doping but still, it hasn't mentioned the attempts of such crimes in a real scenario.

Doping tests are conducted by FIFA and AFC for participating in the international games to random 4-5 players but in domestic games, the testing is zero due to the expensive cost of the doping test. ANFA started PCMA¹⁴ in 2021 as a preventive mechanism to prevent doping. Along with this, different awareness programs are done for players, coaches, and officials who are very much aware of doping. Till now, there is not even a single case record for doping in Nepalese football. Regarding applied laws, Nepal lacks specific Anti-doping laws to deal with doping issues.

Additionally, ANFA lacks a separate doping agency to deal with the doping issues in Nepalese Football.

¹³ Satya Narayan Maharjan, Doping in football in relation to Nepal, Sandip Mishra, ANFA-Head of competition department, ANFA House, Satdobato, Lalitpur, 2022/07/15 https://drive.google.com/file/d/1DuuAbopcmwhHg_ZD8z7DFh_JZTr9mjyg/view?usp=sharing uploaded on 18 July 2022.

¹⁴ Pre-Competition Medical Assessment (PCMA) is an important part of preventive measure to detect healthcompromising conditions in professional athletes.

As per Dr. Gyanendra Bikram Shah¹⁵, Doping is the act of players taking performance-enhancing substances prohibited in sports to take benefit to cheat the game and could be found in various types like steroids, blood doping, and gene doping, and many more. Not only in Football, but the result of doping is still negative in other sports as well. But if we see the provisions in Nepalese laws, it lacks the laws regulating Anti-Doping.

The NOC cannot act properly due to the absence of proper law. Due to the failure to form NADO (National Anti-Doping Organization), a lot of work is being unable to conduct regarding Antidoping. Nepal lacks a separate doping agency to specifically deal with doping issues although being mentioned in law to establish NADO. If Nepal could be aware of people associated with Sports regarding doping and also establish a Cell committee of Anti-Doping then that would help to sort out the problems in the days to come regarding the doping issues.

5. Cases:

(i) National Cases

Doping in the context of Nepal could be discussed in the following cases that have been encountered by our country. These cases are discussed as follows: -

1. Rajendra Bhandari's case¹⁶:

Looking at Rajendra Bhandari's case, He was a long-distance runner, who was another person to get alleged doping. He was found doping positive in SAG 2006, held in Sri Lanka. The two gold medals he had bagged before getting anti-doping 'positive' were stripped off from him. Dr. Saroj Krishna Shrestha, the doping physician, affirms finding doping in Rajendra, though how did he get it and who else was involved in such a foul deed is still undisclosed. When the ban period was over, he came back in the 11th SAG game and bagged a gold medal again. Though alleged of doping this time too, no anti-doping violation was found.

2. Sanu Gurung's Case¹⁷:

The first person to be suspected of doping was Sanu Gurung, a bodybuilder. He was charged with 'Anti-doping-violation' in 1997-98. The case took a long time until he was banned from sports in 2008 AD.

3. Laxman Tamang's case¹⁸:

¹⁵ Satya Narayan Maharjan, *Doping in football in relation to Nepal*, Gyanendra Bikram Shah, SARADO- Board member of Nepal and Medical Department chief, National Sports medicine and Research Center, National Sports Council, Tripureshwor, Kathmandu, 2022/07/19

¹⁶ Himalayan News Service, 'THT 10 years ago: Rajendra Bhandari tests positive for banned drug', *The Himalayan Times*, Kathmandu, 23 September 2016, available at <https://thehimalayantimes.com/opinion/tht-10-years-ago-rajendra-bhandari-tests-positive-banned-drug>, accessed on 16th July, 2022.

¹⁷ Santosh Raj Pandey, 'Scrutiny over doping in South Asian Games', *Khabarhub.com*, Kathmandu, 17 November 2019, available at <https://english.khabarhub.com/2019/17/55372/>, accessed on 9th July, 2022.

¹⁸ Ibid.

Laxman Tamang, a boxer, was alleged of doped in 2014. He was given a five years ban. Now he has returned to sports.

Above discussed cases are a few names with doping 'positive' results. They are the players with the anti-doping violation record in the Nepalese context. These three cases are relating to sports but not football in particular.

(ii) International Case

Some foreign cases relating to doping in football could be discussed as follows: -

1. Diego Maradona's Case¹⁹:

The case of Diego Maradona at the 1994 World Cup in the United States is one of the most well-known cases of doping in football. The former Argentina international was sent home from the tournament after testing positive for five variants of ephedrine – a banned stimulant before which he only played two matches. Later he tested positive for cocaine while playing for Napoli, Maradona was then arrested in Buenos Aires and charged with cocaine possession and distribution.

2. FIFA vs. WADA²⁰:

The case of FIFA vs. WADA was the dispute about whether certain rules of the WADC concerning the imposition of sanctions for anti-doping rule violations are admissible under Swiss Law. Later CAS decided that the Anti-doping rules adopted by FIFA are not fully consistent with the World Anti-Doping Code (WADC) and FIFA is free within the limits of mandatory Swiss Law and could apply minimum sanctions than provided in WADC.

3. Ricardo Dodo's Case²¹:

Ricardo Dodô a Brazilian Footballer was found to have "Fenproporex", a prohibited substance appearing on the 2007 Prohibited List under category S6, stimulants (Fenproporex is a strong stimulant, precursor to amphetamine) in his Urine sample. Afterward, the Disciplinary Commission imposed a 120 days suspension on the Player, stating that the explanation given by the Player was implausible, especially because he was the first Botafogo player being tested positive for such an act. Later, CAS upheld the appeals of FIFA and WADA against the suspension and suspended dodo from December 2007 to 7 November 2009²².

¹⁹ APnews.com, September 4, 1997 <https://apnews.com/article/d625e2d8eda619ffbf4ffbc6ba8136b9> accessed on 25 July 2022.

²⁰ *Fédération Internationale de Football Association & World Anti-Doping Agency*, Tribunal Arbitral du Sport Court of Arbitration for Sport, 2005, Case no. CAS 2005/C/976 & 986.

²¹ Ricardo Dodô v. FIFA, WADA & CAS, 460, CAS, Beschwerde Gegen den Shiedsentschied des Tribunal Arbitral du Sport (TAS) vom 11. September 11, 2008.

²² *FIFA & WADA v. STJD, CBF & Ricardo Lucas Dodô*, Court of Arbitration for Sport, 2007, Case no. CAS 2007/A/1370 & 1376.

4. Paolo Guerrero's Case²³:

Paolo Guerrero was the captain of Peru who tested positive for a substance relating to cocaine. At World Cup 2018, he was banned from playing for his country. His legal team claimed that the test stemmed from drinking traditional coca tea. Guerrero appealed against the decision and the FIFA Appeals Committee partially upheld his appeal, reducing his ban to six months. Later again, WADA appealed this decision and the CAS increased the ban to 14 months.

5. André Onana's Case²⁴:

The case of Onana is the biggest ²⁴change in recent years was when Ajax Goalkeeper was handed a one-year ban by the Union of European Football Association (UEFA) in February 2021 after he tested positive for furosemide. The CAS's decision in Onana's case simply demonstrates a correct application of the Unexpected Adverse Drug Reaction (UADR) and stands as an important reminder to football players of their duties under the anti-doping regulations. Therefore, they are subject to Anti-doping and have positive duty to be aware.

Likewise, there are other famous scandals of doping in football as well including Cheryshev's case²⁵, Mamadou Sakho's case²⁶, Abel Xavier's case²⁷, Pep Guardiola's case,²⁸ and a few cases regard to doping.

While comparing the cases of foreign and Nepalese cases, we could compare and analyze them in the following ways:

i. Number of doping cases in football:

Only 3 recorded doping issues in the history of Nepalese sports have been found involving the cases of Athlete Rajendra Bhandari, Body Builder Sanu Gurung and Boxer Laxman Tamang. Looking at this scenario, there are zero cases of doping in Nepalese football to this date.

²³ Isabelle Sadler, 'World Anti-Doping Code: Not Guerrero's (World) Cup of Tea', *Squire Patton Boggs*, 14 June 2018, available at <https://www.sports.legal/2018/06/world-anti-doping-code-not-guerreros-world-cup-of-tea/> accessed on 13 July 2022.

²⁴ Luke Carney & Thomas Horton, 'Andre Onana and UEFA's Anti-Doping Regulations – A Cautionary Tale', *Squire Patton Boggs*, 17 November, 2021, available at <https://www.sports.legal/2021/11/andre-onana-and-uefas-anti-doping-regulations-a-cautionary-tale/>, accessed on 18 July 2022.

²⁵ Richard Conway, 'Denis Cheryshev: Russia midfielder investigated by Spanish anti-doping authorities', *BBC Sports news*, 12 September 2018, available at <https://www.bbc.com/sport/football/45502354>, accessed on 24 July 2022.

²⁶ Simon Jennings, 'Soccer-WADA apologies and agrees to pay damages to Sakho for drugs ban', *Reuters*, 4 September 2020, available at <https://www.reuters.com/article/us-soccer-england-wada-sakho-idUSKBN27K292>, accessed on 7 July 2022.

²⁷ Michael Walker, 'Soccer-WADA apologies and agrees to pay damages to Sakho for drugs ban', *The Guardian*, 24 November 2005, available at <https://www.theguardian.com/football/2005/nov/24/newsstory.sport2>, accessed on 24 July 2022.

²⁸ 'Doping in Football: Five Cases that Tarnished the Clean Image', *Newclick sports*, 13 May 2020, available at <https://www.newsclick.in/dopingfootball-five-cases-tarnished-clean-image>, accessed on 20 July 2022.

ii. Discussion of laws:

Very few laws try to relate the issue of doping directly or indirectly. Only a single provision of the Sports development act, 2021(2077) mentions doping as a crime where there are no other laws to regulate it. The main Lacuna is, that there is no proper law to address doping in Nepal and the existing provision does not carry the practical essence of the provision written in the Act.

iii. Is there no doping test or no doping cases:

The football scenario shows that Nepalese Football has a clear pass to this date regarding football. It might be due to the lack of doping tests which might be the reason for having no cases to date.

Without any confirmed cases, Nepal has zero doping cases regarding football.

VI. Laws:

Particularly, Nepal does not have a separate law that deals with the issue of doping but directly and indirectly, various laws touch on the issue of doping in Nepal. Being the signatory member of the International Convention against Doping in Sport²⁹, 2005 since 2010/06/15, Nepal has very thinly tried to adopt the provisions of this convention. All the International standards of Anti-doping are regulated and guided by the WADA Code which is the modern version of the Paris convention.

Referring to the Sports Development Act, 2077(2021); mentions doping is a crime which would be liable for ten thousand to fifty thousand rupees fine if found guilty³⁰. Compared to the previous act,³¹ it is slightly progressive regarding prevent doping in Nepal. Likewise, this act also mentions establishing a separate Anti-doping Agency to tackle such doping issues in Nepal.³²

The Narcotic Drugs (Control) Act, 2033 (1976) also proscribes the 'consumption' of drugs³³ contrary to the mandate of the international drug conventions, to which Nepal is a signatory.³⁴ The S8 includes the substances like Cannabis, hashish, and Marijuana which are also clearly prohibited by the Narcotic Drugs Control Act. This act has mentioned that anyone who consumes cannabis/ marijuana shall be punished with imprisonment for a term up to one month or with a fine of two thousand rupees.³⁵

²⁹ *International Convention against Doping in Sport*, 19 October 2005, 2419 UNTS 201, Paris, 1 February 2007.

³⁰ *Rastriya Khelkud Bikas Ain 2077* (Sports Development Act 2077), Nepal, s. 30.

³¹ *Khelkud Bikas Ain 2048* (Sports Development Act 2048), Nepal.

³² Sports Development Act (n 30) s. 43.

³³ *Laghu Aushad (Niryantan) Ain 2033* (Narcotic Drugs (Control) Act, 1976), ss.4(a), 4(g), 14(1)(a), 14(1)(e).

³⁴ United Nations Office of the High Commissioner for Human Rights, 'States should stop arbitrary detentions for drug offences', *United Nations Office of the High Commissioner for Human Rights*, Geneva, 20 March 2019, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24369&LangID=E> accessed on 11 July, 2022.

³⁵ Narcotic Drugs (Control) Act (n 33) s.14 (1)(a).

The drug act³⁶ of Nepal governs all the lists and categories of drugs and psychotropic substances where it has listed about 9 Narcotics drugs and 22 psychotropic substances that are also listed as prohibited substances in S7 of the WADA Code. It categorizes these substances as Group A, B, and C where Narcotic drugs and psychotropic substances are mentioned in Group A, Antibiotics and Hormonal drugs in B, and antihistaminic and Vitamins in C.

The new Master plan for Control of Narcotic Drugs³⁷ by the government to prevent and reduce the consumption and trading of drugs based on health, social and economic issues also could be related to the prevention of doping and the Anti-Doping process. Likewise, other various mandates of sporting committees in Nepal have their regulations based upon these domestic and international standards whereas ANFA's regulation is guided by the regulation of FIFA, AFC, and South Asian Football Federation (SAFF).

When we refer to the International laws and standards against doping in football, the first and foremost regulating code/ law is the FIFA Anti-doping regulation.³⁸ Athletes are subject to a ban from the sport for as much as **several months to a lifetime**, based on the severity of the individual cases if they are found guilty of taking performance-enhancing drugs.³⁹ If the player knowingly participated in illegal doping, they will be banned for up to four years likewise it depends upon the severity and intentionality of players while committing this offense.

Referring to the AFC Code of Conduct, 2020⁴⁰, clearly states that AFC takes a zero-tolerance approach to the substance that refers to harmful or hazardous use of chemicals and other substances, including alcohol and illicit drugs⁴¹ by the members of the AFC family. AFC being the continental body of Asia under FIFA complies with the essence of FIFA's priority to safeguard the physical health and mental integrity of players, uphold and preserve the ethics of sport, and ensure equal chances for all competitors.

Likewise, the SAFF Statutes, 2020 also mentions that its main objective is to institute strong measures and campaigns against bribery, corruption, drugs, and racism in Football in the Region.⁴²

Looking at this, we could see that, regionally and continentally, doping is strictly prohibited in Football which applies to Nepal as being a member of FIFA, AFC, and SAFF.

³⁶ Drugs Act, 2035

³⁷ Department of Drug Control, 'New Master plan on Prevention and Control of Narcotic Drugs 2079-2084', *Policy, Plan, Monitoring and Evaluation Division*, 2078, Nepal.

³⁸ *FIFA Anti-doping regulation*, FIFA, 1 January 2021.

³⁹ *FIFA Anti-doping regulation* (n 38), rule 25.

⁴⁰ AFC Code of Conduct, Asian Football Confederation, 2020 Edition, art. 5, sub-art 1.

⁴¹ AFC Code of Conduct (n 40) art. 5.1.

⁴² Statutes of the South Asian Football Federation, SAFF, 2020, art. 2.1(h).

Similarly, UNODC 1997⁴³ also is another international body that is based upon 3 different conventions including the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol,⁴⁴ the Convention on Psychotropic Substances of 1971,⁴⁵ and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988⁴⁶ to control and prevent drugs taking and doping.

The International Convention against Doping in Sports is the main governing instrument to prevent doping in sports which is also known as the Paris Convention, it works to promote the prevention of and the fight against doping in sports, with a view to its elimination being within the framework of UNESCO. Therefore, any act that violates the provision mentioned in Art 2.3 of this act would be considered to have violated the provisions of this convention amounting to liable for the offense of doping⁴⁷.

Finally, the WADA Code⁴⁸ is the fundamental and universally accepted code to regulate Anti-doping in Sports. It has explicitly mentioned that Doping is fundamentally contrary to the spirit of sport⁴⁹ and involves specific anti-doping rules and principles that are to be followed by organizations responsible for adopting, implementing, or enforcing anti-doping rules within their authority mandatorily. Furthermore, these codes categorize different prohibited substances which are regarded as prohibited substances⁵⁰ if taken in sports.

VII. Analysis.

Conceptually analyzing, doping as a sports crime relates to unfair game performance through cheating against the principle of equality in the game by consuming the prohibited substances that enhance the performance. From the interview mentioned above, it indicates that Nepal seems safe from positive doping cases in football till now, but that might be the result of having the very least number of doping tests or not doing any tests which certainly would not result in any cases if there is the absence of doping which the exact reality in Nepal.

Slowly, few approaches have been taken to prevent doping by applying and complying with the Anti-doping codes, which include mandatory tests for the random players

⁴³ The United Nations Office on Drugs and Crime, 1997

⁴⁴ Single Convention on Narcotic Drugs, 13 December 1964, 976 UNTS 106, New York, 30 March 1961.

⁴⁵ Convention1 On Psychotropic Substances, 16 August 1976, 1019 UNTS 176, Vienna, 21 February 1971.

⁴⁶ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 11 November 1990, 1582 UNTS 165, Vienna, 20 December 1988.

⁴⁷ It has mentioned the violations of Anti-doping rules if found presence of a prohibited substance or its metabolites in Athlete's body, use or attempted use of a prohibited substance or a prohibited method, possession of prohibited substances or methods, trafficking in any prohibited substance or prohibited method, administration or attempted administration, refusing, or failing without compelling justification, to submit to sample collection all falls under the violation of Anti Doping rules.

⁴⁸ World Anti-doping Code (n1).

⁴⁹ World Anti-doping Code (n 1) pg. 13

⁵⁰ World Anti-doping Code (n 1).

before the international games, awareness programs, and counseling the players, officials, and coaches about the consequences of doping. The Interview as the primary source of this study shows that Nepal truly lacks the laws that specifically deal with and address the Anti-doping mechanisms.

Likewise, while analyzing the cases, although Nepal had very few cases recorded officially and unofficially in the history of doping in Nepalese sports including the cases of Athlete Rajendra Bhandari, Body Builder Sanu Gurung and Boxer Laxman Tamang, there are zero cases found regarding football which is a positive sign and an excellent result in prevention of Doping and sports crime in Nepal.

Comparatively, there are also very few cases of doping that are being recorded globally in football than in other sports. Some famous cases of doping in football include the case of Maradona, Gurrero, Onana, Mutu, Xavier, and Dodo and the case of FIFA and WADA are the recorded cases of doping in global football. Many Payers got suspension; many players got banned whereas some players have to face lifetime bans being guilty in the case of doping. Consequently, we could observe that doping is an intolerable act in any sport including football which amounts to a criminal offense as per the gravity of the substance used.

Similarly, when we see the laws, various laws directly or indirectly touch on the issue of doping in Nepal. Particularly, Nepal does not have a separate law that deals with the issue of doping, although being a member party of the International Convention against Doping in Sport. Recent Sports Development act, 2077 has mentioned a provision against doping as an offense including liable for punishment if found guilty for up to a maximum of fifty thousand rupees fine and suspension.

In the same way, The Narcotic Drugs (Control) Act, 2033 also criminalizes drug use. Even though it does not mention specifically drugs used in sports indirectly, in general, it also prohibits prohibited substances like Cannabis, Hashish, and Marijuana that are categorized as banned substances in the WADA code. Any person found consuming cannabis/ marijuana shall be punished with imprisonment for a term up to one month or with a fine of two thousand rupees. The Drug act also has enlisted 9 Narcotic drugs and 22 psychotropic substances which indirectly try to control doping. In addition to this, 5 years plan for the prevention of Narcotic drugs has focused on reducing the consumption of drugs.

About International laws, Nepal has adopted various Anti-doping laws including the Paris convention against doping, the WADA code, and FIFA Anti-doping rules as well. It seems like, even though, there are laws written in texts that are not applied in practical scenarios. Due to a major lacking of law that refers to specific Sports law addressing many issues of sports, Nepal is not being able to adopt many Anti-doping control mechanisms like regular tests, and separate Antidoping cells/agencies. As of now, the practice only seems to be based upon awareness of Antidoping but it only is not enough to tackle such sports crimes as doping. Therefore, strong Sports Law is much needed in Nepal including all these issues to adopt as soon as possible.

VIII. Conclusion.

Nepal's current approach to doping from a sports law point of view is remarkable but still, the application of the newly formulated laws always has challenges upon its application. The major impact on football is likely to be seen through various scandals and cases of doping not only in Nepal but throughout the world. Thus, efficiency and equality benefit largely entire sports if sports crime like doping is well controlled in football and all other sporting events for the protection of integrity and to ensure fair play.

However, Nepalese doping cases not only from football but other sports as well raise certain pertinent questions. They show the loopholes of the Nepalese criminal law in the sports field as a grey area. It seems like; it still is yet to apply the procedures about how to address such crimes. There seems confusion regarding whether it is to be dealt by the Sporting organizations like ANFA in Football sector or it should be brought immediately to the jurisdiction of the court. Therefore, clear and proper provisions must be included regarding Anti-doping.

As a part of Criminal law, sports-related crimes should be focused on and given appropriate attention to control such crimes of doping that not only hampers the player's career but affects the whole fair game, fan's sentiments, and the Nation's reputation. Clarity and consistency in the implementation of the laws and provisions regulating Anti-doping must be present for maintaining equal, healthy, and hygienic sports activities.