

The ‘Feminist’ Discourse on Trans Exclusion from Sports

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A recent surge is observable in the discourse on transgender women’s rights to access “women-only” spaces, particularly in the Japanese Twittersphere. The conversation encompasses topics such as the enrolment of trans women in women’s universities and their use of women’s bathrooms or public baths. The debate concerning trans inclusion in sports is another aspect of this discursive proliferation. This study examines the “feminist” discourse on the participation of transgender women in women’s competitions in the domain of sports. Two of the most commonly occurring and visible discourses pertain to oppositional constructions: trans exclusion because of the differences and trans inclusion because of the sameness. This study contends that both groups of discourses are grounded in the sexist logic of female inferiority and that both rationales reinforce the gender binary that roots the heteropatriarchal gender order. It further argues that the “feminist” discourse on trans exclusion aligns with the transphobic conservative faction in attacks against the rights of trans people. Such debates also allow the warping of feminist politics by far-right conservative groups to advance misogynistic, homophobic, racist, and imperialist political agendas through sex control in sport.

Keywords

transgender, sport, feminism, hyperandrogenism, transphobia

*Survival becomes a project when your existence is the object of a rebuttal.
You have to survive a system that is constantly chipping away at your being.
A feminism that participates in the chipping away is not worthy of the name.*

–Sara Ahmed 2016: 31

Introduction

The last year witnessed a notable explosion of discussions in Japan about the rights of transgender people, particularly trans women,¹ to access gender-segregated spaces. This recent debate unfolded primarily on Twitter and was triggered by the announcement of Ochanomizu University's new admissions policy in July 2018, welcoming applications from prospective trans women students from 2020 to its historically women-only college campus. Although Ochanomizu University was the first Japanese women's university to officially institute a trans inclusive admission policy,² the decision was not unexpected. In fact, the mandate of inclusion closely followed a series of similar decisions taken by prominent women's universities and colleges in Western countries, which began opening their doors to trans women in the mid-2010s. In 2014, Mills College became the first women's college in the U.S. to admit trans women. This move by Mills College was followed by many other women-only higher educational institutions in the country including the Seven Sisters colleges on the East Coast of the United States. Murray Edwards College in the United Kingdom a women-only college affiliated to Cambridge University, also

changed its admissions policies in 2017 to allow transgender women.³ These recent changes in higher education reflect a larger transformation in societal attitudes toward transgender people resulting from a growing social understanding of diverse, non-binary gender identities and gender expressions.

That being said, the debate on who gets to be counted as a woman and who should be allowed in women-only spaces has polarized feminist communities (Weber, 2015) and also, to an extent, transgender communities in the United States, United Kingdom, and other Western countries since at least the 1970s. The publication of *The Transsexual Empire: The making of the Sha-Male* (1979) by Janice Raymond, a self-proclaimed radical feminist, triggered the 'feminist' discourse on trans exclusion. The discussion pivots on the argument that trans women are "biological males" who threaten the safety of women and dominate women-only spaces without having shared the experiences of cis women. The significant societal and cultural changes of the last decade notwithstanding, feminists against trans inclusion, identified as trans exclusionary radical feminists or TERFs, continue to iterate a set of arguments regarding the safety and rights of women and the biological determinism of sex/gender.

1 The terms "trans woman" and "trans man" are used in this article to refer to Male-to-Female (MtF) transgender and Female-to-Male (FtM) transgender individuals, respectively.

2 <https://www.japantimes.co.jp/news/2018/07/03/national/womens-university-tokyo-accept-transgender-students/>

3 <https://www.theguardian.com/education/2017/oct/04/women-only-cambridge-college-to-allow-students-who-identify-as-female-murray-edwards>

The domain of sports is cited as another women-only space that is purportedly in danger of being invaded by trans women, threatening the safety of cis women. The debate on the inclusion of trans people in sport is not new; nonetheless, it has recently received significant attention in Japan because of recent controversies over trans inclusion. The discussions against allowing trans women to compete in women's competitions often emphasize the biological difference between trans women and cis women. The inclusion of trans women is said to be unfair and unsafe for cis women who would lose opportunities because their chances of winning and receiving prize money and sports scholarships would be diminished. Some individuals even argue that women's sport as we know it would cease to exist if trans women are allowed entry into women's competitions.

Recent online debates on trans athletes may lead one to conclude that there has been a sudden and large influx of trans athletes into women's competitions around the world. The dispute about trans girls and trans women's rights to participate in sports in the gender category with which they identify may also seem new. There is, however, a long history of trans participation at the elite level of sports. The public debate on how to regulate trans participation began in the 1970s, perhaps even before.⁴ The controversy over the gender

identities of athletes and their biological sex is also not recent. The issue of which women are women enough to compete in the women's category has been contested since the early 20th century when a large number of women began to participate in recreational and competitive sports (Cahn 2015).

This study intends to add to the extant literature by examining 'feminist' discourses on the participation of trans women in sports competitions designated for women. For the purpose of the present paper, the term "feminist discourses" alludes to texts and speeches iterated by women who identify as feminists and those who advocate for gender equality. Thus, both women's rights and trans rights advocates are encompassed by this term. The articles and tweets selected for this study address the issue of the participation of trans women in sports. These appeared in American and British media and were cited frequently in the Japanese Twittersphere between 2018 and 2019. The present study begins by outlining the history and controversies pertaining to gender verification and the inclusion of trans athletes in women's sports. In so doing, it positions the current debate within the larger ambit of feminist deliberations as well as within the long history of trans participation in sport.

As noted above the two most common aspects of the recent debate focus on trans

4 Renée Richards, a former professional tennis player, is considered the first openly transgender person who competed in professional or elite level sports. Her two autobiographies, *Second Serve* (1983) and *No Way Renée: The Second Half of My Notorious Life* (2007) may be consulted for more information about her life and her athletic career.

exclusion because of the difference and trans inclusion because of the sameness. This paper contends that both facets are grounded in the sexist logic of female inferiority and that both reinforce the gender binary that roots the heteropatriarchal gender order. The discourse on biological determinism has also been mobilized time and again in the history of modern sports to exclude women, especially those who are deemed “too masculine” in the eyes of Western sports officials. Thus, discriminatory and violent gender testing policies have been implemented in international sports competitions. These rules have disproportionately targeted women from developing countries. In other words, the frequently cited essentialist argument against the inclusion of trans women in women’s competitions is closely related to both sexism and racism; it is also connected to the colonial legacy of the gender binary in the domain of women’s sports.

At this historical juncture when trans rights are receiving more attention from the Japanese feminist community and from society at large, attention must be paid to the ways in which feminist discourses, particularly those against trans inclusion, align with transphobic attacks by conservative groups on the rights of trans people. Scholars must also investigate how such discourses allow the warping (Yoneyama 2016) of feminist politics by far-right conservative groups to advance their misogynistic, racist, and homophobic political agendas.

I. Sports and the Biological Determinism of Gendered Bodies

Many feminist sports scholars have pointed out that the discourse on the biological difference between women and men forms the foundation of patriarchy (e.g., Cahn 2015; Hall 1996; Vertinsky 1994). They have critiqued how such essentialist discussions of gender that presuppose the weakness, fragility, and instability of women’s bodies serve to limit women’s spheres of existence and aspirations. Feminists in the realm of sports have, for a long time, battled precisely such essentialist notions of the female body. Yet, when intersex and trans women oppose rigid and oppressive concepts of women’s bodies, they encounter resistance from both women and men, including individuals who identify as feminists.

The rationales that inform the exclusion of women from sports has changed over the course of the 20th century. What has remained constant is a focus on the biological difference between women and men. Women were considered too frail to take part in competitive sports since the 19th century and through much of the 20th century. Many medical experts and physical educators believed that “games of strife” reduced the attractiveness of women, damaged their reproductive organs, and diminished their womanly qualities, both physically and psychologically (Cahn 2015; Vertinsky 1994).

Another debate on biological gender difference emanated from increasing at-

tention to concerns about gender fraud in the international sporting arena. Sport officials were concerned that male imposters and intersex athletes invade women's competitions to win medals and showcase the racial and ideological superiority of discrete nations. Such trespass was treated as a threat to the purity of competition and to the ideal of fair play (Henne 2015). Thus, athletes who compete in women's divisions were subjected to increasingly strict gender policing and surveillance, labeled "sex control" by L. Dawn Bavington (2019). Gender verification began in the 1930s and continues to be implemented by various international sports governing bodies, most notoriously by the International Olympic Committee (IOC), World Athletics (formerly the International Association of Athletics Federations [IAAF]), and Fédération Internationale de Football Association (FIFA). However, varying methods of gender testing have repeatedly been found to yield results that are at best inconclusive, erratic, and inefficient. Further, athletes, scholars, and medical authorities have long criticized such testing because it amounts to the invasion of privacy and the violation of human rights of women athletes, including intersex women. Such testing is also critiqued as being sexist (Vignetti et al. 1995) and racist

(Travers 2008; Bavington 2019). In 1992 and in 1999, the IAAF and the IOC respectively decided to terminate the mandatory gender testing of all female athletes. Both organizations, however, retained the right to order athletes to undergo gender testing if their gender was questioned. In 2012, these international bodies finally appeared to have abandoned the idea of testing gender when the policy was abolished. Yet, they introduced the hyperandrogenism regulation that same year.

Researchers have shown that the hyperandrogenism regulation, just like gender verification, is based on insufficient scientific data (Ferguson-Smith and Bavington 2014; Sönksen et al. 2018) and is misguided by myths about the impact of testosterone on athletic performance (Karkazis et al. 2012; 2019). Notwithstanding these shortcomings, countless women athletes have been subjected to invasive sex control measures for nearly a century. The recent documentary, *Annet Negesa - How the IAAF Fails to Ensure Human Rights* (2019), elucidates that the outcome has been devastating for athletes who have failed the test, not only in terms of their athletic careers but also for their health and their social lives. The documentary recounts the story of Annet Negesa,⁵ a Ugandan middle-distance runner who sur-

5 Annet Negesa is a former star middle-distance runner for Uganda who was expected to qualify for the 800-meter women's final in the London 2012 Olympics. Although she was Uganda's medal hopeful, she suddenly disappeared from athletics without any public explanation. In the documentary, she revealed that she was coerced to undergo a gonadectomy without proper explanation of the procedures or its potential complications and consequences. At the age of 27, Negesa sought and was granted asylum in Germany after the release of the video which identifies her as a person with intersex conditions or differences in sex development (DSD) because LGBTQ people are

vived victimization by the hyperandrogenism regulation. The film exposes cases of women athletes experiencing health problems, depression, and attempting or committing suicide after their disqualification from sports because of gender testing. Payoshni Mitra, a feminist scholar and a longtime advocate for intersex athletes, has repeatedly condemned the current hyperandrogenism regulations followed by the IOC and the IAAF. She explains how the implications of such regulations transcend the sporting arena. In her words, these regulations have “negatively impacted lives of young athletes, humiliated them through public questioning of their gender, and affected their livelihood.” She adds, “In conservative countries, being outed as having a DSD means risk of serious physical harm.”⁶

The hyperandrogenism regulation does not directly address the participation of trans athletes. It does, however, involve the definition of who is considered feminine enough to be allowed in women’s competitions. Despite the different ways in which intersex women and trans women encounter the question of their gender in sports, both groups of women are asked to alter their bodies to compete in the

women’s category. This stipulation applies because women (with the exclusion of intersex and trans women) are considered disadvantaged as a group in comparison to men whose category, according to the logic of the regulators, includes intersex and trans women with respect to biological attributes. Indeed, when the IAAF first introduced the hyperandrogenism regulation, the 10 nmol/L level of testosterone, commonly and misleadingly called the “male hormone,”⁷ defined the point of demarcation between women and men for the purpose of sports. The section that follows explicates that this level of testosterone is also the upper limit established for trans women to be allowed into women’s competitions.

II. A Brief History of Trans Athletes in Sports

Trans athletes were officially included in international sports competitions in 2004 after the IOC instituted the “Stockholm consensus on sex reassignment in sports.” However, this official declaration does not imply the absence of transgender people in competitive sports before 2004. In fact, there have been several trans athletes, many of whom are also well-known.

regularly subjected to violence and persecution in her home country (Rumsby 2019).

6 <https://www.telegraph.co.uk/athletics/2019/12/05/intersex-ex-athlete-annet-negesa-relieved-happy-granted-asylum/>

7 Jordan-Young and Karkazis (2019) argue that the “sex hormone concept, whereby testosterone and estrogen are elevated as the primary hormones for males and females respectively,” invites multiple inaccurate assumptions about the functioning of these hormones. Scientists have shown that both testosterone and estrogen are produced in both male and female bodies and have specific functions in the physiologic development of both sexes (i.e., Oudshoorn 1994; Fausto-Sterling 2000).

To name only a few, some early successful trans athletes included the tennis celebrity Renée Richards, the Olympic gold medalist in decathlon Caitlyn Jenner, and Philippa York, who won the title of “The King of the Mountains” in the 1984 Tour de France.⁸ Needless to say, the relationships between gender identity, sports careers, and gender transition were mired in difficult decisions for these earlier elite athletes who also happened to be transgender individuals.

The negotiation of athletic careers and gender identities continues to be varied and complex for trans athletes even after the implementation of IOC’s trans policy. Some trans athletes begin the medical transition, such as hormone therapy and/or gender-affirming surgeries (more commonly known as sex reassignment surgery or SRS), and come out as transgender after retiring from high-level competitions (e.g., Caitlyn Jenner and Philippa York). Some trans athletes come out as trans but postpone their medical transition until they retire from the high-level competition (e.g., Keelin Godsey, Kye Allums, and Balian Bushchbaun). Some trans athletes

continue their sports careers after gender affirmation treatments by competing in the affirmed gender category (e.g., Renée Richards, Mianne Bagger, and Michelle Dumaresq, Hiromasa Ando,⁹ Patricio Manuel). Some continue to compete in sports after beginning medical transition but do not, or are not allowed to, change their gender category in competitions (e.g., Jaiyah Saelua¹⁰ and Mack Beggs).

Most of the openly trans athletes in Western nations over the course of the long history of trans participation in sports have faced heavy criticism both from within and from outside their sporting communities. Yet, the challenge posed by trans athletes and trans rights activists to such strict binary gender division and cisgenderism has pressured the sporting world to recognize the rights of trans people to participate in sports. However, allowing trans athletes to participate in their affirmed gender category has become a complicated issue since modern sport imposes a strict binary gender division. Before the IOC established the trans policy, most cases were handled on a case-by-case basis by the particular governing bodies of sport.

8 Harper (2019) may be referenced for more detailed stories about these athletes and more recent cases of openly transgender athletes.

9 Hiromasa Ando is a Japanese speedboat racer. Ando started as a female racer but later came out as a person with Gender Identity Disorder and started to race as a man. See Ando’s (2002) autobiography published, *Sukato wo Haita Shonen: Koushite Watashi wa Boku ni Natta*, Tokyo, Bookmansha.

10 Jaiyah Saelua was born in American Samoa. She is *fa’afafine*, a “third gender” recognized in Samoan culture. Although Saelua is known to be the first international transgender football player recognized by FIFA and allowed to play in the FIFA World Cup, it must be noted that *fa’afafine* is not same as the Western concept of “transgender.” Nonetheless, she is included here because she is a significant part of the history of gender variant athletes.

The IOC's policy was devised by an ad-hoc committee of medical experts from Sweden, France, and the U.S. It states that:

any "individuals undergoing sex reassignment of male to female before puberty should be regarded as girls and women" (female). This applies as well for female to male reassignment, who should be regarded as boys and men (male). (IOC 2004)

The document does not clarify the procedures to be included within the ambit of "sex reassignment" before puberty. The IOC also mandates that any individual who undergoes sex reassignment after puberty must meet three conditions: 1) "Surgical anatomical changes have been completed, including external genitalia changes and gonadectomy;" 2) "Legal recognition of their assigned sex has been conferred by the appropriate official authorities;" and 3) "Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for a sufficient length of time to minimise gender-related advantages in sport competitions" (ibid.). The statement also specifies the "sufficient length" to be "no sooner than two years after gonadectomy" (ibid.).

A revision of this regulation was published in November 2015. Trans athletes are no longer required to undergo gender

confirmation surgeries under the updated rules. The IOC has also dropped the legal recognition clause. Now, trans men can compete in the men's category without hormone therapy or surgeries.¹¹ A trans woman must, however, demonstrate that "her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition." Further, both trans men and trans women must declare and maintain the gender category in which they wish to compete for a minimum of four years (IOC 2015). The regulation also states, "To avoid discrimination, if not eligible for female competition the athlete should be eligible to compete in male competition" (ibid.).

The IOC's transgender policies have attracted varied responses from trans communities, athletes, sports authorities, as well as spectators. Some people fiercely oppose these policies because they fear that women's sports would be taken over by men pretending to be women (Harper 2019: 93). Others praise the IOC policy as a step toward more inclusive sporting spaces. Heather Sykes (2006) critiques trans inclusive policies such as the IOC's that are rooted in the Western binary gender system as "necessarily limiting." According to Sykes, the attempt of such regulations to be universal conflicts with the "multiple ways of inhabiting gender categories and the contradictory interests

11 If trans men are using or plan to use testosterone as a part of their gender affirmation treatment, they must be granted therapeutic use exemption (TUE) by the World Anti-Doping Agency (WADA). WADA's (2017) detailed, nine page long document, "TUE Physician Guidelines: Transgender Athletes," specifies the hormone requirements for both trans women and trans men.

of diverse gender minorities” (4).

Despite such criticism, the IOC’s updated policy has become a model for the world of sports, demonstrating the increasing need for trans inclusion procedures in sports. A steady increase may be observed in the number of sports governing bodies around the world that have adopted identical rules or have instituted modified versions of the IOC policy (Itani 2016). Such inclusionary trends are not limited to the bodies governing international sports; they also extend to national and non-profit organizations. School-specific sports organizations such as the National Collegiate Athletic Association (NCAA) and the National Scholastic Athletics Foundation (NSAF) tend to adopt more inclusive policies with fewer restrictions to prioritize the rights of transgender children and youth to participate in sports. For example, 17 states in the U.S. currently follow inclusive policies that do not require surgical or hormonal procedures to be accomplished for participation in high school sporting competitions. However, eight American states still require athletes to compete according to the gender recorded on their birth certificates or to complete surgical procedures and comply with a hormone wait period.¹² The rest of the states either do not have any specific policies or require some form of modification, and trans participation is evaluated on a case-by-case basis. Even though they are limiting and divisive, the existence of trans inclusion

policies has encouraged and provided space for some trans athletes to compete in their affirmed gender category.

III. The Discourse Against Trans Inclusion (Exclusion Because of Difference)

Perhaps predictably, the increased visibility of trans athletes in the twenty-first century has resulted in a strong backlash after the implementation of transgender policies by the IOC and other entities. This section analyzes the discourse on trans exclusion from sports. It focuses primarily on cases in the U.S., Canada, and the U.K. that have most significantly influenced the recently occurring debates in Japan. One of the most prominent of such cases involves a successful Canadian downhill mountain bike racer, Michelle Dumaresq. She competed in the women’s race in 2001 when she was 26 years old, three years before the Stockholm consensus, and five years after her gender affirmation surgery. Nonetheless, Dumaresq faced much criticism from within and outside of cycling communities. Her own mentors in women’s downhill racing, who had once invited Dumaresq to train and compete with them, changed their attitudes toward her inclusion in the women’s race once she began to succeed. Some of her female competitors filed complaints to the governing organization, resulting in Dumaresq’s temporary suspension. Dumaresq was eventually allowed to resume racing because her legal gender

12 <https://www.transathlete.com/k-12>

was female. More controversy followed when a fellow competitor who won second place after Dumaresq in the 2006 Canadian downhill mountain-biking championship wore a T-shirt to the award ceremony that read, "100% women champ 2006."

Besides individual athletes, conservative media outlets have also weighed in on the controversy. Breitbart News Network is an increasingly powerful far-right syndicated news website that has been labeled misogynist, xenophobic, and racist (Grynbaum and Herrman 2016, Aug. 26). In 2016, Breitbart published an article titled, "Olympics Loosen Rules to Allow Pre-Op M-to-F Transsexuals to Compete with Women" in reaction to the IOC's release of its revised transgender policy in 2015. The article begins with the typical transphobic discourse of equating trans women to men who disguise themselves as women to exploit spaces meant only for women; in this case, the arena of competitive sports.

There's great news for adventurous male Olympic hopefuls: if they declare themselves women and reduce their testosterone below 10 nmol/L for at least 12 months prior to competition, they can compete against ladies.¹³

This sarcastic statement mocking the IOC's

more inclusive policy typifies transphobia and demonstrates how trans exclusion and sexism work in tandem. Trans women are equated with men who maliciously intend to compete against *ladies*, who are thus simultaneously coded as fragile, weak, and second-class athletes.

More recently, Rachel McKinnon, a transgender cyclist, published an opinion piece in The New York Times (NYT) on December 5, 2019. This article reveals that she received an increasing number of death threats and faced online abuse after a tweet from Donald Trump Jr. criticizing her participation in women's events held around a month before the tweet was posted.¹⁴ Trump Jr. had tweeted that allowing trans women to compete in women's sports would "destroy women's sports and everything so many amazing female athletes have worked their entire lives to achieve."¹⁵

McKinnon's NYT article demonstrates that this form of transphobia imposes direct and dangerous consequences on the lives of trans people, especially when such attacks emanate from high profile individuals such as professional athletes, celebrities, and politicians. It is not coincidental that the number of transgender people murdered in the U.S. has reached record-high levels since the election of Donald Trump, who has authorized extensive anti-

13 <https://www.breitbart.com/sports/2016/01/22/olympics-allow-transsexuals-to-compete-under-gender-they-identify-with/>

14 <https://www.nytimes.com/2019/12/05/opinion/i-won-a-world-championship-some-people-arent-happy.html>

15 <https://twitter.com/donaldjtrumpjr/status/1186275133494910976?lang=en>

trans legislation in the U.S. since his inauguration.¹⁶

Trans and queer movements have always faced backlashes. A series of so-called “bathroom bills” have been proposed and passed around the U.S. since the 2010s to prohibit trans people from using gender-segregated spaces according to their gender identity. If the anti-trans backlash in sports was voiced solely by the usual suspects, the right-wing (religious) conservatives, the counterattack would be treated as an expected extension of the conservative political campaign. Feminists, including queer activists, have decades of experience in critiquing and pushing back against this sort of discrimination and violence. Feminist scholars and activists in the sports arena have long critiqued sexism and homophobia in sports (Cahn 1994; Griffin 1998; Lenskyj 1986; Pronger 1992) and have censured the gender binary that underlies the exclusion of trans athletes from sport (Love 2014; Sykes 2010; Traverse 2006). The anti-trans backlash in the sporting space has, however, demonstrated a concerning new development in recent years. As the discourse of trans exclusion from sports expanded out of athletic communities and conservative online media and into the larger political spaces, it seems to have merged with campaigns for feminist causes.

One notable example is the U.K.-based

conservative anti-trans campaign group called “Fair Play for Women (FPFW).” Their website describes the group as “a campaigning and consultancy group which raises awareness, provides evidence and analysis, and works to protect the rights of women and girls in the U.K.”¹⁷ The organization’s campaign history notes its beginning in 2017 as a small group of women who were concerned about the “the impact of transgender policy on the participation of women and girls in sport,” but it grew into a larger campaign about wider issues related to trans people, particularly the proposed amendment of the 2004 Gender Recognition Act in the U.K. They claim:

Women’s rights depend on sometimes being able to treat males and females differently because of their sex. To do this we must be able to accurately identify and acknowledge the material reality of someone’s sex.¹⁸

If this group started out of concern for women in sports, they have not paid attention to, or have conveniently skipped the troubled history of attempts by sports authorities to separate women and men based on the material reality of the sex of athletes, which has resulted in appalling violations of the rights and health-conditions of women. In addition, precisely this logic of binary sex has been deployed in

16 <https://transequality.org/the-discrimination-administration>

17 <https://fairplayforwomen.com/>

18 <https://fairplayforwomen.com/jkrowling/>

the sporting world to maintain the overwhelming domination by men and to exclude women not only from playing sports, but also from coaching, managing, and leading sports teams and organizations.

There have been similar campaigns across the Atlantic Ocean to exclude trans women from women's competitions. In June 2019, three girls in Connecticut filed a federal Title IX discrimination complaint that stated:

Women fought long and hard to earn the equal athletic opportunities that Title IX provides. Allowing boys to compete in girls' sports reverse nearly 50 years of advances for women under this law. We shouldn't force these young women to be spectators in their own sports.¹⁹

For those unacquainted with the term, Title IX is a federal civil rights law in the U.S. and is a part of the Education Amendments Act of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. Title IX declares that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimi-

nation under any education program or activity receiving Federal financial assistance.

Although Title IX does not mention athletic programs in school, it has perhaps been most contested and has experienced the most significant changes in the distribution of funding and opportunity in education.

While this Title IX complaint remains pending, the same Connecticut families also filed a federal lawsuit on February 12, 2020, against the Connecticut Association of Schools (CAS) seeking to reverse a Connecticut Interscholastic Athletic Conference rule that permits trans athletes to compete in the category of their affirmed gender.²⁰ Connecticut is one of 17 states in the U.S. that does not require hormone therapy or gender reaffirmation surgery for high school sports competitions. It is symbolic that the families of the Connecticut girls based their complaint on Title IX because if their complaint is successful, trans girls will be excluded from sports, not cis girls. Chelsea Mitchell, one of the plaintiffs claimed in an interview that "No girl should have to settle into her starting blocks knowing that you don't have a fair shot at winning." The lawsuit alleges that "transgender girls are displacing" cis girls as the runners "to compete in the post season, denying the cis girls sports in the

19 <https://apnews.com/3966a7d34fc64dd886aa12116795c7b7>

20 <https://www.courant.com/sports/high-schools/hc-sp-ciac-transgender-federal-lawsuit-20200212-20200212-wjk3p4i3evh25ayp7kksefmf4i-story.html>

State Open and New England championship.” Thus, this lawsuit effectively asserts the rights of cis girls to *win* as it contests the rights of participation of transgender girls. Further, there is only one spot for the winner in any given competition. The opportunity to win and compete in higher-level competitions is a privilege earned not just by hard work, but also by a range of unequally distributed advantages such as genetic make-up and socio-economic privileges like access to good nutrition, coaches, teams, and training facilities. Most women athletes, whether they are cis or trans, never attain the opportunity to achieve sports scholarships or a place on the podium. Is it then unfair that they are defeated by other female athletes who benefit from biological, environmental, and socio-economic advantages?

It is worth noting that the conservative Christian law firm, Alliance Defending Freedom (ADF) submitted and represented both the Title IX complaint and the federal lawsuit. ADF also handles other contested issues related to gender and sexuality, representing the religious conservative stance: anti-abortion and anti-same-sex marriage. The participation of this law firm in a matter concerning trans athletes elucidates the manner in which the gender binary in sports is positioned, along with abortion and marriage, to be an important site in which conservative views on gender and family are deemed to be threatened.

Ironically, religious conservatives in the U.S. are among those who have resisted the enforcement of Title IX since the law

came into effect almost five decades ago. Most notably, this case demonstrates how the warping of feminist politics occurs. The language of women’s rights and protection is invoked to reinforce the gender binary and to effect the exclusion of trans people from public life. The Twittersphere exhibits the tendency to label an individual who evinces such a pro-women trans exclusionary stance as a “trans exclusionary radical feminist (TERF).” However, it is also noteworthy that trans exclusion from women’s sports is not radical; nor can it be asserted to protect women’s rights. Political actions that espouse the goal of excluding a minority group of (transgender) women to preserve access for the majority group of (cisgender) women are conservative and discriminatory. Such warping of who forms the minority is an old but effective discursive tactic employed to preserve the privilege of the majority. Both PPFW and ADF label trans girls and women as “men” or “male,” thus constructing trans girls and women as gender majority (men) individuals who take away the rights of the gender minority (cis women). It is not difficult to discover that the same discursive tactics were deployed in the backlash against feminism and civil rights movements initiated by people of color. They are easily observed in instances such as the attacks against affirmative action for minority upliftment. Entitled people from the majority group (white/men) position themselves as the new minority who are oppressed in societies in which women and people of color are accorded preferen-

tial treatment.

In addition, the discourse of trans exclusion from sports often refuses to refer to trans women as women. Instead, trans women are called transgendered *men* who are cheaters and even potential sexual predators who threaten the safety of women. This discourse of cheating and endangering women has historical roots in racism and colonialism. Toby Beauchamp analyzes the discourse of gender and race-based segregation of public bathrooms in the late nineteenth-century U.S. in his book *Going Stealth: Transgender Politics and U.S. Surveillance Practices* (2019). His analysis evinces how demarcating clear binary gender divisions has been “crucial in distinguishing civilized societies from the less advanced” (85). It also demonstrates how this process is intimately connected to racial stereotypes of black men as being sexually excessive threats to the purity of the white race. Such stereotypes continue to be invoked to justify the racial segregation of public spaces and to fuel the lynching of black men. Scott Morgensen (2010) argues that diverse practices of gender and sexuality among indigenous people were seen by European settlers as “signs of their general primitivity among Native people” (106). He maintains that over time, settlers “produced a colonial necropolitics that framed Native peoples as queer populations marked for death” (ibid.). Today, colonial necropolitics continues to unleash genocidal violence against queer and gen-

der non-conforming people. Wherever statistics are available across the world, the reported number of incidents of violence against trans people and the murders of trans individuals, especially trans women of color, have reached a record high. The Western epistemology of gender and sexuality continues to assert itself in the world of sport and to globally sustain the colonization of the bodies of athletes through sex control and trans exclusion.

IV. The Discourse on Trans Inclusion (Inclusion Because of the Sameness)

On the other side of the debate is the conversation about trans inclusion *because of the sameness*. The increasing show of support for trans athletes by sporting communities and other groups is encouraging. Many cisgender athletes, coaches, and sports fans support the participation of trans women in sporting competitions designated for women. For example, an article titled, “Transphobia Has No Place in Action Sports”²¹ was published in June 2019 on the action sports media outlet *Teton Gravity Research* in response to criticism against Kate Weatherly, a downhill mountain bike racer who placed 3rd in the Women’s World Cup race. The author accepted that trans inclusion was a complicated matter, but emphasized that Weatherly’s testosterone level was measured at 0.1 nmol/L whereas the average span of cis women’s testosterone levels ranged from 0.4 nmol/L to 2 nmol/L.

21 <https://www.tetongravity.com/story/adventure/transphobia-has-no-place-in-action-sports>

In 2015, trans woman athlete and medical physicist Joanna Harper published a rare study that compared the performance of trans women distance runners before and after testosterone suppression. The results of Harper's study suggest that trans women performed "at approximately the same level, for their respective gender, both before and after gender transition" (2015: 8). She cautions against the generalized application of this test result to other sports; however, she asserts that this outcome makes a strong statement to support trans inclusion.

These arguments for trans inclusion based on the sameness of trans women to cis women do not evince any discriminatory intent. Trans women athletes themselves often rely on the fact that their bodies lose the "male advantage" after a period of hormone therapy and/or gender affirmation surgery. The frame of the body (the height and bone density) may stay, but trans women must often carry heavier bodies with an otherwise average female muscle mass. It is often cited that the 10nmol/L is only the set maximum level. In reality, however, the post-gonadectomy testosterone levels of trans women often fall below the average levels for cis women.²²

The vocal support for the participation of trans women in women's sporting events is significant. It demonstrates a generally wider acceptance of transgender and gender non-conforming people.

Yet, arguments supporting trans inclusion based on claims that most trans women's testosterone levels are below the average testosterone counts of cis women and that they have no "male advantage" represent a slippery slope. The so-called male advantage is precisely the logic that justifies the hyperandrogenism regulation. It is crucial to remember that the regulation was implemented to replace IOC's notorious sex control policy of gender verification. It was designed to exclude female athletes who were deemed too masculine and thus, not feminine enough. Contrary to popular perception, such measures do not protect women's rights to compete; rather, they serve to perpetuate the male domination of sports and sustain the belief that men are superior athletes. This connection, or the slipperiness of the slope, is well illustrated through Harper's role in designing the sex control policies in sport. As the chief medical physicist advising the IOC on transgender policies, Harper played a significant role in the publication of the updated transgender policy of 2015 that set the upper limit of testosterone to 10nmol/L for both trans women and women with intersex conditions. While advocating for trans inclusion in sport, Harper engaged in the design of a regulation that effectively issued ultimatums to some intersex/DSD women to choose between retiring from sport or medically altering their bodies. The IAAF further tightened the regulation

22 E.g. Joanna Harper (2019, April 1). "Sport's Transgender debate needs compromise not conflict", *The Guardian*. <https://www.theguardian.com/sport/blog/2019/apr/01/sports-transgender-debate-compromise-not-conflict>

by lowering the upper limit to 5nmol/L in 2018. This move effectively forced Caster Semenya, a gold medalist in the 2016 Rio de Janeiro Olympics in women's 800-meter run, to retire from elite athletics because she refused to accept medical intervention. The same 5nmol/L limit was then applied to trans women when the IAAF, now known as World Athletics, replaced its previous regulation with the "World Athletics Eligibility Regulations for Transgender Athletes." These new rules came into effect on October 1, 2019.

Sex control in sports has caused harm to women who do not neatly fit into the gender norms set by Western medical authorities. The discourse of trans inclusion on the basis of *sameness* to cis women through hormone suppression mobilizes the same injurious logic of fairness and safety that is used to argue for trans exclusion. The new trans policy applied by World Athletics states that the organization recognizes the desire of trans athletes to compete in accordance with their gender identity:

World Athletics wishes to encourage and facilitate such participation, on conditions that go only so far as is necessary to protect the safety of all participants and to deliver on the promise of fair and meaningful competition offered by the division of the sport into male and female categories of competition. (World Athletics 2019)

World Athletics, the IOC, FIFA and other organizations have instituted identical

or similar sex control policies to achieve "safe," "fair," and "meaningful" competition by mandating the banishment of queer others such as Caster Semenya and Annet Negesa whose hormones are deemed too high to be women. The world will thus not be able to witness the brilliant athletic performances of many other such individuals, at least for now.

Conclusion

The seemingly new coalition of radical feminists and sexist conservatives to protect women's rights in sports is actually a warping of feminist politics. Such warped feminist discourses serve to discriminate against trans and intersex women; they also work to maintain heteropatriarchy and to perpetuate the Western domination over the rest of the world through the enforcement of the Western epistemology of sex/gender. The discourse of trans inclusion can also become complicit in upholding the oppressive regime of binary gender if the rational is based on the sameness of cis and trans women.

There is a worrying trend in Japan of feminists increasingly referencing conservative Western news outlets that criticize the inclusion of trans women athletes in sports competitions designated for women. Such Japanese feminists often mobilize (or import) the same logic of safety and fairness to exclude trans women both from sport and from other women-only spaces such as women's universities, bathrooms, and public baths. Sarah Ahmed (2016) cautions against the expanding reach of

TERF in the U.K., asserting that “To be so-called gender critical while leaving traditional biology intact tightens rather than loosens the hold of a gender system on our bodies” (30).

Those who only see trans women athletes as cheaters should carefully consider whether trans women do not deserve recognition for overcoming not only the difficulties of being transgender but also of being “out” in a transphobic athletic world. Also, what if scientific data could be cited to evidence that trans women are stronger than cis women on average? Only a minuscule number of trans women would still possess the talent and the socio-economic resources to compete in elite level competitions. The same applies to cis women. Only a select few cis women command the extremely rare athletic talent and the luck to receive exceptional coaching and training environments that facilitate their ability to compete at elite levels. Are such advantages fair to other women who do not have access to such advantages to compete against the women who do? Is it fair that athletes from economically disadvantaged

countries must compete against athletes from rich countries? Is it a worthy feminist struggle to preserve the same chance for a handful of elite women to win while excluding trans women as a whole from the opportunity to play a competitive sport?

School-based athletic programs must always prioritize educational purposes rather than economic incentives. Therefore, the rights of trans girls to participate in women’s sport must be prioritized over the chance for some cis girls to win. Winning is never guaranteed in any competition unless the contest is corrupt. Thus, I conclude this paper with a call for radical trans inclusion to dismantle the oppressive regime of the gender binary, biological determinism, and heteropatriarchy: not *because of sameness* but *despite all differences*. Trans women are in the frontlines of this feminist battle. Feminists must avoid the critical mistakes of identifying trans women as *others* on the basis of biological differences, regarding them as obstacles for women, or viewing them as enemies of the feminist cause.

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要旨

「フェミニスト」のスポーツにおけるトランス排除言説について

井谷聡子

近年、「女性専用」スペースにトランスジェンダーの女性がアクセスする権利めぐると言説が日本語のツイッターを中心に急増した。トランス女性による女子競技への参加もこの一連の議論の一部として現れてきた。本研究では、トランス女性の女子競技参加をめぐる「フェミニスト」言説を分析する。最も一般的に登場する「相違に基づいたトランス排除」と「同一性に基づいたトランス包摂」という言説は、ともに女性を劣位におくセクシズムとそれを支える性別二元制、それらに下支えされる異性愛主義家父長制のジェンダー秩序を強化する。さらに、そうしたフェミニストによるトランス排除言説は、極右保守派によるトランスフォビアに同調するだけでなく、極右保守派がフェミニズムの政治を「ねじれ」させ、スポーツにおける「性別コントロール」を通じて女性嫌悪的で同性愛嫌悪的、人種差別的、帝国主義的な政治的アジェンダを前進させることに加担することになる。

キーワード

トランスジェンダー、スポーツ、フェミニズム、高アンドロゲン症