

Fairness for Transgender Athletes in Sports Competition

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ABSTRACT

In the worldwide, transgender athletes as a special group of athletes in the international sport competitions. Their participating rights and relative regulations are another heated topic in the society. Following the history of transgender athletes' efforts, they were discriminated by the cisgender groups and loss the respects from others. But in America, the transgender athletes in school sports competition also become a controversial area. Each states makes various policies and projects different viewpoint on the transgender athletes. The fairness of transgender athletes continuously confronted the challenge of physiological difference between the transgender athletes and cisgender athletes. This paper provides the policies and historical cases as reference for fair competition. If people want to pursue the fairness of the sport competition, every groups of athletes should confront the public and making efforts to protect their own rights, but in the macro view, the new policies shouldn't stipulate blindly. It should also focus the rights of cisgender athletes do not get violation.

Keywords: *sports, transgender athletes, comparative equality, National Collegiate Athletic Association (NCAA), International Olympic Committee (IOC).*

1. INTRODUCTION

Law and Policy are two guarantees to maintain or develop the fairness to athletes. Nowadays, the researches mostly focus on the rights to the minority groups, bur ignore the equality and fairness to the cisgender athletes. Fairness is equal to every one and every group in the sport competitions.

In the 1970s, Renée Richards, A transgender athlete in tennis, sued the United States Tennis Association (USTA) for taking Barr body test to decide her gender identity, because she thought her civil rights were violated and that test was also unfair. Then the New York Supreme Court ruled Barr body test was unfair as a determinant of sex, thus Richards had the legal female identity and participated in the later tennis competition. This was one case helped to ensure the transgender athletes compete within the genders they identify as.

But focusing on another case, in 2015, a transgender female mixed martial arts (MMA) fighter, Fallon Fox caused her opponent Tamikka Brents almost ended her career in one game. Despite Fallon Fox had been taking feminizing hormones for years, her muscle strength are more superior than the cisgender athletes. This case

reflected the risk of the transgender athletes competed with the gender they are identified as.

This paper takes the pros and cons of the transgender athletes in their gender identified groups. As long as all people understand these pros and cons, the committees or the power holders in any sport competitions can make a sufficient fairness policy to maintain the balance of equality and fairness. Besides, this paper will probes the discriminatory laws to the transgender athletes and also explores the risks which appear in the competitions include the transgender athletes. Lastly, this paper puts forward some suggestions to pursue the fairness in the sport competitions.

2. ANALYSIS ON THE UNFAIRNESS IN PRESENT REGULATIONS

The question is rules of the limitation in the testosterone levels do not effectively supply a fairness physiological conditions to every athletes in women groups.

Table 1. The difference of adult male and female testosterone normal value [7]

Adults

Age	Male (in ng/dl)	Female (in ng/dl)
17 to 18 years	300-1,200	20-75
19 years and older	240-950	8-60

Table 1. is the difference of adult male and female testosterone normal value reference table [7]. Transporting the data from ng/dl to nmol/L, women with XX chromosomes typically had testosterone levels ranging from 0.00 to 1.7 nmol/L, while men with XY chromosomes typically had testosterone levels ranging from 7.7 to 29.4 nmol/L. In addition, women on XX are unlikely to have testosterone levels above 5.0 nmol/L, but World Athletics stipulates the limit is 5 nmol/L for the women groups. In the research “relied on blood data from male and female athletes who competed in the World Championships in 2011 and 2013 -- more than 2,100 samples in all. It found that women with high natural testosterone levels performed better in the 400 meters sprint, 400 m hurdles, and 800 m middle-distance events than women with low levels” [8]. Obviously, the IOC’s regulation of testosterone level was too loose, so that cannot achieve the real fairness. In addition, except the distinct difference in testosterone level, biological males have longer and larger bones, which gives them mechanical advantages over women, since they have greater leverage, increased height and larger frames to support muscle. Their bones are also more dense, and they have tougher ligaments, making them less prone to sports injury.

The example at the Tokyo Olympics, transgender weightlifter Laurel Hubbard, who was born a man, suffered radical criticisms from Chinese audience. The traditional view of Chinese prohibits the existence of transgender people, plus Hubbard within the strength from biological male to join the weighting competition. Therefore, Chinese audiences thought Hubbard as a cheater and brought unfairness to Olympic Games which takes fair as the most important value. Although, Laurel Hubbard did not attain a good score in Tokyo Olympics, she won the Australian international women's competition March 19. The result directly project even a guy took the testosterone suppression therapy lower than the level of the rule limitation, their strength still significantly better than the female.

There was another example in the United States, Nattaphon Wangyot, a transgender runner, born a male, displayed outstanding results in the running competition [9]. But, there were people opposed against physiological male participate in the female competitions. The reason is , genetically, a guy has more muscle mass than girls. As a result, these kinds of cases or examples appeared a

lot and always “equal” to the unfairness. Hubbard, 39, lifted 591 pounds, nearly 20 pounds more than the woman who won the silver medal by lifting 572 pounds.

3. RISKS OF TRANSGENDER ATHLETES IN THE COMPETITION

Comparing with better performances in sports competition, high testosterone level brings health risks in the sports like wrestling, boxing and football. These sports often have intense physical contact.

In 2015, Transgender MMA fighter Fallon Fox, born a man, gave his female opponent a concussion and broke her eye socket. Her opponent suffered a serious eye injury from a damaged orbital bone and needed seven staples after she fought Fox [9]. This trauma would probably destroy this lady’s career.

In the nutshell, for protecting the fairness and the safety in the sport competition, the discriminatory policies are unavoidable.

4. PROGRESS IN REGULATIONS

In fact the protection of gender in the sport competitions is gradually progress. From Renée Richards, a transsexual woman in 1970, sued the United States Tennis Association (USTA) for the rights to participate and compete with other women athletes [1]. Immediately, USTA set Barr body test to decide Richards gender identity, but she rejected the test and alleged it was unfair and discriminatory. Finally the New York Supreme Court ruled that Renée Richards was female. This case reflected that the civil rights of transgender athletes gained the guarantee. There were precedents proved that the transgender athletes rejected the discriminatory body test to prove their gender identity and had the rights to compete within the gender they are identified as.

In the same decade, Title IX of the Education Amendments Act of 1972 [2] provides “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 discrimination under any education program or activity receiving Federal financial assistance.” Excepting the prohibition of sex-based discrimination policies, it also provides an exception for sex-segregated facilities such as locker rooms, restrooms, and showers [3].

Turning attentions to the Olympic Games, the International Olympic Committee (IOC) met in Stockholm in October 2003 and developed an agreement, *The Stockholm Consensus* [4], it stipulated Sex reassignment before puberty, “the group confirms the previous recommendation that any ‘individuals undergoing sex reassignment of male to female before puberty should be regarded as girls and women’ (female). This also applies to individuals undergoing female to male reassignment, who should be regarded as boys and

men (male)". Sex reassignment after puberty, the group recommends that individuals undergoing sex reassignment from male to female after puberty (and vice versa) be eligible for participation in female or male competitions, respectively, under the following 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;
3. Hormonal therapy appropriate for the assigned sex has been administered in a verifiable manner and for a sufficient length of time to minimize gender-related advantages in sport competitions.

This regulation enabled the transgender athletes participate in the Olympic Games to compete with the groups they are identified as. At the meantime, *The Stockholm Consensus* broke the confusion of the fairness which transgender athletes would have the physiological strength from their born gender.

Back to the United States, in part two, Recommendations for Including Transgender Student-Athletes, the 2011 "NCAA Inclusion of Transgender Student-Athletes" upholds 10 guiding principles on the participation of transgender student-athletes. Principle two alleges that "transgender student-athletes should have equal opportunity to participate in sports" [5]. For the solution to balance the fairness of the transfemale student-athlete, NCAA claims "it is also important to know that any strength and endurance advantages a transgender woman arguably may have as a result of her prior testosterone levels dissipate after about one year of estrogen or testosterone suppression therapy. According to medical experts on this issue, the assumption that a transgender woman competing on a women's team would have a competitive advantage outside the range of performance and competitive advantage or disadvantage that already exists among female athletes is not supported by evidence" [6].

Under the IOC's current guidelines, published in November 2015, athletes who are deemed female can compete in the women's group provided their serum total testosterone levels remain below 10 nano moles per liter for at least 12 months and do not alter the way they compete. It looks like that the recommendations for transgender athletes provide the rational with fairness and non-discriminatory solutions.

5. SUGGESTIONS ON IMPROVEMENT OF REGULATIONS

The improvement to the policies which served to transgender athletes can take a perspective from the idea of equality. Equality is attachable to everyone in the world. The progression of human thought and the efforts

made by the minority groups granted the equality to them. Society is continuously paying attention on their rights, but that not means minority should have more rights than the major groups of people. Fairness applies to every one, transgender athletes have the rights to compete within the gender they identify as, for protecting the fairness to cisgender athletes, the rules need to balance this equality in the sport competitions. Based on the data of testosterone level, IOC, NCAA and other committees should ensure the transgender athletes have the same or minimal error testosterone levels to the average of cisgender's testosterone levels. Follow the development of technology, to guarantee the maximized fairness in the sport competition, transgender athletes can have the same physiological condition with the cisgender athletes. It does not limit in testosterone levels, muscle mass, bones, and all other physical conditions can same with the gender they identify as.

In this world, everything is relative, lots of transgender athletes will think that the policies limit their physiological conditions and are discriminatory. Now changing a view to other cisgender athletes, for example, transfemale athletes identify them as female, but their physiological conditions are significantly better than female, in other words, their physics are still male. In this situation, it is not fair to cisgender female athletes. In order to achieve the perfect fairness and equality, every one should take a step back and only tolerance can achieve that goal.

6. CONCLUSION

In the competitive sports, safety and fairness are more important than the medals. To protect the fairness in the sport competitions, the regulations made in NCAA and IOC are not enough. In the meanwhile, it cannot protect the safety of the athletes, it is possible the transfemale athletes will enable the other cisgender athletes in danger. These reality looks like discriminatory to transgender athletes, but it needs to admit biological male have genetic advantages on their strength. In 2015, Renée Richards reflected on outcomes if she had competed as a woman (following sexual reassignment) in her 20s, rather than her 40s. Declaring that "no genetic woman in the world would have been able to come close to me" is a profoundly important change of position. Therefore the committees of any sport competitions should weigh the equality to all people, major and minor, and ensure all of them are involve in a real fairness competition. Accompanying the development of human, people may generate new ideas and new views to the fairness in sport competitions. In addition, appearing new perspectives and questions to fairness is not scared, one goal to the human is figure it out the question and base the meaning of equality to maintain the fairness and justice.

AUTHORS' CONTRIBUTIONS

This paper is independently completed by Hanzhi Wang.

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