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Collectif Intersexe Activiste - Oll France is the association by and for intersex people in France. It is a member of Organisation Intersex International Europe. Since 2016, CIA-Oll France has been fighting for the rights of intersex people by raising awareness among the general public and institutions and via community support.

EDITORIAL

For decades, intersex sportswomen have suffered physical, sexual, moral and symbolic violence. The development of recent regulations marked by moral panic around the question of transgender sportswomen has also had a serious impact on intersex people's sporting career opportunities.

The sporting world thus excludes a whole section of the population from its ranks: because they are not considered weak enough to be real women, so-called "hyperandrogenous" intersex sportswomen are stripped of their medals and banned from competing. Hormonal statistical averages are erected as coercive standards.

These sportswomen become counter-examples, a means of intimidation that prevents young intersex people from turning to sport, in an increasingly stigmatized and alienated relationship with the body.

The racial dimension shouldn't escape us either: almost all the intersex sportswomen concerned are racialized. Because they have not been systematically identified and pathologized in their less medicalized societies, because gender norms are different there, because they are exposed to the jealousy of their white colleagues, they are vulnerable to femininity tests whose injustice remains glaring - since there are none for men. Faced with this intersectional discrimination, some women, such as the immense Caster Semenya, have lodged complaints.

With the 2024 Olympic Games approaching, we felt it necessary to take stock of the reality of these experiences, and the alternatives that may exist to these discriminatory practices.

Le Collectif Intersexe Activiste - Oll France

Sex characteristics :

- primaries: internal and external genitalia and reproductive organs,
- secondary: facial hair, breast development.

Gender assignment: binary category (boy or girl) into which a person is assigned at birth, registered and raised.

Intersex trait: an innate sex characteristic that varies from the medical norm and poses no health problems, but is socially and medically stigmatized.

DEFINITIONS

Intersex: the social situation of people with primary and/or secondary innate sex characteristics considered not to correspond to typical social and medical definitions of feminine and masculine. Intersex is an experience of social and medical violence due to an atypical body.

Transidentity: the fact of having a gender identity different from that assigned at birth.

ISSUES

Gender bicategorization in top-level sport is now a norm that is virtually impossible to question.

Yet there's nothing obvious about these categories. Firstly, **their asymmetry**: only the women's category includes tests (known as femininity tests) and rate limits. For men, atypical physiques and natural advantages are celebrated.

Secondly, because the central argument of "protecting" women, of placing them in a category where they would have a chance of winning among themselves, a chance they wouldn't have against men, doesn't hold up against the facts: at the Barcelona Olympic Games in 1992 Shan Zhang, a **Chinese woman, won gold** in the shooting event (Olympic skeet) - then one of the few mixed events. The International Shooting Union reacted by **excluding women from the competition, which went unmixed for 8 years**. Zhang could no longer defend her title. A separate women's event was created for the Sydney Games in 2000.

For the 2024 Olympics, skeet will be able to be competed in pairs with strictly one man and one woman on each team. To avoid a woman to win alone again?

The argument of equity between women rings hollow when we see that it is not applied to men. But it's hypocritical in any case to claim that athletes start out on an equal footing: as we know, **training conditions, the means available, family support or even access to a good diet vary significantly** between athletes in the North and South, between women and men, between social backgrounds. It's no coincidence that the sportswomen targeted are those who break the rules of femininity, rather than those privileged by their background.

It's mainly women from the global South who are discriminated against, women who for the most part are unaware of their intersex status because they don't have the same early medicalization.

The moral panic surrounding the issue of **testosterone levels** needs to be reduced to what it is: a rhetorical argument based on cultural misrepresentations of the hormone's role. Testosterone is presented as a **kind of magic potion** that gives its beneficiaries a definite advantage. It would seem that a hyperandrogenous woman would systematically win: which is far from being the case!

The World Athletics Federation commissioned a study on the impact of testosterone levels in athletes* to justify the discrimination. The study found only very relative advantages (between 1.78% and 4.73%) for women, and only in certain disciplines: the 400 m, 400 m hurdles, 800 m, hammer throw and pole vault, which seems rather random. In the case of men, it even found that testosterone levels in the throwing disciplines were lower than the average for male athletes.

Even if it were established that women with higher androgen levels were more successful in certain sports, it's their right to compete: top-level sport isn't supposed to prioritize weaker people. The medical profession has arbitrarily created a limit to the levels women should have, and pathologizes those who exceed it, who are suddenly accused of not being women. But **these standards are just that: statistical averages**. They should not define a person's gender.

The health of sportswomen is jeopardized by injunctions to undergo operations and heavy hormone treatments. For some, a career in sport is the only way out of a critical economic situation, so they submit to the diktats of the federations. This is a social and public health problem.

Finally, what message does this send to **young intersex sports enthusiasts**?

*Bermon, S., & Garnier, P. (2017). Serum androgen levels and their relation to performance in track and field: mass spectrometry results from 2127 observations in male and female elite athletes. *British Journal Of Sports Medicine*, 51(17), 1309-1314. On this subject: "In July 2017, the IAAF published a study based on more than 2,000 individuals which concluded that there was a correlation between testosterone levels and performance in certain disciplines. Heavily criticized, the study presents several biases that cast doubt on the robustness of the results. The authors even publish a correction acknowledging the exploratory nature of their work and their lack of information to conclude that there is a real advantage in people with high testosterone levels." Anaïs Bohuon and Lucie Pallesi, "Ne plus se laisser prendre à leurs Jeux", *Cahiers d'histoire. Revue d'histoire critique*, 158 | 2023, 61-75.

ALTERNATIVES

We've mainly talked about athletes competing alone, but gender bicategorization also runs through team sports. However, sports with **mixed teams**, such as roller derby, can diversify profiles and strategies.

Whether individual or team, it would also be possible, as in most wrestling sports, to **have categories of weight**: yet even in sports where these categories exist, binarity is maintained, proving that this separation is a matter of principle and not linked to build.

If we're going to obsess over testosterone levels, should we then propose categories **based directly on testosterone levels**, with tiers and ceilings? This proposal may seem sarcastic, but it's the logical outcome of current thinking.

Some sports federations offer **third categories** for intersex and trans athletes. This approach is purely discriminatory and once again excludes trans and intersex people from society, and insidiously from the human kind.

This cannot be a viable solution: everyone has the right to access sport according to their level, which should remain the sole determining criterion.

The real alternative, however, remains material: **massive investment in women's sport, legal support for intersex and trans athletes, and encouraging sportsmanship at the highest levels of the federations.**

"A small female Olympiad alongside the big male Olympiad (...) Impractical, uninteresting, unattractive - and we don't mind adding incorrect - such, in our opinion, would be this half-female Olympiad. This is not our conception of the Olympic Games, in which we believe we have sought and should continue to seek the realization of the following formula: the solemn and periodic exaltation of male athleticism with internationalism as its basis, loyalty as its means, art as its framework and female applause as its reward." - Pierre de Coubertin (1912)

"I feel that it's wrong to have to change your body for sport participation (...) I'm not changing for anyone." - Dutee Chand (2014)

"The CAS Panel determined that the DDS Regulations were discriminatory but that, on the basis of the evidence submitted by the parties during the proceedings, such discrimination constituted a necessary, reasonable and proportionate means of achieving the aim sought by the IAAF, namely to preserve the integrity of women's athletics in the context of certain disciplines (from 400m to the mile)." - Court of Arbitration for Sport (2019)

"At the end of the day, I know I am different. I don't care about the medical terms or what they tell me.

Being born without a uterus or with internal testicles. Those don't make me less of a woman. (...) Those are the differences I was born with and I will embrace them. I am not going to be ashamed because I am different. I am different and special and I feel great about it." - Caster

"The application of [IAAF] admission criteria in female categories deprives athletes with variations in sexual characteristics of their right to equal participation in sporting activities and constitutes, more generally, a violation of the right to non-discrimination. (...)

States should prohibit the application of regulations that force athletes to undergo unnecessary medical interventions as a prerequisite for participation in sporting events, and investigate the application of such regulations. (...)

Sport governing bodies should review, revise and repeal admission rules and regulations that negatively impact athletes' rights, including provisions applicable to athletes with variations in sexual development."- Annual Report of the United Nations High Commissioner for Human Rights (2020)

PORTRAITS



Maria José Martínez-Patiño
(Spain) Hurdler, approved by the IAAF* as a woman in 1983, then detected in 1986 as an XY female with androgen insensitivity.

Faced with her refusal to leave the competition discreetly, the sporting authorities leaked her karyotype to the press. The first woman to challenge the femininity test, she fought for recognition that her insensitivity precluded any physical advantage, and was able to return to competition in 1988.

*International Association of Athletics Federations (IAAF, now World Athletics)

Dutee Chand
(India)

A 100m and 200m sprinter and national champion, Dutee Chand was excluded from the Commonwealth Games in 2014 by the

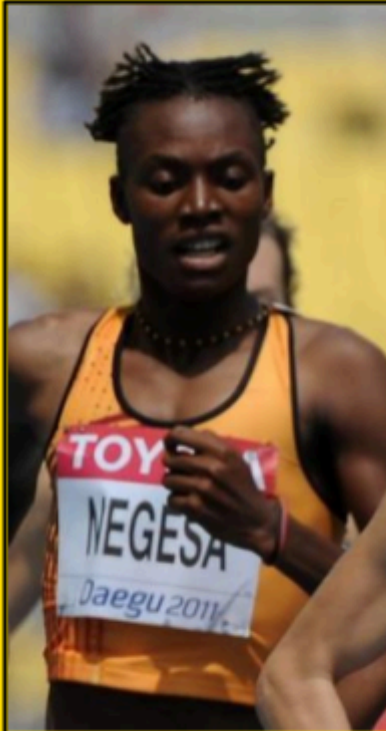
Athletic Federation of India, which follows IAAF* rules, for hyperandrogenism. She took her case to the Court of Arbitration for Sport, which ruled in her favor and had the rules suspended in 2015. Dutee Chand is India's first *out* lesbian athlete and has suffered rejection from her community and family. She continues her career, and has announced her retirement after the 2024 Olympics.



Caster Semenya (South Africa)

Two-time Olympic champion and three-time world champion in the 800 m, Caster Semenya was subjected to a femininity test based on her appearance in 2009, and was allowed to compete again in 2010 by the IAAF*. In 2018, the IAAF's new hyperandrogenism regulations excluded her *de facto*. She lodged a discrimination complaint with the Court of Arbitration for Sport (CAS), which dismissed the case. She can only compete if she artificially reduces her testosterone levels, which she refuses to do.

In 2020, she appealed to the European Court of Human Rights, which ruled in her favor in 2023. But her opponents appealed: the case goes on.



Annet Negesa (Uganda)

A middle-distance runner and African champion in the 800m, Annet Negesa learned in 2012 that she would only be able to take part in the Olympics if she underwent medical treatment to reduce her testosterone levels. She underwent extensive treatment organized by the IAAF*, without being informed of the results or procedures, in Paris, Nice and then Kampala. She underwent a gonadectomy without consent, which she also had to pay for herself.

She receives no hormone replacement and her mental and physical health deteriorated. Her sporting performance plummeted, and she lost her scholarship and her manager. She testified in a documentary in 2019, and received the support of 25 French athletes, who call on the Minister of Sports. An administrative investigation was opened in 2019, with no news to date.

Following the media coverage of this case, Annet Negesa was forced to leave Uganda.



Santhi Soundarajan (India)

Santhi Soundarajan, multiple Asian middle-distance champion, comes from a background of extreme poverty in India.

In 2006, her

femininity test revealed that she was an XY female with androgen insensitivity: she was stripped of her titles and dismissed destitute. A few months later, she attempted suicide. Without a diploma or recognized medal, she fought for a permanent coaching position. She obtained it after 10 years of administrative appeals, at the end of 2016. In 2017, she filed a complaint against the Athletic Federation of India and the Indian Olympic Association for human rights violations. The complaint was rejected on the grounds of statute of limitation.

Christine Mboma (Namibia)

A 100m, 200m and 400m runner, Christine Mboma holds the world junior records for these first two distances.

In 2021 she was

identified as hyperandrogenous by the IAAF*, and unable to compete in the 400m at the Tokyo Olympics. She won the silver medal in the 200m, becoming the first Namibian woman to win an Olympic medal. Christine Mboma has agreed to artificially lower her testosterone levels and will take part in the Paris 2024 Olympics.

Other sportswomen were excluded or threatened with exclusion: Barbra Banda, Zambian footballer, Beatrice Masilingi, Namibian athlete, Aminatou Seyni, Nigerian sprinter, and others...

*International Association of Athletics Federations (IAAF, now World Athletics)

EXAMPLES OF POSITIONS TAKEN BY SPORTS FEDERATIONS

World Athletics (ex-IAAF)

As of March 31, 2023, the athletes concerned will have to reduce their testosterone levels to below 2.5 nmol/L, and will have to remain below this threshold for two years in order to take part in any international competition.

International Swimming Federation (FINA)

In 2022, FINA produced a policy defining sex on strict endosex* chromosomal and anatomical bases. All athletes must register their chromosomal sex with their federation. XY intersex people must prove that they have not developed atypical sex characteristics. Unwillingly exceeding the 2.5 nmol/L threshold may result in retroactive disqualification and a period of ineligibility.

Women's Flat Track Derby Association (WFTDA)

The international flat track roller derby federation has a simple rule: anyone who identifies as a trans woman, intersex woman, and/or non-binary person can play on an official women's team if women's derby is the version and composition of roller derby with which they most identify.

*endosex: not intersex.

RECOMMENDATIONS OF THE INTERNATIONAL OLYMPIC COMMITTEE (EXTRACT)

In this new Framework, the IOC is not suggesting that testosterone levels will never be relevant to an athlete's sporting performance. However, **the limitations of admission criteria based on testosterone levels are widely recognized in sports science circles.**

As far as endogenous (naturally occurring) testosterone is concerned, the Framework considers that:

- **Individual sporting ability varies considerably and cannot necessarily be correlated with an individual's current or previous testosterone levels.** This includes the wide variations recorded in cisgender male athletes, even in top-level sport, whereas some athletes have testosterone levels considered by sports organizations to be within the normal range for female athletes;
- while endogenous testosterone can sometimes correlate with sporting performance, **there is no scientific consensus that endogenous testosterone levels (especially before transition) can predict an individual's sporting performance;**
- the data collected suggest that **the relevance of testosterone levels varies from one sport to another, and even from one event to another;**

- ♦ a generalized reliance on testosterone levels is, therefore, too vague and risks making some athletes ineligible when they do *not* possess a disproportionate advantage. Conversely, it may make other individuals eligible athletes when they do have a disproportionate advantage;
- it is inappropriate to require an athlete to reduce their testosterone levels for the sole purpose of meeting admission criteria, without considering the side effects such a request may have on the athlete's health or well-being. However, some athletes may have deliberately chosen to reduce their testosterone levels as a function of their sexual identity and gender expression needs (and not to meet eligibility criteria), which may be taken into consideration as part of an overall assessment of their individual athletic ability.

In view of these aspects, it is not desirable for the IOC to recommend a single threshold for testosterone levels, which would apply systematically to all sports, disciplines and events.

Source : <https://olympics.com/cio/droits-de-l-homme/equite-inclusion-et-non-discrimination>

"The IOC calls for a global approach based on respect for internationally recognized human rights, a high degree of scientific evidence and consultation with athletes. However, this new approach promoted by the IOC has not been followed up to date.

On the contrary, since the federations were invited to deal with this issue themselves, we have witnessed a tightening of admission criteria. To date, the IOC has never commented on the failure of international federations to take into account the principles of its "Equity Framework". Nor does sport's internal justice system seem to be of much help to excluded athletes, with CAS having rejected Semenya on the grounds that the interests of sport were above international principles of non-discrimination. The independence and neutrality of sporting institutions are more than ever in crisis."

Anaïs Bohuon and Lucie Pallesi, "Ne plus se laisser prendre à leurs Jeux", Cahiers d'histoire. Revue d'histoire critique, 158 | 2023, 61-75.



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