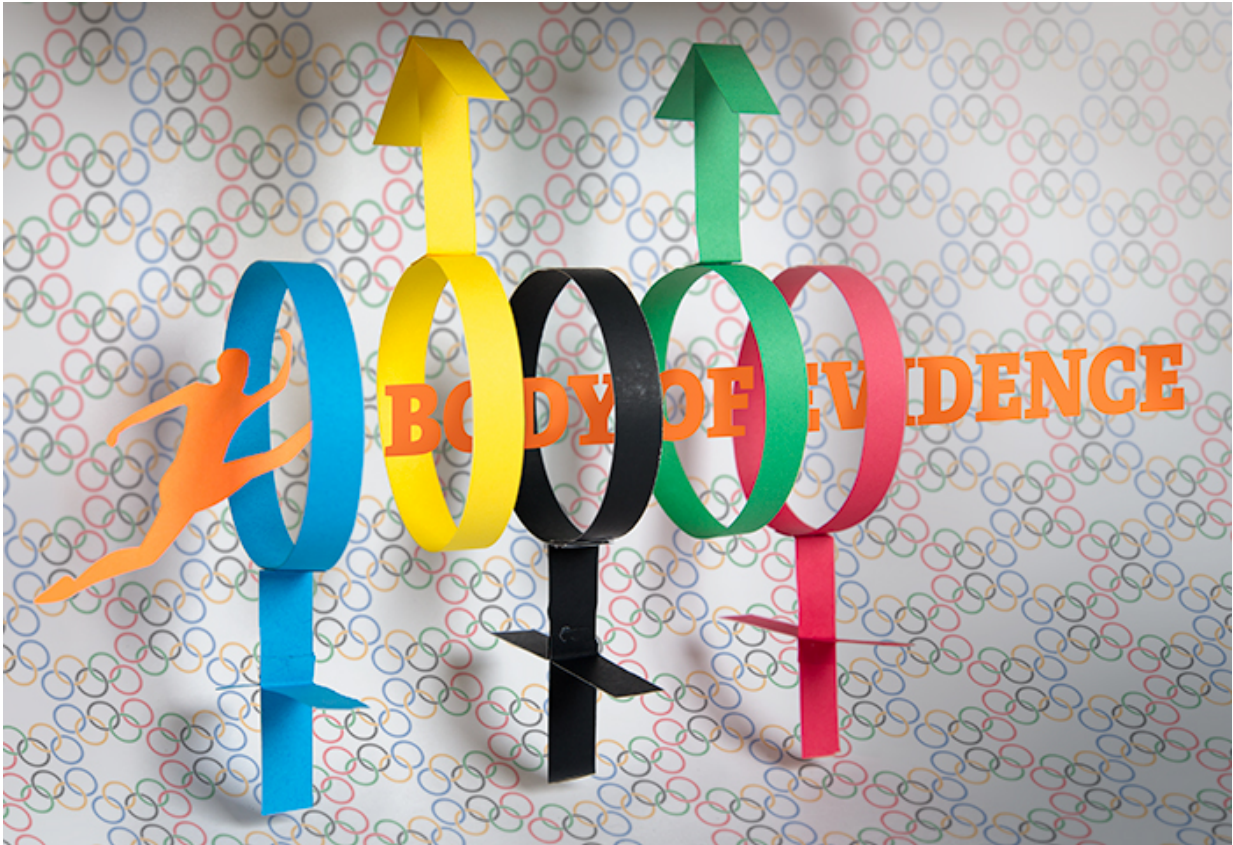


Gender verification called into question

April 15 2016, by Heather Hughes



With graceful strides across the finish line and a smile breaking across her face, South African 800m runner Caster Semenya raised a finger to the air to signal she won the race for herself and her country, having no idea of the media firestorm about to hit her.

Semenya should have been celebrating her win at the 2009 World Championships in Berlin. Instead, a frenzy of questions about her sex – whether she should be eligible to compete as a woman because she was perceived to look 'too masculine' – overshadowed her achievement. On the world's stage, the young athlete, who was 18 years old at the time, was subjected to a seemingly absurd invasion of body and privacy.

"It isn't just a sporting issue; this is a human-rights issue and a women's issue; and when you frame it that way, it is everyone's issue," said Janice Forsyth, Kinesiology professor and former Director of Western's International Centre for Olympic Studies. "These are natural women, with natural differences in their biology – not doping."

While this is not her specific area of research, Forsyth is personally and professionally interested in lending her voice to challenge the International Olympic Committee's (IOC) discriminatory policies.

On April 21, she will be watching carefully the decision of the Superior Court of Justice of Ontario case of Kristen Worley, an elite transitioned XY female cyclist alleging the IOC's anti-doping and gender-verification policies are discriminatory. Worley's original complaint to the Human Rights Tribunal of Ontario was challenged by the IOC. The Olympic Games governing body argued the tribunal doesn't have jurisdiction over the case and felt the grievance should have been filed through the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland. The Superior Court ruling later this month will determine where Worley's case will land.

Worley argues the IOC's policies on hormone regulations and the selected levels of [testosterone](#) for females are discriminatory and endanger her health.

The IOC currently draws a line for female athletes based on testosterone

levels – to be eligible to compete in women's sports, there must be no more than 10 nanomoles per litre of testosterone in the blood. Anyone with higher levels of testosterone are considered 'hyperandrogenic' and believed to have an unfair advantage.

"Sex-testing policies and the gender-verification policies have a long history of policing women's bodies in the Olympic Games and what we've seen over time is the policing has only gotten worse," Forsyth said. "Now, it is institutionalized policing with the sex-testing policy. It turns the narrative of progress in sport on its head."

In a sport system precipitated on separating women and men, the Olympics has institutionalized a policy on gender verification that aims to categorize athletes into one of two boxes. But the problem, as Forsyth points out, is these categories fail to recognize sex is more of a kaleidoscope, not a continuum that presupposes an 'ultimate man' and 'ultimate woman.'

"Scientists know for sure that there is no such thing as a binary in biological sex; there is no clear dividing line that we can put down that determines exactly who is male and who is female," she explained. "We are all made up of the same biological material, it just get organized differently in our body. There are some consistencies, for sure, but they all create a unique individual.

"The metaphors we chose to live by shape how we understand the world. In order for sport to work, especially elite level sport, they need to reinforce that binary."

There is big business involved in reinforcing the separation of the sexes, she noted. Founded by the IOC, CAS is a case of the "police policing themselves," argued Forsyth, adding athletes who file complaints "are not going to get a fair trial." It is also expensive to take these cases to

court.

Over the years, the Olympics has changed its policing policies; initially, it was visual inspections of genitalia, then chromosome testing which at the time were believed to be more reliable; and then DNA testing, all of which scientists said were not true indicators of sex. Now, the IOC and international athletic federations use androgen levels, namely testosterone, as the key markers for determining whether a female athlete can qualify to compete in women's sports.

In a document on the [IOC Regulations on Female Hyperandrogenism](#) written for the 2012 London Olympics, the IOC Executive Board outlines the regulations for determining if an athlete is ineligible to compete in the female category. A panel made up of a gynecologist, genetic expert and endocrinologist, along with additional specialists investigate a complaint, which can be submitted by another athlete "concerned about personal symptoms of hyperandrogenism."

The regulations, which state they are not intended to make any determination of sex, are strictly focused on female athletes and are based on the premise "the performances of male and [female athletes](#) may differ mainly due to the fact that men produce significantly more androgenic hormones than women and, therefore, are under stronger influence of such hormones. Androgenic hormones have performance enhancing effects, particularly on strength, power and speed, which may provide a competitive advantage in sports," the document states.

However, these regulations ignore what scientists have long shown to be true – there is no correlation between testosterone and athletic performance, said Forsyth.

"The IOC picks up on popular ideas at the time so it makes sense to the public," she said. "Scientists have already said testosterone is not a

marker of sex and it also does not clearly indicate performance. There is no direct correlation between how well an athlete is doing and how much testosterone they have."

The argument made by the IOC to protect women's sports from unfair advantage is paternalistic, sexist and unfounded, Forsyth pointed out.

"To think women's sport needs protection from women is paternalistic," she said. "You would have to ask the same of men's sports. Why is it we get very concerned about women having too much testosterone and we don't get concerned with men who have too much testosterone?"

Dutee Chand, a 19-year-old Indian runner deemed ineligible to participate in female events due to hyperandrogenism, challenged the Athletics Federation of India and The International Association of Athletics Federations in a CAS case. The court documents also showed Chand was encouraged to seek "proper medical help" to "lower her androgen level to the specified range" in order to return to competition.

In its July 2015 ruling, CAS suspended the Hyperandrogenism Regulations for no longer than two years and Chand was permitted to compete in national- and international-level athletic events. If during this two-year period the International Association of Athletics Federations does not submit evidence establishing the validity of the Hyperandrogenism Regulations, they will be declared void.

When there isn't any scientific evidence supporting any test to determine sex, Forsyth questions why these policies continue to be upheld to police women's bodies and how they look and behave.

"If women are naturally this gifted anyway, why wouldn't we want to celebrate that if that's what the Olympics are all about? It's about extraordinary exceptionalism," she said. "These policies seem absurd,

but they wreck lives in the deepest and most profound sense."

Athletes such as Semenya, Chand and Worley have been thrust into the spotlight for more than just their amazing athletic abilities and the enforcement of these discriminatory policies have a direct impact on their lives and livelihoods. More people, including researchers, organizations and the general public need to join the fight and raise public awareness, Forsyth said.

"What we know about the stories of these women just scratches the surface of other [women](#) who have been affected by these policies, names that we may never know," she said.

Provided by University of Western Ontario

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