The Carceral Logic of Female Eligibility Policies: Gender as a Civilizing Narrative, the Science of Sex Testing, and Anti-Trans Legislation

Travers
Department of Sociology & Anthropology, Simon Fraser University, Burnaby, BC, Canada

Female eligibility policies punish people for gender nonconformity and normalize patriarchal rule. These policies were used first to exclude women deemed “too masculine” from competing against women who more closely conform to gender stereotypes. In recent years, this form of discipline has dovetailed with efforts to determine the circumstances, if any, under which transgender women may compete against cisgender women. Modern sport, as a set of institutions, does not stand apart from capitalism, colonialism, white supremacy, and heteropatriarchy. In this article, I use a prison abolitionist lens to connect anti-trans campaigns and female eligibility policies that police sporting identity to the carceral logics of racial capitalism to make the argument that sex surveillance is related to race, social control, and capital accumulation.

I am at a place in my life where I am finding it difficult to be lighthearted, to not feel defeated and in despair. It seems important to start here; to acknowledge our grief and horror at the scope of structural violence impacting people throughout the world. In this context, does sport even matter? When racial capitalism requires, as Ruth Wilson Gilmore states, “the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death” (2007)? When 2.3 million Palestinian people are being bombed into the ground and bulldozed into the sea (Horton et al., 2024)?

I think sport does matter because as critical sport scholars, it is our job to work from where we are and because modern sport, as a set of institutions, does not stand apart from capitalism, colonialism, white supremacy, and heteropatriarchy. The surveillance of gender nonconformity in girls’ and women’s sport by state and nonstate actors is unintelligible outside of this context. In this article, I use the prison abolitionist lens to connect anti-trans campaigns and female eligibility policies that police sporting identity to the carceral logics of racial capitalism to make the argument that sex surveillance is related to race, social control, and capital accumulation.

The Right is out organizing us. They control an enormous amount of concentrated wealth and power, they never stop working, are aided by oligarchic news empires (Butler, 2021; House, 2023), and they thrive on the hierarchy and top-down decision making that makes authoritarianism so efficient. Consequently, we are witnessing ever-increasing investments in policing, prisons, borders, and national and global “security” in combination with attacks on civil rights and voting rights, public education, public health, environmental protections, reproductive justice, LGBT rights, disability rights, and academic freedom, to name a few of their targets (Klein, 2024).

Although there have been some “wins” in recent years, there has been more to mourn than to celebrate: Racial capitalism (Matambanadzo, 2022) and its carceral logics prevail, necropolitical police and military action against people all over the globe deliver terror and carry out genocidal agendas (Mbembe, 2003), and well-funded and highly organized global fascist movements have been successful in introducing legal and policy measures that signal to trans and queer people that we may never belong—anywhere (Butler, 2021; Sharrow, 2021a). It is crucial that we understand female eligibility policies in sport as occurring within this context.

Draconic anti-trans initiatives in the United States and the United Kingdom (House, 2023) have received a lot of attention, but LGBT backlash is occurring in Canada as well. Like the United States, Canada is a white, settler nation characterized by ongoing colonialism and ever-increasing social inequality (Razack, 2020; Simpson, 2017). In the past 12 months, three provincial governments—New Brunswick, Saskatchewan, and Alberta—have announced changes in policy to prevent school staff from using the names and pronouns requested by trans and nonbinary students without parental consent. This policy change also requires school staff to notify parents if a queer or trans student under the age of 16 years discloses their identity, a practice that is guaranteed to put some students at risk of family violence and/or loss of access to family support, housing, and so on. In September 2023, Saskatchewan Premier Scott Moe responded to a successful legal injunction achieved by EGALE to prevent his government from implementing this harmful policy by stating his intention to invoke the notwithstanding clause in the Canadian Charter of Rights and Freedoms, prioritizing “parents’ rights” over the well-being and safety of trans kids in schools (CBC News, 2023). On January 31, 2024, Alberta Premier Danielle Smith went beyond New Brunswick and Saskatchewan by announcing her government’s intention to introduce legislation banning access to affirming health care for anyone under the age of 16 years and to exclude transgender girls and women from participating in girls’ and women’s sports (Bellefontaine, 2024).

Female eligibility policies punish people for gender nonconformity and normalize patriarchal rule. Kaba defines punishment as “inflicting cruelty, suffering, and making it so that people cannot actually live a life. They can’t access the basic things to make life liveable” (Kaba, 2018, 147). Sport participation is an important aspect of public life (Griffin & Carroll, 2010). Female eligibility
policies were used first to exclude women deemed “too masculine” from competing against “real” women. Although this effort is ongoing, in recent years, it has dovetailed with efforts to determine the circumstances, if any, under which trans women may compete against cisgender women.

A report by the Williams Institute indicated that 1.4% of the population age 13 years and up in the United States identifies as transgender (Flores et al., 2016), but Hellen (2009) observed that most transgender children are invisible. Anti-trans policies and laws do not eliminate trans people, as their originators hope, but they certainly have the power to make many of us disappear from public life and even hide from ourselves because of the fear and self-hatred they induce. Creating environments that are harmful to visible trans people is a form of violence that has devastating consequences not only for trans people but also for cisgender women and girls and gender nonconforming boys and men as binary normative environments are linked to gender-based violence (Spears Brown & Bigler, 2005).

In Going Stealth, Beauchamp (2018) situated transgender politics within a thorough and chilling overview of the post-9/11 uptick in U.S. surveillance, carefully contextualized within the long and oppressive history of the efforts by the U.S. state and civil society to separate respectable and rights-bearing citizens from seemingly nonworthy/nonhuman “others.” Without speaking specifically about transgender issues, Sylvia Wynter makes this point on a global scale, emphasizing that “Man” as an ontological category is white supremacist and heteropatriarchal, sitting at the top of a hierarchy of humanity that is integral to colonialism and racial capitalism (2003). Who is fully human? Who is subhuman? Who is less than human? Whose Lives Matter? Who, as Butler (2009) termed it, is grievable? Measures to achieve gender inclusion must be situated within a larger struggle to resist a “sport nexus” (Burstyn, 1999; Travers, 2008) wherein sport participation and the benefits of sport are shaped by an assemblage of forces that include global capitalism and the international division of labor, white supremacy, colonialism, and cisgender heteropatriarchy. Female eligibility policies and anti-trans campaigns need to be understood and resisted in this context. I draw on the work of leading U.S. prison abolitionist Mariame Kaba (2018) to critique female eligibility policies and the racialized gender inequality they normalize and police.

Applying a Prison Abolitionist Lens to Female Eligibility Policies

How are we going to organize ourselves in this protofascist moment in the United States and around the world? (Kaba, 2018, 184)

Prison abolition is a powerful lens for understanding the relationship between female eligibility policies and racial capitalism in the United States and Canada (Canadian Press, 2022; Davis, 2003; Eizadirad & Leslie, 2023; McLeod, 2015; Murakawa, 2014; Wilson-Gilmore, 2007) but, to my knowledge, has yet to be brought into conversation with sport. According to Angela Davis, scholar and cofounder of Critical Resistance, who is credited with introducing the term “prison-industrial complex” (PIC) into theorizing and politics (2003), racism, and capitalism are codependent. As she explains, “It is this capitalism that continues to rely on racism for its capacity to justify super exploitation and to create surplus disposable populations that can be disregarded, incarcerated, subjected to police violence and torture” (Davis, 2018). In We Do This Til They Free Us, Kaba (2018) and various coauthors outlined the principles of a prison abolitionist vision of resistance and social change that is necessary to address the systemic nature of white supremacy, settler colonialism, and anti-Blackness (Kaba, 116). For Kaba, “an abolition politic interrogates the root causes of violence that are masked by the carceral state” (Kaba, 92).

Many trans studies scholars and activists have engaged with prison abolition as a lens for criticizing mainstream transgender rights campaigns that create belonging only for white, wealthy, able-bodied trans people and rely on the punitive arm of the state for “protection” against discrimination and violence (Haritaworn et al., 2014; Lamble, 2014; Snortin & Haritaworn, 2013; Spade, 2011; Stanley & Smith, 2011). Bassichis et al. (2011); for example, apply abolition to the experiences of trans people beyond those captured by prisons and policing:

We see the abolition of policing, prisons, jails, and detention not strictly as a narrow answer to ‘imprisonment’ and the abuses that occur within prisons, but also as a challenge to the rule of poverty, violence, racism, alienation, and disconnection that we face every day. Abolition is not just about closing the doors to violent institutions, but also about building up and recovering institutions and practices and relationships that nurture wholeness, self-determination, and transformation. (2011, 36)

It is beyond the scope of this article to fully explore the potential contribution of prison abolition principles to critical sport studies more broadly. Instead, I identify and apply five key tenets of prison abolition articulated by Kaba to female eligibility policies in the hope that I and others will take up this call more fully in the future.

First, in organizing collectively—and Kaba insists this is the only way we will accomplish anything of value—we must historicize our experience and the institutions we seek to change so that we can understand the roots of carceral logics and learn from the past. Relatedly, Kaba insists that political organizers need to operate on a long timeline because the changes we are working toward are structural. Understanding the historical roots of the systems we operate in today is important because it reminds us that these systems have not always been in place, and we can take inspiration from past social organizing. Second, Kaba and Hayes insist on the need to practice “a jailbreak of the imagination in order to make the impossible possible” (2018, 25), to imagine noncarceral futures, to prefigure the world that we want to inhabit (Kaba, 105). This is because “the very systems that we’re working to dismantle live inside us” (Kaba, 140); therefore, we need to change ourselves as much as the world around us if we are to dismantle prisons and policing in all their various forms. Relatedly, we need to avoid binary thinking, whether in terms of categories of identity, victim/perpetrator, innocence/guilt, or success/failure. Third, we should adopt only reforms that are “nonreformist,” meaning harm reduction measures that do not shore up carceral systems and/or make it more difficult to decarcerate in future. Fourth, social change requires widespread and creative experimentation, and we should embrace failure as key to learning “lessons that help us” (Kaba, 166). And finally, don’t give up! We must keep believing that social change is possible if we are to succeed. Kaba insists that “hope is a discipline.” In a coauthored piece with Kelly Hayes, Kaba states that “When dealing with oppressive systems, cynicism is a begrudging allegiance” (2018: 25). I use these principles to address female eligibility policies.
Historicizing Female Eligibility Policies and Anti-Trans Campaigns

Modern sport emerged together with racial capitalism (Collins, 2013). The sex segregation that is foundational to modern sport and the sex testing practices that have been used to determine female eligibility need to be understood within the sociohistorical context of modern sport. Modern sport emerged in Europe and its colonies in the late 19th and early 20th centuries as part of a “civilizing” project that ideologically justified the genocide, subjugation, and erasure of “primitive” Indigenous populations (Carter, 2008; Collins, 2013; Sen, 2024). Gender inequality and heteropatriarchal monogamy were promoted as marks of “civilization” (Carter, 2008), whereas others with more fluid and egalitarian gender systems were regarded as occupying a state of exception—as primitive, subhuman, and disposable—necessary for displacement, genocide, and forced labor (Agamben, 2004; Wynter, 2003). Sport has a long history of showcasing and normalizing the gendered and racial hierarchies that characterize racial capitalism and is, therefore, a key site for negotiating and contesting transgender inclusion.

Imani Perry (2018) employed a Black feminist perspective to define patriarchy as a globalized and intersectional structuring force that emerged via the violence of the colonial order. In this context, patriarchy is understood as an overarching metastructuring force for modernity that defines who does and does not count as a person, as evidenced by their capacity to participate in public life. As Perry notes, one of the ways in which patriarchy functioned and continues to function is through acts and relations of domination that are publicly visible [my italics], and these dynamics are racialized as well as gendered.

The public sphere, ‘the commons’ which is often described historically as part of the ‘masculine realm,’ also provided a structure whereby those who were legal persons were set against those who were not . . . . The public domain provided theatres of patriarchal domination that included non-persons. (26–27)

Gender, from this perspective, was not only a single binary applied to a reading of biological sex, but in terms of relations, it depended on a truncated reading of details of the form (of the body, of the society) that would instruct how the person would be treated . . . . The gender categories of humanity were disciplined by ascribing meaning to shades of flesh, national origin, or legal status (Perry, 2018, 55).

Similarly, I argue that sport operates as “cultural theatre” for negotiating citizenship (Travers, 2008): It provides a public arena wherein hierarchies of race, gender, class, and nationality are normalized and contested. Although elite sport participation has widened radically since its emergence, modern sport continues to play a central role in naturalizing and reinforcing a two-sex system and normalizing and perpetuating white, cisgender, heterosexual masculinity and class privilege.

The success of social movements for racial justice, gender equality, and queer and trans rights combines to undermine this racialized heteropatriarchal order. Proponents of anti-trans policies and laws in the United States and Canada are seeking to restore gender and race relations to their pre-1960s levels of oppression and subjugation. Fearmongering political campaigns that seek to deny transgender people basic rights, including sport participation, are deliberate attempts to create hostile climates to drive us out of public life and back underground. These campaigns have a dual agenda: first, to make life unliveable for transgender people because we undermine heteropatriarchal systems of hierarchy and oppression, systems that are integral to white supremacy, colonialism, and racial capitalism, and second, to mobilize a political base to secure state power by generating a moral panic around trans people. According to Aren Aizura,

This movement, which is increasingly global, targets trans women and femmes in particular and whips up panic in multiple fronts: attacks on trans women inhabiting women’s spaces; condemning trans children, particularly as a signal of technological alienation (the fabricated pseudodiagnosis of rapid-onset gender dysphoria, caused by teens learning about the existence of other trans people on social media); and attacks on trans athletes and on the growing movements to make gender self-determination mainstream.3 Gender critical feminism attacks the same ideology of gender denounced by hard-right Brazilian president Jair Bolsonaro on taking office and cited by Jordan Peterson and other right-leaning commentators who mock the increasing recognition of trans people’s names and pronouns. Taken together, these signal transness and gender autonomy’s status as a lightning rod for moral panics working through the contradictions of racial capitalism. They also point to the global ascendency of a nativism invested in hetero- and gender normativity as the glue that holds together white supremacy and ethnonationalism. Simultaneously whipping up fascist violence against trans people and immigrants, people of color, and the poor in order to restore social norms and managing the limited recognition of those who can pass as elites, these necropolitical tendencies magnify divisions between the global elite and the racialized poor; the lines of caste, class, racialization, and property enforce which trans subjects are “real,” recognizable as subjects, and which are “fake,” threatening, or hostile. (2020, 126)

Composed of a combination of Christian Right, white supremacist ethnosocialist movements and self-described “gender critical feminists,” anti-trans campaigns target “gender ideology” in general and trans women and girls in particular for surveillance and exclusion (Bassi & Lafleur, 2022). Advancing the lie that masculinity is biologically innate and unchanging, bills designed specifically to block trans women and girls from participating in “female” sport have been signed into law in many U.S. states (Sharrow, 2021a; Sharrow et al., 2021), and the Alberta government declared its intention to ban transwomen and girls from “female” sport (Bellefontaine, 2024). Concerns about the participation of transgender women and girls in sport incite a “testosterone panic” (Travers, 2022b) by presuming that these athletes have an unfair advantage in women’s competitions because of the “presence” of testosterone (Gleaves & Lehrbach, 2016).4 This occurs within a context where sport is often structured and reported on in such a way that overlapping performances between women and men are rendered invisible (Kane, 1995; McDonagh & Pappano, 2008). In “Female” Sport and Testosterone Panic, “I build on Schilt and Westbrook’s definition of “gender panic” as “moments where people react to a challenge to the gender binary by frantically asserting its naturalness” (and that women-only spaces should be penis free; 2015, 27) to describe attacks on the right of trans women and girls to participate in sport as a “testosterone panic” (Travers, 2022b). Testosterone panic about women’s sport takes hold relatively easily because even among those who support transgender inclusion in general are many who believe that sport is the one area where restrictions are justified because of the supposedly “unfair advantage” men and boys bring to this arena.
(Sykes, 2006). Assumptions about innate physical differences between only two sexes underpin the structural organization of sport at nearly all age and competition levels. The inclusion of transgender women in sport in this context depends on the extent to which they can be said to have achieved “physiological equivalence” via hormone therapy (Gleaves & Lehrbach, 2016).

The carceral logic of female eligibility policies rests on normative gender categories that are racialized (Adjepong & Travers, 2022; Nyongo'o, 2010; Pieper, 2016). Binary gender structures and, hence, transgender issues need to be understood within the history of racialized surveillance practices in the United States wherein sex segregation and sex differentiation are a component of “civilization,” that is, Whiteness, heteropatriarchal gender relations, and class privilege, and based on the employment of white women and children as in need of protection from racialized others (Beauchamp, 2018). The trope of (white) women and girls in need of protection has precedence in colonial and racist laws, policies, and vigilant “justice” used to subjugate racialized populations. It does not matter that anti-trans campaigns are based on myth and misinformation or that they are advanced by organizations seeking to restore heteropatriarchal gender relations; they tap into longstanding and patriarchal structural and cultural norms about gender as a binary system and male superiority. Anti-trans policies and laws punish people for failing to conform to cisgender heteropatriarchal norms.

The trans exclusionary “feminists” who participate in coalition with right-wing conservatives view sex segregation in athletics as a cornerstone of gender equity (Fair Play for Women, 2022; House, 2023). Their intense opposition to the participation of transwomen and girls in “female” sport suggests that they view them as their primary targets in the fight against heteropatriarchy. Why this is the priority when cisgender male violence against women in intimate relationships continues to be prevalent, poverty continues to be gendered, and reproductive justice is under extreme attack defies logic. This alliance is especially troubling given that the right-wing movements behind legal efforts to exclude transwomen and girls from sport in the name of “fairness” for cisgender women and girls do not otherwise support gender equity measures in athletics or in any other sphere. As Butler observes,

Anti-gender movements are not just reactionary but fascist trends, the kind that support increasingly authoritarian governments. The inconsistency of their arguments and their equal opportunity approach to rhetorical strategies of the left and right, produce a confusing discourse for some, a compelling one for others. But they are typical of fascist movements that twist rationality to suit hyper-nationalist aims. (2021)

Conservative political movements are undermining racial and gender justice in significant ways and project the possibility of a terrifying future. I will not be surprised, for example, if a future Republican president, with a majority on the U.S. Supreme Court, engineers the dilution or elimination of Title IX protections for women and girls in federally funded institutions in the United States. Despite Title IX’s flawed reliance on sex segregation to achieve gender equity (McDonagh & Pappano, 2008; Sharrow, 2021b), if it is eliminated the way that affirmative action was recently struck down by the U.S. Supreme Court, this would be disastrous for women and girls in a range of federally funded institutions, including, of course, sport, where Title IX has had perhaps the most publicly visible impact.

Female Eligibility, Gender Policing, and Sex Testing

A long history of sex testing for women athletes at elite levels of sport predates policies for transgender inclusion and significantly shapes the landscape under which transwomen navigate female eligibility. Starting in the 1960s, “sex testing” was required for all women athletes at elite levels of sport, with the (false) rationale that it was needed to eliminate “male imposters” (Pieper, 2016; Wells, 2020). Instead of discovering imposters, however, a succession of unscientific tests identified women athletes with physical or chromosomal “anomalies” for exclusion from women’s sport and/or coercion into “treatment” to neutralize their “male advantage.”

Why this is the priority when cisgender male violence against women and girls do not otherwise support gender equity measures in athletics or in any other sphere. As Butler observes,

Anti-gender movements are not just reactionary but fascist trends, the kind that support increasingly authoritarian governments. The inconsistency of their arguments and their equal opportunity approach to rhetorical strategies of the left and right, produce a confusing discourse for some, a compelling one for others. But they are typical of fascist movements that twist rationality to suit hyper-nationalist aims. (2021)

Conservative political movements are undermining racial and gender justice in significant ways and project the possibility of a terrifying future. I will not be surprised, for example, if a future Republican president, with a majority on the U.S. Supreme Court, engineers the dilution or elimination of Title IX protections for women and girls in federally funded institutions in the United States. Despite Title IX’s flawed reliance on sex segregation to achieve gender equity (McDonagh & Pappano, 2008; Sharrow, 2021b), if it is eliminated the way that affirmative action was recently struck down by the U.S. Supreme Court, this would be disastrous for women and girls in a range of federally funded institutions, including, of course, sport, where Title IX has had perhaps the most publicly visible impact.

(Ahead of Print)

(Female Eligibility, Gender Policing, and Sex Testing

A long history of sex testing for women athletes at elite levels of sport predates policies for transgender inclusion and significantly shapes the landscape under which transwomen navigate female eligibility. Starting in the 1960s, “sex testing” was required for all women athletes at elite levels of sport, with the (false) rationale that it was needed to eliminate “male imposters” (Pieper, 2016; Wells, 2020). Instead of discovering imposters, however, a succession of unscientific tests identified women athletes with physical or chromosomal “anomalies” for exclusion from women’s sport and/or coercion into “treatment” to neutralize their “male advantage.”

Why this is the priority when cisgender male violence against women and girls do not otherwise support gender equity measures in athletics or in any other sphere. As Butler observes,

Anti-gender movements are not just reactionary but fascist trends, the kind that support increasingly authoritarian governments. The inconsistency of their arguments and their equal opportunity approach to rhetorical strategies of the left and right, produce a confusing discourse for some, a compelling one for others. But they are typical of fascist movements that twist rationality to suit hyper-nationalist aims. (2021)

Conservative political movements are undermining racial and gender justice in significant ways and project the possibility of a terrifying future. I will not be surprised, for example, if a future Republican president, with a majority on the U.S. Supreme Court, engineers the dilution or elimination of Title IX protections for women and girls in federally funded institutions in the United States. Despite Title IX’s flawed reliance on sex segregation to achieve gender equity (McDonagh & Pappano, 2008; Sharrow, 2021b), if it is eliminated the way that affirmative action was recently struck down by the U.S. Supreme Court, this would be disastrous for women and girls in a range of federally funded institutions, including, of course, sport, where Title IX has had perhaps the most publicly visible impact.

(Ahead of Print)
transgender women and women with HG to reduce their testosterone levels to 5 nmols (instead of the previous 10 nmols). Semenya challenged these new rules via the CAS but lost and decided to forego competing in the 400 m the 2020 Games rather than subject herself to hormone suppression therapy again (Dunbar & Imray, 2020).

Interventions From Feminist Science Scholars

Although leading scientists of sex development insisted that the sex testing practices were unscientific all along, and feminists insisted that they violated human rights, the practice persisted for decades (Wells, 2020). Feminist science scholars have been particularly effective in unpacking the heteropatriarchial contexts that permitted so much unscientific science to go on for so long. Feminist science scholars have made four interventions that are relevant to the participation of trans women and HG women in sport: first, that deciding what is a fair versus an unfair athletic advantage is a social rather than a scientific decision; second, that there is no clear line of demarcation between male and female bodies; third, that gendered overlaps in hormone levels and athletic performance regularly occur (Fausto-Sterling, 2020; Jordan-Young & Karkazis, 2019); and fourth, that a causal relationship between testosterone levels and athletic performance has not been scientifically proven (Jordan-Young & Karkazis, 2019; Pape, 2017; Pieper, 2016; Wells, 2020).

Human rights and science-based challenges to sex-verification testing have been partially successful in that the practice of mandatory sex testing for all women athletes was abandoned by the International Amateur Athletic Federation, now World Athletics, in 1992 and the IOC in 2000. But these organizations continue to test athletes they deem “suspicious,” disproportionately targeting Black and Brown women from the global south for surveillance and testing (Dworkin et al., 2013; Fischer & McClearen, 2019; Henne, 2015; Lenskyj, 2018; Magubane, 2014; Nyong’o, 2010; Pape, 2017, 2019; Pieper, 2016; Wells, 2020). This is because gender is racialized: Normative gender categories are based on Eurocentric (white) norms, and gender nonconforming people are targeted by racialized surveillance practices (Beauchamp, 2018; Fischer, 2023).

Anti-Trans Backlash and Policy Regression

“Anti-gender” movements are now having a profound influence on elite sporting policy. In the 2020 Olympic Games (held in 2021), weightlifter Laurel Hubbard was the first openly transgender woman to compete at that level. Ongoing conflicts over appropriate criteria for female eligibility have combined with testosterone panic stoked by influential conservative social movements to produce a reactive shift in sport policy that makes it much harder, if not impossible, for transwomen to compete.

In November of 2021, the IOC, followed on January 20, 2022, by the National Collegiate Athletics Association (NCAA), announced new policy that outsourced responsibility for determining female eligibility to sport-specific national and international organizations. The new IOC policy calls for “evidence-based” decision making in producing policy (International Olympic Committee, 2021). The IOC announcement was a breakthrough, in part, because the highest level sporting body in the world finally acknowledged that there is no scientific basis for sex testing and that significant harm was done to athletes barred from competition and/or forced to undergo medically unnecessary (and often harmful) treatment (Ellis, 2022; Pielke, 2021). But rather than accept the scientific reality that sex is not binary and provide leadership to transform sport away from sex-based competition, the IOC shift in policy reacquaints a heteropatriarchial two-sex system by offloading the oppressive work of surveillance and exclusion to international federations for specific sports. Although the IOC stipulated that these sport bodies should rely on “evidence-based decision making,” this is not what we have seen to date.

The NCAA followed the IOC policy of outsourcing female eligibility questions to sport associations and federations in January of 2022 by replacing the leading-edge transgender inclusive policy it adopted in 2011 (Griffin & Carroll, 2010; NCAA Office of Inclusion, 2011)—a policy subsequently adopted by the IOC in 2012—with a similar “sport-by-sport” policy that enables banning transgender women from so-called “gender-affected” sports (Fair Play for Women, 2022; International Olympic Committee, 2021). Vocal anti-trans resistance to the recent success of NCAA swimmer Lia Thomas, the first transgender woman to win a Division I NCAA title (Odum, 2022), prompted the new NCAA policy and the adoption of a cisgender women-only policy by World Aquatics, the international swimming body. Why sport associations will have better luck than the IOC in producing scientifically verified evidence is an obvious question: What has transpired so far—with World Rugby Transgender Guidelines (2020), World Aquatics, and most recently, USA Climbing (De La Cretaz, 2024), banning transgender women from women’s competition—is based on taken-for-granted assumptions and beliefs—not scientific evidence—about male athletic advantage. In response to the new rules restricting transgender participation in climbing, De La Cretaz observes that it “shows just how intense the pressure has become to diminish the ability of trans people to participate equally in nearly every corner of society, including every sport imaginable” (De La Cretaz, 2024). Transclimbersbelong.com is leading resistance to these new restrictions in the sport.

Critics of female eligibility policies point out that distinguishing between fair and unfair natural athletic advantages is a social rather than a biomedical decision—not to mention which forms of technological mediation are legal versus illegal (Butryn, 2003; Pieper, 2016). In contrast to NCAA swimmer Lia Thomas, a transgender woman whose success in competition sparked a testosterone panic for the NCAA and FINA, cisgender woman Katie Ledecky’s absolute dominance over competitors in the pool has never resulted in concerns about “fairness.” But when Chinese swimmer Ye Shiwen beat U.S. swimmer Ryan Lochte’s time in a 50-yard split in the 2012 Olympics, western media jumped to the conclusion she had to be doping (Kwok, 2012). Feminist scholars point to the fact that women’s performances in comparison with men’s have been improving as access to sport participation has increased and raise questions about the extent to which socioeconomic as well as biological factors play a part in disparate athletic performance.

The combination of this shift in international policy and influential anti-trans campaigns is having alarming consequences. They signal lack of acceptance to trans people in general and will make it even less likely that transwomen and girls will participate in sport. Anti-trans measures signal lack of acceptance to trans people in general and will make it even less likely that transwomen and girls will participate in sport. Anti-trans measures signal lack of acceptance to trans people in general and will make it even less likely that transwomen and girls will participate in sport.
the ability of transgirls and young women to construct a liveable life, given the benefits of sport and physical recreation participation for girls and young women and the already concerning drop-off in participation from this population during adolescence (Abadi & Gill, 2020; Kirklewski et al., 2020).

The panic about transwomen and girls participating in “female” sport is having negative consequences for cisgender girls as well. Cases involving girls who wear their hair short, are “too athletic,” or fail to conform to stereotypical gender norms being subject to gender surveillance and harassment are not new—the policing of “female masculinity” (Cahn, 2015; Griffin, 1998; Halbertam, 1998; Lenskyj, 1986) predates transgender visibility, but anti-trans campaigns—and the high-profile targeting of runner Caster Semenya—are increasing and legitimizing the harassment of gender nonconforming girls.10 Sport participation policies designed to push trans people out of public life are making it more difficult for gender nonconforming people of all ages to be treated with dignity and respect, never mind participate in sport.

Despite anti-trans claims about the threat transwomen and girls pose to women’s sport, the Center for American Progress finds that including trans high school athletes does not reduce cisgender girls’ involvement in sports. In 2021, support for transgender athletes was widespread, including from high school and NCAA athletes themselves, high-profile women athletes, and many women’s rights and gender justice organizations (Goldberg, 2021). A 2023 poll, however, indicates the extent to which anti-trans campaigns in the United States have been successful in changing public opinion, with 70% of Americans polled agreeing that transwomen and girls should not be able to compete against cisgender women and girls (Lavietes, 2023). The harm that these campaigns do to trans people is clear, but less is understood about their impact on cisgender people. We know, for example, that students who are exposed to gender and sexual diversity education in schools experience less pressure to conform to binary gender identities that polarize the opposite. This results in less gender-based violence against girls and women (Bigler, et al, 1997; Spears Brown & Bigler, 2005). Anti-trans initiatives contribute to a “chilly climate” (Hall & Sandler, 1982) for transwomen and girls and gender nonconforming people of all ages.

Female eligibility policies normalize Eurocentric, heteropatriarchal gender and sexuality systems and delegitimize trans identities, but they have also become an instrument to mobilize an electoral base to secure state power. Fascist movements in the United States and across the globe are using this state power to advance agendas to eliminate all legal and policy obstacles to the operation of racial capitalism, to expand and strengthen carceral systems that disproportionately target people who are racialized/poor/disabled/LGBT/undocumented, and to gut social programs (Butler, 2021; House, 2023). In the United States, this is taking the form of eliminating legal protections for LGBTQ2S+ people in general/women/racial minorities; the transformation of educational institutions to eradicating critical content related to white supremacy, heteropatriarchy, and capitalism; the maintenance of horrific border and immigration systems that feed racial capitalism’s need for labor while dehumanizing and harming the workers themselves; and the prioritization of the needs of capital over climate change.

Mainstream transgender movements view being transgender as a single issue—as the only obstacle to full inclusion in society—and seek accommodation via assimilation into binary normative heteropatriarchal structures of citizenship that are grounded in Whiteness and access to wealth. Here, policing, prison, borders, and security are taken for granted. But racial capitalism is a gendered project (Matambanadzo, 2022), and the very capacity for being intelligible according to binary gender norms vis-à-vis various state and nonstate surveillance practices is a mark of racial and economic privilege. The marking of gender nonconformity is woven into the practices and processes that target people who are racialized/impoverished/disabled as unworthy of life-giving resources and inclusion in public life and spaces (Beauchamp, 2018).11

The gender panic targeting trans people is being stoked to justify rolling back the small measures of inclusion that transgender people and our allies have fought for and won because they destabilize racial capitalism’s white supremacist heteropatriarchal assemblages of power and privilege and because targeting trans people is an effective way of seizing/maintaining state power. Moral panics make villains of marginalized groups and are attempts to “push the marginalized back to the margins” (Pepin-Neff & Cohen, 2021).:1) The specters of menacing Black people, Muslim people as jihadists at heart, predatory “trannies” in women’s bathrooms, and “woke” people indoctrinating children to hate “our country” whip up populist support for political leadership that is destroying everyone and everything in its path. Our challenge is to fight for transgender inclusion in an intersectional and anticarceral way. I urge us to learn from prison abolitionists and Black and Indigenous communities organizing against colonialism and the PIC.

A “Jailbreak of the Imagination”: Reimagining Sport

For Kaba, “PIC abolition is a positive project that focuses, in part, on building a society where it is possible to address harm without relying on structural forms of oppression or the violent systems that increase it” (Kaba, 2020, 2). According to Kaba and Hayes, we need to practice “a jailbreak of the imagination in order to make the impossible possible” (2018, 25), to imagine noncarceral futures, to “préfigurer the world that we want to inhabit” (Kaba, 105), and to imagine sport beyond the carceral logic of female eligibility policies, policies that are embedded within a gendered and racialized social order. This is because “the very systems that we’re working to dismantle live inside us” (Kaba, 140); we need to change ourselves as much as the world around us if we are to dismantle prisons and policing in all their various forms. Abolitionist sport scholars “have to be willing to be transformed in the service of the work and the struggle” (Kaba, 2018, 192). Relatedly, we need to avoid binary thinking, not just in terms of sex categories but also the simplistic assessments such as success/failure, winners/losers, and victim/perpetrator that justify punishment and take momentum away from the long-term struggle of organizing for a more just world. As Kaba remarks, “when you prioritize punishment it means that patriarchy remains firmly in place” (2018, 146).

Transgender athletes, women with HG, and the failure of science to provide clear and measurable demarcations between men and women raise questions about the appropriateness of sex segregation as a primary organizing principle for sport. Many of these questions that have been raised by scholars who argue that other bases for organizing sport are more appropriate (Bianchi, 2017, 2019; Kane, 1995; McDonagh & Pappano 2008; Pronger, 1990, 1999; Rothblatt, 1995; Tännström, 2000). McDonagh and Pappano (2008) and Travers (2008, 2011, 2013) view sex segregation in sport as reinforcing gender inequality more broadly.
In 1995, Rothblatt recommended the abolition of sex-segregated sport as a requirement of gender justice. Tännö (2000) claimed that the abolition of sex categories will give the most elite women athletes an opportunity to show their abilities to the fullest, insisting that sports is about competition, and if there are some sports wherein some men dominate all women, so be it. Bianchi (2017) proposes replacing the binary sex organization of sport with a “handicap system” based on a “skills thesis” (2019), noting this precedent in weight classes for boxing and wrestling and skill level in golf, partially duplicating an argument raised by previous scholars (Pronger, 1990; Travers, 2008). Under the logic of this alternative to sex-based sport, scholarship emphasizes that all elite athletes are anomalies anyway in terms of exceptional natural abilities. Rather than designing some natural abilities as fair and others unfair, sport categories should be organized according to the various abilities that confer advantage (height, weight, age, and level of functional testosterone; Tamburini & Tannsjo, 2005), perhaps even osteology (Sutherland et al., 2017) to provide more genuinely “level playing fields” for competition.

A jailbreak of the imagination is necessary to imagine sporting institutions and practices away from the heteropatriarchal logic underlying sex segregation and entangled with racial capitalist systems (the disposability of Black men in the sport of football, e.g., and the access to wealth that is a requirement for so much sport participation).

Nonreformist Reforms Related to Female Eligibility

Harm reduction measures are important, but they must be evaluated in terms of the extent to which they reinforce or undermine carceral systems. Kaba remarks that

I don’t know anybody who is an abolitionist who doesn’t support some reforms. Mainly those reforms are to use the term coined by Andre Gorz and popularized by Ruth Wilson Gilmore here in the United States, non-reformist reforms. Which reforms don’t make it harder for us to dismantle the systems we are trying to abolish? Don’t make it harder to create new things. What ‘non-reformist’ reforms will help us move toward the horizon of abolition. (Kaba, 96)

As an example of nonreformist reform, Gleaves and Lehrbach (2016) proposed replacing the essentialist bases of sex identity with gender self-determination as a basis for participation, as the most socially just way of including trans and HG women in the current sport system. Gleaves and Lehrback view gender as a meaningful narrative category, rather than a biological one, and suggest, therefore, that those for whom the narrative category of “woman” is meaningful should participate in that category, regardless of biology. Instead of the historically situated biological binary sex narrative that dominates modern sport, they recommend shifting the narrative to an equally valid and more socially just one, that of gender self-determination. They suggest that this shift will provide trans and HG women with the opportunity to contribute to a narrative of inclusion that will have a broader impact in terms of social justice for transgender nonconforming people in society more broadly. Other scholars similarly emphasize the need to balance concerns with fairness with concerns about inclusivity, emphasizing that inclusivity is just as, if not more, important (Buzuvis, 2018; Fletcher, 2020; Teetzel, 2014).

McDonagh and Pappano (2008) and Travers (2008, 2022a) have proposed a modified restructuring of sport. McDonagh and Pappano make a distinction between “voluntary” and “coercive” sex segregation for girls and women and argue that the former should be maintained because it promotes the participation and comfort of girls and women, whereas the latter should be abolished because it reinforces male dominance. Similarly, but with the explicit intent of supporting trans inclusion, I advocate for the abolition of all male-only sex-segregated sporting spaces while retaining girl- and women-only sporting spaces with trans-inclusive boundaries. This builds on my (2008) vision of “queering sport” away from rigid binary sex categories. Martínková (2020) proposed another modification for sport in the form of “unisex” sport as a gender-inclusive addition to, and perhaps eventual replacement for, sex-segregated sport. Unisex sport, according to Martínková, has the potential to break down assumptions about athletic sex difference because of rendering overlaps in performance visible.

Another example of a nonreformist reform is provided by the new gender-inclusive dressing room policy for minor hockey instituted by Hockey Canada in 2023 (Hockey Canada, 2023). All children participating in minor hockey are encouraged to wear a base layer into the dressing room to facilitate privacy for all participants. This eliminates practical issues related to trans inclusion in the context of gendered changerooms and contributes to the comfort of cisgender participants as well.

Experiment!

Kaba advises that social change requires widespread experimentation and that we should embrace failure as the key to learning “lessons that help us” (2018, 166). Sex segregation and assumptions of across-the-board male superiority as foundational to the organization of sport have been normalized to the point that it is difficult to imagine, let alone build, ungendered activities and spaces. But there are examples that we can learn from, and the ones that spark my imagination and hopefulness are queer, for example, lesbian softball (Travers & Deri, 2011) and other queer sporting spaces. How have queer sporting spaces attempted to provide more gender-inclusive competitions? Where have they succeeded? Where have they failed?

Starting points for transformation away from binary sex systems are to be found in organizations such as the Paralympics as well as sports that distinguish competitors based on weight class and assign “handicaps” to competitors based on skill or age. Beyond queer communities and the Paralympics, what other community-based sport and recreation activities and programs have strived for inclusivity? What can we learn from them? What would be required to establish sport for people, not for profit? My vision of better sport privileges participation in movement and recreation over elitism and professionalism in sport. It also involves abandoning sex segregation as a foundational organizing and measuring tool.

Hope Is a Discipline

I honestly believe that we’re going to win the things we fight for. (Kaba, 164)

We must keep believing that social change is possible if we are to succeed. I am discouraged by campaigns of hate that fuel the regressive policy landscape surrounding female eligibility and broken-hearted by my one-sided love affair and toxic relationship with baseball—a sport that refuses to love me back. But I
am not alone in my heartbreak or my resolve to keep pushing for better sport and better worlds. Kaba insists that “hope is a discipline.” In a coauthored piece with Kelly Hayes, Kaba stated that “When dealing with oppressive systems, cynicism is a begrudging allegiance” (2018: 25). Kaba encourages those of us working toward more justice and more freedom to operate on a long timeline because the changes we are working toward are structural. We may not know how our actions today contribute to more freedom in the future, but we must operate in faith that what we do matters. After all, “Organizing is mostly about defeats” (Kaba, 127).

I began this article by sharing my sense of despair, which started in earnest with the election of Trump in 2016. I did not know what to do with my despair, so I went to a Black church with my oldest child. The Black American preacher at Mount Zion Baptist Church in Seattle, Washington, delivered a powerful sermon about the necessity of principled action for social justice. Speaking to a primarily Black congregation for whom experiences of racism and oppression are a living archive, he acknowledged the temptation to give in to cynicism and hopelessness. Instead of giving up, however, the preacher urged the congregation to go beyond hope to engage in the “politics of the broken-hearted: to stand in the tragic gap between cynicism and idealism.” I believe that we need to take and collectivize these moments of heartbreak, lean into them, and grieve because this grief is such a powerful expression of our shared humanity, our connection to others. Our despair is a refusal to sanction erasures of humanity. But we cannot get stuck here; we need our grief to provide us with a moral center from which to act.

What we do in our classrooms and meetings, our papers and books, our media interviews and blogs, matters. It is important to remember this. Our engagements with sport speak to both our capacity for joy and connection and the uneven way that status and resources are distributed. Critical sport studies informed by prison abolition are a powerful tool for challenging the taken-for-granted assumptions and beliefs that make the carceral logics of our shared humanity, our connection to others. Our despair is a refusal to sanction erasures of humanity. But we cannot get stuck here; we need our grief to provide us with a moral center from which to act.

What we do in our classrooms and meetings, our papers and books, our media interviews and blogs, matters. It is important to remember this. Our engagements with sport speak to both our capacity for joy and connection and the uneven way that status and resources are distributed. Critical sport studies informed by prison abolition are a powerful tool for challenging the taken-for-granted assumptions and beliefs that make the carceral logics of our shared humanity, our connection to others. Our despair is a refusal to sanction erasures of humanity. But we cannot get stuck here; we need our grief to provide us with a moral center from which to act.

1. I delivered a version of this paper as the Alan Ingham Lecture, North American Society for the Sociology of Sport, Nov. 2, 2023.

2. In contrast to New Brunswick and Saskatchewan, the requirement to inform parents in Alberta applies for students of all ages, although school staff may refer to a student using the correct pronouns and preferred name without consent for students 16 years of age and older.

3. See Zimonjic (2023) for an explanation of the notwithstanding clause: https://www.cbc.ca/news/politics/moe-saskatchewan-notwithstanding-explained-1.6982711#:%3e:text=What%20is%20the%20notwithstanding%20clause%3f%20year%20is%202019%20when%20is%2020 legislation.

4. In contrast to transgender women, transgender men do not produce a testosterone panic in sport because they are considered to be at a disadvantage when competing against cisgender men.

5. There is precedence for alliance between feminist factions and the Christian Right, however, as evidenced by the “sex wars” of the 1980s. See Bright (2024).

6. The IOC introduced the Stockholm Consensus in 2004 whereby transgender people who had sex assignment surgery, hormone therapy, and legal recognition from their home nation were permitted to compete (Wells, 2020).

7. See Travers (2022b) for a detailed overview of sex testing policies and legal challenges.

8. Although both Chand and Semenya identify as cisgender women, the employment of testosterone levels for female eligibility regulations generates overlapping experiences of abjection between women who “fail” such sex tests and transgender women. See Travers (2022a).

9. See, for example, World Rugby Transgender Guidelines (2020) and FINA (2023).

10. See, for example, Szeto and Strachan (2013).

11. In Chapter 3 of Going Stealth, “Bathrooms, Borders, and Biometrics,” Beauchamp centers the relationship between bathroom access and public space, noting that, historically, public bathrooms in the United States were provided for white men only and that this privileged access to public space continues to underscore hierarchies of citizenship. Beauchamp builds an argument in detail about the ways in which supposedly neutral but actually racialized, classed, gendered, and abled bodily norms are used to regulate access to resources and public spaces and the ways in which these surveillance practices have become even more unsailable under the guise of the post-9/11 “war on terror.” Good transgender citizens, Beauchamp observes, accept surveillance and experience pleasure at performing patriotic willingness to undergo scrutiny of their bodies, with the understanding that unspoken and unacknowledged race and class privilege will mark them as good citizens.

12. I refer to my experience as the first nonmale to coach at the 18U AAA level of youth baseball in Canada and probably the United States; being the first is hard, competency is challenged, and so on.

References


