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ORIGINAL

THE TRANSSEXUAL AND INTERSEX PEOPLE IN SPANISH COMPETITIVE SPORT: THREE CASES

LAS PERSONAS TRANS E INTERSEXUALES EN EL DEPORTE COMPETITIVO ESPAÑOL: TRES CASOS

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ABSTRACT

The cultural conception of sport as a predominantly male activity has hindered the participation of some social groups such as women, transsexual or intersex people. The sexed nature of sport is based on physiological differences between women and men, and a supposed women disadvantage. Thus, sex controls are established for women and then trans and intersex people's access to sport is hampered. In this study we reconstruct, based on the regulations and the international socio-historical context, the evolution of the participation of transsexual and intersex people in contemporary competitive sport. Likewise, the application and management of these norms in the Spanish context is deepened, supported by three cases of Spanish transsexual and intersex athletes. The discrimination and humiliation suffered by these persons enforce to maintain a critical vision of the sports policies hitherto created.

KEY WORDS: transsexual, intersex, sport, regulations, inclusion

RESUMEN

La concepción cultural del deporte como una actividad predominantemente masculina ha dificultado la participación de algunos grupos sociales como mujeres, personas trans o intersexuales. El carácter sexuado del deporte se apoya en las diferencias fisiológicas entre mujeres y hombres, y una supuesta desventaja de las mujeres. Por ello, se establecen pruebas de sexo para las mujeres y el acceso de las personas trans e intersexuales se ve obstaculizado. En este estudio reconstruimos, a partir de las normativas y el contexto socio-histórico internacional, la evolución de la participación de personas trans e intersexuales en el deporte competitivo contemporáneo. Asimismo, se profundiza en la aplicación y gestión de dichas normas en el contexto español, apoyado en tres casos de deportistas trans e intersexuales españoles. La discriminación y humillación que han sufrido estas personas obliga a mantener una visión crítica de las políticas deportivas creadas hasta la actualidad.

PALABRAS CLAVE: trans, intersexual, deporte, normativas, inclusión

INTRODUCTION

The current difficulties and obstacles put in the way of transsexual and intersex people who decide to participate in sports, especially at the top level, are rooted in the debates on doping and sex tests for athletes stemming from the Cold War period. These two issues are so intertwined that they shape the present international cultural and normative criteria on the participation in sports of transsexual and intersex people (Reeser, 2005; Ritchie, 2003).

Exactly what is considered to be doping (or not) is still controversial, since certain performance-enhancing pharmacological and dietary products are permitted while others are banned and any athletes that use them are considered to be cheats. This controversial situation is also experienced by some women, trans and intersex persons in other situations.

It is well known that androgenic hormones, such as testosterone, are considered to be performance-enhancing substances and to give athletes a significant advantage as they increase the participants' strength and stamina (Karkazis, Jordan-Young, Davis & Camporesi, 2012). However, in the case of transsexual or intersexual people, the external administration of these substances could be necessary simply to obtain or maintain their gender identities. However, this justification for their consumption is not accepted by the international organizations, which have decided to penalize this behavior. Furthermore, those who consume these hormones for these reasons are not the only ones to be penalized, but also some athletes who naturally generate high levels of testosterone, as in the recent case of Caster Semanya (Amorós, 2019; Buzuvis, 2010).

The supervision of sportswomen is nothing new. Since the very beginning of women's participation in sports, an activity that originally classified masculine characteristics as legitimate, meritorious and desirable (Monforte & Úbeda-Colomer, 2019), women athletes' bodies have been subjected to close scientific scrutiny. This can be shown by the long history of tests especially developed to discover (through 'scientific' examination) if they had an unfair competitive advantage or if they were really men pretending to be women in order to win competitions. These tests have been used not only to determine whether women could compete or not, but also whether in fact they were really women. Those who "failed" such a test were not only refused permission to compete, but were also considered "abnormal". The ethical consequences of these sex tests are still unresolved today and are the subject of an intense social and scientific debate that questions the myth of fairness for female athletes (Buzuvis, 2010; Karkazis, Jordan-Young, David & Camporesi, 2012). This debate has also been extended to assessing scientifically whether athletes belong to one of only two categories, women or men (Sullivan, 2011).

Despite the increasing international concern on sex tests and the participation in sport of trans and intersex people, there is still a dearth of information on how these persons have been able to participate in sports competitions in Spain. The main objective of this paper is thus to reconstruct how the competitive sports participation of trans and intersex people has evolved through an

analysis of the personal and socio-cultural circumstances of three Spanish athletes, María Torremadé, María José Martínez Patiño and Natalia Parés, three athletes from Spain's recent history.

1. The Torremadé case and the obsession with cheating males

María Torremadé, born in Barcelona (1923), was already a brilliant basketball and hockey player at only 18 years of age. In February 1942, a Spanish newspaper reported that she was going to undergo a "sex change" [sic] because she felt she was really a man, and was going to change her name to Jordi. When this announcement was made public, the athlete's extraordinary career came to a sudden end (García Candau, 2009). Some years earlier, Belgian cyclist Willy de Bruyne, the British shot-put and javelin champion Mark Weston and Czechoslovakian runner Zdenk Koubkov, who had been women athletes, went through similar experiences (Bilharz, 2005; Meyerowitz, 1998). In all these cases, the suspicion of being too 'mannish' had produced negative reactions against them in the media and society.

To look or be 'mannish' was (and still is) a real problem for women competing in sports. Ever since women started to participate in elite sport, there has been a concern about "cheating" male athletes participating in women's categories (Hargreaves, 1994). This concern was based on the assumption that it was easier for men to win female events due to women's 'naturally' inferior performance. Sporting authorities then started to regulate female participation via sex tests around the 1930's and early 1940's. Sex tests were especially boosted by the case of 'Dora' Ratjen, a German man who cheated by competing as a woman in the women's high jump at the Berlin Olympic Games in 1936. Ratjen, who was forced to compete by the Nazi hierarchy to exclude Jewish athlete Gretel Bergman from the competition, was accused of cheating and being a 'hermaphrodite'. This case was a key factor in justifying the strict measures subsequently adopted by different sporting organizations (Buzuvis, 2010; Heggie, 2010; Karkazis, Jordan-Young, David & Camporesi, 2012; Leal, 2014; Sullivan, 2011).

As the Torremadé syndrome, a type of intersexuality characterized by external female genitalia combined with a genetic load of XY chromosomes (Morris syndrome), was not apparent in the sex test (Ladrón de Guevara, 2015), Torremadé's 'sex change' was an entirely personal decision. However, the media considered a cheating practice that confirmed suspicions about his masculinity and, therefore, all his competitions a fraud. The Spanish sportive organizations immediately revoked his marks.

Torremadé's case needs to be understood within the national and international sociocultural contexts in which they occurred. At a national level, the Franco Regime was ruling Spain and sport was controlled by the *Frente de Juventudes*, the state ideological apparatus. For the women's branch of this organization, the *Sección Femenina*, a woman's true role was to be a good mother and sports were not indicated, since they favoured masculinization of women's bodies (Machado & Fernández, 2015). Physical activity and sport were considered appropriate only for girls and young people with the single objective

of strengthening their bodies and thus fulfilling their subsequent duties in marriage (Manrique, 2018). Therefore, “to be a sports reference was not an added value to women” (Manrique, 2014: 440), but quite the opposite. Jordi Torremadé’s case was the ultimate argument for keeping women away from sports for Pilar Primo de Rivera, the president of the *Sección Femenina* (Ródenas, 2014). In fact, the *Sección* then banned all women from athletic competitions until the early 1960s (García Candau, 2009).

This case occurred during the international craze for detecting “cheating” men athletes during the 1940s and 1950s. In fact, the International Amateur Athletics Federation (IAAF) implemented a sex-test policy in 1946 and the International Olympic Committee (IOC) did the same two years later. The new regulation required a compulsory medical examination of all female competitors to verify their biological sex and detect undercover men (Heggie, 2010; Karkazis, Jordan-Young, David & Camporesi, 2012). The examination required females to stand naked in front of a medical board for a genital inspection. This measure discouraged some sportswomen, who then either withdrew from competition or simulated injuries to avoid the embarrassing and humiliating process. Apart from detecting dishonest athletes, the test was meant to determine what a ‘proper’ woman was. International sports organizations were far more worried about cheating by ‘false women’ than by doping. According to Hoberman (2005) in the 1950s sport organizations and the general public were quite permissive with those, mainly men, who used drugs to enhance their performance, while an increasing number of women were subjected to sex tests.

2. The Patiño case and sophisticated sex testing

During the second half of the 20th century sex tests adopted more sophisticated medical techniques. Chromosomal sex (‘Barr body’ genetic analysis) testing replaced anatomical assessment by the IAAF in 1967 and was mandatory until the late 1990’s. Scientific advances led to new tests such as the PCR (polymerase chain reaction) technique, which replaced the previous tests. In the 1980’s the medical community started to question the use of these tests, and a decade later the IAAF recognized their limitations and several frauds were detected. Since the start of the sex tests, no cases of men cheating had been found (Sullivan, 2011). However, these tests were successfully detecting intersex or non-normative women (known by doctors as women with ‘sexual development disorders’).

María José Martínez Patiño was the first athlete who failed the chromosomal test at the Kobe Universiade in 1985. Patiño, who excelled in the 60m and 100m hurdles, was preparing to participate in the upcoming Olympic Games in Seoul when the doctors reported she had a chromosomal alteration (Buzuvis, 2013). The Kobe team’s official staff advised her to simulate an injury but she rejected the suggestion. The Royal Spanish Athletics Federation then sent her back to Spain, where she was submitted to new tests that confirmed a diagnosis of complete androgen insensitivity syndrome and ratified her XY genetic status. She was then advised to withdraw from competition but she refused. Due to her refusal and victory in a Spanish 60 m hurdles competition, her medical report was leaked to the media. It was a blatant contravention of

her rights to privacy from medical confidentiality. The Royal Spanish Athletics Federation then expelled her from the Blume athletes' residence in Madrid, cut off all her financial support and her records were struck off the register (Hernández, 2014; Parks, 2014).

At that time, after a transition period the Franco Regime had come to an end and a democratic political system had been adopted in Spain. Public participation in sport then increased (Machado & Fernández, 2015; Ródenas, 2014), although with considerably fewer women than men. There was now neither a *Sección Femenina* nor a national policy against women participating in sports, which began to rise, especially in elite sport (Leruite, Martos & Zabala, 2015), as this was seen as a sign of modernity and upgraded women's involvement in Spanish democracy. At an international level however the dramatic rise in the use of drugs to improve performance fuelled the concern about sex and tests began to be applied, affecting women's private lives and their participation in sports. Pressure on women with naturally higher levels of testosterone increased because their cases were considered similar to athletes who took drugs and they were accused of sacrificing their femininity for the sake of winning competitions (Dimeo, 2007; Gleaves, 2015).

In this context, Patiño sued the Royal Spanish Athletics Federation and fought against public opinion to get back to track and field competitions. She sought the support that had been denied her in her own country outside Spain, until the IAAF Medical Commission, with the support of its chairman, Professor Arné Lungqvist and the Finnish geneticist Albert de La Chapelle, reopened her case. At a Commission meeting, held during the Seoul Olympic Games, it was determined that her biological condition did not give her any unlawful advantage and she had free rein to compete again.

Unfortunately, after three years, in the midst of the media hubbub and suspicions of foul play, María José could not maintain her peak performance and irreversible harm had been done to her personal life and career. Like many other women athletes, she was not only the victim of restrictive regulations and the inquisitive public opinion, but also of the inflexible binary sex-gender system that delegitimized and marginalized any bodies that exceeded the limits defined by normalization.

Since then, the international and national sport contexts have evolved and become more flexible towards sex tests and intersexual participation in athletics. Patiño's case helped to change sex tests based on a chromosomic analysis for women, but not men. Her case brought about a reconsideration of the regulations and the condition of intersex women in the field of competitive sport. The tests evolved towards the control of the normal ranges of blood testosterone both for women and men, though in the latter case the aim was to detect the use of illegal drugs (García Dauder, 2011). However, this change did not affect the predominance of medical criteria in the decisions of the sports authorities. The IOC adopted a case-by-case policy in 2003, while the IAAF followed suit three years later (Hercher, 2010). This meant that only athletes deemed 'suspicious' were subjected to strict testing in a multidimensional medical evaluation. As Cooky and Dworkin (2013: 108) commented, in practice,

“women are sex tested when they achieve an extraordinary athletic performance, have well developed muscles, or are perceived to be ‘too male’”. Caster Semenya is probably the most famous case of intersexuality in sport with the greatest international and media repercussion. When she won the 800 m event in the World Athletics Championship, her femininity was questioned due to her remarkable performance. Her well developed muscles and deep voice also contributed to the rapid spread of this distrust. In fact, a medical commission requested her to submit to a sex verification procedure (Buzuvis, 2010). The IAAF waited until July 2010 to communicate the commission’s conclusions, which justified her competing as a woman, despite the fact that her body naturally secreted more testosterone than the ‘normal’ women’s range. The regulations applied during the London 2012 Olympic Games stipulated that the testosterone range should be below 10 nanomoles per litre of blood. Semenya therefore went on competing and winning races.

However, the criteria on the competition eligibility of athletes with high testosterone levels were changed by the IAAF in April 2018. The new regulations indicated that, if the testosterone concentration exceeds 5 nanomoles per litre, athletes must undergo hormonal treatment to bring it down (IAAF, 2018). This rule produced what has been labelled as ‘reverse doping’ by D’Angelo and Tamburrini (2013). The rule was criticized as being disrespectful to and potentially dangerous for athletes. Nevertheless, women with levels above 5 nanomoles were banned from competing in middle-distance races (from 400 m to a mile), which are precisely the distances in which Semenya excels.

Semenya's case is still currently being considered and she continues to strongly refuse medication because of rules she considers discriminatory. Until her case is finally resolved, she has signed for the JVW Football Club, a South African women's soccer team with which she will play in the meantime, although without neglecting her athletics training (Amorós, 2019).

Dutee Chand, another case that became popular in 2014, is a specialist in 100 and 200 m sprints. The 18-year-old athlete was suspended from competition after being detected with hyperandrogenism, or androgen excess. Her legal battle led her to the Court of Arbitration for Sport (CAS) in 2015, which awarded her the right to return to competition. Chand also rejected pills or surgical operations in order to compete. As the new regulation affects longer distances, she does not have to take medication and can continue to compete normally. However, from the regulatory point of view, her case was not especially controversial because of her relatively modest sports performance.

3. The Parés case and trans persons

However, the hindrances to competing in sport have not only affected intersex people. Trans people’s participation has been traditionally rejected in sport, especially that of transwomen, because they are perceived as having an unfair advantage. Though every trans sportsperson is treated with suspicion, sporting organizations do not apply the case-by-case criterion applied to intersexual participants. Consequently, most of them either soon give up their sports

careers or delay their transition process to be able to compete for some years before they disclose their gender identities.

The first case of trans-sexualism in Spanish sport was that of chess player Natalia Parés. She achieved great success under the name of *Josep* from the mid 1970's to the late 1990's. She was also awarded the Chess Master title by the International Federation, but retired after publicly disclosing her gender identity in 1998. As it was not possible to legally change her name until 2007 (Law 3/2007 from 15 March), she was not able to participate as a woman. Since then, she has been involved in transsexual activism to sensitize society on trans people's rights and their inclusion difficulties (Boyero, 2006; La Vanguardia, 2008).

Six years after Natalia retired, the IOC became the first organization to regulate transpeople's access to competitions and laid down three conditions to allow male-to-female transsexuals to compete in female events: 1) sex reassignment surgery; 2) legal recognition of the new gender identity; and 3) at least two years' hormonal treatment following surgery if it was undergone after puberty (IOC, 2003).

In recent years the growth of trans activism and the increasing visibility of these persons in different social domains have also influenced sports. The defence of the rights of athletes affected by sex tests in competitive sports (for example Heidi Krueger or Tamara and Irina Press) has caused changes in sports regulations, which increasingly recognize their right to participate in competitions. Since 2015 trans people can participate in top-level sports without undergoing sex reassignment surgery, although legal recognition and hormonal treatment are still a requirement (IOC, 2015).

This IOC decision was taken because of several trans athletes' claims to participate, in spite of the many difficulties and rejections by society. The most famous case was Renée Richards, a transwoman tennis player who competed in the US Open in 1977 after having a vaginoplasty and being legally recognized as a woman. Other transsexual athletes and activists, such as golfers Mianne Bagger and Lana Lawless, as well as cyclists Michelle Dumaresq and Krister Worley, also made significant efforts to be included in their respective sports (Cascardo, 2019).

In her situation, Natalia Parés was pressured by her advisors to return to competition. The three new IOC conditions allowed Natalia to become a female Chess Master and she took second place in the 2008 Spanish Women's Chess Championship and was part of the Spanish women's team. Despite her successful return, Natalia was negatively affected by the 10 years of forced retirement and the many lost opportunities and finally gave up competitions altogether.

New cases have recently been made public of trans athletes participating in organized competitions in Spain, reflecting the greater visibility and inclusion of these people in sports. One of these is Oscar Sierra, a young American football

player who was allowed to play on a men's team in the third division during the 2015-2016 season. The Spanish American Football Federation and the Spanish Sports Council approved his request, even though he did not meet the COI condition of two years of hormone treatment.

Antia became the first trans woman to debut in an official Spanish Olympic competition, volleyball. The Spanish Volleyball Federation and her club, Calasancias, gave her the long-awaited permission that recognized her right to compete in 2015. Izaro Antxia is another known trans woman case, who in 2016 became the first trans player in five-a-side football. Despite being widely accepted, Izaro continues to endure harassment and insults at some matches. Since the last quarter of 2018, trans people have also been allowed to participate in cycling competitions. Due to the new regulations, Gael, a trans cyclist boy, can now compete in the top men's category. For seven years he had competed in the top female category, but the Royal Spanish Cycling Federation (RFEC) has now introduced a protocol that recognizes trans people's right to compete, respecting everybody's identity and their rights to equality (Rivera, 2019).

Despite the introduction of more progressive policies on trans and intersexual sportspeople's participation the regulations are still rigid. The scientific community, trans and intersexual athletes and society in general still face the important challenge of removing the discriminatory and unethical practices and policies that unfairly penalize these persons.

CONCLUSIONS

Apart from their personal interest, the stories of trans and intersexual Spanish athletes such as Jordi Torremadé, M^a José Martínez Patiño and Natalia Parés reflect the changes made in national and international sports. Leading international sports organizations such as the IOC or IAAF have the power to consider the fairness or unfairness in sport competitions. They have even been granted the right to decide who is or is not a woman, at least in the sporting context.

Compared to the beginning of the 20th century, the current sports policies are more flexible and more intersex and transsexual athletes participate in competitions. Sex verification tests have also evolved and are now more sophisticated. However, women are still the only individuals to be tested as happened a century ago. According to Hercher (2010), sports authorities should refrain from determining who is and is not a woman or man because this is more a philosophical than a medical question. Buzuvis (2013) considers that "what makes this categorization difficult is that while the realm of sport divides the universe neatly into male and female categories, nature does not" (p.55). In this regard, transsexual and intersex persons' bodies challenge the biological limits of sex and question the myth of binary sex and the clearly defined sex-based organization of sports.

Obtaining fair sports' regulations is intrinsically complex. There is no scientific reason why hyperandrogenism should be treated differently from other genetic differences that enhance athletic performance. There are other variables that sporting authorities do not take into account, such as being taller or having a better sense of balance than average which could be considered equally relevant to guaranteeing fair competition (Buzuvis,2013; Hargreaves, 1994). Swimmer Michael Phelps is a clear example; he has abnormally large feet and flexible ankles that act as “flippers”, while his arms are longer than normal and his legs are relatively shorter than normal and reduce his drag through the water (Cooper, 2010). This makes one ask, why should sex be the cornerstone in the architecture of the supposed unfairness in sporting competitions? The regulations on intersexual and transsexual participation in sport should take into account not only the arguments on fair competition, such as the ones indicated above, but also the suffering inflicted on persons whose gender identities have been systematically scrutinized, questioned and ignored. The ethical consequences of these rules must therefore be considered to protect the moral integrity of transsexual and intersexual sportspeople.

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