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Caster Semenya's Battle: Too Fast to be a Woman? A Story of 'Unfair Advantages' and 'Genetic Gifts'

Abstract

South-African Olympic Gold medalist Caster Semenya has been questioned for her sexual identity since the World Championships in 2009. She was subjected to gender verification testing ever since and has recently been excluded from international competition. The female athlete is only allowed to keep competing if she agrees to take medication to lower her naturally high testosterone levels. The treatment of Semenya's case was justified on the basis that sport governing bodies are trying to ensure a level playing field. To what extent can the decision to discriminate and exclude an individual promote fair play? Should human rights not come before segregating categories in competition? This article will demonstrate how the female athlete's discrimination was shaped by the "fair-play-ensuring" categorization of sports, by the sexist differentiation between 'genetic gifts' and 'unfair performance advantages', and by the white notion of femininity.

Keywords: genetic gifts, fair play, human biological diversity, ethics, natural advantages, differences of sexual development, sports gene

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“A body's sex is too complex. There is no either/or. Rather, there are shades of difference”²

INTRODUCTION

“Sports is a complex cultural practice with its own values, beliefs, and logic. (Cooky&Dworkin, 2013) Sports is a rather independent sector of society, which defines itself as separate from

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- 1 The author is an MA student at the University College Dublin, Peace and Conflict Studies. E-mail: leona.kolberg@gmx.de
 - 2 Cooky, C.&Dworkin, Sh.L,(2013) “Policing the Boundaries of Sex: A Critical Examination of Gender Verification and the Caster Semenya Controversy,” *Journal of Sex Research* 50, no. 2, 106

politics and develops its own laws. By not being subject to any legally binding human rights instruments, the leading institutions get to organize sports after their own principles and priorities³. While the governing sports bodies do declare a policy of non-discrimination, it seems to be violated in a number of cases—the latest and most current one being the gender verification process of the South-African middle-distance runner and Olympic gold medalist Caster Semenya⁴.

International sport institutions, such as the International Association of Athletics Federations (IAAF) and the Court of Arbitration (CAS), have the power to ban athletes from international competition based on attempts to improve their athletic performance by unnatural means. However, the power to exclude athletes from competition has been increasingly questioned through Semenya's case, as she was subjected to gender verification testing for years, resulting in her no longer being allowed to participate in international competitions unless she reduces her natural testosterone levels.

Maintaining 'fair play' is supposed to legitimize the undertaking of such proceedings. This objective, however, becomes less honest upon the realization that the mentioned international sporting institutions only seem to investigate natural advantageous body developments when women are excelling at athletic performances. In the case of female athletes, natural advantages are considered to be unfair because of jeopardizing a level playing field. For male athletes, these are defined as 'genetic gifts.' This gendered distinction is highly discriminatory and puts the concept of fair play in sports under scrutiny. To what extent can the treatment of female athlete Caster Semenya thus be justified on the basis that sport-governing bodies are trying to ensure a level playing field? And what is the difference between Semenya's natural 'unfair performance advantage' and other athletes' natural 'genetic gifts'?

This article will argue that Semenya's exclusion from international competition is discriminatory based on the differentiation between the kinds of natural performance advantages. The differentiation between 'genetic gifts' and 'unfair advantages' attests to the absence of a level playing field in sports and demonstrates that the sport sector is shaped by sexist and racist characteristics. Further, the sport sector is in urgent need of being restructured and its categories need to be reconsidered.

This article will first introduce Caster Semenya's legal battle, the IAAF's perspective and the violations of her human rights. Then, it will be analyzed to what extent sports really is a level playing field—considering the criteria defining 'genetic gifts' and 'unfair' performance advantages. Afterwards, the association between excellent athletic performances and the male gender will be examined. Finally, it will be evaluated how the dominant white notion of beauty has affected the South-African runner and some final conclusions on the importance of the press in her case will be drawn.

3 "IAAF introduces new eligibility regulations for female classification," IAAF, accessed May 12, 2019, <https://www.iaaf.org/news/press-release/eligibility-regulations-for-female-classifica>

4 Semenya's case is subject to constant change and new circumstances.

CASTER SEMENYA: BACKGROUND AND GENDER VERIFICATION TESTING

Semenya was born in Ga-Masehlong, South Africa, on January 7th, 1991⁵. Her sporting career started early through her active participation in track racing and football at her school⁶. She continued with studying Sports Science at the University of North West⁷. That Semenya's life has thus circled around sports is obvious. After she had just turned 18, her athletic success broke senior and junior South African records in the 2009 African Junior Championships⁸. In the same year, Semenya received the gold medal in the 800 meter race at the World Championships (Schultz, 2011:228) ". Since then, the female athlete began to receive public recognition for her success while at the same time becoming the center of the controversial debate about her sexual identity. Her continuous athletic success was interrupted by an investigation process that still has not come to an end. Nevertheless, she acts as an important inspiration to aspiring athletes from similar disadvantaged backgrounds⁹.

Gender verification in sports has been used since the 1950s in order to decide whether the athlete was really eligible to participate in an international sport competition that was limited to one sex (Schultz, 2011:229). Therefore female athletes had to subject themselves to physical examinations, such as the inspection of their genitalia, and further medical testing of their chromosome and testosterone levels until the early 1990s to ensure that they fulfilled the criteria to compete. The annual examinations stopped but the IAAF reserved the right to investigate the athletes' gender whenever suspicion arises¹⁰.

This seemed to be the case with Caster Semenya, as she was subjected to gender verification testing in August 2009, just after she had won the 800-meter race in the world championships. They investigated her because of her excelling athletic performances and an apparent masculine appearance, questioning if she had an intersex condition giving her unfair advantages. She was then withdrawn from competition for an entire year¹¹. After allowing her to compete again, the year of 2018 marked the institution's decision to issue a ruling on female eligibility for international track competition events from 400meter to the mile—requiring all female athletes with testosterone levels higher than those of the average female to lower these by taking medication¹². If they would not comply with the new rule, they would no longer be allowed to participate in these kinds of competitions. The decision was justified by the need to ensure a level playing field because higher testosterone levels would provide female athletes with 'unfair' advantages¹³. Semenya legally objected to this ruling based on its discriminatory char-

5 "Mokgadi Caster Semenya," South African History Online, accessed June 20, 2019, <https://www.sahistory.org.za/people/mokgadi-caster-semenya>

6 South African History Online, "Mokgadi Caster Semenya."

7 Ibid.

8 Ibid.

9 South African History Online, "Mokgadi Caster Semenya."

10 Ibid, 230-233.

11 South African History Online, "Mokgadi Caster Semenya."

12 IAAF, "IAAF introduces new eligibility regulations for female classification."

13 Ibid.

acter but the CAS allowed the ruling to come into effect on May 9th, 2019. The CAS dismissed the requests for arbitration by justifying its decision on the basis of maintaining fair play¹⁴.

Semenya took her case to the next highest court in order—the Swiss Federal Supreme Court, which resulted in further disappointment for the South-African Olympic gold medalist. Even though the IAAF ruling was suspended while her appeal was being processed, the court ruled in favor of the sporting institution and thus upheld the official implementation¹⁵. Consequently, if Semenya will not agree to take the ordered testosterone-reducing medication, she will no longer be allowed to compete in international track events from the 400 meter to the mile. She will thus miss the chance to defend her title in the upcoming world championships in Doha, Qatar, and many more competitions that she could succeed in.

HUMAN RIGHTS VIOLATIONS IN SEMENYA'S GENDER VERIFICATION CASE

All legal international disputes in sports are normally settled by the CAS but the institution's authority and validity have been increasingly questioned (Wollman, 2016). Firstly, the distrust developed because of insufficient insights into the working of the federations and their decision-making processes (Wollman, 2016: 325). Secondly, there is increasing doubt whether these sport authorities should have the right to control naturally occurring human variation as the matter is a sensitive issue closely intertwined with human rights (Schultz, 2011: 239). The current IAAF policy on gender verification is based on an 'I-know-it-when-I see-it' concept (Camporesi & Maugeri, 2010: 378) as there is no indication on what grounds the institution decides to investigate someone's sex, resulting in very little transparency. But what about the rights to human dignity, privacy, non-discrimination and equal treatment of the athletes?

As previously mentioned, neither the IAAF nor the CAS are obliged to protect the rights enshrined in the Universal Declaration of Human Rights or the European Convention on Human Rights. This problematic independence is clearly represented in Semenya's case as her human rights are not being respected in the way they should be. The following examples of the Universal Declaration of Human Rights will underline the accuracy of the violations of the female athlete's human rights:

Article 1: All human beings are born free and **equal in dignity and rights**. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.¹⁶

14 "CAS Arbitration: Caster Semenya, Athletics South Africa (ASA) and International Association of Athletics Federations (IAAF): Decision," CAS, accessed May 12, 2019, https://www.tas-cas.org/fileadmin/user_upload/Media_Release_Semenya_ASA_IAAF_decision.pdf

15 "Press Release of the Swiss Federal Supreme Court," Swiss Federal Supreme Court, accessed July 30, 2019, https://www.bger.ch/files/live/sites/bger/files/pdf/en/4A_248_2019_yyyy_mm_dd_T_e_09_54_21.pdf

16 United Nations General Assembly, "Universal Declaration of Human Rights," 217 (III) A (Paris, 1948), art. 1, https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, **without distinction of any kind**, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.¹⁷

Article 7: **All are equal** before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.¹⁸

Article 12: No one shall be subjected to **arbitrary interference with his privacy**, family, home or correspondence, nor to attacks upon his **honor and reputation**. Everyone has the right to the protection of the law against such interference or attacks.¹⁹

The European Convention on Human Rights promotes similar articles, such as:

Article 1: Human dignity

Human dignity is inviolable. It must be respected and protected.²⁰

Article 3: Right to integrity of the person

1. Everyone has the right to respect for his or her **physical and mental integrity**.

2. In the fields of medicine and biology, the following must be respected in particular:

– the free and informed **consent of the person concerned**, according to the procedures laid down by law, (...) ²¹

Article 8: Protection of personal data

1. Everyone has the right to the **protection of personal data** concerning him or her.

2. Such data must be processed fairly for specified purposes and **on the basis of the consent of the person concerned** or some other legitimate basis laid down by law²²

Article 23: Equality between women and men

Equality between women and men must be ensured in all areas, including employment, work and pay²³.

17 UN Assembly, "Universal Declaration of Human Rights," art. 2.

18 Ibid, art. 7.

19 Ibid, art. 12.

20 Council of Europe. "Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) as Amended by Protocol No. 11." *Council of Europe Treaty Series 155*. Strasbourg, 1988: art. 1. https://www.echr.coe.int/Documents/Convention_ENG.pdf

21 Council of Europe, "European Convention on Human Rights," art. 2.

22 Ibid, art. 8.

23 Ibid, art. 23.

These two charters demonstrate how Caster Semenya's human rights have been violated. Against the promoted general prohibition of discrimination, her human dignity and especially her privacy have been invaded by the sporting institutions. This interference with her human rights turns the female athlete's case into a highly political issue that is no longer limited to the world of sport. By forcing her to take medication to lower her testosterone levels if she wishes to keep competing, her right to integrity is violated as this would not be based on her consent. Further, through asking her to change her physical identity to better conform to the body expectations for female athletes, her mental integrity is affected just as much. The CAS also mentions that the ruling on testosterone levels might be subject to change because of possible future side effects. The hormonal treatment could be potentially harmful and should only be applied if there was enough evidence to prevent the possible negative effects on the athlete's health²⁴. This interference shows no respect for Semenya's dignity and integrity.

Semenya's privacy was invaded and her personal data was not protected since her entire gender verification testing was made public by institutions such as the IAAF. The South-African was therefore placed in the middle of an open discussion about her sexual identity after she had just turned 18 years old. Her reputation for athletic excellence became questioned and she has had to defend herself ever since. She was not entitled to equal treatment by the sporting institutions, especially in regards to her skin color and sex. Naturally occurring performance advantages have only been considered problematic and unfair when the concerned athlete was female. Natural, explosive athletic performances by male athletes are rarely questioned because of an institutionalized linkage between athleticism and masculinity—women, however, tend to be quickly investigated afterwards. This violates the principle of non-discrimination as Semenya is not enjoying equal treatment through the differentiation being made between naturally occurring performance advantages. Most are solely based on characteristic traits of the sex.

The African National Congress has accused the IAAF not only of sexism, but also racism, and filed complaints with the United Nations Commission on Human Rights—which the IAAF is, however independent from (Dworkin, Swarr&Cooky, 2013:40). Scholars, activists and organizations increasingly call for Semenya's case to be investigated for a violation of her human rights by a higher authority, arguing that it is unethical to force an athlete to change their physical identity. The principle of fairness is supposed to be ensured by excluding an athlete based on her natural human body variation. How can a level playing field be provided if it comes at the cost of having to discriminate against athletes? As the ruling violates basic human rights, the final option would be to appeal to a Human Rights Court. Semenya's case demonstrates how the sports sector is closely intertwined with political as well as legal issues—even if it declares itself to be separate from that.

24 CAS, "Decision."

SPORTS AS A LEVEL PLAYING FIELD: 'GENETIC GIFTS' VERSUS 'UNFAIR PERFORMANCE' ADVANTAGES

"Elite sports is a contest among athletes with an uneven set of genetic endowments and natural advantages."²⁵

For sports to remain a level playing field it means that competition should be determined through "talent and hard work and thus athletes' superior performances are the result of individual talents and not any advantages other athletes may not have the ability to possess." (Cooky&Dworkin, 2013) Therefore 'unfair advantages' need to be examined to ensure a level playing field, which is why the IAAF feels the need to control natural body developments. However, the way in which the IAAF differentiates between 'unfair performance advantages' and 'genetic gifts' remains a mystery that is yet to be solved. It claims that:

"The IAAF is convinced there are some contexts, sport being one of them, where biology has to trump identity."²⁶

"The IAAF considers that the DSD Regulations are a necessary, reasonable and proportionate means of protecting fair and meaningful competition in elite female athletics, and the CAS agreed."²⁷

The ruling on female eligibility concerning high testosterone levels was based on the decision to maintain 'fair' play in sports and to prevent any performance advantages that would be unfair to the other athletes. But can discriminatory means really be justified by ensuring supposedly equal chances? And what criteria are these performance advantages actually based on? Taking a closer look at the proclaimed level playing field, sports rather becomes "a site where broader forms of social inequality are accepted, tolerated, and ignored" (Cooky&Dworkin, 2013: 107). If sport organizations really aim to monitor genetically obtained advantages, athletes would not be tested only for sex. There are multiple performance enhancing genes that can easily result in an athlete's superior abilities.

Athletes carrying naturally occurring performance advantages are often considered "freaks of nature"²⁸. They are not always appreciated, as we have had to learn in Semenya's case. Various male athletes such as Michael Phelps, Usain Bolt, Eero Mäntyranta, and Donald Thomas have, however, been celebrated extensively for carrying genetic gifts. Swimmer Michael Phelps was praised for his genetic advantages because of his long torso for swimming speed, his big hands and feet, his long arms and short legs, his double-jointed ankles for a powerful kick, and in

25 Malcom Gladwell, "Man and Superman," *The New Yorker*, September 2, 2013, <https://www.newyorker.com/magazine/2013/09/09/man-and-superman>

26 IAAF, "IAAF Response to Swiss Federal Tribunal order regarding DSD Regulations," accessed June 15, 2019, <https://www.iaaf.org/news/press-release/iaaf-response-swiss-federal-tribunal-dsd-regu>

27 IAAF, "IAAF Response to Swiss Federal Tribunal."

28 A'Court, M.&Elwood, J. (2019) "We love a natural advantage, unless you're Caster Semenya," *Stuff*, May 11, <https://www.stuff.co.nz/sport/opinion/112513626/we-love-a-natural-advantage-unless-youre-caster-semenya>

addition to that, his body only produced half the lactic acid of average humans—providing him with more energy²⁹. He was never questioned for his advantages and instead he was celebrated for being “built to swim” (Schultz, 2011: 293). No one got suspicious and suggested he eventually had to boost his lactic acid levels to re-establish fair play in international swimming competitions. The appreciation for these genetic gifts seems to be different when it comes to female athletes. Semenya was treated as a “mutant”³⁰, not once was she celebrated for her natural advantages.

In his book *The Sports Gene*, author David Epstein revolutionarily declared that every Olympic athlete has natural advantages and is genetically superior to the normal human being³¹. He coined the term “sports gene” to describe the natural difference of Olympic athletes in particular, as he believes that “elite sports is a contest among athletes with an uneven set of genetic endowments and natural advantages”³². Male endurance skier Eero Mäntyranta for example carried a rare genetic mutation that made his bone marrow overproduce red blood cells³³. He therefore had around 65 percent more red blood cells than the normal adult male³⁴. That provided him with an immense natural advantage in comparison with his competing athletes as he profited from increased oxygen capability. Nevertheless, the successful male athlete was not made subject to medication that could reduce the production of his red blood cells, unlike in Semenya’s case.

Donald Thomas started training eight months before winning the world championships in high jumping³⁵. He won because of his individual biological variation: unusually long legs and a strikingly long Achilles tendon, which “acted as a kind of spring”³⁶ and was able to catapult him high into the air³⁷. The IAAF still did not issue any rulings on possible means that could reduce his natural performance advantages.

The situation is similar in basketball. Not only the height is important, but also the wingspan provides athletes with an immense natural advantage³⁸. Human biological diversity should be celebrated, not condemned. Epstein argued that athletic greatness is genetic and “the only real rule is tremendous individual variation”³⁹. Many athletes competing at an Olympic level carry performance enhancing genes and do not fit the category of the average human being.

29 A’Court, M.&Elwood, J., “We love a natural advantage.”

30 A’Court, M.&Elwood, J., “We love a natural advantage.”

31 Thomas, J. (2016) “Every Olympic athlete has natural advantages – so why the witch-hunt against Caster Semenya?” *Nation Cymru*, May 5, <https://nation.cymru/opinion/every-olympic-athlete-has-natural-advantages-so-why-the-witch-hunt-against-caster-semenya/>

32 Gladwell, M. “Man and Superman.”

33 Ibid.

34 Ibid.

35 Ibid.

36 Ibid.

37 Ibid.

38 Ibid.

39 “Are elite athletes born or made?” CBS News, April 6, 2014, <https://www.cbsnews.com/news/are-elite-athletes-born-or-made/>

Natural giftedness in combination with extensive training can then result in the maximizing of talent potential.

In the case of male athletes, natural performance advantages seem to be considered 'genetic gifts' (Schultz 2011: 293), but when it comes to Semenya, these are labelled as unfair. The monitoring of the 'unfair' natural advantages by the sport organizations thus seems to solely be focused on examining the sex of athletes in female competitions while other physical advantages are not monitored, policed or deemed unfair.

Fairness in sports would have to tolerate all kinds of naturally obtained advantages and not only a few—why is Semenya's then not accepted? Instead of only focusing on whether an athlete can be considered a woman, the examination of 'unfair advantages' should be expanded to a much wider range of natural conditions that can lead to an athlete's superiority. It is urgent to consider other ways to categorize competition than focusing solely on sex segregation as it is clearly not maintaining a level playing field and seems to result in discrimination instead. Moreover, if fairness in competition is the main objective, biological diversity should be embraced instead of being defined as a threat. The only concern should be that this success has not been achieved by cheating but by natural means (Camporesi & Maugeri, 2010:379). "Diversity and integrity are probably the two biggest values in sport and nobody has embodied those qualities more than Semenya."⁴⁰To avoid discrimination, either all naturally obtained advantages need to be accepted or all need to be policed and investigated.

TOO FAST TO BE A WOMAN

"People are suspicious of strong women – especially when they are strong and black like Serena Williams, or strong, black and lesbian, like Caster Semenya, or just when they don't fit our image of a "conventional" woman."⁴¹

By exclusively testing sex in the examination of physical advantages, sport-governing bodies reaffirm the belief that all male athletes are better at sports when compared to female athletes. When women achieve great success in sports, their athletic performance is perceived as suspicious and they often tend to be subjected to sex testing. Explosive athletic performances by male athletes are never questioned as these are automatically attributed to natural talent and hard work (Cooky & Dworkin, 2013:108). Thus, there seems to be an underlying belief that men are always superior athletes when competing in the same sport which is why athletic excellence naturally becomes associated with men. They are considered to be stronger, faster, and bigger, which results in the belief that sex segregation and sex testing are necessary to ensure fairness and equal opportunities. A successful female athlete is quickly singled out for gender verification because if an athlete is performing extremely well, it is expected to be a man. (Sloop, 2012: 90) As a consequence of the institutionalized linkage between athleticism and masculinity, it is assumed that superior athletic performances are a natural essence of biological

⁴⁰ Thomas, "Every Olympic athlete has natural advantages."

⁴¹ A'Court, M. & Elwood, J. "We love a natural advantage."

males – thus, suspicion only arises when a female athlete excels. (Dworkin et al, 2013:45) Sport is therefore reinforcing hegemonic masculinity and a binary understanding of gender. There are few other areas where so much work is put into affirming that each body fits perfectly into a male or female category and all bodies that do not fit are questioned and supposed to change. Especially female athletes like Semenya are supposed to deliver not only an athletic performance but also a gender performance (Miller, 2015: 296). As Semenya does not confirm to the expectations of what a female athletic body should look like, the IAAF intends to force her to change her physical identity if she wishes to keep competing. Requiring someone to change their natural body to continue their career also involves a question of ethics due to the severe psychological impact. Instead of questioning Semenya's excellent athletic performances only because of the association of this kind of success with male athletes, they should rather be embraced and appreciated. Instead of requiring her to take medication to change her body with the intention of making her slower in competition, sport-governing bodies should question on what basis they organize sports and reconsider the way they segregate competition. Natural female athletic success should be celebrated, not questioned.

WHITE NOTION OF FEMININITY AND WHITE BEAUTY STANDARDS

In claiming that the gender verification process in Semenya's case was "consistent with European racism and imperialism" (Dworkin et al, 2013: 52) and that her treatment "paralleled a racist history" (Dworkin et al, 2013), the question arises whether the female athlete simply did not conform to the white definition of femininity. As sport is one of the sectors of society that puts great emphasis on the strict division of male and female categories, each body is expected to perfectly fit into the fixed category. If it does not, it becomes suspicious and expected to change. Caster Semenya's case demonstrates the way athletes are treated when their genders do not conform to traditional white conceptions of gender, of what men and women should look like, which is why sport strongly reinforces the binary understanding of gender (Miller, 2015: 296). By assessing her physical appearance as not "womanly enough" (Miller, 2015: 298), it becomes clear that female athletes are supposed to fit into the Western notions of femininity and are expected to deliver a gender performance next to their athletic performance (Miller, 2015: 304). Her deep voice, short hair, and muscular physique are perceived as signifiers of her not 'real' or 'normal' womanhood because sport governing bodies see her as overly masculine. Consequently, no one seems to pay attention to her athletic performance and instead, the entire focus is on her gender performance. Semenya belongs to the women who do not conform to Western expectations of femininity and her treatment seems to contribute to a long history of "demonizing black female athletes" (Miller, 2015: 301). As women of color do not correctly perform 'mainstream femininity', their success or athletic excellence is quickly considered suspicious by sport governing bodies. Semenya carries a lot of qualities, such as explosive and muscular physical performances, which are not associated with traditional notions of femininity (Dworkin et al, 2013: 43). Instead, female runners are "encouraged to be empowered through 'toned' bodies while still continuing to reinforce traditional concepts of femininity" (Young, 2015: 333), which demonstrates the social expectation of a particular look. Women,

who do not fit the white, Eurocentric ideals of femininity, like Semenya, are often the ones being subjected to gender verification testing as they differ from “cultural understandings about what a woman should look like, how she should behave outside of sport, and how she should perform when competing in it” (Schultz, 2011: 236). Semenya does not conform to any of these dominant expectations about a woman’s appearance, which is why the IAAF’s decision to investigate her sex has been considered as an “extension of the West’s long-standing abuse and enfreakment of black women” (Schultz, 2012: 289) – only because she does not meet the Eurocentric definition of beauty. To grant Semenya some socially acceptable femininity, ‘You’ magazine decided to give the female athlete a makeover after she was subjected to gender verification testing in 2009 (Winslow, 2012: 298). Since she was being accused of not being female, the magazine decided to provide her with a more “socially acceptable identity” (Winslow, 2012: 307) in order to align her more closely with the female gender category. To transform her seemingly masculine performance into a more feminine one, the magazine editorial involved photos of Semenya with a changed hair style, she had makeup on her face and she was wearing high heels and a dress. (Winslow, 2012: 303) The caption of the magazine’s article “We Turn SA’s Power Girl Into a Glamour Girl—And She Loves It!” (Young, 2015: 337) already implies that the aim was to change Semenya into a more feminine and glamorous woman to satisfy the sport governing bodies’ expectations and to pursue her assimilation into dominant norms of White feminine beauty (Young, 2015: 340). In order to make Semenya fit perfectly into the female category, the magazine assumes that she has to reflect ideals of white femininity: beauty, heterosexuality, glamour, and of male romantic interest (Young, 2015: 337). As the magazine feels the need to focus on “visual markers of Euro-American femininity” (Young, 2015: 337), i.e. stereotypically white, Western femininity, her makeover “echoes a colonial tone” (Young, 2015: 338). The purpose of the makeover was her assimilation into Western standards of beauty so that she would fit into her given category—but a makeover is usually often only done to people who are considered to be flawed and only afterwards realize their true identity. “Transforming the indigenous, ethnically Other Semenya into a civilized, Western woman” (Young, 2015: 338) therefore echoes a European colonial history as colonizing often involved that indigenous people could only assimilate by submitting to the culture and standards of the colonizers. Semenya’s makeover thus clearly demonstrates how Semenya was given a new, Western, gender conform identity, which was then supposed to stop her gender from being questioned and should achieve acceptance of her by the sport governing bodies and society in general. If she submits to the IAAF’s ruling and agrees to take the medication, the sport governing bodies have achieved their purpose of making her fit into the socially accepted standards of white Western femininity.

THE SUPPORT OF THE PRESS

Opinion expressed in the press about Semenya’s case has resulted in a division into two main positions. One is strongly advocating that human rights should always prevail over sports’ criteria and categories, while the other is defending the IAAF by stating that eligibility in international competition must be limited and controlled. The latter is, however, surprisingly

weak in comparison to the first one. The majority of journalists and newspapers have taken a clear position in the support of Caster Semenya and her human rights. There is widespread consternation at the IAAF's statement that its ruling is discriminatory, but that discrimination is necessary to promote a level playing field⁴². This perspective gained support on a small scale in newspapers such as the *Süddeutsche*, which claimed that ethics should not be intertwined with sports. Instead, a clear and categorized structure should be in control to provide competing athletes with equal chances and parity⁴³.

However, magazines like the *Sportstar* have strongly represented the opposing stance of the priority human rights⁴⁴. Athletes' human rights should always be the "starting point,"⁴⁵ which is why it was recommended to Semenya to appeal to the European Court of Human Rights⁴⁶. The voice of the press has especially criticized the IAAF's private status and the absence of a policy commitment to internationally recognized human rights. Since the sporting institutions are currently weighing fair play higher than non-discrimination, they should be subject to a universal declaration of human rights. The *taz* magazine has called their decision "disturbing"⁴⁷. Further online journals such as *Euronews* and *Time* have emphasized the unethical character of prescribing this medical intervention and said that Semenya was being treated as a "human guinea pig"⁴⁸ or a "lab rat"⁴⁹. The scientific community has also underlined the lack of ethics when forcing a healthy human being to take medication⁵⁰. The sporting institutions have therefore been questioned by newspapers such as the *Zeit* about the non-existing scientific basis for this hormonal treatment and its unknown consequences⁵¹. Athletes who are affected by Differences of Sexual Development (DSD), like Semenya, cannot conform perfectly to either the male or female category⁵². *Zeit* underlines that the IAAF declares that their measure was necessary for fair play and integrity in women's sport and questions how sporting institutions

42 IAAF

43 Mölter, J. "Aufschrei der Ärzte im Fall Semenya," *Süddeutsche Zeitung*, May 6, 2019 <https://www.sueddeutsche.de/sport/leichtathletik-semenya-aerzte-medikamente-1.4434438>

44 Sudarshan, N. (2019) "Semenya's human rights should come before science," *Sportstar*, August 3, <https://sportstar.thehindu.com/athletics/athletics-iaaf-olympian-caster-semenya-testosterone-human-rights-violation-gosports-symposium-bengaluru-cas/article28808622.ece>

45 Sudarshan, N. "Semenya's human rights should come before science."

46 AmbyBurfoot, "After Latest Swiss Court Ruling, the Odds Are Against Caster Semenya," *LetsRun*, August 2, 2019, <https://www.letsrun.com/news/2019/08/after-latest-swiss-court-ruling-the-odds-are-against-caster-semenya/>

47 Kopp, J. (2019) "Ein verstörendes Urteil," *taz*, July 31, <https://taz.de/Caster-Semenya-darf-nicht-an-den-Start!/5610239/>

48 Kennedy, R. (2019) "Caster Semenya barred from defending 800m title at World Championships," *euronews*, August 1, <https://www.euronews.com/2019/07/31/caster-semenya-barred-from-defending-800m-title-at-world-championships>

49 Gregory, S. (2019) "Caster Semenya Won't Stop Fighting for Her Right to Run, Just as She Is," *Time*, July 18, <https://time.com/5629249/caster-semenya-interview/>

50 Mölter, J. "Aufschrei der Ärzte im Fall Semenya."

51 Brems, L. (2019) "Nur mit Medikamenten eine Frau," *Zeit Online*, May 2, <https://www.zeit.de/sport/2019-05/caster-semenya-frau-cas-urteil>

52 Brems, L. (2019) "Nur mit Medikamenten eine Frau."

are supposed to answer complicated and essential questions about genetics, gender identity, and fairness as such⁵³. A central question in this debate has been if it is even possible to classify athletes as men and women at all and how the sector of sports should find clarity in this issue⁵⁴. While Semenya may be genetically exceptional, the voice of the press has emphasized that the female athlete must nevertheless be integrated, just as her fellow competitors who carry other natural performance advantages⁵⁵. The South-African Olympic Gold Medalist has thus received overwhelming support from the press by its criticism of the sport categories and institutions and by defining her as an inspirational fighter for human rights. The press presented the reality of the appreciation of natural advantages, “unless you’re Caster Semenya”⁵⁶. Moreover, journalists emphasized the gendered problematic of Semenya’s case by stating that it is “almost impossible to believe that any of the rulings, controversy and back and forth accusations would be heard if she was a man”⁵⁷.

CONCLUSION

This article demonstrated that the IAAF’s ruling in Semenya’s case cannot be justified on the basis of ensuring a level playing field. The ruling, which requires her to take medication to lower her testosterone levels if she wishes to compete, was supposed to be legitimized by Semenya having an ‘unfair performance advantage’, even if it is a natural development in her case. However, only certain naturally occurring performance advantages are considered problematic, usually only those concerning the sex of the female athlete. Furthermore, athletic excellence is only questioned when it has been achieved by a woman. Natural advantages of male athletes are considered to be ‘genetic gifts’ and superior athletic performance has been institutionalized as only being ‘normal’ for men. The sports sector is in desperate need of a new structuring and categorization—the biological diversity athletes represent should be celebrated and not undermined just because they do not fit neatly into the established categories. The sexist and racist status quo of international sporting competitions is a highly political and legal issue that should be challenged by a human rights court. To avoid what other female athletes have had to suffer from in the past and what Semenya is currently experiencing, equal treatment needs to be created through sporting institutions committing to universally binding human rights regulations. A real level playing field would not have to accept strong discrimination and exclusion but instead would promote the right to integrity, privacy, equality, and most importantly, dignity.

53 Gregory, S. “Caster Semenya Won’t Stop Fighting for Her Right to Run.”

54 Mölter, J. (2019) “Der Sport muss Antworten finden,” *Süddeutsche Zeitung*, August 1, <https://www.sueddeutsche.de/sport/caster-semenya-cas-iaaf-leichtathletik-1.4547460>

55 Mölter, J. “Der Sport muss Antworten finden.”

56 A’Court, M.&Elwood, J. “We love a natural advantage.”

57 Ibid.

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