

# **Discrimination Faced By Transgender Persons**

By Akshika Chaudhary

---

Date of Submission: 18-04-2025

Date of Acceptance: 28-04-2025

---

## **I. Brief Overview**

A variety of values, such as equality, discipline, fairness, respect brotherhood, and teamwork, are embodied in sports. It provides a forum for individuals from diverse backgrounds to interact, compete, and strengthen their sense of unity.

Nonetheless it is clear that some unfavourable sports rules and regulations may unintentionally result in exclusionary behaviour.

People who perceive their gender in a way that differs from gender assigned by their genitalia at birth are referred to as “transgender”. For example, despite being male, a person may think themselves as a girl because they have a male reproductive organ, or vice versa. The rights of transgender athletes are complex and evolving topic, primarily in the context of sports. Within the sports community, transgender athletes frequently experience discrimination and intense scrutiny during the participation process sometimes without their full knowledge or consent. Transgender athletes and non athletes frequently face discrimination from society and even global organization like the International Olympic Committee (IOC) may show little consideration for their issues. The IOC and the other governing bodies classify players worldwide based on physical differences and organize matches according to sexes in an attempt to ensure impartiality and fairness.

However, this strategy used by governing bodies raises concerns about fraud and unfair advantages resulting from hormonal differences. An athlete may attempt to misrepresent their gender in order to gain an advantage in competition. The main barrier to transgender players’ participation is the attempts to achieve gender neutrality, which makes matters more difficult.

The International Olympic Committee and other international federations are in charge of addressing these barriers, which extend beyond things like clothing and restroom accessibility. Because transgender people are legally recognized as the third gender in our nation, their rights fundamentally protected. The Indian constitution contains provisions aimed at preserving impartiality and equality for all of the nation’s citizens. The transgender community is legally included in the definition of “citizen”. The Transgender Person (Protection of Rights) Act, 2019, was created by the government to prohibit discrimination and impartiality in areas like employment, education, and healthcare. Additionally, actions have been taken to support the transgender community’s rights and well-being.

## **II. Sex / Gender Verification**

For a while now, athletes have been subjected to sex verification or gender determination in order to measure their testosterone and hormone levels. These tests’ main goal is to stop people from unfairly using gender identity to their advantage in sports. These tests do, however, raise serious issues. Female athletes frequently feel alone and have weakened sense of identity after undergoing such tests. After failing a sex verification test, this can result in major health problems like depressions and, in sad cases like sathi soundarajan’s, even suicide attempts<sup>1</sup>.

Female athletes were required to submit to this examination when sex testing was first introduced in 1968. However, because it mainly targeted female athletes, it was considered discriminatory by 1988. Furthermore, it was discovered to be defective due to discrepancies that occurred, such as athletes passing one test in a specific competition but failing another in later events. Olympian Ewa Klobukowska is a prominent example of the inconsistent and unreliable nature of the testing procedure; she passed the sex test in Budapest but failed in Mexico.

<sup>2</sup>As demonstrated by the case of Dutee Chand, who was brought to the hospital for gender determination without being told of the reason, athlete frequently undergo these tests without prior notice and only learn about them from media reports. <sup>3</sup>The Indian legislative provision guaranteed athletes right to privacy, which was violated by such practices.

Concern regarding privacy and autonomy are further examples exacerbated by the fact that these tests have not been abolished and can be carried out whenever there is uncertainty about an athlete's gender.

At the 1966 European athletic championship, the sex determination tests were first introduced in

response to claims that some female athletes were actually biological male. And response to these worries, the leading organization, the Olympic Committee of India (IOC) established a Commission for medical assistance. Testing policy remained in place until 2000, when it was widely criticized for violating people's fundamental right to privacy and being intrusive and discriminatory. Female but the primary subject of these test, which included visual inspection as well as test on their bodily fluids and Deoxyribonucleic Acid.

There has not been much research done on the impact of gender transition on athletic performance. The International Association of athletic federation (IAAF) started analyzing the sex chromatin from the European athletic cup in 1967.

Gender testing includes females with chromosomal abnormalities, who may appear female on the outside but have generating differences, in addition to identifying males posing as female.

The main worry is that men posing as women might gain an unfair advantage in sports and end up controlling women's sports. It is critical to distinguish the difficulties faced by intersex and transgender athletes from the unique problem of gender fraud or deception for some while some people genuinely want to change their gender, others might do it to obtain an unfair edge over their competitors. It can be difficult to extinguish between these motives, and it frequently depends upon circumstantial evidence.

The IAAF retains the right to request sex determination testing at any time, even though it is not required of participants. These evaluations usually entail in-depth analysis by multiple medical professionals with expertise in various disciplines, such as psychologist and gynecologist. By addressing the intricate problems of the gender identity and competitive advantage, this multipronged strategy seeks to maintain fairness and integrity in sports.

If they are not undergoing hormone therapy or surgery for sex reassignment, athletes whose gender identity is different from their birth sex should be allowed to join teams based on their birth sex. But if athletes choose to compete based on their preferred gender it may raise issues with fair competition that need to be addressed the gender testing has been deemed unethical and lacking in scientific validity by a number of medical professionals. They contended that there isn't a conclusive test was identify a person's gender. There may also be a serious privacy concerns and challenging someone's gender.

### **III. Examples From The Real- Life Incidents**

A recent story about eighteen year old caster Semenya, who was asked to take a sexual orientation confirmation test to verify her gender identity, rocked the sports world. Semenya raised eyebrows after setting the ears fastest 800 meter record and taking home the gold at the African junior championship, even though she had never competed outside of Africa. After Semenya's outstanding performance at prior championship Nick Davies, a representative for the Universal Affiliation of Sports Alliances (IAAF) observed that rumors about her had increased. Davies' also emphasized the difficulties in identifying gender ambiguity and the possible controversy surrounding instances of gender fraud.

He underlined how challenging it is to handle such circumstances, arguing that while removing results fraud cases would be simpler, figuring out whether an athlete has consistently identified as female presents a more difficult moral conundrum. Wilfred Daniel's, a trainer for athletics South Africa (ASA) fueled the controversy by insisting that caster Semenya told it was a drug test rather than a gender test when he was tested in Pretoria before traveling to Berlin. In response the ASA puts Semenya in stylish outfit with the words "look at Castor now" on the cover of well known magazine. This suggests that this not only under scrutiny as an athlete but also find herself in a position where she is perceived as radical because of the increased focus on the controversy.

#### **Champion Dutee Chand advocates for the right of players who are transgender to participate.**

Prominent national runner and advocate for gender equality in video games, Dutee Chand, showed her support for transgender female players. She contends that it is unfair for authorities to exclude trans athletes from competition based solely on the fact that some people fight to claim their top level victories. Ms dutee emphasizes the core idea that all athletes and players should have the chance to compete, regardless of their gender identity the athlete argues that the transgender athletes have already surmounted social barriers to reach their current level of success and do not benefit from biased advantages. Dutee promotes empathy and acceptance, arguing that these athletes ought to be honored rather than scrutinized and that others should not meddle in a person's personal decision regarding their bodywork.

FIFA, World Athletics, and the world netball federation reexamined their policies regarding the admissibility of transgender players in response to recent decision by sports governing bodies such as FINA, international rugby league and International Cycling union to restrict the participation of trans female players.

Citing her own motivational story of her battle against gender bias and games, miss Dutee, who gained notoriety for opposing World Athletics hyperandrogenism policy in 2015, argues that athletes must fight for their rights.

Echoing her action when she brought the IAAF and AFI before the Court of Arbitration for sport, exhorts the athletes to defend their position and fight against unfair policies.<sup>4</sup> The importance of inclusivity, acknowledgement, and fair behavior with regard to transgender athletes as highlighted by dutee chands perspective. Instead of placing needless restriction that impede their advancement, she highlights the importance of knitting and embracing their journeys and experience.

#### **Transgender athletes encounter significant challenges in their struggle against discrimination and prejudice**

In the struggle against prejudice and hostility, transgender athlete face many obstacles. A prominent transgender athlete in Australia's professional running scene Ricky Coghlan, voiced concern over a recent western Australia (WA) ruling, believing it would strengthen anti trans sentiments. She cautioned that those who oppose transgender rights may seek this ruling as a victory to step up their attempts to deny transgender people other aspects of equality than they are entitled to.

Furthermore, These test testosterone levels, World Athletics has tightened the requirements for athletes with differences in sex development in female sports to be admitted. Supporters such as Hudson Taylor of Athlete Ally as concerned about this decision, arguing that it may expose women at different body types to aggressive testing, unnecessary surgeries, gender-based violence, and disparities.

Australia will maintain a set of individual rules for grassroots inclusion of transgender athletes, even though the country's national athletic federation intends to follow the World Athletics .

The New Zealand athletic federation recognized that these athletes' participation is a complicated matter that necessitates careful thought and assessment of the new principal<sup>5</sup>.

#### **IV. Challenges And Discrimination Met By Students Who Are Transgender. And Want To Participate In Sports**

Transgender students who wish to play sports in school usually encounter prejudice and inequality which is frequently encouraged by parents of other children. According to some claims, transgender female student are not viewed as "real" women and are thought to have an advantage over their offspring. Some people firmly believe that transgender athletes ought to compete in a separate transgender category.

Our 2019 study by Rasmussen found that while the majority of Americans supported the idea of allowing transgender people to compete as a woman in competitions, a sizable portion did not. The inclusion of transgender people in sports especially in the context of gender segregated competition, is a topic of continuous discussion and conflict opinions.

Regarding transgender student athletes who are taking hormonal medication as a part of their gender transition, the NCAA has established numerous guidelines.

Individuals undergoing testosterone treatment and going through a female to male transition are allowed to play in men's sports but are not allowed to play on woman's team. On the other hand, individuals who are MTF and have taken testosterone suppression medication are permitted to play in men's sports but are not permitted to join women's team until their transition is complete.

According to their biological genders, transgender athletes who do not take hormonal medication are typically allowed to participate in separate sex sports. These regulations seek to ensure equity and inclusivity in collegiate athletes while addressing the challenges of gender transition.

Transgender student athletes who play on the female field team have been the subject of several noteworthy cases in the United states. Concerns have been voiced by the parents who claim that transgender girls have an advantage over their biological male counterparts. In response questions have been started to amend the rules suggesting that a trans student athlete must take a year off from competition while undergoing hormonal therapy.

The rules, unfairness, and bias remain a contentious issue. There are differing opinions about equality in these situation. These continuous discussion highlights how delicate and difficult it is to strike a balance between guaranteeing fair competition and sports and promoting inclusivity.

#### **V. It Is Voilation Of Quality That Sex Verification Is Targeted And Performed At Only Females. And Not On The Male Gender?**

In order to keep female athletes from competing against those who, because of chromosomal abnormalities possessed and anatomical advantages typically associated with males, gender testing was instituted during 1968 Olympic Games in Mexico City. Up until 2000, the IOC medical Commission had a practice known as a "gender parade", in which female athletes had to appear before

Commission members in a nude form to make sure they had the sexual appearance required to be considered ladies. Ms Shanti Soundarajan is one of several female athletes who were disqualified from

competition because of the differences in their chromosome levels.

It's crucial to remember that many people might not be aware of any chromosomal abnormalities or intersex condition unless they experience developmental problems or get tested for fertility issue. Women may be made aware of these conditions in public at major athletic events like Olympics or Asian games, but men are usually not subjected to the same level of scrutiny.

Because medical experts could not agree on how to determine a woman's gender genetically, the IOC ended its gender testing policy in 2000 the Olympic Committee decided to allow transgender athletes to compete after intense criticisms of the 2000s Olympic events. If there are doubts about athletes' gender, the IOC still has the right to investigate them. Although this right is respected, and the opening of a specialized lab raises the possibility that testing will be used for purposes other than suspects.

The place of testing suspected female athletes developed against the backdrop of increased scrutiny directed at all foreign competitors during the Beijing

Games. A dedicated facility was set up for this purpose, much like the labs in Sydney and Atlanta. Among the testing technique for genetic testing, chromosome analysis, and blood analysis. Official stressed that these tests were not administered to all female participant, but only to athletes who were suspected.

Concern about equality are raised when gender testing is only used on females and not on males. Because it only examines one gender while ignoring the other this practice may be viewed as discriminatory. It suggests that only female athletes might be a threat fair competition because of their biological makeup or gender identity, which can support gender inequality and bias in sports full stop consequently, it is possible that the selective application of gender testing constitutes a breach of equality principle.

#### **VI. Is The Process Of Gender Testing Morally Correct Or Erroneous?**

Testing transgender athletes and sports is a hotly debated and controversial topic. Because transgender women may have higher testosterone levels than cisgender women, critics contend that it is unethical to test them. They content that discrimination against transgender people may result from such testing, which may not fairly represent a person's gender identity.

Proponents of testing content that it is essential to preserve athlete equity and guarantee fair competition. Concern regarding the necessity of such tests have been voiced by some female Olympians, who prefer to focus on detecting people posing as women rather than possibly unfairly scrutinizing women with specific congenital condition.

However, it is important to note that these tests only offer a circumstantial method of identifying gender and may not adequately account for the complexity of gender identity issues. Furthermore, a number of medical professionals have denounced such tests as unethical and lacking in scientific validity for identifying a person's gender many contend that the current testing procedures are faulty and may disproportionately harm transgender people, despite the fact that the topic of testing transgender athletes is complicated and involves concern about equity and fairness in sports<sup>6</sup>.

#### **VII. What Transpires When There Is A Collision Between Gender Verification And Transsexualism?**

Determining a person's biological gender is known as gender testing. To ascertain the sex of an unborn child, this evolution may take place during pregnancy. Gender testing is used in sports to confirm an athlete 6 in order to stop situation where men compete in female and might thus obtain an unfair advantage. It is worth noting that individual undergoing these tests may not always be aware of their biological and physiological sex status.

A person who adopts and consistently embodies the gender identity opposed to their biological sex is said to be transsexual.

Complex ethical, social, and legal problem may arise when transsexualism and gender testing collide. On the one hand, gender testing seeks to confirm a person biological sex in order to promote fair competition, especially in sports where there may be physical advantages. However transsexual people might have changed their identity to conform to their gender identity, which might not be the same as their biological sex in addition to challenging conventional ideas of gender and fairness in competitive context, this collision may bring up issues of privacy, dignity, and human rights in order to resolve these disputes, efforts usually entail giving individual rights, inclusivity, and the changing perception of gender diversity considerable thought.

<sup>7</sup>In the famous Richard versus United States Tennis Association case in the state of New York, the lower court decided that the Renee Richard's test was in fact designed to prevent her from playing in the matches, as she had suspected. The main query is whether a player who was once a man but had surgery to change his sex could now participate in a female only tennis tournament. The plaintiff claimed that because she had to take her sex determination test to ascertain her female status, she was ineligible to compete in the US open convinced division. She instead insisted that after the procedure she had completely changed into a woman

both mentally and physically as confirmed by the doctors. Struggling with being transexual for years and feeling like a woman trapped in a man's body, Richard said she decided to have the surgery. The court granted her an interim injunction, siding with Richard. It determined that the restriction violated her human rights and that she is permitted to play in the matches.

Transsexual conceal their gender identity transition because they are afraid that doing so will give them an unfair competitive edge. This issue is especially pertinent in situations such as androgen insensitivity syndrome, where those who are impacted do not unfairly benefit. This was demonstrated by 1996 Atlanta Olympics, where AIS athletes competed alongside women but despite society's assertion of progress, gender transition surgeries are still not widely accepted, so these people continue to face difficulties. As a result, people who go through these changes frequently face prejudice and are thought to be abnormal.

### **VIII. Gaining Of Recognition By Transgendered Athletes**

An important advancement in the fields of gender equality and sports is the recognition that transgender athletes are receiving. There are more opportunities for transgender athletes to compete in sports as societal attitudes and awareness of transgender issues changing. This honor signifies advancement in diversity and inclusivity within sports communities.

But acknowledging transgender athletes also brings up difficult issues and problem with regard to equity, competitive advantage, and the application of inclusive laws discussion and sports organization, governing bodies, and the journal public are still influenced by arguments about therapy, eligibility requirements, and striking a balance between inclusivity and competitive integrity.

All things considered, the rise in popularity of transgender athletes is indicative of larger movement in sports toward acceptance and inclusivity, but it also emphasizes the continued need for careful discussion and the creation of policies to guarantee equality and justice for all athletes, regardless of gender identity.

When the Olympic Committee acknowledged transgender athletes and sports in 2004, it caused a stir because many felt it did little to encourage transgender people to play sports.

Renowned skier and cyclist Kristin Worley led the push to have Soundarajan's medal returned seeing the incident as a serious injustice that must never happen again. Fully and green rotten important paper on anti-doping for the world agency, and the Worley made her case at the annual seminar at the Academy of Sports in Canada. Article discussed the anti doping codes therapeutic exemption the transgender female athletes may need therapy to bring their testosterone levels into line with those of other female athletes in their category because they do not naturally produce testosterone like cisgender athletes do.

In order to fully address this issue, the Olympic Committee adopted a statement on sexual harassment in sport in 2007.

The statement provides a clear definition of sexual harassment and list action that may be interpreted as such. Remarkably it also classify homophobia as a type of gender based harassment, recognizing it as an expression of bias and discrimination against lesbian gay bisexual and transgender people that can range from passive hostility to direct victimization. Guidelines for stopping such disparaging action are provided in policy statement. Furthermore, there is a dedication to encouraging and funding scientific studies on these topic, emphasizing the value of evidence based strategies in combating sexual harassment and abuse in sports.

Since transgender people have been permitted to participate in sports, especially in the West, and the Olympic Committee has established rules for their competition, there has been a tense situation and constant discussion. While there are no particular limitation for people who are transitioned to male, transgender woman must maintain and keep their testosterone levels below a certain threshold, and the operational changeover is not required.

On noteworthy recent event was the participation of trans woman weightlifter Laurel Hubbard, who is approximately 43 years old, in the female division of the Tokyo Olympics while representing New Zealand. This is pivotal movements sparked a lot of conversation about the justice equality, and the guiding ideals of gender based competition.

However, because fewer athletes publicly identify as transgender, there aren't many conversations about the transgender athletes in our nation. These discussions have mostly only come up in our nation's sports when a player challenges the "sex verification test" and challenges arbitrary rules.

\*One prominent instance was the 2014 sprinter Dutee Chand, who was initially prohibited from competing in sports in the female division due to her hydroandrogenism. However, because there was number concrete proof that naturally high level of testosterone improve athletic performance, the Court of Arbitration for sport ruled in her favor, allowing her to compete in sports under the female category. Another example from real life is when Santi

Soundarajan's silver medal was revoked after she failed her demanding test to identify her sex. Both Shanti and Dutee identified as female. These incidents have highlighted the difficulties faced by the female athletes in Indian sports with regard to discrimination based on hormone levels and gender verification.

Notably, no Indian athlete who was openly identified as transgender or undergone gender transition has competed in a major events to date. Despite the fact that transgender representation in sports is less common in India, it is crucial to raise awareness of their rights and acceptance in games.

These discussions are essential to developing a more inclusive and equitable sports culture that welcomes all participant, regardless of gender<sup>9</sup>.

### **IX. Government Measures To Promote Transpersons In Our Nation**

The Indian government has made a great effort in recent years to acknowledge and support the transgender community with the goal of advancing their inclusion in society, the economy, and the education. The goals of these policies are to lessen stigma and promote equality in a variety of Fields.

#### **The Transgender Persons (Protection Of Rights) Act, 2019**

<sup>10</sup>Transgender people's rights are protected by this historic law, which guarantees that they won't face discrimination in public services, healthcare, for, or education.

Additionally, it requires the development of welfare programs and the issuance of identity cards and transgender certificates.

#### **SMILE Scheme ( support for marginalized individuals for livelihood and enterprise )**

The central sector scheme for comprehensive rehabilitation for welfare of transgender persons and the central sector scheme for comprehensive rehabilitation of beggars are those two sub schemes that make up the SMILE scheme it offers assistance with housing, skill development, health insurance, and transgender rehabilitation.

#### **National Council for Transgender Persons**

The council established under these provisions, advises the government on creating and enforcing policies and regulation pertaining to transgender people, as well as offering a forum for hearing and resolving their complaints.

#### **PM- DAKSH**

<sup>11</sup>Through this initiative, the ministry of social, justice, and empowerment trains transgender individual who received the S.M.I.L.E scheme to enhance their knowledge and abilities and increase their chances of earning a livelihood.

#### **Transgender Sports Meet In Kerala**

Draw an important occasion was marked by a sports event that took place in Kerala be P. Sasidharan Nair described the honor in carrying out these initiatives and emphasized the significance of state modeling them by holding comparable competition which could eventually reach the national level. The event included competitive events under a variety of categories, such as the 400 meter dash, 4X100 Relay, long jump, etc despite the fact that some cities had fewer participants due to low transgender population. Many people signed up to show the unity among the transgender people rather than to compete<sup>12</sup>.

#### **Transgender Welfare Boards**

The execution of welfare programs, legal assistance, and the grievance resolution, numerous state have established transgender welfare boards. Program for awareness, healthcare, and education are also supported by these boards.

#### **Shelter Greh – Shelter Homes**

In partnership with NGOs, the garima greh initiative offers transgender people shelter homes. These homes provide psychological support, skill development, and short term housing<sup>13</sup>.