Creating A New Sports Division: The Importance of Protecting Women's Sports While Encouraging Sportsmanlike Competition

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The foundation of sports is to encourage respectful and fair competition between two or more individuals. For those who choose to participate, they are pursuing the happiness they find in competition, others have found their livelihood in sports, and most find liberty in their carefree activities.

Given the recent rise in the popularity of the transgender community, it is natural for members that want to compete in sports, specifically women's sports. However, with that there are also those who would abuse this popularity to support their own gain in sports dishonestly. This is witnessed through the distrust between sis and transgender individuals when it comes to cross participation, specifically transgender women in women's sports. The only solution to appease both sides, defenders of women's sports and transgender women's competition, is creating a new division specifically for transgender women. In doing so, this protects and encourages the completion of both women and transgender women.

In my proposal presentation I will discuss the need for a separate division for transgender athletes in both collegiate and high school levels. I will be going over the different criteria between the rules the Olympic Committee has established for transgender athletes and the rules college level athletes have to follow. Then highlight athletes like Lia Thomas and how they have taken advantage of the lack of protection behind women's sports. Then finally turning back to Title IX to back up the support for women's sports written into law and how the trans community would also benefit just as millions of women have benefited.

Introduction

Participating in sports have become a fundamental pass time for many individuals, especially in their childhood. In fact, many individuals choose to participate competitively throughout highs school, through college, and even professionally. Sports have been a part of every culture, especially for men, for at least the last 3,000 years; and with the inclusion of women through Title IX, women now have more opportunities to compete equally. However, women's inclusion in sports is being threatened by the transgender movement because more biological males claiming to be women to participate in women's sports. There have been claims from either side stating that either these "transgender women" are actually women and should compete with women, even without going through a sex change procedure or take hormonal medication; while the others claim that they are biological men who are only competing in women's sports because they are not strong or competitive enough to compete against other men. Neither side, liberals and conservatives have proven that they are unable to come to a compromise when it comes to the transgender community whether it pertains to bathrooms or sports. That is why I believe the best way to appease both sides across the aisle is to create a separate division for transgender women. In taking this action we as a country protect women and their right to fair competition and adhere to the transgender community in their claims. Through Title IX we have separated the genders to create a fair environment to foster friendly competition, therefore we can do it again insuring fair, friendly competition. If politicians have not already agreed on a piece of legislation that the majority of the American people cannot bet behind that both protects women and has the ability to adhere to the transgender community, they are doing their jobs wrong. When the issue arose with transgender women using women's restrooms, companies started creating unisex bathrooms because of women complaining about not feeling safe because of the risk of sexual assault. Since companies found a danger with their practices of allowing men to use the women's restroom, they chose to self-correct and implemented unisex bathrooms. The same should be done for sports, however, the NCAA has shown no inclination that they will stop allowing men to participate in women's sports. Therefore, the only way to make both sides of the political spectrum, even some extreme liberals and conservatives, is to mandate a new division for transgender women. This action will protect women, adhere to Title IX, and encourage competition for all groups of people.

Growth of the Transgender and LGBTQ Community

Since the 1980's, gay men started coming out more to the public and that's when the LGBTQ+ movement really started. From there the community grew and added on more types of people that fell into different types of sexual orientation. The transgender community is apart of the LGBTQ+ community and has been making great headway in recent years. The transgender movement truly took off with the American Public in 2016 and has continued to grow since, asking for more inclusion and progressive legislation that would benefit their group at the expense of others who choose to live with their biological gender.

Transgender Participation in Lives of Women

The transgender community has been around for quite some time, but they did not start picking up speed and favor with the rest of the America public until after the acceptance of the LGBTQ community started gaining favor. The transgender community didn't make any major headlines until Target declared that they would be letting biological men that identified as women use the women's facilities. The man simply has to identify as a woman, he did not have to prove it by any means. This action later led to the transgender community gaining traction and

they started gaining more favor with the public. This action was the start of many to follow. Today we face biological men that identify as women competing in women's sports with very little regulations and biological men transferring into women's prisons because they simply identify as a woman.

Women's Restrooms

The wide acceptance of transgender women being integrated into women's lives started to take off when Target announced that they would be allowing men who identified as women to use the women's facilities when news broke in 2016. Since then, there have been many studies conducted to gauge where the transgender movement is at with the public. In a study conducted in 2016 by Chelsea Monheim and Jennifer J. Ratcliff, they showed that the United ranked 9th out of 23 countries for tolerance of transgender individuals, and it demonstrated "...that only 46.7% of participants from the United States were accepting of transgender individuals using restrooms that aligned with their gender identity." That study was conducted eight years ago and since then the transgender movement has grown significantly, at least it has due to the large media coverage they have received. In the last eight years more people have grown to accept the transgender community or at least tolerate them. However, most people, although they say they are allies of the movement, especially women are caught off when they see a transgender woman entering, exiting, or in the women's restroom. Some women are concerned that some men will say they are a woman when they have nefarious intentions such as rape and sexual assault. No women should be forced to have these fears when entering their respective facilities, they should not be forced to share their restroom with biological men.

Women's Prisons

In recent news, transgender women have been allowed to continue their incarceration in women's prisons. Since the pubic has been tolerant and accepted transgender women using women's restrooms and now competing in sports, they have made it easy to accept the idea that transgender detainees belong in women's prisons. When will they stop? The only way they will realize that they have gone to far is when the opposition starts to stand up and say, "no more!" That is exactly what people has started doing. Women's rights groups have been advocating against transgender women detainees serving their time in women's prisons. Recent developments have pointed "...to more cases of trans women—including powerful individuals with penises who are attracted to females—sexually abuse and harassing women inmates in New York, Illinois, California, New Jersey, Washington and beyond." Integrating men who claim they are women into a women's prison is a major red flag. Just because a women committed a crime and is serving their sentence does not mean they should be subject to sexual assault and rape. The state should not pass legislation that has a large possibility to subject women to rape and sexual assault. These same states that have passed these laws have also supported the Me Too Movement, claiming that

¹ Monheim, Chelsey L. and Jennifer J. Ratcliff. "Perceived social norms and acceptance of transgender students in gendered restrooms." *Journal of LGBTQ Youth* (2021): 1-17. https://www.tandfonline.com/doi/epdf/10.1080/19361653.2021.1928583?needAccess=true&role=button

² Reinl, James. "The transgender prison experiment UNCOVERED: Male-to-female inmates in women's cellblocks drive rising numbers of rapes and abuse on the new frontline in America's culture wars." *Daily Mail*. December 9, 2022, https://www.dailymail.co.uk/news/article-11458335/Male-female-Trans-inmates-drive-rising-numbers-rapes-abuse-womens-prisons.html

every rape accusation a woman makes against a men should be considered as truth. However, by creating laws where men can serve their time in women's prisons and supporting the Me Too Movement highly contradict each other. It simply does not add up. One example of how these laws affect women serving their sentence is from, "Tamiekia Johnson, 43, a former highway patrol officer who was jailed for 50 years for murdering her abusive husband, is among five prisoners suing over a California law that gives trans inmates the right to choose either men's or women's facilities." Women, no matter what crimes they have committed, should not fear they might be sexually assaulted or raped while serving out their sentence in prison. This would fall under the 8th Amendment in regard to "cruel and unusual punishment". In the court papers that Johnson is submitting in her lawsuit, she, "...describe sharing the block with a 'gigantic, tall, physically scarylooking, non-feminine, bizarre, creepy' trans inmate at Central California Women's Facility, in Chowchilla." This inmate does not even resemble what a woman looks like. Why should a biological male have the choice of sharing a cell block with either men or women? He should not. What if he is a sex offender that decides he is a woman? Will these men be charged with sexual assault and rape whilst in prison? Currently there is no answer. Despite what these women have done to deserve their sentence in women's prisons, they should not be held subject to sexual assault because a man from the men's prison woke up one day and decided he was a woman.

Women's Sports: Lia Thomas

One of the "nation's most powerful female collegiate swimmer." Lia Thomas, is a biological male. He initially competed on the University of Pennsylvania's men's swim team from his freshman year to his junior year and ranked 554th in men's swimming for the 200-yard freestyle and 65th in the men's 500-yard freestyle. However, for his senior year he decided that he was in fact a woman; and barely starting his transition on a hormonal level, he signed up for the women's swim team. Thomas is the first transgender "women" to win a NCAA Division 1 title and is ranked 5th in the 200-yard freestyle on the women's team and 1st in the women's 500-yard freestyle. How does that make sense? It does not and it should not because Thomas is a biological man, and his natural abilities give him an advantage when competing against women. Sports Illustrated Robert Sanchez writes in his article *To Swim as Herself*, "Against other women, though, she was still extremely fast in the water. At a November 2021 meet against Princeton and Cornell, Thomas posted the NCAA season best times in the 200-yard freestyle and the 500-yard freestyle, set Penn records in those events and won three individual races. In the blowout 500 free, she beat the second-place finisher by nearly 13 seconds." When in history has a biological women shattered

³ Reinl, James. "The transgender prison"

⁴ Reinl, James. "The transgender prison"

⁵ Sanchez, Robert. "To Swim as Hers." *Sports Illustrated*. 133, no. 3 (2022): 62, https://liberty.alma.exlibrisgroup.com/discovery/openurl?institution=01LIBU_INST&vid=01LIBU_INST:Services &%3Fctx ver=Z39.88-2004&ctx enc=info:ofi%2Fenc:UTF-

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^{1649&}amp;rft.volume=133&rft.issue=3&rft.spage=60&rft.externalDocID=A716363069

⁶ Sanchez, "To Swim as Hers," 66.

records like Thomas has? Never. The reason for this is that she is not a biological woman and still has all attributes a biological man has. Thomas, and all the other women she was competing against, have vast physical differences that lead her to shatter women's records. In doing so she robbed hard working women from their titles and achievements because she could not compete well enough against biological men. Olympic gold medalist, head of Champion Women, Nancy Hogshead-Makar wrote a letter with 16 other Penn teammates requesting that Lia be withheld from their conference championship meet. The letter wrote, "if [Thomas] were to be eligible to compete...she could break Penn, Ivy, and NCAA women's swimming records; feats she could never have done as a male athlete." In response, the Ivy League allowed Thomas to compete in their meet. They ignored these women and their concerns about a biological man competing against them. The heads of these sports conferences are ignoring the protections set in place by Title IX and silencing concerned women because their concerns are not politically correct. Women should not have to live in fear of losing what they have worked so hard for simply because a man did not have the capabilities of competing against members of his own sex.

Many of the women that were forced to compete against Thomas have been speaking out and recently they have been getting more vocal. The most notable would be swimmer Rylie Gains. The two swimmers competed against each other in the 2022 NCAA championships. They tied for 5th place in the 200-meter freestyle. However, only one got the trophy and the other did not. The NCAA gave Thomas the trophy for "photo purposes" claims Gaines, and she had to wait for hers to come in the mail. Why was a transwoman, a biological a man, given the 5th place trophy in a women's national championship competition? Why was a biological male chosen for photo opportunities with the trophy over the women he tied with? Rylie Gaines has been speaking with the Independent Women's Forum, a group helping to promote women's rights, and, "Gaines believe that allowing male-bodied athletes to participate in women's competitions will destroy the integrity of women's sports and leave women vulnerable."8 Since the NCAA is allowing fully developed men to compete in women's sports without any prior qualifications like completing sex change surgery or hormonal treatment, women's sports are being demeaned and diminished. They are setting presidents that it is acceptable for men who are behind in their division to claim they are now a women and break records and win titles in the women's division. Gaines had not only gone the Independent Women's Forum but is talking to anyone who is willing to listen to her story in efforts to spread awareness and create change in women's sports. She was interviewed by a sports outlet called OutKick by Bobby Burack. In his article he affirms that, "[f]emale swimmers were unaware that Lia Thomas, a biological male who competes against women in athletics, would wander loose naked in their locker room." The women competing in the NCAA women's championship did not even know they would be sharing a locker room with a biological man. No women should be forced to share a locker room with a man. Lia Thomas has undergone no surgical

⁷ Sanchez, "To Swim as Hers," 67.

⁸ Google. "Saving Women's Sports Riley Gains University of Kentucky," Independent Women's Forum All Issues are Women's Issues. Last Modified date. https://www.iwf.org/save-womens-sports-riley-gaines/

⁹ Burack, Bobby. "Female swimmer speaks out about Lia Thomas Walking Around Locker Room Naked." Last modified June 28, 2022. https://www.outkick.com/lia-thomas-riley-gaines-naked-locker-room/

sex change, therefore her physic still that of a man's. In fact, there are statutes put in place to prevent indecent exposure, and a man sharing a locker room with women, knowing that it will cause them discomfort is guilty of indecent exposure. Later in the interview with OutKick, Gaines goes on to say, "...not only were we forced to race against a male, we were forced to change in the locker room with one. And so, it's just this feeling of like, 'What is happening?" These poor women were forced to change with, compete against, and loose to a biological male. Regardless of what Thomas identifies as, it does not change the fact that she has the body of a men, the advantages of a man, and had barely taken any actions to transition from a man to a woman between the time she signed onto the women's team and her competition in the NCAA's championship swim meet.

Transgender Men in Men's Sports?

While transgender women are making their way through women's sports, there have been no breaking news about transgender men in men's sports. Why is that? Is it because of the biological make up where biological women would not be able to compete competitively against biological women? These is an extremely probable answer because there is no doubt that men and women are different on a biological level which is a factor in deciding that women should compete in athletics separately.¹¹

Actions Being Taken Now

The transgender movement is a fairly new movement, but they carry a good portion of the LGBTQ+ momentum with them. Since their movement is so recent, there have been little legislative created either protecting or prohibiting one's choice in procedurally changing their gender. However, the choice to change one's gender has become an extremely controversial and hot topic among recent years, especially within the political realm. However, that has not stopped politicians from claiming one side or the other on the transgender topic; that being, most conservatives are against the transition while most liberals encourage and embrace the procedures and identities. Legislatures on the democratic side are also creating their own legislation regarding the transgender community, naming them "anti-discrimination laws."

Conservative Legislation

Legislatures that are a part of the Republican Party have shown the greatest interest in protecting Title IX and the protections it provides for women in both education in sports. No piece of legislation has been groundbreaking in either the Senate or the House, but progress has been made in thirty-sex states that have considered bills prohibiting transgender women participating in school sponsored sports. One of these states that have proposed such bills was Idaho, when, "...the governor signed a proposal bill (H.B. 500) into law on 30 March 2020 making the first state to impose an outright ban on athletic participation for transgender girls and women in school sponsored sports. Throughout early 2021, legislatures in thirty-six states considered such bills." Idaho is not the only state that has entertained such bill proposals. States such as, Alabama, West

¹⁰ Burack, Bobby. "Female swimmer."

¹¹ Román, Michelle. "Fair Play," 11.

¹² Sharrow, Elizabeth A. "Sports, Transgender Rights and the Bodily Politics of Cisgender Supremacy." *Laws* 10, no. 3 (2021): 1. https://go.openathens.net/redirector/liberty.edu?url=https://www.proquest.com/scholarly-journals/sports-transgender-rights-bodily-politics/docview/2576439701/se-2.

Virginia, Montana, Florida, Mississippi, and Tennessee have followed Idaho's lead and have also passed similar bills of their own. These conservative legislatures have been pushing the banning of transgender women from women's sports at the college and high school levels. It is completely understandable that the States are creating legislation for their respective public schools. However, at the college level there is little too nothing that State legislatures and Federal legislatures can do. When it comes to college sports it is left up to the NCAA. However, conservative legislatures can draft bills requiring businesses and public areas to provide other locker rooms, restrooms, and facilities for transgender individuals. Given that the federal government has created legislation requiring private businesses to accommodate for disabilities (Americans with Disabilities Act), the government would be able to require private businesses to supply accommodations for transgender individuals. Some may argue that being transgender is a choice and being disables is not. Although, supporters of the transgender movement argue that being transgender is not a choice, it is a real issue and people can identify as whatever they would like, despite their biological makeup. Therefore, they should have their own accommodations to both protect women and avoid backlash from the transgender community.

As also seen with Title IX, this divided women's sports and men's sports while also providing protections for women in the educational and competitive sport environments. A new title or an addition to Title IX could be implemented in order to make a new division for transgender women. This would allow these individuals to compete competitively against members of similar biological makeup and structure while also protecting women and allowing them to compete fairly. Federal legislation like this would allow for women like Riley Gaines to compete in her respective sport, against other biological women, share locker rooms with biological women, and feel safe around other biological women.

Liberal Legislation

Conservatives are not the only legislatures working of bills surrounding the transgender movement. Liberal legislatures in various states have creating "anti-discrimination" laws in favor of the transgender and LGBTQ+ community. An example of this would be in Massachusetts where they have implemented "...a broad nondiscrimination policy protecting against sexual orientation discrimination since 1989 (Mass. Gen. Laws. 1989). Massachusetts also passed a law in November 2011 extending nondiscrimination protections for transgender people in employment, housing, credit, and services (Gender Identify Act 2011)." These laws have been passed to promote the inclusion of transgender individuals into the American society. These legislations have been used to force the liberal agenda that anyone can choose their own gender identity and society as a whole must accept that while adhering to an individual's personal preferences.

As previously stated, predominantly liberal states have created and implemented legislation allowing for incarcerated individuals to choose whether they want to serve their

¹³ Sharrow, Elizabeth A. "Sports," 2.

¹⁴ Hasenbush, Amira, Andrew R. Flores, and Jody L. Herman. "Gender Identity Nondiscrimination Laws in Public Accommodations: A Review of Evidence regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms." *Sexuality Research & Social Policy* 16, no. 1 (2019): 73. https://go.openathens.net/redirector/liberty.edu?url=https://www.proquest.com/scholarly-journals/gender-identity-nondiscrimination-laws-public/docview/2073168106/se-2.

sentence in a men's penitentiary or a women's penitentiary. Evidently, California is the leading state when it comes to promoting the transgender community. Also, there integration of individuals being allowed to choose if they want to serve their sentenced time in a women's prison or a men's prison based on their sexual orientation is extremely concerning. This is because it has already concerned women residing in those California prisons due to fear of rape and sexual orientation. Given all the recent actions liberal legislatures at both the state and federal levels, these legislatures have shown that they are not in support of women as much as they have claimed, proving that they are untrustworthy to protect about fifty percent of the American population.

Olympic Regulations

The United States of America is not the only country allowing transgender individuals, specifically transgender women, to start competing in sports. In fact, the Olympics are allowing transgender women to compete in women's sports, but that is not without strict qualifications. The International Olympic Committee has "...required, among other things, sex reassignment surgery, were seen as extreme by many, and the requirements were related in 2015. Currently, Olympic competitors much claim (and not change) their gender identity for 4 years before competing, and their testosterone levels must remain less than 10 nanomoles per liter a year." These are far more qualifications than the NCAA and high school sports have in the United States. However, they are not completely foolproof because biological men and biological women are not just different hormonally, but also physically. These sex change surgeries change a biological man will go through to become a women entails that "... the male genitalia are changed to female, the anatomical parts are removed and repositioned to fit the mold of the latter sex."¹⁶ These surgeries only change the genitalia, not the physical stature, the bone density, muscular mass, metabolisms, or other critical biological factors that would lead a biological men to dominate in women's sports. Simply, these surgeries only make a biological man appear too come across as a women, but they will still be able to perform as a men would when it comes to the realm of sports.

There is no denying that scientifically, at the biological level, men and women are created differently. This means they have their own set of skills that their bodies have been designed for, regardless of the sexual identify that one individual prefers. One of the main differences between the two sexes is the fundamental hormone that each produced. Men produce more testosterone than women and women produce more estrogen than men. The effect of these two hormones is presented in the performances between men and women in their respective sports. In fact, "Sports

¹⁵ Román, Michelle. "Fair Play: Transgender Athletes and Their Opponents On (and Off) the Field." *The clearing house*. 94, no. 6 (2021): 238.

https://liberty.alma.exlibrisgroup.com/discovery/openurl?institution=01LIBU_INST&vid=01LIBU_INST:Services &%3Fctx_ver=Z39.88-2004&ctx_enc=info:ofi%2Fenc:UTF-

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¹⁶ LBPS. "What Can I Expect from Male-to-Female Gender Reassignment Surgery?" London Bridge Plastic Surgery & Aesthetic Clinic. Last Modified April 11, 2017. ttps://www.lbps.co.uk/general/what-can-i-expect-from-male-to-female-gender-reassignment-surgery/#:~:text=the%20female%20sex.-, Gender% 20Reassignment% 20Surgery, the% 20nerve% 20and% 20blood% 20supply.

performance relies on some degree on the magnitude, speed and repeatability of force application, and, with respect to the speed of force production (power), vertical jump performance is on average 33% greater in elite men than women, with differences ranging from 27.8% from endurance sports to in excess of 40% for precision and combat sports."¹⁷ The biological make up of a man's body is build for endurance, precision, and other factors relative for sports, more so than women's bodies are. That is why men compete against other men and women compete against other women. This division created more opportunity for friendly competition; and by inviting biological men into women's sports as "transgender women" it defeats the purpose of having two separate divisions for sports competition.

Another major difference between biological men and women is there muscle mass; and one of the indicators of strength and muscle mass in individuals. In fact, the, "...handgrip strength in transgender women was approximately the 25th percentile for males but was over 90th percentile for females, both before and after hormonal treatment." ¹⁸ Given that handgrip is a good indicator of one's muscular strength, this demonstrates how must stranger biological men are compared to biological women. However, yes, transgender women are on the weaker side compared to men, but that does not necessarily mean they are equal to women. This study just shows that men are biologically stranger that women and will always have an advantage when it comes to sports. That does not mean that they need more hormone treatment to be on the same level as women, it means that there is simply no way that biological men will be able to compete with biological women fairly.

Consequences if Issue Left Unchecked

If there is no action taken to protect women from transgender women, who is to say that the transgender movement will stop with women's sports. Not only that but the integrity of women's sorts will be tarnished, meaning that any man who is falling behind in his division will simply declare he is a woman, start trying to look like a woman and compete in women's sports in order to succeed in something. Not only that but competing in women's sports will not be their last triumph if they succeed. As seen with the integration of transgender women in women's prisons, and the movement will keep pushing as far as they can go. That is why it is so imperative to stop the movement as close to the beginning as possible so more women can be protected, supported, and encouraged to succeed in their respective fields.

¹⁷ Hilton, Emma N., and Tommy R. Lundberg. "Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage." *Sports Medicine* 51 (2021): 203. https://doi.org/10.1007/s40279-020-01389-3

¹⁸ Hilton, Emma N., and Tommy R. Lundberg. "Transgender Women"

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