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Sports beyond sex

A study on trans and intersex people in sex-segregated Swedish
amateur sport

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“None of my trans friends have ever practiced a lot of sports, because they dare not. It is not just discrimination, sometimes you ask, “I want to be in the “boys’ team” because I am a guy” and maybe the weekend after you get kicked down by some of the team members. That has happened to some of my friends.”

- “Billie” (genderqueer)

“I strongly believe in trying to erase sex segregation. From a competition aspect it is much easier in amateur sport, there are no world records to beat and during practice it is always possible, whether it is soccer or basketball. Practice is always practice.”

- “Patrick” (sport coach)

“We often talk about elite sports, for example Caster Semenya, but then we get away from the main issue. There are so many people who will never compete on a professional level.”

- “Sofia” (the Swedish Sport Confederation)

“The winds in politics are not blowing in this direction right now (...) but the sports movement is a strong and influential movement. If we could get them on track it would be much easier.”

- “Emma” (member of the Parliament)

Abstract

Anno 2020 many human rights bodies have pointed out that trans and intersex individuals are entitled to the equal enjoyment of human rights just like everyone else, that includes to participate and enjoy sport. Amateur sport is the foundation of all sports. Trans and intersex people in Swedish amateur sport face structural discrimination and one main reason is the rigid sex-segregated structure and the underlying masculine sports culture, which can be found on all levels in a lot of sports.

The purpose of the study is to investigate how the traditional structure of sex segregation, and the underlying masculine sports culture, affect trans and intersex persons' right to participate and enjoy sport, and to elaborate on ways to include, and strengthen the rights for the group, without jeopardising the same rights of others, especially women. The study has conducted 10 semi-structured interviews, with trans and intersex people, sport coaches, the Swedish Sport Confederation and politicians. From a queer-feminist approach it analyses the results based on the structural framework (1) the right to participate, (2) the right to equal enjoyment, (3) fair play and (4) sports beyond sex. These categories derive from the Swedish sports movement's fundamental values and its ambition to create "inclusive sports for all".

The study distinguished five distinctions of sex-segregated sports, (1) elite and amateur sports, (2) competition and practice (3) adult and youth sports (4) team and individual sports and (5) traditional and new sports. Based on these distinctions the study found that Swedish amateur sport can be hostile areas due to, inter alia, sex-segregated teams, divided locker rooms, stereotypes and social norms and competition rules. In order to strengthen the human rights for, and include, trans and intersex the state and the Swedish Sport Confederation are the main duty bearers. From a long-term perspective the sports movement needs a profound change and a structure and a culture that identify them, instead of dividing them. That is the essence of "sports beyond sex".

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/ Fredrik Carlson

1. Introduction

Anno 2020 many human rights bodies have pointed out that trans and intersex individuals are entitled to the equal enjoyment of human rights just like everyone else,¹ that includes to participate and enjoy sport.² The United Nations, the World Health Organization (WHO) and the European Commission (EC) hold that sport is an important tool to promote human rights and create inclusion for all. The EC claimed in 2007 that “*all EU residents should have access to sports regardless of social, religious, cultural and ethnic background*”.³ The Olympic Charter describes sports as “*a human right. Every individual must have the possibility of practising sport (..) with a spirit of friendship, solidarity and fair play (...) without discrimination of any kind, such as race, colour, sex (...) or other status*”.⁴

The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stated in 2016, that intersex, trans and non-binary athletes are frequently denied access to participate and enjoy sport due to structural discrimination such as sex segregation.⁵ Adam Love argues that few areas uphold a more sex-segregated structure than sports, “*a system based on a static and binary understanding of sex that has presented considerable barriers to the participation of intersex and transgender athletes.*”⁶ Sex segregation might have played a significant role in empowering women’s and girls’ participation in male-dominated sports, but the structure must not exclude trans and intersex people.⁷ Because of the structure and a hegemonic masculine sports culture, women, trans and intersex people have repeatedly been restricted throughout history.⁸ In recent years, the discussion on trans and intersex athletes in elite sports has increased.⁹ Most recently after the Court of Arbitration for Sports’ (CAS) decision in 2019, saying that female middle-distance runners with naturally high levels of testosterone have to, unlike women in other careers, undergo medical treatment and lower their levels in order to compete with other

¹ SOU 2017:92, pp. 81–82; A/HRC/RES/17/19, preamble

² Committee of Ministers (1992)

³ Dagkas, S & Armour, K (2012), pp. 1–20; UN Secretary-General (2014)

⁴ Olympic Charter (2019), Fundamental Principles, para. 4

⁵ A/HRC/32/33 (2016), para. 53–61

⁶ Love, A. (2014), pp. 376–383

⁷ A/HRC/32/33 (2016), para. 53; Kamasz, E. (2018)

⁸ McDonagh, E. & Pappano, L. (2008), pp. 1–37

⁹ Buzuvis, E. (2016), pp. 29–56; O. Sagave, J. (2016), pp. 1299–1300; Parks Pieper, L. (2019), pp. 156–164

women. The reason for this is “fair play” based on the concept of sex.¹⁰ However, the decision received major criticism from actors such as the UN Human Rights Council arguing that the decision is violating human rights and forces women into hormone treatment that is unnecessary and degrading.¹¹

Amateur sport is the foundation of all sports.¹² Even if sex-segregated sports might be justified on an elite level, similar structures can be found on all levels, in almost every sport. Some sports do not divide people based on their sex or offer mixed teams such as horse riding, roller derby and quidditch.¹³ However, a lot of sports divide young athletes, and make them practice and compete, based on their sex.¹⁴ This might force people into a category they do not feel comfortable, or identify themselves, with.¹⁵ Sports have shown to be a hostile area to many trans and intersex people, where human rights violations appear.¹⁶ LGBTI people in general, and trans and intersex people in particular, tend to refrain from and even quit sport activities due to a number of factors. According to a survey in 2019 by the German Sport University in Cologne, 20% of LGBTI people refrained from participating in a sport of interest due to their sexual orientation and/or gender identity and more than a half of the respondents (54%) had felt excluded or quit a sport due to their gender identity in the last 12 months.¹⁷ The survey showed how the two most common forms personal negative experiences in sport contexts are verbal insults and structural discrimination from, inter alia, hegemonic masculinities and sex segregation. Structural discrimination occurs more often to trans people than the rest of the LGBTI group and 86% said that they had experienced it at least one time during the last 12 months.¹⁸

In Sweden, 15% of LGBTI people experience discrimination on a daily basis within their sport associations.¹⁹ A survey from 2013, stated that LGBTI people in Sweden experienced discrimination such as sex-segregated teams, divided locker rooms, verbal insults, dress codes

¹⁰ The New York Times (2019); *ASA v. IAAF* (2019), Media release; Pikramenou, N. (2019), pp. 68–71

¹¹ RFSL (2019a); OHCHR (2018)

¹² Dagkas, S & Armour, K (2012), pp. 1–20

¹³ WFTDA (2020), O. Segrave, J. (2016)

¹⁴ Love, A (2014), pp. 376–383; O. Segrave, J. (2016); Groen, M. (2016)

¹⁵ A/HRC/32/33 (2016), para. 53; Kamasz, E. (2018)

¹⁶ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–86; Love, A. (2014), pp. 376–383

¹⁷ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

¹⁸ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

¹⁹ West Pride (2020), p. 10

and lack of role models and knowledge.²⁰ A Swedish state-initiated investigation from 2017 put sports as an important area of improvement to strengthen the living conditions for trans and intersex people.²¹ Lately, there have been improvements to address trans and intersex issues by governments and sport organizations in Europe and organisations in Sweden have started to adopt inclusive policies.²² In 2013, a specific policy against discrimination on basis of sexual orientation, gender identity and expression was adopted by the Swedish Sport Confederation (“Riksidrottsförbundet”, RF). In the Swedish sports movement’s “*Strategi 2025*” (“Strategy 2025”), they state the need for a fundamentally change in order to achieve “inclusive sports for all”. Although the trans perspective is not explicitly highlighted, there is an on-going process to include LGBTI people in Swedish amateur sport.²³

Love argues that a shift in sports is on-going, but the root cause to the structural discrimination is the hierarchical binary sports structure and culture. Therefore, sports need a profound change in order to deal with its problems. Sport organizations should instead organize their practice and competition based on a queer-feminist approach, such as self-identification of gender identity, instead of the classification of sex.²⁴ Anna James Wipfler argues that sex and gender identity should be irrelevant to the public sphere. Instead of self-identification or a third category, Wipfler means that the long-term goal is to protect any gender identity and abolition of sex segregation in order to achieve “true freedom of gender identity and gender expression”.²⁵ However, can their arguments on a structure and culture based on “sports beyond sex” be applicable on how to strengthen the human rights for, and include, trans and intersex people in Swedish amateur sport?

1.1. Statement of problem and structural framework

In order to strengthen human rights for, and include, trans and intersex athletes in Swedish amateur sport, the state and the RF have crucial roles to change the structure and culture in sports. In the Swedish sports movement's “*Strategi 2025*” that movement aims to achieve “inclusive sports for all”. In its idea program from 2009 “*Idrotten vill*” (“The sport wants”),

²⁰ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–89

²¹ SOU 2017:92 pp. 32, 41–60

²² Love, A (2014), pp. 376–383; Kamasz, E. (2018); RF (2017); RF (2013)

²³ RF (2017); RF (2013)

²⁴ Love, A. (2014), pp. 376–383

²⁵ Wipfler, A. (2016), pp. 491-499

and the statue of the RF from 2019, the movement describes its joint mission, vision and values. They guide all sports and their activities, within the affiliates and the member associations. The mission is to *“practice sport in associations to have fun, feel good and develop throughout our lives”* and the vision to *“be the best sports movement in the world for everyone at all levels”*. To achieve this the movement came up with four guiding and fundamental values. These are similar to the values of inclusion, equality, responsibility and fairness in the Olympic Charter.²⁶ The sports movement’s values are, (1) joy and fellowship, (2) democracy and participation in association activities, (3) everyone's right to participate and (4) fair play.²⁷

I have chosen to structure the thesis based on these central values and transform them into four, according to me, decisive categories. The categories aim to illustrate how important the true meaning of inclusion, equality, responsibility and fair play is to include trans and intersex people in sports. Apart from the Olympic Charter, the structural framework “sports beyond sex” mainly derives from the statue of the RF and the goal to create “inclusive sports for all”. The framework is supported by previous research and empirical data and influences several parts of the thesis. The categories are,

1. The right to participate
2. The right to equal enjoyment (including responsibility)
3. Fair play
4. Sports beyond sex

1.2. Purpose and significance of the research

By focusing on structural discrimination in Swedish amateur sport, this research aims to investigate how the traditional system of sex segregation, and the underlying masculine sports culture, affect trans and intersex persons’ right to participate and enjoy sport. It also aims to elaborate on ways to include, and strengthen their rights, without jeopardising the same rights of others, especially women. Through 10 semi-structured interviews it wants to distinguish different kinds of barriers and discrimination that the sex-segregated structure and the

²⁶ UN Secretary-General (2014); Olympic Charter (2019), Fundamental Principles, para. 4; Ruiz, A. (2018)

²⁷ RF (2019a), chapter 1, para. 1

underlying masculine sports culture contributes to and discuss ways to include them in “sports beyond sex”.

This research becomes relevant to the field of human rights by examining how trans and intersex persons’ right to participate and enjoy Swedish amateur sport can be strengthened. Previous researchers and queer feminists have pointed out sex segregation as one main contributing factor to the structural discrimination against both women, trans and intersex people in sports.²⁸ Therefore, I want to contribute to the field by collecting empirical data and elaborating on ways to include them, and strengthen their human rights from both a short-term and long-term perspective. The results are primarily relevant to Swedish amateur sport, but can nevertheless be useful to elucidate barriers, discrimination and ways to include trans and intersex people in other countries in the global north. The research is relevant to sport organisations/associations, politics and academia. Previous research has mainly focused on trans and intersex people within top and/or youth sport,²⁹ and some major quantitative studies have been presented.³⁰ Recent articles engage with amateur sport and also look at the sex-segregated structure from a queer feminist perspective.³¹ This motivates me to dig further into sex-segregated amateur sport in Sweden, where the knowledge is relatively deficient. My hope is to contribute to a more inclusive amateur sport beyond sex segregation.

1.3. Research question

How can Swedish amateur sport loosen up the sex-segregated structure and the underlying masculine sports culture, and strengthen the right to participate and enjoy sport for trans and intersex people, from a short-term and long-term perspective?

1. How do trans and intersex athletes, sport coaches, the Swedish Sport Confederation and politicians experience the sex-segregated structure and culture in Swedish amateur sport, and what barriers do they contribute to for trans and intersex people?

²⁸ Caudwell, J. (2014); O. Sagave, J. (2016); McDonagh, E. & Pappano, L. (2008)

²⁹ Parks Pieper, L. (2019); Dagkas, S. & Armour, K. (2012); Travers, A. (2006)

³⁰ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019)

³¹ Kamasz, E. (2018); O. Sagave, J. (2016)

2. How can Swedish amateur sport loosen up the sex-segregated structure and the underlying masculine sports culture, and strengthen the right to participate and enjoy sport for trans and intersex people, from a short-term and long-term perspective?

1.4. Limitations

A central limitation is to focus on Swedish amateur sport. One reason is because there is less knowledge and research made on amateur sport. There are several measures that need to be taken to improve the situation for trans and intersex people in amateur sport. By focusing on the sex-segregated organisation and the underlying masculine sports culture, I hope to further delineate the subject and highlight one, according to me, fundamental and structural factor that discriminate and exclude the group. The situation with the Covid-19 pandemic affected the research, and it came to focus on Sweden because of the researcher's location during this period. It made it easier to avoid unnecessary travels. Because of the restrictions imposed on interviewing children, the interviews were conducted with people over 18 years old. Finally, the topic is approached from a human rights perspective instead of, for example, a health perspective. This is mostly because of the master programme. However, I am aware of the close relationship between these two areas and convinced that by strengthening human rights, it will contribute to better living and health conditions for trans and intersex people.

2. Background

This chapter presents the background information to the research such as terminology, legal and political framework and the Swedish Sport Confederation.

2.1. Terminology

The terminology regarding trans and intersex people is changing rapidly. Experiences and identities are very personal and varies from person to person and it is difficult to find a common vocabulary that all people agree on.³² This thesis uses the definitions below.

Binary person A person who identifies as a “man” or “woman” within the two-sex system. A binary trans person identifies her- or himself opposite to the sex that s/he was assigned to at birth (transsexual). A trans woman is a person whose gender identity is a woman but was legally assigned man at birth. A trans man is a person whose gender identity is a man but was legally assigned woman at birth. The used terms always respect the person’s gender identity.³³

Cisgender/cis person A person who identifies with the sex assigned to them at birth. Cis is Latin and means “on the same side”. A cis woman is a person who was assigned woman at birth and identifies herself as a woman. A cis man is a person who was assigned man at birth and identifies himself as a man. Usually, the person also expresses their gender in a way that is generally coded for that gender, for example "male" or “female”.³⁴

Cis normativity An assumption that all people identify themselves with the sex they were assigned at birth, and live by the social norms of that gender (see cisgender/cis person).³⁵

Endosex A person with sex characteristics within the medical and social norms of the “male” and “female” bodies. Endosex is the opposite to intersex (see intersex variations).³⁶

³² Scherpe, J. M. (ed.) (2015), p. 2; Scerpe, J. M., Dutta, A. & Helms, T. (eds.) (2018)

³³ SOU 2017:92 pp. 61–66

³⁴ SOU 2017:92 pp. 61–66; RFSL (2019c)

³⁵ SOU 2017:92 pp. 61–66; RFSL (2019c)

³⁶ AHRC (2018)

Gender The term gender is used to distinguish between a person's "biological sex" and "social constructed gender". It became widespread by feminists in the 1970s to clarify the different social and cultural norms that influence one's gender. Today, the word is also used to talk about gender gaps and politics of gender, such as inequalities and violence. However, gender is more complex than "sex" and "gender". Gender identity and gender expression describe aspects of gender, and how they, and people around them, identify, express and perceive one's gender.³⁷

Gender expression A person's way to express their gender through clothing, body language, hair etc. It could also be based on bodily characteristics such as voice and body shape. The definition of trans persons also includes cis persons who use gender expression to express an opposite gender without necessarily identifying themselves with that gender, such as drag or transvestite (see transvestite).³⁸

Gender identity A person's self-perceived gender and how they identify themselves. This could be either man, woman or somewhere outside the binary structure, such as non-binary. There are a lot of different identities and Facebook users can choose between more than 70 gender identities.³⁹

Heteronormativity A system of social norms and an assumption that people are divided into two gender, men or women, and expected to act by the social norms of that gender. If you break the social norms of that gender, it could lead to "social punishments". Another word for these social expectations is stereotypes.⁴⁰

Intersectionality A term which describes the intersection and interrelatedness of power dimensions and discrimination regarding for example race, skin colour, gender, sexuality, class and ability.⁴¹

Intersex variations A person's sex characteristics and condition when bodies cannot easily be identified within the two biological sexes, man or woman. There are a large number of

³⁷ Scott, J. W. (2013); SOU 2017:92 pp. 61–66

³⁸ SOU 2017:92, pp. 61–66; RFSL (2019c)

³⁹ SOU 2017:92, pp. 61–66; Scerpe, J. M., Dutta, A. & Helms, T. (eds.) (2018), p. 65; RFSL (2019c)

⁴⁰ SOU 2017:92, pp. 61–66; RFSL (2019c)

⁴¹ Thomsen, C. & Finley, J. (2019); Halberstam, J. (2108), p. 13

intersex variations and the most common ones are variations in chromosomes (e.g. xxy), internal and external genitalia and hormone levels. Depending on which characteristics, around 0.5–1.5% of all new-borns have some kind of intersex variation. Intersex is the opposite to endosex (see endosex).⁴²

LGBTI An umbrella term for Lesbian, Gay, Bisexual, Trans and Intersex people. Sometimes a “Q” is added to the term which stands for Queer (see Queer) and other letters such as A (asexual) or P (pansexual).⁴³

Non-binary person An umbrella term for a spectrum of gender identities other than man or woman. This can include gender identities outside the two-sex system such as a combination of genders, both man and woman, neither of it, in between or beyond the binary gender. Intergender, genderqueer, gender fluid and no gender are some examples of such identities.⁴⁴

Queer An umbrella term under the LGBTI spectrum that is used by gender and sexual minorities to criticise social norms or stereotypes, such as cis normativity and heterosexuality, when it comes to sex, gender and sexual identity. Queer means “strange” and the main purpose is to not be categories.⁴⁵

Sex A person’s biological sex. Traditionally there are two biological sexes, male or female. They are identified primarily by chromosomes, internal and external genitalia and hormone levels. There are many sex characteristics to these two biological sexes (see intersex variations), and some argue that the two sexes, and the two-sex system, are a social product and that the biological sex is much more complicated (e.g. queer feminists and Judith Butler).⁴⁶

Sex segregation A system where people are divided into groups based on their binary sex, either “men” or “women”. It does not necessarily correspond to a person’s perceived gender identity.⁴⁷

⁴² SOU 2017:92, pp. 61–66

⁴³ SOU 2017:92, pp. 61–66; RFSL (2019c)

⁴⁴ SOU 2017:92, pp. 61–66; RFSL (2019c)

⁴⁵ SOU 2017:92, pp. 61–66; RFSL (2019c); Jagose, A. (2008), pp. 72-100

⁴⁶ SOU 2017:92, pp. 61–66; Otto, D. (2015), pp. 299–318; Travers, A. (2006), p. 433

⁴⁷ Love, A. (2014), pp. 376–383

SOGIESC An abbreviation for sexual orientation, gender identity/expression and sex characteristics.⁴⁸

Transgender/trans person An umbrella term for a person who breaks social norms when it comes to gender identity and gender expression. Trans is Latin for “on the other side” or “beyond” which is opposite to cis gender (see cisgender/cis person). It includes trans women, MTF (male to female), trans men, FTM (female to male), transsexuals (another word for trans women/trans men), transvestites, non-binary, genderqueer etc.⁴⁹ A person can be both trans and intersex at the same time.

Transvestite/cross-dresser A person who breaks social norms when it comes to gender expression (see gender expression).⁵⁰

2.2. Legal and political framework

In order to strengthen the human rights for, and include, trans and intersex people in Swedish amateur sport, it is crucial to understand the respect for international human rights law, protection from discrimination and the situation in Europe, Sweden and sports.⁵¹ Since the sport is global, the international community and its legal and political framework affects Swedish amateur sport.⁵²

2.2.1. Trans and intersex rights in international human rights law

“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.”

⁴⁸ ILGA (2017), p. 6

⁴⁹ SOU 2017:92, pp. 61–66

⁵⁰ SOU 2017:92, pp. 61–66; RFSL (2019c); Gender Wiki (2020)

⁵¹ SOU 2017:92, pp. 81–82

⁵² RF (2019c)

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁵³

Human rights are universal, inherent and apply to everyone, everywhere, without distinction. There is no legally binding treaty explicitly on LGBTI persons’ rights as for women, migrant workers and persons with disabilities.⁵⁴ However, international human rights law aims to respect, protect and fulfil the rights of every individual.⁵⁵ Therefore, trans and intersex people are entitled to all human rights just like everyone else, such as the right to life and security⁵⁶, freedom from torture and other cruel, inhuman or degrading treatment or punishment⁵⁷, respect for private and family life⁵⁸, health⁵⁹ and protection from discrimination⁶⁰. In international human rights law, states are the main duty bearers and individuals the right holders.⁶¹ Therefore, states have the obligation to protect trans and intersex people from, for example, discrimination, also from areas such as sports.

The human rights discourse is constantly changing and expanding over time and the situation for trans and intersex people has gained more attention in the beginning of the 21st century and their rights have been strengthened.⁶² Even if international conventions on human rights do not expressly mention protection against discrimination on basis of gender identity and intersex variations⁶³, several human rights bodies have pointed out that trans and intersex individuals are entitled to the equal enjoyment of human rights.⁶⁴ UN human right treaty bodies have played an important role in mainstreaming trans and intersex rights under the conventions.⁶⁵ A number of General Comments and periodical state reports from UN human right bodies point out that equality and non-discrimination on basis of gender identity and sex

⁵³ UDHR (1948), art. 1–2

⁵⁴ United Nations Treaty Collection (2020); CEDAW (1979); CMW (2003); CRPD (2008)

⁵⁵ OHCHR (1993), chapter 1, art. 1–5

⁵⁶ UDHR (1948), art. 3; ICCPR (1976), art.6, CRC (1990), art. 6, ECHR (1950), art. 2

⁵⁷ UDHR (1948), art. 5; ICCPR (1976), art. 7; ECHR (1950), art. 3

⁵⁸ UDHR (1948), art. 12; ICCPR (1976), art. 17; CRC (1990), art. 16; ECHR (1950), art. 8

⁵⁹ UDHR (1948), art. 25; ICESCR (1976), art. 12; CRC (1990,) art. 17, 23 and 24; CRPD (2008), art. 25; ESC (1996, revised), art. 11 and 13

⁶⁰ ICESCR (1976,) art. 2; ICCPR (1976), art. 26; ECHR (1950), art. 14; CRC (1990), art. 2

⁶¹ UDHR (1948), art. 1–2; OHCHR (1993), chapter 1, art. 1–5

⁶² Dondoli, Giulia (2019)

⁶³ UDHR (1948), art. 2; ECHR (1950), art. 14; ICCPR (1976), art. 26; ICESCR (1976), art. 2; CRC (1990), art. 2; Van den Brink, M. & Dunne, P. (2018), pp. 36–37

⁶⁴ SOU 2017:92, pp. 81–82; A/HRC/RES/17/19, preamble

⁶⁵ Van den Brink, M. & Dunne, P. (2018), P. 37

characteristics are covered under “other status”. In General Comment No. 20 on Non-discrimination in Economic, Social and Cultural Rights from 2009, the Committee recognizes gender identity as a basis for discrimination and that the convention protects individuals from such discrimination.⁶⁶ The Committee to the Convention on the Elimination of Discrimination against Women (CEDAW) has on several occasions interpreted the Convention with an intersectional perspective on women’s rights to include gender identity and sex characteristics. General Recommendation No. 28 on the core obligations of states parties under article 2 of the Convention (e.g. prohibition of discrimination) states that,

*”Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, sexual orientation and **gender identity**.”*⁶⁷

The Committee on the Rights of the Child mentioned protection from discrimination on basis of gender identity in General Comment no.15 on the child’s right to health in 2013. Every child has the right to express its gender identity.⁶⁸ The situation for intersex children was recognised by the Committee in General Comments No. 20 on the rights of the child during adolescents in 2016.⁶⁹ The Committee clarifies that all children, under the age of 18, regardless of gender identity and intersex variations, are protected under the Convention on the Rights of the Child (CRC) and have equal access to the convention rights such as the four main guiding principles, the right equality and non-discrimination (art. 2), the best interest of the child (art. 3), the right to survival and development (art. 6) and the right to participation (art. 12).⁷⁰

2.2.2. The Yogyakarta Principles

The Yogyakarta Principles (YP) were developed by human rights experts in 2006. There are 29 guiding principles on how to understand and apply international human rights law in

⁶⁶ E/C.12/GC/20 (2009), para. 32

⁶⁷ CEDAW/C/GC/28, para. 18; SOU 2017:92, pp. 88–89

⁶⁸ CRC/C/GC/15 (2013), para. 8

⁶⁹ Sandberg, K. (2018), pp. 517-525; CRC/C/GC/20 (2016), para. 33–34

⁷⁰ Sandberg, K. (2018), pp. 517-525

relation to sexual orientation and gender identity. In 2017, another 10 complementary principles (YP+10) were added, as well as additional state obligations to previous principles, to include a wider guideline on sexual orientation and gender identity and additional perspectives on gender expression and sex characteristics.⁷¹ The principles are not legally binding but have come to influence the discourse of international human rights law and the development of LGBTI persons' rights, by strengthening the link between LGBTI rights and the international human rights law. They give additional LGBTI perspectives on human rights such as the right to universal enjoyment of human rights, equality and non-discrimination, recognition before the law, life and security, freedom from torture and cruel, inhumane or degrading treatment or punishment, health, protection from medical abuses, peaceful assembly and association, legal recognition, bodily and mental integrity, autonomy, self-determination and sanitation.⁷² Over time, the principles have been more recognized by monitoring bodies and experts in the field.⁷³ In the abolition of the Swedish sterilization requirement as a condition for confirmed gender affiliation for trans people in 2013, the Swedish government referred to the YP.⁷⁴

2.2.3. The right to gender identity, bodily and mental integrity and self-determination

Apart from the rights mentioned in 2.2.1., the YP, several UN human rights treaty bodies and human rights advocates argue that rights, such as the right to gender identity⁷⁵, bodily and mental integrity⁷⁶ and individual self-determination⁷⁷ are protected by international human rights law.⁷⁸ Individual self-determination means that every human being has the freedom to decide over its own body and life and no one can interfere with that ownership, not even the state. Self-determination is a part of the “inherent dignity” that the preamble of the UDHR states.⁷⁹ In several court decisions by the European Court of Human Rights (ECtHR), self-determination is argued to be closely related to “personal autonomy” and falls under the right

⁷¹ Yogyakarta Principles (2016); TGEU (2018); SOU 2017:92, pp. 92-95

⁷² Thoreson, R. R. (2009), pp. 323–339

⁷³ O’Flaherty, M. (2015), pp. 280–298

⁷⁴ Regeringen (2012), DS 2012:46

⁷⁵ Yogyakarta Principles (2016); TGEU (2018)

⁷⁶ YK+10 (2017), principle 32; General Comment No. 35 on art. 9 of the ICCPR; CRC (1990) art. 19

⁷⁷ UDHR (1948) art. 1; ECHR (1950), art. 8; A/HRC/31/57 (2016), para. 49; OHCHR (1993), chapter 1, art. 2

⁷⁸ Pikramenou, N. (2019), pp. 46–52

⁷⁹ OHCHR (1993), chapter 1, art. 2

to private life in the Convention.⁸⁰ In *Van Kück v. Germany*, which concerns an applicant's (trans person) right to define her gender identity, the Court means that the state has to respect her right to gender identity. It is one of the most personal areas of one's privacy and “personal autonomy”. The right to gender identity is seen as one of the most fundamental elements of self-determination.⁸¹ For trans advocates, one top priority is to recognize everyone’s inherent gender identity. Everyone should have the right to be recognized before the law, without sex reassignment surgery or sterilisation. Another top priority for trans people is gender affirming health care.⁸² For intersex advocates it has always been urgent to ban body surgeries on intersex children to protect from violations of human rights such as the right to bodily and mental integrity, psychical autonomy, self-determination and health.⁸³ The Committee on the Rights of the Child stated in 2015, for the first time, that such surgeries are harmful practices and violate the bodily integrity.⁸⁴

2.2.4. The right to participate and enjoy sport

Another right that several advocates have argued the need to be more expressly defined in international human rights law is the right to participate and enjoy sport.⁸⁵ However, even though the right to participate and enjoy sport is not explicitly stated as a human right it is partly covered by several international conventions. The Olympic Charter has stated that “*the practice of sports is a human right. Every individual must have the possibility of practicing sports without discrimination of any kind*”.⁸⁶ In 1948, the UDHR recognised “*the right to rest and leisure*”.⁸⁷ Later on, the CRC recognised “*the right of the child to rest and leisure, to engage in play and recreational activities*”,⁸⁸ the CEDAW “*the right to participate in recreational activities, sports and all aspects of cultural life*” (equality of men and women)⁸⁹ and the Convention on the Rights of Persons with Disabilities (CRPD) “*to enable for persons with disabilities to participate on an equal basis with others in recreational, leisure and*

⁸⁰ Pikramenou, N. (2019), pp. 49–51

⁸¹ *Van Kück v. Germany*, ECtHR (2003), para. 73

⁸² Yogyakarta Principles (2016); YK+10 (2017); Pikramenou, N. (2019), pp. 49–51

⁸³ Pikramenou, N. (2019), p.43

⁸⁴ CRC/C/CHE/CO/2–4 (2015), para. 42–43

⁸⁵ ICSSPE (2013); Ruiz, A. (2018)

⁸⁶ Olympic Charter (2019), Fundamental Principles, para. 4

⁸⁷ UDHR (1948), art. 24

⁸⁸ CRC (1990), art. 31

⁸⁹ CEDAW (1979), art. 13

sporting activities”.⁹⁰ In the YP+10 from 2017, an additional state obligation under principle 2 was added to ensure participation in sport on grounds of SOGIESC. They call sport organisations to adopt inclusive policies, legislative and incorporate the YP and the YP+10.⁹¹

The Olympic Charter argues that sports should be held in “*a spirit of friendship, solidarity and fair play*”.⁹² The mission of the International Olympic Committee (IOC) is not only to organize the Olympic Games but to increase the access to sports for all people “*regardless of sex, age, social background or economic status (...)*”.⁹³ According to the UN, sport is a tool to promote education, health, development and peace.⁹⁴ The UN Inter-Agency Task Force on Sport for Development and Peace defines sport as, “*all forms of physical activity that contribute to physical fitness, mental well-being and social interaction, such as play, recreation, organized or competitive sport, and indigenous sports and games*”.⁹⁵ It is a wide area that extends to both professional and amateur sport, organized and unorganized forms, and has large impact on several areas of human life. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, argues that the right to health includes the right to participate and enjoy sport. No one should be deprived the right to sports and governments, NGOs and sport organisations (e.g. the IOC and FIFA) have a responsibility to ensure this and adopt inclusive policies.⁹⁶ Ban Ki-moon, the previous UN Secretary-General, stated in 2014 that “*sport is a low-cost, high-impact tool*”.⁹⁷ With its “low-costs”, sport can have “high-impacts” on human rights, such as the right to education, health, development and peace.⁹⁸ Similar to the Olympic Charter, YP and the Special Rapporteur,⁹⁹ the Secretary-General meant that the right to participate and enjoy sport is interrelated to, and a good way to promote, other human rights. Sport is characterized by strong values that bind people together such as (1) inclusion, (2) equality, (3) respect and (4) fairness.¹⁰⁰ These are also fundamental values of the Swedish sport movement (see 2.3.).

⁹⁰ CRPD (2008), art. 30

⁹¹ Karsay, D. (2018), p. 111–116

⁹² Olympic Charter (2019), Fundamental Principles, para. 4

⁹³ IOC (2020a); IOC (2020b)

⁹⁴ A/73/325 (2018); A/RES/67/296 (2016)

⁹⁵ Pikramenou, N. (2019), p. 68

⁹⁶ A/HRC/32/33 (2016), para. 85–100

⁹⁷ UN Secretary-General (2014)

⁹⁸ UN Secretary-General (2014)

⁹⁹ Dagkas, S & Armour, K (2012), pp. 1–20

¹⁰⁰ UN Secretary-General (2014); Olympic Charter (2019), Fundamental Principles, para. 4; Ruiz, A. (2018)

2.2.5. Trans and intersex rights in Europe

In 2010, the Committee of Ministers of the Council of Europe (CoE) adopted a recommendation to its member states to protect from discrimination on basis of sexual orientation and gender identity. The recommendation calls, inter alia, to take appropriate measures to combat discrimination, violence and transgressions against trans people through legislation, policies and practices.¹⁰¹ It states that homophobia, transphobia and discrimination in sports are unacceptable and must be combated. Sport activities and facilities should be accessible to all and dialogue with sport organisations should be conducted by the member states to raise awareness against discrimination.¹⁰² Despite this, the situation for trans and intersex people does not seem to have changed noteworthy during the last ten years.

Lately, the UN Human Rights Council has pointed out the seriousness of the situation with violence and discrimination on trans and intersex people.¹⁰³ The European Union Agency for Fundamental Rights (FRA) stated in its most recent report from 2020 that, there is “a long way to go for LGBTI equality” in Europe.¹⁰⁴ The result shows that, trans and intersex people face discrimination, harassments and physical and sexual violations across the EU. It is still a widespread threat in their everyday life throughout many sectors such as at work, in schools, cafés, bars, shops, housing-hunting and health care systems. Young people are more exposed to these violations than older LGBTI people. The competence and treatment from politicians, leaders and civil society is low and affects their life. However, they see more individuals standing up and allying with LGBTI rights in, for example, schools.¹⁰⁵ According to the survey, trans and intersex people are more exposed than the rest of the LGBTI group. In the last five years before the study, 55% of the trans and 59% of the intersex respondents faced discrimination in the sectors mentioned above, compare to 28-39% among the rest of the group.¹⁰⁶ Another survey from 2012 shows that 26% of trans people in the EU have been personally discriminated in sports during the previous twelve months.¹⁰⁷ The FRA urges for, once again, policy and decision-making from states and leaders to strengthen LGBTI rights.¹⁰⁸

¹⁰¹ The Committee of Ministers (2020), recommendation CM/Rec(2010)5

¹⁰² SOU 2017:92, p. 108

¹⁰³ SOU 2017:92, pp. 95–98

¹⁰⁴ FRA (2020)

¹⁰⁵ FRA (2020), p. 5

¹⁰⁶ FRA (2020), p. 20

¹⁰⁷ FRA (2012), pp. 34–42

¹⁰⁸ FRA (2020), p. 9

In recent years, several action plans on LGBTI equality have been adopted by the EU and the European countries. The awareness on LGBTI rights and the focus on legal gender recognition have increased.¹⁰⁹ Some countries have taken steps to improve the rights, inter alia, by allowing non-binary legal gender recognition procedures such as Denmark, Malta, the Netherlands, Germany and Austria. However, in most countries trans people still need a diagnosis to be allowed binary or non-binary legal gender recognition procedures. In some countries neither formal procedures are allowed such as in Bulgaria, Cyprus, Latvia, Liechtenstein and Lithuania, although some individuals have been allowed their third gender. Most countries have national non-discrimination laws that cover, or partly cover, trans and intersex people. Generally, the legal protection for binary trans, non-binary and intersex people are relatively weak in the EU.¹¹⁰ We also see backlashes against gender equality and LGBTI rights in some countries, such as Poland and Hungary where political majorities, driven by populist and nationalist values, run hate campaigns and vote for anti-democratic laws such as “LGBTI free zones”.¹¹¹

In primary legislation, for example, the European Convention on Human Rights (CoE) from 1950, and the Charter of Fundamental Rights (EU) from 2009, there is no expressed protection against discrimination on the basis of gender identity and sex characteristics.¹¹² However, secondary sources, such as case law, include trans and intersex people and the ECtHR have since 2010, *PV v Spain* (2010), acknowledged that trans people are definitely covered under article 14 of the Convention.¹¹³ The European Union has from the start been founded on common values such as democracy, freedom, equality, rule of law and respect for human rights. The European Court of Justice (ECJ) has on several occasions acknowledged equal protection on trans people, for example, *P v. S and Cornwall County Council* from 1996.¹¹⁴ However, intersex people remain invisible by the two Courts and their protection can be found only in policy documents and on national levels.¹¹⁵

¹⁰⁹ EP (2019); EC (2015); EC (2018); Van den Brink, M. & Dunne, P. (2018)

¹¹⁰ Van den Brink, M. & Dunne, P. (2018), pp. 31, 40–67, 108–110; TGEU (2017b)

¹¹¹ Karsay, D. (2018), pp. 7, 10, 60 & 155; Euronews (2020); Independent (2019)

¹¹² ECHR (1950), art. 14; EU charter (2012), art. 21; Van den Brink, M. & Dunne, P. (2018), pp. 40–67

¹¹³ *P.V. v Spain* (2010), Decision of the Court; Van den Brink, M. & Dunne, P. (2018), pp. 40–49

¹¹⁴ *P v. S and Cornwall County Council* (1996), the Court

¹¹⁵ Van den Brink, M. & Dunne, P. (2018), pp. 40–49; Pikramenou, N. (2019), pp. 139–163

2.2.6. Trans and intersex rights in Sweden

In 1972, Sweden was the first country to introduce a legal gender recognition law which allowed trans people to change the legal binary sex assigned at birth.¹¹⁶ Since then, Sweden has removed the requirements on sterilisation and divorce within the procedure, but trans people still need a diagnosis, gender dysphoria, to access the confirmatory health care and there are long waiting times to get in.¹¹⁷ Despite this progress, the situation for trans and intersex people in Sweden looks worrying and Sweden has, inter alia, been criticised for its medical surgeries on young intersex children.¹¹⁸ The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment argues in a resolution from 2016 that, involuntary sterilization and hormone treatment on trans and intersex children are forms of tortures and states often fail to protect LGBTI people from such violent crimes.¹¹⁹ In 2015, the Committee on the Right of the Child expressed its concern about LGBT children being exposed to bullying, threats and violence in Sweden.¹²⁰ Several organisations in the civil society require a non-binary legal gender recognition procedure,¹²¹ and some argue that it is noteworthy that although Sweden has eliminated a lot of gender-based divisions in Swedish law, there is still no such procedure.¹²² The government has also got criticised for the lack of such procedure in shadow reports for the third Universal Periodic Review by the Human Rights Council in January 2020.¹²³

Similar to the situation in the rest of Europe, trans and intersex people face discrimination, harassment and physical and sexual violence on a daily basis in Sweden. A health survey by Transgender Europe (TGEU) from 2017, showed that 51% of non-binary people perceived their own health as bad compared to 30-33% of trans women and trans men. Only 3,5% of non-binary said that they can always live according to their gender identity and 54% said that they have thought about committing suicide in the past year.¹²⁴ According to a recent survey on the LGBTI group from West Pride in 2020, 39% faced discrimination (similar to the

¹¹⁶ Pikramenou, N. (2019), pp. 202–203

¹¹⁷ TGEU (2017a), pp. 61–70

¹¹⁸ SOU 2017:92, pp. 800–801

¹¹⁹ A/HRC/31/57 (2016), para. 42–50

¹²⁰ CRC/C/SWE/CO/5, para. 16

¹²¹ RFSL (2019b)

¹²² Pikramenou, N. (2019), p. 203

¹²³ RFSL (2019b); FN-Förbundet (2019), p. 12

¹²⁴ TGEU (2017a), pp. 10–22

situation in the rest of Europe according to FRA).¹²⁵ When the Swedish Discrimination Act was updated in 2009, protection against discrimination on basis of gender identity and expression was introduced in the law. Today it includes sex, gender identity/expression, ethnicity, religion or other belief, disability, sexual orientation and age.¹²⁶ On January 1st, 2020, the CRC was incorporated into Swedish law and requires self-determination, gender identity and bodily and physical integrity on every child. All decision-making and policies concerning children need to be based on a child-based approach and take the best interest of the child into account.¹²⁷

2.2.7. Trans and intersex in sex-segregated and male-dominated sports

Despite the good impacts that sport has on other human rights and the inclusive legal and political initiatives in recent years, sport is a hostile area to many trans and intersex people, where human rights violations appear.¹²⁸ LGBTI people in general, and trans and intersex people in particular, tend to refrain from and quit sport activities due to a number of factors. According to a survey from 2019 by the German Sport University in Cologne, with more than 5.500 LGBTI respondents in Europe, 33% of LGBTI people in Europe remain completely closeted in their sport context, 20% of LGBTI people refrain from participating in a sport of interest due to their sexual orientation and/or gender identity and more than a half of the respondents (54%) have felt excluded or quit a sport due to their gender identity in the last 12 months.¹²⁹ The survey shows that LGBTI people frequently face multiple negative personal experiences such as verbal insults, structural discrimination, e-bullying and physical violence on the basis of sexual orientation and/or gender identity. One fifth (20%) have experienced physical violence at least one time during the last year. However, the two most common forms in sport contexts are verbal insults and structural discrimination. Structural discrimination occurs more often to trans people than the rest of the group and 86% say that they have experienced such discrimination at least one time during the last 12 months.¹³⁰

¹²⁵ West Pride (2020), p. 10

¹²⁶ DO 2008:567

¹²⁷ Regeringen (2020); Peleg, N (2019), pp. 135-139

¹²⁸ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–86; Love, A. (2014), pp. 376–383

¹²⁹ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

¹³⁰ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

In Sweden, 15% of LGBTI people experience discrimination on a daily basis within their sport associations according to the survey from West Pride in 2020.¹³¹ Another survey from 2013, states that LGBTI people in Sweden experience structural discrimination such as sex-segregated teams, locker rooms, verbal insults, dress codes and lack of role models and knowledge.¹³² In 2008, the US had more than 500 court cases on sex discrimination in sports such as coaching, sexual harassments and around 10% were due to sex segregation.¹³³ In 2017, the Swedish discrimination Ombudsman (DO) examined sex-segregated school sport and found that *"the way in which students are divided by sex in sport education at school can expose some to discrimination based on sex/gender, gender identity or gender expression."*¹³⁴

The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stated in 2016, that sports often exclude intersex (especially intersex women), trans and non-binary athletes to participate because of structural discrimination, such as sex segregation.¹³⁵ According to a resolution from the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment from 2016, LGBTI people can suffer from sex segregation within several sectors such as prisons and the judiciary.¹³⁶ However, Love argues that few areas uphold a more sex-segregated structure than sports, *"a system based on a static and binary understanding of sex has presented considerable barriers to the participation of intersex and transgender athletes."*¹³⁷ When the first modern Olympic Games were introduced by Pierre de Frédi (1863-1937) in the late 19th century, only men could participate. During the 20th century, women's participation increased and challenged the patriarchal structures. In the 80s, at the same time as the second feminist wave, it increased rapidly, and more professional sports allowed women's classes. Today, women are still struggling to participate on equal grounds in male-dominated sports, both in professional and amateur sport, and their participation is valued less than men's - socially, culturally and economically.¹³⁸ Even if sex segregation might have played a significant role in empowering women's and girls' participation and gender equality in sports, the structure must not exclude others.¹³⁹

¹³¹ West Pride (2020), p. 10

¹³² Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–89

¹³³ McDonagh, E. & Pappano, L. (2008), pp. 8–15

¹³⁴ DO GRA 2017/56

¹³⁵ A/HRC/32/33 (2016), para. 53–61

¹³⁶ A/HRC/31/57 (2016), para. 42–50

¹³⁷ Love, A. (2014), pp. 376–383

¹³⁸ Nunes, R. A. (2019), pp. 674–683; McDonagh, E. & Pappano, L. (2008), preface

¹³⁹ IOC (2020a); IOC (2020b); A/HRC/32/33 (2016), para. 50–73; Kamasz, E. (2018)

2.3. The Swedish sports movement

The Swedish sports movement is built on voluntary commitments and the largest “*folkrörelse*” (“people’s movement”) in Sweden. The RF is the Swedish sport movement’s umbrella organisation which aims to support, represent, develop and lead the movements common issues, nationally and internationally. It was founded in 1903 and has more than 3,1 million members within 19 districts (RF-SISU), 72 member associations (special sport associations, SF) and more than 19,000 sport associations. The RF-SISU have the same roles as the RF on the regional and local levels. The RF support and lead the movement based on its values, strategy and goals, and represent the movement towards authorities, politicians and society.¹⁴⁰ A state proposition from 1998 states that the movement itself should set goals for its activities and the government should only interfere through purposes of the economic aid. However, a proposition from 2008 added that the sports movement should also adopt child rights-based approach to youth sport.¹⁴¹

Lately, there has been improvements to address trans and intersex issues by the RF. In 2013, a specific policy against discrimination of sexual orientation, gender identity and expression was adopted by the RF. All the 72 SFs have agreed on guidelines for inclusive child and youth sports based on the CRC.¹⁴² In “*Strategi 2025*” the sports movement talks about the need for a fundamentally change in Swedish amateur sport and focuses on “a new view of practice and competition, the modern association engages, strengthened leadership, gender equality for a successful sport and inclusive sports for all”. Although the trans perspective is not explicitly highlighted, there is an on-going process to include LGBTI people.¹⁴³ In the sport movement's idea program from 2009 “*Idrotten vill*”, and in the statute of the RF from 2019, the movement describes its joint mission, vision and values. These should guide all sports and their activities, within the affiliates and the member associations. Apart from living up to the UN Declaration on Human Rights and the Convention on the Rights of the Child, the mission is to “*practice sport in associations to have fun, feel good and develop throughout our lives*” and the vision is to “*be the best sport movement in the world for*

¹⁴⁰ RF (2018)

¹⁴¹ SOU 2017:92, pp. 358–369

¹⁴² RF (2019d)

¹⁴³ RF (2017), RF (2013)

everyone at all levels". To achieve this the movement came up with four guiding and fundamental values which are (1) joy and fellowship, (2) democracy and participation in association activities, (3) everyone's right to participate and (4) fair play.¹⁴⁴

¹⁴⁴ RF (2019a), chapter 1, para. 1

3. Theoretical framework

This section presents the theoretical framework such as intersectionality, queer- feminist theory and the theories behind the structural framework “sports beyond sex”. These theories will be useful when analysing and discussing the empirical data.

3.1. Intersectionality

Discrimination can appear on basis of more than one ground and when it occurs it is called “multiple discrimination” or “intersectional discrimination”.¹⁴⁵ In the American TV reality series “Ru Pauls drag race”, they refer to the use of the derogatory word ”tranny” to the oppression of brown/black trans people. The oppression has affected people based on their gender, but also their race, colour, class and sexuality.¹⁴⁶ Ronda Reves means that, for example, Afro American women often face discrimination because of both their gender and race. They can experience sexism and racism just as black trans people can experience racism and transphobia. Therefore, Reves argues that they are particularly vulnerable to the damage of insults and harassments in sport contexts where they often are coached by white superior men.¹⁴⁷ A human being has several characteristics such as race, class, religious background, sexuality, nationality and sex. Depending on the prevailing systems of social norms, for example white privilege and heteronormativity, several systems of power, such as racism, sexism, homophobia or transphobia, can intersect and affect one person or a group at the same time, which is *intersectionality*.¹⁴⁸ Caster Semenya, the South African runner, was sex tested and excluded because of her intersex variations (see 3.3.3). Similar has happened to several non-white female athletes throughout the history, such as the Spanish hurdler Maria José Martínez Patiño in the 80s, the Indonesian volleyball player Aprilia Santini Manganang in 2015 and the Indian runners Duree Chand and Santhi Soundarajan, both in the early 21st century. Soundarajan even attempted suicide because her support got cut-off in 2007.¹⁴⁹ Alice Dreger argues that sex testing is an attempt by the Olympic and other organisations, primarily by superior white men, to restrict women, especially non-white intersex women, from being

¹⁴⁵ Fredman, S. (2016), pp. 7–12

¹⁴⁶ Halberstam, J. (2108), p. 13

¹⁴⁷ McDonagh, E. & Pappano, L. (2008), pp. 4–5

¹⁴⁸ McDonagh, E. & Pappano, L. (2008), pp. 4–5; Thomsen, Carley, & Finley, Jessyka (2019)

¹⁴⁹ Parks Pieper, L. (2019), pp. 156–164

“too strong”. However, it does not happen to all women, certainly not to men.¹⁵⁰ Sex tests on intersex women have therefore been heavily criticised by the UN Human Rights Council.¹⁵¹

3.2. Queer feminist theory - away from the two-sex system

In the 1970s, feminists started to make a distinction between “sex” and “gender”. Sex is the biological and physical characteristics, while gender is socially constructed, how people perceive and shape gender. The feminist theory is based on a binary understanding of sex and what is “femininity” and “masculinity”.¹⁵² Ever since, the feminist movement has fought for gender equality in terms of equal salaries, conditions and opportunities, inter alia, in sports. At the same time, the movement has been upholding a two-sex system. As more trans and intersex people become visible in societies, the deeply rooted two-sex system in many social institutions, including sports, are being challenged.¹⁵³ The queer theory bases its analysis on sexualities and identities, rather than the classic feministic approach based on sex/gender. Michael Foucault means that also sexuality is socially constructed but strongly affected by gender binary, such as heterosexuality, homosexuality and bisexuality. The queer theory criticises social norms, such as heteronormativity and the two-sex system, and recognizes the uniqueness, diversity and fluidity of sexualities, gender identities, expressions and sexes/genders beyond the two-sex system. Judith Butler argues that both “sex” and “gender” show strong influences of social influences and a binary understanding is unnecessary.¹⁵⁴

Gonzalez-Salzberg claims that the whole legal system of international human rights law is based on a binary understanding of human being,¹⁵⁵ and Diana Otto agrees that it is based on the binary understanding of sex/gender. However, the YP takes a queerer approach and state that everyone has an inherent gender identity. A new approach that LGBTI people have been eager to explore for a long time.¹⁵⁶ Otto clarifies that feminism has not neglected sexual freedom, the criticism of heteronormativity and social construction of sex/gender, but the queer theory is a further development from feminism.¹⁵⁷ Otto calls for a cooperation between

¹⁵⁰ Dreger, A. (2008)

¹⁵¹ A/HRC/32/33 (2016), para. 53–61; OHCHR (2018)

¹⁵² Kamasz, E. (2018)

¹⁵³ Travers, A. (2006), p. 431

¹⁵⁴ Gonzalez-Salzberg, D.A. (2018), pp. 1–18

¹⁵⁵ Gonzalez-Salzberg, D.A. (2018), pp. 1–18

¹⁵⁶ Otto, D. (2015), pp. 299–318

¹⁵⁷ Otto, D. (2018), p. 6

these two discourses and a queer feminist movement. Only together can they challenge the two-sex system, loosen up the binary structure and move towards gender diversity, for example, in sports.¹⁵⁸ Judith Lorber instead calls for a “feminist degendering movement” and argues, like Shulamith Firestone, that “*the end goal of feminist revolution must be not just the elimination of male privilege but of the sex distinction itself*”. Instead of gender diversity, Lorber talks about gender neutrality and to “use gender to undo gender”. Lorber admits that women [and trans and intersex] must achieve a high level of equality for it to be effective to eradicate sex/gender.¹⁵⁹ Otto and Lorber represent two different ways, gender diversity and gender neutrality, but with the same goal, to liberate people. The liberation movement for trans and intersex people is not a “one-way” but diverse. It is a diverse group of identities, sexualities and sexes. For some trans activists the solution is a transition within the two-sex system and gender confirmatory surgeries. For intersex activists one major fight is to ban medical surgeries. However, for most trans and intersex advocates, as for queer feminists, the liberation is to go away from the two-sex system.¹⁶⁰

3.3. Sports beyond sex

The theories behind the structural framework “sports beyond sex” are based on an intersectional and queer feminist approach.

3.3.1. The right to participate

Structural discrimination for trans and intersex people can be found in most sectors of society.¹⁶¹ In sports, sex segregation is one form and can be seen in several ways, for example through *sex-segregated teams* and *divided locker rooms* (see also 3.3.2. and 3.3.3.). Similar structure can be found in a lot of sports, on all levels, during both practice and competition.¹⁶² Some sports do not divide athletes based on sex, such as horse riding, roller derby and quidditch.¹⁶³ Some practice together and compete separately, which is the case in several individual sports such as athletics and swimming. However, a lot of sports divide athletes in a

¹⁵⁸ Otto, D. (2015), pp. 299–318

¹⁵⁹ Lorber, J. (2000), pp. 79–95

¹⁶⁰ Travers, A. (2006), pp. 431–436

¹⁶¹ FRA (2020), p. 5

¹⁶² A/HRC/32/33 (2016), para. 42–73; Love, A. (2014), pp. 376–383

¹⁶³ FEI (2018); WFTDA (2020), O. Segrave, J. (2016)

young age and make them practice and compete based on their sex,¹⁶⁴ which is often the case in school sports.¹⁶⁵ This might force them into a category they do not feel comfortable, or identify themselves, with.¹⁶⁶ Especially non-binary people are frequently denied access to sports due to sex segregation.¹⁶⁷ Several researchers believe that sex segregation in sports is socially constructed and nothing justify a division at a young age. However, some researchers, such as Torbjörn Tännsjö, go further and argues that sex segregation is always discriminatory.¹⁶⁸ According to McDonagh and Pappano, sex segregation can take several forms.

- (1) Different sports for males and females (e.g. sports that are stereotypically gendered)
- (2) Same sports but sex-segregated teams (e.g. most team sports)
- (3) Same sports but sex-segregated teams and/or rules (e.g. “female versions of rules”)
- (4) Same sports but gender stereotyped styles (e.g. designed for “female” or “male” attributes)
- (5) Same sports but with stereotypical sex role rules (e.g. pair dance)
- (6) Sex-segregated structure (e.g. competing together but with a male-dominated focus)¹⁶⁹

Horse riding

There are several movements in sports that challenge the gender binary and the sex segregation. Horse riding is a well-known sport and “a leader in equality”. According to the president for the FEI, Ingmar De Vos, horse riding “*simply has no gender division*”. De Vos continues by stating that “*we went through our gender revolution decades ago*”. Women were first permitted to compete in the middle of the 20th century. Back then there was a lot of resistance. However today, everyone practices and competes together for the same medals, on both an amateur and elite level, regardless of gender.¹⁷⁰

Lesbian softball league and roller derby

Apart from horse riding there are several interesting initiatives in sports to look at from a queer feminist perspective, such as the lesbian softball league and roller derby. The lesbian

¹⁶⁴ Love, A. (2014), pp. 376–383; O. Segrave, J. (2016); Groen, M. (2016)

¹⁶⁵ Caudwell, J. (2014), pp. 403–404

¹⁶⁶ A/HRC/32/33 (2016), para. 53; Kamasz, E. (2018)

¹⁶⁷ Caudwell, J. (2014), pp. 406

¹⁶⁸ Darj, F., Piehl, M. & Hjelte, F. (2013), p. 96

¹⁶⁹ McDonagh, E. & Pappano, L. (2008), pp. 8–15

¹⁷⁰ FEI (2018)

softball league and roller derby (roller skating) challenge the gender binary and stereotypes with its anti-sexism and women-only spaces. They derive from both a feminist liberation.¹⁷¹ Roller derby has its roots back in the beginning of the 20th century, but modern derby started to spread in the beginning of the 21th century, when it also came to Sweden.¹⁷² Lesbian softball league grew larger during the 1960-70s. Today, there are a lot of roller derby teams and lesbian softball leagues in the US, Canada and world-wide. Both sports aim to be a haven for woman and LGBTI people and rarely allows cis men's participation. They normally have inclusive approaches to trans and intersex people and represent a diversity of gender identities and sexualities. However, Ann Travers means that it is easier for MTF, than for FTM, trans people to participate in lesbian softball league due to the fact that it has maintained the two-sex system. Because of its women-only spaces it is harder for trans men to participate. Even if the sports empower women and LGBTI people's participation, Travers is doubtful whether it necessarily challenge the institutionalized male-dominated sports.¹⁷³

Gay Games

Another important and empowering space for LGBTI athletes is the Gay Games, an international federation that, inter alia, arrange championships for LGBTI people. It started in 1982 and wants to be an inclusive space for LGBTI people and challenge sports organisations and governments to “*create more opportunities for athletes regardless of gender, age, ability or physical challenge*”.¹⁷⁴ However, the athletes compete based on sex, but the games has a more progressive approach to self-identification for trans and intersex, compare to the IOC policy. Travers also criticizes this separatist space for not being an effective way for queering the sports.¹⁷⁵ Despite this, we see a larger number of similar LGBTI initiatives, such as OutGames, EuroGames and LGBTI sport organisations like Stockholm Snipers in Sweden.¹⁷⁶

Quidditch

Another interesting sport to look at from a queer perspective is quidditch, the competitive sport in the Harry Potter books featured by J. K. Rowling. Rowling has several times been criticized for a non-progressive approach to gender representation.¹⁷⁷ In 2020, several of

¹⁷¹ Travers, A. (2006), pp. 435–438

¹⁷² WFTDA (2019)

¹⁷³ Travers, A. (2006), pp.431–438; Caudwell, J. (2014), pp. 409

¹⁷⁴ International Federation of Gay Games (2020)

¹⁷⁵ Travers, A. (2006), pp. 436–437

¹⁷⁶ OutGames (2017); EuroGames (2020); QX (2017)

¹⁷⁷ O. Segrave, J. (2016), pp. 1303–1304

Rowling's Twitter-tweets were criticized for being anti-trans.¹⁷⁸ However, one thing in Rowling's books, namely quidditch, actually challenges the gender binary. The sport of quidditch offers full gender equality without sexism and does not divide the teams based on sex. The Gryffindor team, at Hogwarts School of Witchcraft and Wizardry, even shares the locker room and it is unclear whether the boys and girls also share showers. On a professional level, in the Quidditch World Cup, women and men compete together. In a subtle way, Rowling provides the reader a new gender-neutral approach to sports. Today, quidditch is not just a fictional sport in the Harry Potter books, but a muggle's sport on both a professional and amateur level. Similar to the fictional version of quidditch, muggle quidditch works hard for gender equality, diversity and inclusion for all. Every team has to follow the "two-minimum rule" which is "*each team must have at least two players in play who identify with a different gender than at least two other players*".¹⁷⁹ It offers an inclusive approach to both the LGBTI community and straight cis women and men. Similar to lesbian softball league, roller derby and Gay Games, quidditch is a young sport that has "built a safe, inclusive and respectful community" from the start. But similar to horse riding, it does not rely on the two-sex system and offers sport beyond sex.¹⁸⁰

Divided locker rooms

According to the Special Rapporteur on the human right to safe drinking water and sanitation, divided locker rooms is a risk to exclusion, humiliation and violence.¹⁸¹ It causes many problems to LGBTI people and the lack of locker rooms for trans and intersex people is a main reason why the group avoid gyms, swim and sports facilities.¹⁸² The DO has also received several reports from trans people who felt discriminated in locker rooms such as swim facilities.¹⁸³ The study "*LGBTI and sports*" from 2013 argues that divided locker rooms invite stereotypes, gender roles and cis-normativity and forces trans and intersex people away from sports.¹⁸⁴

3.3.2. The right to equal enjoyment

¹⁷⁸ New York Times (2020)

¹⁷⁹ O. Segrave, J. (2016), pp. 1303–1312

¹⁸⁰ O. Segrave, J. (2016), pp. 1303–1312

¹⁸¹ A/HRC/33/49, para. 4

¹⁸² SOU 2017:92, p. 354–355

¹⁸³ SOU 2017:92, p. 354–357

¹⁸⁴ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 73–75

Apart from *sex-segregated teams* and *divided locker rooms*, the patriarchal sports culture also generates discriminatory *gender stereotypes/social norms, language* and *dress codes* (see also 3.3.1. and 3.3.3.).¹⁸⁵

Gender stereotypes and social norms

Society is full of social norms, unspoken truths for how people should behave in specific situations. Most of them are good and tell us how to act in our everyday life, such as grocery shopping. However, some systems of norms and assumptions, such as heteronormativity, cis normativity and masculinity, can be harmful, especially for trans and intersex, as for several cis people. In sports, these have a strong impact on the sex-segregated structure, gender stereotypes, culture (e.g. language and how people act in locker rooms), language, dress codes, leadership etc.¹⁸⁶ Stereotyping is natural to human beings, to categorize people and the world around. Gender stereotyping are socially constructed assumptions or characteristics attributed to a gender, such as gender roles (e.g. femininity and masculinity). Gender stereotyping is often one kind of discrimination based on sex and international treaties state that states have the obligation to eliminate negative gender stereotypes (e.g. CEDAW).¹⁸⁷

Hegemonic masculinities

The issue with “openness” and “outness” for LGBTI people is a recurring problem. Only in 2020, Argentina had its first open trans women professional soccer player, Mara Gómez.¹⁸⁸ According to the German Sport University, one third (33%) of LGBTI people in Europe remain completely closeted in their sport context.¹⁸⁹ Whether openness is an issue depends on the location, context and the social norms in a specific situation.¹⁹⁰ Like many other spheres, sports have historically been characterized by patriarchal structures and hegemonic masculinities where men and boys have been given space to act aggressively, violent and discriminatory in forms of sexism, misogyny, homophobia, transphobia etc.¹⁹¹ When women entered the sport arena during the 20th century, it was on men’s conditions, and they

¹⁸⁵ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), pp. 24–36; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–89; A/HRC/32/33 (2016), para. 50

¹⁸⁶ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–12, 24–27, 84–95; Halberstam, J. (2018), pp. 12–14

¹⁸⁷ Cook, R. J. & Cusack, S. (2010), pp. 1–13

¹⁸⁸ PinkNews (2020)

¹⁸⁹ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), pp. 7–8, 24–36

¹⁹⁰ Caudwell, J. (2014), p. 403

¹⁹¹ A/HRC/32/32 (2016), para. 50–73

remain.¹⁹² Today, according to the German Sport University, one fifth (20%) of LGBTI people in Europe experience physical violence in sports.¹⁹³ Even if sport is a powerful platform to challenge gender stereotypes and increase gender equality,¹⁹⁴ sex segregation upholds negative gender stereotypes, social norms and a male-dominated culture which excludes women and LGBTI people.¹⁹⁵ McDonagh and Pappano talk about a gendered battle when women [and LGBTI people] enter male-dominated sports and men-only spaces. The social order is threatened, and men resist, just as De Vos mentioned in 3.3.1.¹⁹⁶

A lot of sports, in particular team sports such as baseball, soccer and hockey, reproduce masculine ideals like “strength, aggressiveness, activeness, competitiveness and braveness”. In hockey, there is a culture of violence that rewards tough play. In such sports culture it is harder for LGBTI people to be open with their sexuality and gender identity, compared to “feminine” sports, such as dance, gymnastics and figure skating, with feminine ideals like “passiveness, weakness, emotionality, indecisiveness, ability to connect to other people”.¹⁹⁷ “You play/throw/run like a girl” is a stereotypical but well-used phrase in many sports. It manifests the female weakness and inferiority to men. They act on a men’s arena and are expected to be strong and competitive. At the same time, they are expected to be “feminine”, not too muscular and inferior to men. These stereotypes are cemented and stigmatized within the sex-segregated organisation.¹⁹⁸

Sports are characterized by community and identity-building. “*Kom igen, gubbar!*” (“Come on, guys!”) is a study on masculinity and heteronormativity in Swedish boys’ soccer teams by Jesper Fundberg. Fundberg argues that learning to play soccer is a part of the idea of raising boys to be real men, “non-hags” and “non-fags”, to avoid, and distance themselves from, femininity and homosexuality. In this way, they can become a part of the male community in sports. A similar example is manifested by Erin Buzuvis in the article “*Read the pink locker room*”. In the article, Buzuvis criticise the American football culture and the University of Iowa’s decision to paint the football stadium’s visiting locker room in pink, a passive and submissive colour used by sissies. The purpose was to make the visiting football team feel

¹⁹² Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 93–94

¹⁹³ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

¹⁹⁴ Nunes, R. A. (2019), pp. 674–683; McDonagh, E. & Pappano, L. (2008), preface

¹⁹⁵ Caudwell, J. (2014), p. 406

¹⁹⁶ McDonagh, E. & Pappano, L. (2008), pp. 30–32

¹⁹⁷ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94; Kamasz, E. (2018), pp. 573–574

¹⁹⁸ McDonagh, E. & Pappano, L. (2008), pp. 39–40, 252–256; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94

inferior and Buzuvis argues that such act invites sexism and homophobia into the culture. However, Buzuvis met a lot of threats and received hate mails, which visualises the upset masculine culture.¹⁹⁹ In Sweden, the RF (initially 8 out of 19 districts) cooperates with the organisation *Locker Room Talk* to illustrate and prevent gender inequality and macho culture, by talking to boys in the ages of 10-14 years old.²⁰⁰

Education and knowledge

In a survey from 2020, only 9% of LGBTI people in Sweden said that they have had any LGBTI education within their sport association.²⁰¹ Education plays a significant role in combating discrimination and raising awareness for trans and intersex rights. However, there is a lack of awareness, knowledge and understanding of trans and intersex rights within physical education in school sports.²⁰² It is therefore hard for trans and intersex to fit in to institutionalized sport activities and they might have to educate adults, leaders and people in charge.²⁰³ In order to change the sports culture and stereotypes, you need to change the people and their mindset. To do so, education is an important tool.²⁰⁴ In Sweden, there is a project going on with the RF and the RFSL called "*Idrott för alla kroppar*" ("sports for all bodies"). It aims to develop inclusive guidelines and policies to include trans and intersex people. The RF also educates coaches and leaders together with the RFSL.²⁰⁵

Language and dress codes

Other ways in which gender stereotypes can become visible are through the language and dress codes. According to the German Sport University, verbal insults (e.g. ridiculing and name-calling) is one of the most common negative experiences to LGBTI people in sports.²⁰⁶ LGBTI people often face negative and derogatory phrases such as "you play/throw/run like a girl", which manifest inferiority and weakness. For trans and intersex people, an incorrect pronoun is a verbal insult. Many trans and intersex people testify that using a correct pronoun

¹⁹⁹ Buzuvis, E. (2016)"

²⁰⁰ RF (2019b)

²⁰¹ West Pride (2020)

²⁰² Caudwell, J. (2014), pp. 411–413

²⁰³ Caudwell, J. (2014), pp. 411–413; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 77–79

²⁰⁴ Caudwell, J. (2014), pp. 411–413

²⁰⁵ RFSL (2019d)

²⁰⁶ Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

is an important way to confirm someone's gender identity. For non-binary people, a gender-neutral pronoun, such as they/them/theirs, can be used.²⁰⁷

Gender stereotypes also reproduce discriminatory and “sex-coded”/sexists dress codes, such as “feminine” and “masculine” fashion. Often, they aim to restrict women's bodies. Just as it might be harmful to women, it can be problematic to “norm-breakers” such as trans and intersex people.²⁰⁸ An example from the tennis is how women traditionally have been forced to wear skirts, while men wear shorts. In 2019, after resistance from Serena Williams, among others, the Women's Tennis Association (WTA) updated its dress codes. A shift in tennis is on-going but different organisation, such as the International Tennis Federation (ITF) and national tennis federations still decide upon their own dress codes.²⁰⁹ For trans people living with gender dysphoria or people with intersex or bodily variations, tight clothes, such as swimwear, can be a barrier to participate and enjoy sport.²¹⁰

Leadership and responsibility

Leaders and role models play a crucial role in changing the sports culture and community. If sports are for everyone, there needs to be a diverse representation of leaders and role models for the culture and social norms to change. However, white men are more regularly coaches and role models, which contributes to the prevailing male-dominated cultures.²¹¹ More than half of trans people in European sports have felt excluded or quit due to their gender identity, and one two-third (66%) of LGBTI people in Sweden feel that their sport association does not work hard enough to reduce discrimination.²¹²

Apart from sport coaches and sport organisations/associations, the media, family/community and government also have a responsibility for, and contribute to, the situation in sports.²¹³ The media contributes to creating ideas about women, trans and intersex athletes. For example, women athletes throughout the 20th century have been portrayed as passive objects and their achievements as less important than men's. Lately, more female, trans and intersex athletes

²⁰⁷ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 76–77; McDonagh, E. & Pappano, L. (2008), pp. 39–40

²⁰⁸ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 76–77

²⁰⁹ Tennis Connected (2019); The Cut (2018)

²¹⁰ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 76–77

²¹¹ McDonagh, E. & Pappano, L. (2008), pp. 4–5

²¹² Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36; West Pride (2020)

²¹³ McDonagh, E. & Pappano, L. (2008), pp. 258–260

are reported in the media such as Caster Semenya, Mara Gómez and Serena Williams.²¹⁴ The family, parents and youth sport leaders have a decisive role in reproducing gender stereotypes and an impact on the rest of life. Finally, in combating inequalities and discrimination, and strengthening the human rights for trans and intersex people in sports, the government has the ultimate responsibility to protect the right to participate and enjoy sport.²¹⁵

3.3.3. Athletic “fairness”

While modern sports emerge and offer inclusive sports, such as roller derby and quidditch, the international sport community and the IOC struggle to define the concept of athletic fairness.²¹⁶ According to some, organized sports would not exist without “fair play”,²¹⁷ and it is an important term to several sport organisations (e.g. the IOC and the RF) and can be found in the Olympic Charter.²¹⁸ *Competition rules* are one way through which athletic fairness is manifested. However, they are often unfair and excluding to trans and intersex people.

Fair play?

Sex segregation is not just a habit or tradition, in a lot of sports (including amateur sport) it is a legal requirement. Competitors need to belong to gender binary in order to compete, that became clear with the Stockholm Consensus in 2004. As mentioned in 3.3.2., sex-segregated sports are influenced by a male-dominated structure and it does not reflect the actual athletic differences between the sexes. According to McDonagh and Pappano, it constructs a false image that all women are athletic inferior to men. Some sports even offer different rules for women, such as shorter races, smaller play areas and less points to win.²¹⁹ They argue for three false assumptions that makes competition rules unfair and harmful to women [and for trans and intersex people].

- (1) Females are **inferior** to males (e.g. psychically and mentally)
- (2) Females get **injured** by competing with men (e.g. wrestling)

²¹⁴ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94; Tennis Connected (2019); PinkNews (2020); Parks Pieper, L. (2019), pp. 156–164

²¹⁵ McDonagh, E. & Pappano, L. (2008), pp. 258–260; UDHR (1948), art. 1–2; OHCHR (1993), chapter 1, art. 1–5

²¹⁶ O. Segrave, J. (2016), pp. 1311–1312

²¹⁷ McDonagh, E. & Pappano, L. (2008), pp. 3–4

²¹⁸ Olympic Charter (2019), Fundamental Principles, para. 4; RF (2019a)

²¹⁹ McDonagh, E. & Pappano, L. (2008), pp. 39–40, 252–256; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94

(3) **Immoral** for females to compete with men (e.g. socially unaccepted with psychological contacts)²²⁰

The sex-segregated organisation poses problems to trans and intersex, which are often denied access to sports due to discriminatory competition rules. Several organisations have tried to elaborate on solutions to the issue within the context of sex segregation. Trans men/FTM or intersex men are often not a problem because they do not pose an athletic disadvantage to cis men. On the other hand, trans women/MTF, non-binary and intersex women might pose and “unfair” competitive athletic advantages.²²¹ The researchers behind the text “*On the team*”, argue that the concern for trans women [and intersex women] is based on three assumptions.

- (1) Trans women [and intersex women] are not “real” women and cannot compete as biologically born women
- (2) Being assigned to a biological male body at birth gives trans women [and intersex women] unfair advantages when competing against biological born women (e.g. levels of testosterone)
- (3) Men can be tempted to “pretend” to be trans in order to compete with other women (e.g. doping or body modification)²²²

However, these assumptions can be criticized. Firstly, what is sex? Gender/sex goes beyond the traditional binary stereotypes and offer a diversity of identities, sexualities and bodies, for example, there are a lot of intersex variations. The right to gender identity (self-determination) is a human right. A transition for trans and intersex people is made after careful consideration, investigation and normally takes several years. Secondly, what is fair? All bodies and individuals are unique and there are a lot of athletic differences (also for cis people), for example, levels of testosterone, body variations (e.g. height, strength weight, big feet) and socio-economic backgrounds. The body and gender are complex and cannot be generalized. Some intersex women have higher levels of testosterone, but some do not. Some trans women undergo transition and maintain male-coded characteristics, such as long legs, muscle mass and testosterone, but some do not. Some trans women undergo treatment before puberty and do not develop any “male” characteristics (e.g. through hormone blockers). A study from 2016, showed that there are no scientifically proven grounds for trans or intersex

²²⁰ McDonagh, E. & Pappano, L. (2008), pp. 7–8, 33–34

²²¹ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 95–99

²²² Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 95–99; McDonagh, E. & Pappano, L. (2008), pp. 40–75

people to have athletic benefits during any stage of transition.²²³ Finally, the fear of men "faking" sex to compete with women has not yet been revealed since sex testing was introduced. The main reason for doping has been drugs such as steroids. Sex tests have instead been used to exclude intersex women.²²⁴ With that being said, the study does not neglect the group differences between men and women such as size (weight, height, body mass etc.), hormones (testosterone and estrogen), muscle strength, oxygen, metabolism and genitals. However, in the same way that there are large differences between the binary sexes, there are large differences between individuals and trans and intersex people challenge these assumptions. Perhaps the most important athletic skills, performance and competitiveness, do not have a gender.²²⁵

In Sweden, the SFs decide on their own competition rules, but according to the study "*LGBTI and sports*" it is rare with sports where men and women compete together. Some sports, such as ice hockey, even have different competition rules for men and women, for example, that women cannot tackle as hard as men. Normally, competition rules in adult sport influence how youth and children's sports compete.²²⁶ Since the sport is global, international competition rules also influences Swedish amateur sport.²²⁷

The case of Caster Semenya

The discussion on fair play and discriminatory competition rules has increased in recent years. Trans and intersex people have repeatedly been restricted throughout the history of sports. One topic that has become a major debate, and upset many lately, is the "DSD regulations" (Differences of Sex Development) by the International Association of Athletics Federations (IAAF). In 2009, Caster Semenya, a South African middle-distance runner, won the women's 800 meters world cup. Because of her naturally high levels of testosterone the other competitors questioned her victory and claimed that she was not a woman. The IAAF banned her from competing for the rest of the year and in 2011, the IAAF and IOC introduced new regulations for intersex women, the "hyperandrogenism rule". The regulations made female athletes with testosterone levels over 10 nmol/L (normal levels for women are below 2 nmol/L) undergo medical treatment to lower their levels in order to compete with other

²²³ SOU 2017:92, pp. 363–364

²²⁴ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 95–99; McDonagh, E. & Pappano, L. (2008), pp. 40–75

²²⁵ McDonagh, E. & Pappano, L. (2008), pp. 40–75

²²⁶ SOU 2017:92, pp. 363–364

²²⁷ RF (2019c)

women. Unlike women in other careers, these women had to undergo castration and medical treatment to be allowed to compete. It affected not only Caster Semenya but other athletes such as Dutee Chand, who afterwards attempted suicide. The reason for these new regulations was “fair play” based on the binary concept of gender. Some argue that their natural levels of testosterone had the similar advantages of doping.²²⁸

The rulings led to an arbitration between the IAAF and the Athletic South Africa (ASA). In 2018, the IAAF cancelled its regulations and replaced it with a more specific version, the “DSD regulations”. The “DSD regulations” require only female middle-distance runners (400 to 1500 meters distances), with testosterone levels over 5 nmol/L, to lower their levels beneath men’s natural levels (7,7 to 29,4 nmol/L). The new regulations affected Semenya even harder and the arbitration continued. In May 2019, a verdict from the Court of Arbitration for Sports (CAS) declared that Semenya must agree with the regulations, and undergo medical treatment, in order to compete with other women. The CAS agreed that it is discriminatory but “*such discrimination is necessary, reasonable and proportionate*” to achieve fairness for the larger group of females.²²⁹ The CAS decision has received major criticism among the international community such as the World Medical Association, the UN Human Rights Council and the civil society such as the RFSL (Swedish non-governmental organisation). They argue that the decision is violating human rights and forces women into hormone treatment that is unnecessary and degrading.²³⁰ Medical interventions on intersex women violate their human rights, such as the right to bodily integrity, and are forced on them because they fall outside the binary sex. Even if these restrictions are imposed on the elite level, they affect the amateur sport. Knox and Anderson argue that although trans and intersex athletes challenge athletic “fairness”, it highlights the widespread inequalities in sports, also characteristics such as being short or tall.²³¹ It is noteworthy that if testosterone has such a great advantage, why have no similar sex tests been done on Usain Bolt or his opponents? Once again, the restrictions hit women.

Alternative solutions

²²⁸ Parks Pieper, L. (2019), pp. 156–164; Pikramenou, N. (2019), p. 68–71; Buzuvis, E. (2016), pp. 29–56

²²⁹ The Guardian (2019); *ASA v IAAF* (2019), Media release

²³⁰ RFSL (2019a); OHCHR (2018); OHCHR (1993)

²³¹ Pikramenou, N. (2019), p. 68–71

There are several alternative solutions to combat discrimination against trans and intersex people in sports competition. Three possible solutions are,

- (1) People compete based on biological parameters such as height, weight, strength or several of them, instead of sex
- (2) People compete based on groups of testosterone levels, instead of sex
- (3) People compete based on self-identification/gender identity, instead of sex²³²

3.3.4. Sports beyond sex

“If women [and trans and intersex people] cannot compete fairly on the field, they cannot compete fairly off it, either. As long as the phrase “you play like a girl” remains an insult, female abilities are undervalued - whatever their race, class, or other characteristics.”²³³

So, the main issue remains – if women, trans and intersex people cannot compete equally and fair in male-dominated sports, because their attributes are undervalued by hegemonic masculinities, there is a need for a structural change. McDonagh and Pappano claim that it is “time to pass the ball”. Sport is the next fight for equality. Sex segregation and sex discrimination must be battled in order to achieve true equality and fairness for women, trans and intersex people. But first, sport organisations need to see the inequalities. Small changes have been made to “let the girls play” (e.g. sex segregation) but the solution is not to “let” girls play, but to reorganize the structure from the ground. As mentioned earlier (in 3.3.1.), sex segregation might empower women’s and girls’ participation but contributes to structural discrimination for others. However, McDonagh and Pappano argue the opposite, that sex segregation maintains the male dominance in sports and does not allow females to participate on equal terms with men. The division does not solve the deeply rooted problems of inequality. Therefore, they argue for several reforms on different levels in sports.

- (1) **A new gender-neutral approach** to sports and accept that there are more differences among people than between gender.
- (2) **Mixed-sex opportunities** where individuals play and compete together, regardless of sex, on both a professional and amateur level, with the focus to increase the participation.

²³² Pikramenou, N. (2019), p. 71

²³³ McDonagh, E. & Pappano, L. (2008), p. 6

- (3) **Gender-neutral sports rules** where the IOC, governing bodies and sport organisations eliminate sex differences in sports rules such as the size of play areas, length of races, points to win and other measures.
- (4) **Close the economical gap differences** between different sports and gender such as salaries, education, ticket prices etc.
- (5) **Equal media reporting** in TV and online news to remove the unbalanced media reporting of male-dominated sports and male athletes.
- (6) **Role models and key speakers** with different gender identities to visually promote, create networks and empower participation and inclusion for all, in media, among sport coaches, team owners, leaders, politicians, business leaders etc.
- (7) **Financial equality** by supporting the underpaid sports and cutting down the support to the overpaid such as football, basketball, soccer and hockey.
- (8) **Equal sports education for youths** where discrimination on basis of sex, such sex segregation, does not prevent girls [and trans and intersex people] from “playing with the boys”.²³⁴

Love argues that a shift in sports is on-going, but the hierarchical binary structure remains under the surface. Like McDonagh and Pappano, Love means that the organisation of sports needs a profound change in order to deal with the deeply rooted discriminatory structures. Therefore, they should adopt a “non-sex-binary-based model” to practice and competition, a queer feminist approach based on the perceived gender identity, instead of the classification of sex.²³⁵ Anna James Wipfler discuss three possible ways to strengthen the right for, and include, trans and intersex people in societies and in sports.

- (1) **Definitional expansion** and widening the understanding of “man” and “woman”, towards a more open and flexible binary system and its definitional criteria.
- (2) **Categorical expansion** and adding another gender category for trans and intersex people, a new classification based on a third legal gender (e.g. “X”).
- (3) **Abolition of the practice** and registration of sex and sex as a classification and go towards a gender-neutral system.²³⁶

²³⁴ McDonagh, E. & Pappano, L. (2008), p. 250–260

²³⁵ Love, A. (2014), pp. 376–383

²³⁶ Wipfler, A. (2016), pp. 503-529

Wipfler agrees that trans and intersex people have the right to gender-affirmation and to identify themselves, for example, within a third category. However, can a third category be harmful to gender variations and maintain inequalities like sex segregation does? Wipfler argues that sex and gender identity should be irrelevant to the public sphere, such as for governments and sport organisations. The long-term goal should be to protect any gender identity, instead of maintaining the binary system or recognising another legal gender or category. To achieve equality and “true freedom of gender identity and gender expression”, Wipfler means that abolition of gender classification/registration, to organize “sports beyond sex”, is the only way to go.²³⁷

²³⁷ Wipfler, A. (2016), pp. 491-499

4. Method

The upcoming chapter presents how the study collects and analyse the empirical data. The chapter also addresses the validity and reliability. The method used to collect empirical data is semi-structured interviews. However, the thesis seeks to address the research question from a socio-legal approach. By understanding the legal and political framework for trans and intersex people in Swedish amateur sport, it hopes to contribute to a more explicit analysis.

4.1. Semi-structured interviews

The study used the qualitative method “semi-structured” interviews. The empirical data was analysed with the legal and political framework and the theoretical framework.

4.1.1. Collection of data

The method was chosen to create good and trustful conversations and allowed the researcher to ask further questions on personal and complex situations and experiences of sex-segregated amateur sport. The study wants to say something about how the informants personally perceive their situations,²³⁸ and to do so, semi-structured interviews was argued to suit best. Ten informants were interviewed, four trans and intersex athletes, two sport coaches, three politicians and one person from the RF. The main focus was to interview trans and intersex athletes and to get additional perspectives from people on several levels. Everyone had experiences of, or responsibility for, Swedish amateur sport. Repstad clarifies the differences between the two terms, “informants” and “respondents”. An “informant” has information about the actual conditions in a field, while a “respondent” is someone who simply answers questions. In this research the repliers share their experiences and information on the topic and are therefore called “informants”.²³⁹ The interviews were offered anonymously, but some informants chose to be public. However, everyone was informed about the opportunity to be anonymous and to cancel the interview beforehand, to ensure confidentiality.²⁴⁰ Because of the situation with the pandemic, Covid-19, and requirements on social distancing, most

²³⁸ Esaiasson, P. et al. (2012); pp. 251-257; McCracken, G. (1988), pp. 9-23

²³⁹ Repstad, P. (1999); Esaiasson, P. et al. (2009), pp. 291-297

²⁴⁰ Esaiasson, P. et al. (2012), pp. 257-258; McCracken, G. (1988)

interviews were conducted by video calls.²⁴¹ Video calls is a relatively new tool and even if it is a useful and flexible tool, especially during a pandemic, it has been criticized for its lack of visual feedback, such as body language and body expressions. However, video calls proved to be very useful during the pandemic and several researches also talks about are few differences between face-to-face interviews and video calls.²⁴²

4.1.2. The semi-structured interviews

Semi-structured interviews are normally relatively unstructured kinds of interviews with prepared guidelines. It allows follow-up questions and spontaneity during the interviews and the interviewer has an important role to stay objective, ask relevant questions and create a trustful conversation. Active listening is important to understand the concepts of the conversations and to highlight assumptions that are not being mentioned.²⁴³ Different kinds of guidelines were for athletes, sport coaches, politicians and the RF because of their different perspectives. The guideline for athletes focused on concrete situations and experiences of discrimination and the guidelines for sport coaches, politicians and the RF focused on their understanding, initiatives and thoughts on how to include trans and intersex people. However, all interviews were based on three sections to more easily distinguish thematic responses and avoid unstructured replies.²⁴⁴

1. The informant (background)
2. The situation in amateur sport (openness and sex segregation)
3. Ways to include trans and intersex athletes (short-term and long-term)

4.1.3. Selection of informants

The informants were asked to participate through a mix of strategic and random selection (e.g. a snowball effect). Some informants were chosen strategically from known sports-networks, political parties or organisations, such as the RF. While others were asked to participate through LGBTI organisations or Facebook-groups, for example, “Roller-Derby Sverige”. The LGBTI organisations that were asked to participate were INIS, Intersex Scandinavia, EKHO,

²⁴¹ Regeringen (2020)

²⁴² Block, E. S. & Erskine, L. (2012), pp. 428–445

²⁴³ McCracken, G. (1988), pp.16-23, 34-41

²⁴⁴ Esaiasson, P. et al. (2012), pp. 264-267; McCracken, G. (1988), pp.24-25

RFSL, RFSL Ungom, RSFU, Stockholm snipers, Transammans, Transföreningen FPES and West Pride. The researcher strived to reach a diverse mix of informants with different sex, sex variations, gender identities, ages, socio-economic backgrounds, sports and experiences of sex-segregated amateur sport. According to McCracken, informants should be (1) unknown to the researcher and (2) few in numbers in order to maintain a scientific distance.²⁴⁵ This has been taken into account.

4.1.4. Presentation of the informants

Below is a presentation of the ten informants. In order to distinguish the different voices and maintain anonymity, some have been given fictitious names while others use their original names. Their fictitious/original names below are being used throughout the essay.

Athletes

1. “Billie” is a 30-year-old genderqueer. Has played roller derby for 8 years and has previously coached and been a board member.
2. “Robin” is a 31-year-old non-binary person. Has played roller derby for 3 years and previously practiced swimming and orienteering.
3. “Anna” is a 50-year-old trans and intersex woman with a chromosome intersex variation (xxy). Avoid organized sports and/or practice sports on her own.
4. “Erik/Susanne” is a 66-year-old transvestite. Has played soccer in all their life (“korpenfotboll”) and practiced hockey.

Sport coaches

5. “Ola” is a 55-year-old cis man. Coach in handball and has played soccer until he was 25 years old and now practice sports on his own.
6. “Patrick” is a 24-year-old cis man. Coach in athletics and swimming and has practiced athletics since he was 7 years old.

Politicians

7. “Eva” is a 54-year-old cis woman. Politician in Gothenburg and practice sports on her own.

²⁴⁵ Esaiasson, P. et al. (2012), pp. 258-264; McCracken, G. (1988), pp. 34-41

8. “Bettan” is a 56-year-old cis woman. Politician in the LGBT Council and the Sport and Association Committee in Gothenburg with a background in boxing as an active and leader, nationally and internationally.
9. “Emma” is a 32-year-old cis woman. Politician in the Swedish Parliament and spokesperson for sports and LGBTI. Has previously played handball and wrestling and is now a board member of “Friskis & Svettis” in Jönköping.

The Swedish Sport Confederation

10. “Sofia” is a 42-year-old cis woman. Expert in gender equality and inclusion and works with education for the RF and has previously played tennis.

4.1.5. Method of analysis

The interviews were recorded and transcribed in order to analyse the interrelations between the answers. The study's method of analysis is based on a *thematic analysis* or *categorization*, where variables and categories mainly occur afterwards. (1) The first step was to highlight relevant parts of the interviews and categorize them based on the structural framework of the thesis and creating subcategories based on the research questions. (2) Relevant material for the thesis was selected and statements by the informants were summarized into quotas by a summary technique, *concentration*. (3) Quotas and summaries from the informants were presented systematically and “cross-references” to other informants were made.²⁴⁶ The study presents and analyses the results in the same chapter and uses the informants’ replies, together with the theoretical framework, to answer the research question.²⁴⁷ The result will be presented to relevant people within the field of sports, civil society, academia and politics, and to the European Master’s programme of Human Rights and Democratisation (EMA) at the Global Campus of Human Rights in Venice, Italy, in October 2020.

4.2. Validity and reliability

The semi-structured interview is a well-known method within academia. The questions can be asked in order to get relevant answers, but the theoretical operationalization depends on how

²⁴⁶ Esaiasson, P. et al. (2012), pp. 258-278

²⁴⁷ Esaiasson, P. et al. (2012), pp. 258–278; McCracken, G. (1988), pp. 41-46

the interviewer ask the questions. Word such as “trans”, “intersex” and “sex segregation” can be interpreted differently depending on hermeneutics and pre-understandings, which is difficult to avoid.²⁴⁸ To avoid some misunderstandings during the interviews, I have explained these words shortly in the beginning of the interviews. However, the method is based on a hermeneutic approach. The researcher constructs and interprets the empirical data and the subjectivity is hard to neglect.²⁴⁹ The study is influenced by social constructivism where the empirical data is the reality of the informants within their social and cultural context.²⁵⁰ Because the thesis only interviewed ten informants it cannot generalize and instead wants to highlight perspectives on the topic. However, a hermeneutic approach, with its interpretive and subjective techniques, wants to say something about the reality for trans and intersex athletes in Swedish amateur sport.

Reliability wants to say something about how reliable the results are and how precise the measures are (avoiding random impact). If the interviewer deviates from the formulated questions in the guidelines, the reliability can be threatened. However, spontaneity is an important part of semi-structured interviews and the reliability might be threatened. Instead, semi-structured interviews offer unique and interpretable answers.²⁵¹ Even if objectivity is desirable in order to avoid subjective interpretations,²⁵² the researcher’s interpretations and the informants’ answers are unique. Therefore, the result depends on the concepts of “preunderstanding” and “interpretation”.²⁵³

²⁴⁸ Esaiasson, P. et al. (2009), pp. 63-73

²⁴⁹ Gilje, N. & Grimen, H. (2007), pp. 171-198; McCracken, G. (1988)

²⁵⁰ Danermark, B. et al. (2010), pp. 15-31, 40

²⁵¹ Winther Jörgensen, M. & Philips, L. (2000), p. 120

²⁵² Rienecker, L. & Jörgensen, P. S. (2002), p. 243

²⁵³ Esaiasson, P. et al. (2009), pp. 63-73; McCracken, G. (1988)

5. Results and discussion

In this section the results and discussion are presented together based on the structural framework “sports beyond sex” (1) the right to participate, (2) the right to equal enjoyment, (3) fair play and (4) sports beyond sex. Under each category, barriers and discrimination are discussed together with ways to strengthen the human rights for, and include, trans and intersex people in Swedish amateur sport based on previous research.

5.1. The right to participate

The Swedish sports movement is a strong and influential movement with more than 3,1 million members within many sports on different levels.²⁵⁴ However, it faces several major challenges and needs to be reformed in order to adopt to society. In “*Strategi 2025*” the movement states, similar to the state-initiated investigation from 2017, that the sports should be “inclusive sports for all”.²⁵⁵ Instead, it loses practitioners and many young people quit at an early age which “Sofia” at the RF and the politicians "Eva" and "Emma" confirm. For trans and intersex people, this is mainly due to a widespread structural discrimination that manifests itself in several ways. Apart from the reforms in “*Strategi 2025*”, a root cause to the discrimination is the sex-segregated structure.

5.1.1. Sex-segregated sports

“I always find it problematic, for everyone. Not everyone understands it, but trans and intersex people are very aware of this perspective.” - “Anna” (trans and intersex)

Just as Tännjö and McDonagh and Pappano mean, “Anna” argues that sex segregation is always discriminatory because it is based on incorrect and unfair perceptions.²⁵⁶ Sex segregation is recognized by all the informants and some find it problematic, not only for trans and intersex, but for everyone. Some argue that sex segregation has played a significant role to empower girls and women, but some of the informants instead mean that the male-

²⁵⁴ RF (2018)

²⁵⁵ RF (2017)

²⁵⁶ Darj, F., Piehl, M. & Hjelte, F. (2013), p. 96

dominated and sex-segregated structure affects, not only trans and intersex people, but women and girls as well.²⁵⁷

“When I started boxing, there was no boxing for women or girls. Sweden was the first country to start up such organized forms and I can imagine how trans and intersex people feel very excluded because you have no given place. Sometimes it strikes at women and girls as well, because we live in a damn patriarchal, homophobic and transphobic society.” – “Bettan” (local politician)

Sex segregation can be expressed in several ways and is present on all levels in almost every amateur sport, also sports such as chess and curling.

“One thing that bothers me is sex segregation in chess”- “Erik/Susanne” (transvestite)

“The silliest sex segregation I know of is curling. I do not understand it?” – “Robin” (non-binary)

“Sofia” agrees with McDonagh and Pappano that the structure creates discrimination. Dividing sports is not the right way to go in order to create inclusive sports for all.²⁵⁸

“I believe that this whole system, which is based on a two-sex system, together with lack of knowledge, has meant that there is no good ground to build on.” – “Sofia” (the RF)

Among athletes, coaches and leaders, there seems to be a lack of knowledge and understanding of the structural discrimination on trans and intersex people.²⁵⁹

“They do not think about it unless someone questions it. If you are lesbian and play basketball with the girls you fit in perfectly, but I never fit in.” – “Anna” (trans and intersex)

²⁵⁷ A/HRC/32/33 (2016), para. 53

²⁵⁸ McDonagh, E. & Pappano, L. (2008), pp. 1-37

²⁵⁹ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–89

“Erik/Susanne” has sometimes considered starting a separatist space for trans people only, like the “Stockholm snipers” or Gay Games.²⁶⁰ In the same way, “Robin” sees the need for sex-separatist teams and women-only or trans-only spaces, such as Roller Derby. Similar to what McDonagh and Pappano mean, “Sofia” mentions that there is a sports tradition to strengthen the “deviant” group, such as women and girls, by starting “women’s tennis” or “girls bandy” without working with the social norms and structure itself. She argues that there is a cultural reason why we do not say “men’s tennis” or “boys bandy”.

5.1.2. Five distinctions of sex-segregated sports

All informants highlighted how sex segregation can be expressed differently with several purposes, which McDonagh and Pappano also recognize.²⁶¹ This section wants to briefly discuss five distinctions that were distinguished in the interviews.

Elite and amateur sports

“We often talk about elite sports, for example Caster Semanya, but then we get away from the main issue. There are so many people who will never compete on a professional level.” – “Sofia” (the RF)

Amateur sport is the foundation of all sports and a lot of people never reach the professional level.²⁶² Therefore, amateur sport plays a significant role to strengthen the human rights for, and include, trans and intersex people in sports. Something that Ban Ki-Moon acknowledged in his statement *“sport is a low-cost, high-impact tool”*, and how the access to sports can strengthen the right to education, health, development and peace.²⁶³ “Erik/Susanne” means that it is the same sex-segregated structure on all levels. However, “Ola” and “Patrick” believe that it is easier to erase gender barriers in amateur sports, compare to elite sports.

“There are not as many rules to follow and world records to beat.” - “Patrick” (sport coach)

²⁶⁰ QX (2019); International Federation of Gay Games (2020)

²⁶¹ McDonagh, E. & Pappano, L. (2008), pp. 8-15

²⁶² Dagkas, S & Armour, K (2012), pp. 1–20

²⁶³ UN Secretary-General (2014)

Similar to McDonagh and Pappano, they argue that mixed-teams are one way to challenge sex-segregation.²⁶⁴ However, “Patrick” believes that even if athletes practice together, it is harder to compete together in, for example, track and field when the world records in long jump differs so much between “men” and “women”.

“When it comes to competition, the muscle strength becomes an issue and the sport must find ways to include trans people. In amateur sport, you do not have to divide based on sex, at least not in the early ages.” – “Bettan” (local politician)

Competition and practice

“I have always had the fortune to practice together with others regardless of sex. During practice it is always possible to remove sex segregation, whether it is soccer or basketball. Practice is always practice.” - “Patrick” (sport coach)

There is a distinction between practice and competition when it comes to sex segregation. During practice, several of the informants argue that it is always possible to practice together regardless of sex, whether it is team sports or individual sports. “Bettan” mentions that a lot of individual sports already practice together, such as wrestling and athletics.

“During practice I am convinced that everyone will gain from being different players on the pitch.” – “Emma” (member of the Parliament)

According to several informants it gets problematic when it comes to competition. “Eva” means that in elite sport and competition it can be problematic, and “Sofia” mentions that since the sport is global there are also international competition rules which affect Swedish amateur sport.²⁶⁵ Due to previous research and dialogue with national politics, the RF view on the two-sex system is starting to loosen up a bit and they advocates co-practice to its member organisations as a method to combat gender stereotypes.²⁶⁶ In order to do so, “Sofia” argues that the local leaders need to have knowledge about society’s gender power dimensions that affect sports practice. “Patrick” wants to see more mixed-team competitions and inclusive initiatives such as quotas for trans and intersex people. He argues that if sports maintain a

²⁶⁴ McDonagh, E. & Pappano, L. (2008), pp. 258–260

²⁶⁵ RF (2019c)

²⁶⁶ Darj, F., Piehl, M. & Hjelte, F. (2013)

two-sex system with a narrow view of sex, they should at least offer a third “non-binary” category. Finally, according to “Sofia” there is an on-going process to review the rules for competition and practice within the RF, for example, the guidelines for youth sport.

Adult and youth sports

“When we talk about children’s sport, I do not think it is necessary at all. When people get older things happen to the bodies, for example, muscle strength. But that does not mean that you cannot compensate to be able to play together.”

Fredrik: For adults as well?

Yes absolutely. There are sports that one can ask if sex segregation is needed at all.” –
“Ola” (sport coach)

All the informants agree that sex segregation is not defensible among children, especially because their bodies have not yet begun to develop, and some mean that neither should it discriminate adults. Together with a rigid age division, sex segregation affects young children and “Eva” means that soccer teams divide boys and girls based on their sex and age in early ages, such as “Boys-01” (boys born in 2001). “Anna” and “Bettan” believe that we should start by changing the structure and stereotypes in children’s and youth sports.

“Many sports have stopped to divide children, and there is no problem. It is the coaches and leaders who are so damn interested in performing and therefore you cannot play with the girls.” – “Bettan” (local politician)

This was visualized in a case from Skåne (a region in Sweden) in 2018, when “Julle”, an 8-year old boy, was denied playing with the boys’ team because of his female body.

“This clearly indicates that the sport club does not understand. They use sex segregation as a power and ruling technique.”

Fredrik: So, the sex segregation is an expression of something else?

Discrimination quite simply.” – “Emma” (member of the Parliament)

Several of the informants mentioned the case of Julle from 2018. It was a discriminatory act on grounds of the right to gender identity. The Swedish Discrimination Act, the CRC and the YP+10 state this right.²⁶⁷ In 2010, the Committee of Ministers of the CoE stated that transphobia and discrimination in sports must be combated and sport organisations have a crucial role.²⁶⁸ In 2019, the case won a lawsuit against the sport club and the club had to pay Julle 20.000 SEK and undergo education in “inclusive sports”.²⁶⁹ “Julle” is an example of structural sex discrimination on children which, inter alia, McDonagh and Pappano and the Swedish DO distinguish and argue against.²⁷⁰ It also manifests a conservative and paralyzed organization regarding sex, especially among children. Even if all the 72 SFs have agreed on guidelines for inclusive child and youth sports based on the CRC,²⁷¹ neither the Swedish Football Association, nor the RF stood up for Julle and other trans persons’ right to participate and enjoy sport.²⁷²

Team and individual sports

“Individual sports are much easier to change, and the team sports are the main problem and generate the big money. If we could change the soccer, it would spread but if we change golf it would not.” – “Anna” (trans and intersex)

As mentioned in the study “*LGBTI and sports*”, “Billie” believes that the major team sports and the larger sport organisations in Sweden such as soccer, hockey and floorball have a great responsibility to educate leaders and coaches in order to change the sports culture.²⁷³ Compare to individual sports, such as athletics, where every centimetre count, “Ola” thinks that very few team sports, even at the elite level, would need to be sex-segregated. “Bettan” believes that the main difference between individual and team sports is the sports culture. Like Fundberg argues, “Bettan” believes that team sports have always be more homophobic and transphobic than individual sports (see 5.2.2.).²⁷⁴ According to YP+10, the Committee of Ministers and the state-initiated investigation from 2017, one way to challenge the hegemonic

²⁶⁷ DO 2008:567; CRC/C/GC/15 (2013), para. 8; Yogyakarta Principles (2016)

²⁶⁸ SOU 2017:92, p. 108

²⁶⁹ DN (2019)

²⁷⁰ McDonagh, E. & Pappano, L. (2008), pp. 8–15 DO GRA 2017/56

²⁷¹ RF (2019d)

²⁷² DN (2019)

²⁷³ Caudwell, J. (2014), pp. 411–413; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 77–79

²⁷⁴ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 92

sports cultures within the major sports organizations is through dialogue, with, inter alia, the RF.²⁷⁵

Traditional and new sports

“Traditional sports derive from a patriarchal structure and new sports in Sweden have not been as homophobic and transphobic.” – “Bettan” (local politician)

Finally, the last distinction is the difference between well-established “traditional” sports, such as soccer and hockey, and “new” sports in Sweden, such as American football and roller derby. “Sofia”, “Robin” and “Billie” all witness how these “new” sports are emerging and often have a more inclusive approach to trans and intersex, something that O. Segrave recognizes about quidditch.²⁷⁶ Even if the roller derby offers women-only spaces, which Travers is doubtful whether it actually challenges the institutionalized male-dominated sports,²⁷⁷ it seems to be a haven for many trans and intersex people.

“I have not been accepted within the community of other sports, but in roller derby I felt welcome. I have been playing for eight years now.” – “Billie” (genderqueer)

5.1.3. Divided locker rooms

“I who identify myself as a man but have all the female attributes, cannot enter the male locker rooms. It directly stops trans people from “fitting in”.” – “Billie” (genderqueer)

One of the main barriers for many trans and intersex people are the divided locker rooms. The fact that they are sex-segregated makes it problematic to fit in, both physically and mentally. Often, locker room spaces are cis-normative and heteronormative something that Buzuvis discusses in the article *“Read the pink locker room”* (see 5.2.2.).²⁷⁸ Divided locker rooms is something that all informants mention as problematic. Even if it has been highlighted in previous research and the state-initiated investigation, the situation does not seem to have changed. It can be found everywhere and excludes and humiliates trans and intersex people

²⁷⁵ Karsay, D. (2018), p. 111–116; SOU 2017:92, p. 32 & 108

²⁷⁶ O. Segrave, J. (2016)

²⁷⁷ Travers, A. (2006), pp.431–438; Caudwell, J. (2014), pp. 409

²⁷⁸ Buzuvis, E. (2016)

just as the special rapporteur on water on the human right to safe drinking water and sanitation states.²⁷⁹

“The locker room is my first impression. There are no gender-neutral locker rooms as far as I know? Even if it they have turned a toilet into a locker room for trans people, it is still a very normative and exclusive attitude. It pisses me off.” – “Anna” (trans and intersex)

“Robin” claims that there is a strong norm of being naked together in Sweden and “Bettan” believes that there is a risk that women and girls feel insecure within gender-neutral locker rooms, due to hegemonic masculinities (see 5.2.2.). Instead, “Anna” suggests individual locker rooms for everyone. An initiative from the City of Gothenburg, is to offer gender-neutral locker rooms in all new and renovated sport facilities. However, such a change can take time and the situation for trans and intersex people is urgent.

5.1.4. Other physical rooms

Apart from the things mentioned above, there are several physical rooms in sport spaces that exclude trans and intersex people such as the stadium, boardrooms and the internet. “Sofia” means that it is important to be critical about the prevailing social norms in these spaces as well. “Patrick” describes how his association wanted to create an equal and representative board but were opposed by the Swedish Swimming Association.

“First, we wrote that at least one of the board members should be trans or non-binary. But we were not allowed to write that according to the Swedish Swimming Association, so we had to remove it. On the other hand, we were allowed to have a percentage of women and men.” – “Patrick” (sport coach)

5.2. The right to equal enjoyment

“The outside of sport is very beautiful, but the inside needs to be renovated” – “Anna” (trans and intersex)

²⁷⁹ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 73–75; A/HRC/33/49, para. 4; SOU 2017:92, pp. 354-355

Love argues a shift in sports if on-going, but the hierarchal binary structure remains under the surface.²⁸⁰ This became clear during the interviews and to several of the trans and intersex people the culture is an even bigger barrier than sex-segregated teams or divided locker rooms.

5.2.1. A community- and identity building space

As mentioned in 3.3.2. by Fundberg, sport is a community- and identity building space, and so also for several of the informants.

“When I look back on my childhood, “was it anything else than sports that existed for me?”. Right or wrong, but I believe that team sports shape you in a way that you can benefit from. It has been a big part of my life.

Fredrik: A big part of the identity as well?

Exactly.” – “Ola” (sport coach)

Like Ban Ki-Moon stated in 2014, sports are important in many aspects of life and can fulfil good purposes and strengthen the human rights for people, such as the right to education, health, development and peace.²⁸¹ According to the Olympic charter sports are characterised by strong values that bind people together such as (1) inclusion, (2) equality, (3) respect and (4) fairness.²⁸² Despite this, a lot of people avoid sports and for several of the trans and intersex informants the experiences of sex-segregated sports are different.

“I avoid this area because it is so discriminatory. The sports movement for me has a negative sound. I do a lot of sports, but on my own.” – “Anna” (trans and intersex)

“Erik/Susanne” was surprised how well-treated they was when they “came out“ for the team two years ago, but for “Anna” the experience is different.

²⁸⁰ Love, A. (2014), pp. 376–383

²⁸¹ A/73/325 (2018); A/RES/67/296 (2016)

²⁸² UN Secretary-General (2014); Olympic Charter (2019), Fundamental Principles, para. 4; Ruiz, A. (2018)

“It does not matter how I participate, I am verbally exposed at best, or physically at worst, but I will be exposed.” – “Anna” (trans and intersex)

She believes that the sport associations are corrupt. They say that they are inclusive, and everyone is welcome, but in the locker room that is not the case. When you create an association, that is when it goes wrong. Nevertheless, the Swedish sports movement is a popular community and gather a lot of people in multiple ways.²⁸³

5.2.2. Stereotypes and social norms

Hegemonic masculinities

“None of my trans friends have ever practiced a lot of sports, because they dare not. It is not just discrimination, sometimes you ask, “I want to be in the “boys’ team” because I am a guy” and maybe the weekend after you get kicked down by some of the team members. That has happened to some of my friends.” - “Billie” (genderqueer)

Sex segregation does not only uphold structural discrimination in forms of sex-segregated teams and divided locker rooms. It fosters hegemonic masculinities that contributes to verbal insults and violence on, inter alia, trans and intersex people. Like McDonagh and Pappano argue, the structure also discriminates women and girls based on sex.²⁸⁴

“There is a sport club in the “Allsvenskan” (Swedish professional soccer league for men) called “Brommapojkarna” (“the boys from Bromma”). They have the best “girls’ team” for 12-year olds in Sweden. Because of the name the players get bullied during the matches and the club does not want to change its name.” – “Ola” (sport coach)

In the research *“Kom igen, gubbar!”*, Fundberg wants to illustrate how hegemonic masculinities in sports affect everyone, including men and boys.²⁸⁵ “Bettan” argues similar that the structure derives from a homophobic and transphobic society and sport is a conservative arena for educating boys to become “”real men”.

²⁸³ RF (2018)

²⁸⁴ McDonagh, E. & Pappano, L. (2008), pp. 1–37

²⁸⁵ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–95

“Sports have recently started to accept that people are not straight. And now, they are trans as well, it becomes confusing for some.” – “Bettan” (local politician)

Trans and intersex people experience discrimination in most sectors of society and the male-dominated tradition in sports contributes to an excluding culture for trans and intersex people, because of lack of acceptance.

“The locker room-situation can be arranged. But if the acceptance does not exist, it will take longer.” – “Robin” (non-binary)

According to “Robin”, “Billie” and “Anna” the acceptance is worse than divided locker rooms, even if they are linked. “Robin” continues by making a distinction between “male” and “female” sports. If “Robin” were to pick team they would rather play with the women because their experience of “female” stereotypes is more open and accepting, compare to “male”, something McDonagh and Pappano also distinguish.²⁸⁶

“If someone would shout things at the referee in roller derby, they would be sent out. That would be completely absurd.” – “Robin” (non-binary)

“Erik/Susanne” means that sometimes you worry about people’s reactions unnecessarily. They and some other trans people went to a soccer game with the Malmö FFs supporter club.

“I was a bit nervous “you know how it is in supporter clubs” and my bonus daughter warned me beforehand and said we would be attacked, but we did not notice anything.” – “Erik/Susanne” (transvestite)

Education and knowledge

“The knowledge about LGBTI was low then and it is a little better today, but it is very low on trans and intersex rights. We need to educate leaders and coaches together with the RFSL.” – “Sofia” (the RF)

²⁸⁶ McDonagh, E. & Pappano, L. (2008), pp. 39–40, 252–256; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94

Similar to Caudwell and McDonagh and Pappano, “Sofia” mentions that education is one way to combat discrimination, such as stereotypes and hegemonic masculinities.²⁸⁷ According to Darj, Piehl and Hjelte there is a lack of knowledge on LGBTI in sports,²⁸⁸ but “Sofia” argues that the sports culture has developed in recent years. Today, some of the SFs are LGBTI certified, such as American football, and some sports, such as roller derby, talk about these perspectives all the time. However, the larger sport organisations, such as soccer and ice hockey limp behind.

“Patricks” association, for swimming and athletics, has recently been LGBTI certified by “*Samkraft*” and the initiative originally came from the association itself. Nowadays, they have an LGBTI plan and talks about openness and LGBTI several times per semester. “Ola” talks about the RFs initiative “*Locker room talk*” as one way to educate and change social norms within sport associations.²⁸⁹ According to “Erik/Susanne”, the rainbow flag can be an important symbol to change social norms, for example, in team sports such as soccer.

The City of Gothenburg has, together with the civil society and the LGBTI Council, developed an LGBTI plan in order to counteract the vulnerability and violence of LGBTI people in the City. The plan contains, among other things, a method material on social norms and LGBTI. All sport associations that receive economic aid from the City need to work with the method material and raise their knowledge in order to receive money.

”A large part of the resistance is unconsciousness. You think you are nice and inclusive, but you are not. You are indoctrinated by a heteronormative society.” – “Bettan” (local politician)

Language and dress code

“Trans people are called by the wrong pronoun and need to educate coaches even though the person is there to play handball. You may not want to be your gender identity, but you want to be a left back.” – “Sofia” (the RF)

²⁸⁷ Caudwell, J. (2014), pp. 411–413; McDonagh, E. & Pappano, L. (2008), pp. 258–260

²⁸⁸ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 7–8, 84–89

²⁸⁹ RF (2019b)

According to the German Sport University, verbal insults, such as name-calling, are one of two most common negative personal experiences in sport contexts for trans and intersex people and the language plays a significant role in order to feel included.²⁹⁰ However, “Robin” has never experienced any verbal insults in roller derby.

“Already when I was trying out, we had names and pronoun rounds. I have never heard anyone call me by wrong pronoun, which is quite common in my workplace and family.” – “Robin” (non-binary)

Gender-neutral pronouns or pronoun rounds are ways to avoid trans and intersex people having to “educate” other team members and coaches.²⁹¹ In roller derby they have such rounds every time a new team member starts, according to “Robin”. They also have players names when they compete and the announcer call everyone by their pronoun. “Eva” means the it is common to say “come on, girls” or “come on, guys” in many sports. She argues that such phrases might not be inclusive to trans and intersex people instead of saying “come on, people” or something similar. “Sofia” means that many people are afraid of saying the wrong thing because they do not know. Therefore, the RF have developed a short movie together with the RFSL about, for example, language and concepts.

“In both swimming and athletics, you wear tight clothes. If you have gender dysphoria, there are many who do not want such clothes.” – “Patrick” (sport coach)

Tight clothes often come with a body fixation, for example, in wrestling, “Emma” says. “Sofia”, who has previously competed in tennis, mentions that there are strong gender stereotypes about dress codes which Serena Williams, among others, challenges.²⁹² “Anna” means the such dress codes are 19th century to her. The roller derby that originally comes from the punk community has a completely different view of bodies and clothes.

“If you are short and fat, you have advantages in the sport compare to if you are tall and thin. All bodies are welcome, and I feel very welcome even though I no longer have any

²⁹⁰ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 76–77; Menzel, T., Braumüller, B. & Hartmann-Tews, I. (2019), p. 8, 24–36

²⁹¹ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 76–77

²⁹² Tennis Connected (2019); The Cut (2018)

breasts and a lot of body hair. It is about finding your own strengths.” – “Robin” (non-binary)

5.2.3. Leadership and responsibility

“Sport is a movement, a movement that wants to take care of itself and does not want politics to get involved.” – “Emma” (member of the Parliament)

According to "Emma", sports politics is a difficult political arena to navigate in because of the movement's independence from the state. After the case of Julle (see 5.1.2.) I ask myself if there is a culture of independence also within the sports movement, and the RF and the SFs refrain from interfering with the activities of the associations? If so, the sports movement seems to be a large and influential, but paralyzed organization, especially regarding structural discrimination of trans and intersex people. The sports movement needs a fundamental change in order to adopt to the society, that is recognised in “*Strategi 2025*”.²⁹³ The informants recognize the sex-segregated structure and culture to be one such fundamental change. Although the trans perspective is often invisible, there is an on-going process to include LGBTI people,²⁹⁴ for example, the two-year project “*Idrott för alla kroppar*” together with the RFSL. The project partly aims to develop inclusive policies and highlight role models.²⁹⁵

Role models

“It has been very important for me to find my role models in order to “come out”. I have found mine in roller derby.” – “Billie” (genderqueer)

In 2010, there were almost no openly gay or lesbian athletes in Sweden. Today, you can find several trans athletes such as Noel Filén Hammarström, Loui Sand and Julle. “Billie” and “Robin” also talk about role models on, for example, Instagram. According to McDonagh and Pappano, role models can visualise different gender identities and empower participation and inclusive sports for all.²⁹⁶

²⁹³ RF (2017)

²⁹⁴ RF (2017), RF (2013)

²⁹⁵ RFSL (2019d)

²⁹⁶ McDonagh, E. & Pappano, L. (2008), p. 250–260

Leadership and responsibility

Leaders and sport coaches can be important role models and change the sports culture by stopping discrimination on the grassroots level. Several informants emphasize the crucial role of coaches and leaders.

“The leaders and coaches have huge responsibilities, they are the ones who can improve the situation for the everyone who does not identify as men. It could be to stop a gay, sexist or racist joke, right away.” – “Bettan” (local politician)

“Olas” association have, for example, started a “mentor/adept” programme. Each coach is in charge of five adepts. In this way, the coaches get a better relationship to the adepts and can observe personal struggles. However, since the Swedish sports movement is based on non-profit and voluntarily commitments the main responsibility to strengthen human rights for, and include, trans and intersex people in sport contexts cannot be put on them. Instead, I argue that the government, local politicians and the RF all have decisive roles.

“The responsibility for change always lies within the system, the authorities and the duty bearers.” - “Sofia” (the RF)

In international human rights law, the state is the main duty bearer and the individuals the right holders.²⁹⁷ Within Swedish amateur sport I argue that the state (national and local politicians), and the RF, the SF and the RF-SISU are the main duty bearers to strengthen the right to participate and enjoy sport. When the RF act on behalf of the state they carry out a responsibility for the sport and its culture,²⁹⁸ And the responsibility for change never lies on the right holders, trans and intersex people.

“There is no responsibility on the individual. The greatest responsibility is on the RF, the unions and the districts.” – “Sofia” (the RF)

²⁹⁷ UDHR (1948), art. 1–2; OHCHR (1993), chapter 1, art. 1–5

²⁹⁸ SOU 2017:92, pp. 358–369

The national politics can take its responsibility through, inter alia, dialogue with the sports movement (the RF) as suggested by the YP, the committee of ministers and the state-initiated investigation from 2017.²⁹⁹ Despite this, the dialogue between the national politicians and the RF seems to be lacking.

“The question is whether we have discussed the real problems around the same table. I am not sure about that. I could start such a dialogue with the RF.” – “Emma” (member of the Parliament)

Another way for the state to change the sport contexts is through its regulation letter to the RF and by the economic aids to associations.³⁰⁰ In the Sport and Association Committee in Gothenburg, it seems to be a lively discussion on whether the politics can demand more from sport associations, without risking to lose the voluntary commitments.

“Politicians cannot decide over the divided sports structure and culture. But of course, we should make demands for the money we contribute with, it is just a matter of making the right kinds of demands.” – “Bettan” (local politician)

“Sofia” at the RF mentions that they have introduced a *“Idrottsombudsman”* (“sports ombudsman”). There is a phone number and a mailbox to contact if someone in the associations violates the values or human rights. There is also a whistle-blower service. She acknowledges that the RF can do more to protect trans and intersex people, but also mentions that it is important to not blame one another and ask yourself “what can we do?”. “Emma” argues that a good idea would be for all sports associations to be LGBTI certified to raise the awareness.

“Imagine if the RF could make such a demand, in order to receive money from us, all coaches need to be LGBTI certified.” – “Emma” (member of the Parliament)

In addition to the actors mentioned above, the informants also believe that actors, such as scholars, companies (through their sponsored money e.g. AB Svenska Spel) and the EU and

²⁹⁹ Karsay, D. (2018), p. 111–116; SOU 2017:92, pp. 108, 524

³⁰⁰ SOU 2017:92, pp. 358–369

the international community are important in order to strengthen the rights for, and include, the group.³⁰¹

5.3. Fair play

“Whether we practice or consume sports, it is always very result-oriented.

Fredrik: Is that good or bad?

I think it is good and has to be that way for it to be exciting.

Fredrik: But that does not mean we have to divide by sex?

No, absolutely not. When I was young, we threw batteries in the garbage, we no longer do that. It is the same with sports, we need to let go of sex segregation.” – “Anna” (trans and intersex)

5.3.1. Competition rules

McDonagh and Pappano argue that sex segregation in general, and divided competition rules in particular, are based on false assumptions that women are athletic inferior to men and therefore need compete separately with separate competition rules.³⁰² In Sweden, some SFs have different rules for men and women, such as shorter races.³⁰³ It derives from stereotypes saying men are more “aggressive” and “strong” while women are “weaker” and “passive”. Ice hockey, for example, has a sports culture of violence and tough play, and women are not allowed to tackle in the same way as men.³⁰⁴

“Both swimming and orienteering are very divided. It is almost impossible to reach the elite level in any of them without dividing into sex. In orienteering, I competed in

³⁰¹ SOU 2017:92, pp. 358–369; RF (2019c)

³⁰² McDonagh, E. & Pappano, L. (2008), pp. 39–40, 252–256; Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94

³⁰³ SOU 2017:92, pp. 363–364

³⁰⁴ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 90–94; Kamasz, E. (2018), pp. 573–574; SOU 2017:92, pp. 363–364

something called, for example, “D16” (“ladies 16-year-olds”). But the men's courses were always longer, regardless of age.” – “Robin” (non-binary)

“Sofia” argues that today several sports compete together, such as archery, horse riding, shooting and roller derby, but makes a distinction between amateur and elite sports. The professional level is particularly affected by the international sports community and the SFs competition rules are influenced by the international rules. In the long run the competition rules affect both amateur sport and youth sport as well.³⁰⁵ McDonagh and Pappano argue that gender-neutral rules without different sizes of play areas, length of races and points to win for women and men, are important to combat the sex discrimination on several levels.³⁰⁶

5.3.2. Physical differences and testosterone levels

“Sports are divided based on sex (genitals), but in her case [Caster Semenya] she is not allowed to participate and compete due to her testosterone levels. The sport has to decide, either you base the division on sex (genitals) or testosterone levels? You cannot do both at the same time.” – “Robin” (non-binary)

The case of Caster Semenya, among several others, is well-discussed within the international sports community and affects the amateur sport. Even if trans and intersex seem to have no scientifically proven athletic benefits from testosterone, compare to other physical differences such as length and weight, it is a well spread assumption among athletes and the international community.³⁰⁷ The World Medical Association and the UN Human Rights Council have criticised this assumption and say it affects trans and intersex persons’ right to participate and enjoy sport.³⁰⁸ “Ola” mentions that some argue that testosterone levels do not give much of an athletic benefit and “Sofia” also criticizes the decision by saying,

“No one knows if Usain Bolt's testosterone levels har much higher compared to his opponent, than for Caster Semenya and the other women?” - “Sofia” (the RF)

³⁰⁵ RF (2019c)

³⁰⁶ McDonagh, E. & Pappano, L. (2008), p. 250–260

³⁰⁷ SOU 2017:92, pp. 363–364; McDonagh, E. & Pappano, L. (2008), pp. 40–75; he Guardian (2019); ASA v IAAF (2019), Media release

³⁰⁸ RFSL (2019a); OHCHR (2018); OHCHR (1993)

From an intersectional perspective the discussion on testosterone levels affects intersex women, in particular non-white women. However, the physical differences seem to be a crucial aspect for the sports to deal with in order to include trans and intersex people.

“A crucial aspect that sports need to deal with are the physical differences. A person with a legal gender as a woman can have a testosterone body as a man. That could kill me in a boxing ring. However, the physical conditions are general and there are huge differences among people as well.” – “Bettan” (local politician)

“Bettan” means that testosterone levels can affect the strength very much but recognizes that there are major differences among individuals within a sex. “Anna” tells about what happened to her body when she got testosterone.

“A lot happened. Damn. I got my vote and gained muscles. I could work out like an idiot and get muscles at once. I got hair on my legs. Things happen to the body. There's a lot of shit going on. Until I decided when I was 40 years old. This is not me. I want to change. And what a circus it became.” – “Anna” (trans and intersex)

She believes that everyone has different conditions and sports must be based on “person”, not on sex. However, “Anna” recognizes that body modification or “faking sex” occurs and is the ultimate doping crime. However, “Billie” argues similar to *“LGBTI and sports”*,³⁰⁹ that it is rather a misconception and a suspicion of trans people based on ignorance and prejudice.

“I do not think that a cis person would pretend to be a trans person in order to win, because you are so exposed as a trans person” – “Billie” (genderqueer)

Alternative solutions

“There are already some fun mixed-team competitions. I have played a lot of mixed soccer and it is a different atmosphere on the pitch.” – “Erik/Susanne” (transvetite)

Today, mixed competitions are popular, not least within “new” sports such as swimrun, frisbee and beach volley and McDonagh and Pappano argue that such opportunities challenge

³⁰⁹ Darj, F., Piehl, M. & Hjelte, F. (2013), pp. 95-99; McDonagh, E. & Pappano, L. (2008), pp. 40-75

the sex-segregated structure.³¹⁰ There are several alternative solutions to compete, apart from sex-segregated sports, which are not as excluding. In horse riding, for example, you compete based on the height of the obstacles,³¹¹ and Pikramenou mentions three alternative competitions based on (1) biological parameters, (2) groups of testosterone levels and (3) self-identification.³¹² “Emma” talks about competitions based on performance, instead of sex and “Patrick” talks about result-based competitions.

“Once I was timing a roller-skating race. Everyone ran their first race on their own and the four best went to the first final. The four second bests to the second final. But each final was still a final with a winner, which made the competitions even.” – “Patrick” (sport coach)

5.4. Sports beyond sex

“The winds in politics are not blowing in this direction right now (...) but the sports movement is a strong and influential movement. If we could get them on track it would be much easier.” – “Emma” (member of the Parliament)

The last section looks forward. How can Swedish amateur sport loosen up the sex-segregated structure and the underlying masculine sports culture to achieve “inclusive sports for all”. In order to strengthen trans and intersex persons’ right to participate and enjoy sport, the sports movement needs to find ways “beyond sex”. To visualise the different time horizons, the discussion is based on “short-term” and “long-term” solutions, primarily based on Anna James Wipfler's three ways which are (1) definitional expansion, (2) categorical expansion and (3) abolition of sex classification.³¹³

5.4.1. Short-term (5-10 years away)

³¹⁰ McDonagh, E. & Pappano, L. (2008), p. 250–260

³¹¹ FEI (2018)

³¹² Pikramenou, N. (2019), p. 71

³¹³ Wipfler, A. (2016), pp. 503-529; McDonagh, E. & Pappano, L. (2008), p. 258–260

“I both wish and believe that it will be better already in 10 years. More people are fighting against bad stereotypes and it becomes more difficult for the larger sports organisations to ignore these issues.” – “Billie” (genderqueer)

Within 10 years, all informants think that the knowledge on trans and intersex will be higher and that there are policies to support “inclusive sports for all”. In addition to a more gender-neutral approach to sports, which McDonagh and Pappano promote, such as mixed teams, gender-neutral (or individual) locker rooms, education for coaches, leaders and the SFs, inclusive initiatives like *“Idrott för alla kroppar”* and gender-neutral rules,³¹⁴ most informants believe that Wipfler’s first and second ways are more realistic from a short-term perspective. Several informants say that a third category (categorical expansion) in sports is important for strengthening the rights of trans and intersex people. “Emma” and “Jamie” think that it is a good “middle-way”, while “Ola” and “Robin” are more doubtful whether a third category for trans and intersex people would include the group. Similar to Travers, who is critical to whether such initiatives are effective for queering the sports,³¹⁵ they argue that it could instead exclude them and create a feeling of being “different”. A third legal gender is a political issue in many ways, says “Emma”. In accordance with the state-initiated investigation,³¹⁶ “Emma” works to pursue a third legal gender in Sweden. Even if the focus on legal gender recognition has increased in several countries in Europe, and some have taken steps to improve the rights by allowing a non-binary legal gender recognition procedure,³¹⁷ she is doubtful whether there is a political majority for such law in Sweden right now. On the other hand, she believes that there are several political ways to strengthen the rights of trans and intersex people, for example, being able to change legal gender without a medical investigation and raising awareness for trans and intersex people’s situation in school sports within educational politics.

“Changing the legal gender is currently very complicated in Sweden. If it were easier, it would also be easier to choose sports team.” – “Billie” (genderqueer)

³¹⁴ McDonagh, E. & Pappano, L. (2008), p. 258–260; RFSL (2019d)

³¹⁵ Travers, A. (2006), pp. 436–437

³¹⁶ SOU 2017:92, p. 23

³¹⁷ Van den Brink, M. & Dunne, P. (2018), pp. 31, 40–67, 108–110; TGEU (2017b)

The focus on legal gender recognition procedures could help loosening up the sex-segregated structure in sports and expanding the definitions of what is a “man” and “woman”. A categorisation based on self-identification or gender identity, instead of sex. Both Love and Pikramenou promote self-identification.³¹⁸ It would nevertheless contribute to Wipfler’s first alternative, a definitional expansion in sports. The organisations then need to deal with the issue of physical differences and testosterone levels (see 5.3.2.). From a short-term perspective, several of the informants believe that a definitional expansion, similar to Love and Pikramenou argumentation, is a smooth way to include the group.³¹⁹ However, some trans and intersex people identify themselves beyond binary sex.

“I would not put my energy on option one or two. If they happen, I will applaud, but I think society is on its way towards alternative three.” – “Anna” (trans and intersex)

5.4.2. Long-term (50-100 years away)

“The less focus on sex, the better. There is not just a two-sex system, we have invented it and we have upheld it. Therefore, we can do differently.” – “Sofia” (the RF)

The structure and the culture in sports are invented by people and the sports movement itself. Therefore, “we can do differently”. In recent years, the focus on trans and intersex persons’ right to participate and enjoy sport has increased among sport organisations and governments,³²⁰ but the structure and the culture continues to create barriers and discrimination.

“I think we should abolish sex segregation, in society in general and in sports in particular. It would have been great if we watch match racing or sailing and it is just sports, not sex. How each sport adapts will probably take some time, but we can start with chess and sailing.

Fredrik: Do you think that all sports could abolish sex segregation?

³¹⁸ Pikramenou, N. (2019), p. 71; Love, A. (2014), pp. 376–383

³¹⁹ Pikramenou, N. (2019), p. 71; Love, A. (2014), pp. 376–383

³²⁰ SOU 2017:92, p. 108; A/HRC/32/33 (2016), para. 85–100; Karsay, D. (2018), p. 111–116; Van den Brink, M. & Dunne, P. (2018)

Yes, I think so.

Fredrik: At all levels, even elite sports?

I think so too.” – “Anna” (trans and intersex)

The message from the informants are clear, similar to Wipfler’s theory and a queer feminist approach, they argue that the long-term goal, and the dream scenario within 50-100 years, is to abolish sex segregation in sports. If the sports find new ways to practice and compete it would contribute to a better and more inclusive movement.

”In fifty years, I hope my dream comes true and all boundaries are blurred.” – ”Patrick” (sport coach)

“Anna” argues that there is a need for a fundamental change in society, not only in sports. However, several of the other informants, for example, "Eva" and "Robin", believe that such reformation is not possible today and it will much longer until we get there. “Erik/Susanne” thinks that Wipfler’s theory is a beautiful theory, but totally unrealistic in practice based on where the sports are today.

“I think the sports movement will be tackling this issue for quite some time. There are 20,000 associations in Sweden and various of international federations and more controversial countries as well” – “Sofia” (the RF)

However, “Erik/Susanne” means that it is a generational issue and masculinities in global north cultures have already changed a lot in recent years. In 50 years, they believe that sex/gender is no more an issue. “Sofia”, “Billie” and “Patrick” do not think the issue will be unsolved in 50 years, even if it will probably be much better.

“The sports movement needs to make an extremely large reformation. There are still world records from when the Soviets competed. However, at the amateur level I think it is much easier.” – “Patrick” (sport coach)

“Patrick” thinks the structural change is easier in amateur sport and “Bettan” believe the movement should start to change the youth sport. The study asked whether abolition of sex segregation would contribute to any risks for women, trans and intersex people and “Anna” means that it will help everyone, “but not everyone sees it”. “Ola” on the other hand argues similar to McDonagh and Pappano, if the sports change the structure without its culture, there is a risk that patriarchal structures continue to exclude women, trans and intersex people from identifying with, participating in and enjoying sports. The sports movement needs a structure and a culture that identify them, instead of dividing them. That is the essence of “sports beyond sex”.

” A sports movement that identify us, instead of dividing us.” – ”Billie” (genderqueer)

6. Conclusion

The following chapter briefly presents the conclusions, together with some final words and proposals for future research.

6.1. Conclusion

The purpose of the study was to investigate how the traditional structure of sex segregation, and the underlying masculine sports culture, affect trans and intersex persons' right to participate and enjoy sport, and to elaborate on ways to include, and strengthen the rights for the group, without jeopardising the same rights of others, especially women. The study conducted 10 semi-structured interviews, with trans and intersex people, sport coaches, the Swedish Sport Confederation and politicians. From a queer-feminist approach it analysed the results based on the structural framework (1) the right to participate, (2) the right to equal enjoyment, (3) fair play and (4) sports beyond sex. These categories derive from the Swedish sports movement's fundamental values and its ambition to create "inclusive sports for all".³²¹ Below is a brief presentation of the conclusions.

6.1.1. The right to participate

The sex-segregated structure and the underlying masculine sports culture, which the sport is founded on, creates structural discrimination and excludes women, trans and intersex people from participating and enjoying sport. Despite inclusive policies and initiatives to include LGBTI people in recent years,³²² the informants argue that Swedish amateur sport needs a profound change in order to strengthen the human rights for, and include, trans and intersex people. Sex segregation is presents on all levels in a lot of amateur sports and there is a lack of awareness and knowledge on how it discriminates trans and intersex people. The informants presented five distinctions of sex-segregated sports which are (1) elite and amateur sports, (2) competition and practice, (3) adult and youth sports, (4) team and individual sports and (5) traditional and new sports. The distinctions distinguish several purposes of sex

³²¹ RF (2017); RF (2019a)

³²² RF (2017); RF (2013); RFSL (2019d)

segregation on different levels. The thesis found that sex segregation is more motivated at the elite level and during competition. Most informants see no reason to divide by sex at the amateur level, in particular in children and youth sports when their bodies are not fully developed. The case of Julle, an 8-year-old trans boy in Sweden, shows how the sports movement is far away from its ambition of “inclusive sports for all”. Team sports uphold a more rigid culture than individual sports and “new” sports, such as roller derby, are not based on the same patriarchal structure as traditional Swedish sports such as soccer and ice hockey. Mixed-teams and co-practice are two ways to challenge the structure. Apart from sex-segregated teams, divided locker rooms continue to be an urgent “first impression” barrier for trans and intersex persons’ the right to participate and enjoy sport. Solutions to the issue might be to build individual or gender-neutral locker rooms for everyone, similar to the initiative by the City of Gothenburg. Other excluding areas can be boardrooms, stadiums and the internet.

6.1.2. The right to equal enjoyment

The Swedish sports movement is the biggest *“folkrörelse”* (“people’s movement”) in Sweden, with more than 3,1 million participators and more than 19,000 sport associations. It is a community- and identity building space and important to a lot of people. Several of the trans and intersex informants avoid sports because it is discriminatory, and it needs a profound cultural change. Firstly, the sports culture is characterised by hegemonic masculinities which undervalue women, trans and intersex people athletic abilities. Several of the trans and intersex informants think the lack of acceptance is worse than divided locker rooms, because it takes longer time to change such culture. Education is one way to combat sex discrimination, and some examples are LGBTI certification, *“Locker room talk”* and the City of Gothenburg method material on LGBTI and sports (to raise awareness in sport associations). Secondly, trans and intersex people are negatively affected by verbal insults and dress codes within sport contexts and have to “educate” team members and coaches. Gender-neutral pronouns and pronoun rounds are ways to avoid such discrimination. Role models can contribute to challenge the sports culture. Finally, the sports movement has a culture of independence. In order to strengthen the human rights for trans and intersex people, the RF and the state need to understand their crucial roles as duty bearers. They have the responsibility for trans and intersex persons’ right to participate and enjoy sport and the

responsibility is not on the individuals. The state can challenge the movement through dialogue, conditions for economic aid and regulation letters.

6.1.3. Fair play

Fair play is a lively discussion within sport organisations such as the IAAF, the IOC and the RF. In Sweden, the SFs have separate competition rules for women and men based on outdated and unfair assumptions that women, trans and intersex are inferior to men. In order to achieve fair play and combat sex discrimination, the rules need to be gender neutral. Alongside, there is a discussion on physical differences and testosterone levels which particularly affects trans and intersex athletes. The sports need to deal with this issue without discriminating trans and intersex people. There are physical differences between sex, but larger differences among people. Some alternative solutions are competitions based on (1) biological parameters (2) testosterone levels or (3) self-identification. Performance and results should not be based on sex.

6.1.4. Sports beyond sex

The sports movement need a new structure and culture in order to achieve its ambition of “inclusive sports for all”. Anna James Wipfler presents three ways to include trans and intersex people, (1) definitional expansion, (2) categorical expansion and (3) abolition of sex segregation.³²³ From a short-term perspective (5-10 years), the informants believe that a definitional and a categorical expansion are possible ways to loosen up the sex segregated structure. Changing legal gender is currently very difficult in Sweden. Even if there is no political majority for a third “non-binary” legal gender right now, a political focus on legal gender recognition procedures would help loosening up the sex-segregated structure in sports and expanding the definitions of what is a “man” and “woman”. From a short-term perspective, several of the informants believe that a definitional expansion, or a categorisation of self-identification based on gender identity instead of sex, is a smooth way to include the group. However, some trans and intersex people identify themselves beyond binary sex. Therefore, from a long-term perspective (50-100 years), the informants argue, similar to Wipfler and a queer-feminist approach, that in order to fully include women, trans and

³²³ Wipfler, A. (2016), pp. 503-529

intersex people and create “inclusive sports for all”, we are moving towards abolition of sex segregation. Alongside a fundamental societal change, the Swedish sports movement can go before, not after, and create a structure and a culture “beyond sex”.

6.2. Final words and further research

“We can never do it for the sports movement, we have to do it with them.” – “Bettan”
(local politician)

In order to strengthen human rights for, and include, trans and intersex athletes in Swedish amateur sport, the state and the RF are the main duty bearers in order to change the structure and culture in sports. Politics can change society and shape the conditions for the sports movement, but the movement itself must change the structure and the culture. The message from the informants is clear, we are moving towards abolition of the sex-segregated structure and “sports beyond sex”. However, in order to do so, the sports movement needs to erase the hegemonic masculinities within the sports culture and the assumptions that women, trans and intersex people are athletically inferior to men. Only then, can there be “inclusive sports for all”. A sports movement that identify them, instead of dividing them. That is the essence of “sports beyond sex”.

“We will always have a debate. In 100 years, when we have abolished sex segregation, someone will still be writing a master's thesis on gender identity in sports.” – “Anna”
(trans and intersex)

6.2.1. Further research

There is “a long way to go for LGBTI equality”, also in sports, and this research has only been a small contribution. In 2.2.4. the right to participate and enjoy sport was raised, but the fight for such a legal right within international human rights law continues and can be further explored. This study has focused on sex segregation as a significant barrier for the structural discrimination on trans and intersex people in sports, but also drew attention to several related discriminatory barriers that can be discovered further such as testosterone levels and physical differences and the masculine sports culture in relation to religion or socio-economical

differences. The aspect of religious influence came up during the interviews, but there was no space to go further into in this study. Finally, I welcome further research on gender-neutral approaches to sports such as co-practice, mixed teams and gender-neutral competitions, to support the conclusion of the study to organize “sports beyond sex”.

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Appendix 1 - Interview guide athletes

The researcher

- The master programme and the study
 - o Contents of the study: sex segregation and trans and intersex athletes
 - o How will the research be presented? Want a copy of the thesis?
 - o Explain the terms “trans”, “intersex” and “sex segregation”
- Anonymity and possibility to cancel the interview at any time
- Ask if I can record the interview?

The informant

- Who are you?
 - o Where are you from?
 - o What do you do for living?
 - o How old are you?
 - o How would you identify yourself? What pronoun do you prefer?
 - o Are you open?
- Have you practiced any sports?
 - o What kin(s) of sports (male/female/mixed)? For how long? At what age?
 - o On what level?
 - o Why these sports?
- Are you practicing any sports today?
 - o If no, when and why did you stop?
 - o If yes, which sports? Why these sports?
 - Is there any difference in how you practice sports today from before?

Situation in amateur sport

Openness

- Are you open in your association? How is it?
 - o If so, how did the coach/friends/parents react?
 - o If no, how do you think coaches/friends/parents would react?
- Do you know other trans or intersex athletes personally? Are they open? What reactions have they encountered?
 - o Is there any difference between the sports groups (men, women and others)?
 - o Are there different experiences among the group of trans and intersex athletes? (non-binary, trans women/men/intersex etc)
 - o Is it different for team sports/single sports etc.
- What would be required to feel safe and be open?

Sex segregation

- Have you experienced sex-segregated sports?
 - o If so, what's your experiences?
 - o Do you think others have similar experiences?
- Is sex segregation necessary?
 - o In which situations can sex segregation be good/problematic and for whom?
 - o Are there different purposes to sex segregation on an elite vs. amateur level?
- Have you, or others, experienced barriers to participate or enjoy sex-segregated sport?
 - o What kind? Concrete situations?

- E.g. when it comes to clothing rooms, segregated teams, clothes, pronoun, heteronormativity, competition rules or other spheres?
- Have you, or others, experienced discrimination, harassment or abusive treatment based on your sex or gender identity/gender expression?
 - What kind? From whom? (athletes, coaches, parents etc)
 - Any concrete situation or comments?
 - What do/did you feel or think?
- Do you know of any policies/laws to include trans and intersex people in sports?
 - Is there a gap between the policies/laws and people's experiences?

Ways to include trans and intersex athletes

- How can sex-segregated amateur sport include trans and intersex athletes?
 - Is it possible to include trans and intersex?
 - What concrete actions must be taken?
 - Different needs among the group of trans and intersex athletes?
 - Different on elite and amateur level?
 - Who is responsible for a change?
- Have you, or someone else, tried to change the situation?
- Do you think coaches, organisations or politicians can do more to include trans and intersex athletes? How? What?
 - Has your coach, or someone else, tried to address issues on gender identity/expression, intersex variations etc.?
- What do you think needs to be done?
 - Within 1 year (today)
 - Within 5-10 years (short term)
 - Within more than 50 years (long term)

Anna James Wipfler talks about three different ways to include trans and intersex people

1. **Definitional expansion** - widening the understanding of who's a "man" and a who's a "woman", towards a more open and flexible binary system and its criteria.
2. **Categorical expansion** - adding another gender category for trans and intersex people, a new classification based on a third legal gender (e.g. "X").
3. **Abolition of the practice** - abolishing registration of sex and sex as a classification, towards a gender-neutral registration system.³²⁴

- What do you think about Wipfler's ways? Are they applicable on sex-segregated amateur sports?
 - Which ways do you prefer?
 - Different among different sports? (team sports/single sports etc.)
- Which ways are possible and how?
 - Within 1 year (today)
 - Within 5-10 years (short term)
 - Within more than 50 years (long term)
- Are there other ways you can think of to include trans and intersex athletes in amateur sports?
- Is there anything you would like to add?

³²⁴ Wipfler, A. (2016) pp. 503-529

Appendix 2 – Interview guide sport coaches

The research

- The master programme and the study
 - o Contents of the study: sex segregation and trans and intersex athletes
 - o How will the research be presented? Want a copy of the thesis?
 - o Explain the terms “trans”, “intersex” and “sex segregation”
- Anonymity and possibility to cancel the interview at any time
- Ask if I can record the interview?

The informant

- Who are you?
 - o Where are you from?
 - o What do you do for living?
 - o How old are you?
 - o How would you identify yourself? What pronoun do you prefer?
- Have you practiced any sports yourself?
 - o What kind(s) of sports (male/female/mixed)? For how long? At what age?
 - o On what level?
 - o Why these sports?
- Are you practicing any sports today?
 - o If no, why did you stop?
 - o If yes, which sports?
- How do you get in touch with sports today? What is your mission/responsibility in relation to sports?

Situation in amateur sport

Openness

- Have you come in contact with any openly trans or intersex athlete in your role as sport coach? (non-binary/trans women/men/intersex etc.)
 - o Any other similar situation?
 - o How did you and your association (coaches and athletes) deal with it?
- Is it possible to be open trans or intersex athletes in your association?
 - o If no, what do you think would be required for trans and intersex athletes to feel safe and be open?
 - o Is it different among the group of trans and intersex athletes? (Non-binary/trans women/men/intersex etc.)
 - o Is it different for team sports/single sports etc.?

Sex segregation

- How do you experience sex-segregated sports yourself?
- Is sex segregation necessary?
 - o In which situations can sex segregation be good/problematic and for whom?
 - o Are there different purposes to sex segregation on an elite vs. amateur level?
- How do you think trans and intersex athletes experience sex-segregated sports?
 - o Do you think other people have similar experiences? (e.g. cis and endosex)
- Can you think of any barriers trans and intersex athletes face to participate or enjoy sex-segregated sport?
 - o What kind? Any concrete examples?

- E.g. when it comes to clothing rooms, segregated teams, clothes, pronoun, heteronormativity, competition rules or other spheres?
- Do you think trans and intersex athletes face discrimination, harassment or abusive treatment because of their sex or gender identity/gender expression in sex-segregated sports?
 - From whom? (athletes, coaches, parents etc.)
 - Any concrete situation or comments?
- Do you know of any policies/laws to include trans and intersex people in sports?
 - Is there a gap between the policies/laws and people's experiences?

Ways to include trans and intersex athletes

- How can sex-segregated amateur sport include trans and intersex athletes?
 - Is it possible to include trans and intersex?
 - What concrete actions must be taken?
 - Different needs among the group of trans and intersex athletes?
 - Different on elite and amateur level?
 - Who is responsible for a change?
- Have you, someone else or your organisation, adopted any inclusive policies/law to protect trans and intersex athletes or tried to change the situation?
- Do you think coaches, organisations or politicians can do more to include trans and intersex athletes? How? What?
- What do you think needs to be done?
 - Within 1 year (today)
 - Within 5-10 years (short term)
 - Within more than 50 years (long term)

Anna James Wipfler talks about three different ways to include trans and intersex people

4. **Definitional expansion** - widening the understanding of who's a "man" and a who's a "woman", towards a more open and flexible binary system and its criteria.
5. **Categorical expansion** - adding another gender category for trans and intersex people, a new classification based on a third legal gender (e.g. "X").
6. **Abolition of the practice** - abolishing registration of sex and sex as a classification, towards a gender-neutral registration system.³²⁵

- What do you think about Wipfler's ways? Are they applicable on sex-segregated amateur sport?
 - Which ways do you prefer?
 - Different for different sports? (team sports/single sports etc.)
- Which ways are possible and how?
 - Within 1 year (today)
 - Within 5-10 years (short term)
 - Within more than 50 years (long term)
- Are there other ways that you can think of to include trans and intersex athletes in amateur sports?
- Is there anything you would like to add?

³²⁵ Wipfler, A. (2016) pp. 503-529

Appendix 3 – Interview guide the Swedish Sport Confederation and politicians

The research

- The master programme and the study
 - o Contents of the study: sex segregation and trans and intersex athletes
 - o How will the research be presented? Want a copy of the thesis?
 - o Explain the terms “trans”, “intersex” and “sex segregation”
- Anonymity and possibility to cancel the interview at any time
- Ask if I can record the interview?

The informant

- Who are you?
 - o Where are you from?
 - o What do you do for living?
 - o How old are you?
 - o How would you identify yourself? What pronoun do you prefer?
- Have you practiced any sports yourself?
 - o What kind(s) of sports (male/female/mixed)? For how long? At what age?
 - o On what level?
 - o Why these sports?
- Are you practicing any sports today?
 - o If no, why did you stop?
 - o If yes, which sports?
- How do you get in touch with sports today? What is your mission/responsibility in relation to sports? Tell me short about your political/work mission?

Situation in amateur sport

Openness

- Have you come in contact with any openly trans or intersex athlete in your mission? (non-binary/trans women/men/intersex etc.)
 - o Any other similar situation?
- Do you think it is possible to be open trans or intersex athletes in amateur sport today?
 - o If no, what do you think would be required for trans and intersex athletes to feel safe and be open?
 - o Is it different among the group of trans and intersex athletes? (Non-binary/trans women/men/intersex etc.)
 - o Is it different for team sports/single sports?

Sex segregation

- How do you experience sex-segregated sports yourself?
- Is sex segregation necessary?
 - o In which situations can sex segregation be good/problematic and for whom?
 - o Are there different purposes to sex segregation on an elite vs. amateur level?
- How do you think trans and intersex athletes experience sex-segregated sports?
 - o Do you think other people have similar experiences? (e.g. cis and endosex)
- Can you think of any barriers trans and intersex athletes face to participate or enjoy sex-segregated sport?

- What kind? Any concrete examples?
- E.g. when it comes to clothing rooms, segregated teams, clothes, pronoun, heteronormativity, competition rules or other spheres?
- Do you think trans and intersex athletes face discrimination, harassment or abusive treatment because of their sex or gender identity/gender expression in sex-segregated sports?
 - From whom? (athletes, coaches, parents etc.) Concrete situation or comments?
- Do you know of any policies/laws to include trans and intersex people in sports?
 - Is there a gap between the policies/laws and people's experiences?
 - Do you offer/require education on LGBTI from sport organisations?
 - How do you follow up policies/laws?

Ways to include trans and intersex athletes

- How can sex-segregated amateur sport include trans and intersex athletes?
 - Is it possible to include trans and intersex?
 - What concrete actions must be taken?
 - Different needs among the group of trans and intersex athletes?
 - Different on elite and amateur level?
 - Who is responsible for a change?
- Have you, or someone else you know of, adopted, or strived to adopt, any inclusive policies/law to protect trans and intersex athletes or tried to change the situation?
 - What did the policy/law look like? When was it? What scope?
- Do you think coaches, organisations or politicians can do more to include trans and intersex athletes? How? What?
- What do you think needs to be done? What can you and your fellows do?
 - Within 1 year (today)
 - Within 5-10 years (short term)
 - Within more than 50 years (long term)

Anna James Wipfler talks about three different ways to include trans and intersex people

7. **Definitional expansion** - widening the understanding of who's a "man" and a who's a "woman", towards a more open and flexible binary system and its criteria.
8. **Categorical expansion** - adding another gender category for trans and intersex people, a new classification based on a third legal gender (e.g. "X").
9. **Abolition of the practice** - abolishing registration of sex and sex as a classification, towards a gender-neutral registration system.³²⁶

- What do you think about Wipfler's ways? Are they applicable on sex-segregated amateur sport?
 - Which ways do you prefer?
 - Different among different sports? (team sports/single sports etc.)
- Which ways are possible and how?
 - Within 1 year (today)
 - Within 5-10 years (short term)
 - Within more than 50 years (long term)
- Are there other ways that you can think of to include trans and intersex athletes in amateur sport?
- Is there anything you would like to add?

³²⁶ Wipfler, A. (2016) pp. 503-529

Appendix 4 – E-mail to associations

Hej,

Jag heter Fredrik Carlson och arbetar till vardags som regionutvecklare för mänskliga rättigheter på Västra Götalandsregionen. Under året är jag tjänstledig för att läsa ett internationellt mastersprogram i mänskliga rättigheter och demokrati. Just nu skriver jag min masteruppsats om trans och intersexpersoner i könsuppdelad amatöridrott i Sverige och möjliga vägar för att skapa en inkluderande idrott.

För att genomföra studien behöver jag 8–10 intervjupersoner (över 18 år). Att delta kan göras helt anonymt och avbrytas när som helst. Intervjun sker på svenska eller engelska, över telefon eller ”in person” (med social distans), och tar cirka 30–45 min.

Jag söker därför:

- **Trans och intersexpersoner** med erfarenhet av könsuppdelad amatöridrott
- Lokala eller nationella **idrottsledare** inom könsuppdelad amatöridrott
- Lokala eller nationella **politiker** eller **mänskliga rättighetsföreträdare** som ansvarar för, eller verkar inom, amatöridrott

Studien söker en bredd av intervjupersoner med olika bakgrunder, kön, könsidentiteter, åldrar (över 18 år) och erfarenheter från olika könsuppdelade idrotter i Sverige. Vet ni någon som kan och vill delta, vill delta själva eller personer som är bra att höra av sig till? Det varit ett stort stöd för studien! Intresserade intervjupersoner får gärna höra av sig till mig via mail eller telefon:

Email: fredrikcarlson@hotmail.com

Telefon: 0705570433

Hör av er om ni har frågor!

Tack för hjälpen! Ser fram emot återkoppling.

Med Vänliga Hälsningar

Fredrik Carlson

För mer info om mitt mastersprogram: <https://gchumanrights.org/education/regional-programmes/ema/about.html>

The e-mail was sent to:

- EKHO
- EKHO Göteborg
- FPES Väst
- INIS
- Intersex Scandinavia
- RFSU
- RFSU Göteborg
- RFSL
- RFSL Göteborg
- RFSL Sjuhärad
- RFSL Ungdom
- Riksidrottsförbundet
- Stockholm Snipers
- Transammans
- Transammans Väst
- Transföreningen FPES
- West Pride
- Facebook-group “Roller derby – diskussion”
- Facebook-group “Hbtq-vänliga troende”