

Inclusion, the concept that destroys women's human rights Legal analysis of the Flying Bats case

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The recent landslide victory of the Australian soccer team [Flying Bats](#) has generated a great deal of controversy after winning their city's Women's Premier League with [65 goals scored and only four conceded](#). This formidable performance has a very simple explanation: they have achieved it because, of the eleven members of the women's team, five are trans self-identified males.

That is, we are talking about people who, because they have passed male puberty, are taller, stronger, faster, have greater lung capacity, greater physical endurance and muscle mass, longer limbs and, among others, are more competitive, more aggressive and compete with the conviction that their female opponents cannot beat them and that they will even be afraid of injury.

The triumph of Flying Bats has reopened the debate in Australia about the impossibility of guaranteeing the fair play that should govern women's sport, because the law that protects 'gender identity' allows trans-self-identified people to compete against women, despite their notorious competitive advantages, validating cheating by law. In Australia, as we have seen in the recent judgment in the [Tickle Vs. Giggle case](#), this group has more guarantees than women, this group has more guarantees than women, because they are protected on the basis of both gender identity and sex.

Regarding the case of the Australian soccer team, in this article we are going to analyze some of the main rights of women and girls that are violated when they have to compete with natural born males who have gone through male puberty in women's sports competitions.

Dignity and equity: the basis of Human Rights in sport

Dignity is a fundamental principle in international human rights law, on which all other rights are built, enshrined in the [CEDAW](#). This treaty recognizes the right of women to participate in sporting activities on equal terms (Article 10).

And this is precisely the problem with the inclusion of athletes who have gone through male puberty in women's sport: an inherently unfair and unjust competitive environment is created. The physical advantages acquired by those with male bodies result in a situation where women are forced to compete under

conditions that are not equal. This situation affects results from the outset due to the demoralization of female athletes, a direct product of the well-founded perception that, regardless of their skills, talents and efforts, women are doomed to lose on a playing field tilted against them.

This injustice is compounded in contact sports, such as soccer, because the risks of injury are higher, as is the fear of injury. This is not only a violation of the principle of **equity** in sport, but it is also an **affront to the dignity of women and girls**, who are marginalized, limited and even excluded from their own category, discouraged and withdrawn from sport, seeing their legitimate expectations disappointed by not being able to compete on equal terms. And this is precisely what has happened in Australia, where six of the Flying Bats' triumphs came from the abandonment of the contending women's teams, including the two semifinal games.

Fair play: the golden rule under threat

Sex-segregated sports require that biological differences between women and men be taken into account to ensure that all athletes have an equal chance of success within their category. Allowing born males to compete in female categories directly violates the principle of fair play on which sport is founded, because, as Beth Stelzer of Save Women's Sports points out, you compete with your body and not with your gender identity.

From the beginning of modern sports competitions, fair play became the cornerstone of sport, which is based on honesty, fairness and mutual respect. When women and girls are forced to compete against people with the disproportionate advantages derived from their male biology, fair play is impossible. It has been shown that the advantages are not eliminated or significantly diminished by the decrease in testosterone levels, since bone structures, lung capacity, muscle mass, among many other factors, are largely permanent. As Martina Navratilova says, they are still men and they keep their biological advantages.

Helplessness and silencing of women's voices

Inclusion policies that force the entry of people born male into the female categories have created an environment of certain hostility, in which female athletes often feel defenseless, intimidated, and even violated when they have to share locker rooms and private environments, which is a violation of various fundamental rights and freedoms of women and girls, among them, the right to privacy and security.

Not only do they have to compete at a clear physical disadvantage, but they are often prevented from expressing their well-founded fears, protesting the injustice of seeing their rights, spaces and opportunities usurped and from exercising the legitimate defense of their interests, under penalty of being accused of transphobia. As this is considered a hate crime that usually carries very high sanctions and fines, the accusation of transphobia constitutes an intrinsic violation of **freedom of speech and the right of defense** of women and girls.

Moreover, in some cases, such as that of the Flying Bats team in Australia, [women players and the public have been prohibited from taking photos or videos of the matches](#), to prevent them from documenting the situation and sharing their experiences. These abusive restrictions violate women's freedom of speech and reinforce the **helplessness** they suffer, exposing the treachery that underlies policies that limit women's rights. Unable to speak out about the injustices they face, female athletes are silenced and deprived of the opportunity to stand up for their rights, to influence public debate, to make their voices heard. In Afghanistan, women are silenced and subdued by the power of arms; in the West, by the power of misogynistic laws that claim to be egalitarian.

This silencing is a form of **oppression and violence** against girls and women, preventing them from fighting for their rights and demanding a fair, equitable and transparent environment, in accordance with the rules and principles that govern sport. If the inclusion of trans self-identified people coerces, violates, silences and excludes women, it is **discrimination** and it is our human rights that are violated, violating the norms that protect us.

Need to establish policies of inclusion among equals

As we can see in the case of the Flying Bats, the forced entry of trans-self-identified people into women's sports competitions is evidence of serious injustices. In order to ensure that women and girls can participate in sport safely and fairly, their other human rights must be respected: dignity, privacy, non-discrimination, freedom of speech, self-defense, the right to live free from fear and violence.

However, current policies that force the colonization of women's spaces and rights by born men undermine these rights, creating an intimidating, hostile and unsafe environment, which prevents fair play and threatens to end women's sport. For these reasons, it is imperative that the IOC, sports federations and parliaments of different countries review their policies to ensure that women's sport remains an exclusive space for women and that they can compete among equals.

This implies the creation of a third category, or else to compete according to biological sex, for which measures must be implemented to ensure that *diverse males* are respected by their hegemonic peers, as this is the true meaning of inclusion and the only fair competition among equals.

For violating the human rights of women and girls, 'inclusion' is **illegitimate**. For this reason, the [Women's Forum organization has raised before the Federal Parliament of Australia](#) the initiative to protect women's sport according to sex, which I encourage you to join to defend women's rights.

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