



OPEN LETTER: OPPOSING THE RULING BY THE COURT OF ARBITRATION FOR SPORT ON CASTER SEMENYA v. IAAF

Honorable Maryam Monsef
Minister of Status of Women
House of Commons
Ottawa, ON. Canada
K1A 0A9
Maryam.Monsef@parl.gc.ca

Honourable Kirsty Duncan
Minister of Sport and Persons with Disabilities
House of Commons
Ottawa, ON. Canada
K1A 0A9
Kirsty.Duncan@parl.gc.ca

May 2, 2019

Dear Minister Monsef and Minister Duncan,

We are calling on the Government of Canada to uphold the rights of women and LGBTQI2S people by not adhering to the testosterone regulations put forward by the IAAF and allowing all women to participate in sports on the professional level in Canada.

Additionally, as it relates to intersex rights in Canada, the Canadian government has a responsibility to address the current state of intersex legislation. Given, Canada has displayed tremendous leadership in promotion and protection of Sexual Orientation and Gender Identity rights on the global platform, Canada's own criminal code cannot continue to enable Intersex Genital Mutilation, a practice that amounts to torture per normative human rights standards. We ask that steps are taken towards necessary legal amendments so that Canada can lead by example for the cause of intersex rights within its own jurisdiction and across the globe.

We were profoundly disappointed to hear of the ruling yesterday morning by the Court of Arbitration for Sport (CAS) in regards to the Caster Semenya case. The ruling has enforced that Semenya among other athletes with higher levels of testosterone, are to take medical inhibitors to reduce their levels of testosterone should they wish to compete on the international sports stage in specific categories. This has led to larger implications for women in sport and in particular, LGBTQI2S women athletes.

Perhaps the most devastating part of this ruling is that the CAS panel – Hon. Dr. Annabelle Bennett AO SC (President); The Hon. Hugh L. Fraser (Arbitrator) and Dr. Hans Nater (Arbitrator) – found that “the DSD regulations are discriminatory but that such discrimination is a necessary, reasonable and proportionate means of achieving the legitimate objective of ensuring fair competition in female athletics in certain events.”.



The implication that the panel understood they were enforcing a discriminatory policy, is the problem at the core of this ruling. Moreover, it was also acknowledged that there was insufficient evidence to support the idea that higher levels of testosterone are a decisive factor in determining a competitive advantage.

We encourage CAS to base future rulings on inclusion and progress, rather than discrimination and injustice. We recommend the IAAF continue on its journey on understanding the importance of inclusion of sport and uphold that decisions must be informed. There is a clear need for both to develop a deeper understanding of sexual orientation, gender identity, gender expression and gender equality.

The consequences of this ruling are incredibly damaging for women in sport. Not only are we enforcing the notion that the state may police woman's bodies, we are discouraging women from participating in sports, especially intersex and trans women. We are telling women that they can be good, but not too good; that they must fit within a binary notion of gender to be considered a 'woman'. To echo what others in the LGBTQI2S community have said: In this case, women's sport has taken a step back because of misinformed debates about what women's bodies should be capable of, rather than what they are capable of.

Sport is for everyone, as they were born, as they are. Changes need to be made not to the athletes, but to our ideas of division. We challenge the binary division that has become enforced. The problem lies not with Caster Semenya, but with a limited understanding of sex, gender and the classifications of a binary sport system. It is our hope that this ruling will be overturned. We encourage the IAAF to foster inclusion by allowing athletes to participate as they were born.

We stand with Caster Semenya and all those who fall within the spectrum of what it means to be intersex.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen Kennedy", written in a cursive style.

Helen Kennedy
Executive Director
Egale Canada Human Rights Trust