

**NAVIGATING INTERSECTIONALITY IN SPORTS LAW- A COMPARATIVE STUDY
OF THE LEGAL TENSIONS BETWEEN CISGENDER AND TRANSGENDER
WOMEN'S RIGHTS**

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ABSTRACT

The evolving legal tensions between cisgender and transgender women's rights within the realm of sports law has been explored in this study, through the lens of intersectionality. As global sports institutions attempt to balance fairness and inclusivity, legal frameworks often struggle to keep pace with complex gender dynamics in the real world. Beginning with an overview of the contentions, the research examines historical participation, landmark cases, and ongoing controversies highlighting the conflict between gender identity and athletic regulation. A comparative analysis of national and international sports laws reveals fragmented and inconsistent approaches, exposing challenges in defining eligibility and protecting rights. By investigating key frameworks and analysing real-world legal disputes, this project identifies the need for coherent, rights-based, and scientifically informed policies whereby, contributing to the development of equitable legal standards that respect both competitive fairness and gender diversity in sport.

Keywords: Intersectionality, Transgender, Cisgender, Sports Law, Gender Inclusion.

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INTRODUCTION

Athletic games to e-sports, a significant transformation has evolved in the sports industry leading to new legal frameworks, which is collectively known as sports law, serving as a broader umbrella for various types of sports including traditional physical sports and the emerging digital competitions.³ It encompasses issues such as player contracts, intellectual property, gender inclusion, doping regulations, and dispute resolution, reflecting the growing complexity and diversity of the modern sports landscape.⁴

Historically, sports were predominantly a male domain, with minimal to no involvement of women and girls. The earliest non-official reference to female participation in physical activity dates back over three millennia. Around 800 B.C., the Greek poet Homer described Princess Nausicaa playing ball with her handmaidens on the island of Scheria, noting:

*“When she and her handmaids were satisfied with their delightful food, each set aside the veil she wore: the young girls now played ball; and as they tossed the ball...”*⁵

Despite such early literary references, formal opportunities for women in competitive sports remained scarce for centuries until the passage of **Title IX** in 1972 in U.S., wherein women gained legal recognition to participate in sports on equal terms with men, which was mainly due to social reforms and rise of feminism that paved the way for gender equality in athletics.⁶ Women not only struggled for recognition in society but also faced significant barriers in gaining access to sports, the physical activities were largely recreational, informal, and noncompetitive until the late 19th or the early 20th century, women began to establish their own athletic clubs and engaging in organized sports alongside societal resistance and institutional efforts to limit their involvement in competitive athletics.⁷

Another class of persons who faced the same discrimination in the society are the transgender, individuals whose gender identity does not correspond with the sex assigned to them at birth,

³ Timothy Davis, What Is Sports Law? 11 *Marq. Sports L. Rev.* 211 (2001), <https://scholarship.law.marquette.edu/sportslaw/vol11/iss2/7>.

⁴ Id.

⁵ Linda J. Borish, A History of Women in Sport Prior to Title IX, *The Sport Journal*, <https://thesportjournal.org/article/a-history-of-women-in-sport-prior-to-title-ix/> (last visited July 18, 2025).

⁶ U.S. Dep't of Educ., *Title IX and Sex Discrimination*, <https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination> (last visited July 18, 2025).

⁷ Davis, *supra* note 3.

were formally recognized as a distinct gender category, often referred to as the "third gender".⁸ While such individuals have existed in societies throughout history but it was only in recent times that their identity was acknowledged on equal footing with those of men and women.

The recent debate surrounding the rights of transgender individuals has brought greater attention to the discrimination they have historically faced in society thereby to eliminate such discrimination, both states and international organizations have taken steps to formally recognize and protect transgender identities.⁹ However, their inclusion within sports industry have placed them in the same category as cisgender women which has led to a growing conflict over rights and fairness between cisgender and transgender athletes, a tension particularly visible in the legal and regulatory frameworks governing sports.¹⁰

UNDERSTANDING THE TENSION BETWEEN CISGENDER AND TRANSGENDER INDIVIDUALS IN SPORTS LAW

Participation in sports became a later step in the broader struggle for gender recognition, which first focused on affirming the rights and visibility of women and girls, followed by that of transgender individuals. Deep-rooted stereotypes viewed women limited to domestic roles and men as family heads, restricted their opportunities, making transgender inclusion even less likely. However, ongoing advocacy from both cisgender and transgender communities eventually sparked a movement for equality and full participation in all areas, including sports.

1. Historical Barriers and Progress: A Cisgender Perspective

The rise of feminism, particularly during the broader social reform efforts of the Civil Rights Movement, played a crucial role in advancing the fight for gender equality, during the late 1960s and early 1970s, women's advocacy groups increasingly focused on the need for federal legislation to eliminate sex-based discrimination, particularly in education and sports.¹¹ Women were given the opportunity to participate in sports, but in a very limited sense as the organizations like the Amateur Athletic Union (AAU) criticized women's inclusion, claiming

⁸ *Nat'l Legal Servs. Auth. v. Union of India*, AIR 2014 SC 1863 (India); *R. v. Keegstra*, [1990] 3 S.C.R. 697 (Can.); *Bostock v. Clayton County*, 590 U.S. 644 (2020).

⁹ U.N. Dev. Programme, *Discussion Paper: Transgender Health and Human Rights* (Dec. 2013), <https://www.undp.org/sites/g/files/zskgke326/files/publications/Trans%20Health%20&%20Human%20Rights.pdf>.

¹⁰ D.J. Oberlin, Sex Differences and Athletic Performance: Where Do Trans Individuals Fit into Sports and Athletics Based on Current Research? *Front. Sports Act. Living*, Oct. 27, 2023, at 1224476, <https://doi.org/10.3389/fspor.2023.1224476>.

¹¹ Sarah Pruitt, How Title IX Transformed Women's Sports, *History.com* (June 23, 2022), <https://www.history.com/articles/title-nine-womens-sports>.

that women's sports should focus on recreation rather than competition or financial reward.¹² Despite such barriers, progresses were made, first women to be allowed to compete in tennis in Wimbledon in 1884, but the struggle for inclusion persisted and racial discrimination further hindered progress, prohibiting Black women from competing in major tennis tournaments like Wimbledon until 1951.¹³

In response to these challenges, the United States enacted Title IX of the Education Amendments of 1972 to prohibit sex-based discrimination in education programs and activities receiving federal funding. It mandates federally funded institutions to ensure equal participation for women in all levels of sports, promoting inclusivity and equity.¹⁴

Examining the historical status of women in India reveals a dynamic journey of empowerment and struggle. During the Rig Vedic period, women enjoyed equal status with men, including the right to education and even weapon training. A similar spirit of strength but in a more limited form was seen during the Mughal period, exemplified by iconic figures like Rani Lakshmi Bai. Efforts to reduce gender inequality in education, employment, and property rights began under British rule, driven by reformers challenging stigma and patriarchy.¹⁵ Following independence, the Indian government implemented legal, social, and economic reforms to improve the status of women, which had led to increased female participation in sports, although a significant gender gap remained.¹⁶

Furthermore, the path to gender equality in the Olympic Games has been a long and evolving journey as evident in the Paris 1900 Olympic Games where women made their debut, competing in just five events: tennis, sailing, croquet, equestrian, and golf, mere 22 women participated, accounting for only 2.2% of the total 997 competitors.¹⁷ But in time, the International Olympic Committee (IOC) has increasingly prioritized gender equality, leading efforts both on and off the

¹² Katrina Karkazis et al., Out of Bounds? A Critique of the New Policies on Hyperandrogenism in Elite Female Athletes, 12 *Am. J. Bioeth.* 3 (2012), <https://doi.org/10.1080/15265161.2012.680533>.

¹³ Am. Pub. Univ. Sys., Is There Gender Discrimination in Sports? How to Fix It, <https://www.apu.apus.edu/area-of-study/nursing-and-health-sciences/resources/is-there-gender-discrimination-in-sports/> (last visited July 19, 2025).

¹⁴ Borish, *supra* note 5.

¹⁵ Baydahi Roy, Women's Empowerment in India, from Ancient Period to Modern Time Period, *Times of India Readers' Blog*, <https://timesofindia.indiatimes.com/readersblog/scatteredthoughts/womens-empowerment-in-india-from-ancient-period-to-modern-time-period-46689/> (last visited July 19, 2025).

¹⁶ Prof. Gautam Shahuraje Jadhav, Indian Sports: Contribution of Women, *J. Emerging Techs. & Innovative Res.*, <https://www.jetir.org/papers/JETIR1804412.pdf> (last visited July 23, 2025).

¹⁷ Int'l Olympic Comm., Gender Equality Through Time, <https://www.olympics.com/ioc/gender-equality/gender-equality-through-time> (last visited July 19, 2025).

field. The representation of women at the Olympics has steadily grown, from 34% at the Atlanta 1996 Games to a historic 48% at the Paris 2024 Olympic Games achieving full gender equality.¹⁸

2. Historical Barriers and Progress: A Transgender Perspective

Transgender individuals have existed across all societies, cultures, and classes throughout history, individuals whose gender identity not aligned with the sex they were assigned at birth, rather it is typically based on physical appearance wherein Gender identity refers to a person's internal sense of self, be it male, female, a blend of both, or neither.¹⁹ Howsoever, recognition of their rights has recently begun to gain attention in the modern era. Despite the little progress of recognition in society, transgender people often lack legal protections and continue to face widespread stigma, transphobia, discrimination, and violence due to their gender identity.

The Supreme Court of India had upheld the right of every individual to self-identify their gender in the landmark case of National Legal Services Authority (NALSA) v. Union of India²⁰ where it further recognized that hijras and eunuchs could legally identify as a "third gender," affirming their constitutional rights to equality, non-discrimination, and dignity. Importantly, the Court clarified that gender identity is not determined by biological or physical attributes but is instead based on an individual's internal, deeply felt sense of their own gender marking a significant step toward inclusivity and acknowledgment of importance of personal identity while it paved the way for greater legal and social recognition of transgender individuals in India.

To promote the inclusion of transgender athletes, the International Olympic Committee (IOC) introduced a policy in 2003, a Stockholm Consensus wherein the transgender athletes were permitted to compete if they had completed full medical transition, which included undergoing gender-confirming surgery, obtaining legal recognition of their gender, and receiving a minimum of two years of hormone therapy.²¹

Marking a major move toward inclusivity and acknowledgment of gender diversity in international sports, the IOC updated its policy in 2015 by eliminating the surgery requirement

¹⁸ Id.

¹⁹ Nat'l Legal Servs. Auth., supra note 8.

²⁰ AIR 2014 SC 1863.

²¹ Int'l Olympic Comm., IOC Approves Consensus with Regard to Athletes Who Have Changed Sex, <https://www.olympics.com/ioc/news/ioc-approves-consensus-with-regard-to-athletes-who-have-changed-sex-1> (last visited July 19, 2025).

and focusing on hormone levels whereby transgender women were allowed to compete in the female category if their testosterone levels had been below a specified limit (10 nmol/L) for at least 12 months, while transgender men could compete in the male category without restrictions.²²

Key milestones include Keelin Godsey's Olympic Trials appearances (2008, 2012), Chris Mosier becoming the first transgender man to compete under the new policy (2016), and Ness Murby becoming the first openly trans Paralympian. Tokyo 2020 saw four openly transgender or nonbinary athletes, and Paris 2024 featured three, reflecting increasing inclusion and visibility in international sports.²³

KEY CASES AND ONGOING DEBATES OVER RIGHTS IN SPORTS

- a. *Hannah Mouncey and the Debate on Transgender Inclusion in Sport:*²⁴ In 2017, Hannah Mouncey was ruled to be ineligible for the Australia Football League Women (AFLW draft) due to her gender identity prompting debate as to no clear policy on transgender inclusion existed.
- b. *Discrimination faced by Transgender in Australia:*²⁵ Greenhill Football Club trains at a facility owned by Westacre, provided access to the men's change-room, despite repeated requests to unlock the women's change-room for transgender. This policy disproportionately affects transgender and non-binary players who prefer to use facilities that align with their gender identity, forcing them to change at home or in the carpark.
- c. *FINA's Gender Inclusion Policy and Human Rights Concerns:*²⁶ Critics claim FINA's (Federation Internationale de Natation) blanket exclusion lacks proportionality, denies transgender athletes' equal opportunity, and may violate international human and children's rights by failing to accommodate diverse gender identities in sport.

²² Int'l Olympic Comm., IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism, https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015_11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf (last visited July 19, 2025).

²³ Id.

²⁴ Priya Sharma, Understanding the Impact of Gender Equality Policies on Women's Participation in Sports: A Comparative Study of India and the United States, *Sport in Society*, <https://www.tandfonline.com/doi/full> (last visited July 19, 2025).

²⁵ Austl. Hum. Rts. Comm'n, *Guidelines for the Inclusion of Transgender and Gender-Diverse People in Sport*, https://humanrights.gov.au/sites/default/files/document/publication/ahrc_transgender_and_gender_diverse_guidelines_2019.pdf (last visited July 19, 2025).

²⁶ Daniela Heerdt, Transgender Women Athlete Exclusion in Disguise: Assessing FINA's 'Gender Inclusion Policy' Under International Human Rights Law, *Verfassungsblog*, <https://verfassungsblog.de/transgender-women-athlete-exclusion-in-disguise/> (last visited July 19, 2025).

- d. *Impact of Trump's Executive Orders on Transgender Americans*: The Trump administration 'executive orders'²⁷ targeting transgender and non-binary individuals, restricted the access to accurate federal identity documents, threatened hospitals over gender-affirming care, and erased transgender history from federal websites, aligning with Trump's promise to recognize only "two genders" from his first day in office.²⁸ But in a recent legal development, a federal district court blocked the administration's ban on transgender individuals serving in the U.S. Armed Forces, marking the third court to do so and extending the injunction to all affected service members, including those abroad.²⁹ Building on these restrictive measures, Trump signed an executive order banning transgender athletes from competing in women's sports, from elementary school to college. This move to limit transgender rights has become a key issue, with individuals like 34-year-old Moore, a community athlete, fearing that they might lose the right to participate in sports.³⁰
- e. *The Santhi Soundarajan Case in India*:³¹ Santhi Soundarajan, a talented athlete from Tamil Nadu, faced a devastating setback at the 2006 Asian Games in Doha, Qatar. After winning a silver medal in the women's 800-meter race, her achievement was overshadowed as it was revoked due to her failure in a sex verification test which was meant to confirm her eligibility for the women's category, concluded that she lacked typical female sexual characteristics. As a result, she was disqualified and stripped of her medal without providing proper course to defend her.

These examples highlight the urgent need for sports organizations and governments to implement transparent, evidence-based, and inclusive policies that ensure fair treatment and uphold the dignity and rights of all athletes, regardless of gender identity.

A COMPARATIVE STUDY OF THE RULES AND REGULATIONS GOVERNING SPORTS LAW WITH RESPECT TO CISGENDER AND TRANSGENDER ATHLETES

²⁷ Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 30, 2025).

²⁸ Orion Rummeler & Kate Sosin, Trump's Anti-Trans Executive Orders: What They Are and Where They Stand, *The 19th News*, <https://19thnews.org/2025/03/trump-anti-trans-executive-orders/> (last visited July 20, 2025).

²⁹ *Shilling v. Trump*, No. 25-2039 (9th Cir.).

³⁰ Marnie Vinall, Trans Aussie Rules Player 'Terrified' Her Right to Play Could Be Taken Away, *ABC News*, <https://www.abc.net.au/news/2025-03-18/taylah-moore-trans-aussie-rules-player-victoria/105051884> (last visited July 20, 2025).

³¹ Sudeshna Mukherjee, The Curious Case of Shanthi: The Issue of Transgender in Indian Sports, *Rupkatha J. Interdisciplinary Stud. Humanities*, vol. VI, no. 3 (2014), https://rupkatha.com/V6/n3/11_Curious_Case_of_Shanthi.pdf (last visited July 20, 2025).

A complex web of legal frameworks and regulatory approaches has emerged, providing a comprehensive exploration of the rules and regulations governing the participation of cisgender and transgender athletes in competitive sports.

1. Exploring The Legal Framework for Cisgender and Transgender Athletes

a. *The Right to Sport and the IOC's Commitment to Inclusion:* Every individual must have access to participate in sport without discrimination of any kind, in accordance with internationally recognized human rights and within the scope of the Olympic Movement as the Olympic spirit calls for mutual understanding, underpinned by friendship, solidarity, and fair play.³²

The International Olympic Committee (IOC), a not-for-profit organization established in 1894, introduced the *Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations* in 2021, replacing the 2015 Consensus Statement as part of its Olympic Agenda 2020+5, adopts a rights-based and evidence-informed approach to eligibility in sex-segregated sport providing for ten guiding principles: inclusion, prevention of harm, non-discrimination, fairness, no presumption of advantage, evidence-based approach, primacy of health and bodily autonomy, stakeholder-centred approach, right to privacy, and periodic reviews.³³

b. *Transgender Guidelines*³⁴: Since the 2003 Stockholm Consensus on Sex Reassignment in Sports, initially required transgender women to undergo surgical procedures, including gonadectomy, and observe a two-year waiting period before becoming eligible to compete in women's sports.³⁵ However, the IOC's 2015 updated the guidelines by removing the surgery requirement but other conditions are evaluated on a case-by-case basis to ensure fairness and inclusion.³⁶ These guidelines include:

³² *Olympic Charter*, Fundamental Principles of Olympism, Principle 4 (Int'l Olympic Comm. 2023).

³³ Int'l Olympic Comm., *IOC Framework on Fairness, Inclusion and Non-Discrimination on the Basis of Gender Identity and Sex Variations*,

<https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf> (last visited July 20, 2025).

³⁴ Int'l Olympic Comm., *supra* note 19.

³⁵ Int'l Olympic Comm., *IOC Approves Consensus with Regard to Athletes Who Have Changed Sex*, <https://www.olympics.com/ioc/news/ioc-approves-consensus-with-regard-to-athletes-who-have-changed-sex> (last visited July 21, 2025).

³⁶ Associated Press, *IOC Rules Transgender Athletes Can Take Part in Olympics Without Surgery*, *The Guardian*, <https://www.theguardian.com/sport/2016/jan/25/ioc-rules-transgender-athletes-can-take-part-in-olympics-without-surgery> (last visited July 21, 2025).

1. Individuals who transition from female to male are eligible to compete in the male category without restriction.
2. Individuals who transition from male to female are eligible to compete in the female category under the following conditions:
 - a. The athlete must declare that her gender identity is female, and this declaration cannot be changed for sporting purposes for a minimum of four years.
 - b. The athlete must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition. (Any longer period will be determined based on a confidential case-by-case evaluation, considering whether 12 months is sufficient to minimize any competitive advantage in women's competition).
 - c. The athlete's total testosterone level in serum must remain below 10 nmol/L throughout the period of eligibility to compete in the female category.
 - d. Compliance with these conditions may be monitored through testing. In cases of non-compliance, the athlete's eligibility for female competition will be suspended for 12 months. It is to be noted that the International Olympic Committee (IOC) does not directly govern all sports worldwide, it plays a pivotal role in overseeing the Olympic Movement and ensuring the regular organization of the Olympic Games.³⁷

1. A Comparative Analysis of Sports Policies and Law for Cisgender and Transgender Athletes Around the Globe

In examining the legal frameworks and sports policies related to cisgender and transgender athletes, it is important to consider the perspectives and regulations from different countries such as British law which establishes a key legal framework., the Gender Recognition Act of 2004, granting individuals a Gender Recognition Certificate (GRC), which is a legal recognition in their acquired gender “for all purposes,” though it includes certain exceptions. However, there is ongoing legal uncertainty about how this interacts with the Equality Act 2010, particularly regarding the definitions of “man, woman and sex”³⁸ which was later resolved by the Supreme

³⁷ Int'l Olympic Comm., Recognized International Federations, <https://www.olympics.com/ioc/recognised-international-federations> (last visited July 23, 2025).

³⁸ McAnena & Cunningham, Comment: McAnena & Cunningham, 7–14 April 2023, *Legal World, New Law J.*, https://www.outertemple.com/wp-content/uploads/2023/06/Comment-McAnena-Cunningham_7-14-April_1.pdf (last visited July 23, 2025).

Court in the case of *Women Scotland Ltd v. The Scottish Ministers*,³⁹ where the Court unanimously upheld the appeal, determining that the terms “man,” “woman,” and “sex” in the Equality Act 2010 refer to biological sex.

The ruling clarified the legality of women’s sports but simultaneously created a barrier through Section 195 of the Equality Act 2010, as sex-based distinctions in sports was allowed where physical strength, stamina, or physique may provide one sex with an advantage. However, the ruling may exclude transgender women by defining gender strictly by biological sex, limiting their participation and creating barriers to inclusion based on gender identity.

While in U.S., the Trump’s policy of excluding transgender from public offices have resulted in issuance of Executive Order 14168 “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” (the EO),⁴⁰ which has set-forth a new policy to rescind federal funding from educational programs that allowed transgender women and girls to compete on female teams and oppose transgender women’s and girls’ participation in female sports more broadly.

Following the orders, the U.S. Department of Education began reviewing athletics policies at universities and athletic associations but local resistance emerged most notably on February 11, 2025, when Worcester, Massachusetts, declared itself a transgender sanctuary city, vowing to protect transgender rights.⁴¹ Legal challenges emerged as on February 12, 2025, two transgender high school students in New Hampshire filed a lawsuit, *Tirrell v. Edelblut*,⁴² against the Trump administration, arguing that “Executive Orders 14168 and 14201”⁴³ discriminate against transgender individuals, violating both the Constitution and Title IX. This lawsuit is expected to invoke the U.S. Supreme Court’s ruling in *Bostock v. Clayton County*,⁴⁴ which held that discrimination based on gender identity constitutes sex-based discrimination under Title VII.

³⁹ 2025 UKSC 16.

⁴⁰ Sharma, *supra* note 24.

⁴¹ Lara A. Flath & Amy Van Gelder, *Ban on Transgender Women from Female Sports Is Challenged in Court*, *Skadden, Arps, Slate, Meagher & Flom LLP*, <https://www.skadden.com/insights/publications/2025/02/ban-on-transgender-women-from-female-sports-is-challenged-in-court> (last visited July 21, 2025).

⁴² *1:24-cv-00251* (D.N.H.).

⁴³ Exec. Order No. 14201, *Keeping Men Out of Women’s Sports*, 90 Fed. Reg. 9279 (Feb. 11, 2025), <https://www.presidency.ucsb.edu/documents/executive-order-14201->

⁴⁴ 140 S. Ct. 1731 (2020).

In contrast to U.K. and U.S., the legal and policy landscape regarding transgender athletes is still fluid in India. While the Transgender Persons (Protection of Rights) Act 2019 recognizes transgender individuals, it does not provide clear guidelines for their participation in sports. The Sports Authority of India has yet to implement consistent policies, leaving decisions to individual sports organizations. But the Courts in India have recognized the equal rights of transgender individuals to participate in sports ruling that in the absence of a separate category for transgender persons, the petitioner, identifying as a woman, must be allowed to compete in the female category.⁴⁵

LEGAL CHALLENGES FOR CISGENDER AND TRANSGENDER ATHLETES IN SPORTS

The legal challenges faced by transgender athletes, as discussed in the above chapters, can be summarized as follows:

- a. **Ambiguity in Gender Definitions:** The legal ambiguity surrounding the definitions of "man," "woman," and "sex" in various legal frameworks creates challenges for transgender athletes. Rulings that define these terms strictly based on biological sex potentially exclude transgender women from competing in female sports.
- b. **Lack of Uniform Policies:** The absence of clear and consistent national policies regarding the participation of transgender athletes in sports leaves them vulnerable in many regions.
- c. **Legal Discrimination Against Transgender Athletes:** The rigid legal frameworks that base eligibility for female sports on biological sex rather than gender identity (as seen in both the UK and the U.S.) can result in discrimination.
- d. **Legal Uncertainty in Policy:** The varying testosterone level requirements set by different sports organizations create legal uncertainty for transgender athletes.

CONCLUSION AND WAY FORWARD

The landscape of sports law has evolved significantly, reflecting broader societal conversations around gender, identity, equality, and fairness. From traditional athletic contests to the digital revolution, the expansion has brought forth a complex legal question, particularly surrounding gender inclusion. Initially, the fight centred on cisgender women, but they overcame entrenched societal and institutional barriers securing equal participation in sports. Then the formal

⁴⁵ Anamika v. State of Kerala, MANU/KE/2684/2022 (India).

recognition of transgender individuals introduced debate, especially in sex-segregated competitions, raising questions about fairness, physical advantage, bodily autonomy, and the protection of existing rights. While efforts to foster inclusion have gained momentum still practical implementation remains inconsistent and, at times, discriminatory. Across jurisdictions, from the UK, US and India, a comparative analysis reveals a fragmented and often conflicting legal landscape. Policies differ widely between countries and sports federations, and even within international frameworks, such as the IOC's 2021 Framework on Fairness, Inclusion and Non-Discrimination, the guidance remains non-binding. Despite its progressive intent, the framework's non-binding nature and sport-specific application has left many transgender athletes to face ongoing legal and procedural uncertainty.

Truly equitable participation cannot be achieved through isolated efforts; it requires a global, collaborative, and interdisciplinary response. Governing bodies, national legislatures, sports federations, and civil society must work together to create laws and policies that respect human rights while ensuring fair competition. The future of sports must embrace fairness and inclusivity not as conflicting ideals, but as complementary principles that strengthen one another. To achieve this, there is an urgent need for clear, consistent, and unified regulations that ensure equal and equitable opportunities for all athletes, regardless of their gender identity.

