Transgender Inclusion in Single-Sex Competition: The Case of Beauty Pageants

Lauren Bialystok

Abstract: Much ethical attention has been devoted to sex segregation and its relation to fairness in the world of sports, with prominent controversies about transgender and intersex athletes helping to advance the debate in recent years. In this paper, I deploy some of the discussion from philosophy of sport to examine the fairness of allowing a trans woman to compete in a beauty pageant. This requires scrutinizing the physical characteristics that are rewarded in such competitions and their distribution among the sexes. The analysis casts doubt on the coherence of simple sex segregation and facilitates a feminist critique of beauty standards.

Keywords: transgender inclusion; sex segregation; beauty pageants; sports; fairness; gender

Sex segregation has long been thought to be a necessary ingredient of fairness in physical competitions, including Olympic sports. However, there is growing recognition that strict sex segregation threatens to exclude from competition those who are transgender, transsexual, or intersex, which is itself a form of unfairness. This tension played out recently in an unusual venue. When Jenna Talackova, a young trans woman, was disqualified from the Miss Universe Canada pageant in 2012 on account of not being a “natural female,” she appealed to Donald Trump, who owns the Miss Universe brand. Trump reversed the decision to great acclaim and made a folk hero out of Talackova, who immediately became one of the most recognizable symbols of trans rights in Canada.¹ The decision seemed to prove that Talackova was, after all, a “real” woman, and that the initial ruling had merely been a manifestation of transphobia. In this paper, I will call this logic into question and argue that the fairness of including a trans woman in a beauty pageant depends on complicated assumptions about the relationship between sex and gender, the aims of beauty pageants, and the ethics of competition. I will conclude

by proposing a principle for determining fair inclusion criteria in beauty pageants, which takes into account feminist critiques of this type of event.²

The rights of individuals who defy traditional sex and gender categories are emerging as one of the defining ethical issues of our generation. Yet while there is growing recognition of the need to extend legal and political rights to trans and intersex³ people, there remains debate about the ethics of including differently bodied individuals in traditionally single-sex spaces. Prima facie, everybody should have an equal opportunity to achieve the goods offered by such spaces; yet the introduction of individuals who differ significantly from the other members of the group may threaten the very good that the group is purporting to offer. This has occasionally led to conflicts between vulnerable people who seek a safe space for themselves and other marginalized people who are not accepted anywhere else.⁴

The participation in elite single-sex sport competitions of athletes who defy simplistic male-female categories has begun to garner the attention of ethicists and the public. Fairness concerns have been raised in the context of elite sports because male physiology, particularly androgen activity, is known to confer certain advantages; those concerned with fairness consider it imperative that competitors in the women’s category meet criteria that put them on a level playing field.⁵ Women athletes are already a vulnerable population that has struggled for decades to achieve a fraction of the recognition and support that male athletes enjoy.⁶ The

³Transgender people are those whose identities do not match either their birth-assigned sex, the gender usually associated with that sex, or both. This includes pre-operative and post-operative transsexuals as well as those who never seek sex reassignment surgery. It is common to describe everyone in this group with the general adjective, “trans.” Intersex people are those whose biological markers do not entirely match female or male typing. They may or may not identify with their assigned sex or gender, and they may or may not be recognizable as intersex without medical testing. The political struggles of these two groups are complex and distinct. In addressing them together, I do not wish to suggest that they are interchangeable or that they necessarily have the same interests. However, both groups present challenges to the dominant assumption that men and women can be neatly distinguished for the purposes of competition.
ethics of competition may thereby clash with the rights of individuals, especially differently bodied and trans women, to access competitions appropriate to their athletic level. Upon further examination, however, the “fairness concerns” end up exposing complex questions about biology and gender that call into question the very possibility of sex segregation.

The philosophical attention dedicated to sex segregation in sports has not yet been extended to other realms of competition in which sex is used as a simplistic exclusion criterion. At first blush, the Olympics and Miss Universe have nothing significant in common. Yet, much like elite athletes who defy simple male/female designations, Talackova’s splash in the beauty pageant world forces us to confront the biological and social bases of sex segregation, and consequently its ethical justification. Although politically laudable, Trump’s ruling on the inclusion of Talackova in Miss Universe glosses over important ethical questions. In this paper, I will use insights from the philosophy of sport to attenuate the presumed relationship between fairness and sex segregation in competitive events, and in beauty pageants in particular.

First I briefly examine the meaning of fairness in sports and propose criteria for determining inclusion. Next I consider the rationale for, and complexities of, sex segregation, building on recent work in ethics and sports. In the third section, I assess the logic of sex segregation in the realm of beauty, pointing out the unique factors that cloud determinations of fairness in this arena. Finally, I survey four models for determining inclusion criteria in beauty pageants and argue that inclusion should be based on the specific features that are rewarded in pageants, whatever the sex of the individuals who possess them. Consequently, the inclusion of differently bodied competitors who identify as women should not be the default ethical stance; fairness requires more detailed considerations. Moreover, noticing the extent to which differently bodied competitors meet or fail to meet the inclusion criteria would facilitate a much needed critique of the beauty culture and standards of femininity.

1. The Value and Components of Fairness

Games and sports are by definition activities in which artificial parameters are introduced to make the achievement of a certain goal subject to particular limitations.\(^7\) The rules only make sense in the context of the

\(^7\)Much of the discussion in this section borrows from Bernard Suits, *The Grasshopper: Games, Life and Utopia* (Peterborough: Broadview Press, 2005). See also John Rawls, “Two Concepts of Rules,” *Philosophical Review* 64 (1955): 3-32. I am not claiming that beauty pageants are either a game or a sport, but rather that abstracting from analyses of
competition. In basketball, the goal of putting a ball in a basket is only
interesting because players are not allowed to climb a ladder and place
it there unencumbered. Chess masters put their opponents in check using
strategy, not by grabbing their opponent’s pieces off the board. Success-
ful competitors, in other words, display their physical and/or mental
prowess by achieving a specified goal within particular constraints, beating
out other people who observe the same constraints. These limitations
are called the “constitutive rules” of the game. Beauty pageants, while
less objectively evaluated than certain athletic events and board games, resemble other high-level competitions in this way, especially “adjudi-
cated” ones such as figure skating and diving. Walking across a stage in
a bikini in order to be appraised on aesthetic criteria is an activity that
makes sense within beauty pageants, the way that trying to kick a ball
into a net makes sense within soccer, or swimming in parallel lines
makes sense in synchronized swimming. The interest is to see how well
competitors can accomplish these lusory goals within the specified pa-
rameters. As in other competitions, therefore, beauty pageants are only
viable insofar as participants and viewers believe that the principles of
fairness are being respected and that only the “best” are being rewarded.

It may be thought that fairness is not a salient concept in the domain
of beauty pageants, or that, perhaps, because of other ways in which
beauty pageants may be open to moral objections, we should be indiffer-
ent as to whether they are conducted fairly. This seems wrong. Fairness
can in principle apply to an activity even if the activity is oriented toward
some questionable aim. Moreover, when far-reaching political or ethical
concerns, such as the inclusion of trans people, arise in the context of a
particular activity, the determination made in the local context can have
important implications for other realms. We ought to care whether it was

---


9 Angela Schneider draws the distinction between “adjudicated” and “referred” sports,
with the former being more socially acceptable for women. See “On the Definition of
‘Woman’ in the Sport Context,” in Paul Davis and Charlene Weaving (eds.), Philosophical
later denied that “adjudicated sports” are games, calling them instead “performances,”
and compared beauty pageants explicitly to gymnastics and diving. Bernard Suits, “Tricky Tri-

10 Indeed, Talackova’s appeal was met with some backlash from the trans community
for trying to achieve equality in such a regressive medium (see Stephen Hui, “Trans-
gender Activist Not Cheering Jenna Talackova’s Miss Universe Breakthrough,”
Straight.com, 10 April 2012; http://www.straight.com/news/transgender-activist-not-
cheering-jenna-talackova-miss-universe-breakthrough.
Transgender Inclusion in Single-Sex Competition  

fair for Talackova to be included in Miss Universe Canada even if we care nothing for beauty pageants, because of what it can tell us about trans inclusion in general. Yet in order to determine whether her inclusion was fair, we must consult the particular practice of beauty pageants. Fairness thus has a kind of general, extra-lusory element having to do with our expectations of all social practices, as well as a specific or internal lusory meaning that can only be spelled out by considering the goals of the particular activity in question.

The conditions of fair play are at the crux of ethical debates in high-stakes competitions. Yet while many criteria for fair play have been forwarded, they take as their point of departure the ethics of how to act in play, and not the ethics of organizing and vetting competitors prior to a competition. The concern about trans competitors is that they may possess advantages that are illegitimate even if they “play fair.” What we need is a version of equality of opportunity that can govern decisions about who is eligible to compete against whom.

Sigmund Loland proposes the following principle: “All competitors ought to be given equal opportunity to perform through eliminating or compensating for non-relevant inequalities.” He divides the non-relevant inequalities into “external conditions,” such as the weather, and “person-dependent matters.” Questions about inclusion rules fall under the latter. Fairness demands that competitors are grouped in such a way that uncontrollable differences between them that are relevant to competition do not determine competitive outcomes.

Of course, there will always be some inequalities between competitors that affect athletic performance, and this is what makes competition possible in the first place. The differences between competitors, combined with unpredictable variables, contribute to the “sweet tension of uncertainty of outcome.” We expect and enjoy some inequality between

---

16Ibid., pp. 47 and 53.
17Loland and McNamee, “Fair Play and the Ethos of Sports,” p. 73. The phrase is attributed to Warren Fraleigh.
competitors, but it is only ethical if the inequality resides in the actual features that the competition is designed to test and not in contingent areas that may confer an advantage.

Having identified the “inequalities in person-dependent matters … for which they cannot be held responsible [that] have systematic and significant influence on athletic performance,” the second task is to group competitors such that they have comparable opportunity to compete successfully against one another. We would not say that it is fair for an NBA team to play basketball against a local midget league, even if the only inequalities between them were those that are permissible in basketball, such as hand-eye coordination and jumping ability. There may be situations in which deliberately asymmetrical match-ups are fun or instructive, as long as the outcome does not offer the winner a variety of goods that are denied to the loser, such as free athletic gear. In the normal course of competitive sports, however, outcomes matter. So fairness additionally demands that the inequalities in ability are proportionate between competitors. If the winner of a competition is a foregone conclusion, even when the rules are respected, it ceases to be fun for either the participants or the viewers, and, as long as the outcome matters, it is unfair to the disadvantaged competitor.

Alongside fair play, then, fairness demands that inequalities between competitors are confined to those skills or qualities that are adjudicated by the activity, and that the degree of inequality is minimal while still leaving room for lively competition and unpredictable results. Once competition is underway, the demands of fair play dictate how players ought to behave.

The practical ethical challenges, then, are, first, to identify the factors that make a difference to the outcome of the competition that are legitimate, and, second, to define the acceptable range of inequality between competitors on those factors. The first is mostly a qualitative assessment, and the second is quantitative. In athletics, although

\[18\] Loland, *Fair Play in Sport*, p. 60.

\[19\] Two common ways of classifying competitors are according to age and according to size, resulting in such categories as “midget” (for age) and weight classes in boxing and other combat sports (for size). Ibid., p. 55.

\[20\] An exception may be so-called “guarantee games,” in which a dominant team plays a weaker one (and is presumably “guaranteed” to win) in exchange for cash, exposure, and experience. In this case, it would not be accurate to say that the weaker team is, on balance, disadvantaged by the arrangement.

\[21\] Both these ideas are contained in Loland’s criterion of compensating for person-dependent inequalities, but I have rephrased them more explicitly.

\[22\] The concepts of fair play and fair inclusion are not, of course, unrelated. Inclusion rules depend on perspectives about what is advantageous within a particular competition, and fair play circumscribes the advantages that are legitimately obtained during competition.
debate rages about where to draw these lines, some principles enjoy near-universal approval. For example, “unnatural” advantages such as using performance-enhancing drugs are considered a distortion of the human excellence that sport seeks to reward (qualitative), and gross inequalities in age or size between competitors are usually agreed to strain the limits of fair play (quantitative).

In addition, sex-related inequalities are thought to violate the second, if not also the first, limitation in most athletic competitions. Sex segregation is intended to curb this exact threat to fairness.

2. Sex Segregation and the Paradox of the Female Athlete

Sex segregation in sports attempts to safeguard fairness on the assumption that natural physical abilities, which are inextricable from sex, can be grouped into a dichotomy whereby most women at a similar level of talent will find fair competition among other women and most men at a similar level of talent will find fair competition among other men. “Sex” is therefore merely a proxy for a collection of biological variables that are often unequal between men and women. Segregation by sex is often thought to protect women athletes’ chances of success. After all, the reasoning goes, women would hardly have a chance of winning Olympic medals if they ran races with men.

However, scientific research, feminist and queer theory, and the lived experiences of elite athletes have begun to poke holes in this well-meaning division. For example, trans athletes are a paradigm challenge to our assumptions about male and female athletes, a challenge that has recently been confronted explicitly by elite athletics organizations.

While Donald Trump was required to issue a policy on trans inclusion in

---

25 A few sports, such as Ultimate Frisbee, were designed to be played by men and women together. Sex segregation is also being reconsidered in certain Olympic events. At the 2012 London Olympics, mixed doubles (teams composed of one man and one woman) were introduced in tennis and badminton. Note that men and women do not compete against each other for membership on the same team, making this only a mild form of desegregation.
27 The first high-profile case of a trans athlete legally competing in the transitioned sex category was Renée Richards, a tennis player who was originally excluded from the U.S. Open in 1976 and then won the right to participate as a woman when the New York Supreme Court overturned the ban in 1977.
Miss Universe ad hoc, the International Olympic Committee (IOC) introduced an official policy on transsexual athletes, known as the Stockholm Consensus, in 2004.\textsuperscript{28} According to this policy, trans athletes may compete in the sex category to which they have transitioned if they either complete sex reassignment before puberty (which is very rare), or, as adults, have fully completed sex reassignment surgery, obtained legal recognition of their new sex, and undergone hormone therapy for a minimum of two years (also rare).\textsuperscript{29}

The IOC policy aims to extend opportunity to a highly stigmatized group of athletes while preserving the supposed fairness of sex segregation. The intention, like Donald Trump’s, may be viewed as laudable even if the particulars of the policy disappoint.\textsuperscript{30} But what emerges from an examination of the controversies over trans inclusion in sports is that conceptual and ethical problems arise from any attempt to insert individuals into a pre-defined sex binary. Trans policies such as the Stockholm Consensus merely entrench the logic of sex segregation,\textsuperscript{31} a practice that is increasingly being attacked on scientific and ethical grounds.

In this section, I will explain three broad types of problems with sex segregation: first, sex is not binary; second, sex characteristics are not related to athletic performance in a direct way; and third, in practice the segregation is about gender as well as sex. All of these complications in the realm of sex-segregated athletics will help shed light on the ethical issues involved in the inclusion of differently bodied individuals in other single-sex spaces, including beauty pageants. In fact, I will show how standards of female attractiveness are actually highly relevant to understanding sex segregation in sport, and how looking at the definition of women in a paradigmatically masculine realm (sports) can help illumi-


\textsuperscript{29}This policy in turn invokes two others, the Therapeutic Use Exemption (TUE) and the World Anti-Doping Code (2005). Because the latter prohibits athletes from using exogenous testosterone and anti-estrogenic compounds, trans athletes must demonstrate that they have been prescribed hormones for therapeutic use and obtain an official exemption from the Anti-Doping Code, using the TUE.


nate the ethical dimensions of defining women in a paradigmatically feminine domain (beauty pageants).

2.a. **Sex is not binary**

The binary of male and female is regularly taken for granted, and in practice usually collapses together the binaries of sex and gender. When we judge a person to be a man or a woman, we are usually passing judgment simultaneously on their physical characteristics (sex) as well as their gender presentation (social appearance), often using the latter as a gauge for the former; call this the “casual judgment.” This method is clearly fallible. Some people have the physical characteristics that are typical of one sex but express the gendered trappings associated with the other sex, for example.

Even after segregating sex from gender, however, the biological characteristics attributed to the former are multifaceted. They include chromosomes, hormonal activity, internal and external genitalia, secondary sex characteristics, and gonads. There is variation on all these markers, even among people who express the phenotype associated with their sex and who identify fully with their sex.

The ethical implications of such ambiguity for the principle of sex segregation are obvious. When we segregate men and women in sports, it is unclear which of the various markers are necessary or sufficient criteria for inclusion, because they tend to be collapsed (along with gender) into a simple binary. This facile discrimination overlooks the true variables that are ostensibly at the heart of “fairness” principles.

Reinforcing the assumption that sex distinction is straightforward, women athletes have routinely undergone “gender verification” at the Olympics and other elite athletic competitions, although the procedures for such testing were never standardized.\(^{32}\) Men have not been subjected to sex testing because there is no anxiety about women competing fraudulently as men. However, men have not found masquerading as women to be a desirable route to success either.\(^{33}\) The real challenges to sex segregation in sports have arisen from two types of cases: first, women who fall within normal biological variation on one or more markers of sex, and second, trans women who wish to compete against non-trans women. The policing of the women’s category in sports has thus implicated all athletes except non-trans men competing in the men’s category. As

\[^{32}\text{Sandra Kirby, “In Women’s Sports, Who Are the Women?” in Demers et al. (eds.), Playing It Forward, pp. 243-48.}\]
Lance Wahlert and Autumn Fiester put it, “the needs of intersex athletes, transgender athletes, and all female athletes are intrinsically and woefully intertwined.”

In addition to policies on trans athletes, athletic organizations have scrambled to generate policies on the inclusion of women with intersex conditions. The highly publicized scrutiny of runner Caster Semenya in 2009 ultimately resulted in a ban on women with hyperandrogenism at the International Association of Athletic Federations and, subsequently, the Olympics. If a woman is found to have hyperandrogenism, she is either barred from competition or must undergo therapy to reduce her androgen levels. Here we see the quantitative restriction invoked to preserve “fairness.” In fact, the “Regulations Governing Eligibility of Females with Hyperandrogenism to Compete in Women’s Competition” is very specific: a testosterone level of 100 ng/dL is the cut-off for women’s competition.

While the move to assessing for hyperandrogenism instead of all-purpose sex testing may be heralded as an evidence-based step forward for elite sports, it does little to wrestle with the problematic assumptions about sex and fairness that enable the practice of sex segregation to exist at all. For example, in the face of natural variation on a given sex marker—-androgen activity—the new policy refuses to accommodate individuals in the grey zone between most women and most men, forcing women to reduce their natural androgen levels to fit into a prefabricated category. Even if androgen levels were a logical way of categorizing competitors, this policy leaves unanswered the question of why women with hyperandrogenism ought to reduce their androgen levels in order to compete.

---


35 Semenya won the 800-meter competition at the Berlin World Championship in 2009 and was subsequently found to have hyperandrogenism, a condition that causes the production of excess androgens. Much has been written about what the Semenya case means for the women’s category in sports. See Camporesi and Maugeri, “Caster Semenya: Sport, Categories, and the Creative Role of Ethics”; Ambroise Wonkam, Karen Fieggen, and Raj Ramesar, “Beyond the Caster Semenya Controversy: The Case of the Use of Genetics for Gender Testing in Sport,” *Journal of Genetic Counseling* 19 (2010): 545-48; Ellen Staurowsky, “A Response to ‘Testing Sex, Attributing Gender: What Caster Semenya Means to Women’s Sports’ by Susan Cahn,” *Journal of Intercollegiate Sport* 4 (2011): 54-62; Maren Behrensen, “In the Halfway House of Ill Repute: Gender Verification Under a Different Name, Still No Contribution to Fair Play,” *Sport, Ethics and Philosophy* 7 (2013): 450-66. In response to such critiques, on July 27, 2015, the Court of Arbitration for Sport suspended the Hyperandrogenism Regulations for up to two years while the scientific evidence is reviewed.

with women instead of, say, boosting their androgen levels to compete with men. The fairness that this policy supposedly enables is purchased at the expense of an accurate representation of sex variation. Indeed, to the extent that hyperandrogenism may confer an advantage, the stance taken is that women who deviate from statistical averages do not deserve their natural endowment because they are somehow “abnormal” or inadequately female. In contrast to other natural competition-enhancing endowments (such as height), hormones are treated as an inequality that must be compensated for to ensure fairness.37

The inconsistent attitude toward the “naturalness” of hyperandrogenism is clearly related to beliefs about athleticism being more male than female, which is an arbitrary basis for determining rules of competition. As illustrated in the Semenya case, the hyperandrogenism policy, like routine sex testing before it, defines sex characteristics that are more common among men as de facto more athletic. The Stockholm Consensus does the same thing by requiring trans athletes to go to great lengths to neutralize their original sex characteristics; although the policy applies to both trans men and trans women, nearly all of the anxiety about unfairness and trans inclusion in sports has focused squarely on trans women.38 All these policies try to limit the athleticism available to women by setting constraints on the amount of maleness they can have. This puts female athletes, both trans and non-trans, in a ridiculous double bind. The more they possess and exhibit athleticism—as they are personally and professionally motivated to do—the more they are subjected to restrictive eligibility criteria for competing with other women and, hence, competing at all. Maleness has been defined by those very qualities that athletes tend to possess and want to enhance, even when they are naturally occurring in women. This bias interferes with the purported fairness of sex segregation.


38Interestingly, male-to-female trans athletes are not explicitly held to the 100 ng/dL rule, but the other surgical and hormonal requirements of the Stockholm Consensus presumably amount to the same kind of restriction. Research shows that “hormone concentrations in transitioned women fall in line with those of physically born women” (Michaela Devries, *Do Transitioned Athletes Compete at an Advantage or Disadvantage? A Review of the Scientific Literature* (Ottawa: Promising Practices, 2008), p. 3)—but not physically born women with hyperandrogenism, one may assume.
2.b. Sex characteristics do not (directly) determine athletic performance

The policies on trans inclusion and hyperandrogenism and the principle of sex segregation in general assume a direct correlation between the presence of certain sex characteristics and an athlete’s likelihood of success. It is known that boosting testosterone levels in female athletes can enhance their performance, as the outcomes of the secret doping program of the German Democratic Republic now show. However, it is not the case that elite male athletes’ advantage over most women can be explained entirely by higher levels of testosterone. Michaela Devries, after conducting extensive research on both trans and non-trans men and women in a variety of sports, found that hormones have mixed effects. Testosterone does contribute to physical characteristics related to athleticism, such as muscle mass and bone size, which are advantageous in certain sports. Yet women’s sex characteristics may offset some of those advantages, for example “[allowing] women to exercise at a higher intensity for a longer period of time.” The upshot is that no single sex marker, or even cluster of markers, reliably anticipates athletic ability or relative performance for a particular individual, even though differences can be seen across huge samples. While it may be appropriate to forbid the ingestion of synthetic androgens for non-therapeutic reasons, there are other aspects of sex that influence athletic performance in ways that cannot be properly understood or controlled. Whatever qualitative or quantitative limitations it imposes to define each category, sex segregation merely preserves the fiction that maleness and femaleness are scientifically neat. Rather than a bifurcation of athletic performance that maps onto ontologically clear sexes, however, there are overlapping continua of male and female performance that map imperfectly onto a complicated continuum of sex characteristics.

Much as the variation in biological sex is glossed over, with as many as 1.7% of people having disorders of sexual differentiation, competitive sports are deliberately constructed to emphasize the distinctiveness and superiority of men’s sports and to mask the actual overlap between men’s performance and women’s performance. The year Semenya

---

40Devries, Do Transitioned Athletes Compete at an Advantage or Disadvantage? p. 9.
41Ibid., p. 7.
42Camporesi and Maugeri, “Caster Semenya: Sport, Categories, and the Creative Role of Ethics,” p. 379.
43Mary Jo Kane refers to numerous “mechanisms of continuum containment.” See
broke the 800-meter record for women, there were eight races between 100-meter and marathon, and there was overlap between male and female times in all but one race.\footnote{Katrina Karkazis, Rebecca Jordan-Young, Georgiann Davis, and Silvia Camporesi, “Out of Bounds? A Critique of the New Policies on Hyperandrogenism in Elite Female Athletes,” American Journal of Bioethics 12, no. 7 (2012): 3-16, p. 8.}

\textbf{2.c. Gender masquerades as sex}

A third way in which sex segregation falters as a fairness principle is that it is regularly and unconsciously conflated with gender segregation, which is presumably irrelevant to fairness in sports even if sex is relevant. Women athletes are pressured more or less explicitly to conform to standards of femininity if they wish to attain endorsements, opportunities, and general acceptance as authentic women, and failure to appear sufficiently feminine puts them at increased risk of having their female-ness investigated.\footnote{Patricia Clasen, “The Female Athlete: Dualisms and Paradox in Practice,” Women and Language 24, no. 2 (2001): 36-41.} Feminist theorists have helped to expose the ubiquitous sexualization of female athletes and the powerful gender associations with particular athletic events that make participants automatically susceptible to gender policing.\footnote{See Charlene Weaving, “Unraveling the Ideological Concept of the Female Athlete: A Connection between Sex and Sport,” in Davis and Weaving (eds.), Philosophical Perspectives on Gender in Sport and Physical Activity, pp. 83-93; Ray Jones, Audrey Murell, and Jennifer Jackson, “Pretty Versus Powerful in the Sports Pages: Print Media Coverage of U.S. Women’s Olympic Gold Medal Winning Teams,” Journal of Sport & Social Issues 23 (1999): 183-92.} Some athletic organizations go so far as to legislate the wearing of make-up and tight, revealing clothing.\footnote{Michael Burke, “Could a ‘Woman’ Win a Gold Medal in the ‘Men’s’ One Hundred Metres?” in Davis and Weaving (eds.), Philosophical Perspectives on Gender in Sport and Physical Activity, pp. 142-54.} The best known and most highly remunerated women athletes are often the ones deemed most attractive, not necessarily the most athletic; beautiful women athletes receive endorsements for feminine accessories such as perfume, handbags, and underwear, and are encouraged to pose for magazines such as \textit{Playboy} and \textit{Maxim}.

Because of widespread cultural hang-ups about femininity and athleticism, the “casual judgment” may inadvertently stand in for a scientific check of femaleness in athletic events, casting even further doubt on the value of sex verification as a guarantor of fairness. It is possible that Semenya never would have been subjected to sex testing if her outward appearance undermined her claims to femaleness.

\begin{flushright}\footnotesize\textsuperscript{a}“Resistance/Transformation of the Oppositional Binary: Exposing Sport as a Continuum,” Journal of Sport & Social Issues 19 (1995): 191-218, p. 206.\end{flushright}
appearance were not strikingly masculine. She was chided for “the braids that give the impression of closely cropped hair,” not wearing make-up, and dressing in a stereotypically unfeminine manner off the track. After the scandal, in an effort to “rescue” her credentials as a woman, she appeared on the cover of a South African magazine in a dress under the headline: “Wow, look at Caster now! We turned SA’s power girl into a glamour girl—and she loves it!”

The cultural imperative to convert Semenya into a beauty queen (or some approximation thereof) is further evidence of the conflation of sex and gender in sport as well as the perhaps unexpected convergence between what both beauty queens and Olympic athletes are competing for. It illustrates clearly that most women are never totally exempt from beauty standards, regardless of their other achievements, and suggests that sex segregation is not exclusively about fairness. This is especially true when sex-testing is ad hoc rather than uniform. Athletes like Anna Kournikova, the darling of the tennis world, may escape ad hoc sex testing by confirming their femininity in other ways, such as posing suggestively on the cover of men’s magazines.

This confusion has implications for the ethics of sex segregation in practice if not in theory. Although there are biological differences between most men and most women, which are related in some complicated fashion to athletic performance, we will be unable to accurately decipher them until we have successfully bracketed out the distraction of gender. It has been argued that gender polarization thus acts as a decoy for sex segregation and spares athletics organizations, but especially men, the discomfort of acknowledging the imperfect hierarchy of abilities between men and women.

This overview of sex segregation in sport points to several important

---


50 Cover of You magazine, 9 September 2009.


52 Others have made similar observations about elite female tennis players (e.g., Traversons, “The Sport Nexus and Gender Injustice,” p. 85).

considerations for any philosophical discussion of fairness in single-sex competitions. Athletic ability is not related to sex in a simplistic way, because sex itself is a complicated multivariate phenomenon. To return to the qualitative criterion, it is very hard to determine which factors actually make a difference to the outcome of an athletic competition; “male” or “female” is obviously too insensitive a qualitative distinction, and even more specific measures, such as androgen activity, can be misleading. Still, there is a powerful rationale for linking some version of sex segregation with fairness in sports. If sex were not related to ability, we would expect women and men, ceteris paribus, to be equally likely to outperform each other; instead, we see that men outperform women in most athletics events at the elite level over large samples. Hence there is reason to be concerned about the range of inequality between competitors in unisex competition.

Some sports ethicists have called for the abolition of sex segregation, either in order to bypass the messy work of establishing criteria for discrimination, or because of a conviction that sex differences ultimately do not matter. Most feminist critics seem to be averse to this solution, however. Despite all the objections to sex testing and overly blunt inclusion and exclusion policies, and despite the mounting scientific evidence of variation in sex characteristics and their relationship to athletic abilities, concerns about fairness and creating safe and positive spaces for women and trans athletes motivate an ongoing commitment to some principled form of sex segregation in most athletic competitions. This necessitates developing fair inclusion criteria in the face of lines that are not so bright. As Alice Dreger remarks, “[h]umans like their sex cate-

---


56Buzuvis, “Including Transgender Athletes in Sex-Segregated Sport”; Caplan, “Fairer Sex”; Hercher, “Gender Verification.” Rather than eliminating all sex-segregated sports leagues, some authors call for “an end to male-only sporting spaces while maintaining the right of girls and women to organize separately,” effectively creating a co-ed league alongside a women-only league (Travers, “The Sport Nexus and Gender Injustice,” p. 94). Pam Sailors argues that no blanket policy will be satisfactory, and draws distinctions between sports to suggest when segregation may and may not be beneficial to women athletes. See “Mixed Competition and Mixed Messages,” Journal of the Philosophy of Sport 41 (2014): 65-77.

57Some have advocated maintaining women’s and men’s categories, but eliminating any criteria, moving instead to a self-identification scheme (e.g., Buzuvis, “Including Transgender Athletes in Sex-Segregated Sport”) or a classification based more transpar-
gories neat, but nature doesn’t care. Nature doesn’t actually have a line between the sexes. If we want a line, we have to draw it on nature.”

Recent critical work on sex and gender in sports points to the kind of analysis that needs to be undertaken in order for such a line to be defended. We need to begin with as accurate an understanding as possible of the actual range of sex markers; we need to look at how women and men perform in a variety of athletic events, taking into account the biases of sports media and cultural gender norms, the structure of sporting events that reinforce the appearance of male athletic superiority, and vast inequalities in funding and resources between men’s and women’s sports; and then we need to make a determination about the kinds and degrees of inequalities between competitors that are admissible. Although Devries found that “to date there is really no concrete evidence to support or refute that transitioned men or women would compete at an advantage,” the controversies over certain non-trans athletes illustrate that “men” and “women” are not clean categories to begin with. The very process of deciding whether trans men or women “qualify” for a single-sex category depends on a pre-existing commitment to sex segregation, which is, at the very least, problematic for those with intersex conditions. It is no wonder that no policy introduced thus far can satisfactorily resolve every borderline case or yield a clear bar for inclusion in women’s or men’s categories. But crucially, the sports world has begun to appreciate the perils of relying on such categories unthinkingly.

This type of analysis has not been explicitly applied to all other realms in which competition is confined by sex, including beauty pageants. In the remainder of this paper, I will use the preceding considerations to analyze the ethics of including differently sexed individuals in beauty pageants, with Talackova as the test case. My point is not that beauty pageants and elite athletic competitions are entirely analogous—


\[59\] Loland advocates segregation in sports where “sex-determined inequalities really have significant and systematic influence on performance” (such as the 100-meter sprint), and integration in sports where they do not (such as shooting) (Loland, Fair Play in Sport, p. 58). This solution is highly compelling but does not seem to take into consideration the gendered culture of various sports, which might make different arrangements preferable to women (see n. 57).
they are certainly not, and these differences will themselves inform the analysis. If sport is a context in which sex is relevant to fairness (though not straightforwardly so) and gender is irrelevant, beauty is a context in which sex and gender overlap and build on one another, making it particularly unclear who counts as a woman for the purposes of fair competition. In attempting to discern inclusion criteria for beauty pageants, I will end up exposing some of the inherent assumptions about womanhood that affect all women, Olympic athletes included, and which are at their most poignant in the crowning event of the beauty pageant season, Miss Universe.

3. Miss Congeniality

The competition in which Talackova successfully lobbied for inclusion was the Canadian gateway to Miss Universe. Among major international beauty pageants, Miss Universe, started in 1952, is perhaps the most paradigmatic of the category, the most unalloyed in its focus on feminine appearance. Whereas some pageants have introduced talent categories and may even consult résumé qualifications such as academic achievement, Miss Universe judges contestants just on the basis of three categories: swimsuit, evening gown, and a “personality interview.” Some inclusion rules for Miss Universe have also already been stipulated. Contestants must be 18-26 years old. More strikingly, they “may not be married or pregnant. They must not have ever been married, nor had a marriage annulled nor given birth to, or parented a child. The titleholders are also required to remain unmarried throughout their reign.” I will take these limitations as inflexible.

Would the inclusion of a trans woman in this competition pose a threat to fairness? We can begin to answer this by comparing Miss Universe with sex-segregated sports and the inclusion criteria discussed earlier. Beauty pageant contestants are not engaging in athletic feats that elude most humans, but they are competing on the basis of other rare physiological attributes that are distributed to a large extent along sex lines. While athletics are not a perfect analogy to beauty pageants, they are the best available precedent for analyzing the Talackova case, because, unlike other venues to which trans people may seek admittance, they are based on physical competition, and extensive work has already been done to think through the ethics of inclusion in that realm.

---

60 The official Miss Universe rules can be found at http://www.missuniverse.com/info/faq.
61 Ibid.
Some athletic events are likewise judged on mostly aesthetic criteria, and some also establish aesthetic norms in conformity with gender stereotypes. The most obvious example is bodybuilding. Yet bodybuilding remains importantly different from beauty pageants, because it includes a women’s category in which contestants are judged on the same, stereotypically male/masculine attributes as those in the men’s category, producing very different ideals of femininity, by contrast, pageants judge contestants on gender-specific aesthetic criteria, whether feminine or masculine. The presence of trans participants in other gender-laden adjudicated competitions thus does not automatically resolve the ethics of including trans women in beauty pageants.

Furthermore, whereas sex segregation in athletics purports to track sex alone (even though, in practice, it also reinforces gender norms), sex segregation in beauty pageants may be seen to emerge from a view of sex and gender as indivisible. Beauty pageants’ methods of evaluating both physical and social elements of womanhood suggest that sex and gender can be collapsed, and ought to be when it comes to aesthetic standards. The possibility of including differently sexed bodies in a competition where sex and gender identity are so thoroughly synthesized may therefore be viewed as a closed question. As the contestants parade up and down in their bikinis, evening gowns, and stilettos, the judges—and we, the viewers—scrutinize their body parts according to our ideals of femininity. Indeed, it is their perfection of femininity itself—of “pure femaleness”—that is at stake in the assessment of beauty pageant participants. The lusory goal and the criteria for inclusion seem to overlap almost perfectly: beauty pageant contestants are women competing for ultimate womanhood. In this sense, it seems justified to segregate participants who are not female-bodied on the basis of fairness. Although a contestant who is not, or not fully, female-bodied may not distort the

---

62See Ken Saltman, “Men with Breasts,” in Davis and Weaving (eds.), *Philosophical Perspectives on Gender in Sport and Physical Activity*, pp. 97-111.
64See, e.g., http://www.mrworld.tv/.
65Examples include trans body builder Chris Bruce and trans MMA fighter Fallon Fox.
66While the notion of a “fully female body” is scientifically and ethically problematic, as I showed in the previous section, it is fair to distinguish between some degrees of embodied femaleness in the context of trans people who may be mid-transition. For example, it is reasonable to call a trans woman who has not yet undergone complete sex reassignment surgery in some way “less female-bodied” than a trans woman such as Talackova, who exhibits no visible male sex traits, even though they equally identify as
outcome of the competition, she could be viewed as being too different from the other contestants to be participating in the same endeavor.

At the same time, beauty is much more than a physiological or sex-based category. Beauty queens are rewarded not only for approximating an ideal female body, but for grooming, decorating, and presenting that body in conformity with standards of femininity, along with all other elements of their behavior. These traits are susceptible to manifold forms of creative enhancement. In principle, therefore, there is no reason why femininity could not be convincingly exhibited by a person without all the characteristic features of female morphology. Make-up and jewellery, modeling poses and hair styles, not to mention “personality,” are not essentially related to sex. Drag queens, for example, are men who do not identify as or aspire to be women, but dress in a flamboyantly feminine manner and are often taken as beautiful women.67 As the venerable performer RuPaul is known for saying, “We’re born naked, and the rest is drag.”

Seen in this light, the exclusion of a would-be pageant contestant on the basis of birth sex misses the apparent goal of the activity: if someone who was not born with, or does not currently have, a “female” body succeeds nonetheless in dazzling the judges with his/her feminine beauty, then sex is an irrelevant factor for inclusion in beauty pageants.

Admittedly, it is less likely that someone who currently has a male body would succeed in blending in with female-bodied beauty queens, regardless of his skill at applying make-up and strutting the catwalk. The reason for this is that our expectations of sex and gender interact. Some of the characteristics for which feminine beauty standards select are indirectly related to the existence of female hormones, body types, or secondary sex characteristics. For example, many forms of feminine clothing, such as dresses, presuppose a certain view of female embodiment, such as breasts and certain ratios between body parts. Men can don fake breasts, but their hips cannot be widened relative to their waists and their shoulder width cannot be adjusted to fit into a blouse. Likewise, feminine beauty products are designed for relatively soft skin and a hairless face. Men can apply make-up, but its effects will usually not pass as “feminine” unless they also take synthetic estrogen.68 To a certain extent, then,
gender norms are supervenient on sex, and female-bodied individuals appear to have a natural advantage over male-bodied individuals in feminine beauty competitions. But this is not always the case, as I shall argue later.

Because beauty norms always already make certain assumptions about sex, and because beauty pageants evaluate contestants on both natural and constructed traits, it is especially difficult to extract firm inclusion criteria for participation in this particular form of competition. Inclusion criteria for women’s sports are complicated because both sex and the relationship between sex and athletic performance are far less straightforward than generally thought; yet in the case of beauty pageants, the complexity of sex interacts with and hovers around the complexity of gender. Moreover, the standards for success in sports can usually be clearly articulated, lending a bar against which to assess potential factors for their advantageousness. If the objective of a race is simply to run as fast as possible, then the first question we need to ask about androgen levels is whether they assist in running as fast as possible. In beauty pageants, with their multiple subjective categories, it is difficult to find a function—the prelusory goal—for which traits must be evaluated. That is, it is difficult to answer the qualitative question of which inequalities between competitors may be relevant or irrelevant. So in order to determine ethical principles for deciding inclusion in beauty pageants, we need greater clarity about the standards applied in the event and how the selected traits are distributed across the population.69

3.a. Interlude: The political argument

Before proceeding, I want to address an important objection. There is a good argument for rejecting these analytic demands altogether and taking a more political approach to the ethics of inclusion. Regardless of what a detailed deconstruction of sex and gender may ultimately suggest about fair play in beauty pageants, I think that most readers will agree that Trump proved himself to be appropriately progressive (or at least political correct) when he granted Talackova the right to compete in a women’s event. Treating trans people as individuals of the sex/gender identity they claim to be is a sign of basic respect—a recognition, as I have argued elsewhere,70 of their authenticity. Denying trans people access to a

---

69Admittedly, we should not assume that beauty pageant organizers care whether their rules meet such exacting standards. Any rationale they provide for maintaining sex segregation is likely to be a “post hoc justification,” as one anonymous reviewer helpfully phrased it.

70Lauren Bialystok, “Authenticity and Trans Identity,” in Scott Stewart (ed.), Talk
single-sex space when they fully identify as the sex to which it is confined risks perpetuating forms of oppression that we would never tolerate if they applied to other groups. Any damage that may come from hypothetically tampering with the fairness of beauty pageants (or sports) by granting inclusion to trans people would seem to be outweighed by this more pressing ethical risk.

Furthermore, in the context of recent legal developments, denying trans people access to single-sex events betrays a bizarre contradiction. On the one hand, we aver through government-issued documents that trans women such as Talackova are women and should be classified along with other women. While their anatomy and surgical history may be relevant in the context of medical care, it is not supposed to be relevant in everyday life. At the same time, by breaking down sex into ambiguous components and arguing that trans women lack some of them, or have too many residual male components, we imply that trans women are not women, or not the right kind of women. This is akin to the contradiction confronted by women athletes who have been singled out for having hyperandrogenism: “how can one be female but not eligible to compete as one? The implicit message to the women subjected to these policies [hyperandrogenism] is that they are not ‘female enough’.”

Despite these compelling reasons for taking an unequivocal stance in favor of inclusion, I believe that an assessment of fairness standards internal to beauty pageants is the only way to do justice to all involved. As long as competitive beauty pageants exist, and especially as long as they command the cultural significance and generate the amount of money they do, it is reasonable to expect that they adhere to standards of fairness that are as consistent and principled as possible given the nature of the activity. Moreover, such fairness may validate, rather than detract from, the rights of trans people by ushering in greater transparency about our rigid notions of femininity and the presumed overlap between birth sex and sex/gender expression.

Regarding the second worry, while it is critical to respect trans people’s self-descriptions regardless of how they accord with pre-existing views

---


of sex identity,\textsuperscript{73} we should be wary of reprising the male-female binary and simply inserting trans people into whichever box they were not assigned at birth. We need more elastic notions of sex and gender, not more exemplars of the traditional notions. Talackova may not wish to identify as trans, but there are many who see themselves as trans women, or would prefer to overcome the categories of woman and man altogether.\textsuperscript{74}

While the political argument is important, therefore, it is not clear that a policy of blanket inclusion in women’s pageants is fair either to the other contestants or to trans people as a whole.\textsuperscript{75} We need a more open, nuanced discussion of the intricacies of sex identity if we are to both reflect the diversity of trans experiences and also issue a precise critique of the relationship between bodies and beauty standards. When such sensitive instruments are unavailable, a default policy of inclusion is ethically preferable to exclusion—but it is not certain that this is what motivated the decision in Talackova’s appeal.

3.b. Equal opportunity and beauty

Earlier I reviewed a couple of reasons for thinking that the ideal of the beautiful woman may be easier to achieve with a characteristically female body. However, there are also reasons for thinking that it is not easier to achieve with a characteristically female body, and that some aspects of it might actually be easier to achieve with a characteristically male body, or more specifically, a body that used to be male. Engaging these reasons is necessary if we want to establish what kinds of inequalities between pageant competitors fairness admits.

Consider the relationship between feminine beauty standards and the average woman. As feminists have long argued, the ideals of femininity that are purveyed as normative codes for all women in fact represent the physical characteristics of a small minority of women.\textsuperscript{76} The vast majority of women struggle—through dieting, complicated beauty rituals, and other costly and sometimes painful procedures—to approximate the


\textsuperscript{75}Teetzel adopts a similar starting point (‘On Transgendered Athletes, Fairness, and Doping,’ p. 239).

\textsuperscript{76}Wolf, \textit{The Beauty Myth}.
physical image that is deemed to be attractive for female bodies. It is only against this backdrop, in fact, that competitions for the best female body are remotely interesting: just as elite sports reward physical exceptionalities in athletes, beauty pageants reward physical exceptionalities in women, not the actual bodies of the billions of people who see themselves as female. The difference is that athletic exceptionalities are generally celebrated as such, whereas features of feminine beauty may be regarded as a standard against which all women are judged. Some of these standards appeal to an idealized version of paradigmatically female features, such as breasts and hips. Most women have them, but not the ones they wish (curvy, but not plump). Some standards pertain to features that all humans have, such as noses and lips (small and symmetrical, full and symmetrical, respectively). Yet other beauty standards are about features that most women do not have at all. Fashion models and beauty queens are not only considered beautiful and sexy, but are also very tall and very thin. These features are in fact more statistically common among men.

This is not to suggest that the average man would make a better beauty queen, ceteris paribus, than the average woman. It is more complicated than the average man-woman comparison in most athletic competitions, in which the distribution of speed and strength between the sexes provides some prima facie indication of how any one man will perform against any one woman. As we have seen, there are important features of feminine beauty that supervene on characteristically female traits. A man who has never taken estrogen or undergone gonadectomy, therefore, appears to have no overall advantage in a women’s beauty pageant.

The same may not be true for a trans woman—someone who was born with all the anatomy normally associated with males, but has undergone the full slate of available cosmetic and medical procedures to be reassigned as a female. Although sex reassignment involves changing bodily features and can also impact the future development of some

77See n. 52. Heather Widdows argues in a forthcoming book that beauty norms are increasingly ubiquitous and demanding (http://feministacademiccollective.com/2015/07/02/about-perfect-me-beautydemands/).

78The average body mass index of an American beauty pageant contestant in 2010 was 18.9, compared to a national average of 26.5 (http://www.statisticbrain.com/beauty-pageant-statistics/). Miss Universe 2013, Gabriela Isler, is 5'10”, weighs 125 pounds, wears a size 2, and has a waist circumference of less than 24 inches (http://www.bodymeasurements.org/maria-gabriela-isler/). The arguments described here are at least as applicable to modelling, especially runway modelling, for which women must be exceptionally tall and thin to have commercial success.

79Devries, “Do Transitioned Athletes Compete at an Advantage or Disadvantage?” p. 4. See also the often cited chart of the American Council on Exercise at http://www.acefitness.org/acefit/healthy-living-article/60/112/what-are-the-guidelines-for-percentage-oF.
physical traits, there are biological starting points that remain unaltered during transition, such as height,\textsuperscript{80} waist-to-hip ratio,\textsuperscript{81} and chromosomes. Others, such as musculature or subcutaneous fat content, may respond differently to the new hormones but continue to manifest in a way that signals the birth sex.\textsuperscript{82} Talackova, for instance, is 6’1” and has the narrow hips and long, stick-like legs that are coveted by women but more common among slender men, at least among Caucasians.\textsuperscript{83}

Therefore, perhaps counterintuitively, an individual born with typical male anatomy might, after transitioning, have an advantage over non-trans women in a competition that evaluates the ideal form of the female body. With her pre-transition, male-influenced height and metabolism, and her post-transition, female-influenced secondary sex characteristics, Talackova arguably has the best of both worlds.\textsuperscript{84} This may provide a prima facie ethical argument for excluding trans women from such events.

If it seems crude and disrespectful to compare women’s bodies in this amount of detail, and especially to scrutinize the “femaleness” of a trans woman’s body, it is merely a reflection of the adjudication that occurs very explicitly in beauty pageants, in reality television, in other organized assessments of women, and, by extension, in everyday life. The assumptions behind the very notion of a “beauty pageant” lay bare our expectations, physical and otherwise, of womanhood. In considering what counts as fairness in this context, we must appeal to the standards that are internal to the medium, as Loland argues.\textsuperscript{85} If we recoil at this

\textsuperscript{80}Some trans women report losing an inch or two in height and having narrower shoulders after transitioning. See 100 Percent Woman, dir. Karen Duthy (Artemis Dreams Productions, 2004). However, because of the enduring signs of birth sex that cannot be undone after puberty, it is now considered best practice to provide pre-pubescent trans children with puberty suppression hormones. See W.C. Hembree, P. Cohen-Kettenis, H.A. Delemarre-van de Waal et al., “Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline,” \textit{Journal of Clinical Endocrinology & Metabolism} 94 (2009): 3132-54.

\textsuperscript{81}Devries, “Do Transitioned Athletes Compete at an Advantage or Disadvantage?” p. 13.

\textsuperscript{82}Ibid.


\textsuperscript{84}I am by no means suggesting that her transition was somehow related to competitive advantage. Trans people have an unassailable sense that they \textit{already are} the sex/gender to which they seek to transition, and most of them find it unbearable to live in their pre-transition sex/gender. Transition is about personal identity, not competition.

\textsuperscript{85}See n. 12.
idea, it is more an argument for rejecting beauty pageants than it is for insisting on the actual fairness of current policies.

If perfecting one’s feminine appearance is the prelusory goal of beauty pageants, then all the rules that competitors must abide by in their pursuit of success are the constitutive rules—they are the formal component of fair play. Here, too, we may glean something about the objective of the event and the kinds of skills or traits it seeks to reward. Like sports, beauty pageants put certain constraints on competitors so that attention is drawn to the relevant differences between them—for example, they may be required to don identical outfits or answer the same questions. Unlike in sports, however, beauty pageants do not consider the relevant differences to be confined to naturally occurring ones: the use of plastic surgery is rampant among beauty pageant contestants and not forbidden by the rules. Surprisingly, then, the extensive surgery and hormone therapy that are necessary for complete sex reassignment do not disqualify a contestant from a competition that is based largely on bodily appearance; no “therapeutic exemption” would be necessary for trans contestants according to these rules. If plastic surgery were considered an illegitimate advantage in beauty pageants, as steroids are in sports, it might be unfair to allow Talackova access to surgeries under the auspices of sex reassignment, which could double as opportunities to fashion herself into the most beautiful woman possible. In fact, however, cosmetic surgery is de rigeuer on the competitive pageant circuit, and “[i]n several American states the winners are given free unlimited plastic surgery as part of the prize package.” This appears to be a reason for thinking that having a trans identity is not as relevant an inequality as it would otherwise be in beauty pageants.

In the realm of athletics, the medical intervention required for sex reassignment may itself threaten to breach constitutive rules, and this fact has been raised as a partial defense of the suspicion with which trans athletes are usually greeted. Taking hormones—especially androgens—for the sake of transitioning may appear functionally equivalent to doping in

---

86 While sex reassignment is listed as medically necessary (given a diagnosis of Gender Identity Disorder or GID) and funded by the most Canadian provinces, including Talackova’s native British Columbia, some of the same procedures, such as breast augmentation, are considered elective (unfunded, nontherapeutic) cosmetic procedures when performed on individuals without GID.

87 In addition to breast augmentation and labiaplasty, male-to-female transsexuals may have surgery to reshape the jaw, soften facial features, and shave the Adam’s apple.


89 To the extent that access to cosmetic procedures is a socioeconomic inequality, it has already been sanctioned by the constitutive rules.

90 Wahlert and Fiester, “Gender Transports,” p. 20.
elite sports, excused only by the Therapeutic Use Exemption. Apparently, there is no equivalent of “doping” in the pursuit of feminine perfection. This contrast underscores the bizarre conceit that all women should try harder to look like beauty queens, since one’s natural appearance is merely a starting point to be improved upon.

I have been arguing that the inclusion of differently bodied individuals in women’s beauty pageants is a complicated prospect that depends on the stated and unstated goals and rules of the activity. As in the case of sports, it is not clear that trans women have any uniform advantages over non-trans women in beauty pageants, although it is not unreasonable to think that they may start with more conducive body types. As in sports, it is quite difficult to isolate relevant factors that make a difference to the outcome of the competition. Yet by parsing feminine beauty standards with reference to different types of bodies, it becomes evident that the prevailing ideal of feminine beauty is not essentially related to femaleness, whether this is measured by chromosomes, hormones, genitalia, or any other biological markers. This strongly suggests that femaleness is a somewhat arbitrary criterion for participating in a (women’s) beauty pageant, but it does not yet suggest what kinds of exclusion criteria, if any, are appropriate for ensuring fairness. We also lack data about how trans women and intersex women (or drag queens, for that matter) may fare against the usual contestants in a beauty pageant, since Talackova was the first known trans woman to publicly participate in such a high-level mainstream pageant. In an interesting epilogue, Talackova did not win Miss Universe Canada, but she was one of four contestants tied for Miss Congeniality.

4. Trumping Trump, or Using the Master’s Tools to Dismantle the Master’s House

Fairness, I have contended, requires appropriate restrictions on the relevant inequalities between competitors. Fairness further demands that these restrictions be transparent and allow prospective competitors to know whether they are eligible for inclusion in advance. In view of the foregoing analysis, I see four possible policies for inclusion in beauty pageants. While all of them are flawed, the final one comes closest to marrying fairness concerns with the broader feminist values I have referred to throughout this paper.

These suggestions are not put forward as probable policy options, either for Miss Universe or for other beauty pageants. Perhaps unlike elite sporting competitions, the actual inclusion rules for beauty pageants are unlikely to be influenced by academic discussion. However, it is in-
structive to follow beauty pageants to their logical conclusion and see what the fairest conceivable policy would reveal about our understanding of beauty and gender.

4.a. Same standards, open inclusion

Because of the unpleasant intricacies of categorizing would-be contestants according to elusive indicators of sex and gender, one option is to forgo exclusion criteria altogether and open up beauty pageants to any interested parties. By hypothesis, most of the contestants would still be non-trans, non-intersex women, but differently bodied individuals could also apply. Presumably, if interest were great enough, there would need to be larger numbers of gateway competitions to help funnel a manageable number of contestants through the ranks to regional or national finals. The standards, such as they are, would stay the same: women and men of all identities and persuasions would be assessed on the same basis as was the reigning Miss Universe on her way to being crowned. Only sex segregation would be dismantled.

This type of solution is not without precedent. It echoes the call of some ethicists to eradicate sex segregation in sports.\(^{91}\) As mentioned above, this is an unsatisfying solution from a feminist standpoint, as it would likely consolidate the male domination of sports and do little to remedy sexism.\(^{92}\)

In unisex beauty competitions, the unconventional-looking competitors would almost certainly be the losers, with a possible spillover effect to noncompetitive venues. Although I have argued that certain types of competitors may have some advantages over the women who have historically made up the entire contestant pool, an open call would include those who may aspire to be beauty queens but be at a marked disadvantage. And because this policy would reinforce rather than challenge beauty standards, differently bodied contestants would probably be subject to further ridicule and discrimination.

4.b. New standards, open inclusion

If the problem with 4.a. is the combination of inclusive participation and exclusive beauty standards, a second model is to render both the participation criteria and the aesthetic standards more inclusive. In other words, instead of subjecting all would-be contestants to aesthetic ideals with a very narrow conception of female beauty, beauty pageants for women as

\(^{91}\)See Tämmjö, “Against Sexual Discrimination in Sports.”

\(^{92}\)Travers, “The Sport Nexus and Gender Injustice,” p. 94.
we know them would be transformed into general aesthetics pageants of some sort. The whole phenomenon, from the participants to the clothing styles, would enter a post-sex/post-gender realm.

The probable outcome of such a move would be the disappearance of beauty pageants full stop. For obvious reasons, a motley assortment of individuals competing for general beauty honors (whatever those might be) would have far less appeal than the current system. While this would be a development that many feminists may gladly herald, it would nonetheless fail to issue the critique of the particular beauty standards that currently guide pageants and affect women of all stripes. Beauty is always relative to something. The problem with the beauty norms purveyed by pageant culture is not that they are relative, but that they are relative to specific physical characteristics that very few women possess, while masquerading as achievable or possibly mandatory for all women (and no men). This helps explain why some women go to dangerous, masochistic lengths to achieve an appearance they were not born with. A general beauty pageant, however, would lack any reference point in physiology and fail to make sense of beauty as a cogent attribute. Worse, it would retain the assumption that a single standard of beauty can apply normatively to very different people. This is exactly wrong. There should be multiple conceptions of beauty, but none of them presumptively applied to entire categories of people.

4.c. Same standards, traditional sex segregation

A third option is to redouble efforts to enforce sex segregation (traditionally understood) while also maintaining the aesthetic standards. On this model, trans women such as Talackova would not be included. This model takes seriously the concerns I raised about trans women potentially having an advantage that is unavailable to non-trans women, and seeks to confine the inequalities between competitors to those that occur among the female-born population (notwithstanding subsequent enhancement through cosmetic surgery).

This solution is unsatisfying and impractical in several ways. First, it would require some sort of sex testing to be enforced. Even where the scientific standards may be empirically clear (if arbitrary), testing is itself a potentially intrusive process, one that may be particularly upsetting to an individual who has never questioned her femaleness. This process in turn re-entrenches simplistic attitudes toward sex variation and may en-

---

93This is somewhat similar to a suggestion that Travers surveys and rejects: “Replace the current institutional structure of sport with cooperative, non-hierarchical celebrations of physicality” (“The Sport Nexus and Gender Injustice,” p. 86).
courage the further marginalization of trans and intersex individuals in other realms. Second, sex segregation assumes that whichever sex indicators are elevated to exclusion criteria have some direct impact on potential beauty, and that other indicators are irrelevant, an assumption that I have shown to be spurious. Third, if trans and intersex people are excluded from these pageants, not because they are inadequately beautiful but because they are inadequately female, it stands to reason that they could form a competitive league of their own. However, we can already predict that such a league would be shunned by comparison with the “authentic” women’s league. As it is, beauty pageants for drag queens and trans women exist around the world, but have none of the cachet and cultural endorsement that conventional pageants do.94

Hence, excluding contestants such as Talackova from Miss Universe-like events via facile sex segregation perpetuates the status quo and may validate the very transphobia that our legal system has finally begun to overcome.

4.d. Same standards, non-sex exclusion

The final option, and the one that best coheres with my conclusions to this point, would be to maintain the existing aesthetic standards, but to derive exclusion criteria that pertain to those precise features that are selected for, not to sex as a whole. The idea would be to clearly stipulate the performance-related factors that are desired in beauty pageants and then determine a small range of permissible variation. For example, a high-level beauty pageant may invite as contestants any individuals (regardless of sex) who are between 5′8″ and 5′11″; weigh between 125 and 135 lbs; have hips between 35″ and 36″; have breasts (natural or artificial) between a B and a C cup; have no visible facial or body hair; have straight white teeth; and so on. Regional competitions with a smaller pool of candidates may have to relax the quantitative range or eliminate certain qualitative criteria.

This policy would not be able to render every aspect of beauty pageants “fair,” because it cannot take a stance on every factor that affects competition. Nor can any policy, of course; how could the subjective judgments of contestants’ facial beauty possibly be systematized? Yet, taking pageants’ acceptance of cosmetic surgery to its logical conclusion, the lack of exclusion criteria for facial appearance is arguably irrelevant.

The philosophical strengths of this approach over the previous three suggestions are significant. First, rather than assuming, as various athletics policies have over the years, that sex itself accounts for differences in

performance, this policy tries to hone in on those precise factors that do make a difference, whether they are also sex markers or not. This is much more honest than calling on all (unmarried, not pregnant) women as potential contestants.

Second, by focusing on specific attributes that make a difference to competition rather than to holistic determinations of sex or gender, intersex and trans individuals such as Talackova could have a fair chance at inclusion while retaining their right to identify as they see fit.

Third, more than any other approach, this model succeeds in using the master’s tools to dismantle the master’s house. What I mean is that by attempting to articulate fair inclusion rules for beauty pageants on their own terms—given what features they in fact reward—this model draws attention to the perversity of the feminine beauty standards (to say nothing of the social standards) epitomized by pageant culture. The fact that the great majority of contestants under these rules would still be non-trans women does not imply that they are equivalent to current rules. The openness to rewarding anyone who meets the stipulated criteria would at least draw attention to the exceptionality of women who do, and help to alleviate the unreflective association between feminine beauty norms and female bodies. If the majority of born females do not have a fair shot at inclusion in a pageant, and many born males do, there is something unethical about upholding beauty queens as the paragon of femininity and allowing those standards to trickle down to average women.

Elite sports, for all their flaws, are less susceptible to this objection. Despite the complexities of sex segregation, it is widely accepted that the women and men who compete in events such as the Olympics are human rarities. They are celebrated, but are by no means regarded as normative for others. Non-athletes can admire athletes while finding countless other ways to be assured of their self-worth and find validation from the rest of the world. However, women, regardless of what else they do, are almost universally judged on their appearance—even (and maybe especially) when they are star athletes. And for most women, their self-worth and social success are inescapably bound up with their physical appearance.95

We could respond to this phenomenon by merely decrying beauty pageants, insisting they have no place in an egalitarian society, but that would be facile. Beauty pageants are lucrative and popular, and show no sign of disappearing.96 Indeed, as pageants increasingly include prizes

---

95This is true for boys and men as well, but more pronounced among girls and women. See Susan Harter, “Is Self-Esteem Only Skin-Deep? The Inextricable Link between Physical Appearance and Self-Esteem,” Reclaiming Children and Youth 9, no. 3 (2000): 133-38.

96Amanda Kondolojy, “Miss Universe Scores Best Adult 18-49 Rating Since 2009, Is
such as subsidies for college tuition\textsuperscript{97} and provide stepping stones to public office,\textsuperscript{98} women who otherwise may not be attracted to pageants are incentivized to participate. Denying pageants’ status as a cultural force that warrants philosophical scrutiny is unrealistic. Moreover, it does not engage with ethical questions about fairness, nor the striking similarities between beauty pageants and other competitions based on physical properties, which we do not tend to regard as unacceptable.

Talackova’s participation in Miss Universe Canada provides an opportunity to issue a more subtle analysis. She seems to have a right to a fair chance at competition, even if the competition itself is something condemnable or her desire to participate is predicated on bad faith. If she is shut out just because she is trans, we have an instance of identity-based discrimination; but if she is necessarily included, we sidestep other ethical questions. So on what basis should her eligibility for inclusion be determined? I have argued that this is best answered by a sober inquiry into the factors that actually make a difference to the outcome of the competition given current rules and standards, much like sex segregation in sports should be assessed based on actual physical properties that have a significant effect on performance. Adopting this policy may not reform actual beauty pageants a great deal in practice. Yet as a philosophical stance on fairness, it illuminates the problems with relying on sex or gender as a brute marker of inclusion and helps facilitate a critique of beauty standards for women. And this seems to me to be something that beauty pageants, and the rest of society, could benefit from.\textsuperscript{99}

\textit{Department of Social Justice Education, University of Toronto}
lauran.bialystok@utoronto.ca

---

\textsuperscript{97}http://www.collegescholarships.org/scholarships/beauty-pageants.htm.


\textsuperscript{99}I am very grateful to anonymous reviewers and the editors of \textit{Social Theory and Practice} for their insights and patience during the preparation of this article. For feedback on an earlier draft, I would also like to thank Kirstin Borgerson, Mark Kingwell, and Marika Warren.