

Caster Semenya's appalling treatment: The International Association of Athletics Federations violates human rights and ethical principles with impunity

The International Association of Athletics Federations (IAAF) requires the blood testosterone level of female athletes with differences of sex development to be reduced to below 5 nmol/L for a continuous period of at least 6 months, and thereafter, to be maintained below 5 nmol/L continuously for as long as they wish to remain eligible to compete as women. Caster Semenya, from South Africa (SA), the reigning 800 metre Olympic champion since 2015, challenged this April 2018 IAAF rule change at the Court of Arbitration for Sport (CAS) on the argument that the rules were unfair, discriminatory and potentially harmful. However, on 1 May this year, the CAS ruled that it upheld the IAAF's position, as it was a necessary, reasonable and proportionate measure in terms of maintaining the integrity of female athletics in the restricted events.^[1] At the time of writing this editorial, Semenya was in the process of appealing the CAS ruling. Ms Semenya, who was born and raised as a woman and has at all times contributed to sporting activities as a woman, has over the past 10 years been the IAAF's target in its campaign of prejudice that has stigmatised certain women athletes with differences of sexual development.^[2]

The manner in which sports is handled at the global level raises several concerns and highlights violations of human rights, including: discriminatory practices against robust achievers from the global south; the complexity of development of physical and psychological sex, resulting in a need to move away from the entrenched notion of sex as binary; flawed science in the name of research, which has been used as 'evidence' to substantiate the IAAF ruling; coercion of healthcare practitioners by the IAAF to practice discriminatory and non-evidence-based medicine, giving rise to dual loyalty conflicts and an erosion of their medical ethics; and huge infringements of research ethics.

Pielke Jr *et al.*^[3] managed to retrieve and analyse some of the performance data from the research used by the IAAF to justify its ruling. They found several types of data errors, including duplications, 'phantom times' and analyses of performances that did not exist in the competitions looked at. They were able to demonstrate that the data suffered from systematic errors, hence any analysis and conclusions using the data would be unreliable. In addition, the controversial regulations are based on research performed and analysed by in-house researchers belonging to the IAAF, raising questions of bias and deep-seated conflicts of interest.

Mandating that these athletes undergo unproven interventions forces them to use experimental therapies without voluntary consent. This defies the World Medical Association (WMA)'s Declaration of Helsinki,^[4] which requires voluntary informed consent and a comprehensive research protocol that clearly describes and justifies the research, and approval by an independent research ethics committee. Moreover, it also contravenes article 4 of the Universal Declaration of Bioethics and Human Rights,^[5] which establishes that:

'In applying and advancing scientific knowledge, medical practice and associated technologies, direct and indirect benefits to patients, research participants and other affected individuals

should be maximised and any possible harm to such individuals minimised.'

The SA Medical Association (SAMA) reacted strongly to the IAAF regulations and the subsequent CAS ruling, releasing statements in support of Caster Semenya and condemning the regulations. In addition, the association urged the WMA to denounce the regulations based on the fact that they would result in a contravention of several of its own ethics policies. The WMA responded by rebuking the regulations and the CAS ruling. Several bodies in SA, including the SA Society of Psychiatrists, SA Society of Obstetricians and Gynecologists and the United Nations Educational, Scientific and Cultural Organization (UNESCO) National Bioethics Committee (NBC) of SA have released statements and open letters calling for a censure of the IAAF regulations. In addition, the Steve Biko Centre for Bioethics, the University of the Witwatersrand, SAMA and the NBC arranged an indaba on 17 May to discuss issues around the CAS findings and to rally support and advocacy for Caster Semenya in her appeal against the CAS ruling.

While the IAAF conducts itself with impunity and a total disregard of international instruments such as the Universal Declaration of Human Rights,^[6] UNESCO's Universal Declaration of Bioethics and Human Rights and other UN documents, and the WMA's Declaration of Helsinki, it is perhaps time for the issue to be taken to the International Human Rights Court at the Hague. It would be remarkable if we could stand together as a global village and boycott the IAAF and the Olympics until such a time as justice prevails at an international level in sport.

Ames Dhai

Editor

ames.dhai@wits.ac.za

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