

## Human Rights and Sports Policies Affecting Girls and Women

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The following is a summary of the discussion paper, "*Female Participation in Sport: The Issue of Integration versus Separate-But-Equal*" prepared for a joint committee of the Canadian Association for the Advancement of Women and Sport (CAAW+S) and the Sport Canada Women's Program by Helen Lenskyj, April 1984.

The discussion paper represents the major product of the first phase of a CAAW+S project on human rights and sport policies. Phase Two will include the distribution of the paper to organizations and individuals, and conducting of community meetings so that public response may ultimately be incorporated into CAAW+S policy. The paper investigates four major areas:

1. Physiological considerations relevant to the integration versus the separate-but-equal issue.
2. The status of relevant human rights legislation in Canada and USA and its application in recent sport-related cases.
3. Strategies for achieving sex equality in sport, based on the integration, separate-but-equal and combined approaches.
4. The status of regulations, policies and programs in Canada at various levels: school, college and university sport, community recreational programs, and competitive sport controlled by provincial and national sport organizations.

Most discussion of female participation in sport give a central place to physiological findings, a practice which, in many instances, serves only to entrench the "female frailty" myth and the "anatomy is destiny" mentality. Furthermore, medical researchers in the past decade have been preoccupied with the gynecological functioning of female athletes, neglecting other equally and more important areas of inquiry in sports medicine.

Comparisons between male and female sporting performance, the readily quantifiable measures of strength, speed and endurance derived from male-defined sports, usually demonstrate male superiority; however, females as a group tend to surpass males in the areas of flexibility, agility and balance, giving them an advantage in activities which stress grace and co-ordination over strength and speed. Comparisons between average males and females, however, ignore both the significant overlap between the sexes in terms of physical capacities, and the rapidly closing gap between males and females in swimming, cycling and distance running, for example. Moreover, critics who stress the alleged risk of injury to girls and women playing integrated contact sports often fail to recognize that these female players are not *average* in weight, height, strength and ability; it is only on account of their gender that they are considered to be handicapped.

The debate concerning integration versus separate-but-equal approaches gives rise to three basic strategies for achieving sex equality in sport:

1. Integration: mixed teams/sports
2. Separate-but-Equal: single-sex teams/sports, but with equal opportunity in terms of programs, events, facilities, coaching, funding, etc.
3. A combined approach: e.g. integrated sports up to puberty, then single-sex approach sports; or integrated non-contact sports, and segregated contact sports; or a choice between integrated and single-sex sports.

There is, of course, as clear connection between these strategies and fundamental principles of human rights: specifically, the rights to equal access to public services and facilities, guaranteed in all provincial anti-discrimination statutes except Ontario, and the equal protection clause and affirmative action provisions of the Canadian Charter of Human Rights and Free-



doms. A 1981 amendment to the Ontario Human Rights Code specifically permitted sex-based discrimination in relation to membership in an athletic organization, access to the services or facilities of a recreational club, and participation in an athletic activity.

In his 1983 report, the chair of the Task Force on Equal Opportunity in Athletics, John Sopinka refused to recommend the repeal of this discriminatory amendment, as it applied to community athletics in Ontario. In addition to his fundamental objection to legislating sex equality in sport (which he termed government "intrusion"), he cited the offense to public decency posed by integrated contact sports, opposition on the part of volunteer coaches (mostly male), and the unfairness of "one-way" integration (ie. affirmative action). Physiological arguments were also raised as grounds for the Task Force's stand against integration. (In Volume 2 of the report, released after the completion of the CAAW+S study, Sopinka recommended that college and university athletic programs should be subject to provincial anti-discrimination statutes, but that schools, like sports governing bodies and municipal recreation departments, should continue to be exempt.)

Human Rights legislation represents one important means of bringing about sex equality in sport. The implementation of Title IX legislation in the USA has produced over a decade of sport-related cases, many of which concerned talented female athletes seeking entry to a male team or a male athletic program in order to maximize opportunities for training and competition. In many instances, the courts upheld the female athlete's right to participate, especially in sport where opportunities for female participation have been limited historically.

In Canada, several sport-related complaints have been lodged with Human Rights Commissions, but, with the exception of some Quebec cases, the results have not been encouraging. In Ontario, the Task Force referred to above was established shortly after two highly publicized cases involving girls' playing on boys' teams in hockey and softball. In both instances, the courts sanctioned the girls' exclusion. Although the litigation route to equality does not guarantee positive results for female athletes, one point is clear: if race, rather than gender, were the category on which discriminatory practices were based, it is extremely unlikely that legislation in this area would be labelled government "intrusion", nor would there be the need to bring case after case before the courts and human rights tribunals.

Like these Canadian cases, most Title IX - related litigation has evoked the sex-neutral model of integration, which requires admission to a team or program based solely on merit. This approach improves opportunities for top female athletes to participate, but has relatively little effect on average girls or women - that is, the vast numbers who have been disadvantaged historically by restrictive attitudes and practices related to female sporting participation, as well as by sex-differentiated attitudes and practices related to child-rearing and schooling. Therefore, few females past puberty would qualify on merit alone for sports like football, hockey and baseball, just as few males would qualify for gymnastics or synchronized swimming.

A different model of integration, the affirmative action model, would compensate for these kinds of sex differences by allowing members of the under-represented sex to participate if they were as competent as members of the over-represented sex. A similar solution, which may be termed the egalitarian model, simply requires equal numbers of males and females in each team or sporting contest. Finally, there is a modified egalitarian model, with equal sex representation, but with modifications made to the rules of the game and/or the apparatus used, in order to remove the handicaps which one sex may experience.

The integration model has some serious shortcomings which need to be considered. First, and most importantly, the future of girls' and women's sport is jeopardized when the top female players leave the female team to join a mixed team: the level of female competition is diluted, career paths for female athletes in coaching and officiating are not assured, and there may be



a lack of female role models for younger players. Secondly, it has been argued that the male model of team sports, frequently characterised by elitism, violence, commercialism and a win-at-all costs mentality, is not worthy of emulation. Finally, if the sex-neutral model of integration is implemented, males might seek entry to and ultimately dominate, female sports like ringette and field hockey, even though it may be argued that women are under no obligation to admit males into activities designed specifically for females as alternatives to the strength and endurance-based male sports.

Another approach is the separate-but-equal model, which requires that equal sporting opportunities be available to both sexes, but that teams, programs and competitions be segregated by sex. This avoids the problem of invidious comparisons between the sexes in areas where female performance is not yet equal to that of males. Variations on this model permit sports which are equivalent, but different to be offered to each sex: eg. softball and ringette for females, baseball and hockey for males. The female version, however, usually has modifications which make it less demanding, reflecting the common and restricting assumption that females cannot throw or run as far, or cannot compete as intensely as males. Moreover, feminist critics argue that, in a society characterised by male supremacy, any sport designed specifically for females is less likely to receive equal funding, or attract the same degree of public support and interest as sports traditionally associated with males, with the result that separate-but-equal becomes, in reality, separate-and-second-class.

It can be seen that there are no simple answers to these questions. It is clear, however, that ability, age and the nature of the sport should all be taken into account *before sex*, in order to promote equality of opportunity for girls and women in sport.



## MODELS OF FEMALE PARTICIPATION IN SPORT

### 1.0 *Integration*

- 1.1 Sex-Neutral Model: participation determined by ability only.
- 1.2 Affirmative Action Model: when competent males and females want to participate or compete, females are given preference.
- 1.3 Egalitarian Model: equal numbers of males and females in every team or contest.
- 1.4 Modified Egalitarian Model: as 1.3 above, but with the modifications made to the rules to balance the advantages of one sex over the other.

### 2.0 *Separate-but-Equal*

- 2.1 Single-sex competition in the same sports: opportunities for both sexes to participate in every sport currently offered to one sex only.
- 2.2 Single-sex competition in equivalent sports: modifications to rules height/weight of equipment, as in softball, ringette or women's track and field events.
- 2.3 Single-sex competition in comparable sports: eg. different apparatus in gymnastics.

### 3.0 *Combination*

- 3.1 Three teams: one for each sex, one integrated.
- 3.2 Single-sex teams play "as a team"
- 3.3 Other Combinations: eg. single-sex teams in contact/combat sports, integrated in non-contact sports.