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*Trans women participation in sport: a commentary on the conservatism of gender critical feminism*

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### **Trans Women Participation in Sport: A Commentary on the Conservatism of Gender Critical feminism**

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## Trans Women Participation in Sport: A Commentary on the Conservatism of Gender

### Critical feminism

#### Abstract:

Since the update of the Stockholm consensus in 2015, the policy direction had been to allow trans and non-binary women to participate as women athletes, after satisfying certain restrictions. More recently, a reversal in policy direction towards the exclusion of trans\* athletes from women's competitive sports has occurred. This policy reversal has been driven by a number of authors who openly support a gender critical feminist position. This brief commentary looks at three pillars of the gender critical position, and argues that each of these three pillars will produce conservative outcomes in women's sport that will do nothing to challenge the dominance of men, nor prevent the ongoing subordination of both women and trans\* athletes.

**Key Words:** Feminism, Patriarchy, Sport, Gender Criticism, Transformation

## Introduction

It had appeared that the issues around participation in sex/gender<sup>1</sup> categories of sport had reached some sort of comfortable resolution. With limitations that were often around levels of testosterone and periods of exclusion from competition, trans and gender non-binary individuals were allowed to participate in competitions that aligned with their gender identities [for trans players] or where they felt most comfortable and welcomed [for non-binary players]. More recently, a reversal in policy direction towards the exclusion of trans\* athletes from women's competitive sports has occurred. Sports organizations like World Rugby [WR] (World Rugby n.d.), the NCAA (NCAA 2022), the IOC (IOC 2021), and the UK Sports Councils [SCEG] (Sport Councils Equality Group 2021) have chosen to again deal with this difficult and divisive issue (Stewart *et al.* 2021).

The approach taken in 2020 by WR in the redevelopment of their policies was to receive presentations from a variety of specialists, before allowing their own transgender participation working group to produce a position of broad consensus (Tucker 2021). The recommendation was to produce a women's division and an open division in all competitions under the control of WR, and to position trans women players into the open competition. This was justified on both safety and fairness grounds for women players (Pike 2021). In 2021, the UK Sports Councils produced a set of ten principles to guide the formulation of policy that follow the recommendations of the WR committee fairly closely (Sport Councils Equality Group 2021).

The WR policy was influenced by some people who openly support gender critical feminism. The contemporary positions and arguments of gender critical feminists have deep historical roots (McLean 2021). Feminist claims that transgenderism reinforces gender essentialism have been present since the late 1970s (Hines 2019). The recent 're-birth' of the

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2  
3 gender critical strand of feminism can be linked, in the UK at least, to proposed changes to  
4  
5 the Gender Recognition Act that were believed to make it easier for trans women to access  
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7 single-sex spaces for women (McLean 2021), including single-sexed sporting spaces.  
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11 The underpinning for my critique will also be feminist.<sup>2</sup> This commentary will look at  
12  
13 three key pillars of gender critical feminist sport policy regarding trans woman participation.  
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15 For space reasons, each pillar will be described in abbreviated ways, with a more elaborate  
16  
17 explanation of the gender critical position found in numerous academic articles (Pike 2021;  
18  
19 Sailors 2020; Devine 2021, 2022; Pike, Hilton & Howe 2021). Each pillar will then be  
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21 critiqued using a different feminist frame that locates political strength in the formation of  
22  
23 alliances between women and transwomen. The current paper will argue that the outcomes  
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25 produced by gender critical policy making will hinder the achievement of politically  
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27 transformative feminist outcomes for women's sports.  
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### 36 **Pillar One- Who counts as a woman in the debate.**

37  
38 The first pillar of the gender critical position is that sport is an area of life where the  
39  
40 determination of gender/sex should be done biologically (Zanghellini 2020). The gender  
41  
42 critical position, supported by recent research in sport science<sup>3</sup>, suggests that in sport, the  
43  
44 legacy physiological advantages and associated performance benefits of being born a male  
45  
46 and certainly the benefit of going through the androgenization associated with male puberty  
47  
48 (Pike, Hilton & Howe 2021; Hilton & Lundberg 2020) cannot be entirely removed by either  
49  
50 surgery or hormonal reversal/depletion for a trans woman. Additionally, it is absurd to  
51  
52 produce a protected competition for females on the basis of physiological disadvantages, and  
53  
54 then to allow trans women to participate in these competitions whilst still retaining some  
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56 portion of assigned at birth male [AMAB] advantage (Pike, Hilton & Howe 2021). In  
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3 response, gender critical feminists propose to change the men's competition into an open  
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5 competition which would include trans women (Pike 2021; Pike, Hilton & Howe 2021).  
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8  
9 Neither women nor trans women<sup>4</sup> are members of the most dominant and politically  
10 strong group of speakers in sports like rugby. **Men dominate rugby, and many other sports, in**  
11 **terms of both participation rates, and access to coaching, management and media roles.** This  
12 hierarchy of power is apparent in the committee structure of WR. The Chair and Vice-Chair  
13 of the WR Council are both men. The key committees in terms of regulations and resource  
14 provision for playing of the game, the Professional Game Committee [15 men and 0 women],  
15 the High Performance Committee [12 men, 3 women], the 7's Strategy Committee [13 men,  
16 2 women] and the Regulations Committee [8 men and 3 women], are all overwhelmingly  
17 filled by men and are all chaired by men. In 2018, WR surveyed the gender breakdown of the  
18 Boards and Executive Committees of the six regional associations and 13 national unions.  
19 Only two of the nineteen examined organizations achieved 33% representation by women  
20 (WR 2020). **It is men who produced the historical exclusion of women from rugby, and it is**  
21 **men and men's competitions that continue to benefit from the unfair distribution of resources**  
22 **and power that is the result of this historical exclusion.**  
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41 Ann Hall (1996), the feminist sport sociologist, describes three eras of research about  
42 gender/sex in sport. Categorical research investigates the differences in athletic participation  
43 and performance between the two sex/genders. Distributive research looks at the inequitable  
44 distribution of resources between the sex/genders in sport. Both these types of research treat  
45 the two sex/genders as distinct and unrelated entities. In contrast, relational research  
46 investigates the historical and social construction of sport that produces the reinforcement of  
47 the idea that men are powerful and women are powerless.  
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3 An acceptance of a distinction between gender and sex reduces the focus of feminists  
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5 from the issue of male dominance to the definition and border protection of categorical  
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7 boundaries. In contrast to the biologically essentialist view of what counts as a woman in  
8  
9 gender critical feminism (McLean, 2021), other feminists look at definitions of women  
10  
11 produced around shared experiences of subordination (Asta 2018, Jenkins 2016). Haslanger's  
12  
13 ameliorative target concept of woman would be defined as anyone who suffers from  
14  
15 subordination 'on the basis of *presumed* female sex' (Jenkins 2016, p. 395, my emphasis).  
16  
17 Whilst this would not include all **assigned at birth female** [AFAB] women, it would include  
18  
19 all women who are subordinated. Jenkins' purpose is to focus on the relational  
20  
21 marginalization of trans women in expanding Haslanger's definition.  
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26 Both women and trans women share 'the social or material realities that are, in that  
27  
28 context [of sport **and of many sports**], characteristic of women as a class' (Jenkins 2016,  
29  
30 p.410, my insertion). Both groups of players have been historically subordinated in some  
31  
32 sporting cultures by men. Recent research studies detail trans\* narratives that talk about the  
33  
34 importance of finding a 'collective safety' in sports teams and competitions (Travers 2017;  
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36 Ferguson & Russell 2021; Cauldwell 2021; Riseman 2021; Barras 2021; Storr *et al.* 2021).  
37  
38 This desire for collective safety reflects a similarity in experience to some of the gender  
39  
40 critical justifications for separate sporting spaces for women. There is potential for alliance  
41  
42 building (**Teetzel 2020**) through a shared consciousness of unsafety in hegemonically male  
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44 sports, and to challenge subordination with a shared feminist-transfeminist standpoint.  
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## 51 **Pillar Two- Safety and the Political Purpose of Separate(d) Space of Women's Rugby**

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53  
54 The second pillar of the gender critical position, relevant to combat, contact and  
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56 collision sports, is that women have historically fought for separate spaces in these sports  
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58 where female players could be protected from competition against male players on safety  
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3 grounds (Pike 2021a; Pike, Howe & Hilton 2021; Sailors 2020). According to Tim  
4  
5 O'Connor, a barrister who presented to the WR conference, the important legal principle in  
6  
7 terms of injury liability is that WR can't make the sport of rugby more dangerous than it  
8  
9 needs be in *the nature of rugby* [my emphasis]. The scientific modelling of the heightened  
10  
11 risk in tackling by trans women who have passed through male puberty would suggest that  
12  
13 WR is compelled to produce exclusionary regulations on the basis of risk/liability mitigation  
14  
15 (Tucker 2021). The heightened risk of injury liability associated with the inclusion of trans  
16  
17 women into women competitions can then be generalized to all combat, contact and collision  
18  
19 sports. Any inclusion of trans women into these separate sporting spaces would also have a  
20  
21 serious effect on player recruitment and retention, resulting in the possible erasure of  
22  
23 women's sports as AFAB athletes look to alternative safer activities to pursue successful  
24  
25 careers in (Sailors 2020).  
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31 A feminist position should investigate what gets done politically in the separate space.  
32  
33 Separated spaces are considered politically important by feminists for groups of women that  
34  
35 do not have the comfort of authority within normal discourse.<sup>5</sup> Frye explains that separatism  
36  
37 allows women to collectively gain semantic authority, but also resist the backlash against  
38  
39 such authority by 'controlling concrete access to us' (1983, p106n). From these shared and  
40  
41 separate spaces, a more powerful standpoint can be developed that is politically useful for  
42  
43 women (Code 2014). A feminist standpoint endeavours to raise the consciousness of women  
44  
45 to the oppressive dimension of practices which are presented to women as normal, natural or  
46  
47 essential in patriarchal discourse (Keith 2016).  
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52 It is here that the conservatism of the gender critical position is revealed. In many  
53  
54 historically male sports, it was not a separate space that women received, but more an alcove  
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56 within an existing male-controlled space (Pielke Jr 2017). This is especially evident in new  
57  
58 women's competitions where previously there had been long periods of historical exclusion.  
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3 We cannot separate ideas about the inherent features, nature or essence of sports like rugby  
4  
5 from the historical exclusion of women from the game for its first hundred years; that is,  
6  
7 some of these supposedly essential features were the reasons given in history for the  
8  
9 exclusion of women participants. Accepting the current model, nature and essence of rugby  
10  
11 will not politically challenge the power that men wield over the game. Stealing a phrase from  
12  
13 Devine (2022, p.357), the suggestion of rugby essences and natures ‘reinscribes normalized  
14  
15 sex-blind hegemonic masculinity and androcentric citizenship.’ The newly formed  
16  
17 transgender policies of WR and the UK Sport Councils do nothing to challenge the model of  
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19 sport that continues to sustain male dominance.  
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### 2 **Pillar Three – Fairness and the Individualism of the Gender Critical Position in Sport**

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30 The third pillar of the gender critical position involves the importance of fairness and  
31  
32 competition integrity for women athletes. The argument, is that the overwhelming and  
33  
34 persisting advantages retained by athletes who have not transitioned **after** puberty provide an  
35  
36 unfair advantage to trans women (Pike 2021). As a result, a proportion of the esteem and  
37  
38 rewards associated with successfully competing and winning, including medals, scholarships,  
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40 profile and economic benefits, would be received by trans women athletes, creating  
41  
42 resentment from AFAB athletes (Pike, Hilton & Howe 2021). Retention of younger AFAB  
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44 athletes would be difficult if the rewards for their success are diluted by the inclusion of  
45  
46 successful trans women athletes. Additionally, the inclusion of trans women within the  
47  
48 category of women’s sport would have the effect of reducing the number of playing spaces  
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50 available to AFAB athletes (Devine 2022).  
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56 The claims made in this gender critical justification concern the rewards or  
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58 opportunities offered to single AFAB athletes. They are not claims about the inadequacy or  
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3 inequity of rewards or opportunities available in women's sports. The structural nature of  
4  
5 discrimination against women's sports is displaced by a focus on the consequences of that  
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7 disadvantage on individual women athletes. This focus takes attention away from the  
8  
9 historical and structural inequities that are, for example, still part of women's educational-  
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11 sport in the United States. Fifty years after the introduction of Title IX, resource  
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13  
14 discrimination against women athletes in the US system is getting worse, with investigations  
15  
16 of the NCAA college system revealing a shortfall of over 148,000 sporting opportunities and  
17  
18 \$1 billion worth of athletic support for women each year (Champion Women 2021). **It is also**  
19  
20 **important to recall that the immediate effect of Title IX legislation in college sports was both**  
21  
22 **an increase in women participants *and* a reduction in women in coaching and management**  
23  
24 **positions (Shaw 1995) that still persists today. A similar change seems also to be occurring in**  
25  
26 **recent women's professional competitions in sports that had traditionally excluded women as**  
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28 **participants, such as the various football codes and ice hockey.**  
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35 This argument for access to the scarce resources that accrue to victors in sport was a  
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37 significant premise of the very early sport feminist arguments of Jane English (1978). Her  
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39 position was that women champions in sport are equally worthy as male champions of respect  
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41 and the various scarce benefits which accrue to exemplars of performance, because of both  
42  
43 the importance of these benefits in producing greater respect for women athletes specifically,  
44  
45 *and for the sex/gender class of women generally* (my emphasis). Authority or cultural capital  
46  
47 in sport is related to how sport rewards different groups differently. However, the sporting  
48  
49 context has changed from the time that English spoke in. The influence of Title IX in the US  
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51 and the more general mediatized boom of women's sports has meant that women athletic  
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55 champions are present in the general cultural space of sport, if not in the cultural spaces of all  
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57 sports.  
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This contextual change suggests the possibility for a more nuanced response. In some sports, including many of the football codes and the combat sports, and in some countries, it is crucial for AFAB champions to be publicized. And, in these sports and countries, the inclusion of trans women champions would get in the way of this public recognition, especially given the current misgendering and dead naming associated with the oppositional narratives towards trans\* people. But in other sports and countries, the need for public recognition of AFAB achievement is less pressing, and the potential for politically useful and alliance-building inclusion of trans women, against the structures that continue to discriminate against all [cis and trans] women, is possible.

Meghan Tyler explains the contemporary problems facing this third pillar of the gender critical position:

In privileging individual choice above all else, it [choice feminism] doesn't challenge the status quo. It doesn't demand significant social change, and it effectively undermines calls for collective action... Instead of resistance, we now have activities that were once held up as archetypes of women's subordinate status being presented as liberating personal choices. (Tyler 2015, my insertion)

Banet Weiser (2018 cited in Banet-Weiser *et al.*, 2020, my emphasis) explains that the contemporary popularity/visibility of such individualized forms of feminism resides *precisely in their inability* to challenge deep structures of inequity. But as Tyler states: 'The point is to challenge the structures, and name the perpetrators, not to blame [or celebrate] individual women' (2021, p.3, my insertion).

The inability to challenge deeper structures is precisely where gender critical positions in sport lead us. The position produces a concern with defending AFAB women's NCAA/Olympic records where men's times are portrayed as always superior to women's

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3 times, or with the loss of individual college scholarships for AFAB athletes in an  
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5 environment that has still not reached proportionality, or with comfortable participation in a  
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7 dominant narrative about educational sport that extols rivalries, win records, coercive  
8  
9 coaching strategies and athlete abuse as the model for all sport. A different model of sport  
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11 could be built from the shared and overlapping *range of experiences* of women and trans  
12  
13 women within these patriarchal models of sport. An initial point of alliance may be to refuse  
14  
15 the individualizing underpinnings of both gender critical and gender affirming feminism, and  
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17 focus again on the structural barriers to women's authority in society and in sport.  
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### 25 **A Possible Solution- The Cap-Tied Policies of the Australian Football League**

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27 So what can be done to produce this transformative future? A cap-tied gender  
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29 diversity policy investigates the inclusion of trans women athletes in women's sporting  
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31 competitions on a case-by-case basis whilst still evaluating safety risks and fairness  
32  
33 considerations. As an example of how a cap-tied policy would work, the gender diversity  
34  
35 framework of the Australian Football League [AFL] will be explained. AFL is a football  
36  
37 game where collisions, tackling, bumping and other forms of contact are legitimate parts of  
38  
39 the game. The game is played on ovals that are larger than soccer, gridiron and rugby pitches,  
40  
41 with either 16 or 18 players on each team. Players move all across the playing surface  
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43 without [much] restriction. It is a game that involves both strength and endurance.  
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49 The AFL has two separate policies for the treatment of transwomen and gender non-  
50  
51 binary players in the competitions that it manages. The first policy deals with gender  
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53 diversity in the elite and elite pathway competitions (AFL 2018). The second policy deals  
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55 with all community football competitions that sit below these elite leagues (AFL 2020). The  
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57 two documents explain that 'the relative priority of considerations of competition success and  
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3 social inclusion may differ between community and elite football' (AFL 2018, p. 4; also see  
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5 Stewart et al. 2021). The application for entry into elite women's competitions by trans  
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7 women and non-binary people requires the inclusion of medical records, a medical report by  
8  
9 the treating practitioner, and data relating to several anthropometric, strength, stamina,  
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11 physique and performance measures. Assessment of prior playing experience, medical  
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13 records and anthropometric data is done by an AFL subcommittee on a case-by-case basis  
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15 and a decision is passed on to the applicant. Review of participation of these athletes, again  
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17 on a case-by-case basis, is ongoing (AFL 2018). At the community football level, the AFL  
18  
19 asserts that social inclusion of trans women and gender diverse players is more important  
20  
21 than competitive fairness. The policy here allows participation in the competition that the  
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23 applicant identifies with, combined with an opportunity for the *AFL Gender Diversity*  
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25 *Participation* committee to review if safety or fairness considerations arise. Safety or fairness  
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27 considerations are also assessed on an individual basis and not on the basis of average  
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29 gendered size and risk (AFL 2020).

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36 The two-pronged system is not perfect (O'Halloran 2021). The framework maintains  
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38 an historical narrative that trans women can play in women's competitions, but only if they  
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40 do not win (Riseman 2021). But it is a more nuanced policy response than the blanket ban  
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42 suggested by WR and the SCEG review done by UK Sports Councils. It positions the fairness  
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44 of inclusion or exclusion on the basis of individual athlete characteristics and experience,  
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46 rather than averages of the sexes. Additionally, it recognizes the importance of elite  
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48 achievement by AFAB footballers, given the long history of exclusion of women from the  
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50 sport. A sacrifice is being asked of some trans women athletes in their exclusion from elite  
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52 levels of sport when their physique and/or competitive playing history would result in  
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54 domination of the women's game. But compromises must be made from both sides when  
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56 alliances are being produced (Teetzel 2020).  
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## Conclusion

Sara Ahmed (2021) argues that the gender critical position actually produces 'conservative feminism.' Policies about the participation of trans women in women's sporting competitions reveal this conservatism. Stealing an evocative phrase from Bargetz and Sanos (2020, p. 501), the gender critical approach in sport will 'yield a politics without politics.' The policies suggested by World Rugby and the UK Sports Councils, cement an apparent need for all AFAB athletes to be 'protected' from competition against all AMAB athletes, reproducing and normalising the gender/sex binary in sport (Anderson & Travers 2017). Additionally, regardless of any individual benefactors of these policies, the structural barriers to women accessing power in sports are reinforced as equity-based demands are displaced by encouraging a focus on the necessity to protect women from trans women, rather than from the far more powerful men who control sport. Further, these policies prevent the possibility of challenge to the hegemonic power of men produced by an alliance between women and trans women in sport.

In asking for alliances between women and trans women athletes, I am not completely clear on where any specific boundaries should be drawn. However, I am certain that discrimination against women in sport is the result of men's control over sport, and a focus in policy on biological categories in sport is unlikely to change the organizational dominance of men. The gender critical position that inclusion *always* causes [intolerable] unfairness (Pike, Hilton & Howe 2021, my emphasis) is counterproductive to the feminist cause. Policy making must acknowledge contrasts between historically male-exclusive, sex/gender-appropriate and historically female-controlled sports and organizations, as this acknowledgement will impact on judgements of the utility of AFAB success to the

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3 achievement of broader feminist goals of recognition and transformation. Separately sexed  
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5 competitions allow for the fiction of male (all-male) superiority over female (all-female)  
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7 performance. Transgender inclusion with a softening of the gender binary (Hamilton *et al.*  
8  
9 2021) in **cap-tied** women's sports can reveal the overlap in AFAB and AMAB performance,  
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11 an important starting point in challenging male power.  
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<sup>1</sup> I will use the term sex/gender (or gender/sex) as meaning ‘the biosocial entwinement of sex and gender’ (DuBois & Shattuck-Heidorn 2021, p.3).

<sup>2</sup> Whilst some of the suggestions will be supportive of trans women, this is not a transfeminist perspective. Interested readers of the transfeminist sport position could look at Barras (2021) or Caudwell (2021).

<sup>3</sup> I do not intend to dispute the science that has been presented in articles such as Hilton and Lundberg (2021), Wiik *et al.* (2021) and others.

<sup>4</sup> I am ignoring the position that trans women are biologically male and therefore enjoy privilege in world rugby.

<sup>5</sup> This is not the only purpose for separate spaces, according to gender critical feminists (Lawford-Smith 2021).