

World view



By Paisley Currah

To set transgender policy, look to the evidence

Policy debates concerning transgender people are embroiled in the culture wars. Let data and science – not politicians – guide laws.

In March, the US state of Utah passed a law barring transgender girls from high-school girls' sports. It defines sex as the "condition of being male or female, determined by an individual's genetics and anatomy at birth" and prohibits those of "male sex" from competing against another school on a girls' team.

The state's governor vetoed the law and courts have challenged it, but it still passed, although aspects have been put on hold. Of the 85,000 students participating in high-school sports in Utah at the time, there was just one transgender girl registered as competing in girls' sports, and no concerns had been raised about her participation. The governor wrote: "Rarely has so much fear and anger been directed at so few."

By my count, 17 other US states have also banned transgender girls and women from sports teams. And it's not just sport. This year has seen an escalation in policies harming transgender people: Florida ended coverage for gender-affirming care under the Medicaid health-insurance programme; Alabama made providing such care to youths a felony. In the United Kingdom, legislation to reform how people can change their legal gender has been derailed by a moral panic that vilifies transgender women as dangerous.

I am founding co-editor of the journal *TSQ: Transgender Studies Quarterly*, and the author of a book on how sex classification is regulated. It's naive to think that politics and social mores have no place in lawmaking, but seldom has policy been so disconnected from science and data. The rights of trans people, including myself, have been weaponized in a culture war.

Before this shift, legal progress had been gradual: occurring over decades, often guided by low-level bureaucrats and medical professionals. In the United States, for example, state and federal policymakers relied on science when they began to permit transgender people to correct the sex classification on their identity documents from the late 1970s.

The current spate of anti-trans positions has little to do with evidence-based research, science or data.

Here's one example. Anti-trans campaigners often argue that allowing trans women to use women's toilets and changing rooms will increase sexual assaults. In fact, research has shown the opposite. One study tallied criminal incidents related to assault, sex crimes or voyeurism in public toilets, locker rooms and changing areas in parts of Massachusetts that had laws against trans discrimination, and compared them with those that hadn't. It found no evidence that these laws put women at risk, and concluded that

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"fears of increased safety and privacy violations as a result of nondiscrimination laws are not empirically grounded" (A. Hasenbush *et al. Sex. Res. Soc. Pol.* **16**, 70–83; 2019). Furthermore, there is evidence that transgender children who cannot use toilets and locker rooms that match their gender identity are at increased risk of assault (G. R. Murchison *et al. Pediatrics* **143**, e20182902; 2019).

Nevertheless, a false 'protection' argument has been used to justify anti-trans 'bathroom bills' in Alabama, Minnesota, Oklahoma and Tennessee, and to buttress trans discrimination in the United Kingdom.

Politicians' claims also have little to do with empirical evidence when it comes to gender-affirming care. Alabama's law banning provision of such care to minors described the use of puberty blockers and hormone therapies as "experimental". It did not mention that 22 US medical associations endorse these medications as well-established treatment for gender dysphoria in young people.

The gap between research-informed, reasoned debate and gut-feeling absolutism is just as obvious in sport. In June, Sebastian Coe, president of World Athletics, declared that "biology trumps gender" when hinting at moves to exclude transgender women from track and field sports.

Invoking biology is a rhetorical move, not a data-driven conclusion. It's also wrong. From a medical perspective, sex is not the uncomplicated either-or proposition that many laypeople imagine it to be.

Those arguing for total bans on trans girls and women competing as girls and women rely on studies comparing the athletic performance of cisgender men with that of cisgender women. But that's not an apt comparison. A better one would be between transgender and cisgender women. Sports researcher Joanna Harper at Loughborough University, UK, is one of a number of scientists who have found that hormone therapy significantly reduces athletic advantages (J. Harper *et al. Br. J. Sports Med.* **55**, 865–872; 2021). More research like this could clarify how hormones and other factors affect athletic performance. That understanding should guide policy.

Sweeping statements such as "biology trumps gender" propel what should be a pragmatic, methodical inquiry into the political realm. They do nothing to help governments to protect the people. At the Yale School of Medicine in New Haven, Connecticut, the Dean's Advisory Council on LGBTQI+ Affairs publishes reports that show how little recent US legislation has consulted science.

Much evidence-based research is already available. More is still needed, but it is either a lie or a cop-out to say that there's not enough research to make informed policy decisions. Instead of whipping up arguments to churn culture wars, elected officials and those around them should look to the evidence.

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