

The Playing Fields of Eton

*Equality and Excellence in
Modern Meritocracy*

MIKA LAVAUQUE-MANTY

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Being a Woman and Other Disabilities

“We’re not going for a hug, we’re going for a fucking gold medal.”

—SCOTT HOGSETT, *a member of the U.S. Paralympic quadriplegic rugby team, on his motives for participating in the Paralympics*

In figure 3, a photo from a University of Michigan basketball game in around 1910, you don’t see any spectators. Perhaps it’s no surprise: even today, a good many intramural college games take place with no spectators. In fact, even women’s varsity sports tend to get very few spectators. But that absence of spectators isn’t just a coincidence: there were supposed to be no spectators in women’s sporting events in the early twentieth century, despite what strikes us as excessively modest—and probably uncomfortable—clothing.¹ This is worth keeping in mind when we think about political controversies of our own era: critics of the gender-equity policies enacted under Title IX often cite women’s lack of interest in competitive sports as a reason why strictly proportional equity in college sports is a silly policy.² Surely, one might think, it matters for a person’s interest in a pursuit what sort of incentives are associated—and have historically been associated—with it. Social appreciation from admiring spectators is one such incentive, and it is an incentive whose absence for a long time was an explicit policy.

The lack of publicity was only a small part of the cluster of policies that limited and shaped women’s opportunities to participate in sports for much of the twentieth century. In U.S. education, this changed significantly in 1972 with the enactment of Title IX of the Federal Education Amendments,³ which required the commitment of equal resources to boys’ and girls’ sports in educational institutions. In fact, it required gender equity in the provision of and access to educational opportunities in general, but both the campaigning that led to its enactment and the continuing controversies of the past three

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Fig. 3. Women's basketball game, Barbour Gym, University of Michigan, ca. 1910. (Reproduced by permission of the Bentley Historical Library, University of Michigan, Ann Arbor.)

decades have kept things focused on sports. Although Title IX changed things significantly, there has also been much continuity. For example, no women's sport is what universities call a "revenue" sport—that is, a sport so popular that its paying spectators make it a major business. And, anyway, if we look past universities, the history of women's participation in elite sports has been a slow and bumpy road to more inclusion. (Pop quiz: When did women's pole vault become an Olympic event? Answer: 2000.)

The history of the politics of women's sports has been written competently by others.⁴ Here, I am interested in trying to understand the difference difference makes: how ideas about status and standing, equality and excellence, voluntary choices and justice get sorted out when the perceived differences between *groups* of people, not just individuals, aren't so obviously contingent as the class differences we explored in the previous chapter. I don't want to suggest that, say, gender differences are somehow permanently real—in other words, I am not an essentialist about gender—but I do show that in some cases

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equality requires the acknowledgment of differences. That isn't news to anyone who has a passing familiarity either with civil rights arguments or the theorizing behind such arguments. But there are new things to be said: ideals of personhood and norms that attach to different types of personhood matter when we try to understand questions of equality of opportunity. Here I explore whether there can be a *right* to meaningful competition, and if so, on what terms, *given* that there are differences that make a difference in terms of excellence.

The provocative title of this chapter serves two purposes. First, it points to one conception of women that is, fortunately, almost gone at the beginning of the twenty-first century but that has affected women's opportunities particularly in terms of physical culture. Second, I want us think about the idea of disability itself: in addition to disentangling *women* from *disability*, we might also try to disentangle *disability* from something that, almost by definition, can't be understood as excellence. These two aspects, women and disability, disability and its association with whatever is the opposite of excellence, are connected. So perhaps provocatively, I focus in this chapter on people who still are unequivocally understood to have disabilities (as much as there can be clarity on who counts as having a disability). In analyzing the contemporary politics of disability sports, I shed light on the logics and the political mechanisms that help us understand the contingent relationships between the norms and ideals of personhood, equality, excellence, and justice. The point is not that women's participation in sports has had only to do with beliefs about their weakness and physical vulnerability. Those beliefs mattered much and informed debates about the nature and terms of women's participation for a long time and arguably still do so to some extent today.⁵ And they were tangled up with other beliefs and attitudes about what was proper for women (for example, chastity).⁶

Let's think about "real" disabilities, then. In summer 1999, nine wheelchair users filed a suit against the organizers of the New York City Marathon (NYCM), alleging discrimination that violated the Americans with Disabilities Act (ADA), which was enacted in 1990. Wheelchair athletes had been allowed to participate in the NYCM, one of the world's largest marathon races, for twenty years, but not on the same terms as able-bodied runners. The plaintiffs alleged that police routinely but randomly stopped wheelchair participants—some-

times for up to forty minutes—so that elite runners could pass; that no competitive wheelchair division existed; and that they received no prizes, award ceremonies, or media exposure.⁷ The general theme of these practices was that people with disabilities didn't really count as athletes. For example, that they could be stopped implied that improving the times in which they finished the 26.2-mile race wasn't significant, even though it could be a goal for even the most recreational, five-hour, able-bodied marathoner. The lack of a *competitive* wheelchair division implied the same, since it lumped together hand-pushed racing wheelchairs and chairs using bicycle gears. The implications were made explicit by the absence of prizes or even finishers' medals for these athletes.

This particular dispute has been settled, more or less happily and, given recent progress in disability sport, might seem like only an ugly reminder of a bygone era, much like earlier stories of women's exclusion from sports. In fact, evidence suggests that disability sport has followed women's sports in getting significantly mainstreamed and in getting people with disabilities recognized as athletes. Since 1988, the Paralympic Games—the Olympics for athletes with disabilities—have been held in the same venues as the Olympic Games, and there has been increasing cooperation between the International Paralympic Committee and the International Olympic Committee.⁸ Golfer Casey Martin's 2001 U.S. Supreme Court victory that enabled him to use a cart on the PGA Tour also was seen as a major victory for disability sport.⁹ And, in running, the NYCM had been a bit of an outlier, anyway: most of the world's other major marathons had had competitive wheelchair divisions at least since the 1980s.

But things aren't quite that simple. How mainstream disability sport has become remains an open question, and the political and legal victories haven't been forgone conclusions. Tenacious opposition persists. Disability litigation is one of the many areas in which some Americans believe the country has become "overlawyered."¹⁰ In general, the NYCM case points to still tricky questions about the participation of people with disabilities in sports and similar social practices. On what terms may people with disabilities participate in competitive sports? *What* particular sports can they participate in, and why? How can we tell who should be allowed to participate? These issues ultimately raise questions about social justice: Do voluntary civil-societal

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pursuits of excellence—where distinguishing between better and worse is the whole point—fall within the scope of social justice? If so, how do we determine when justice has been done and when an injustice of some kind exists? Although significant differences exist between different kinds of groups—people with disabilities, women, people from different racial groups, for example—some of the broad questions are the same.

The easy but mistaken answer is that questions of justice don't even arise in cases like the NYCM challenge. That is because, on such a view, social justice is about the equal distribution of what Alasdair Macintyre calls *external* goods and not about goods *internal* to a practice: a liberal democratic state ensures that you have a *right to pursue* a job (external good) but no *entitlement to one* (internal good); a right to education (external) but not to become the valedictorian at your school (internal).¹¹ Similarly, the view goes, the ADA or Title IX and other such institutionalized rights at most ensure an eligible person a right to participate in a pursuit of excellence but no entitlement to anything that would count as excellence.

The easy answer is mistaken because it confuses participation with *meaningful* participation. A person's mere presence at a pursuit does not mean she actually participates in it; it depends on the terms on which she does it. The simplest and often the most innocuous example is one with which I began this chapter: whether others show up to watch you makes a difference. This observation does not obviate the bigger questions, just refocuses them: Can there be a right to a meaningful participation in a pursuit of excellence, and on what terms? I will not argue for absurdities: justice can't demand that field hockey be made as popular and lucrative as football. (How could one do it, anyway?) But for that reason, the terms of what counts as meaningful participation are important and are not at all obvious.

The answer is that it depends on the interplay among three factors: the politicization of a practice (someone needs to make a demand), institutionalized principles of justice (e.g., the ADA), and sometimes inchoate, often controversial ideas of what the practices in question are all about. In what follows, I explore the relationship between the factors in disability sport, focusing on the latter two. First, there are many ways to interpret the spirit of the ADA, and a successful argument for a right to a pursuit of excellence requires that the ADA be

understood as an anticaste principle. That interpretation allows me to show how even voluntary, ostensibly apolitical social practices can stigmatize groups of people—people with disabilities, for example—and how such practices may be refigured to bring about social justice.

The ADA as an Anticaste Principle

In her 1984 book, *The Disabled State*, Deborah Stone argues that the key to understanding disability politically is to think of the state as attempting to maintain the uneasy boundary between two distributive systems, work and need.¹² At least in the West, the historical thread in disability policies had been to make sure that those “genuinely” unable to work got whatever help they deserved without those able to work receiving perverse incentives not to do so. If we accept Stone’s analysis, then the ADA looks truly groundbreaking: the U.S. Congress explicitly framed the law as a corrective to unjust *discrimination* against people with disabilities. There is much to be said for reading the ADA as a good-faith piece of civil rights legislation, the kind of legislation that shows the state’s commitment, however grudging at times, to the fact that distributive justice isn’t only about the just distribution of material goods: it can be about the just distribution of rights, opportunities, capabilities, and even recognition and respect.¹³ The ADA is premised on the idea that disability policy shouldn’t only involve taking care of needs while discouraging shirking; it tries to correct the world so that having a disability does not mean that someone is entitled to fewer opportunities and respect than nondisabled persons. The ADA enshrines that social value into law and says that the value is important enough for the state to use its coercive apparatus to enforce it.

The precise nature of that social value is open to some interpretation. Samuel Bagenstos has argued that the injustice in the case of disability is the creation of *stigma* and that the best interpretation of the ADA is to read it as an institutionalized piece of what Cass Sunstein calls the “anticaste principle.”¹⁴ In that view, the state wants to ensure that people with disabilities not become a group seen as less worthy than people without disabilities. Insofar as people with disabilities *have* been treated as less worthy than others, the state must try to eradicate such practices.

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Sports, Civil Society, and Justice

This book has focused on the social sphere we call civil society, and I have argued that the need for this focus hasn't been a coincidence: many political issues must be negotiated in civil society. But when we begin talking about questions of justice in a context where a well-established (safely consolidated, political scientists like to say) democratic state is responsible for maintaining the justice of institutions, complications arise. On the one hand, a safely consolidated, stable state that citizens for the most part trust and can influence is preferable to a capricious, unreliable, or explicitly oppressive state. The wheelchair athletes can turn to the ADA, an *institutionalized* principle of justice, making their situation much better than those of the workers we saw in the previous chapter. But on the other hand, the role of civil society in a liberal democratic society makes this political resource a double-edged sword. Civil society is the social sphere for voluntary activity, and part of the point of its existence in a well-organized liberal democratic society is that the state keeps its distance from it: the state has the potential to become an intrusive busybody, and its reach into civil society therefore should be minimal, the conventional liberal intuitions go. The intuitions are well founded, but still: that practices in civil society are voluntary does not mean that they cannot fall within the purview of justice. Civil rights struggles over the past century have convincingly established that questions of justice arise in civil society. That is, for example, what the ADA's public accommodations clause addresses: public accommodations, which are parts of civil society, must be accessible to people with disabilities. But what remains open is the way and extent to which *specific* practices are to be open to all comers—or what "all comers" actually means. The legitimately discriminatory nature of sports—discriminating between better and worse by internal standards—makes them a particularly good case to puzzle through the relationship between legitimate and illegitimate discrimination. It makes them political and politically interesting.

I focus only on the question of whether sports themselves can continue to become instances of justice and injustice to people with disabilities and, by extension, to other ascriptive groups in a liberal democratic state. In effect, I am asking whether Harlan Hahn's obser-

vation on disability and work can be more than a metaphor: “The right of disabled citizens to have an equal chance to compete with the nondisabled in a race rigged against them by factors unrelated to their individual talents may be incompatible with the standards of a democratic society.”¹⁵

So the question is: In an actual race—tournament, game, match—are the standards of success “unrelated to the individual talents” of people with disabilities? The intuitive answer of people sympathetic to disability rights is likely yes, as is my final answer in the chapter: “disability” in one dimension does not preclude talent and excellence in others; neither does gender. More strikingly, this can be true even if the “achievements” are by some conventional yardstick different from those in a relevant reference group. But intuitions notwithstanding, the answer isn’t obvious. First, people disagree: commenting on the Achilles Track Club lawsuit against the NYCM, an anonymous participant in an online runners’ forum wrote in 1999, “I sympathize with the handicapped, but racing isn’t something they should try to do.” To be sure, the view reflects precisely the attitudes that help generate the stigma the ADA tries to counter. But it also accurately reflects the view that sports are a pursuit in which difference makes a difference and in that way reflects a more general position specifically critical of disability rights: “Even if one concedes a role for government in eliminating private discrimination, one must also acknowledge that discrimination against disabled individuals is different in kind from discrimination by reason of race, national origin, religion, or sex.”¹⁶ The theoretical and political challenge for those who think that Hahn’s point applies in sports is to show why and how the difference of a disability isn’t the same as comparatively less valuable talent.

To anticipate my conclusion: we can meet the challenge, at least part of the way, by rethinking the meaning of excellence in sport. Doing so shows us that this meaning indeed admits different kinds of talents without requiring any fundamental change in the meaning of excellence. My argument, in other words, isn’t about dumbing down excellence in sport but simply about showing that disability can be perfectly compatible with that excellence.

I deliberately bring up the conservative worry about general equality: the next step of the argument requires that we turn to questions of the equality of opportunity.

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Equal Opportunity to What?

Let's return to the New York City Marathon and the lawsuit brought by the nine members of the Achilles Track Club, an international organization for wheelchair athletes.

In their defense, the New York Road Runners Club (NYRRC), which conducts the marathon, cited concern for wheelchair users' safety as one of the reasons their progress was often delayed and why they weren't always allowed to start at the official starting line.¹⁷ The plaintiffs considered these arguments both patronizing and disingenuous, and soon enough the NYRRC began to make real concessions, which led to a general out-of-court settlement. For the November 1999 marathon, the club promised that wheelchairs would not be delayed on the course, and organizers agreed to introduce a special wheelchair division for the 2000 race and prize money by 2001. (In the nondisabled divisions, the prize money runs into tens of thousands of dollars.)

So although the problem has gone away and although the NYCM was, as I said earlier, a political laggard in the world of distance running, it is useful for our exploration to begin with the philosopher's usual move and call into question something no longer in dispute. Why should wheelchair athletes participate in a *footrace*? Wheelchairs have wheels; footraces, by definition, are events where people run or walk. First, why should wheelchair users get to participate at all, and, second, why should they participate in footraces? Let's begin with the second, more specific question: Why footraces? The answer is a pragmatic one, although no less robust for that: although a wheelchair user can, on the average, move faster than a person on foot (which is why wheelchair athletes usually begin their race a few minutes before runners), the speed is closest to that of a person on foot. Notably, push-rim wheelchairs are significantly slower than racing bicycles, the other possible reference group. Furthermore, a wheelchair is the most quotidian mode of movement for a person with a mobility disability, just as feet are for able-bodied persons. Part of the appeal of organized running and walking for people who enjoy it is that it is so easy to do; one can, in theory, jump into a footrace just as one is. The more general idea is that disability is not the same as *inability*. As Karen DePauw and Susan Gavron have observed, the recent ten-

dency in disability sport classification has been to focus on functional *abilities*, not on disability—that is, on what a person can do instead of what she cannot do.¹⁸

This gets us to the question of why athletes with disabilities should get to participate in an able-bodied persons' race in the first place. Here is a rough first cut for an answer: Wheelchair athletes should get to participate (1) because some wheelchair users *can* engage in a competition that is in most essentials the same as the competition by people not in wheelchairs, (2) because some of them also *want* to engage in such competitions, and (3) because our intuitions about the norms of a liberal society say that if someone wants to do something she can do without burdening others, she should get to. That was the logic on which people with disabilities argued for their admittance into footraces in the late 1970s; earlier, it was one of the Title IX arguments. With disability, things weren't quite as simple at that time because before the passage of the ADA, a gap existed between the political intuitions and a *specific* institutionalized principle that would apply. To some extent, the Civil Rights Act of 1964 as well as later disability-specific statutes such as the Architectural Barriers Act or the Rehabilitation Act enacted to help people with disabilities in other contexts afforded enough legal and political comparisons for a legitimate case by analogy.¹⁹ But still, one could argue that people with disabilities were until very recently much in the same extralegal boat as the workers and bourgeois duelers of my earlier chapters.

In the case of the NYCM, again a visible landmark in these matters, much turned on how the wheelchair users' ability to participate was interpreted and on whether the ideals of equal opportunity applied in the case. Interest in participation wasn't the issue, or the legal case would not have arisen. The organizers of the race did not deny that people with disabilities can participate in *some* athletic activities but argued that they could not participate in a footrace aimed primarily at able-bodied runners without seriously endangering everyone. Fred Lebow and James Fixx, the race directors, argued in a hearing in front of the New York Human Rights Commission that the speed of the wheelchairs made them so dangerous to biped runners that they should not be allowed to participate.²⁰ The argument didn't fly, however, and by October 1980, the Human Rights Appeal Board issued a final ruling that wheelchair athletes had to be allowed to participate.

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More theoretically, in any loosely liberal polity, one central notion of equality is the idea that opportunities should be equalized. As I suggested earlier, by the end of the twentieth century, this idea was firmly established as a norm directing the state; such wasn't the case in the controversies we saw in the previous chapters. But the difficulty still is to figure out what it means: people differ in needs, inclinations, and talents. Differential needs may mean that equal opportunity requires differential resources: wheelchair ramps in buildings are a familiar example. Differential inclinations and talents mean that it can be difficult to tell whether someone lacks or has lacked equal opportunities: maybe my relative poverty reflects an earlier choice not to pursue the American Dream, or maybe I did pursue it but invested my time and money badly. In neither case is it obvious that I lacked opportunities comparably equal to others.

For these two reasons—that different needs require different resources and that inequality of achievement does not prove inequality of opportunity—Amartya Sen has argued that the best interpretation of equality is an *equal capability* to function as a human being.²¹ People are equal when they enjoy the capability—utilized or not—to pursue the variety of things that society considers worthy of a full human life. People are unequal when they are denied any such capability, whether as a result of intentional discrimination (explicitly racist, sexist, or ableist beliefs, say) or structures that produce a discriminatory effect (e.g., people with disabilities systematically lacking access to educational resources).

The implications for disability are important. Unlike in the periods that parts 1 and 2 of this book covered, the assumption of equal human dignity is now more or less a given. So if we think that any human being is *prima facie* eligible for a full human life, then we have to be attentive, from the word *go*, to people's widely diverse opportunities and abilities to reach it. This requires that even severe "natural" physiological limitations be rendered as costless as possible. "Natural" limitations include human-dependent actions such as accidents, but the idea is the same: if my capability is or gets limited, justice demands that the limitation be as costless as possible. The ideal, even if it is not fully realizable, is that neither nature nor accident denies anyone the capability to function.

Among the familiar implications of this view is the argument for

why the state is not only justified but required to use extra resources for people with disabilities when renovating buildings to make them accessible, for example. The logic was also applicable in the context of the wheelchair marathon controversy in the late 1970s. *Washington Post* columnist Colman McCarthy, for example, argued,

I side with the handicapped. If the wheelchair is what they have been forced to use for transportation, then the wheels of their vehicle are actually their feet and legs. Why should either an accident of birth, or an accident on the highway or a war zone, disbar someone from sharing the roadway with the able during a marathon?²²

The language might already grate our ears, but the point is clear. To deny wheelchair users participation would be to deny them an equal opportunity to engage in a meaningful human activity; that the actual mode of their activity—wheelchairs instead of feet—is different is by itself no argument. They can have recognizably comparable activity even in the same event. Where genuine logistical differences arise because of the physical aspects of the wheelchairs, providers of the services must try to accommodate them instead of using the difference as grounds for denying the right to participate. In practice, that has been done quite successfully through measures like letting the wheelchairs begin their race a little before the runners or by letting blind athletes use guides.

All this should be familiar and uncontroversial in principle if not in practice. It still makes a difference, however, to what extent we take the “reasonable accommodations” now explicitly required by the ADA to imply something like “compensation for misfortunes.” Many people have tended to think of them on those terms: like the anonymous commentator in the runners’ online forum, they may “feel for the handicapped.” This can help foster the idea that equalization is somehow equivalent to remedial education, itself an idea laden with a patronizing attitude and so a source of a stigma. When someone is stigmatized, her identity is “spoiled,” as Erving Goffman has put it.²³ This isn’t, in the first instance, about the goings-on in her head: the “spoiled identity” is the person’s social identity, how others see her. One of the things people don’t expect of “defectives” is excellence.

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This is why the argument requires our interpreting the ADA as an anticaste principle: in that interpretation, to think that a person cannot or should not hope for an excellence is to stigmatize and is thus inconsistent with the demands of justice. For this reason as well, the demands of justice are not met when wheelchair athletes just get to wheel through the course of the NYCM: they are, in some way, obviously participating in the event, but they are not participating in what makes the event what it is. They are specifically denied the richer opportunity.

But I have not yet offered an argument for why justice requires that wheelchair users be allowed to participate in this pursuit of excellence on these particular terms. We also don't know how the argument so far applies to disability sport in general. For example, does the current arrangement for Paralympic Games—same venues as the Olympic Games, different time—satisfy or violate the demands of justice? To say that these issues are purely logistical is to sidestep the question: the equality-as-capability model explicitly denies the primacy of logistical considerations: there are no “purely logistical” considerations.

Despite the legitimately bad rap from which the notion of “separate but equal” suffers, it may sometimes be legitimate. That depends on why the separation exists, and that in turn depends on the internal meaning and logic of the practice in question. I now turn to the meaning and logic of competition.

Meaningful Competitions

One of the reasons I focus on sports is that they constitute a social practice where the notion of excellence is relatively straightforward. In sports, there are reasonably clear measures of excellence, of ranking participants, of measuring relative success. Competitors aim to do as well as possible and ultimately to win.

Of course, especially in recreational sports, many people don't aim to win; increasingly, people don't aim at excellence at all, as in the alternative conceptions of sports—“socialist sport”—discussed in the previous chapter. In our contemporary world, people engage in sports for health, to raise funds for a charity, to have fun with friends—in short, for recreation. Even so, the notion of competition is still partly consti-

tutive of most such events: people do get ranked, whether or not they care about that ranking, and winners do get awards. Given the nature of the practice, opportunity to participate in it on fully equal terms would mean an equal opportunity to meaningful competition.

Consider what “meaningful competition” means. “The hope of winning” might be one interpretation. The Olympic slogan, “Citius, altius, fortius” (Faster, higher, stronger), captures this idea: there are straightforward objective measures of achievement, and excellence is ascribed to people comparatively by how they line up in displaying their prowess. The greatest praiseworthiness is due the person who outperforms everyone else because he or she has reached the goal everyone seeks. It seems to follow, then, that for competition to be meaningful, everyone must have a realistic hope of being the winner. But this is impossible: people’s talents and abilities vary widely, both because of agent-independent reasons (“natural” and “normal” distribution of talents, available resources, and so forth) and reasons that depend on the person’s own efforts (e.g., practice). Especially in recreational sports, the majority of people have zero hope of winning, regardless of how much they might practice. Most of the forty thousand runners in the NYCM don’t even dream of winning the race.

Another interpretation of “meaningful competition” might be to eliminate the effects of the luck of birth and other factors that don’t depend on a person’s individual efforts. That way, the argument might go, competition would indeed be fair: the person who applied herself most diligently to practice would come out as the winner: A for effort. The insurmountable difficulty with this approach, however, is that it is impossible to separate the factors clearly enough. While there is some agreement of what, say, genetic factors contribute to particular kinds of athletic prowess, these factors tend to vary greatly: I might be a good distance runner thanks to my natural motor efficiency (itself likely an genetic interaction effect); you might be good because of your congenitally high number of red blood cells. Second, there are agent-independent causes for those mental dispositions that motivate persons in pursuits of excellence. Attention deficit hyperactivity disorder (ADHD), for example, can impair a person’s ability to excel academically or in an athletic pursuit.²⁴ Some of these are “natural” (that is, something with which the person is born); others may depend on forms of “nurture.”²⁵ And, finally, for better or for worse, social con-

ceptions of excellence do, as a matter of sociological fact, incorporate both appreciation for individual effort *and* relationships among people. A figure skater's quadruple jump is praiseworthy precisely because it is so difficult for anyone to accomplish, and no matter how much I train, I will not merit similar appreciation if I can't even get off the ice. Sometimes "A for effort" makes no sense. In fact, while university students who receive Bs on assignments frequently lament, "I worked so hard on it," instructors generally and reasonably think "A for effort" was really abandoned as a principle sometime in elementary school. This is all the more true for sports: *just* working hard is not enough for excellence.

But then we have another problem. Let us zoom out from disability and consider excellence along the lines of gender divisions. Our intuitions now (if not in 1910) are supposed to be pretty clear about gender as meaningful demarcation line in sports. It turns out that the intuitions aren't so clear: theoretically messy social practices abound. For example, Title IX is still controversial and in fact is coming under increasing criticism from some directions. One of the arguments is that since women's athletic performance "simply" is less impressive than men's, this demand for equality amounts to dumbing down of sports and to the inflation of "excellence." The argument is not the most important one critics of Title IX have marshaled, but it has been significant. In September 2000, tennis star John McEnroe went on record disparaging the women's tennis phenomenon the Williams sisters as being merely equal to mediocre male players, to "good college athletes."²⁶ The claim is, to be sure, at best arguable factually, and McEnroe hardly has a reputation as a tireless feminist. But his point raises a question: *if* athletic achievements aren't appreciated on a unitary, objective scale, then what separates a scale?

One might think that these McEnroe-style arguments represent some relics of a fortunately disappearing era, and in a way, they likely do. But the arguments are often couched in a rhetoric of equality: since the principles of equality and antidiscrimination ask us not to make social differences salient, the argument goes, Title IX requirements, different athletic divisions and awards for women, say, are discrimination.²⁷ Whether the equality rhetoric is sincere is not central. Similarly, it doesn't settle the issue to remember that at least according to the capability-based understanding of equality differences in fact

must be closely focused on. The question is why *these* differences ought to matter. When one argues that women or people with disabilities ought to have a chance to dream of winning and not be victims of circumstance, the critic could say that a healthy male who lacks the natural endowment to make it to the top is in no different position in that he also can't conceivably dream of being a winner. Sure, in many sports, women on average have somewhat "lesser" performances than men, but there are many women who are better than I, the author of this book, am. I know this: they have beaten me. Some women can outperform men: marathoner Paula Radcliffe can easily outperform Mika LaVaque-Manty and thousands of other men, too. So why should we have gender divisions in sports? Why should I be satisfied with a tenth place in my division when a woman who is actually slower than I am might be the winner in some particular sporting event? And if I am to put up with the fact that I can't dream of winning the NYCM, why can't a person with a disability put up with that fact?

Mightn't we just admit that talents are normally distributed? That is, there is a bell curve where on the right-hand tail are the truly talented, on the left-hand side the talentless, and in the middle large mass of mediocrity? Norman Daniels points out in his discussion of mental disability the seemingly benign fact that talents are normally distributed actually raises rather than obviates questions of disability justice.²⁸ One might argue, as people used to, that disability in any given dimension simply represents the left tail of a bell curve of that particular dimension: they are weak end of the normal distribution of that talent; too bad for them, but that's how the dice got thrown. But for better or for worse—for better, as far as I'm concerned—we no longer think quite that, as we saw: disability is almost never such a total condition that there are no dimensions on which a person might count as talented. This applies not only to Stephen Hawking but to many athletes with disabilities: as soon as you find the right measure, you'll realize that talents of many different kinds are also normally distributed *among* people with disabilities. Moreover, this distribution difference isn't just a result of our zooming in on the tail end of a larger population's distribution. In the case of a couple of athletic values—courage and dexterity, say—the athletes involved in quadriplegic rugby (popularly known as murderball) land in the talent distribution

curve of a population that involves people with and without disabilities.²⁹ Not, I would surmise, somewhere on the left tail.

But then we have a problem. On the one hand, we can find courageous and talented individuals in the groups that one might have thought as deficient, whether they be women or people with disabilities. On the other hand, there are also irreducible differences in the way the talent gets displayed. One familiar solution to this tension between two sets of considerations is that “excellence” gets relativized to some particular reference group. For a female figure skater, it is excellent to achieve a triple jump, for example. These groups are “ascriptive proxies”: the groups are carved out in a way that makes competition meaningful. The idea is that two randomly selected individuals from a given reference group should have an equal hope of beating one another in a head-to-head effort.

These classifications are contingent. All of this applies directly to disability sport, and thinking about disability sport shows us in spades what has been true about women’s sport. In disability sport, the divisions and categories are more numerous than in other sport, but the logic isn’t. “Classification is simply a structure for competition. Not unlike wrestling, boxing and weightlifting, where athletes are categorized by weight classes, athletes with disabilities are grouped in classes defined by the degree of function presented by the disability.”³⁰

Similarly on the one hand and very differently on the other, the logic of “open competition”—the “freedom to enter an event in which one meets eligibility requirements with respect to times and distances, with no consideration given to functional or medical classification”—gets us into considering the question of meaningful competition.³¹ In disability sport, the idea of open competition is that anyone who can compete can join in. It is not only true in disability sport. If visually impaired runner Marla Runyan prefers to compete in the Olympics instead of Paralympics, she can do it. One problem is that it may seem to imply that the level of excellence in Olympics is greater. On the flip side of this tricky coin is South African sprinter Oscar Pistorius, who was born without fibulae in his lower legs and who therefore uses prosthetic lower legs known as the Cheetahs.³² Pistorius made a bid to move from the Paralympics to able-bodied sport, but the International Amateur Athletics Federation resisted on

the grounds that his prostheses gave him an unfair advantage. Unlike in the case of wheelchairs, where the speed advantage is obvious, Pistorius's case required complicated adjudication on whether he had an obvious advantage or simply lots of talent and hard work. After a long and complicated process, he was cleared to participate in the 2008 Olympics but failed to qualify for the South African team—so much for his “obvious” advantage. (He ended up participating in the 2008 Paralympics, winning multiple gold medals there.)³³ The case nicely illustrates the several ambiguities of disability sports.

So while the issues are quite complicated, these considerations suggest that “meaningful competition” for wheelchair athletes would be competition among other, similarly *situated* even if not similarly *talented* wheelchair users. Wheelchairs affect athletic performance: on average, in the aggregate, they make the athletes faster than biped runners. A separate competitive division for wheelchair users is a way of making sure competition also remains meaningful for runners. And since the type of wheelchair a person uses reflects her functionality, the logic also suggests that there should be many wheelchair categories, not just one: the average differences caused by the mechanical differences both change the nature of the endeavor and make an average difference in the outcomes.³⁴

Still, the functional understanding of meaningful competition can seem to come into tension with ideas of excellence, however contingent the latter. There are many ways of carving out groups so that their aggregate and average performances vary. Why are some ways chosen over others? Why are some mandated by considerations of justice and others not? The concern—historically attributed, as I have suggested in this book, to conservatives—is that a proliferation of categories will dumb down notions of excellence. “If everybody is special,” a character puts it in the popular film *The Incredibles*, “then nobody is.”³⁵

Although this may be true in the abstract and although the concern is real, there is no obvious reason to believe that proliferation of categories *by itself* creates a slippery slope to mediocrity. Let's consider the issue with another recent category controversy. The newest addition in many endurance sports has been the creation of weight categories. In many footraces, for example, heavier runners now get to compete in “Clydesdale” divisions on the undeniable logic that in run-

ning, weight is functional: carrying more puts one at a disadvantage relative to lighter persons. While commonplace in many other sports—wrestling, boxing—these divisions are highly controversial in endurance sports.

The controversy has several causes.³⁶ The most obvious one is that the demand for such categories is explicitly political, just as in (other) disability sports: activists in organizations such as Team Clydesdale make a political demand for inclusion.³⁷ This can generate opposition for many reasons; the most important is based on the widely held but most likely false belief that a person's weight is more or less up to her and that *she*, therefore, can make competition meaningful for herself simply by losing weight. This is analogous to the argument that if I fail my examination because I haven't studied, I have no cause for complaint. The background principle is what some philosophers call "luck egalitarianism": equality requires eliminating the "arbitrary" effects of agent-independent factors for how a person's life turns out, but it doesn't require compensation for the opportunities she herself has squandered.³⁸ This argument depends on the extent to which weight really is within a person's voluntary control—there are good reasons to think the voluntarists exaggerate it—and the outcome of the weight category debate in that respect will partly depend on the outcome of the larger empirical and political controversy.³⁹

But the general point is that a weight category in these endurance sports is wholly contingent, the justifiability of which depends on social conventions and *on political agreement among participants*, not on any obviously undeniable facts. Facts matter, of course, as the controversy about the causes of a person's weight suggests, but equally significant is the interpretation of the facts and the decision about which facts are salient and which aren't. The key open question for society to settle is whether heavy endurance athletes' performances count as excellence. It's contingent but not arbitrary: it depends on what kinds of reasons end up winning the day. At the moment, there is no agreement on weight. Issues are significantly more settled but nevertheless analogous in the case of disability, sex, and race: society's contingent—if in some quarters grudging—view is that category separation on the basis of disability and sex is legitimate, whereas race-based categories would now indeed seem insidious (even if race might make a functional difference in terms of achievement).⁴⁰

Meaningful competition is thus determined by social conventions, which, in turn, reflect social values. There is no reliable decision principle that would settle the case of which differences ought to be regarded as salient and which shouldn't, even when antidiscrimination law tells us to be careful with some particular ones. First, sometimes we can't even agree on how we should conceive some social practice. (Is education about producing a skilled workforce or informed citizenry?) Second, even when we agree on the point of a practice—say, sports—we may disagree on what it means. But, again, the disagreements needn't be irreconcilable. I have tried to suggest why wheelchair athletes have a compelling logic for their inclusion: long-distance endurance sports are about endurance, and it would be unfair to ban people with disabilities who nevertheless can test their endurance. At the same time, it would not make sense to allow someone with an electric wheelchair to participate. But although I find the U.S. Supreme Court's decision to allow Casey Martin to use an electric cart on the PGA Tour compelling, it strikes me as less *obviously* correct. There are difficult open questions: should it be a constitutive rule of golf that competitors walk between holes, as the PGA argued against Martin? And even if it not, might the PGA Tour or similar institution unilaterally change its conception of measuring golf excellence to include such a rule? There are better and worse reasons, and sometimes we come to agreements. But the questions aren't settled by anything other than the contingent reasons we all can try to marshal.

Conclusion

I have argued that even in a stable liberal democracy, voluntary civil-societal practices such as sports can come within the purview of justice and that we can argue—on the basis of contingent reasons and against the backdrop of antidiscrimination laws such as Title IX or the ADA—that people can have a defensible a right to meaningful competition. What meaningful competition is within a given set of practices and how that right is interpreted can vary widely. Moreover, it depends, as I have argued, on how the practices in question are understood. Competition in sports is about excellence, and the political arguments therefore concern the nature and meaning of excellence. I

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have suggested some of the ways in which supporters of disability sport have shown disability to be perfectly compatible with athletic excellence, but I have also pointed to the ways in which these questions are unavoidably contingent. For that reason, they often remain—appropriately—political. The same goes for gender.

What, then, about cases where disability sport appears organized on a “separate but equal” principle? Or what about cases where performing takes place outside public view, as in the 1910 women’s basketball game mentioned at the beginning of this chapter? Insofar as the anticaste principle against the stigmatization of people with disabilities is compelling, the Achilles Track Club athletes’ demand that they be allowed to participate *as* athletes in the NYCM and not in some parallel event is significant: Stigmatization and its opposite, respect, are social expressions. In this case, for example, the millions who line the streets of New York to watch the event are, intentionally or not, part of a collective expression of respect for the participants. In a slightly different case, the opening ceremonies of the 2000 Sydney Olympics, one of the final torchbearers was Betty Cuthbert, a wheelchair user, and the final one an Australian Aboriginal athlete, Cathy Freeman; both (obviously) were women. We could interpret this as distasteful tokenism that attempts to hide Australia’s enduring stigmatization of people with disabilities and its indigenous population. Or, worse, we might interpret it as a lamentably politically correct concession to people who have no place being appreciated alongside “real” athletes. But we can also interpret Cuthbert’s and Freeman’s inclusion as a genuine expression of equal respect for people with disabilities, racial minorities, and women.⁴¹ One thing about sport—high-visibility Olympic sport in particular—is that it *says* something in addition to what it *does*: whether it changes people’s attitudes and beliefs, whether it hides existing practices of discrimination and oppression, its symbolic message matters as a kind of political recognition.⁴²

I conclude with two different sets of considerations. First, this chapter began with an early-twentieth-century image of sporting women and has ended with a very different one. Whereas the University of Michigan basketball players engaged in their sport without spectators, Cuthbert and Freeman paraded—and, in Freeman’s case, competed spectacularly—in front of potentially billions. Does this mean that the prior stigmas, be it being a woman or having a disabil-

ity, are all gone? Not quite yet seems like a reasonable answer. In addition, there remains something potentially gendered in the conception of the kind of excellence that athletes exemplify. The stereotypes about excessively masculine female athletes aren't anywhere as prevalent as they used to be, but they can still cast a shadow over women's engagement in sports.⁴³ Male athletes with disabilities, too, can perceive their stigma of disability as an emasculation: for many of the quad rugby athletes depicted in the documentary *Murderball*, display of their masculinity on the one hand and concern about others' perception of them as lacking sexual prowess on the other are clearly important preoccupations.⁴⁴

Second is a related but different sort of issue: There is the question of whether the separation of Paralympics and Olympics poses a problem of equality. Is it a benign or problematic form of "separate but equal?" On the one hand, we may point to a trajectory of greater recognition of Paralympics by important institutional players such as the International Olympic Committee: the events may be separate, but the message surely is that they are more comparable than they used to be.⁴⁵ And we may join Simon Darcy in sounding a cautious note of optimism about the actual arrangements in the 2000 Sydney Paralympics, even if they were far from perfect and even if their long-term effects on social attitudes toward disability may be uncertain.⁴⁶ That may suggest that the separateness of the events is not a problem. But on the other hand, precisely the separateness may cause the wide disparity in spectatorship and attendance: in Sydney, for example, spectators at the Olympics outnumbered the spectators at the Paralympics by five to one.⁴⁷ And whatever official recognition athletes with disabilities received as equals, Darcy's evaluation suggests, came through political pressure from disability activists.⁴⁸ It is, in short, not yet clear yet that a separate event really recognizes a comparable excellence.

As I have suggested, all this depends largely on broader social attitudes—*l'opinion publique*, as Rousseau called it. The state cannot make up a new ethos about disability sport any better than it can make such an ethos about dueling. In the final chapter of the book, I turn to a contemporary (and enduring) controversy in sports in which *l'opinion publique* about questions of fairness, achievement, and human flourishing are being debated if not (yet) sorted out.

34. Riordan, "Worker Sport within a Worker State," 84.
35. Jones, *Sport, Politics, and the Working Class*, 28.
36. Ingham and Hardy, "Sport," 91.
37. Gechtman, "Socialist Mass Politics through Sport," 336.
38. Ibid., 330.
39. Krammer, "Austria."
40. Riordan, "Worker Sport within a Worker State," 90.
41. Jones, *Sport, Politics, and the Working Class*, 81.
42. Riordan, "Worker Sport within a Worker State," 51.
43. Gramsci, *Pre-Prison Writings*, 73, 74.
44. It is not just the question of the development of Gramsci's thought in a more critical direction in his later writings, either. In the same year, he offered a sharp critique of liberal civil society. See, e.g., *ibid.*, 70–72.
45. Jones, *Sport, Politics, and the Working Class*, 33.
46. Goltermann, *Körper der Nation*; Jones, *Sport, Politics, and the Working Class*; Laine, "TUL"; Ueberhorst, *Frisch, frei, stark und treu*; Vamplew, "Sport and Industrialization"; von der Lippe, "Landmarks in the History of Norwegian Worker Sport."
47. Ueberhorst, *Frisch, frei, stark und treu*, 139; my translation.
48. Gechtman, "Socialist Mass Politics through Sport," 343.
49. Ueberhorst, *Frisch, frei, stark und treu*, 132.
50. von der Lippe, "Landmarks in the History of Norwegian Worker Sport."
51. Arnaud, *Athlètes de la République*, 325.
52. Riordan, "Worker Sport within a Worker State," 17.
53. Jones, *Sport, Politics, and the Working Class*; Krüger, "'Once the Olympics Are Through'"; John, *Politik und Turnen*; Gechtman, "Socialist Mass Politics through Sport."
54. Pålbrant, "Vital Period in Swedish Worker Sport."
55. Gechtman, "Socialist Mass Politics through Sport"; Krüger, "'Once the Olympics Are Through.'"
56. Suomen Työväen Urheiluliitto, "Esittely."
57. Ueberhorst, *Frisch, frei, stark und treu*; Pålbrant, "Vital Period in Swedish Worker Sport"; Gechtman, "Socialist Mass Politics through Sport"; von der Lippe, "Landmarks in the History of Norwegian Worker Sport."
58. Raevuori, *Paavo Nurmi*, 49.
59. Orlie, "Political Capitalism and the Consumption of Democracy."
60. Ibid.
61. LaVaque-Manty, *Arguments and Fists*, chap. 2.

CHAPTER 5

1. Park, "Sport, Gender and Society in a Transatlantic Victorian Perspective," 86–87.
2. See, e.g., Suggs, "Foes of Title IX"; Gavora, *Tilting the Playing Field*.
3. 20 U.S.C. 1681 et seq.

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4. See, e.g., Festle, *Playing Nice*; Guttmann, *Whole New Ball Game*; Hargreaves, *Sporting Females*; Guttmann, *Women's Sports*.
5. I touch on some of these issues later in this chapter. For an example of (occasionally overoptimistic) hopes about changes in attitudes, see Twin, *Out of the Bleachers*.
6. See, e.g., Hargreaves, *Sporting Females*; Park, "Sport, Gender and Society in a Transatlantic Victorian Perspective."
7. Litsky, "Wheelchair Athletes File a Complaint."
8. International Paralympic Committee, "Paralympic Games"; DePauw and Gavron, *Disability and Sport*.
9. Greenhouse, "Disabled Golfer May Use a Cart"; Abbott, "Sports Are a Way of Belonging."
10. On the failure of mainstreaming disability sport, see Darcy, "Politics of Disability and Access." For critiques of ADA litigation, see the disability-related commentary at overlawyered.com (accessed May 9, 2005).
11. MacIntyre, *After Virtue*.
12. Stone, *Disabled State*, chap. 1.
13. Fraser, *Justice Interruptus*; Rawls, *Political Liberalism*; Sen, "Capability and Well-Being"; Young, *Justice and the Politics of Difference*.
14. Bagenstos, "Subordination, Stigma, and 'Disability.'" On stigma, see Goffman, *Stigma*; Karst, *Belonging to America*. On the anticaste principle, see Sunstein, "Anticaste Principle"; see also Francis and Silvers, "Achieving the Right to Live in the World."
15. Hahn, "Disability Policy and the Problem of Discrimination," 312.
16. O'Quinn, *Americans with Disabilities Act*.
17. Litsky, "Wheelchair Athletes File a Complaint"; McKinley, "No Stop Signs on the Course."
18. DePauw and Gavron, *Disability and Sport*, 11, 120–27; see also Sherrill, *Adapted Physical Activity, Recreation, and Sport*, 33–35; International Paralympic Committee, "Classification."
19. On making political arguments with analogies, see Sunstein, "On Analogical Reasoning."
20. McCarthy, "Wheelchair Marathoners Deserve a Chance to Compete."
21. Sen, "Rights and Capabilities"; Sen, *Inequality Reexamined*; Sen, "Capability and Well-Being"; see also Nussbaum, "Human Functioning and Social Justice"; Nussbaum, *Women and Human Development*.
22. McCarthy, "Wheelchair Marathoners Deserve a Chance to Compete."
23. Goffman, *Stigma*, chap. 1.
24. Sherrill, *Adapted Physical Activity, Recreation, and Sport*, 515.
25. I return to the (generally unhelpful) distinction between nature and nurture in the next chapter.
26. Tomkins, "Tennis Artist."
27. See, e.g., Suggs, "Foes of Title IX"; Zimbalist, "Backlash against Title IX"; Schuld, "Flawed Interpretation of Title IX"; but see also Suggs, "Poll Finds Strong Public Backing."

28. Daniels, “Mental Disabilities, Equal Opportunity, and the ADA,” 282.
29. Quad rugby became popularly known thanks to Shapiro, Mandel, and Rubin’s 2005 documentary, *Murderball*.
30. International Paralympic Committee, “Classification.”
31. Sherrill, *Adapted Physical Activity, Recreation, and Sport*, 35.
32. Roberts, “Fear of Disability the Same on a Course or a Track”; Longman, “Amputee Sprinter.”
33. Robinson, “Study Suggests That Amputee Holds an Unfair Advantage”; Lay, “Olympic Dream over form ‘Blade Runner’ Pistorius”; Power, “Pistorius Clocks a World Record.”
34. DePauw and Gavron, *Disability and Sport*, chap. 7; International Paralympic Committee, “Classification.”
35. Bird, *Incredibles*.
36. For a sample set of issues and opinions, consider the discussions in “Clydesdales and the World Championships.”
37. See the issues at <http://www.teamclydesdale.com>; see also Kirkland, “Representations of Fatness and Personhood.”
38. Arneson, “Disability, Discrimination and Priority.” For a critique, see Anderson, “What Is the Point of Equality?”
39. See, e.g., Crespo and Arbesman, “Obesity in the United States.”
40. Littwin, “Now Everyone’s Talking about Boulder Bolder.”
41. Cahill, “Olympic Flame and Torch.”
42. See Austin, “Performative Utterances,” for a distinction between saying and doing with expressions.
43. Connell, *Masculinities*. For a few very different examples, see Longman, “Athletes Embrace Size, Rejecting Stereotypes”; Guillet et al., “Understanding Female Sport Attrition”; Helstein, “Seeing Your Sporting Body.”
44. See also Zupan and Swanson, *Gimp*, a memoir by the most visible and charismatic of the athletes in the documentary.
45. Dickinson, “Power of the Paralympics 1996 Games in Atlanta”; Leal, “Disabled Athletes in Training”; Pingree, “Development of the Paralympic Games”; Mascagni, “Paola Fantato.”
46. Darcy, “Politics of Disability and Access.”
47. Australian Bureau of Statistics, “Year Book Australia.”
48. Darcy, “Politics of Disability and Access,” 753.

CHAPTER 6

1. For one contemporary account, see Fainaru-Wada and Williams, *Game of Shadows*.
2. Mitchell, *Report to the Commissioner of Baseball*.
3. Giamatti, *Take Time for Paradise*.
4. See also Hoberman, *Mortal Engines*, ix.
5. For a recent example, see “Olympics Meets the War on Drugs”; see also Hoberman, *Testosterone Dream*; Cashmore, *Making Sense of Sport*. For examples of the