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Aurélie Olivesi

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[p. 89] Chapter 5. From the implicit to aporia.
The specificities of the Caster Semenya Case as a “Discursive Moment”

Aurélie Olivesi¹

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“The South Korean championship’s leading scorer [...] is at the heart of a controversy surrounding her sexual gender². [...] Eun-Seon Park qualifies the accusations against her as “humiliating” and reserves the right to bring the case to court. Her case resembles Caster Semenya’s, the south African athlete who was accused of being a man after winning the 800 meter race in 2009.” (*Euronews*, 2013/11/07)

“Eighteen years old and barred from competing with women due to elevated rates of testosterone. This isn’t Caster Semenya’s story but that of another athlete, a sprint specialist diagnosed as being “hyperandrogynous” [:] Dutee Chand” (*L’Equipe*, 2014/10/14)

Cases about sportswomen whose femininity is questioned (like Eun-Seon Park in 2013 and Dutee Chand in 2014) are very often compared to the Caster Semenya case, the latter having become a point of reference in collective memory. When analysing media discourses, the event constitutive of this case became what Sophie Moirand describes as a “discursive moment” (Moirand 2007:4). A discursive moment “gives rise to abundant media-based material; a few traces of the moment also endure in the medium-to-long term through subsequent discourses concerning other events”. The discursive moment therefore contributes to the construction of “*collective memory*”.

I aim to examine the specificities of the Caster Semenya case as a “discursive moment” by considering thematic aspects, studying how the case was anchored geographically and through the confrontation of speakers – the latter point having been the focus of a study with Sandy Montañola (Montañola, Olivesi 2016 and 2018). This particular discursive moment also happened to be global (as are big sporting competitions) and gave rise to divergent public opinions in different countries. Cheryl Cooky et al. (2013) interpreted the differences in treatment from one cultural area to another as different ways of framing the case: on one hand “spectators, and citizens from the Global North, common sense understandings of gender-verification [90] testing posit testing as an objective, scientific process that ensures a level-playing field and thus, “fairness” in sport competition”, and on the other,

“Rather than framing the gender-verification tests as a scientific process necessary to “ensure” a level-playing field, [...] the South African news media framed the process as racist, a human rights violation, and a product of Westernized standards of femininity and beauty.” (*Ibid.*, 34-48).

Different ways of relating to oppressive discourses resulted in such framing differences. My hypothesis consists in saying that such differences in framing, which led to the creation of a “discursive moment” and its inscription in collective memory, were triggered by a double phenomenon. First, the Caster Semenya case was the seat of an ethical conflict opposing three axiological systems – regulations, the law and respect for individuals – which are generally congruent in the sports world. This case therefore set a precedent in collective memory as it led to ethical reconfigurations

- on questions related to fair competition
- on the place of gender in sports
- on the self-determination of one’s own identity.

With this “discursive moment”, a discourse emerged challenging the implicit foundations of sports regulations, gender construction and identity. The second aspect of this phenomenon was made apparent when analysing the controversy from an enunciative angle: interrogations were solely formulated negatively, and questions linked to an ethical reconfiguration remained unanswered. Due to the polyphony of media-based discourses (Krieg 2000), representations that were fashioned over the course of the ethical controversy remained juxtaposed to traditional representations. Such negative formulations meant that, while previous categories were being challenged, explicit redefinitions weren’t presented, leading to aporia. My hypothesis therefore consists in saying that this case became a “discursive moment” and structured the collective memory precisely because it allowed aporia to appear within a discursive frame where *evidence was the rule* (Montañola & Olivesi 2016 and 2018). With Caster Semenya’s case, new questions emerged and subsequent cases could then be taken considered using renewed representations.

I started by exploring the confusion caused by Caster Semenya’s victory in order to grasp how this moment led to a discursive reconfiguration. I first established an exploratory corpus of texts using articles on the Caster Semenya case from the French and Francophone African press written between August 2009 and July 2010. This corpus allowed me to identify themes of axiological confusion that were linked to the semantic field of suspicion. In a second Anglophone corpus, which was composed of articles on the case and compared the Western point of view with the African one (Bhula [91] 2011; Cooky et al, 2013), I then searched for words close to the semantic field of suspicion. This corpus was supplemented by an additional German corpus since the case started during the Berlin World Championships. In an attempt to analyze possible evolutions, I focused my research on the scheme based on disorder and its resolution (as does Sandy Montañola in Chapter 7). I first identified terms that proved the existence of an axiological disorder (suspicion, doubt...). I then examined in which field these terms could be attributed and how they could be distributed. I also looked at the context surrounding these suspicions to understand what types of axiological systems were in conflict. I finally used the enunciative point of view to analyse how these ethical conflicts could be resolved, which led me to notice that they were always presented as negative syntactic constructions.

What was Caster Semenya suspected of doing?

To indicate agitation surrounding Caster Semenya, the first term used was “suspicion”. I therefore looked for terms stemming from the base of the word “*souçon*” (in French “*souçon*”, “*souçonner*”, “*suspicion*”, “*suspiciens*”, “*trouble*”; in English “suspicion” and in German terms derived from “*Verdacht*”, “*Zweifel*”). This led me observe that the suspicion towards Caster Semenya was

caused by three explicit motifs – doping, transvestism and ignorance – although these motifs weren't equivalent from an ethical perspective.

The first explicit motif was a suspicion of doping or cheating:

“Although [the controversial doctor Ekkart Arbeit's] relation with the athlete isn't clearly established, Caster Semenya's pedigree and sudden increased performances – she gained 25 seconds in the space of two international competitions for the 1 500 meter race and 8 seconds for the 800 meter race –will contribute to arouse doping suspicions.” (*Le Monde*, 2010/07/08)

“Doping was suspected for all women whose tests showed high levels of testosterone, the male sex hormone.” (Schultz, *Eurosport.de*, 2013/05/08)

However, these suspicions were soon ruled out. The article in the French daily *Le Monde* added that the doping angle was “abandoned because of the storm of things that got mixed together: race, sex and performances.”

The second motif for suspicion lied in the idea that Caster Semenya was actually a man, or was at least conscious of being intersex and could have taken advantage of this to run with female athletes, thus deliberately cheating. Such suspicions were cast either on her or on the South African sporting instances, as was highlighted by the French sports daily *L'Equipe*:

[92] “On the 26th of July in Mauritius, Caster Semenya won the Junior African Championship with an already incredible time (1'56"72). The International federation was not present and was only alerted by the press. On the other hand, the South African federation started running tests, albeit quite slowly. A gold medal is always good to have”(Blondet, 2009/09/20).

These same suspicions were mentioned in the French newspaper *Le Figaro*. On the 31st of August 2009 (Saint-Paul, 2009), it published an article drawing parallels between Caster Semenya's victory ten days earlier and the theatrical release of a film, *Berlin 36*, by the German director Kaspar Heidelbach, retracing the real-life story of Gretel Bergmann, a Jewish German athlete who was banned from participating in the Olympic games by the Nazis. The latter had also nurtured a competitor to run against her – Dora Ratjen – who was later revealed to be a man. However, Carlson (2005) and Bohuon (2012) remind us that Dora Ratjen's case is the «only ... documented case of a man actually masquerading as a woman» (Carlson, 2005) (however Bohuon demonstrates that Dora Ratjen was actually intersex). According to Bohuon, the constant reference to masquerading men is a fallacious line of argumentation used to justify gender tests. And yet, this type of suspicion was still seen as offensive. By asking “Did she cheat at the IAAF championships?”, Phat Joe (real name Majota Kambule), a South African radio DJ angered his listeners: “Outraged by this, listeners then called in and lambasted Kambule, saying he was making a mockery of Caster Semenya's situation and being insensitive towards her and her family.” (*City Press*, 2009c/09/12, 2009). This suspicion was also attacked by Caster Semenya's family, whose words were repeated in many media outlets: “‘She's my little girl. I raised her and I never doubted her femininity' declared Caster Semenya's father” (*Aujourd'hui en France*, 2009a/08/20, 2009).

The third suspicion motif consisted in saying that Caster Semenya had an undetermined sex without knowing it. She therefore didn't cheat deliberately but had nevertheless skewed fair competition standards; the latter point being at the heart of an ethical conflict. However, this form of suspicion put Caster Semenya's culpability in perspective since she didn't cheat. Pierre Weiss and sporting instances defended this particular point of view: “From a legal perspective, if we discover that you belong to a different sex than the one you declared, it is not a form of

cheating” (Miserey, 2009; *Aujourd’hui en France*, 2009a/08/21). While Caster Semenya’s case seemed to respect the spirit of the rule, it didn’t follow it exactly. This leads us to think that the foundations of such a segregation rule are weaker than they seem. Voices started emerging, notably from South Africa, reminding us that Caster Semenya was not to blame:

“The funny thing is that, this is not Caster’s fault; this is the work of God.” (*City Press*, 2009c/09/12).

“Semenya’s “crime” is that, like millions of others, she might be intersex. That is, she is suspected of having a common sex variation which in her case may include internal testes and/or a chromosomal variation.” (*City Press*, 2010/04/11).

[93] The notion of non-deliberate cheating opposes two conceptions: the fact that the rule of fair competition doesn’t guarantee justice towards athletes versus the fact that athletes could break a rule without knowing it and without being able to change the situation. In order to understand how to solve such an ethical conflict, we must analyse the co-text surrounding the evocation of “doubt” in the corpus.

A discursive moment becomes an ethical conflict: constructing aporia

Three axiological systems coexisted within sentences written by the media that expressed doubt. Although these axiological systems – regulations, law and ethics – are usually congruent, conflicts occur when they collide. The first system is the sporting regulations. The sentences describing these regulations implied that they were usually somewhat automatic – but that the automatic nature of these rules could not be implemented in Caster Semenya’s case:

“To Nick Davies, the IAAF spokesperson, it is clear that “this concerns a medical problem and *not* a doping case in which she would have deliberately cheated”. And he adds: “The *test results do not let us think that the rules were bended in any way*. They do however tend to favour the hypothesis that Semenya benefitted from an undeniable medical advantage over her rivals. *Results aren’t automatically cancelled in a case such as this one*” (*Le Monde*, 2009, Camille, 2009, Rambion, 2009, our emphasis).

The same negative answers are quoted in the sport newspaper *L’Equipe* : “Overwhelmed and embarrassed by the way this case turned out, the IAAF added [...] that, unlike documented doping cases, *Caster Semenya wouldn’t automatically loose her title if she were to be a man*” (*Aujourd’hui en France*, 2009a). Furthermore, “the test results, protected by medical confidentiality, may not be published.” Although the rest of Caster Semenya’s fate remained unknown, “whatever happens,[...] *the IAAF won’t withdraw her controversial Berlin gold medal*.” (*L’Equipe*, 2009a). In similar ways, the LGBT magazine *Têtu* and the women’s magazine *Elle* formulated this question using doubt: “To what extent will Caster Semenya – whose gender was called into question – be able to actually compete with other young women? Not sure that anyone has an answer to that question.” (Rambion, 2009c). “Caster didn’t cheat: she is who she is. She could therefore keep her gold medal. But can she still compete with women? The IAAF is currently struggling to answer this question.” (Duriez, 2010)

Caster Semenya’s victory confronted the application of the rule with the rigidity of its own mechanics: instead of initiating an automatic and [94] undeniable process, one had to initiate a more complex mechanism; one in which Caster Semenya’s person was taken into account in her entirety, both as a sports figure and as an individual. However, when I analyzed syntactic constructions, I noticed that such an observation was systematically made using negative syntactic structures. This metalinguistic negation rebutted positive utterances formulated earlier in the discourse (Ducrot & Schaeffer, 1995) but didn’t offer new assertions.

By approaching the sportswoman in her entirety, the axiological system of the law had to be considered. Yet sporting rules couldn't go against the law, which was the frame of reference for doctor-patient confidentiality. However, even when the law was mentioned, firm answers didn't emerge: "A judicial-sports in-between situation – she isn't formally suspended nor is she authorized to run – an intolerable situation for her lawyer, who announced his intention to sue the South African federation" (*Libération*, 2010/04/02). When addressing these unclear responses, Caster Semenya gave her own definition of human rights in an affirmative way: "Some of the occurrences leading up to and following the Berlin World Championships have infringed not only on my rights as an athlete but on my fundamental human rights, including my right to dignity and privacy." (*City Press*, 2010/04/11). This comment was cited in *City Press* by the feminist scholar and author Pumla Gqola:

"Ms Semenya has no right to privacy, unlike other athletes who have been tested before. A band of scientists want direct access to her body so that they can answer once and for all: is she female, male or something altogether different." (Gqola, 2009a, reposted on her blog³).

We notice an opposition between aporia on one hand and an affirmative, albeit situated, statement on the other. In the international press, the only identifiable speakers who used affirmative syntactic constructions were from South Africa and they used strong terms: humiliation, violation of human rights, injustice. It is important to note that these speakers explicitly called for lawyers because of the fact that sports regulations were contradicting the law (based here on human rights). The South African President Jacob Zuma therefore declared: "It would be the Third World War. We trust our lawyers with the case. We would contest such a decision at the highest level. It would be completely unfair. Caster and her family don't deserve to be humiliated like this." (*L'Equipe*, 2009/09/12). For his part, Makhenkesi Stofile, the Minister of Sports "added that his department was consulting with its lawyers regarding the human rights violation against Semenya." (*City Press*, 2009/09/11). In Chapter 7, Sandy Montañola noticed the emergence of a "South African voice". Such statements opposed the rigidity and the universalism of legislation and regulations constructed by Westerners to the specificities of local situations, and to the situation of domination in which the athlete found herself. In this way, these speakers conveyed a discourse that denounced post-colonialism. *The Canadian Press* [95] quoted Leonard Chuene, who declared "I stand firm. Yes, indeed, she's a girl. We are not going to allow Europeans to describe and define our children." (2009/08/25). Such remarks were always connected with South African speakers. From what I observed, they were never cited and commented upon by Western journalists in their own names.

The third axiological systems concerns ethics and the respect due to a human being, which serves as a basis for law making. The question of humiliation is central:

"Jacob Zuma, the South African president himself, expressed his disappointment towards the IAAF, denouncing the "humiliation" endured by his young compatriot Caster Semenya. 'It is one thing to seek to ascertain whether or not an athlete has an unfair advantage over others. But it is another to publicly humiliate an honest, professional and competent athlete.' decried the head of State." (*Aujourd'hui en France*, 2009/08/26).

And yet, such comments weren't mentioned elsewhere, as was highlighted in a *City Press* editorial: "South Africa is being assaulted, I say so because, this is the saddest story since apartheid and colonialism. Almost all South Africans are pained by this injustice" (2009/09/12). In her blog, Pumla Gqola compared Caster Semenya to Saartjie Baartman:

“Some 200 years ago a young South African woman named Saartjie Baartman was forcefully removed to Europe, as a woman who was physically different to the commonly accepted norm she became a figure of curiosity and disgust to the people she was paraded in front of. After her death she was dissected. Now Caster is likewise to be dissected” (Gqola 2009/08/23)

Or in other South African media sources: “This week Caster was treated like Saartjie Baartman was: an oddity from Africa, a freak to be poked and spoken about, not spoken to.” (*City Press*, 2009/08/22).

When these implicit norms are deconstructed, they are limited due to the fact that they remain situated utterances spoken by South Africans.

“Let’s allow, for a moment, that the news of Semenya’s intersexuality is true. [...] Lurking beneath the salacious coverage is the sports world’s underlying ethic – women are inferior to men. The notion that there is an enormous physical gulf between men’s and women’s athletic abilities is rarely questioned.” (*City Press*, 2010/11/04).

The only Western media sources (northern) that relayed these objections were those whose editorial policies defended dominated populations and who [96] already questioned traditional gender norms (such as the LGBT paper *Têtu* in France). And yet, as *Der Spiegel* remarked, “we have no idea why this appeal is taking so long” (Ahrens, 2010/08/20). If the traditional norm was questioned, would it automatically lead to the construction of a new norm?

From a implicit norm to an Aporetic norm

In order to see which norm was being constructed and how it was constructed, I observed how the speakers involved in the case (sports authorities, journalists, doctors, competitors) reformulated rules that had been challenged by the case. These formulations were systematically negative. By respecting these negative rules, questions linked to fair competition, to the place of gender in sports and to determining one’s own identity could once again be reunited. Such negative rules were the following:

- do not cheat
- do not exceed certain bodily norms
- do not share medical results

The norm that was being constructed wasn’t so much a positive norm, but an implicit norm. From this perspective, as John Sloop comments in this volume (Chapter 9), silence can be the condition for an evolution in representations. The construction of sexual difference (which contradicts the traditional standards of the separation of sexes in sports, based on the naturalization of sexes) is therefore highlighted in the public space of the media – even though its formulation is negative. Negative formulations make it possible to maintain a discussion in the public space (Ducrot, 1984). An article in the conservative French newspaper *Le Figaro* therefore titled: “Belonging to a specific sex isn’t just a matter of chromosomes. Determining someone’s sex isn’t an easy task, since many factors, both genetic and psychological, must be taken into account.” (Miserey, 2009/08/21). However, as Sandy Montañola shows in her chapter, this article was counterbalanced with the publication, on the same page, of another article defining Caster Semenya based on physical standards.

But a stable norm could not be established using only negative definitions. That is why the notion of an unstable and temporary norm must also be examined; with such a norm also being defined negatively. Because Caster Semenya’s situation was unclear, sponsors had the option of retracting.

“As a marketing target, Semenya is hard to grasp. Worst: she cannot be sold. “her agent continued to say that Caster was authorized to run as a female athlete, so she could have sponsors. But the companies we contacted all said that too much uncertainty surrounded Caster. They said ‘we don’t touch her’”. (Rambion, 2010/10/30)

[97] And such a rejection wasn’t explained. In a similar vein, Carl Lewis’s support ended in an apocope:

“Not sure whether this will change her future prospects, but the World champion can at least rely on the support of one of the world’s most famous retired athletics sportsman: Carl Lewis. The man with ten Olympic medals and ten World championship medals declared: “I’m very disappointed (that the South African federation) tossed all of this in the world’s face, it’s unfair to her. Now, for the rest of her life, she’ll be known as “the one who...”” (Rambion, 2009/09/19)

Such a negative norm remained unstable. *City Press*, the South African newspaper, started building a norm on an explicitly ironic foundation: “Nikes with a pink swoosh. Now what further proof could possibly be needed of her gender? Never mind her deep voice and rippling muscles that even Michelle Obama would die for? – the answer to her gender lies in the shoes.” (*City Press*, 2009/08/22). These negations led to an aporetic situation. In its French edition, the women’s magazine *Elle* left the question open by juxtaposing interrogations:

“[The leaders of global athletics] are faced with a quasi-intractable problem: how can a “real” woman be defined? The answer seems simple. And yet [...] Is it about having an apparent female sex? Is it about being able to conceive children? If someone’s sterile, is she still a woman? Does it mean having two X chromosomes [...]? Or having been raised as a girl? Living like a girl?” (2010/05/28).

With this case, representations could possibly evolve, but an alternative norm wasn’t offered. As the geneticist Eric Vilain remarked in a quote relayed by *Elle*, the emerging discourse was aporetic: “we’ll never find a biological marker that can define in certain terms what a woman is” (*Ibid.*). Amidst the media polyphony, alternative norms existed. The discourse on Caster Semenya’s victory challenged sports norms without making new ones. The Caster Semenya case was a discursive moment precisely because it created aporia in a place where questioning hadn’t occurred and it allowed alternative discourses to be heard.

Conclusion

The Caster Semenya case was a “discursive moment” that remained in collective memory; it restructured discourses on fair competition, gender in sports and sex identity since the three axiological systems that had previously been congruent competed against each other. But although this discursive [98] moment’s enunciative characteristics paved the way for questioning, it also left questions open without providing answers: the moment was defined negatively by all speakers involved – except for South African speakers, who therefore allowed the post-colonial question to emerge within the construction of said norms, and, consequently, to challenge their foundations. As a discursive moment, the Caster Semenya case led to aporia and didn’t lead to the emergence of a new stable norm. Thanks to this case, certain questions were raised in the public space, thus showing the constructive nature of aporia. This aporia provided space for other voices to rise and to be heard, such as Dutee Chand who, in 2015, was always defined as a woman in the articles in which she featured – until she finally got the right to compete among other women without being forced to have any medical treatment on July 28, 2015.⁴

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¹ Translated from the French by Anne Losq (<http://www.annelosqtraduction.com/>).

² About this neologism, see Chapter 6 by Rose.

³ <https://pumlaggola.wordpress.com/2009/08/24/semenya-as-the-21st-century-bartmann/>

⁴ http://www.tas-cas.org/fileadmin/user_upload/Media_Release_3759_FINAL.pdf