



# *A NEW REFEREE*

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*The Need for a New Special  
Procedure on Human Rights  
and Sport*

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## **PART I: Introduction**

The Human Rights Clinic of the University of Texas at Austin School of Law proposes the appointment of a new United Nations (UN) Special Procedure on Human Rights in Sport. Sport cannot be separated or dissociated from human rights. Sport provides a unique social benefit: promoting human rights values and generating visibility of human rights issues around the world. However, there are also pervasive human rights abuses in sport. Because of these interconnected positive and negative values of sport, the UN has a unique role to play in advancing the role of sport in social development while ensuring the enjoyment of all sport stakeholders' human rights. However, the UN has yet to properly flesh out the contours of this tension and has not yet created a cohesive and sustainable human-rights-focused approach to sport development, governance, and operations. A new Special Procedure would allow the UN to continue its progress in the recognition of sport's positive social impacts while more effectively remedying human rights abuses in sport.

## **PART II: Sport Is a Global Force for Good**

Sport positively shapes society on both an individual and collective level.<sup>i</sup> On an individual level, sport participation is an effective tool to promote physical activity and healthy lifestyles, while also providing an opportunity to develop important social and communication skills.<sup>ii</sup> On a collective level, sport contributes to a sense of community and provides a shared experience through sporting events.<sup>iii</sup> There is immense potential for sport to serve as a site for advancing human rights. First, sport serves as a promoter of the human rights values of fair competition, equality, mutual peace, and social understanding. Second, sport can bring visibility to human rights issues. This visibility allows sporting events to serve as a space to call to light human rights abuses. Sport organizations require additional guidance to address human rights issues.<sup>iv</sup>

## **A. Sport Promotes Human Rights Through Human-Rights Values**

Sport is a powerful tool to promote fundamental human rights through human rights values and contribute to a more equitable and just world. The UN and international sport organizations have repeatedly recognized the significant role that sport plays in promoting human rights values, and the impact these values have on global human rights.<sup>v</sup>

### *1. Sport Promotes Fair Play*

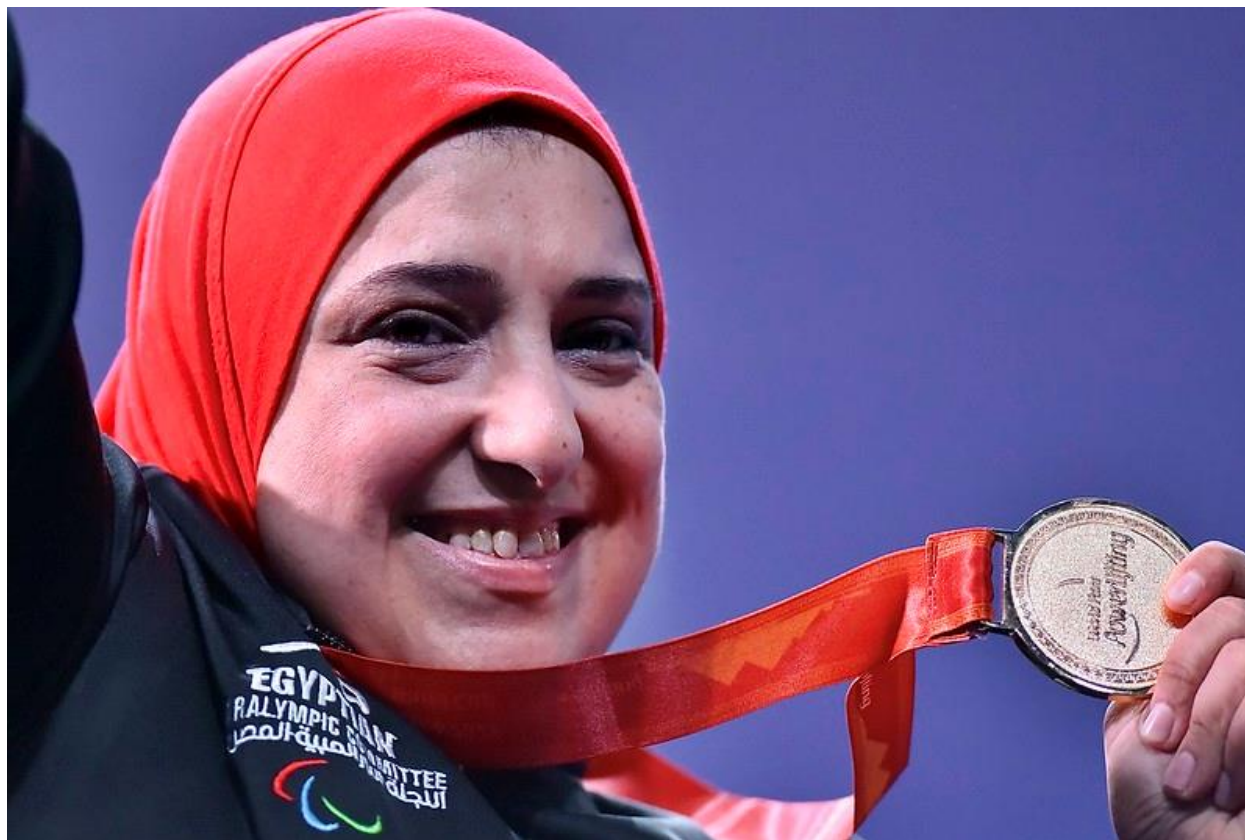
Fair play embodies the idea that sport should be conducted with integrity, respect, and good sporting conduct, emphasizing the ethical and moral dimensions of competition.<sup>vi</sup> Fair play requires athletes to adhere to the rules and regulations of their respective sport and compete within the established framework and spirit of the game, respecting the authority of officials, and not seeking unfair advantages or exploiting loopholes. For example, the Russian doping scandal had a far-reaching impact on the world of sport and broader implications for international relations, including suspending the Russian Olympic Committee.<sup>vii</sup> These harsh sanctions were necessary to demonstrate the international sporting community's dedication to promoting fair play, and the equality of treatment necessary in any human rights framework.

### *2. Sport Promotes Equality and Inclusion*

Sport also promotes the human rights values of inclusion and equality. UNESCO's Quality Physical Education guidelines, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD) all recognize sport as a way to promote social inclusion, contribute towards better understanding among communities, and encourage greater civic participation and societal equality.<sup>viii</sup>

Kenya, for example, launched the project Moving the Goal Posts (MTG), an organization that "links Gender-Based Violence, reproductive health, HIV/AIDS, and economic empowerment within youth sport

programming.”<sup>ix</sup> As a result, the project “challenges stereotypes, and supports girls to stay in, or return to, education.”<sup>x</sup> Projects like MTG provide a clear example of the potential human rights benefits created by equal participation in sport.



*A powerlifter at the 2023 WPPC World Cup by Marco Latif, IPC Photo.*

### *3. Sport Promotes Peace and Social Understanding*

The UN Department of Economic and Social Affairs (DESA), and the Human Rights Council Advisory Committee, have both recognized that sport can build a culture of peace and tolerance by bringing people together on common ground, which in-turn promotes human rights.<sup>xi</sup> The Advisory Committee references two examples of sport allowing citizens in conflict to come together in a peaceful space.<sup>xii</sup> First, Colombia has established programs to assist children and young people that have been involved in violence, to foster peace and coexistence through recreational sport.<sup>xiii</sup> Second, Guatemala has programs that “bring together people in high-risk

areas or conflict zones for the purpose of performing diverse sporting activities without violent confrontation, thus contributing to acceptance and tolerance and promoting social cohesion.”<sup>xiv</sup>

Outside of conflict, sport can still maintain peace among groups of people by promoting tolerance towards others, respecting others’ human rights, and enhancing cross-cultural exchange on a neutral platform where its individuals share a common interest.<sup>xv</sup>

## **B. Sport Brings Visibility to Human-Rights Abuses**

Athletes and sport organizations provide an opportunity for visibility for human rights abuses that happen both inside and outside the sport context. This visibility allows sporting events to serve as a space to protest or call to light human rights abuses.

Because of the popularity of sport, especially particular athletes, they can reach a massive audience of people that would otherwise not be engaged. Athletes who use their voices to promote human rights values can raise awareness, inspire change, challenge injustices, and contribute to a more inclusive and equitable society. A notable example of athletes bringing visibility to human rights issues took place in the 1968 Summer Olympic Games held in Mexico City, Mexico when the United States’ sprinters Tommie Smith and John Carlos raised their fists in a Black Power salute during the medal ceremony for the 200 meters to protest racial discrimination and human rights abuses against African Americans in the United States.<sup>xvi</sup>

As noted by the Human Rights Council Advisory Committee, the media also “has the power to shape public opinion, [and] it can illustrate how sport can translate into respect for human rights and promote social cohesion and acceptance of diversity.”<sup>xvii</sup> For example, the media extensively covered Colin Kaepernick’s decision to kneel during the United States’ national anthem as a protest against racial injustice and police brutality in the United States.<sup>xviii</sup> Kaepernick’s actions and the ensuing media coverage sparked a nationwide debate about free speech, racial inequality, and human rights issues within the context of professional sport.<sup>xix</sup> These examples demonstrate how the media has the power as a stakeholder to uncover and raise awareness of



human rights issues within the realm of sport, ultimately leading to accountability, reforms, and public discussions on these important topics.



*“Launch of ‘Sport for Peace’ Soccer Tournament in Liberia” by Eric Kanalstein, UN Photo.*

While sport alone cannot resolve complex political conflicts, it can create an atmosphere conducive to dialogue and reconciliation. To maximize the social value of sport, the UN must give sport stakeholders proper guidance on how to maximize these opportunities for the greater good.

### **PART III: Sport Frequently Results in Human-Rights Abuses**

Human rights abuses linked to sport occur at local, regional, and global levels, on and off the field, before, during, and after competitions and matches.<sup>xx</sup> The intertwined relationship of human rights and sport increases the complexity of sport problems on the international stage, because the norms of political neutrality and autonomy of sport can prevent sport

stakeholders from advocating on behalf of human rights causes.<sup>xxi</sup> These issues are heightened at mega sporting events (MSEs) such as the Olympic Games and World Cup, where international non-state actors exert massive amounts of influence on other state and non-state actors alike.

Various human rights abuses happen in the context of sport. Many affect athletes, either regarding access to sport, or violations of human rights in sport. Even in its most positive telling, the UN recognizes that discrimination and intolerance occur within the sporting context, violating the principle of non-discrimination that underlies human rights law.<sup>xxii</sup> UN Bodies have recognized this intolerance and discrimination in multiple contexts; and they have found instances of discrimination against women, people with disabilities, LGBTQIA+ people, and indigenous peoples and racial minorities.<sup>xxiii</sup>

Abuses are not just directed at athletes. For example, the 2022 FIFA World Cup in Qatar was explicitly discriminatory against same-sex spectators traveling to the country to attend the event.<sup>xxiv</sup> This hostile climate towards LGBTQIA+ sport stakeholders chills their participation in sport, and the UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity published a report recognizing “a heightened risk of mental health problems,” in LGBTQIA+ persons, “typically linked to stigma, trauma and violence.”<sup>xxv</sup> These adverse effects stem directly from the discriminatory treatment of LGBTQIA+ people and cannot be corrected without complete fulfillment of the promises of both non-discrimination and equal access guaranteed under an international human rights framework.

Like discrimination, sexual abuse and harassment have become flashpoints in sport. Many UN bodies recognize that sexual human rights abuses occur at all levels of sport, from children’s sport to professional and ultra-competitive sporting events.<sup>xxvi</sup> For example, under the watch of the United States Olympic Committee (now the United States Olympic and Paralympic Committee), hundreds of US gymnasts were sexually abused by Dr. Larry Nassar, infringing upon athletes’ rights to health and bodily autonomy.<sup>xxvii</sup>

Mega sporting events exacerbate abuses and perpetrate them against whole communities. For example, migrant workers constructing mega

sporting event venues have faced widespread wage abuses that drive them further into debt and trap them in these jobs with ineffective mechanisms of redress.<sup>xxxviii</sup> Companies often withhold contractually guaranteed overtime payments and end-of-service benefits and regularly violate their contracts with migrant workers with impunity.<sup>xxxix</sup> In the worst cases, employers have simply stopped paying their wages, and the workers have often struggled to buy food.<sup>xxx</sup> In Qatar in the year 2020 alone, 50 workers lost their lives in preparation for the World Cup.<sup>xxxi</sup> There are growing concerns about human rights abuses of future sport mega events, such as surveillance issues in the Paris 2024 Olympics, the misplacement of people in association with the LA 2028 Olympics, reproductive and LGBTQIA+ rights for the 2026 FIFA World Cup. Such concerns signal that the issues in mega sporting events remain a salient point of discussion.

Mega sporting events also have adverse impacts on the entire range of human rights, directly, and indirectly.<sup>xxxii</sup> When discussing mega sporting events, “it would be an oversight to omit the foundation and growth of the IOC and the Federation Internationale de Football Association (FIFA), founded in 1894 and 1904 respectively.”<sup>xxxiii</sup> Sport organizations like these have a general duty to respect human rights and “should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”<sup>xxxiv</sup> However, both FIFA and the IOC are non-state actors and therefore require regulation to effectively police their conduct concerning the violation of human rights.

The cultural, political, and economic significance of mega sporting events like the Olympic Games and FIFA World Cup have not diminished “in the wake of revelations about the corruption at the heart of international sports.”<sup>xxxv</sup> Both the OIC and FIFA enjoy a tremendous amount of insulation from state actors despite these revelations through systemic structures designed to establish the independence and political neutrality of sport.<sup>xxxvi</sup> Multinational bodies like FIFA or the IOC exert great amounts of influence on states, regional and national sport regulators, and private companies.<sup>xxxvii</sup> These complications prevent sport stakeholder from accessing effective remedies to human rights abuses, because often the proper jurisdiction, the proper remedy, identity of the liable party are either unclear, or inaccessible.



*“Human Rights Council Discusses Use of Sport and Olympic Ideal” by Jean Marc Ferré, UN Photo.*

However, outside factors are not the only ones creating dangers in the sporting context, risks to a participant’s health can also be attributable to sport itself, as opposed to exclusively a barrier to participation. As the UN has recognized, doping is contraposed to healthy participation in sport, and as a result, UNESCO passed the International Convention Against Doping in Sport in 2005.<sup>xxxviii</sup>

Athletes are frequently pushed to overtraining, resulting in both physical injuries and substantial difficulties with mental health.<sup>xxxix</sup> Promising child athletes can be subject to brutal training schedules in an attempt to capitalize on (and ultimately commercialize) their apparent talent.<sup>xl</sup> Athletes may be given drugs and encouraged to play with injuries, causing the potential for permanent damage down the line.<sup>xli</sup> Mega sporting events are also more complex, because of the sheer volume of different stakeholders: any of which can be abusers, or victims, or both at various times.

As it stands, there is currently no effective or proper remedy for violations of human rights at these mega sporting events. The arbitration system put in place to handle such disputes is not enough, and human rights are not being adequately protected, under the current regulatory framework.<sup>xlii</sup>

## **PART IV: Current Human-Rights Frameworks Inadequately Address the Complex Relationship Between Sport and Human Rights**

Many factors amplify the complexity of human rights issues, and this proposal will focus on two: the norms of political neutrality and sporting autonomy, exacerbated by mega sporting events organized by non-state actors.

The international community largely champions the goals of political neutrality and autonomy for the governance of sporting bodies and events, ostensibly to create a space free from outside political interference in sport. However, these can be weaponized and used to discourage or prevent sport stakeholders from speaking out against abuses of human rights because the topic is too politically controversial.

The banner of political neutrality severely limits the free expression rights of athletes. For example, Rule 50 of the Olympic Charter provides that, “no kind of demonstration or political, religious or racial propaganda is permitted in any Olympic sites, venues or other areas.”<sup>xliii</sup> For raising their Black Power salutes, Tommie Smith and John Carlos were expelled from the 1968 Olympic Games and suspended from the United States Olympic team.<sup>xliv</sup> The International Olympic Committee still maintains that athletes should not make political statements on the podium, and decided that speaking out against Russia’s laws targeting LGBTQIA+ people outside of the pressroom at the Sochi Olympic Games was grounds for sanction.<sup>xlv</sup> The Olympic committee’s goal of political neutrality and the role of sport as a vehicle for human rights development are in direct conflict.<sup>xlvi</sup>

Securing autonomy for sport organizations ensures that sport is not unduly interfered with by States. But this can serve as a justification for States' abdication of their responsibilities to regulate non-state actors in their borders, instead of curtailing improper action from States. The axiom of autonomous sport is not a blank check for sport organizations to be free of regulation, but sport organizations use this focus on autonomy to shield themselves from scrutiny.



*CAPTION “Kathely Rosa (centre with ball) with other other graduates of the One Win Leads to another programme in Brazil” by Camille Miranda (UN Women)*

This is exacerbated by the fact that many sport organizations are run by private actors, which under the state-based system of human rights are frequently not considered bound by human rights obligations, or at the most, indirectly bound through State regulations.<sup>xlvi</sup> Additionally, much of sport governance is done via private contractual law, as compared to substantive human rights regulations. For example, many sport disputes are not handled by public courts, but via private, contracted arbitrations by the Court of Arbitration for Sport.<sup>xlvi</sup>

All of these shortcomings occur in spite of increased awareness of human rights impact by private actors. The UN Guiding Principles on Business and Human Rights, while a useful framework, does not adequately address the other problems in sport, and are not enough, even when combined with private actors beginning to recognize their role in promoting human rights.<sup>xlix</sup>

The norms of independence and autonomy, combined with mega sporting events organized by non-state actors increase the complexity of human rights issues. Because of the multi-national nature of these issues, the requisite reform is likely to be most effective if undertaken by the UN.

## **PART V: The UN Currently Uses a Patchwork Approach**

In 2022, the UN General Assembly recognized sport as “an enabler for sustainable development” with the ability to help youth improve youth lives and promote cooperation between different nations.<sup>l</sup> However, there is a lack of one coherent mechanism through which to address these issues. Human rights abuses involving sport require greater UN scrutiny to ensure the safety, well-being, and rights of everyone involved in sport and to promote sport as a medium for sustainable development.<sup>li</sup>

The patchwork approach currently utilized by the UN is not only lacking because it does not address all the possible connections between sport and human rights, but also because when the different UN mechanisms do address the issue of sport and human rights (or connective issues such as sport and social development), the discussion comes from a limited perspective that does not encompass all the complexities of sport. For example, a mechanism looking at the possible interactions between sport and human rights is nonexistent.

The complexities of sport arise in multiple contexts. First, the multiplicity of factors with nonstate and state actors creates challenges in terms of duties and responsibilities as well as challenges in terms of opportunities and risks in terms of human rights. This includes nonstate and state actors being complicit with or being the actual perpetrators of human rights abuses. Second, complexity arises because unlike other areas of

social rights, sport is regulated through a transnational framework, divided between international organizations. Sporting events consist of global competitions and institutions, which entails that athletes be subject to a multiplicity of regulations from a multiplicity of actors. Third, within each sport, the level ranges from recreational through amateur and professional and elite. This adds an additional layer to the complexities of regulation. Fourth, in addition to the social role that they play, sport is organized as business entities which generate financial revenue. The structure of sporting entities creates a need to regulate from a human rights perspective not only the social aspect but also the business aspect of sport. Thus, there is a need for a Special Procedure that can take into consideration all these complexities in the interaction of sport and human rights from a human rights perspective.

The appointment of a UN Special Procedure on human rights in sport would effectuate the positive and far-reaching effects of sport on human rights and more effectively protect the human rights considerations for all stakeholders in sport. UN Special Procedures are responsible for monitoring, advising, and publicly reporting on human rights or allegations of human rights violations either in specific countries or globally.<sup>lii</sup> A UN Special Procedure on sport and human rights would provide for a more cohesive response from the UN and help adequately address the positive and negative externalities of sport on its various human rights stakeholders.<sup>liii</sup>

The importance of sport to human rights has been continuously recognized by the UN, although they have yet to develop a systematic approach to these issues. As recently as February of 2023, the UN Special Rapporteurs on cultural rights and contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, addressed the importance of non-discrimination in sport, emphasizing that the same rules must apply to all athletes, including the rule that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited.”<sup>liv</sup>

This is not the first instance where the importance of sport in promoting human rights surrounding non-discrimination has caught the attention of the UN. In 2018, the Special Rapporteur on the right of everyone



to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment; and the Working Group on the issue of discrimination against women in law and practice reached out to the International Association of Athletics Federations (IAAF) regarding their eligibility requirements for female classification.<sup>lv</sup> In addition to implicating the right to equality and non-discrimination, these regulations impacted the right to bodily integrity and the right to health.<sup>lvi</sup> The human rights impacted by this issue and the number of special procedures deemed necessary to be involved highlight the complexity of sport and human rights issues and point to the necessity of having one special procedure whose expertise is to address these issues specifically.

Another important area where the UN has addressed the integral role of sport in the promotion of human rights is in the promotion of achieving sustainable development goals.<sup>lvii</sup> UN bodies have commented on sport's ability to promote human rights, demonstrating that a special procedure in this area would not only identify violations but also seek out the positive application and proliferation of human rights through sport. In 2013, the Human Rights Council issued a resolution committing to promoting human rights through sport and the Olympic ideal.<sup>lviii</sup> Again in 2022, the UN General Assembly recognized the power of sport and adopted a consensus resolution titled "Sport as an enabler for sustainable development."<sup>lix</sup> These resolutions demonstrate the continued interest of the UN on the issue of sport and human rights and point to the immense impact a new special procedure specifically in this area could have. Beyond resolutions, the OHCHR has conducted studies, including on the rights of persons with disabilities specifically as it relates to sport.<sup>lx</sup>

There are no specific treaties or General Recommendations issued by the UN addressing sport and human rights.<sup>lxi</sup> Any references to exist are limited, such as the General Recommendation No. 36 (2017) on the right of girls and women to education. However, some treaties have been referenced in the past by the UN when discussing sport violations and various regional instruments that have been used in human rights issues adjudication,<sup>lxii</sup> including the CEDAW Committee.<sup>lxiii</sup> However, much of the discussion

surrounding these references focuses on the specific issue of general equality in sport rather than addressing human rights and sport violations more generally.<sup>lxiv</sup> Additional UN document references to sport and human rights come from CERD and the case of *Hagens v. Australia* where the Committee found that using an offensive term in a football stadium was a breach of the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>lxv</sup> Other than these case-by-case instances, the UN currently has no single body or committee to address these issues despite their prevalence, resulting in an incomplete view of the issues of sport and human rights and leaving a protection gap for those vulnerable in these existing systems.

## **PART VI: A New Special Procedure Must be Established**

Due to the multitude of sport and human rights concerns, and the unique complexities of the relationship between sport and human rights, creation of a new UN Special Procedure is essential. The New Special Procedure will serve to address the shortcomings and gaps of the UN's current patchwork approach and will help the UN to adequately address the lack of feasible remedies for violations of human rights in sport.

Special Procedures of the UN are appointed by the Human Rights Council to oversee specific sets of human rights violations as well as broad patterns of violations.<sup>lxvi</sup> UN Special Rapporteurs are responsible for monitoring, advising, and publicly reporting on human rights or allegations of human rights violations either in specific countries or globally.<sup>lxvii</sup> The role of a Special Procedure includes undertaking visits to countries of interest, acting on reported violations by sending communications to States, developing human rights standards, and engaging in advocacy to raise public awareness of human rights issues.<sup>lxviii</sup>

The mandate of this Special Procedure would be not only to identify and prevent violations but also to actively promote human rights through the medium of sport. The holistic role of the Special Procedure would resolve the patchwork approach currently employed by the UN and clarify the contours of the relationship between political autonomy and human rights in sport. Our recommendations for this Special Procedure's mandate include:

1. A mandate for this Special Procedure to address state and non-state actors to ensure a capability for the Special Procedure to conduct state visits and also visit headquarters of non-state and private actors such as International Sport Federations, National Governing Bodies, and National Olympic and Paralympic Committees.
2. A mandate for this Special Procedure to create a formalized communication procedure between different sport stakeholders (including governments, private parties, and potential victims) to increase transparency of private enforcement mechanisms.
3. A mandate for this Special Procedure to develop specific human rights standards within sport. The standards shall articulate the scope of human rights as they relate to sport.
4. A mandate for this Special Procedure to engage in advocacy to bring visibility both to the human rights abuses happening in sport and to the uses of sport to promote human rights.
5. A mandate for this Special Procedure to enhance inter-governmental cooperation and inter-agency cooperation, and to achieve and promote developed human rights standards in sport.
6. A mandate for this Special Procedure to encourage continuous dialogue from athletes and other stakeholders on the matter of sport and human rights, and follow-up on the viability and implementation of their recommendations. Dialogue could entail conducting international panels, meeting with other interested and relevant UN groups such as other special procedures and conducting state visits and visits to private organizations to gather data and input on the efficacy of the human rights standards.

## **PART VII: Conclusion**

The need for a new Special Procedure in sport is urgent and compelling, particularly as the commercial size and scope of mega sporting events continues to expand. The relationship between sport and human rights is both complex and inseparable. A new Special Procedure is the best path forward to allow the UN to continue its use of sport as a tool to positively impact human rights while providing effective remedies for human rights abuses in sport.

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## Endnotes

<sup>i</sup> Mega-Sporting Events Platform for Human Rights, *Championing Human Rights in the Governance of Sports Bodies*, March 2018, at 6.

<sup>ii</sup> Sherman J. Clark, *Why Sports Law?*, 28 STAN. L. & POL'Y REV. 151, 159 (2017).

<sup>iii</sup> Nico Schlenker & Deborah C. Edwards, *Maximising Positive Social Impacts: Strategies for Sustaining and Leveraging the Benefits of Intercommunity Sports Events in Divided Societies*, 26 J. SPORT MGMT. 379, 380–83 (2012).

<sup>iv</sup> See *Centre for Sport and Human Rights*, OFF. OF THE UNITED NATIONS HIGH COMM'R FOR HUM. RTS, <https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/SubmissionPhysicalActivities/centre-for-sport-and-human-rights.pdf> (last visited Oct. 12, 2023).

<sup>v</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948), art. 1 [hereinafter UDHR]; *Scoring for the People and the Planet*, UNITED NATIONS INT'L DAY OF SPORT FOR DEV. AND PEACE, 6 APRIL, <https://www.un.org/en/observances/sport-day> (last visited Sep. 10, 2023); Rep. of the H.R.C. Advisory Committee on the Possibilities of Using Sport and the Olympic Ideal to Promote Human Rights for All and to Strengthen Universal Respect for Them of its Thirtieth Session, U.N. Doc. A/HRC/30/50 (2015) para. 15 [hereinafter HRC Advisory Committee Report]; IOC, *Olympic Charter* (July 17, 2020), <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/General/EN-Olympic-Charter.pdf> (last visited Oct. 12, 2023) [hereinafter Olympic Charter].

<sup>vi</sup> Olympic Charter, *supra* note 5.

<sup>vii</sup> See *id.*; *Q&A Regarding the Participation of Athletes with a Russian or Belarusian Passport in International Competitions*, IOC NEWS, Jul. 28, 2023, <https://olympics.com/ioc/news/q-a-on-solidarity-with-ukraine-sanctions-against-russia-and-belarus-and-the-status-of-athletes-from-these-countries>.

<sup>viii</sup> UNESCO, NANCY McLENNAN, & JANNINE THOMPSON, *QUALITY PHYSICAL EDUCATION* 36 (2015) [hereinafter UNESCO QPE Guidelines]; Convention on the Elimination of All Forms of Discrimination against Women New York, December 18, 1979, 1249 U.N.T.S. 13, art. 10 [hereinafter CEDAW]; U.N. Sustainable Development Goal 5 (SDQ 5); U.N. Convention on the Rights of Persons with Disabilities, December 12, 2006, 2515 U.N.T.S. 3, art. 30;

<sup>ix</sup> *Home*, MOVING THE GOALPOST, <https://www.mtgk.org/> (last visited Sep. 9, 2023).

<sup>x</sup> *Id.*

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<sup>xi</sup> United Nations, *Sports and the Paralympic Games: Promoting Human Rights, Development and the Ideals of Humanity*, U.N. DEPT OF ECON. AND SOC. AFF., <https://www.un.org/development/desa/disabilities/united-nations-sports-and-the-paralympic-games-promoting-human-rights-development-and-the-ideals-of-humanity.html> (last visited Sept. 10, 2023); HRC Advisory Committee Report, para. 38.

<sup>xii</sup> *Id.*

<sup>xiii</sup> *Id.*

<sup>xiv</sup> *Id.* para. 38.

<sup>xv</sup> *Id.* para. 39.

<sup>xvi</sup> *Oct. 16, 1968: Olympics Black Power Salute*, ZINN EDU. PROJ., <https://www.zinnedproject.org/news/tdih/olympics-black-power-salute/> (last visited Sep. 10, 2023); see TOMMIE SMITH, *SILENT GESTURE* (2007).

<sup>xvii</sup> HRC Advisory Committee Report, para. 42.

<sup>xviii</sup> *Colin Kaepernick Explains Why He Sat during National Anthem*, NFL (Aug. 27, 2016), <https://www.nfl.com/news/colin-kaepernick-explains-why-he-sat-during-national-anthem-oap3000000691077>.

<sup>xix</sup> *See id.*

<sup>xx</sup> Daniela Heerdt & William Rook, *Remedy and Redress for Sport-related Human Rights Abuses*, 22(2) *THE INT'L SPORTS L. J.* 85 (2022).

<sup>xxi</sup> *See* M. Patrick Cottrell & Travis Nelson, *Not just the Games? Power, Protest and Politics at the Olympics*, 17(4) *EURO. J. OF INT'L REL.* 729–53 (2011); *see also* Peter Donnelly, Gretchen Kerry, & Bruce Kidd, *Contesting the Autonomy of Sport to Realize the Right to Safe Sport: a Canadian Case Study* 22(2) *INT'L SPORTS L.J.* 165–70 (2022).

<sup>xxii</sup> H.R.C. Res. 27/8, UN Doc. A/HRC/RES/27/8, para. 2 (Mar. 10, 2014); *Equality and Non-discrimination*, UNITED NATIONS AND THE RULE OF L., <https://www.un.org/ruleoflaw/thematic-areas/human-rights/equality-and-non-discrimination/> (quoting the Declaration of the High-Level Meeting on the Rule of Law, para. 2) (last visited Oct. 12, 2023); UDHR, *supra* note 5, art. 1.

<sup>xxiii</sup> *See, e.g.*, Comm. on the Elimination of Discrimination against Women, Concluding Observations on the Initial Report of the State of Palestine, U.N. Doc. CEDAW/C/PSE/CO/1, para. 40(b) (July 25, 2018); *see also* Comm. on the Rts. Of Persons with Disabilities, Concluding Observations on the Initial Report of France, U.N. Doc. CRPD/C/FRA/CO/1, paras. 60, 61(b) (Oct. 4, 2021); U.N. OHCHR, Comm. on the Rts. of the Child, Gen. Comment No. 17, UN Doc. CRC/C/GC/17, para. 48 (2013); UNITED NATIONS FREE & EQUAL, *LESBIAN, GAY, BI, TRANS, INTERSEX AND QUEER (LGBTIQ+) WOMEN* (2022); Press Release, Off. High Comm'r Hum. Rts, Afghanistan: UN Experts Deplore Women Sports Ban, Call for Vigorous Response, U.N. Press Release (Sept. 14, 2021); U.N. Comm. on the Rts. of the Child, Gen. Comment No. 17, U.N. Doc.

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CRC/C/GC/17, paras. 36, 52 (2013); Rep. of the United National High Comm'r for Hum. Rts and Reps. Of the Office of the High Comm'r and the Secretary-General on the Intersection of Race and Gender Discrimination in Sport of Its Forty-fourth session, U.N. Doc. A/HRC/44/26 (July 15, 2020); Rep. of the Off. of the High Comm. for Hum. Rts, U.N. Doc. A/HRC/46/49 (2021).

<sup>xxiv</sup> See generally Richard J. Peltz-Steele, *Human Rights Goals and the Gulf Between*, THE FIFA WORLD CUP (2016).

<sup>xxv</sup> OHCHR, *Ensuring Healthy Lives for All, Leaving No-One Behind* (2023).

<sup>xxvi</sup> Rep. of the United National High Comm'r for Hum. Rts and Reps. Of the Office of the High Comm'r and the Secretary-General on the Intersection of Race and Gender Discrimination in Sport of Its Forty-fourth session, U.N. Doc. A/HRC/44/26 (July 15, 2020); see, e.g., UNESCO, *TACKLING VIOLENCE AGAINST WOMEN AND GIRLS IN SPORT* (2023).

<sup>xxvii</sup> Joe Hernandez, *Nassar Abuse Survivors Reach \$380 Million Deal with USA Gymnastics, Olympic Committee*, NPR (Dec. 13, 2021), <https://www.npr.org/2021/12/13/1063798289/nassar-abuse-survivors-settlement-gymnastics-olympics>.

<sup>xxviii</sup> See generally Peltz-Steele, Richard J., *THE FIFA WORLD CUP, Human Rights Goals and the Gulf Between* (Sep. 27, 2016); HUM. RTS. WATCH, *HUMAN RIGHTS GUIDE FOR REPORTERS, 2022 FIFA World Cup in Qatar* (2022).

<sup>xxix</sup> *Id.*

<sup>xxx</sup> *Id.*

<sup>xxxi</sup> INT'L LABOUR ORG., *ONE IS TOO MANY* (2021) (collecting and analyzing data on occupational injuries in Qatar).

<sup>xxxii</sup> Daniela Heerdt, *Addressing Human Rights Abuses at Mega-sporting Events—A Shared Responsibility in Theory and Practice*, 4 FRONT. SPORTS ACT. LIVING 1 (2023).

<sup>xxxiii</sup> Tomlinson, Alan, and Christopher Young, eds. *National identity and global sports events: Culture, politics, and spectacle in the Olympics and the Football World Cup 1* (Suny Press, 2006).

<sup>xxxiv</sup> H.R.C. Res. 17/4, U.N. Doc. A/HRC/17/31 (June 16, 2011).

<sup>xxxv</sup> Tomlinson, Alan, and Christopher Young, eds. *National identity and global sports events: Culture, politics, and spectacle in the Olympics and the Football World Cup 3* (2006).

<sup>xxxvi</sup> Daniela Heerdt, *Blurred Lines of Responsibility and Accountability: Human Rights Abuses at Mega-sporting Events*, INTERSENTIA 85 (2021).

<sup>xxxvii</sup> See *id.* at 136.

<sup>xxxviii</sup> UNESCO International Convention against Doping in Sport, Oct. 19, 2005.

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<sup>xxxix</sup> Eva V. Monsma, *5 Ways Pressuring Young Athletes to Perform Well does them Harm*, UNIV. SOUTH CAROLINA (Jan. 25, 2023), [https://sc.edu/uofsc/posts/2023/01/conversation\\_young\\_athletes.php](https://sc.edu/uofsc/posts/2023/01/conversation_young_athletes.php).

<sup>xl</sup> See Paulo David, *Children and Sport: Accomplishment or Exploitation?*, 19(1) PLAYRIGHTS 9–13 (1997).

<sup>xli</sup> Rick Maese, *NFL Abuse of Painkillers and Other Drugs Described in Court Filings*, WASH. POST (Mar. 9, 2017), [https://www.washingtonpost.com/sports/redskins/nfl-abuse-of-painkillers-and-other-drugs-described-in-court-filings/2017/03/09/be1a71d8-035a-11e7-ad5b-d22680e18d10\\_story.html](https://www.washingtonpost.com/sports/redskins/nfl-abuse-of-painkillers-and-other-drugs-described-in-court-filings/2017/03/09/be1a71d8-035a-11e7-ad5b-d22680e18d10_story.html).

<sup>xlii</sup> *Semenya v. Switzerland*, III Eur. Ct. H.R. 5 (2023).

<sup>xliii</sup> Olympic Charter, *supra* note 5, Rule 50 (allowing broad discretion by the IOC to determine what is permitted behavior).

<sup>xliv</sup> Antonio Di Marco, *Neutrality of the Olympic Movement and Freedom of Expression*, VERFASSUNGSBLOG ON MATTERS CONST. (Feb. 17, 2022), <https://verfassungsblog.de/neutrality-of-the-olympic-movement-and-freedom-of-expression/>; *Black Olympic Medalists Face Death Threats and Expulsion for Protesting Racial Inequality*, EJI (Oct. 16, 1968), <https://calendar.eji.org/racial-injustice/oct/16>.

<sup>xlv</sup> Karolos Grohmann, *Protest in Press Room not Podium, Says IOC*, REUTERS (Jan. 27, 2014, 8:06 AM), <https://www.reuters.com/article/us-olympics-bach-idUSBREA0QoVA20140127>.

<sup>xlvi</sup> See Letter from Eli Wolff, Director, Power of Sport Lab, 1996 & 2004 Soccer Paralympian (along with other signatories) to Thomas Bach, President, Int'l Olympic Comm.; Andrew Parsons, President, Int'l Paralympic Comm.; IOC Athletes' Commission President Kirsty Coventry and Members of the IOC Athletes' Comm; & IPC Athletes' Council President Chelsey Gotell and Members of the IPC Athletes' Council (2021) (suggesting that the athlete protests in the Tokyo and Beijing Olympic Games challenges arguments of neutrality).

<sup>xlvii</sup> *Additional Information: Tripartite Typology*, RIGHT TO EDUC, <https://www.right-to-education.org/monitoring/content/additional-information-tripartite-typology> (last visited Oct. 12, 2023); see also *Semenya v. Switzerland*, III Eur. Ct. H.R. 5 (2023).

<sup>xlviii</sup> See *generally Court of Arbitration for Sport*, WADA, <https://www.wada-ama.org/en/anti-doping-partners/court-arbitration-sport> (last visited Oct. 12, 2023).

<sup>xlix</sup> Int'l Olympic Comm, *IOC Strategic Framework on Human Rights* (2022); FIFA, *Fifa's Human Rights Policy* (2017).

<sup>1</sup> Press Release, General Assembly, *Amid Global Conflict, Economic Uncertainty, General Assembly Adopts Text Highlighting Transformative Power of Sport to Achieve Peace, Sustainable Development*, U.N. Press Release GA/12476 (Dec. 1, 2022).



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<sup>li</sup> Bruce Kidd & Peter Donnelly, *Human Rights in Sports*, 35(2) INT’L REV. SOCIO. SPORT 131–48 (2000).

<sup>lii</sup> *FAQs: United Nations Special Rapporteurs*, Am. C.L. Union (Apr. 29, 2007), <https://www.aclu.org/other/faqs-united-nations-special-rapporteurs>.

<sup>liii</sup> See Carmen Pérez González, *The Effective Application of International Human Rights Law Standards to the Sporting Domain: Should UN Monitoring Bodies Take Central Stage?*, 22 INT’L SPORTS L.J. 152–64 (2022).

<sup>liv</sup> <https://news.un.org/en/story/2023/02/1133077> (commending IOC’s decision to admit athletes from the Russian Federation and Belarus as neutral athletes, despite the controversies surrounding Russia’s invasion of Ukraine).

<sup>lv</sup> Off. High Comm’r Hum. Rts Mandates of the Special Rapportuer on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Working Group on the issue of discrimination against women in law and in practice, O.L. OTH 62/2018 (Sept. 18, 2018) (asserting that the regulations targeted women athletes with differences in sex development due to their varying range of testosterone levels, which were natural and out of their control).

<sup>lvi</sup> *Id.* Specifically, the special rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health noted that sporting organizations must implement policies that refrain from forcing, coercing, or otherwise pressuring women athletes to undergo procedures to participate as women in competitive sport.

<sup>lvii</sup> See Wilfried Lemke, *The Role of Sport in Achieving the Sustainable Development Goals*, 23(2) UN CHRONICLE: SPORT AIMS FOR THE GOALS (Aug. 2016), <https://www.un.org/en/chronicle/article/role-sport-achieving-sustainable-development-goals>; see also *The Transformative Power of Sport Can Unite Us All*, STORIES (Jul. 22, 2021), <https://www.ohchr.org/en/stories/2021/07/transformative-power-sport-can-unite-us-all>; see also *UN and Partners Promote Sport as a Tool to Prevent Violent Extremism*, U.N. NEWS (Sept. 18, 2020), <https://news.un.org/en/story/2020/09/1072762>.

<sup>lviii</sup> H.R.C. Res. 24/1, U.N. Doc. A/HRC/RES/24/1 (Oct. 8, 2013) (requesting the Advisory Committee to prepare a study on “the possibilities of using sport and the Olympic ideal to promote human rights for all and to strengthen universal respect for them.”).

<sup>lix</sup> Press Release, General Assembly, *Amid Global Conflict, Economic Uncertainty, General Assembly Adopts Text Highlighting Transformative Power of Sport to Achieve Peace, Sustainable Development*, U.N. Press Release GA/12476 (Dec. 1, 2022) (recognizing sports’ ability to help youth improve their lives and promote cooperation between different nations). Additionally, the resolution discussed goals

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such as sports helping with the impact of climate change by having sports reduce their carbon footprint by developing sustainability standards.

<sup>lx</sup> Rep. on physical activity and sports under article 30 of the Convention on the Rights of Persons with Disabilities, U.N. Doc. A/HRC/46/49 (2021).

<sup>lxi</sup> See Rep. on the Physical Activity and Sports under Article 30 of the Convention on the Rights of Persons with Disabilities, U.N. Doc. A/HRC/46/49 (2021).

<sup>lxii</sup> Convention on the Elimination of All Forms of Discrimination against Women New York, July 24, 2017, U.N. Doc. CEDAW/C/ITA/CO/7 [hereinafter CEDAW 2017].

<sup>lxiii</sup> *Id.*

<sup>lxiv</sup> *Id.*

<sup>lxv</sup> *Id.*

<sup>lxvi</sup> Surya P. Subedi, *Protection of Human Rights through the Mechanism of UN Special Rapporteurs*, 33 HUM. RTS. Q. 1, 201–28 (2011) (noting that Special Rapporteurs also pay special attention to the issues involved and highlight them within the UN body and international community overall).

<sup>lxvii</sup> *FAQs: United Nations Special Rapporteurs*, AM. C.L. UNION (Apr. 29, 2007), <https://www.aclu.org/other/faqs-united-nations-special-rapporteurs>.

<sup>lxviii</sup> *Special Procedures of the Human Rights Council*, UNITED NATIONALS HUM. RTS. OFF. OF THE HIGH COMM., <https://www.ohchr.org/en/special-procedures-human-rights-council> (last visited Oct. 12, 2023).