



World Players Association
#WorldPlayersUnited

Dr. Thomas Bach
President
International Olympic Committee

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Embedding athlete rights in the Olympic Charter, including reform of Rule 50

Dear Dr. Bach,

We refer to the ongoing review of Rule 50 of the *Olympic Charter* (OC).

You will recall we wrote to you late last year, when the International Olympic Committee (IOC) took the welcome step of releasing the full report on the *Recommendations for an IOC Human Rights Strategy* (the Human Rights Report). More recently, we were pleased to see the IOC make additional commitments to implement the Human Rights Report's recommendations in the proposed *Olympic Agenda 2020 + 5* (Agenda 2020 + 5). In particular, it was encouraging to see Agenda 2020 + 5 expressly acknowledge the significance of some of the key social movements of our time – including #MeToo and #BlackLivesMatter – where athletes have been central to promoting positive societal change in and through sport. The current review of Rule 50 accordingly presents the IOC with a critical window of opportunity to accelerate and implement the changes it has committed to in the Human Rights Report and Agenda 2020 + 5.

We are concerned that, as the present review of Rule 50 is a separate process to these holistic initiatives, it risks undermining them at an historic time and in a number of important respects. At its recent meeting, the Executive Board of the IOC considered the survey conducted by the IOC of Olympic athletes and referred the survey results to a third party for analysis. We have reviewed the survey in consultation with our affiliates and human rights organisations which regard the survey and its methodology as not only being fundamentally flawed but a risk to vulnerable athletes who have the courage to exercise their internationally recognised human right of freedom of expression in difficult and, not uncommonly, perilous circumstances.

As you are aware, the Human Rights Report was prepared by eminently qualified experts Prince Zeid Ra'ad Al Hussein (a former United Nations (UN) High Commissioner for Human Rights) and Shift Vice President, Rachel Davis. It clearly outlines how the IOC should embed and implement its human rights responsibilities in accordance with the *United Nations Guiding Principles on Business and Human Rights* (UNGPs). The Human Rights Report holistically

addresses the human rights responsibilities of the IOC and provides the necessary basis upon which the review of Rule 50 of the OC should proceed.

The Human Rights Report's overarching recommendation reads that *"putting athletes at the centre of sport means recognizing sports bodies' responsibilities towards them."* This means:

"the [Olympic] Movement's responsibilities to respect athletes' human rights and basic dignity need to be clarified in line with UN standards. The IOC and other sports bodies should conduct human rights due diligence when they make decisions that will affect athletes in order to ensure that potential human rights impacts on athletes generally, or on specific groups of athletes, are considered, and that any such risks are prevented wherever possible or at least that their likelihood is mitigated. Athletes' perspectives should inform this decision-making process, which may require additional consultation with groups whose perspectives are not represented in existing bodies."

Rule 50 of the OC (both as presently set out in the OC and implemented through IOC issued guidelines) profoundly impacts the capacity of athletes to enjoy their right to freedom of expression and engage in peaceful protest. Freedom of expression is an enabling right upon which a person's ability to enjoy all internationally recognised human rights can depend.

Committing to – and fully implementing – the Human Rights Report's recommendations must from the outset inform and guide any meaningful review of Rule 50 of the OC and any accompanying guidance. In their current forms, instead of creating a safe environment in which an athlete's rights may be respected and enjoyed, both create an environment in which courageous expressions and demonstrations are condemned, vilified, repressed and even severely punished. This has an immense impact on the wellbeing and livelihoods of athletes as we have seen over the years through the sacrifices and struggles of many athletes including Tommie Smith, John Carlos, Peter Norman, Věra Čáslavská, Vince Matthews, Wayne Collett, Bilqis Abdul-Qadir, Feyisa Lelisa, Hakeem Al Arabi, Gwen Berry and, horrifically, Navid Afkari.

Paradoxically, some of these athletes – who protested in the arena or from the podium – were punished despite standing up at the Olympic Games for the very humanitarian values that are repeated throughout the OC. These athletes – and many others – now stand on the right side of history. Indeed, Tommie Smith, John Carlos, Peter Norman and Věra Čáslavská have all since been recognised as leaders and heroes of the Olympic Movement.

As heirs to the legacy of these courageous and principled athletes, we are increasingly seeing Olympians in sports such as football, basketball and baseball as well as in many other professional sports accept that sport has a responsibility to be a genuine force for good and athletes have an equal responsibility to act as role models to make that a reality. Athletes have protested to address abuse, racism and discrimination and help bring about social justice and meaningful change.

We understand the IOC's review of Rule 50 has pressing deadlines attached to it. Rather than repeating history's mistakes, the tight timeframe can and should be a stimulus for the IOC to accelerate and implement the Human Rights Report's recommendations and provides a key opportunity for it to play a leading role in accelerating that change.

In essence, and without limiting the totality of the Human Rights Report's findings, this requires that:

1. ***The IOC recognises its responsibility to respect internationally recognised human rights, including of the athletes.***

Agenda 2020 + 5 acknowledges the importance of the IOC amending the OC by clearly articulating the IOC's commitment to respect internationally recognised human rights and to promote respect for those rights throughout the Olympic Movement including through

remediation. This reform, recommended in the Human Rights Report, was recently endorsed by United States athletes at the same time the United States Olympic & Paralympic Committee announced that it would not instigate any action against any of its athletes under Rule 50. Without this commitment in the OC, the IOC lacks a guiding principle by which it can legitimately approach any reform of Rule 50. While freedom of expression is an internationally recognised human right, it is not an unqualified right. It is not correct to qualify that right on the basis of where it is exercised, such as by prohibiting it in the arena or on the podium, especially where the podium itself involves a compulsory ceremony that may itself undermine an athlete's freedom of expression. Instead, freedom of expression cannot be protected if it is exercised to incite hate, racial or religious vilification or any threats to the public order, conduct which would also clearly undermine the values of Olympism and the OC. International law therefore provides the strongest basis for the IOC to approach any regulation of athlete speech and demonstration.

2. *The IOC undertakes ongoing due diligence to proactively identify possible human rights harms, and to act proactively to ensure those rights can be enjoyed.*

The clear experience of World Players and our affiliates is that the most significant human rights harms associated with freedom of athlete expression are not the result of the exercise of that right, but *reaction* of governments, sports bodies and others in positions of power to the right being exercised. Due to their profile, athletes have been targeted in repressive regimes including Bahrain and Iran. Even in advanced western democracies, athletes have lost their careers as a result of the reaction to their political protest. The IOC athlete survey not only fails to identify these risks and potential harms, but potentially exposes athletes in such regimes by questioning them about their intent to protest in circumstances where a lack of data protection may see survey responses in the hands of International Federations and National Olympic Committees closely connected to repressive regimes and reactionary powers.

The focus of human rights due diligence on the part of the IOC should be to identify risks to athletes who exercise their right to freedom of expression so that actions can be taken to prevent or address that risk.

Due diligence cannot under any circumstances be reduced to a survey, for the enjoyment of the human rights of an individual can never be made subject to the will of the majority.

In any event, the results of the survey are legally and morally irrelevant. Should an athlete choose to protest from the podium the fact most survey respondents condemn such a protest does not address whether such a protest was in keeping with the athlete's internationally recognised human rights.

3. *The IOC provides access to effective remedy.*

The question for the IOC is not what disciplinary action should be taken in the event that an athlete exercises his or her rights to freedom of expression, but what mechanisms should be established to protect the exercise of that right and to protect an athlete who is targeted because of his or her statements or demonstration. Disciplinary action should be confined to an abuse of the right on the part of an athlete, such as to incite hatred, discrimination or violence.

4. *The IOC engages in meaningful stakeholder engagement.*

This plainly includes player unions where athletes are represented by them, a requirement made express by the Human Rights Report. The survey does not meet this requirement.

There is a real risk that the IOC's review of Rule 50, as presently constructed with the support of the IOC Athletes' Commission, will continue to subordinate the human rights of athletes to

subjective sport specific norms and produce harmful human rights impacts. This would be an avoidable and unfortunate outcome given the Human Rights Report's acknowledgement of the need to put the human rights of athletes at the centre of sport.

We understand the nature of the challenges the IOC face. Many of our affiliated player associations have played leading roles in supporting players in relation to these matters, often in the face of opposition and hostile resistance from their employers, governing bodies and fans to "just stick to sports". We are confident that sport and society have reached an historic turning point where the athlete voice is celebrated and embraced, even in previously reluctant corners. There is a great opportunity for the IOC to embrace this profound shift as well as it has acknowledged in Agenda 2020 + 5.

We remain open to sharing the knowledge, expertise and the experiences of players that World Players and our affiliates have accumulated with the IOC to ensure this process can deliver meaningful outcomes for athletes and the wider Olympic Movement.

Please do not hesitate to connect if you would like to do so.

Yours sincerely,



Brendan Schwab
Executive Director

cc. Kirsty Coventry, Chair of the IOC Athletes' Commission
Danka Bartekova, Vice Chair of the IOC Athletes' Commission