



WORLD PLAYERS ASSOCIATION

ENSURING ACCESS TO EFFECTIVE REMEDY

**THE PLAYERS' STRATEGIC PATHWAY
TO JUSTICE**



#WorldPlayersUnited



Ensuring Access to Effective Remedy

The Players' Strategic Pathway to Justice



*To deny people their human rights is
to challenge their very humanity.*



- Nelson Mandela

World Players Association

Thursday 25 November 2021

Nyon, Switzerland



Six Essential Elements of the Player's Strategic Pathway to Effective Remedy

The players' strategic pathway to ensuring access to effective remedy and, in turn, justice consists of six essential elements:



1.

PUT PEOPLE FIRST



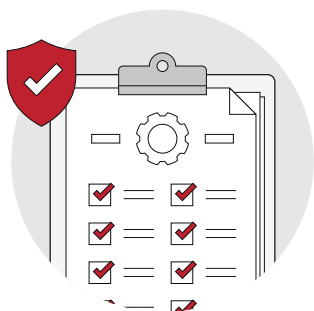
2.

**'RESPECT' AND 'PROTECT'
AS PRECONDITIONS TO
EFFECTIVE REMEDY**



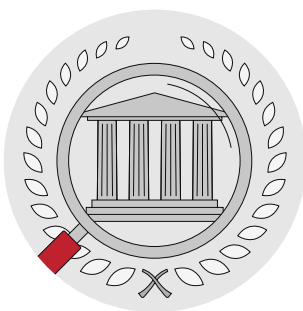
3.

RESTORATIVE JUSTICE



4.

**CREATE LEGITIMATE SPORT
AND HUMAN RIGHTS
GRIEVANCE MECHANISMS**



5.

**REFORM EXISTING
GRIEVANCE MECHANISMS,
INCLUDING THE COURT OF
ARBITRATION FOR SPORT**



6.

**ACTIVELY SEEK JUSTICE FOR
PEOPLE HARMED BY OR IN
THE NAME OF SPORT**



World Players' Four Priorities

I.

The reformation of global sports law to embed internationally recognised human rights

II.

Embedding athlete rights and representation in accordance with international labour standards, including freedom of association

III.

Ensuring global sport can 'know and show' it respects athlete rights, through ongoing human rights due diligence and athlete rights impact assessments

IV.

Remedy, especially in so far as it affects these three priorities. The player and labour movements have a strong track record of establishing effective grievance mechanisms in the sport, business and human rights fields



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Historic abuse

"Over a 20-year period, 368 gymnasts had alleged sexual abuse or exploitation by coaches and other authority figures...many of the allegations against members had not been pursued, or had not been promptly reported by USA Gymnastics." - Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes, June 2017



Significant harm

"In one case, a player did not receive 11 months' salary, leaving him with no money to buy food, toiletries or even a blanket to sleep under. In another, a former international faced the prospect of a criminal conviction for unpaid taxes for which his previous club were liable...Others have their contracts torn up on the flimsiest of pretexts, often leaving individuals penniless in a foreign country." - Rugby uncovered: 'Despicable' abuse of young Pacific talent is huge stain on game, The Telegraph, 9 June 2015



Intense scrutiny

"The sector is arguably under more scrutiny than ever before... allegations about the past need to be thoroughly investigated, but the focus must also remain on those in the current system to ensure that they are protected and free from harm..." Duty of Care in Sport Review, Baroness Tanni Grey-Thompson, April 2017



Ineffective mechanisms

"There is no consistent unified dispute resolution process at a global level in the game [of cricket]. The Federation of International Cricketers' Associations (FICA) continues to advocate for a global dispute resolution and contract enforcement process to address systematic non-payment / breach of contract issues around the world." - FICA 2019 Annual Review

The next critical step

"...we will discuss the importance of not only putting the voice of every Hakeem at the centre of sport's commitment to the rights of its people, to listen to affected groups and provide mechanisms for their voices to be heard and assimilated, but also enabling remedy and reparation, the next critical step." - Craig Foster, opening remarks 2019 Sporting Chance Forum



I Introduction & Strategic Context

For well over a half-century, severe human rights harm and suffering has been caused in and through sport, while at the same time, sport has continued to promote its humanitarian values publicly. Simultaneously, global sport has resisted and escaped state intervention and consequently legal accountability by utilising its regulatory power and international arbitration to enforce its rules transnationally.

Under these circumstances, global sport has developed and nurtured a culture of sporting norms underpinned by the narrative of exceptionalism and the allocation of risk onto the people who deliver or are impacted by sport, resulting in sport causing, contributing to, or being linked with human rights harms. As consequences, sporting norms and interests prevail over the internationally recognised human rights of athletes, and access to justice has been denied. Under this system, those lacking strong representation have had to endure harm without any remedy, as their voices are simply not adequately heard.



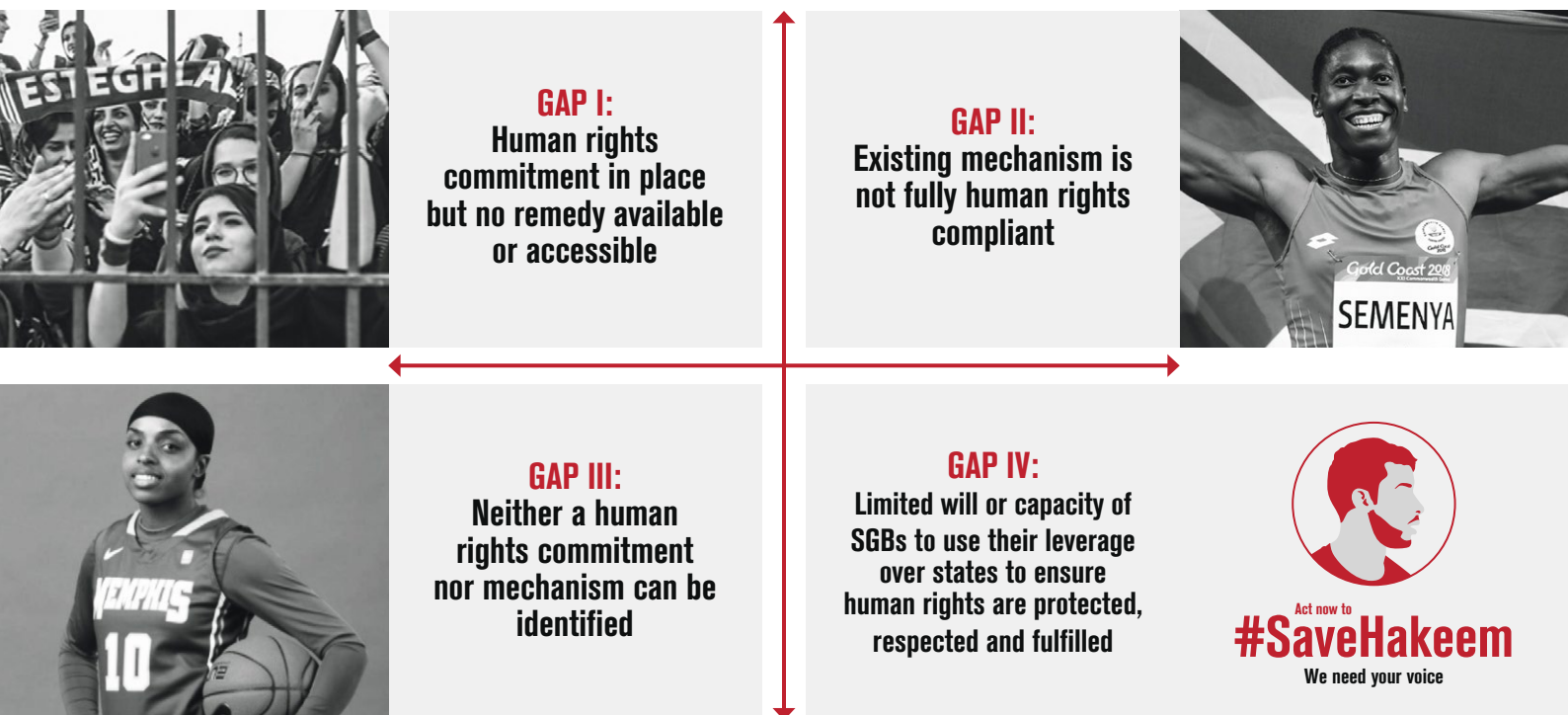
*“[T]here were embedded cultural norms...
that eroded normal impediments to abuse...
The culture was intense, severe and unrelenting.”*

Ropes and Gray Report, 10 December 2018

Continued adverse human rights impacts and corruption scandals have brought sport's social license into question. Collective action in the form of strategic litigation and advocacy, including by Mary Robinson and Professor John Ruggie, resulted in the first reforms by Sports Governing Bodies (**SGBs**), starting with Article 3 of the Fédération Internationale Football Association (**FIFA**) Statutes. Since 2015 a handful of SGBs has started to address their responsibility to respect human rights under the United Nations Guiding Principles on Business and Human Rights (**UNGPs**), the authoritative standard for reconciling sport and human rights.

However, as the violation of human rights in and through sport continues, such as the historic and on-going sexual abuse of athletes, continued labour violations on Mega-Sporting Event (MSE) construction sites, and the targeting, detention, torturing and execution of athletes who have exercised their rights to Freedom of Expression (FoE) and Freedom of Association (FoA), access to effective remedy remains the 'forgotten pillar' under the UNGP Framework. The human rights harms suffered by athletes and other affected groups are exacerbated by critical gaps, which prevent victims from accessing effective remedy.

There are presently (at least) four gaps to effective remedy in sport:



Access to effective remedy presents a paradoxical challenge for global sport. On the one hand, the tremendous transnational autonomy underpinning the governance of global sport and global sports law presents the perfect means to protect, respect and, where violated, remedy internationally recognised human rights. However, in the absence of substantive, cultural and institutional change, sporting norms remain likely to prevail.

Rising player and athlete organising efforts and activism continue to be powerful forces to pursue justice and to drive needed systemic change in, through and beyond sport. Since at least the early 1960s, players and their associations have fought for their fundamental rights against SGBs and professional leagues and have built a strong track record of success which have transformed both the business of sport and the career paths of players. The struggle for the protection and realisation of human rights is, therefore, nothing new for players and their associations. The essence of the struggle centres on four key issues:

- 1) **Respect for the human rights of players**
- 2) **Recognition of the players' status as workers**
- 3) **Exercise of the players' right to organise and collectively bargain, and**
- 4) **Addressing the anti-competitive conduct of organised sport**

As a result, two systems of work (and sports governance) have developed – a system developed in partnership with the players and the system unilaterally promulgated by much of the Olympic Movement. Only the first is rights compatible.



The player association movement is a reliable and trusted partner in securing players access to justice, as it looks back on a long history of developing and establishing effective dispute settlement mechanisms through independent and binding arbitration, freely negotiated between the players and the SGB. In addition, UNI Global Union, to which the World Players Association (**World Players**) is a proud sector, together with IndustriAll succeeded in negotiating and concluding the Bangladesh Accord, a standard-setting agreement in the business and human rights context, which is enforceable through final and binding arbitration, administered by the Permanent Court of Arbitration (**PCA**) based at The Hague.



"...this victory was as important as any we would win. Any collective agreement which can't be enforced by binding, impartial arbitration isn't worth the paper it's written on."

Marvin Miller, MLBPA

Global sport needs to finally place the many people making the delivery of sport possible, including athletes, fans, local communities, workers, journalists, children, human rights defenders, referees, umpires and volunteers at the heart of its business. This requires urgently addressing well-known gaps to access to justice and remedy for victims of human rights abuses in line with the effectiveness criteria of Principle 31 of the UNGPs and enabling affected rights-holders to seek a variety of remedies providing adequate relief and redress to the suffered harm.

This strategy sets out six essential reform elements for sport to ensure and deliver justice. Only if realised can sport's legitimacy and rightful place as an economic, cultural and social leader - including as a standard-setter for business and human rights - be restored and secured.

Six Essential Elements



1. Put people first

The very people making sport possible must be placed at the centre of global sport and its justice system. A people-centred approach that ensures that sport respects the rights of those affected by it can be based on the 'RIGHTS Pillars'. While first been outlined in World Players' 2021 CARE Report, these six key pillars hold equally true in the context of access to justice. All actors in the ecosystem, including SGBs, governments, player associations, civil society and trade unions, as well as involved businesses, have a role to play to realise the RIGHTS pillars:

Remedy	Ensure access to remedial justice, including a public apology, acknowledgement, and compensation for all affected groups	Refer cases of criminal conduct, including sexual and racial abuse, harassment and discrimination, to the appropriate public authorities	Establish truth commissions to deal with non-recent cases of human rights harm and establish well-resourced independent safe sport centers to manage cases and provide compensation
Inform	Collect ongoing data regarding athlete rights experiences and identify trends over time	Disseminate promising practice regarding the promotion and protection of athlete rights, including on safe reporting of abuse	Educate and empower athletes to know and exercise their rights
Govern	Engage and advocate with national governments to adopt and implement laws with explicit expectations towards respecting athlete rights, including the banning of all forms of abuse	Develop, adopt and enforce compliance with formal policies on the protection of athlete rights	Ensure effective, adequately resourced systems and procedures are in place to support and receive cases of human rights harm, including trauma-centered and survivor lead systems and processes for cases of abuse and harassment

Harness the athlete's voice	Provide a safe environment for athletes and players to exercise their voice, individually and collectively	Organise and engage with athletes and players, including those with lived experiences of harm	Ensure that the athlete's voice is represented throughout sport
Train	Require and conduct wellbeing, safeguarding and protection training	Develop human rights-focused structures and capacities	Provide guidance and training on player rights and the duty of care, including when abuse and harassment is disclosed, to all personnel in close contact
Support	Ensure access to free ongoing, professional psychological, social, medical and legal support services	Analyse and ensure holistic security (physical, mental and digital) for whistleblowers, victims and their family members	Provide sensitive and supportive approach, guided by each individual preferences throughout

Embedding these pillars into sport requires a profound shift in at least six critical respects:

- 1) **Change from a liability-based paradigm to a responsibility-based perspective**, which starts with respect for the human rights of the people of sport instead of simply allocating risk to those people
- 2) **Address human rights harms through the lens of the UNGPS**, and not merely through the lenses of 'specificity' or the 'integrity' of sport
- 3) **Give people standing** to access grievance mechanisms
- 4) **Stop demanding that people sign away their rights**, including access to state courts, human rights bodies and other state-based mechanisms
- 5) **Address sport's imbalance of power**, which exacerbates the vulnerability of affected individuals and groups
- 6) **Ensure the equality of arms** in grievance mechanisms **and address cultural, legal and financial barriers** to access such mechanisms

EFFECTS AND IMPACT OF SPORTS CURRENT SYSTEM:

- Imposition of a system of forced arbitration to adjudicate sporting disputes upon athletes, depriving them in practice of access to state courts
- While athletes are forced to arbitrate their disputes, the denial of standing in cases involving human rights violations, such as gender discrimination, has resulted in a lack of access to justice
- At the same time, if seeking remedy through human rights bodies, athletes faced retaliation by sporting bodies, including suspension and other sporting sanctions, i.e., *Wambach and others v. CSA and FIFA*
- Other affected groups, such as fans, activists and journalists, are often confronted with the absence of safe and effective grievance mechanisms, as they either have no standing in front of sport based mechanisms or available mechanisms have been mostly ineffective to deal with human rights violations

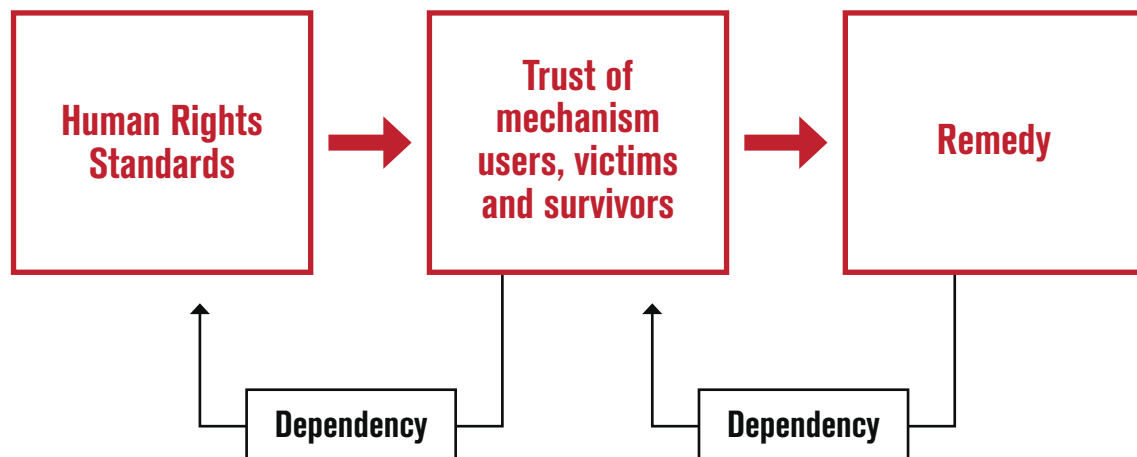


2. ‘Respect’ and ‘protect’ as preconditions to effective remedy

Access to effective remedy can only be realised where the **laws and regulations applied to sport and human rights-related disputes are aligned with international human rights instruments**. Therefore, the compliance of SGBs and states with their respective responsibility to respect and duty to protect human rights are central requirements of the pathway to realise access to effective remedy.

a) Laying the right foundations – anchoring remedy in human rights standards

The practical realisation of effective remedy depends on the confidence and trust of affected groups in the established grievance mechanisms. Embedding international human rights standards, including athletes’ freedom of expression and freedom of association, in the organisational DNA of SGBs and their justice system is an essential step towards building and fostering the trust of affected persons and groups. Only if human rights provide the navigation system for such mechanisms can the appropriate consideration of affected persons and groups’ rights and interests be ensured. Embedding the voice of affected persons and their legitimate representatives in the design and operations of the grievance mechanisms will help ensure they respond to their expectations, which will subsequently build trust and confidence in the mechanisms. Under this framework an SGB’s approach to abuse and human rights harms will shift away from only focusing on protecting the interests of the SGB towards protecting people.

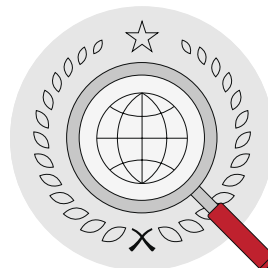


b) SGBs' responsibility to respect

Championing the responsibility to respect human rights requires SGBs to shift from a liability or jurisdiction-based perspective **towards focussing on the 'connection to the impact as basis for [an organisation's] responsibility to respect human rights'**. The responsibility to respect under the UNGPs requires SGBs to **take four steps**:



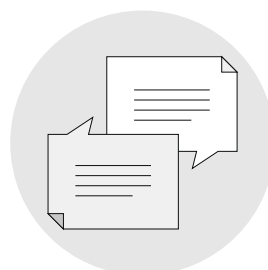
1.
**Commit to and embed respect
for human rights**



2.
**Conduct human rights due
diligence**



3.
**Provide access to effective
remedy**



4.
**Engage, communicate,
monitor and report**

Human rights due diligence (HRDD) is the cornerstone of the responsibility to respect under the UNGP framework. It is a **proactive, ongoing process that focuses on the risks to people so entities can know and show the impacts of their operations on human rights and how they address those impacts**. To implement robust HRDD, SGBs need to identify and assess how their regulations, processes and enforcement negatively impact players in their human rights and take appropriate actions. This includes adopting necessary **regulatory and policy measures articulating and protecting player rights** and **ensuring the availability of effective mechanisms** to determine player rights abuses. Meaningful stakeholder engagement, including with **Player Associations**, is essential for SGBs in order **'to understand how they may be connected to human rights impacts, and whether their efforts to meet their responsibility are effective'**.²

Since 2015 a small number of SGBs, including FIFA, UEFA and the CGF, have made commitments to respect human rights. Although these commitments are a necessary first step, the **implementation has been unacceptably slow, and the large majority of sports bodies have not even started to address their responsibility** under the UNGPs. This **leaves players and athletes without protection as there is no effective remedy without respect** for human rights.

“...there is no effective remedy without respect for human rights.”

Status of SGBs' human rights commitments:

	Category I: Formal commitment to respect human rights including player rights	Category II: General commitment to respect human rights, but not player/athlete rights	Category III: Denial of any responsibility to respect human & athletes rights	Category IV: Undeveloped or unknown position re human & athlete rights
SGB	<ul style="list-style-type: none"> FIFA, CGF and UEFA 	<ul style="list-style-type: none"> IOC and WADA 	<ul style="list-style-type: none"> For example: World Athletics⁴ 	<ul style="list-style-type: none"> Majority of SGBs, including at the regional and national level
Challenge	<ul style="list-style-type: none"> Governance, due diligence, remedy & accountability 	<ul style="list-style-type: none"> Lack of holistic human rights strategy (sporting norms prevailing over human rights norms re players/athletes), governance, due diligence, remedy & accountability 	<ul style="list-style-type: none"> Engage & educate. Leverage through collective action 	<ul style="list-style-type: none"> Engage & educate to make human rights commitments & develop human rights strategy

c) States' duty to protect

Under their duty to protect human rights, states need to

- have **effective legislative frameworks and processes** in place and to exercise due diligence to **prevent, investigate, punish and redress human rights violations** caused by private actors, and
- regularly **assess the effectiveness and adequacy of their frameworks and processes**.

Pillar I of the UNGPs clarifies that the duty to protect requires states to ensure that businesses, including SGBs, comply with their responsibility to respect human rights. Respectively, states and intergovernmental agencies increasingly address sport through a human rights paradigm, resulting in explicit expectations 'that sports bodies will integrate respect for human rights into their operations'.³ However, additional attention is needed to ensure that SGBs comply with the UNGPs, including by ensuring the application of emerging mandatory human rights due diligence (mHRDD) legislation to sport.

“...additional attention is needed to ensure that SGBs comply with the UNGPs...”

As the seat of most SGBs and the Court of Arbitration for Sport (**CAS**), Switzerland has a critical role in providing access to effective remedy for athletes and ensuring the compliance of sport grievance mechanism with the UNGP requirements. So far, the Swiss Federal Tribunal (**SFT**) has, despite considerable concerns regarding the governance structure of CAS and its procedural rules, backed sports' system of forced arbitration and repeatedly declared CAS sufficiently independent and compliant with necessary procedural guarantees. Switzerland's current system allowing the setting aside of CAS awards only on very limited and narrow grounds (i.e., violation of ordre public) is not fit for purpose to effectively guarantee the protection of human rights.

As immediate priorities, states should

- 1) Address legislative carve-outs** for sport, resulting in the vulnerability of athletes, and **assess whether legal and policy frameworks in place are fit for purpose to protect affected groups**, including athletes
- 2) Require SGBs to embed ongoing human rights due diligence, good governance and effective anti-corruption processes** as prerequisites for tax exemptions, funding and other subsidies
- 3) Ensure that affected groups have access to state-based judicial mechanisms** on a practical basis and not just as a merely theoretical option

CARVE-OUTS FOR SPORTS UNDER NATIONAL LEGISLATIVE FRAMEWORKS RESULTING IN THE VULNERABILITY OF ATHLETES:

- The non-recognition of athletes as workers or employees and corresponding labour rights, including among others their freedom of association and collective bargaining, image rights, workers' compensation including the application of minimum wages, health and safety, coverage by social security schemes
- Extensive IP-protection for SGBs
- The backing of the forced arbitration system in sport
- Failure to take a people-centred approach in deference to the specificity and integrity of sport



3. Restorative justice

In response to the continued surfacing of evidence and testimonies of systemic and historic harm and abuse suffered by athletes, SGBs need to shift towards a responsibility-centred perspective, focusing on their connection to the human rights violations caused by sport. Plainly, sport's dispute resolution systems have not protected or met the needs of victims. The application of restorative justice principles and practices to victims and survivors of such harms is needed as part of an holistic approach which addresses the governance failures of sport.

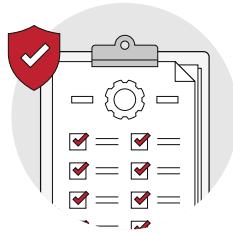
Restorative justice focusses on 'how people have been affected, rather than questions of whether the law has been violated', repairing the harm caused by the crime and restoring harmony as much as possible by bringing 'together the people most directly involved in the crime or harm'.⁵



An increasing number of countries, including the United States, Canada, Australia and New Zealand, are responding to the growing evidence of racism, abuse and harassment in sport by taking a human rights-based approach and focusing on the empowerment of athletes. However, even in these jurisdictions, remedy and justice are elusive. All too often states' measures are limited to the adoption of strategies and code of conducts aiming at preventing and addressing abuse, which leave survivors without remedy or procedural structures. This includes the establishment of Sport Integrity Bodies, which are in many cases the last place to go for survivors.

Effective ad hoc restorative justice mechanisms must include the following essential features:

- 1) Being survivor-centred, including by providing holistic support**
- 2) Being independent and accountable**
- 3) Providing for effective remedy, including compensation and reconciliation to survivors**
- 4) Ensuring the protection of whistle-blowers and survivors**
- 5) Applying the learnings from the past to build new or reform existing remedy mechanisms**



4. Create legitimate sport and human rights grievance mechanisms

Effective sport and human rights grievance mechanisms are essential to reconciling sport and human rights. The human rights impacts of sport, including global SGBs and MSEs, are vast and of enormous scale and variety. Not all sports disputes involve human rights considerations, but many do, with athletes sitting at the intersection of sport and human rights.

In light of the highlighted gaps to effective remedy faced by affected groups, an urgent need for an efficient transnational grievance mechanism exists not only in the context of MSEs, but global sport generally.

With the technical assistance of the PCA based in The Hague, World Players has developed the ‘Sport and Human Rights Dispute Resolution Mechanism’. This new people-centred grievance mechanism is designed to fill existing gaps to effective remedy for affected groups by being tailored to the rights compatible, timely and cost-efficient resolution of sport and human rights disputes. The developed mechanism is not intended to replace existing effective and rights-compatible mechanisms but rather to complement them and to strengthen the remedy ecosystem available to different rights holders.

The **developed mechanism provides**

- a **framework of mediation and expedited arbitration**, based on experiences with the Bangladesh Accord, existing best practice standards, and The Hague Rules on Business and Human Rights Arbitration, and
- an **innovative advisory opinion procedure**, which particularly aims at tooling SGBs, other actors, and affected individuals and groups with independent expert advice on how to prevent or mitigate severe harm which may be imminent.

The **International Bureau of the PCA shall serve as the registry and administer any proceedings** under the mechanism, which **ensures the mechanism’s independence and legitimacy**.

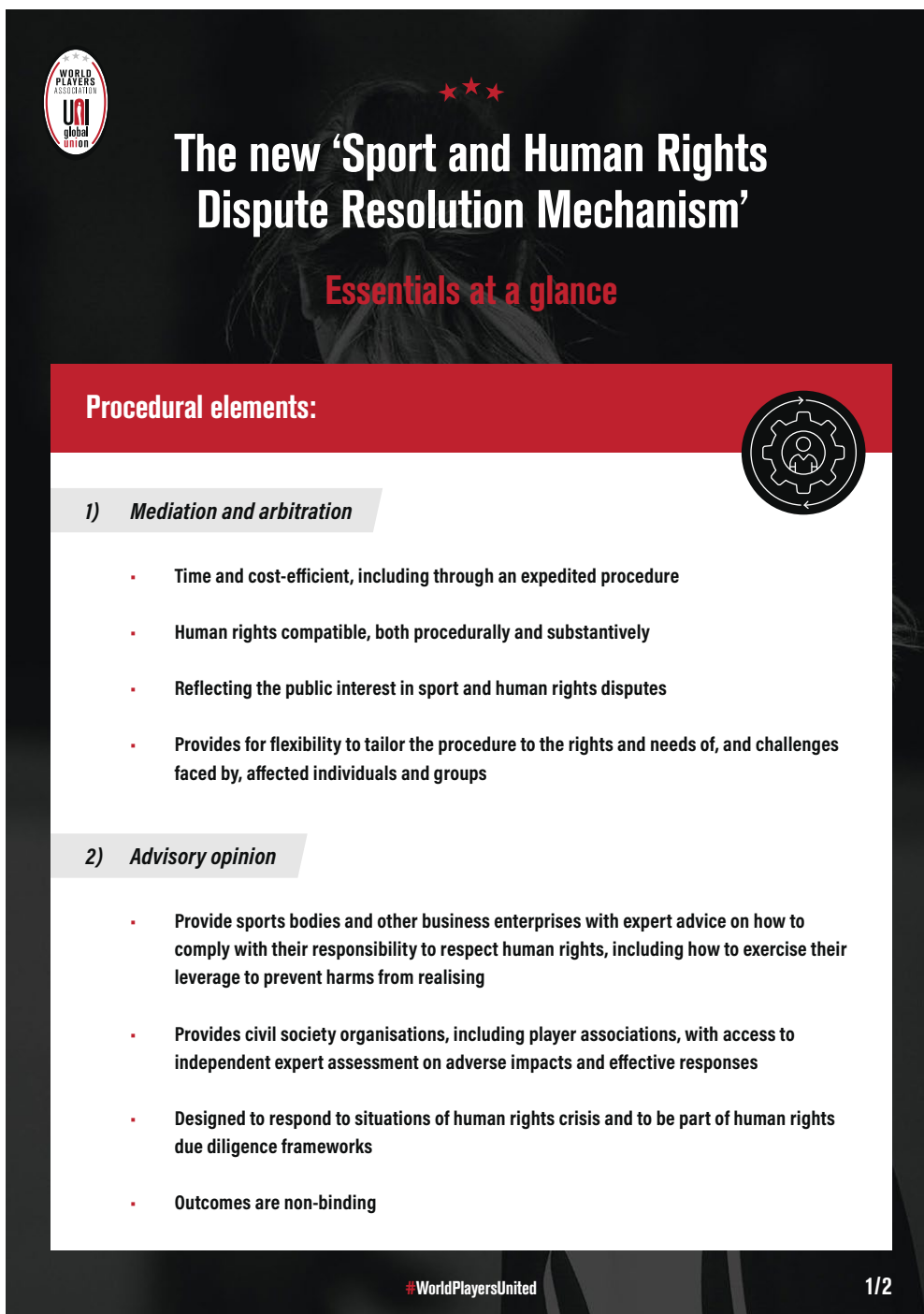
The Sport and Human Rights Dispute Resolution Mechanism is now available for parties which agree to refer their matters to it. The mechanism was recently highlighted in the joint assessment of human rights risks associated with the 2023 FIFA Women’s World Cup conducted by the Australian Human Rights Commission (**AHRC**) and the New Zealand Human Rights Commission (**NZHRC**).

AHRC and NZHRC ‘FIFA 2023 Women’s World Cup Human Rights Risk Assessment’ (December 2021), p. 60 available at https://humanrights.gov.au/sites/default/files/document/publication/ahrc_fifa_human_rights_risk_assessment_report_2021_.pdf

The risk assessment recommends that FIFA adopts an “[...] accessible, free, non-discriminatory grievance mechanism that is independent, trauma informed, confidential and prioritises the wellbeing of the complainant, which has been developed with reference to international human rights standards, such as that developed by the World Players Association, with the technical assistance of the Permanent Court of Arbitration.”

Further elements include:

- The ongoing development of an eminent list of mediators, arbitrators and dispute resolution professionals
- Establishment of a fund to provide financial support and access for mechanism users



The infographic features a dark background with a faint image of a person's face. At the top left is the World Players Association (WPA) logo, which includes the text 'WORLD PLAYERS ASSOCIATION' and 'WPA global union'. To the right of the logo are three red stars. The main title 'The new 'Sport and Human Rights Dispute Resolution Mechanism'' is in large white font, followed by the subtitle 'Essentials at a glance' in red. Below this is a red horizontal bar with the text 'Procedural elements:' in white. To the right of this bar is a circular icon containing a gear and a person silhouette. The content is organized into two numbered sections: '1) Mediation and arbitration' and '2) Advisory opinion', each with a list of bullet points. At the bottom, there is a hashtag '#WorldPlayersUnited' and a page number '1/2'.

WORLD PLAYERS ASSOCIATION
WPA
global union

★ ★ ★

The new 'Sport and Human Rights Dispute Resolution Mechanism'

Essentials at a glance

Procedural elements:

1) Mediation and arbitration

- Time and cost-efficient, including through an expedited procedure
- Human rights compatible, both procedurally and substantively
- Reflecting the public interest in sport and human rights disputes
- Provides for flexibility to tailor the procedure to the rights and needs of, and challenges faced by, affected individuals and groups

2) Advisory opinion

- Provide sports bodies and other business enterprises with expert advice on how to comply with their responsibility to respect human rights, including how to exercise their leverage to prevent harms from realising
- Provides civil society organisations, including player associations, with access to independent expert assessment on adverse impacts and effective responses
- Designed to respond to situations of human rights crisis and to be part of human rights due diligence frameworks
- Outcomes are non-binding

#WorldPlayersUnited 1/2

Uniquely legitimate:



- Developed with the technical assistance of the Permanent Court of Arbitration (PCA)
- Based on 'The Hague Business and Human Rights Arbitration Rules' and other leading standards
- PCA will serve as registry and administer any proceedings under the mechanism

Further elements include:

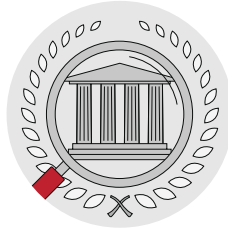


- The ongoing development of an eminent list of mediators, arbitrators and dispute resolution professionals
- Establishment of a fund to provide financial support and access for mechanism users

Relationship to existing grievance mechanisms:

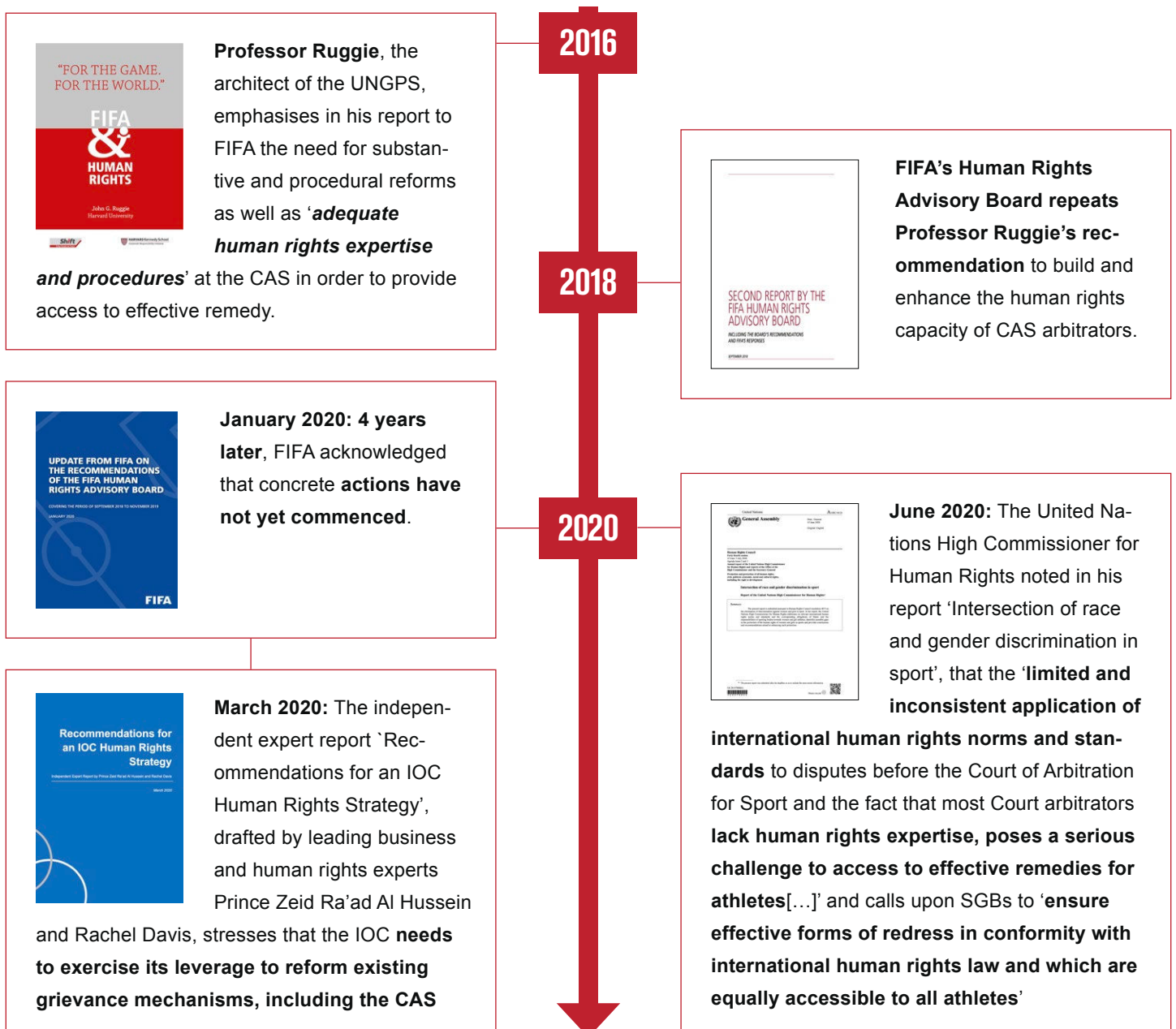


- PCA mechanism is not intended to replace existing effective and rights compatible mechanisms, but rather to complement them and to strengthen the remedy ecosystem
- While some of the existing mechanisms may have limited mandates or are restricted to specific formats of dispute resolution, the 'Sport and Human Rights Dispute Resolution Mechanism'
 - o offers different procedural avenues, including binding and enforceable arbitration
 - o encompasses human rights and labour related disputes
 - o is open to rights-holders, trade unions, civil society organisations and affected individuals and groups
 - o can involve sports bodies, businesses and other private actors as parties well as (in principle) states



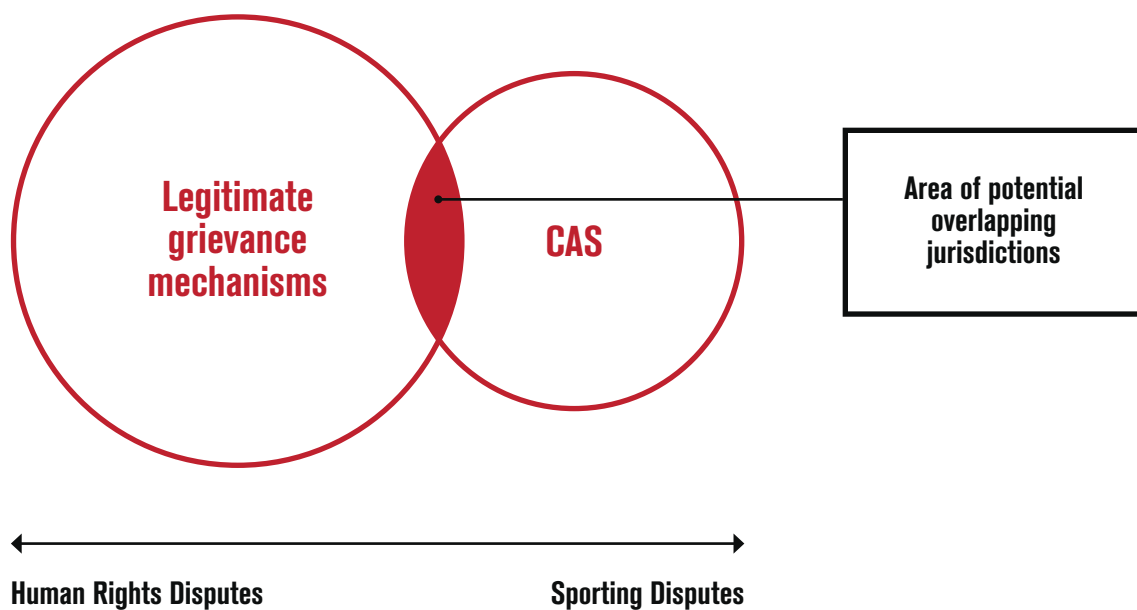
5. Reform existing grievance mechanisms, including the Court of Arbitration for Sport

The need to reform existing sport grievance mechanisms, particularly the CAS, in line with international human rights standards, has been expressed for many years. The precise nature of the required reforms have been detailed since the development of the global sports and human rights discourse five years ago.



However, cases lying at the intersection of sport and human rights highlight that the CAS is currently not equipped to procedurally and substantially protect and uphold athletes' human rights. In light of these highly visible cases, athletes and other stakeholders, including states, are increasingly losing trust and confidence in the system, and the very legitimacy of CAS is being called into question.

The potential range of sport and human rights disputes is vast, and well beyond the scope of the existing case load of the CAS, which is largely confined to football, including labour disputes, doping, disciplinary matters and ethics appeals. A small, but very important, section of cases sits at the intersection of sport and human rights. The stakeholder most affected by these cases is the athlete, whose human rights and dignity are on trial. To be human rights compliant in these cases the CAS needs to meet the criteria set out in Principle 31 of the UNGPS.



These are the criteria against which all grievance mechanisms which impact human rights in sport need to be evaluated (e.g. The Basketball Arbitral Tribunal, Sports Resolutions UK and Sports Integrity Australia).

PRINCIPLE 31 UNGPS - EFFECTIVENESS CRITERIA FOR GRIEVANCE MECHANISMS	
Legitimate	Transparent
Accessible	Rights-compatible
Predictable	Source of continuous learning
Equitable	Based on engagement and dialogue



6. Actively seek justice for people harmed by or in the name of sport

The most direct way to ensure access to justice for the victims of human rights abuses in sport is to actively seek justice. By delivering justice for the individual we can change the system to ensure justice for all.

Four central objectives:

- 1) **Support** victims and survivors
- 2) **Organise** athletes, player associations and the Sport & Rights Alliance (SRA) around the cause of the victims
- 3) **Seek justice** for the individual
- 4) **Drive systemic change** by using the learnings and the leverage of organising to prevent the repetition of abuse and harm

In doing so, we can help ensure that sport “does no harm”, or at least tries to prevent or mitigates it.



HAKEEM AL-ARAIBI



Harm:

77 days of unlawful imprisonment in Thailand for former Bahraini national team player, refugee and human rights defender, facing extradition to Bahrain with the likelihood to be subjected to torture

Gap:

Lack of a proactive approach by SGBs to use their leverage to protect athletes and others belonging to sport

Reform:

Establishment of structured mechanism accessible for SGBs and civil society to guide SGBs on how they should exercise their leverage over states to protect athletes and affected groups. Review of governance structures and processes to ensure holders of high offices at SGBs are not conflicted when required to defend and advance human rights



BILQIS ABDUL-QAADIR

Harm:

FIBA's on-court apparel regulations prohibited wearing of religious head coverings, preventing Bilqis from pursuing her career as a basketball player

Gap:

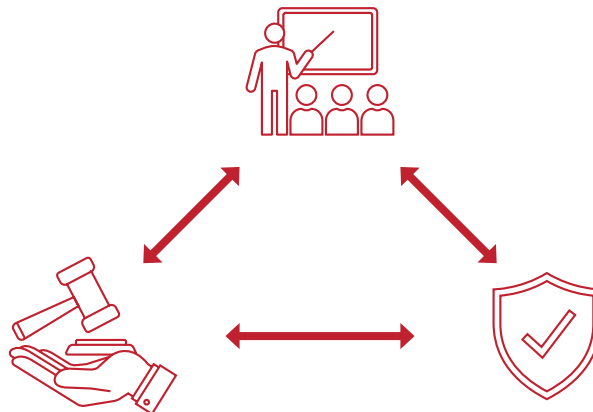
No mechanism available to challenge the rule

Reform:

Human rights compliant sport regulations, establishment of support and organizing structures, access to an effective grievance mechanism

Justice could be achieved for some of the affected individuals, the required systemic reform to prevent future harms and human rights violations is all too often missing. In the future, **collective effort is needed in the follow-up of such cases in order to:**

- Drive sports bodies' compliance with their responsibility to respect human rights
- Ensure and advance athletes' right to freedom of expression, freedom of association and collective bargaining, and
- Ensure access to legitimate grievance mechanisms and effective remedy



This requires increasing the human rights expertise and sensitisation of SGBs, player associations, key stakeholders and sports lawyers to frame respective cases from a human rights perspective. Thereby two **strategic goals** are pursued:

- 1) The **proactive identification of human rights-related impacts and development of a human rights-based sport jurisprudence** by strategic human rights litigation; and
- 2) The **prevention of the embedding of sporting norms** in relevant jurisprudence, including by showing the inadequacy of existing sport and human rights instruments. Important examples of which are the IOC's adoption of the Athlete Rights and Responsibilities Declaration in 2018 and Rules 2.7 and 18.2.10 of the Olympic Charter.

Strategic Execution

World Players:

- 1) *Three main constraints to address: (1) cultural; (2) legal; and (3) financial*
- 2) *Engage with SGBs to embed human rights and reform global sports law, especially on questions of athlete rights and representation, but also as part of holistic human rights strategies which incorporate access to remedy, starting with a 'people-first' approach*
- 3) *Develop and advance player rights due diligence*
- 4) *Establish, promote and build the 'Sport and Human Rights Dispute Resolution Mechanism' under the auspices of the PCA in partnership with key stakeholders*
- 5) *Incorporate the 'Sport and Human Rights Dispute Resolution Mechanism' in global agreements & make the mechanism available should a dispute arise (i.e. mediation, advisory opinions, arbitration)*
- 6) *Work in partnership with affiliates and other stakeholders and experts to reform existing mechanisms including CAS*
- 7) *Develop effective working partnership with the Centre for Sport and Human Rights to advance access to remedy*
- 8) *Enter into, promote and encourage global collective bargaining and framework agreements to reconcile sport and human rights*

Affiliated Players Associations:

- 1) *Engage with counterpart sport bodies to embed human rights and reform (global) sports law, especially on questions of athlete rights and representation, starting with a 'people-first' approach and looking at demands for restorative justice*
- 2) *Implement player rights due diligence*
- 3) *Identify victims and survivors around which the movement needs to organise to deliver justice and drive systemic change, including through strategic litigation and campaigning*
- 4) *Research player rights impacts, including cases and situations where justice is being or was denied*
- 5) *Include the 'Sport and Human Rights Dispute Resolution Mechanism' in agreements with counterpart sport bodies; look to make available in the event of a dispute*
- 6) *Use leverage and bargain for necessary reforms of existing mechanisms (CAS, national grievance mechanisms, etc.)*

SRA Partners:

- 1) *Support and amplify access to remedy including the work of World Players through effective communications & strategic campaigns*
- 2) *Continue to identify, support and activate victims of human rights harms (e.g., discrimination and abuse (HRW) and labour (ITUC), which may also provide the opportunity for strategic litigation and campaigning)*

ANNEX:

World Players' Academic and Policy Work

This strategy is based on extensive academic research and the **#WorldPlayersUnitedPlatform**

World Players Academic Work:

- Brendan Schwab, "[*When We know Better. We Do Better.*](#)" *Embedding the Human Rights of Players as a Prerequisite to the Legitimacy of Lex Sportiva and Sport's Justice System*, 32 Maryland Journal of International Law 4 (2017).
- Brendan Schwab, [*Celebrate Humanity: Reconciling Sport and Human Rights through Athlete Activism*](#), 28 Legal Aspects of Sport 2 (2018).
- Brendan Schwab, [*Embedding the human rights of players in world sport*](#), The International Sports Law Journal 17 (2018).
- Brendan Schwab, [*Protect, Respect and Remedy: Global Sport and Human Rights*](#), International Sports Law Review 3 (2019).
- Brendan Schwab, [*Protect, Respect and Remedy: Global Sport and Access to Justice*](#), International Sports Law Review 3 (2020).
- Brendan Schwab, *Protect, Respect and Remedy: Global Sport and the Duty of the State to Protect Human Rights*, International Sports Law Review 4 (2020).

#WorldPlayersPlatform

- [World Player Rights Policy](#)
- [World Player Development, Wellbeing, Transition and Retirement Standard](#)
- [Universal Declaration of Player Rights](#)
- Freedom of Association and the Legitimacy of Global Sports Law
- Athlete Activism
- Player Economic Rights Policy
- Access to Justice in Global Sport Policy



Sources

- 1 Z Al Hussein and R Davis 'Recommendations for an IOC Human Rights Strategy' (March 2020), p. 21 available at https://stillmedab.olympic.org/media/Document%20Library/OlympicOrg/News/2020/12/Independent_Expert_Report_IOC_HumanRights.pdf, (In the following referred to as 'IOC Human Rights Report')
- 2 IOC Human Rights Report, p. 15
- 3 IOC Human Rights Report, p. 17
- 4 World Athletics has established a Human Rights Working Group that issued its final report on 18 November 2021 <https://www.worldathletics.org/about-iaaf/documents/strategic-plans-and-reports#collapsehuman-rights-working-group-reports>; see the independent comment by the Centre Sport and Human Rights and Shift https://www.sporthumanrights.org/media/firpcmzz/cshr_shift_independent-comment_wa-hrwg-report_14-july.pdf.
- 5 Centre for Innovative Justice 'Restorative Justice', available at <https://cij.org.au/research-projects/theme/restorative-justice/>

O U R V A L U E S



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