



**HUMAN RIGHTS
WORKING GROUP REPORT //**

SILENCE

WORLD ATHLETICS HUMAN RIGHTS WORKING GROUP //

Executive Summary

“The fundamental human rights of everyone affected by or involved in the delivery of physical education, physical activity and sport must be protected, respected and fulfilled in accordance with the United Nations Guiding Principles on Business and Human Rights”

Kazan Action Plan, July 2017

Introduction //

This report summarises the work and findings of the World Athletics Human Rights Working Group (HRWG), having completed the tasks asked of it by the World Athletics Council in July 2020. The Report covers the following:

- background and context to the Report
- findings of the HRWG; and,
- recommendations of the HRWG.

Background and Context //

The HRWG comprised of eight members appointed by the World Athletics Council. It was led by an independent chair, Maria Clarke (New Zealand), with members holding various roles across the sport of Athletics. The members were Stephanie Hightower (USA), Toralf Nilsson (Sweden), Aisha Praught-Leer (Jamaica), Ximena Restrepo (Colombia), Aleck Skhosana (South Africa), Adille Sumariwalla (India) and Jinaro Kibet (Kenya). They came from every Area of World Athletics and were diverse in their backgrounds, ethnicity and gender.

Members of the HRWG hold positions with member federations, the World Athletics Athletes' Commission, the World Athletics Governance Commission, the World Athletics Development Commission, the World Athletics Council and the World Athletics Executive Board, including its Risk Committee. The HRWG was supported by independent human rights experts from the Centre for Sport and Human Rights (CSHR) and Shift. These experts provided advice and guidance to the HRWG throughout this process. However, the recommendations and views expressed in this report are those of the HRWG alone.

The vision for World Athletics is to “create a healthier and fitter world” using the power and accessibility of athletics and the athletes to do so. At the heart of this vision are people, including athletes. In essence, the vision seeks to improve the health and wellbeing of individuals and communities through athletics.

Therefore, how World Athletics looks after people involved in or connected to its sport, and respects and promotes their human rights is critical to its every-day decisions and operations.

In simple terms, human rights are the basic rights contained in authoritative international standards that aim to secure dignity and equality for all.

For decades, World Athletics has recognised the importance of human rights. Since 1962, the World Athletics Constitution has stated its intolerance for discrimination in Athletics.

In addition, World Athletics has been a leader in global sport with its stand on gender equality both on and off the track. This has included ensuring equal participation of male and female athletes in the same number of events at World Championships; equal prize money for athletes in professional events; and since 2016, gender quotas in its Constitution to ensure 50% of men and women on its Council by 2027.

Further, World Athletics has implemented a number of initiatives to protect and prevent abuse of athletes. This has included adopting regulations to prevent exploitation and trafficking of athletes; changes in its governance structure to ensure the voice of athletes is better represented and heard (including two seats on the Council); research on training



and competing in heat, suitable air quality and other environmental issues affecting athletes; and changes to improve the regulatory framework for athletes' representatives to ensure athletes are not exploited.

In the last 12 to 18 months, World Athletics has undertaken a number of further steps relevant to human rights. In particular, it has:

- acknowledged the establishment of an independent athletes' body seeking to have a greater say in the future of the sport;
- commenced the development of a safeguarding policy to commit to its responsibility for creating a safe and positive environment for all involved with in Athletics, together with a range of specific initiatives and actions to be undertaken by it, its Member Federations and the Area Associations;
- backed the right for athletes to protest in a respectful manner, including on the podium;
- amended its bidding process for potential candidate cities and hosts; and,
- adopted a Sustainability Strategy 2020-2030 in which two of the six focus areas are global equality and diversity, accessibility and wellbeing..

At the 2019 World Athletics Congress in Doha a call was made by the Member Federations of Sweden and South Africa to examine how World Athletics was addressing human rights. In response to this call, the World Athletics Council decided to appoint the Human Rights Working Group (HRWG).

This decision came at a time when World Athletics was responding to a highly publicised case against it on the application of its regulations governing athletes with differences of sex development (DSD). It is a case in which both the Court of Arbitration for Sport, and the Swiss Federal Tribunal (on appeal), found in favour of World Athletics ruling that although the regulations of World Athletics were discriminatory, such discrimination was a necessary, reasonable and proportionate means of it achieving its aim of preserving the integrity of female athletics in restricted events. However, this case (and the broader operation and impact of the regulations underlying it), is one about which there are strongly held and differing opinions amongst the science community, the medical profession, human rights experts and sports leaders globally. There is also ongoing litigation pending relating to this case.

The decision to appoint the HRWG also came at a time when the world is witnessing a growing and disturbing number of cases of serious allegations of harm in sport. These include:

- scandals of sexual abuse and harassment;
- allegations of racist and homophobic abuse;
- challenges to the rights of athletes being entitled to protest, for example at the Olympic Games; and,
- the unlawful detention and, in some egregious cases, torture and execution of high-profile athletes for protesting against the political regimes in their countries.

Not surprisingly intergovernmental bodies and non-governmental bodies, including the United Nations Human Rights Council, have urged sports organisations, like World Athletics, to take greater steps to respect and promote human rights.

It is against this background and context that the HRWG was appointed to:

- undertake an assessment of World Athletics operations and rules in terms of human rights;
- develop a human rights framework for World Athletics; and,
- report back to the members of World Athletics at the Congress in 2021.

In the time of the HRWG's mandate, it has only been able to make an initial assessment. More work is necessary to complete a full and proper assessment of how World Athletics, and its members, are addressing human rights. Notwithstanding these constraints, the HRWG has been able to make some clear initial findings based on internal and external stakeholder input that should inform the next steps for World Athletics on these issues.

HRWG's Findings //

Based on its initial assessment, the HRWG has found that:

- a. World Athletics has taken a number of significant steps over the years, particularly in recent years, to seek to respect and promote human rights. It has sought to prevent and address harm, which it may cause or contribute to, to people involved in its operations and the sport of Athletics more generally.
- b. While important, these steps have been piecemeal and fragmented, with decisions often made in response to issues arising, rather than in a planned, holistic or consistent manner.

- c. In addition, although these steps were clearly intended to prevent harm to people (amongst other objectives), they were not developed or implemented using a comprehensive human rights approach and therefore it is not known whether they have achieved this intended outcome.
- d. Given the wider sporting context noted above, it is both timely and necessary for World Athletics to strengthen and build on its work to date and to embrace a new approach clearly focused on preventing and addressing harm to people. That approach involves both a change in mind-set and in the processes World Athletics uses to assess and take action on risks, which includes an assessment of potential harm to people affected by its proposed decisions. Currently the approach by World Athletics to risk is largely focused on an assessment of risk to the organisation or the sport rather than to individuals.
- e. In adopting an approach focused on preventing harm to people, World Athletics needs to embed into its decision-making processes a human rights framework (which applies the United Nations Guiding Principles on Business and Human Rights (UNGPs), so that it:
- assesses the possible risks or any actual impacts of harm to people;
 - takes reasonable steps to prevent or mitigate such harm;
 - provides a remedy where harm is suffered and World Athletics has caused or contributed to it.
- f. In addition, by applying a human rights framework engagement with external stakeholders (i.e., people outside of Athletics) and those whose human rights are potentially affected by a decision (often including athletes) is expected. World Athletics should undertake this engagement before making decisions in order to assess whether there are any risks of harm to people, and if so, to seek to mitigate them. This is where assessment of human rights differs substantially from assessing risks to the organisation (such as legal, operational, financial, and reputational risks).
- g. The HRWG has found there is a considerable lack of understanding and awareness of the application of human rights in sport including in Athletics. In particular, many of the people that the HRWG spoke to were unclear about how human rights risks arise, the potential nature and extent of them, and who has responsibility for them. Significant work is required to raise awareness and educate everyone in Athletics about human rights and the steps needed to prevent harm to people within the sport.
- h. As a private association, World Athletics does not have the same legal obligations as a state to respect, protect and fulfil human rights. However, in accordance with the UNGPs

– the authoritative global standard that sets out the implications of human rights for private organisations like World Athletics - World Athletics should voluntarily recognise its responsibility to respect, and should also seek to promote, human rights across the spheres of its operation. This includes its operations at headquarters, in its role overseeing World Athletics events; and in its governance and development roles for the sport at large.

- i. This also includes taking reasonable steps, (taking into account its capacity and resources to do so), to lead, support and, where appropriate, require Member Federations and Area Association to respect and promote human rights throughout the sport.

In short, having undertaken its work, the HRWG has concluded that in order for World Athletics to achieve its vision, it now has the opportunity to strengthen and build on the significant work it has done to date by putting in place systems and processes that focus on preventing harm to people. To do this, World Athletics needs to voluntarily commit to its responsibility to respect, and seek to promote, human rights, and apply a human rights lens across the decisions it makes about the sport and its operations.

HRWG's Recommendations //

In order to seize this opportunity, the HRWG makes six recommendations to Council with 20 actions as set out below.

In making these recommendations, the HRWG acknowledges that World Athletics has already started on a human rights journey. However, it now has a timely and important opportunity to strengthen and build on this and to take further steps to put in place systems and processes that focus on preventing harm to people. The recommendations below provide a framework and concrete steps for World Athletics to take, in order to embrace and embed this new approach, which is clearly focused on preventing and addressing harm to people. This approach involves both a change in mind-set and in the processes World Athletics uses to assess and take action on risks to people.

Taking this new approach will require an ongoing commitment and focus and the actions will evolve over time. The HRWG does not expect all of its recommendations to be implemented at once. It acknowledges the need for World Athletics to take into account capacity, capability and the resources required to implement them.

Recommendation 1 – A Commitment and Human Rights Policy //

World Athletics should make a public commitment to respect and promote internationally recognized human rights.

To give effect to this commitment, the HRWG recommends that:

- a. Council should adopt a Human Rights Policy in which it records its commitment to respect and promote all internationally recognized human rights. This Policy should record the nature and extent of World Athletics' responsibility for human rights and the steps it intends to take over time to embed a human rights approach in World Athletics and the sport of Athletics as a whole. A draft of this Policy is included with this Report, for consideration by the relevant Commissions, external stakeholders, input from human rights expertise (see Recommendation 2) and subsequent approval by Council.
- b. Consistent with the HRWG's terms of reference, a report should be made to the World Athletics 2021 Congress attended by the Member Federations and Area Associations, on the findings and recommendations of the HRWG and decisions of Council regarding this Report. The Executive Summary of this Report should be included with the 2021 Congress documentation. The HRWG considers this report is necessary to ensure the undertakings made at the 2019 Congress to complete this work are met, and to start the process of improving an understanding of human rights in the Athletics.
- c. Immediately following the 2021 Congress meeting, the Executive Summary of this Report should be made public. This will show World Athletics' commitment to human rights and the steps it will take to implement them.
- d. The Integrity Code of Conduct, Constitution and other related World Athletics' Rules and Regulations should be reviewed in the future, by the Athletics Integrity Unit (AIU) and the relevant World Athletics' Commissions, Council and Congress, to consider:
 - expanding the standards of conduct to include other human rights; and,
 - extending the Code, and the jurisdiction of the AIU, to cover conduct of officials of Member Federations and Area Associations, to ensure they comply with the standards set out in the Code.

Recommendation 2 – Human Rights Expertise //

World Athletics should have human rights expertise embedded in the organisation to support the development and implementation of all the recommendations in this Report.

To give effect to this recommendation, the HRWG recommends that:

- a. person/s should be employed by or appointed to engage with World Athletics who have significant human rights expertise (including familiarity with the relevant international standards such as the UNGPs);
- b. person/s with human rights expertise should be part of or support the Risk Committee;
- c. the human rights responsibilities of these person/s should be integrated into other related responsibilities within World Athletics (for example, risk management), so that human rights become part and parcel of the decision making at World Athletics.

Recommendation 3 – Awareness, Education and Further Risk Assessment //

World Athletics should undertake a further assessment of the human rights risks in World Athletics' operations and throughout the sport as a whole, to give it a deeper and more comprehensive understanding of them, so it can then assess the processes and measures it should have to prevent and mitigate against them as well as the remedies for any harm which occurs.

To give effect to this recommendation, the HRWG recommends that:

- a. A programme to raise awareness and provide education on human rights, should be developed and rolled-out by World Athletics. In the first instance, this should be for World Athletics officials and its staff. Then, the programme should be made available for those in decision-making roles in Area Associations and Member Federations. The development by World Athletics of its new e-learning platform could be an effective mechanism to deliver this education to Area Associations and Member Federations. Support for this training and education is readily available from the Centre for Sport and Human Rights (CSHR) and other human rights experts.
- b. The assessment of human rights risks, which has been started by the HRWG within World Athletics, should continue and be expanded to include the sport as a whole. The nature and extent of this risk assessment should be determined with advice and guidance from human rights expertise (see Recommendation 2). It should include assessment from

internal stakeholders (including athletes, coaches, athlete support personnel, clubs, athletics organisations, event operators, commercial partners, Member Federations, Area Associations, World Athletics Council, World Athletics Executive Board, Commission members and World Athletics staff), and external stakeholders (including independent organisations). A more comprehensive analysis of the gaps and areas for World Athletics to prioritise could then be undertaken.



Recommendation 4 – Adopt a Human Rights Framework for Decision Making //

World Athletics should adopt a Human Rights Framework to be used by its decision makers to address human rights risks when making decisions.

To give effect to this recommendation, the HRWG recommends that:

- a. Council recommend to the Executive Board, that a Human Rights Framework should be adopted and applied by World Athletics. A draft framework which aligns with the UNGPs is provided for further development which should occur with advice from human rights expertise (see Recommendation 2) to ensure this alignment is maintained. This Framework should include:
 - the steps and process for including an assessment of human rights risks in decisions of World Athletics, including decisions made by Congress, Council, the Executive

Board and the Chief Executive. World Athletics could initially prioritize those decisions that are likely to have a significant impact on human rights, but over time, this Framework should apply across the full range of World Athletics' decisions, that impact on people involved or connected to its spheres of operation, to ensure that the organisation is identifying new or unanticipated risks. These steps should include engagement with external stakeholders whose human rights may be directly affected by a decision of World Athletics (such as athletes), or those with insight into such stakeholder perspectives. Ideally this should include a private and trusted mechanism to enable World Athletics to engage with external stakeholders in a way that is positive, constructive and enables both it and the external stakeholders to fully understand each other's perspectives in addressing human rights risks, before any public comment is made; and,

- the steps and process for resolution and remedy of any adverse human rights impacts which have occurred.

- b. Once finalised and adopted, the Human Rights Framework should be integrated into World Athletics' broader risk process (including its ESG (Environmental, Social and Governance) risk processes) for all decisions that impact on people involved or connected to its spheres of operation to be made by management, the Risk Committee, the Executive Board and Council. However, any such integration must recognise the different methodology used in the human rights risk assessment process from that used to assess organisational risk. For example, a severe or major risk to the organisation is usually measured by the likelihood and impact of the risk on the organisation's ability to carry out its activities. Whereas, using a human rights approach, risks to people are assessed by the nature and severity of the potential harm, even if that is only to one person, as well as their likelihood. Severe risks to people, even if unlikely to occur still need to be prioritised for attention. The process for assessing risks to people also requires input from external stakeholders including those potentially affected by the risk, which is not always the case for assessing organisational risk.

The Human Rights Framework should apply to all decisions made by World Athletics which impact on people involved or connected to its spheres of operation, but as a minimum should be used for assessing risks on the following key matters:

- bids for World Athletics Series events, including World Championships;
- contracts for host cities and local organising committees;
- contracts for all commercial partners;
- major transactions;

- all rules and regulations (including amendments to them); and,
 - the delivery of World Athletics initiatives and programmes.
- c. Council should request the Executive Board to review the terms of reference of the Risk Committee to expressly include human rights risks.
- d. The World Athletics Ethical Compliance Officer, management, members of the Risk Committee, the Executive Board and Council, all of whom are involved in assessing and managing risk, should receive training on human rights, and the application of the Human Rights Framework in practice.
- e. Before any new rules and regulations are developed, or existing rules and regulations are amended, the Human Rights Framework should be used to identify and assess risks of harm to athletes and other people and include measures to minimise them.

Recommendation 5 – Develop a Human Rights Strategy //

World Athletics should develop a Human Rights Strategy, which sets out its priorities for human rights and the steps to implement them over a specified period. This Strategy should be monitored and the progress against it, reported annually to the Member Federations.

To give effect to this recommendation, the HRWG recommends that:

- a. A Human Rights Strategy should be approved by Council (on the recommendation of the Executive Board). It should be developed with guidance of a person with human rights expertise (see Recommendation 2) and include goals and steps that are specific and time bound. Once approved, Council should request the Executive Board to approve the necessary resource requirements to implement this Strategy. This Strategy should:
- consider and refer to other strategy and planning documents of World Athletics, so that human rights is integrated into wider strategic documents, such as the proposed World Plan for Athletics;
 - the current World Athletics’ Strategic Plan and the World Athletics 2030 Sustainability Strategy;
 - include the objective that Area Associations and Member Federations be supported to adopt the same commitment to human rights as World Athletics, and to implement procedures to respect and promote human rights using a human rights approach;

- when existing rules, regulations and policies of World Athletics are proposed for amendment, to review them, using the Human Rights Framework, and if required, be amended to ensure that these mechanisms do not, and will not, inadvertently cause or contribute any harm to people within World Athletics' spheres of operation; and,
 - incorporate actions on the gaps identified and recommendations made in this Report.
- b. In particular, one of the goals in the Strategy should be to seek approval from the Member Federations at a future Congress to amend the Constitution of World Athletics to record its commitment to respect and promote all internationally recognised human rights. The HRWG considers it is premature to do this now while there is ongoing litigation and until there is improved understanding and buy-in for the proposed human rights approach throughout World Athletics and its members, and steps have been undertaken to implement it.
- c. Council should undertake a review of its progress against each of the Recommendations using human rights expertise, and report on such review as part of its Annual Council Report and to each Congress, commencing in 2023.
- d. In recognising the support and expertise of the CSHR, World Athletics should consider becoming a member of the CSHR Advisory Council so that it joins the global community of organisations in sport, which are committed to respecting and promoting human rights.
- e. World Athletics should continue to call upon the expert advice and guidance of CSHR in developing and implementing the Human Rights Strategy, along with other human rights experts.

Recommendation 6 – Implementation Plan //

The recommendations in this Report should be implemented over the next three to five years taking into account the resources and capacity of World Athletics.

To give effect to this recommendation, the HRWG recommends that Council, together with the Executive Board, approve an implementation plan which sets out a timetable for the implementation of each Recommendation taking into account the other priorities of World Athletics, the costs of the Recommendations and its resources.



Centre for Sport
& Human Rights

Shift

Independent Comment by the Centre for Sport and Human Rights and Shift on the Report by World Athletics' Human Rights Working Group

14 July 2021

The Centre for Sport and Human Rights (CSHR) is the leading organisation advancing a world of sport that fully respects and promotes human rights. Shift is the leading non-profit centre of expertise on the UN Guiding Principles on Business and Human Rights. Our joint role in this process was to provide expert advice to the Human Rights Working Group (WG) on relevant human rights standards and their implications for World Athletics' operations.

We would like to acknowledge the significant effort made by all the members of the WG to build their knowledge of human rights over the past several months and apply this to develop fit-for-purpose recommendations intended to improve and future-proof their sport. Throughout this process, we have sought to act as 'critical friends' to the WG. We have appreciated the robust, but always constructive, dialogue we have had with the WG under the leadership of its Chair. In our view, the WG's final report contains a set of realistic recommendations that can help WA meet growing stakeholder expectations, as well as authoritative international standards, on human rights. Our intent in making this independent comment is to put particular emphasis on some aspects of the WG's recommendations that we believe are fundamental to a credible approach to managing human rights risks by any sports organization, and which should therefore be at the core of WA's implementation efforts. Without them, the overall logic of the WG's recommendations would risk being undermined.

Before turning to our specific comments, we want to put them in the context of broader developments on sport and human rights. There has been a significant and rapid evolution in the last few years in how sports bodies are expected to manage their impacts on people. States, commercial sponsors and broadcasters, fans and consumers, NGOs, trade unions and – crucially – athletes themselves increasingly expect sports governing bodies to have robust policies and processes in place to prevent and address harm to people in connection with sport. This is essential if we want to maximize the promise of positive outcomes for people that sport offers.

Sports bodies need to put these 'human rights due diligence' processes in place across their three main spheres of activity – as employers and procurers of goods and services, as owners or convenors of major competitions, and in their governance roles for sport at large. Both Shift and CSHR have practical experience in supporting sports bodies, and in working together with other stakeholders, to implement these new expectations. We have seen first hand how the pace of this change can be challenging for any organization to grapple with. Yet we have also seen that sports bodies that can get ahead of these evolving expectations are the ones best prepared for future challenges.

Stakeholders already expect sports bodies to meet a higher standard of due diligence in key areas, including in proactively tackling harassment and other forms of harm to athletes, in building and using leverage to mitigate human rights risks connected to the hosting of major competitions, and in integrating greater athlete voice and representation into their decision-making. The same human rights due diligence processes that sports bodies need to adopt to manage these challenges can also help inform their approaches to new and emerging human rights issues.

It is in that light that we welcome the WG's recommendations. They propose a series of steps that can help strengthen WA's existing human rights efforts (which the WG has described as relatively piecemeal and fragmented to date), and set an appropriate foundation for recognising and acting on the full scope of WA's responsibility to respect human rights in the future. We recognise that these recommendations rightly leave some discretion to WA in how to implement them; at the same time, it is important to protect key elements that will be essential to the credibility of any future approach.

In our view, five elements in the WG's recommendations that require particular emphasis are:

1. **Adopting a clear and unequivocal commitment** to recognizing WA's responsibility to respect human rights, in line with the authoritative standard of the UN Guiding Principles on Business and Human Rights;
2. **Embedding access to human rights expertise into WA's own operations** (and specifically expertise in the relevant international standards);
3. **Carrying out meaningful engagement with stakeholders who are or may be affected** by WA's decisions, or with credible proxies for their views where direct engagement is not possible;
4. **Prioritizing the most severe risks to people** that WA may be connected to for attention and effort, including considering WA's role in **enabling remedy** where harm has occurred;
5. **Providing a timeline for, and transparency about, the steps WA is taking** to meet its commitment to respect human rights, including a regular review of its progress against each of the recommendations, informed by appropriate human rights expertise.

We hope that Council will welcome the recommendations in their entirety and we look forward to WA's next steps on this important agenda.

Rachel Davis



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Mary Harvey



CEO, Centre for Sport and Human Rights