

Recommendations for an IOC Human Rights Strategy

Independent Expert Report by Prince Zeid Ra'ad Al Hussein and Rachel Davis

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Table of Contents

A.	Introduction	1
B.	Recent Developments in the IOC’s Human Rights Approach	3
C.	Current Human Rights Challenges Facing the IOC	7
D.	Proposed Response: A Strategic Framework on Human Rights for the IOC Aligned with UN Standards	11
E.	Analysis of How an IOC Response Should Converge with the Changing Landscape of Sports and Human Rights	16
F.	Overarching Principles Guiding Our Recommendations	20
G.	Detailed Analysis and Recommendations	24
	1. Articulating the IOC’s human rights responsibilities	
	2. Embedding respect for human rights across the organization	
	3. Identifying and addressing human rights risks	
	4. Tracking and communicating on progress	
	5. Strengthening the remedy ecosystem in sports	
	Next Steps	40
	About the Authors	42

PART A

Introduction

As former United Nations Secretary-General Ban Ki-moon stated at the 2009 Olympic Congress in Copenhagen:

“Olympic Principles are United Nations Principles”.

This report sets out our recommendations for the **International Olympic Committee** (IOC) on how to meet its human rights responsibilities and demonstrate leadership on human rights for the Olympic Movement as a whole through a comprehensive strategy on human rights that both builds on Agenda 2020 and is aligned with core United Nations (UN) standards.

In May 2018, the IOC began working with the expert non-profit organization Shift to review and strengthen its existing human rights work. This support has been led by Rachel Davis, Vice President and Co-Founder of Shift. In late 2018, the IOC announced the creation of a new Human Rights Advisory Committee to be chaired by Prince Zeid Ra’ad Al Hussein, former UN High Commissioner for Human Rights. In early 2019, the IOC asked Prince Zeid and Rachel Davis to work together to assess the IOC’s current approach and make recommendations on the core content of a strategic framework on human rights for the organization. This report is the result of that work.

During 2019, we carried out the following activities:

- A landscape review of the evolving intersections between sports and human rights;
- A review of public and internal IOC documents relevant to human rights;
- Several rounds of discussions with representatives of the IOC Administration from across a range of departments and functions (including Sustainability, Legal, Sports, Games, NOC Relations, Ethics and Compliance, the Olympic Refuge Foundation, Medical, and Internal Audit), supported by Public Affairs;
- A deeper SWOT analysis of the IOC’s current human rights work, building on a first analysis by Shift in 2018;

- An analysis of the specific challenges and opportunities in the IOC's work on prevention of harassment and abuse in sport (PHAS), in close liaison with the team supporting HRH Prince Faisal bin Al Hussein on this topic;
- Two rounds of in-person, full-day consultation with expert civil society stakeholders in New York and Geneva, supplemented by phone calls (including Amnesty International, Athlete Ally, Building and Woodworkers' International, Centre for Sports and Human Rights, Committee to Protect Journalists, Human Rights Watch, ILGA World, International Trade Union Confederation, Sports and Rights Alliance, Transparency International, Unicef UK, and World Players Association); and
- Two in-person discussions with the President and other senior IOC staff on specific human rights topics.

Drawing on the insights from this work, we then jointly developed the analysis and recommendations in this report. It is important to note that the perspectives of key staff within the Administration directly informed a number of our recommendations but that those recommendations were not tested in detail with the relevant departments, except in the case of PHAS. We discussed a draft version of this report with the President, Director General and senior Public Affairs staff at an in-person discussion in February 2020. No substantive changes were made to the report following that meeting.

This report has six main sections:

- A review of recent developments in the IOC's approach to human rights (**Part B**);
- Reflections on current human rights challenges facing the IOC (**Part C**);
- A proposed response: A strategic framework on human rights for the IOC aligned with UN standards (**Part D**);
- Analysis of how this response should converge with the changing landscape on sports and human rights (**Part E**);
- A set of overarching principles that have guided our thinking and development of this report and recommendations (**Part F**);
- Our detailed analysis and recommendations on the core content of a new strategic framework for the IOC (**Part G**).

In conclusion, we briefly reflect on critical next steps by the IOC.

PART B

Recent Developments in the IOC's Human Rights Approach

At its core, human rights is about valuing and ensuring individual dignity. Respect for peoples' dignity is fundamental to the IOC's values and the mission of advancing Olympism.

It is stated explicitly in the Olympic Charter in Fundamental Principle 2: “The goal of Olympism is to place sport at the service of the harmonious development of humankind, with a view to promoting a peaceful society *concerned with the preservation of human dignity*” (emphasis added).

The Charter also makes more explicit references to human rights. Fundamental Principle 4 recognizes that “[t]he practice of sport is a human right” and that “[e]very individual must have the possibility of practicing sport, without discrimination of any kind” – which means the very ability to access sport in the first place. Principle 6 elaborates on this, stating that: “The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind, such as race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth or other status” – language almost identical to Article 2 of the two great international covenants on human rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The IOC Code of Ethics is also an important reference point for the organization. Fundamental Principle 1 in the Olympic Charter states that “Olympism seeks to build a way of life based on ... respect for universal fundamental ethical principles”. The Code of Ethics seeks to define this broad term in Article 1 to include a number of issues, one of which is “[r]espect for international conventions on protecting human rights insofar as they apply to the Olympic Games’ activities and which ensure in particular: - respect for human dignity; - rejection of discrimination of any kind on whatever grounds ...; -

rejection of all forms of harassment and abuse”. (We discuss the limitations of this provision later on in our recommendations.)

Thus discriminatory access to, or treatment within, sport it is a breach not only of the Olympic Charter and the IOC Code of Ethics, it is also a breach of international human rights law. It is worth noting that under Rule 1.4, “any person or organization belonging... to the Olympic Movement is bound by the provisions of the Olympic Charter”, which is a compulsory statement in legal terms.

In 2015, the IOC Session adopted a new Vision for the Olympic Movement that integrates core human rights concepts, including “respect” for people as one of its three central values. It recognizes that one of the Movement’s core missions should be to “put athletes at the heart of the Olympic Movement” and that another is to “Promote sport and the Olympic values in society, with a focus on young people”. Sustainability – which involves preventing negative and maximizing positive social, as well as environmental, impacts – is identified as one of four core working principles. Sustainability is also highlighted in Agenda 2020 as a principle to be driven into all aspects of the Olympic Games and of the Olympic Movement’s daily operations.

For the IOC as an organization, its mission and role as defined in Rule 2 of the Charter encompasses numerous elements that are relevant to human rights, including to:

- Act against any form of discrimination (2.6);
- Encourage and support elected representatives of athletes within the Olympic Movement (2.7);
- Encourage and support the promotion of women in sports at all levels (2.8);
- Protect clean athletes (2.9);
- Encourage and support the medical care and health of athletes (2.10);
- Encourage and support the social and professional futures of athletes (2.12);
- Promote a positive legacy from the Olympic Games for host cities, regions and countries (2.15);
- Promote safe sport and the protection of athletes from all forms of harassment and abuse (2.18).

In view of these foundations, it is not surprising that the IOC has carried out important work on human rights, even if it has not always been explicitly labeled or identified as such. Examples include the IOC's long history of work on Social Development through Sport, the inclusion of protections for press freedom in the Host City Contract and a Games-time reporting mechanism for journalists, the integration of supply chain labor rights standards into the IOC's Sustainability Strategy and requirements of Organizing Committees for the Olympic Games (OCOGs), the adoption of the expanded 2016 consensus statement on harassment and abuse in sport, work to advance gender equality in sport, and guidance and support for National Olympic Committees (NOCs) and OCOGs on a number of these issues.

Since early 2018, the IOC has stepped up this work and become more explicit about the centrality of human rights to its operations. Notable steps by specific departments since 2018 include:

- Legal, Games and Public Affairs working together on the integration of human rights requirements based on the UN Guiding Principles on Business and Human Rights (UN Guiding Principles) into the Host City Contract 2026 and the 2018 Operational Requirements (ORs) and engagement with Beijing, Paris, and Los Angeles on uptake of the new ORs and development of their human rights strategies;
- Similar integration of the UN Guiding Principles into the hosting agreement for the Youth Olympic Games (YOG) in Dakar and work by the YOG team, supported by Public Affairs, to engage the Senegalese government on implementation;
- Leadership by Medical on the critical issue of PHAS, including through an amendment to the Olympic Charter (Rule 2.18, cited above), the creation of Games-time reporting mechanisms for harassment and abuse, and the roll out of a tool-kit and program of capacity-building that will see around 25 Olympic international federations (IFs) with PHAS policies and processes in place by early 2020;
- Public Affairs, Sports and Medical integrating a comprehensive process of consultations with transgender and intersex athletes, as well as other external stakeholders and IOC members, into the review of the IOC's current position on fairness, inclusion and non-discrimination based on gender identity or sex characteristics;

- The Sports department driving greater attention within NOCs and IFs towards athletes' well-being through implementation of the "Athletes' Rights and Responsibilities Declaration" including by developing guidance on the core content of agreements between sports bodies and athletes;
- Sustainability exploring how to align its new strategy with human rights expectations as reflected in the UN Guiding Principles, and developing further guidance for OCOGs in this area including a Sourcing Code;
- Development of a detailed tool-kit on "Sport for Protection: Programming for Young People in Forced Displacement Settings" that integrates respect for human rights in project design and which will guide the work of the new Olympic Refugee Foundation;
- The launch of the Gender Equality Review Project and follow up actions by the Gender Unit within the Corporate and Sustainable Development Department, including the adoption and promotion of "Portrayal Guidelines for Gender Balanced Representation";
- Legal integrating human rights requirements into contracts with key business partners and supporting internal education on the UN Guiding Principles;
- Procurement adopting a supplier code that integrates the UN Guiding Principles into the IOC's own procurement processes.

This is evidence of the IOC responding to, and in some cases driving a way forwards on, critical human rights issues in sports. At the same time, the IOC is already running into the consequences of a lack of internal mechanisms to follow-up on a number of these efforts, including to monitor partners' performance on human rights and to play its appropriate role in seeking to ensure that human rights harms are addressed across the Olympic Movement.

Moreover, as the IMD Review of Good Governance at the IOC already observed in 2017, much of this work has happened in silos, independently of an overarching or coordinated approach on human rights.¹ In our view, this is now being compounded by the lack of clarity about the nature and scope of the IOC's responsibilities for preventing and addressing human rights impacts within the Olympic Movement, which we discuss

¹ IMD, "Good Governance at the International Olympic Committee: Summary of Recommendations", 7 July 2017, p 16.

in Part D below. This raises serious questions about whether the IOC is as prepared as it needs to be for the human rights challenges that will confront it in 2020 and beyond.

PART C

Current Human Rights Challenges Facing the IOC

Notwithstanding the many positive steps taken by the IOC in recent years to protect athletes and other stakeholders from various harms connected to the practice of sport across the Olympic Movement, or to the hosting of Olympic Games, media reports of various abuses persist stubbornly.

Perhaps nowhere is this more evident than in the continuing prevalence of cases of harassment and abuse across the Olympic Movement. In late 2018, the Ropes and Gray report detailed the “ecosystem that facilitated [Larry Nassar’s] criminal acts” in the context of US gymnastics, including the policies, processes and cultures of the US Olympic and Paralympic Committee (USOC) and USA Gymnastics (USAG).² The report found that USOC and USAG “both adopted general governance structures and specific policies concerning sexual abuse that had the effect of allowing abuse to occur and continue without effective intervention. As the USOC evolved toward a more traditional corporate governance model, it did not meaningfully involve athletes in decisions or policy-making; nor did it provide an effective avenue for athletes to raise or resolve complaints involving sexual misconduct matters.”³

Practices involving harassment and abuse appear to have roots in virtually all sports and in all countries – and all too often in these kinds of governance failures within national sports bodies. In 2019 alone, allegations of rape made by two prominent short-track skaters in the Republic of Korea were widely reported, a similar allegation was made in France by a former figure skater against her former coach (which has now led to a criminal investigation by the state into broader claims of abuse of minors within the sport), an Austrian Olympic Judo champion was convicted for perpetrating abuse

² Joan McPhee and James Dowden, “Report of the Independent Investigation: The Constellation of Factors Underlying Larry Nassar’s Abuse of Athletes”, December 10, 2018, p 2.

³ *Ibid*, p 4.

against two girls he had coached, and leading figures in American showjumping, once competitors themselves, were censured for their years of inflicting abuses on minors.

Our consultations with expert stakeholders to inform this report, including with affected stakeholders who have experienced abuse themselves, confirmed the widespread nature and severity of these types of harms. Indeed, the IOC itself recognizes that tackling PHAS across the Olympic Movement will require not only more resources but innovative new approaches.

As the 2016 IOC Consensus Statement on harassment and abuse in sports recognized, LGBTI+ athletes may be at particular risk of harm and structural discrimination. The question of how different IFs approach eligibility requirements for female competition came under the spotlight in 2019 with various UN bodies (including OHCHR and individual Special Procedures of the Human Rights Council), as well as Member States, questioning the severe harms being experienced by women with sex variations and by transgender women as they seek to access competition, in some cases including coerced surgeries. The IOC's own approach to this issue is now under close review by the organization. While it is not yet clear what position the IOC will adopt in 2020, human rights standards must help to inform the result.

More broadly in the athletes' rights space, the debate about the application of core labor rights standards to athletes as workers has now been put formally on the table at the International Labour Organization (ILO) and was a focus of our discussions with external stakeholders. This debate, as well as broader calls for strengthened athlete voice and representation in line with international human rights standards, will require new thinking from all sports bodies. It will be important for the IOC to be able to distinguish the arguments that are grounded in greater respect for athletes' human rights, including in relation to representation, from broader arguments about athletes' growing commercial power (as de facto rights owners and even broadcasters) if the organization is going to find a principled approach to engaging in this debate.

Turning to the second sphere of the IOC's operations – the organization of upcoming Olympic and Youth Olympic Games – there are a number of urgent issues for the IOC to engage with. In 2019, we saw that persistent allegations of supply chain human rights (and environmental) violations connected to the organization of the Tokyo Games could not be effectively resolved. In the case of the Olympic Winter Games in Beijing in 2022, in our view, the human rights impacts that could be connected to the Games are severe – as our consultations with expert civil society stakeholders also confirmed – and addressing them remains challenging. In the case of Paris 2024, the national legislative context is supportive of human rights; the IOC and its OCOG partner are still working

out how to integrate the additional expectations contained in the new ORs into its existing Games management approach. While the YOG in Senegal in 2022 offers substantial opportunities to advance respect for human rights, achieving this will depend on a coherent strategy to address chronic child protection issues in connection with the event, implemented through a new type of relationship between the IOC and the government as its official counterpart.

In summary, the IOC will need to take on new kinds of roles if it wants to see its new human rights expectations of hosts realized in practice.

With regard to the IOC's first sphere of operations, the Administration, there are also challenges ahead. As noted above, the IOC has adopted important new standards in relation to its own procurement approach, and has begun integrating language into contracts with key business partners, including sponsors in The Olympic Partners (TOP) program as well as new relationships, such as with the uniform supplier Anta Sports Products. However, even limited due diligence reveals human rights risks connected to these relationships. It will be a struggle for the IOC to monitor compliance with its expectations; the organization will need to think creatively about how to use leverage to push its partners to address severe risks to people connected to their operations, and be prepared for some difficult conversations.

In his introduction to Agenda 2020, President Bach stated:⁴

“If we do not address these challenges here and now we will be hit by them very soon. If we do not drive these changes ourselves others will drive us to them. We want to be the leaders of change, not the object of change (...)

We need to change because sport today is too important in society to ignore the rest of society. We are not living on an island, we are living in the middle of a modern, diverse, digital society... This society is changing faster than ever. This society will not wait for sport to change.”

This holds particularly true on human rights.

As the challenges above illustrate, what the IOC now needs is an integrated, strategic approach that enables the organization to adopt coherent positions across a wide range

⁴ IOC, “Olympic Agenda 2020: 20 + 20 Recommendations”, December 2014, p 2.

of issues, identify emerging human rights risks and seek to address them, using its various forms of leverage and in partnership with others where needed. This approach should be focused on proactively tackling the most severe risks to people, not merely reacting to risks to the organization or the Movement when they hit. Finally, this strategic approach should be anchored in a recognized and legitimate framework that is aligned with international human rights standards and that all stakeholders support. In our view, that framework can only be the UN Guiding Principles.

On the one hand, we understand the IOC might hesitate to embrace a framework that appears to be addressed to “business” when the IOC is a not-for-profit association with a social mission. On the other, the UN Guiding Principles are the only globally agreed standard that carries the authority of the UN that can help translate international human rights standards to the realities of an organization like the IOC in a way that is both principled and pragmatic, and that aligns with the expectations of states, sponsors, athletes and civil society stakeholders alike.⁵

We describe the basis of that framework in the next section.

⁵ It is worth noting that the application of the UN Guiding Principles to sports governing bodies, many of which are constituted as associations under Swiss law, was affirmed by the Swiss Government's National Contact Point (NCP) in a decision holding that the “OECD Guidelines for Multinational Enterprises” (which incorporate the UN Guiding Principles) applied to FIFA. In that case, the NCP held that the “key question” in determining whether the OECD Guidelines apply to an entity is “whether an entity is involved in commercial activities, independently of its legal form or sector of activity”. See “Initial Assessment of FIFA, 2015”, available at http://businesshumanrights.org/sites/default/files/documents/Swiss_NCP_-_Initial_Assessment_FIFA_13-10-2015.pdf.

PART D

A Proposed Response: A Strategic Framework on Human Rights for the IOC Aligned with UN Standards

To build on its work to date, respond to existing human rights challenges, get ahead of emerging ones, and take account of changing stakeholder expectations (discussed in the next section), the IOC needs to clarify how it understands its responsibility for human rights. Doing so will help bring coherence to its human rights efforts, and enable it to lead the Olympic Movement's engagement with a range of salient human rights issues for sports.

As stated above, we believe that the UN Guiding Principles are the logical reference point for clarifying the IOC's responsibility and developing a strategy to put this into action. In this section we explore the key contours of this shift in understanding of responsibility and what it would mean for the IOC in practice.

1. Moving from a model based on legal liability and control to one based on responsibility and leverage

We believe it is helpful to start by unpacking some frequently used terms. The IOC's current understanding of its "responsibility" for a wide range of issues is informed by its three spheres of operations:

- Its **own administration's activities** (such as recruitment and retention, procurement and negotiation of sponsor and other commercial relationships);
- Its **role as organizer of the Olympic Games** (through its legal agreements with local hosts and the processes it uses to follow up on their commitments); and
- Its **role as an authoritative leader of the Olympic Movement** (including its relationships with NOCs, IFs, and with other bodies that are central to the governance of global sports, such as WADA and ICAS).

The IOC's responsibility is currently seen through the lens of its *influence* – where it has control over an activity or entity (most often in the first sphere), it accepts that it has responsibility for the impacts connected to those activities. This understanding of responsibility largely equates “responsibility” with legal liability.

In the second sphere, the IOC has carved out a very deliberate definition of its responsibility (or “jurisdiction”) to cover key activities during the period of the Olympic Games. The rest of the tournament cycle is primarily the (legal) responsibility of the OCOG.

In the third sphere of its operations, the IOC perceives itself as having diminishing ability to influence the behavior of other entities, with some influence possible over NOCs and over IFs that are dependent on the Olympic Games and solidarity system for the majority of their revenue, but with less influence over IFs that are financially independent. The IOC also (deliberately, through creating firewalls) does not have influence over the operational activities of bodies like WADA. In this sphere, the IOC might be said to see itself currently as having a “role” to play, but not a “responsibility” because it lacks the influence to control the behavior of the entities causing or contributing to harm and so cannot be seen as liable for those impacts.

Yet the concept of “influence” actually has two distinct meanings. On the one hand, it can mean having or being connected to an *impact* on someone or something – in this case, a human rights impact. On the other, it can mean having or being able to build *leverage* over another entity so as to seek to change their behavior – in this case, to try to mitigate human rights risks. The UN Guiding Principles unpack the concept of influence by using “connection to impact” as the basis for an organization's *responsibility* to respect human rights, and *leverage* as an umbrella term for the wide array of tools and creative approaches that an organization can bring to bear to try to address a situation of human rights harm. Exactly what action an organization is expected to take will depend on *how* it is connected to the impact and what is reasonable as a result.

2. Modes of connection to human rights harms and what can reasonably be expected of the IOC

Most organizations are comfortable accepting that they have a responsibility for impacts on people that they cause or contribute to; they are less comfortable accepting a responsibility for impacts that they are *linked* to through the actions of other entities that they do not control. Yet this latter kind of connection speaks directly to the IOC's third sphere of operations.

The IOC accepts it has a leadership role to play within the Olympic Movement – a large and very diverse group of entities, each of which has their own areas of control and authority. The IOC can therefore be connected, or linked, to a huge range of potential and actual impacts on people through the activities of NOCs, IFs and other entities within the Olympic Movement. Embracing a responsibility to respect human rights throughout its three spheres in line with UN human rights standards does *not* mean that the IOC would suddenly become legally liable for all these impacts. Instead, it would help to define reasonable expectations of the IOC for preventing and addressing severe impacts on people, including in its leadership role for the Movement, and establish a common language on human rights to use with stakeholders.

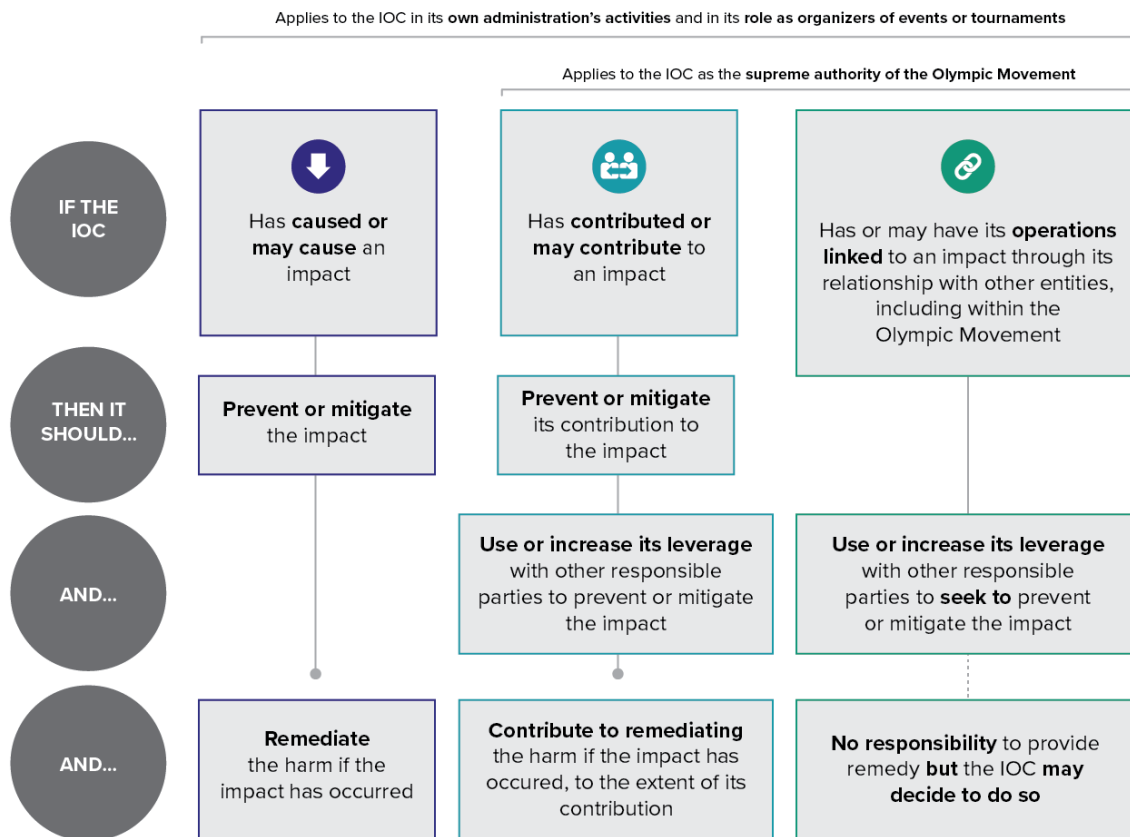
Where the IOC has caused or contributed to an impact through its own activities, then it is clearly expected to help address that situation. Where the IOC is connected or linked to an impact through its relationships with other entities, but has not caused or contributed to the impact, then it is expected to use leverage to seek to drive gradual but measurable progress towards addressing it by encouraging, supporting or incentivizing the relevant entities to change their behavior. It is important to note that if the IOC were to *do nothing* to seek to address well-known, ongoing and severe human rights impacts that it is linked to through its leadership role in the Movement, at some point a credible argument might be made that it is, in fact, contributing to such harms through its omissions or silence about them.

For the IOC, *leverage* is a particularly important concept. As the global leader of the Olympic Movement, the IOC does not have the luxury of refusing to engage with members of the Movement; that would conflict with the solidarity system and with its unique mission. However, the IOC has a range of levers that it can use to try to influence the behavior of NOCs, IFs or OCOGs – from guidance and practical capacity-building, to integrating requirements into agreements, to quiet political pressure, to collaboration with other Olympic Movement entities, states or bodies like the UN, to sanctions under the Olympic Charter or relevant agreements. All of these – and other – levers will be relevant in preventing and addressing human rights risks.

For example, Rule 2.18 does not recognize a “jurisdictional limit” on the IOC’s role in the area of PHAS, and the IOC is already taking a range of actions to advance this commitment across its third sphere of operations by using leverage to try to influence the behavior of NOCs and IFs to meet their own responsibilities to prevent and address PHAS-related impacts. The question for the IOC is whether it is fully using all the tools and approaches as its disposal to try to push others to take their own human rights responsibilities seriously, up to and including attaching human rights requirements to funding disbursements, enabling new pathways for remedy, and using sanctions under

the Olympic Charter. The IOC should have a principled approach to when to use sanctions – individual or organizational – to address severe risks to people, not only risks to sports or to the organization.

The graphic below summarizes how this framework of expectations would apply to the IOC.⁶



3. Making it manageable: Adopting human rights due diligence and grievance processes

For any organization within a complex system, managing human rights risks typically requires prioritization since not everything can be done at once. For the IOC, this will be essential. Prioritization with a human rights lens means prioritizing efforts to tackle the

⁶ Graphic courtesy of Shift Project, Ltd. All Rights Reserved.

most severe risks to people, not only the most severe risks to the organization. Of course, some severe human rights risks may also be risks to the organization or its broader mission, as is clearly the case with PHAS.

To manage this, organizations should put in place systems for “human rights due diligence” – an ongoing, proactive process of managing risks to people – as well as processes to receive and address grievances when harms occur. For the IOC, this would significantly enhance the organization’s ability to handle a wide range of existing human rights issues, as well as future ones, by regularizing the way in which human rights risks are identified, mitigated, monitored and communicated about, in line with international human rights standards. This should include deliberately integrating the perspectives of affected stakeholders – those who are impacted or at risk of being impacted – into the IOC’s due diligence processes.

To understand how they may be connected to human rights impacts, and whether their efforts to meet their responsibility are effective, organizations need to conduct *meaningful* engagement with *affected* stakeholders. Both qualifiers are important: meaningful engagement means ensuring stakeholders have the necessary information to provide concrete input; finding appropriate modes through which to consult with them; acting on their input by integrating it into decision-making; and providing feedback on how it was (or was not) used.

Affected stakeholders are those people or groups whose human rights are or may be negatively affected in connection with the organization’s operations. For the IOC this can include many different groups of athletes – such as women, LGBTI+ athletes, young athletes, or athletes from racial or ethnic minorities – as well as journalists, volunteers, fans, workers and local communities connected to the hosting of the Games. Affected stakeholders can often lack voice or influence in decision-making processes, yet they are the ones most deeply affected by them. We believe that the IOC is aware that their views matter, yet currently lacks the structures to support regular, meaningful engagement with them across the IOC’s operations as part of how the organization identifies and takes action on human rights risks.

In sum, we think that recognizing its responsibility to respect human rights, and grounding that in the framework of UN human rights standards, including the UN Guiding Principles, will bring organizational clarity, efficiency and strategic focus to the IOC’s human rights efforts. It will also align with the expectations of key stakeholders, including states and the UN itself, as we explain in the next section.

PART E

Analysis of How an IOC Response Should Converge with the Changing Landscape of Sports and Human Rights

It is timely that the President commissioned us to provide these recommendations given the heightened attention to human rights harms connected to sports and the corresponding demand from stakeholders to better integrate respect for human rights into how sport is conducted, supported and governed globally. A growing number of states, international organizations, sports governing bodies, athlete organizations, sponsors and civil society stakeholders have recognized the need to clarify the respective obligations and responsibilities of states and sports bodies for ensuring respect for human rights in sports. Their commitments, actions and expectations have coalesced around the authoritative global standard of the UN Guiding Principles, informed by the policy framework of the UN Sustainable Development Goals (SDGs or Global Goals).

In this section, we briefly survey this landscape and how the IOC's response to ongoing human rights challenges can converge with these changed expectations.

1. Action by states and the UN

Respect for human rights – the essential conditions that all of us need to live lives of dignity and equality – is woven into the fabric of the SDGs. Importantly, the role of sport as an enabler of sustainable development was explicitly recognized in 2015 when the Global Goals were adopted. Sport can play a critical role in the attainment of a range of specific targets, particularly for those who are most vulnerable or marginalized.

It is worth noting that “leave no one behind” – the mantra of the SDGs – cannot be realized for the vast majority of goals without ending structural discriminations in society. Indeed, the right to access sport is grounded in the broader right to equal and non-discriminatory access to take part in cultural life set out in Article 15 of International Covenant on Economic, Social and Cultural Rights. This is supported by specific provisions in other UN Conventions addressing the right to access sport for potentially vulnerable groups or those that may suffer from structural discrimination, including

women, children, and persons with disabilities. This grounding is evident in the increasingly explicit expectations of states and UN entities that sports bodies will integrate respect for human rights into their operations.

The 2017 Kazan Action Plan is the leading, consensus-based framework for states to strengthen the connections between sports policy and the SDGs. It was adopted by the Sixth International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS VI) and endorsed by the UNESCO General Conference. The third pillar of the sports policy framework supporting the Action Plan addresses the integrity of sports and provides that “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*”.⁷ This includes safeguarding athletes, spectators, workers and other groups involved in or connected to sports to ensure their human rights are fully respected, as well as undertaking specific efforts to protect children, youth and other vulnerable groups from harm.⁸

In December 2018, the UN General Assembly welcomed the endorsement of the Kazan Action Plan.⁹ In all, more than half of all UN Member States have now declared that protecting the integrity of sports requires ensuring respect for human rights and integration of the UN Guiding Principles, with particular momentum coming from the Global South, including Pacific states. Specifically, the Action Plan has been taken up in the Antanarivo Recommendations by African sports ministers, and by the Commonwealth Advisory Body on Sport (CABOS), which is now developing a consensus statement on sports and human rights for adoption at the Commonwealth sports ministers meeting in Tokyo in July 2020.

Other UN entities have similarly supported the relevance of international human rights standards and the UN Guiding Principles to the operations of sports bodies. Examples include the work of the UN Special Rapporteur on the sale and sexual exploitation of children on child protection in sports,¹⁰ the development of the “Children’s Rights in Sport Principles” by Unicef, the report by OHCHR on the intersection of race and

⁷ UN Doc No SHS/2017/PI/H/14 REV, *Sport Policy Follow-up Framework*, “Main policy area II”, *emphasis added*.

⁸ *Ibid*, III.1 and III.2.

⁹ UN Doc A/RES/73/24, para 3, *emphasis added*.

¹⁰ UN Doc A/HRC/40/51, paras 24-31.

gender discrimination in sports,¹¹ and the consensus conclusions from the recent ILO Global Dialogue Forum on Decent Work in the World of Sport.

2. Action by sports bodies

A growing number of sports bodies are making public commitments to respect international human rights standards. For example, the IOC is a signatory to the “Brighton Plus Helsinki 2014 Declaration on Women and Sport”, which calls on sports governing bodies and others to respect the equality provisions in the Universal Declaration on Human Rights and the UN Convention on the Elimination of All Forms of Discrimination Against Women.¹² The International Paralympic Committee (IPC) is developing its own human rights approach, in line with the UN Convention on the Rights of Persons with Disabilities.

A small but growing number of sports bodies have undertaken to implement the UN Guiding Principles as a way to operationalize their commitments to international human rights standards, with the Commonwealth Games Federation and FIFA being first movers in integrating the Guiding Principles across their operations. Other sports bodies have now signed up to frameworks that incorporate the UN Guiding Principles,¹³ including IPC and the Special Olympics, as well as FIBA and UEFA. Several other Olympic sport IFs are actively considering making similar commitments. Of course, these commitments then need to be cascaded down to member associations or national federations, as they have their own responsibilities to respect human rights independent of the governing body.

3. Action by sponsors

As ASOIF recognized in its 2019 report on the future of global sports: “Beyond scale, operational and appeal challenges, the need for good governance and ethical standards around mega-events is also in the spotlight. The business world is now being held to a higher standard of professional accountability, and the public expects sports to operate to at least as high a standard as the business community, if not higher”.¹⁴

¹¹ Confidential draft shared with the IOC and on file with authors.

¹² Principle 1(a).

¹³ In particular, the “Sporting Chance Principles”.

¹⁴ ASOIF, “Future of Global Sport”, 2019, p 29.

Since 2011, a growing number of multinational companies have adopted the UN Guiding Principles as the basis of their own policy commitments, and now expect their partners – of all kinds – to commit to meet them as well. Eleven of the current 14 TOP sponsors have made public commitments to the UN Guiding Principles, either in their human rights policy statements (Atos, Bridgestone, Coca-Cola, Dow, Intel, P&G, Samsung, Visa) or in other documents that guide their businesses' approach to managing risks to people (GE, Panasonic and Toyota). Increasingly, these and other businesses are looking at their sports sponsorship relationships and asking how human rights risks are being handled by their partners.

4. Action by athletes' organizations and civil society stakeholders

There are growing calls for greater respect for athletes' human rights from athletes themselves. The WADA Athletes Commission has proposed a draft Anti-Doping Charter of Athlete Rights informed by UN human rights standards. Various athletes' advocacy organizations have called on the IOC to commit to respect human rights, including AthletesCAN, Athletes Germany, the United States Olympic and Paralympic Committee Athletes' Advisory Council, the British Athletes Commission and the New Zealand Athletes Federation. The affiliate members of the World Players Association have made similar calls.

UN standards, including the UN Guiding Principles, are the touchstone for Human Rights Watch and other partners of the Sports and Rights Alliance in their advocacy with a range of sports bodies. Finally, they form the core content of the "Sporting Chance Principles" and the broader work of the new multistakeholder Centre for Sports and Human Rights which has brought together governments, sports bodies, international organizations, civil society organizations and businesses to advance respect for human rights in sports.

As the above review indicates, with respect to states there is now a striking convergence of expectations from the Global South as well as the North, as well as among international organizations, sports bodies, sponsors, athletes and civil society, about the relevance of international human rights standards to global sports, and the UN Guiding Principles as the appropriate standard for translating respect for human rights into how sports bodies operate. We now turn to elaborating what we believe that means for the IOC.

PART F

Overarching Principles Guiding Our Recommendations

In this section, we set out six principles that have led us in developing our recommendations and that we encourage the IOC to adopt to inform its strategy going forwards.

1. Putting athletes at the center of sport means recognizing sports bodies' responsibilities towards them

Olympism recognizes the universal character of the human form and while the Charter exalts in the limits of its physical performance, it is the artistry and strength of a human being that is being celebrated – an individual who is entitled to have their human rights and their dignity respected. In other words, people are humans first, and athletes second.

According to the Olympic Movement's own Vision, athletes should be at the heart of the Movement. For this commitment to be meaningful, the 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.

What applies to athletes should also apply to the human rights of coaches, officials and other associated personnel who are essential to carrying out sports-related activities.

2. Sports-related bodies should respect the rights of all stakeholders affected by their operations

The human rights of journalists, volunteers, fans, workers and local communities connected to the hosting of events should be central to the concerns of all sports bodies and other entities involved in tournament organization. No one whose labor without

which the Olympic Games could not be undertaken as envisaged, should be exposed to any derogation of their human rights. All such bodies should also carry out human rights due diligence to prevent and address harms to people.

3. The IOC’s responsibility for human rights is broader than, and different from, the IOC’s legal liability and its ‘jurisdiction’

The IOC, as the supreme authority of the Olympic Movement, has a unique responsibility to seek to ensure the safety, security and well-being of people when other entities with the primary (legal) responsibility for doing so — the NOCs, IFs, OCOGs or the national authorities concerned – have manifestly failed, meaning that they have been unable or unwilling to discharge their responsibilities in the manner expected of them. This is not the same as the IOC being *liable* for such failures. Instead, the IOC is expected to take appropriate action based on the existence of a connection to the harm and the nature of that connection (ie, whether it has caused or contributed or is linked to the harm).

This expectation also extends beyond the IOC’s current conception of its ‘jurisdiction’ during Games-time. For example, while the IOC does not tolerate discriminatory incidents during the Olympic Games, the malevolence of discrimination usually begins far from any Olympic venues, both in terms of distance and as a function of time. It begins when a person is denied access to sporting facilities or opportunities enjoyed by those who do not suffer from structural discrimination on the basis of their race, color, sex, sexual orientation or other status, as set out in international human rights law and in the Olympic Charter. Again, this does not mean that the IOC has “jurisdiction” to address this structural discrimination through its relationship with a NOC or an OCOG in a particular country; rather, the IOC has a responsibility to use its leverage to engage its national partners on the need to prevent and address the root causes of discrimination affecting participation in sports, not just its manifestations during Games-time. The IOC has a unique leadership role to play in driving such understanding and action across the Olympic Movement.

At the same time, the IOC also has levers that are currently used to protect some important issues for the Olympic Movement (such as the autonomy of sport, or the fight against doping) but not human rights. Recognizing its responsibility to respect human rights means looking at all the levers the IOC has or could build and how they could be applied to address severe human rights risks within the Movement.

4. Enabling access to remedy for severe human rights harms in sports is essential to “responsible autonomy”

Protecting the autonomy of sport is central to the IOC’s mission. Yet the Charter itself recognizes that certain responsibilities flow from that, specifically the “the responsibility for ensuring that principles of good governance be applied” (Fundamental Principle 5). The IOC President has been explicit that autonomy must be earned through adherence to these standards – an expectation of “responsible autonomy”. States and the UN system are now signaling that sports bodies will increasingly be expected to also respect international human rights standards if they are to continue enjoying the privileges of autonomy.

This expectation is particularly important when it comes to ensuring access to remedy for human rights harms. The right to effective remedy is a foundational human rights principle. Remedy means making good a harm a person has suffered – putting someone back in the position they were in before the harm or as close to that as possible. It can involve financial compensation by the relevant individual or entity, but other forms of remedy such as apology, restitution or commitments to prevent future harms may be equally (or more) important. Organizations should have grievance mechanisms in place to provide pathways for people to raise complaints about alleged human rights harms and to seek remedy for them.

To protect the integrity of sport, the IOC and other sports bodies recognize that reporting hotlines, cooperation with public authorities and sports sanctions are essential to address threats to the integrity of the game (match-fixing, doping and so forth). To remedy or fully address severe human rights harms in sport such as harassment and abuse, new types of grievance mechanisms, modes of cooperation with public authorities and sanctions will be essential.

New mandates, capacities and expertise within the current dispute resolution architecture in sports will also be needed if affected stakeholders are to have any confidence in their ability to access appropriate remedies for human rights harms within the sports world. This applies to grievance mechanisms connected to the organization of tournaments as well.

5. Good governance is essential to, but distinct from, preventing and addressing human rights risks

Weak governance, corruption and other forms of abuse of power in organizations can significantly heighten the risk that human rights harms will occur, will not be reported, or if they are, that there will be no meaningful repercussions. The IOC's commitment to good governance and ethics is thus integral to meeting its responsibility to respect human rights. But the two are not the same: they are grounded in different standards and require different approaches, structures and skill-sets to drive them effectively.

Human rights standards are established in international law and often reflected in national law. Ethics or ethical conduct is an evolving set of standards of behavior, defined at different moments in time in different ways by different portions of society. Both serve a critical purpose. Organizational systems to instill and enforce ethical behavior often focus, as the IOC's approach does, on establishing a Code of Conduct (which covers a sub-set of individual or institutional behaviors), promoting guidance and training on it, investigating breaches and administering sanctions.

Tackling systemic human rights risks across the IOC's three spheres of operation will involve relying on the IOC's existing ethics system, but it will also need more. This will include an understanding of international human rights standards and their evolving application to new issues and contexts, as well as the ability to maximize the use of a wide range of types of organizational leverage. For example, sustained engagement and capacity-building with challenging partners, use of the IOC's own commercial leverage, working in partnership with other sports bodies, and working with international institutions or other stakeholders on new ways of tackling human rights issues – all these approaches and more will need to be deployed strategically, across a prioritized set of human rights risks that go well beyond those specified in the current Code of Ethics. Accordingly, we see these two areas as closely connected but distinct in what they entail.

Having set out the principles that have informed our thinking, we now turn to our detailed recommendations for the IOC.

PART G

Detailed Analysis and Recommendations

In this section we provide a brief summary of our analysis of the IOC's current human rights work, and make recommendations for a human rights strategy, based on five pillars:

1. Articulating the IOC's human rights responsibilities;
2. Embedding respect for human rights across the organization;
3. Identifying and addressing human rights risks;
4. Tracking and communicating on progress;
5. Strengthening the remedy ecosystem in sports.

Of course, our general recommendations need to be developed into a strategy with specific objectives, activities and targets, which can only be done from an internal organizational perspective; however, we have sought to identify the core content of such a strategy below. Recognizing that not everything can be done immediately, and that some of what we recommend requires significant change, we have made suggestions about how some recommendations could be addressed in phases over a 5-year timeline. We include a graphic at the end of this report capturing the key elements in each phase.

1. Articulating the IOC's human rights responsibilities

Summary of analysis

The IOC's core documents – the Olympic Charter and Code of Ethics – and relevant internal strategies contain important elements connected to respect for human rights. However, they do not currently reflect a consistent and comprehensive understanding of the organization's human rights responsibilities, aligned with UN human rights standards.

This is particularly true of the Code of Ethics which, as noted above, contains provisions on anti-discrimination and PHAS, but does not comprehensively explain how these and other international human rights standards are relevant to the IOC's operations and what its responsibility is in connection to them. The Code also contains an apparent limitation on the relevance of international human rights standards to the "Olympic Games", which is only one of the three spheres of the IOC's operations. This tracks the IOC's current understanding of its "jurisdiction" – meaning what an individual or entity can be held liable for in terms of a breach of the Code of Ethics – but does not accurately capture the IOC's broader responsibility to respect human rights as we have explained it above.

At the same time, it is not realistic to expect that the full scope of the IOC's responsibility to respect human rights could be articulated in a document tailored to the procedural needs of investigating and sanctioning unethical behavior. Such statements would typically be grounded in the organization's constitutional document (in this case, the Olympic Charter) and elaborated on in a policy commitment – a high-level and widely available statement that sets out an organization's intention to respect human rights across its operations with the expectation of being accountable for achieving that aim.

The lack of a single, clear definition of the organization's human rights responsibilities can be seen in existing strategies (like that for Sustainability, which remains grounded in concepts of influence rather than connection to impacts). It has also had an effect on new initiatives that seek to address human rights issues, particularly the development of the "Athletes' Rights and Responsibilities Declaration". The Declaration uses the concept of "rights" in different ways: it talks about "aspirational rights" (whereas international human rights standards are firmly established in law when the relevant treaty enters into force), and it states that it is "inspired by" international human rights standards, while in fact not being fully reflective of them. Not surprisingly, this has undermined the perceived value of the Declaration among key stakeholders, which is unfortunate given the positive intentions that informed its development.

The development of the new "Olympism in Action" strategy on the IOC's approach to Social Development through Sport (SDS) is a key opportunity to make sure that a clear understanding of the IOC's human rights responsibilities informs the commitments it will contain, particularly with regard to the most vulnerable populations, which SDS efforts are often directed at. This is particularly important because a focus of the strategy will be the IOC's Agenda 2020 commitment to deepen its engagement with youth; yet the organization currently lacks a consistent approach to child protection issues across its operations, including in the context of organizing the YOG.

Recommendations

The IOC may want to consider that:

1. The new Human Rights Strategy be based on an understanding of the IOC's human rights responsibilities across its three spheres of operations that aligns with UN standards, including the UN Guiding Principles. It should make clear that:
 - a. the IOC's responsibility arises from its connection to human rights impacts and is not limited to impacts that it causes or contributes to;
 - b. the IOC's approach to prioritizing efforts to address human rights risks will be driven by the severity of those risks to people, informed by the perspective of affected stakeholders;
 - c. the IOC's responsibility is grounded in respect for international human rights standards – meaning those rights contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the ILO Declaration on Fundamental Rights and Principles at Work, as well as UN Conventions addressed to particular groups.
2. In the first phase of the strategy, the IOC should adopt an amendment to the Olympic Charter to reflect this understanding in both the Fundamental Principles and in the specific role and mission of the IOC in Rule 2. The new Human Rights Advisory Committee should be tasked with formulating language for consideration by the President and Executive Board in this regard. In the second phase, the IOC should develop language that sets out the human rights responsibilities of NOCs and include it in Rule 27. The IOC should work towards including similar expectations of IFs under Rule 26 in the third phase of the strategy.
3. The IOC should elaborate its understanding of its responsibility through a policy commitment on human rights to be developed in the first phase of the strategy through internal consultation, including with the Human Rights Advisory Committee, and with external stakeholder input.
4. The strategy should clarify that the IOC's human rights responsibilities also apply to departments that are independent legal entities – particularly TMS, OBS, OCS and the ORF – and to how they carry out their respective operations.
5. The strategy should commit the IOC in the second phase to a review of other core documents to identify where amendments will be needed to reflect the new policy,

including the Code of Ethics and particularly the “Basic Universal Principles of Good Governance of the Olympic and Sports Movement”. This should address what is specific to bringing a human rights lens to existing good governance activities – namely, elements of good governance that *connect directly to managing risks to people*. These include:

- a. Dedication to addressing real or perceived **conflicts of interest** at all levels not only because of the organizational and reputational risks they pose but because they can undermine stakeholder confidence in how human rights-related issues will be handled and whether remedy can be obtained, meaning that there is a greater risk that complainants may simply stay silent;
 - b. Integrating an understanding of the IOC’s commitment to respect human rights into the **eligibility** requirements for IOC members and office holders, with human rights experience seen as a positive attribute among IOC members from outside the world of sports;
 - c. Ensuring **accountability** for members, officials and others not only with regard to financial matters but also with regard to how they uphold the IOC’s commitment to respect human rights, which includes being accountable to affected stakeholders;
 - d. Enhanced **transparency** beyond the current focus on financial information to include the nature and results of the IOC’s human rights efforts.
6. The strategy should also commit the IOC in the second phase to a review of high-profile documents like the Athletes’ Rights and Responsibilities Declaration from the perspective of the IOC’s clarified human rights responsibilities. Commitments to respect athletes’ human rights should also be reflected in an enhanced Principle 6 of the “Basic Universal Principles” as part of the review under recommendation 1.5 above.

2. Embedding respect for human rights in the organization

Summary of analysis

Embedding is the process of ensuring that the IOC’s human rights commitment is driven across the organization, into its values and culture. It includes making sure that staff understand how the commitment connects to their work and that they have the training, tools and incentives to act on it.

Despite the many ways in which the IOC's work currently connects with human rights, we found a lack of comfort among staff with what "respect for human rights" means in practice for the organization. This is not surprising but addressing it will be essential.

Currently, the organization has a relatively siloed approach to its work on human rights, with Public Affairs playing a vital coordinating role. However, there is a clear lack of resources within Public Affairs, and across all other relevant departments, to take on any additional work on human rights, particularly at the pitch necessary to drive a truly cross-functional approach. Accordingly, there is an urgent need to create a Human Rights Unit led by a new, senior hire and supported by appropriate human resources, to drive human rights in a strategic way for the IOC – mindful that the Human Rights Advisory Committee, which will work closely with the Unit and Lead, will only convene twice a year.

Another important need is proactive, top-level messaging on human rights. For example, Legal has been including human rights clauses in some contracts with sponsors and higher-risk business partners, and such clauses are now expected in the IOC's own procurement contracts. Yet staff are unsure about the organization's political appetite to hold its partners to account for their human rights performance. (This is distinct from whether the IOC has the necessary systems to in fact monitor whether its partners are meeting their commitments in the first place, which we discuss further below.) Clear political messaging will be essential in this regard.

Recommendations

The IOC may want to consider that:

1. It establish a Human Rights Unit under a new position of a Human Rights Lead, prominently positioned in the organization and with responsibility for developing and driving the IOC's new human rights strategy and overseeing the IOC's efforts to meet its responsibility. The Human Rights Lead position should have:
 - a. the ability to convene a cross-functional steering group at Director level to drive integration of human rights into existing and new work across the organization involving key departments, including at least Corporate and Sustainable Development, Ethics and Compliance, Legal, Sports, NOC Relations and Corporate Communications/Public Affairs;

- b. the internal resources necessary to support the IOC's human rights work – including 3-4 new hires with expertise in key human rights areas such as child protection, anti-discrimination and labor rights;
 - c. a mandate to engage other parts of the organization on how to integrate human rights into other relevant IOC strategies and work to help ensure coherence and avoid siloed efforts;
 - d. responsibility for overseeing the substantive interaction with the Human Rights Advisory Committee.
2. Initially the Human Rights Unit and Lead could be housed within the Director-General's office in order to drive a cross-organizational approach. Alternatively, it could be housed within the Corporate and Sustainable Development department as the most appropriate existing functional department to coordinate action on a wide range of approaches to leverage that will be essential to meeting the IOC's responsibility. In the second phase of the strategy, the IOC should consider relocating the Gender Equality Unit and the PHAS team within the new Human Rights Unit in order to address the anti-discrimination aspects of these topics in a more coherent way.
3. The strategy should indicate where ultimate strategic responsibility for human rights lies (with the President) and where day-to-day oversight within the house will sit (with the Director General). The IOC should consider including the Human Rights Lead in the Board of Directors as part of the broader restructuring being carried out by the Director-General and the CEO.
4. The strategy should set an expectation for the IOC's governing bodies to take full account of its human rights responsibilities in their decision-making. This should include an expectation of regular discussion of critical human rights matters by the Executive Board, on the basis of a joint briefing from the Human Rights Lead (or the responsible Director as an interim measure) and Chair of the Human Rights Advisory Committee.
5. The strategy should mandate a review in the second phase of how human rights expertise can be appropriately integrated into the composition of the Ethics Commission and into specific consultative Commissions – particularly those responsible for Coordination, Evaluation, Legal Affairs, Medical and Scientific, Public Affairs and Social Development through Sport, Sustainability and Legacy, and Women in Sport. Particular consideration should be given to how to support the Athletes Commission with human rights expertise.

6. Working with the Chair of the Human Rights Advisory Committee, the IOC should operationalize the Advisory Committee. The Chair should also be an ex officio member of the IOC Ethics Commission.
7. By the fourth phase, the IOC should review the potential to transform the Human Rights Advisory Committee into a formal counter-part of the Ethics Commission with responsibility and appropriate processes and powers for handling human rights-related complaints and issues.
8. The strategy should establish a program for practical training for key staff on the IOC's human rights responsibilities and the relevance to their job, beginning in the second phase at the latest. It should also provide for a collaboration between Human Resources and the Human Rights Lead to develop guidance on integrating objectives and incentives on human rights for key staff during the third phase.
9. The strategy should provide in the second phase for the development and rolling out of training to inform IOC members, as well as members of the IOC's various Commissions, about the IOC's human rights responsibilities and the implications for their roles and mandates.

3. Identifying and addressing human rights risks

Summary of analysis

The IOC's current approach to identifying and mitigating human rights risks is most advanced in the second sphere in its role as owner of the Olympic Games, in part through the obligations it now places on its partners to carry out such risk assessment. However, the organization's preparedness to hold its partners accountable on human rights is already being tested in the context of Tokyo 2020, as noted above. The negotiations over the 2018 ORs with future hosts illustrate the current capacity and expertise limitations within Games and Corporate and Sustainable Development that need to be addressed.

The IOC needs to develop more creative partnerships for identifying and addressing human rights risks in connection with the Games, such as with trade unions. More broadly, the New Norm creates a significant opportunity for the IOC to offer valuable support to OCOGs on human rights issues going forward, provided that the IOC allocates appropriate internal and external resources to this effort.

In engaging Olympic Movement partners to address human rights issues, such as gender equality, the IOC is already using a range of levers, but needs to adopt a more strategic approach that prioritizes engagement on severe risks like PHAS and child protection, and that uses the full range of leverage options at the IOC's disposal (as set out above). The IMD Governance Review recommended that the IOC should link the disbursement of funding to NOCs and IFs with minimum standards of good governance. The IOC should consider a similar approach to progressively linking funding to human rights performance, building over time on the issues included. For example, such an approach could start in the area of PHAS with a short set of KPIs connected to the existence of policies and processes in line with IOC guidance on the topic, with some evidence of their implementation in practice. Ensuring this would require building the appropriate expertise into all three "lines of defense" in the IOC's compliance model – within the relevant department (NOC Relations), in the new Compliance office, and in Internal Audit.

On the athlete inclusion and non-discrimination discussion, IOC leadership will be particularly important if IFs continue to pursue conflicting approaches that pose risks of severe harm to women who are transgender or have sex variations, in direct conflict with international human rights standards. Leaving a vacuum on this topic could arguably be seen to shift the IOC from a linkage position to one of contribution in connection with any harms that do occur.

Given the IOC's commitment to enhancing engagement with young people, and the central role this has in Agenda 2020 as noted above, it is striking that there is no organization-wide approach to prioritizing risks to children and youth as some of the most potentially vulnerable affected stakeholders. We believe this gap must be addressed.

The IOC will also need to dedicate effort to integrating meaningful engagement with affected stakeholders (or their legitimate representatives) into the organization's risk identification and mitigation processes, as this is not currently a regular part of how decisions are made. In our research and consultations to inform this report, we heard a widespread concern that sports generally has struggled to appropriately respect and integrate athlete voice and representation into its governance and routine decision-making. Indeed, the introduction of the Athletes' Commission model several decades ago was a recognition of this reality, and the IOC's efforts since then have sought to bring athletes' perspectives more centrally into those discussions. But the diversity of human rights issues across the Olympic Movement, and the diversity of ways in which different groups of athletes may be affected, means further evolution is needed. Athletes will need their own access to human rights expertise and advice, just as the

IOC will, if they are to meaningfully participate in discussions about how best to tackle certain issues in line with international human rights standards. As the ILO discussion concluded, “innovative approaches” to social dialogue will be needed right across sport.¹⁵

Meaningful engagement with athletes or their legitimate representatives will include trade union representatives where athletes are unionized. For other affected stakeholders, where direct engagement is not possible, the IOC should strengthen its engagement with “credible proxies” to help identify risks, such as civil society organizations, international trade union federations and human rights experts from international organizations.

Recommendations

The IOC may want to consider that:

1. The Human Rights Strategy commit the IOC to an ongoing process of strengthening human rights due diligence across its operations, including more routinely integrating the perspectives of affected stakeholders, while focusing on a series of priorities in the first phase. These should include:
 - a. Advancing the agreed strategic approach to engaging with Beijing 2022 on human rights, with support from the top levels of the organization and informed by the IOC’s own consultations with expert stakeholders;
 - b. Developing and resourcing an approach with Dakar 2022 to address the most severe risks to, and maximize a positive legacy for, affected stakeholders particularly at-risk women and youth;
 - c. Strengthening the IOC’s leadership in addressing PHAS in line with its Charter responsibility, particularly by using the full suite of approaches to leverage and by driving an enhanced remedy ecosystem across the Olympic Movement (discussed in Section 5 below);
 - d. As a first step in integrating the IOC’s human rights responsibilities into its work to advance athletes’ rights more broadly, providing for the Human Rights Lead to work with Sports on integrating this perspective into its

¹⁵ ILO, “Global Dialogue Forum on Decent Work in the World of Sport: Points of Consensus”, January 2020, para 26.

engagement with the Athletes Commission and the development of relevant guidance.

2. The strategy should provide for the strengthening of the IOC's human rights risk assessment processes connected to the administration's own operations by early in the second phase, including in relation to sponsorship, broadcasting, and procurement. These risk assessments should then inform the relevant commercial negotiations and appropriate mitigation plans. The IOC should be clear with its partners that suspending or terminating a contract where the IOC is unable to effectively use leverage to address severe human rights risks is a credible option. The strategy should also provide for the integration of human rights risks into the current organizational risk management approach.
3. The strategy should require the Human Rights Lead to prepare an internal analysis during the second phase, working with the Corporate and Sustainable Development and Games Departments, on how to most effectively resource engagement with candidate cities, and support and monitor host cities' efforts, on human rights. This should include identifying how the IOC should work with OCOGs to engage host governments to reduce salient human rights risks connected to the Games.
4. The strategy should define a more robust approach to using leverage in the IOC's engagement with members of the Olympic Movement on human rights issues. The approach should distinguish between the levers the IOC can use in its engagement with NOCs (ranging from capacity-building to progressive introduction of human rights requirements tied to financial disbursements to the use of the Executive Board's power to suspend NOCs for persistent non-compliance), and with IFs. It should provide for a review in the third phase of the effectiveness of different approaches in driving progress on specific issues like PHAS.
5. By the fourth phase, the strategy should require the Human Rights Lead to present an internal analysis, following consultation with relevant departments, on the implications for the IOC's governance role in WADA and ICAS of the organization's human rights responsibilities.
6. The strategy should provide for the development of an IOC-wide approach to child protection that applies across the organization's operations. This approach should be grounded in the UN Convention on the Rights of the Child. The Human Rights Lead should work with the relevant departments to support the development of such an approach in connection with the development and elaboration of the new "Olympism in Action" strategy.

7. The strategy should initiate a review early in the second phase of the role, structure and resourcing for the IOC Athletes Commission through the lens of the IOC's human rights responsibilities. This should build on the ILO's recommendations on the need for enhanced social dialogue – defined as being based on a set of enabling conditions including respect for freedom of association and collective bargaining – in sports.¹⁶ This review should include:
 - a. Considering how the IOC should engage with athlete representatives from Olympic sports that are unionized, either through the Athlete Commission or in addition to that structure;
 - b. Ensuring that the functioning of the Athlete Commission does not risk undermining athletes' ability to form or join trade unions of their choice and/or bargain collectively in different sports, or the results of such processes;
 - c. Ensuring that members of the Commission are independently elected and are not subject to actual or perceived conflicts of interest, for example because they also represent a state or other stakeholder;
 - d. Consulting with a range of athletes including trade union representatives in sports that are unionized, as well as athlete advocates from sports that are not unionized, on possible approaches.

Proposals on how to reform the Athlete Commission model should be adopted by the IOC in the third phase of the strategy, and cascaded to NOCs and IFs in the fourth phase and beyond.

4. Tracking and communicating on progress

Summary of analysis

In order to know whether the IOC's human rights efforts are effective, the organization needs to track its progress and communicate with stakeholders about its efforts, including through formal reporting.

Our consultations found that departments that are essential to meeting the IOC's human rights responsibilities lack the capacity for, and experience with, systems for monitoring

¹⁶ *Ibid*, para 4.

social (including human rights) commitments by partners and holding them accountable. The distinct nature of the IOC's relationships with NOCs and with different IFs makes the question of monitoring particularly challenging in the context of distribution of Olympic Solidarity funds. But even with the IOC's purely commercial partners, human rights requirements are being included in contracts that the organization has only limited capacity to follow up on, creating the perception that human rights risks are being "managed" when in fact they are not.

The Agenda 2020 development process was unique in the IOC's history in the extent of the stakeholder consultation involved. The IOC's first Sustainability Report and the first Olympism in Action Forum were also notable advances in how the IOC communicates with its stakeholders about important issues, including human rights. But limited resources for regular stakeholder engagement on human rights issues means that not enough is known about the IOC's efforts on an ongoing basis.

The evolution of the IOC's human rights approach will require ongoing dialogue with a wide range of stakeholders, with particular emphasis on affected stakeholders and their legitimate representatives – or credible proxies for their views where direct consultation is not possible – not only those who are the loudest or the most influential. The IOC will need to find effective but also efficient ways of managing these relationships.

Recommendations

The IOC may want to consider that:

1. The Human Rights Strategy commit the IOC to build capacity and dedicate resources internally to monitor existing human rights commitments by the IOC's partners in the first phase, prioritized according to the severity of human rights risks at issue in each relationship. This should include commercial partners, suppliers and OCOGs. The joint review by the Human Rights Lead with Human Resources under recommendation 2.8 above should determine how owners of key relationships will be required and incentivized to integrate the IOC's human rights commitments into their management of them.
2. The strategy should require the Human Rights Lead to conduct a stakeholder mapping during the second phase together with Public Affairs, Sports and Corporate and Sustainable Development to inform the IOC's human rights work. The mapping should identify where engagement with affected stakeholders will be most important, and where expert, policy-level stakeholder engagement will be most appropriate and how the IOC can conduct that in an effective and

efficient way, for example through participation in the Centre for Sports and Human Rights.

3. The strategy should commit the IOC to identifying opportunities to progressively strengthen the organization's communication about its human rights work, including through:
 - a. appropriate transparency about the activities of the Human Rights Advisory Committee by the IOC and independently by the Chair;
 - b. building on existing initiatives like ASOIF's self-assessment survey of IFs on the integration good governance requirements, to which performance on PHAS could be added;
 - c. guidance for OCOGs on the IOC's expectations with regard to their communication about their own human rights efforts.
4. The strategy should provide in the fourth phase for the IOC to convene a discussion among key Olympic Movement stakeholders about how to develop better data across the Movement about impacts on athletes' human rights, building on the ILO discussion about the lack of insight into the prevalence of impacts among different athlete populations. Athletes' perspectives should directly inform this discussion and any decisions taken.
5. The strategy should allocate responsibility to the Human Rights Lead, working with the steering group, for ensuring progress against the strategy and explain when and how progress will be reported on internally and externally.

5. Strengthening the remedy ecosystem in sports

Summary of analysis

The responsibility to provide remedy for a human rights harm rests with the actor or entity that caused or contributed to the harm. For the IOC, which will most often be linked to harms in its third sphere of operations, its focus should be on using its leadership role to help strengthen the broader "remedy ecosystem" within the Olympic Movement.

Currently, the IOC is sitting at the apex of a patchwork of remedy when it comes to human rights harms occurring across the Movement. There are various reasons for this, including that:

- Existing reporting mechanisms tend to be focused on threats to the integrity of sport and are not designed for receiving and responding to serious human rights complaints, hence they are not likely to be used or trusted for that purpose;
- Athletes are becoming frustrated by the limitations of the existing arbitration and dispute resolution systems in addressing human rights claims and are increasingly likely to seek access to state-based mechanisms that have human rights expertise such as National Human Rights Institutions or the European Court of Human Rights;
- There are questions being asked within and outside the sports sector (including from the UN human rights system) about whether CAS in particular is fit for purpose to address human rights-related complaints as more sports bodies recognize their human rights responsibilities.

Strengthening the remedy ecosystem in sports means using leverage to improve the quality of grievance mechanisms that are available at other levels of sports, closer to the ground where harms occur, which can include sports bodies' own mechanisms but also social dialogue with trade unions where they exist. The IOC has started to play this role in its work on PHAS, and we see this as a critical area for the organization to develop further.

Strengthening the remedy ecosystem also means ensuring that the IOC's own grievance mechanisms are fit for purpose. The IMD Governance Review already made several recommendations about enhancing the independence of the IOC's Ethics Commission and its sanctioning power. Beyond the question of independence is the question of whether the IOC's grievance mechanisms are adapted to handling cases involving severe human rights harms. Other sports bodies are realizing that their existing ethics and integrity complaint systems were designed to resolve certain types of cases and are not suited to handling, for example, cases of severe sexual abuse, especially where they are about a culture of abuse of power and impunity rather than an individual instance of such behavior by a single official, and where survivors are at ongoing risk of retaliation. The IOC will similarly need to consider how its own ethics and integrity architecture needs to evolve together with its human rights architecture such that there is a clear understanding of where responsibilities lie.

This will be particularly important where the IOC’s own grievance mechanisms need to serve as an ultimate “fall-back mechanism” when other channels are ineffective. In such cases where the IOC is only linked to impacts, but the entities responsible for them have systematically failed to ensure access to remedy, the organization has a role to play in using its leverage to seek to get those entities to change their behavior. This means the IOC needs to be able to receive and assess information about the failure of grievance mechanisms at other levels of sports to determine what action it needs to take.

With regard to Games-time harms, the IOC has taken important steps to create new grievance mechanisms in its second sphere of operations. However, the PHAS Games-time grievance mechanism would benefit from additional resourcing, and the media complaints grievance mechanism exists primarily on paper and has not been tested in practice. In this sphere the IOC has an equally important role to play in providing guidance to, and holding OCOGs accountable for, the quality of their own grievance mechanisms when it comes to handling human rights-related complaints, in line with the effectiveness criteria in Principle 31 of the UN Guiding Principles.¹⁷

Recommendations

The IOC may want to consider that:

1. The Human Rights Strategy articulate how the IOC intends to work on strengthening the remedy ecosystem across the Olympic Movement, with an initial focus in the first and second phases on addressing PHAS-related grievances. This should include:
 - a. Increasing the current PHAS team’s resources, including through the creation of an expert network to support the team’s work with NOCs and IFs and expertise to address the specific needs of groups that may be particularly vulnerable (such as LGBTI+ or young athletes);
 - b. Extending the existing IOC PHAS Games-time reporting mechanism to function as a “helpline” (rather than hotline) mechanism at all times with a

¹⁷ Principle 31 contains a set of criteria that are central to the effectiveness of any non-judicial grievance mechanism in addressing human rights-related complaints. Such mechanisms should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. “Operational-level” mechanisms (meaning mechanisms that organizations themselves administer that handle complaints about their own activities or impacts) should be based on engagement and dialogue with stakeholders.

- dedicated “person of trust” responsible for it, and clarity about how cases will be monitored and reported on to both the Chief Ethics and Compliance Officer and the Human Rights Lead;
- c. Creating a PHAS Investigators Network for NOCs and IFs to access;
 - d. Giving both the Human Rights Lead and the Chief Ethics and Compliance Officer independent power to trigger the use of the Network when needed and clarifying how cases will be monitored and compliance by the relevant NOC or IF assessed by the IOC;
 - e. Imposing sanctions in the event of systemic failure or persistent non-compliance by a NOC or IF, which can be triggered by the recommendation of the Human Rights Lead together with the Chair of the Human Rights Advisory Committee, or by the Chief Ethics and Compliance Officer together with the Chair of the Ethics Commission, to the President and the Executive Board;
 - f. Exploring the feasibility of a broader fund within the Olympic Movement to support survivors’ welfare in contexts where the state is unable to provide redress.
2. The strategy should provide for a review in the second and third phases of the IOC’s own grievance mechanisms that could be relevant to human rights and identify how they can be strengthened in line with the effectiveness criteria in the UN Guiding Principles. This should include the Ethics Commission.
 3. The strategy should commit the IOC to begin a review in the second phase of how to ensure that the operation of existing arbitration and dispute resolution mechanisms in sports do not lead in practice to a lack of access to effective remedy for human rights harms – for example, through commissioning an expert study informed by the perspectives of the users of these mechanisms. This should include requesting ICAS to carry out a review of the competencies and preparedness of CAS to handle human rights cases.
 4. The strategy should commit the IOC in the third phase to consolidate learning from the experience of OCOG-level grievance mechanisms and from leading practice across the Olympic Movement to inform guidance and capacity-building on remedy for future Games hosts. This should focus on how to create an appropriate architecture for handling the wide array of human rights-related complaints and cases that can be connected to the Games and emphasize the

involvement of potential users of grievance mechanisms in their design and reviews of their functioning.

Next Steps

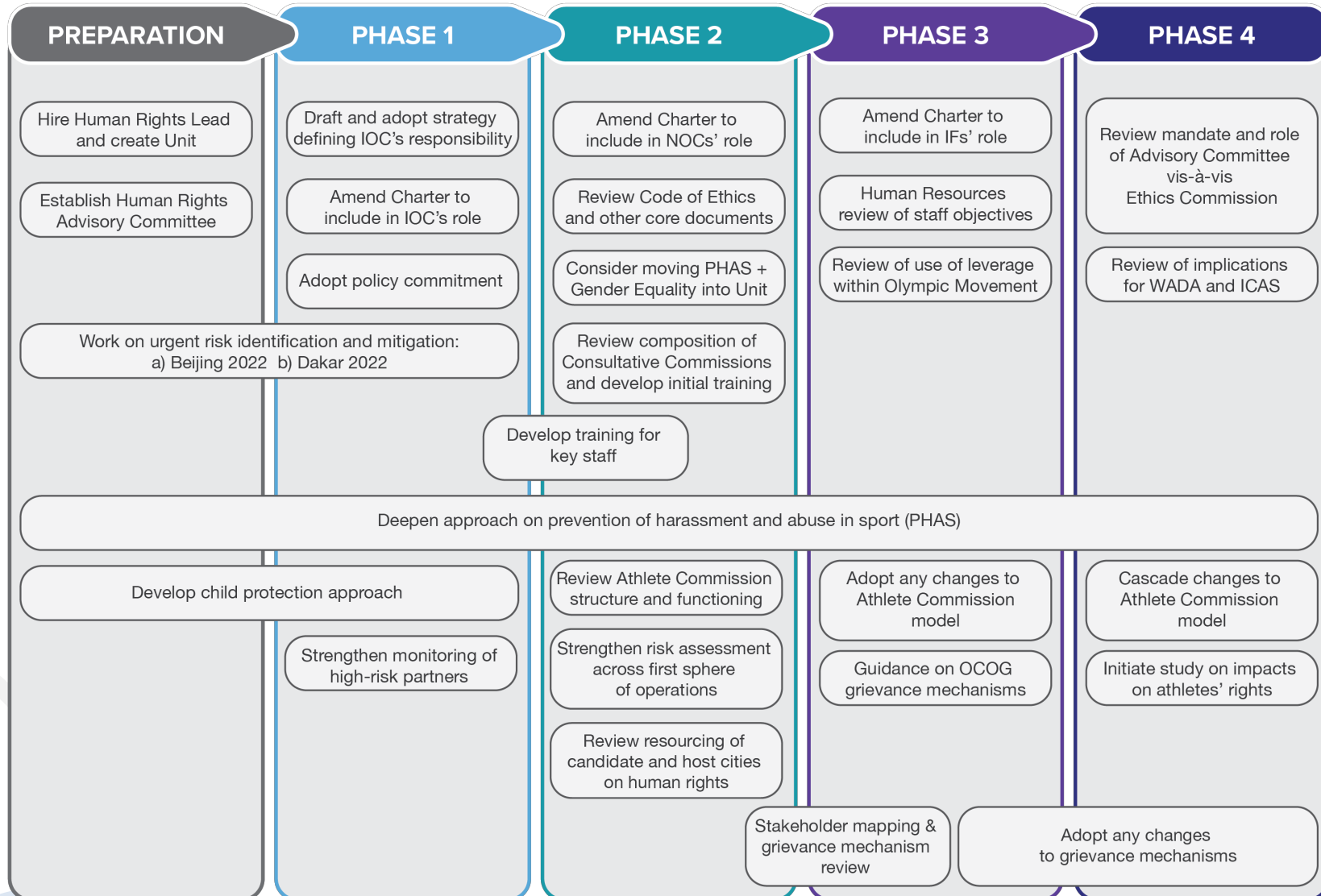
The President asked us for our expert advice on the content of a human rights strategy for the IOC; in setting out our analysis and making our recommendations, we realize that we are raising several big and challenging shifts in mindset and approach for the organization. We believe that these are essential if the IOC is going to align itself with international human rights standards and be prepared to tackle the human rights issues that it is already facing, and that will continue to emerge, in a principled but also pragmatic way.

By way of next steps, we recognize there will be a need to reflect on the detail of our recommendations and test them with relevant departments. At the same time, we believe it is imperative that the organization, through the President, be prepared to make an in principle commitment to the definition of the IOC's human rights responsibilities that we have set out here.

This should lay the foundation for the following steps:

1. As early as possible, the issuance of a high-level statement by the President about the IOC's commitment to a way forwards on human rights connected to the publication of a brief summary of our expert report;
2. The expedited hiring of a senior Human Rights Lead and creation of a Unit to begin work preferably prior to the Executive Board meeting in June;
3. The finalization of the ToRs and membership of the Human Rights Advisory Committee, and formal establishment of the Committee following the next Executive Board meeting in June;
4. The preparation of a strategic plan by the Human Rights Lead, in consultation with other departments, for consideration by the President and Human Rights Advisory Committee and then by the Executive Board, preferably in the second half of 2020.

PROPOSED PHASES FOR THE IMPLEMENTATION OF THE IOC'S HUMAN RIGHTS STRATEGY OVER A FIVE-YEAR TIMELINE



About the authors

Zeid Ra'ad Al Hussein was the UN human rights chief from 2014-2018; and is a highly-regarded defender and promoter of universal human rights -awarded the Stockholm prize in 2015 as well the Tulip prize in 2018 for his human rights work. For much of his career he was a senior diplomat, serving twice as Jordan's ambassador to the United Nations (in New York) and once as Jordan's ambassador to the United States (2007-2010). He also represented Jordan twice before the International Court of Justice (ICJ). In January 2014, he served as president of the UN Security Council. In 2002 he was elected the first president of the governing body of the International Criminal Court (ICC) -- guiding the court's growth in its first three years (9/2002-9/2005). He chaired some of the most complex legal negotiations associated with the court's statute. He contributed to the international community's efforts at countering the threat of nuclear materials being trafficked by terrorists (2010-2014). And he led the UN's efforts at eliminating sexual exploitation and abuse in UN peacekeeping (2004-2007). From 1994-1996, he was a UN civilian peacekeeper with UNPROFOR. He has degrees from Johns Hopkins and Cambridge universities. In 2019, he was appointed a member of The Elders, an independent group of global leaders working for peace, justice and human rights, founded by Nelson Mandela. He is currently the Perry World House Professor of the Practice of Law and Human Rights at the University of Pennsylvania. In 2019, he was inducted into the American Academy of Arts and Sciences and awarded an honorary knighthood (KCMG) from Queen Elizabeth II.

Rachel Davis is Co-founder and Vice President of Shift, the leading center of expertise on the UN Guiding Principles on Human Rights, where she has led work for the last decade on standard-setting, human rights and sports, financial institutions, conflict and international law. Rachel has been the Chair of FIFA's independent Human Rights Advisory Board since it was established in 2017 and has advised the International Olympic Committee on human rights since 2018. She was a senior legal advisor to the Special Representative of the UN Secretary-General on business and human rights, Harvard Professor John Ruggie (2006-2011), and is a Senior Program Fellow with the Corporate Responsibility Initiative at Harvard Kennedy School. An author of the leading study on the costs of company-community conflict in the extractive sector, Rachel has worked at the High Court of Australia and the UN International Criminal Tribunal for the former Yugoslavia. She is a graduate of Harvard University and the University of New South Wales.