

The Centre for Sport and Human Rights welcomes the opportunity to contribute information and viewpoints to inform the Office of the High Commissioner for Human Rights (OHCHR) report on the theme of *Physical Activity and Sports for Persons with Disabilities*, in the framework of Human Rights Council resolution 43/L.34 and Article 30 of the Convention on the Rights of Persons with Disabilities (CRPD). This submission focuses on a number of specific issues that the Centre believes are of particular importance and should be considered as part of the OHCHR report.

1. Contextualising sport for persons with disabilities in the broader landscape of sport, human rights, culture and development

- Recognising widespread violations of the right of children and adults with disabilities to participate in sport, recreation, and leisure, greater attention should be given at national, regional and international levels to the lack of effective grievance mechanisms to remedy such abuses.
- Given the lack of consensus among State Parties with respect to what constitutes sport and a human right to sport, notwithstanding CRPD Article 30(5), efforts to agree on a common definition of sport among UN Treaty Bodies and Mechanisms in the context of cultural rights and other specific rights would be an important contribution in clarifying appropriate measures States should take to meet relevant obligations.
- Current systems of sport at national and sub-national levels largely still further an ableist ideal of sport, leaving persons with disabilities excluded and on the margins.
- Exclusion for persons with disabilities to sport is in many cases based in social and cultural beliefs about disability. For example, as noted in recent New Zealand research¹:

*"Putting aside any discussion of impairment, the social and financial inequities caused by a 'disabling' society include high unemployment, low incomes, poor housing and transport, and often poor mental and physical health – the latter not necessarily related to an individual's impairment. These inequities all negatively impact on participation in active recreation and sport."*²

- The intersection between discrimination based on ability and other forms of discrimination is important for persons with disabilities. The recent OHCHR report on the Intersection of Race and Gender Discrimination in Sport³ highlighted the need for better coordination and coherence among States and sporting bodies to promote inclusion of women and girls in sporting activities, paying particular attention to those marginalized on account of their race, nationality, immigration or refugee status, ethnicity, religion, HIV or another health status, disability, maternity/parental status or gender/gender identity or sexual orientation.⁴

¹ An Inequitable System <https://sportnz.org.nz/assets/Uploads/Disability-Active-Recreation-and-Sport-Background-Report-Final.pdf>

² An Inequitable System <https://sportnz.org.nz/assets/Uploads/Disability-Active-Recreation-and-Sport-Background-Report-Final.pdf>, page 38 whanau" is the indigenous Maori word meaning relationships wider than immediate family including those with foster children and those who have passed on.

³ Report of the United Nations High Commissioner for Human Rights "Intersection of race and gender discrimination in sport" A/HRC/44/26

⁴ A/HRC/44/26, para 59

- The importance of sport and its relationship to culture requires further recognition and appropriate action, particularly when persons with disabilities can be denied access in the context of national sports and to their own sports.⁵ CRPD Art. 30 (1) to (4) appears to separate sport from cultural life, which is notably at odds with other human rights treaties and declarations that regard sport as a part of culture.
- In the context of strategies to achieve the UN Sustainable Development Goals (SDGs), the right of persons with disabilities to participate in sport as outlined in Article 30(5) requires specific actions to ensure disability is an integral part of the Kazan Action Plan, linking sport policy development to the 2030 Agenda. In the lead up to and during the next International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS) VII taking place in 2021, greater efforts are needed to ensure that persons with disabilities are part of new plans and actions.
- More and better data is needed to fully understand the extent of discrimination persons with disabilities face to participation in sport. The following initiatives should be leveraged to gather data related to Article 30(5): 1) the development of common indicators on sport and the SDGs through the Kazan Action Plan; 2) WHO's Global Action Plan on Physical Activity (GAPPA) and; 3) EU/OHCHR work on human rights indicators for the CRPD in the BridgingtheGap Project.

2. Prioritising safety and protection of children with disabilities participating in sport, recreation and leisure activities

- Ill treatment and serious abuse of children is one of the most serious violations in the context of sport and causes the greatest harm to the greatest number of people involved in sport. It has often been overlooked relative to issues involving only professional athletes without disabilities or to those participating in mega-sports events. Claims that problems of abuse of children in the community are imported into the world of sport do not take adequate account of the fact that some abuses are caused by the culture, structures, and systems of sport.
- Research with athletes in Belgium and the Netherlands in 2015 showed that young athletes with disabilities experienced significantly more psychological, sexual and physical violence than their non-disabled peers.⁶
- Overall children with disabilities are nearly four times more likely to experience violence than their peers without disabilities according to a review of two studies published in the Lancet.⁷ The available evidence in the UK on the extent of abuse among deaf and children with disabilities suggests the presence of multiple impairments appears to increase the risk of both abuse and neglect.⁸
- While research on sexual exploitation and abuse of athletes with disabilities is scarce, important recent studies⁹ build on previously raised concerns. Sport advocacy groups at

⁵ In UNDRIP Art 31 recognises sports and traditional games as part of cultural heritage, traditional knowledge, and traditional cultural expressions. The right of everyone to take part in cultural life is also recognized in article 27, paragraph 1, of the Universal Declaration of Human Rights, which states that “everyone has the right freely to participate in the cultural life of the community”. Other international instruments refer to the right to equal participation in cultural activities; the right to participate in all aspects of social and cultural life; the right to participate fully in cultural and artistic life; and the right of access to and participation in cultural life.⁵

⁶ Vertommen etc. al 2015. *Interpersonal violence against children in sport in the Netherlands and Belgium*.

⁷ The review of two articles published in The Lancet in 2012, indicated that children with disabilities are 3.7 times more likely than non-disabled children to be victims of any sort of violence, 3.6 times more likely to be victims of physical violence, and 2.9 times more likely to be victims of sexual violence. Children with mental or intellectual impairments appear to be among the most vulnerable, with 4.6 times the risk of sexual violence than their non-disabled peers. <https://www.who.int/disabilities/violence/en/>

⁸ <https://inclusiveskating.org/resources/cpsu-safeguarding-deaf-and-disabled-children-in-sport-061118102635.pdf>

⁹ IOC 2020 <https://www.olympic.org/safe-sport> IOC Safe Sport Initiatives – “sport is not immune from wider societal ills” referring to harassment and abuse

the national and international levels are increasingly developing and implementing safeguarding programmes that promote safe sport, (e.g., sporting environments that are free from non-accidental harms of all kinds). Several States including New Zealand, the UK, Australia, USA, and Canada are reviewing or putting new systems and structures in place that allow for more independent and impartial redress and remedy processes. These efforts need to consider the rights of athletes with disabilities as well.

- Existing literature on non-accidental harms among athletes with disabilities focuses on bullying in young athletes with a visual impairment. The paucity of data prevents generalisation and highlights the need for additional safeguarding research on athletes with disabilities. Bullying is also a barrier to the participation of children with disabilities and that abuse relates to the relatively low levels of participation by persons with disabilities in mainstream sport.
- The power imbalance between an athlete and those who coach and control sport is thought to be heightened for persons with disabilities.¹⁰ Rape and sexual violence, excessive intensive training, systemic insufficient, corporal punishment and enforced isolation, peer violence and hazing, encouragement of playing to hurt, and doping were all identified as serious issues of concern. Too often, Sports bodies and States have prioritised fair play and the integrity of sport in anti-doping and anti-gambling strategies over addressing such protection issues.
- A study published in the BMJ provides a useful overview of the range of issues of relevance for all athletes.¹¹

3. Strengthening human rights knowledge and capacity among disability sport organisations, state agencies responsible for protecting the human rights of persons with disabilities, and the wider UN system

- Sports organisations require additional capacity to address human rights issues, along with knowledge of the structures and systems addressing the rights of persons with disabilities and related human rights mechanisms.
- United Nations system engagement with the world of sport needs to prioritise policies and actions that involve persons with disabilities wishing to realise their rights in Article 30(5). Similarly, greater attention should be given by the UN system to disability in the context of indigenous sport or sport that is not part of the Olympic movement.¹²
- States and the UN system should ensure that their efforts to address disability in the context of sport do not only focus on elite events and athletes but also to the wider world of sport where most participants are of school-age.

4. Addressing risks of inequality, access and rights violations in and through sport in the COVID-19 pandemic

- The COVID-19 pandemic has had a disproportionate impact on the health, wellbeing, and livelihoods of persons with disabilities.

¹⁰ David, Paulo. Human Rights in Youth Sport (Ethics and Sport) (Kindle Locations 1140-1142). Taylor and Francis. Kindle Edition.

¹¹ Yetsa A Tuakli-Wosornu et al. Br J Sports Med 2020; 54:129-138 "Conceptual model of non-accidental harms in sport, highlighting the central role a psychological power imbalance plays for all forms of harassment and abuse."

¹² There are over 8000 sports in the world but only 200 international sports federations. Thousands of these sports are indigenous sports not affiliated to any Olympic sport organisation. Some of the largest disability sports organisations are not affiliated to the Olympic sports movement although they often work in partnership with international, regional, national and sub-national sports organisations, some affiliated to the Olympics sports movement and some not.

- The risk that the pandemic will negatively impact progress in advancing human rights and inclusive sustainable development, including improving access and inclusion of persons with disabilities has been raised by multiple stakeholders.¹³ This risk underscores the relevance of collective action to promote good governance, the inclusion of persons with disabilities, efforts to protect the integrity of sport, and promote human rights to maximise the positive impact of sport, particularly addressing the needs of the most marginalised and excluded, including persons with disabilities.
- Issues relating to funding sport and measuring the impact of this investment in the context of COVID-19 response and recovery are also of relevance in this context. A collective emphasis on transparency and accountability for the investment of public funds in sport is of critical importance as is consideration of how sport funding models in response to COVID-19 can be utilised as a catalyst to promote inclusion, sport integrity, inclusive sustainable development and respect for human rights.
- Equally important will be systems for monitoring and evaluating impacts of such funding on underrepresented groups, including persons with disabilities.
- Overall, the blueprint provided by the SDGs and roadmap for sport-specific contributions set out by the Kazan Action Plan (both underpinned by a focus on human rights and building effective, accountable and inclusive institutions) are highly relevant to address the challenges COVID-19 presents, including the inclusion of persons with disabilities in sport. Persons with disabilities mustn't be ignored as sport recovers from the pandemic.

¹³ International Working Group on Women and Sport (2020). Call to Action, On-line. <https://iwgwomenandsport.org/iwgresponds-to-covid-19-pandemic-with-global-call-to-action/>, World Players Association (2020). World Players Association to be Guided by Science on Return to Play, On-line. <https://www.uniglobalunion.org/news/world-players-association-be-guided-science-returnplay>, and, Centre of Sport for Human Rights (2020). Putting People First: Guidance for Sport on How to Respond to the COVID-19 Crisis, <https://www.sporhumanrights.org/en/resources/putting-people-first-guidance-for-sport-on-how-to-respond-to-the-covid-19-c>; Special Olympics COVID-19 resources <https://www.specialolympics.org/our-work/covid19> IPC COVID-19 Resources <https://www.paralympic.org/news/information-para-athletes-and-ipc-members-covid-19>