



## Human Rights Watch Submission to the United Nations Special Rapporteur on violence against women and girls

April 2024

Human Rights Watch welcomes the opportunity to provide input to the report of the Special Rapporteur on violence against women and girls to the United Nations General Assembly on violence against women and girls in sport. This submission covers sexual and gender-based violence in sport in Mali, Haiti, and Afghanistan; child abuse in sport in Japan; and sex testing of women athletes.

### Sexual and Gender-Based Violence in Sport

#### *Mali Basketball Federation*

In June 2021, Human Rights Watch and the New York Times exposed sexual abuse and coverups in Mali’s Basketball Federation (Fédération Malienne de Basketball or FMBB).<sup>1</sup> Seven officials within the FMBB were fired or suspended, and the head coach was indicted, for their involvement in the sexual abuse of teenage players on Mali’s national youth team.<sup>2</sup>

A subsequent independent investigation and report commissioned by the International Basketball Federation (Fédération Internationale de Basketball or FIBA) and led by its integrity officer, Richard McLaren, found what it called an “institutionalized acceptance of sexual abuse” within the Mali Basketball Federation, and extensive intimidation and

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<sup>1</sup> “Mali: Basketball Federation Covers Up Sexual Assault of Girls,” Human Rights Watch news release, June 14, 2021, <https://www.hrw.org/news/2021/06/14/mali-basketball-federation-covers-sexual-assault-girls>; Jeré Longman and Romain Molina, “World Basketball Chief Steps Aside Amid Sexual Abuse Investigation,” *New York Times*, June 13, 2021, <https://www.nytimes.com/2021/06/13/sports/olympics/fiba-basketball-mali-sexual-abuse.html> (accessed March 29, 2024).

<sup>2</sup> “Mali: Inquiry Links Basketball Federation to Sexual Abuse,” Human Rights Watch news release, September 27, 2021, <https://www.hrw.org/news/2021/09/27/mali-inquiry-links-basketball-federation-sexual-abuse>.

retaliation against whistleblowers.<sup>3</sup> Amadou Bamba, the women's national team head coach, was indicted for "pedophilia, attempted rape, and molestation."<sup>4</sup> The report highlights that basketball federation officials and others sought to intimidate 22 survivors of abuse, who decided not to give evidence to McLaren.

But two years after the FIBA report's publication, survivors and whistleblowers still live under threat and cannot safely play. A teenage whistleblower has faced threats and lost career opportunities after she reported widespread sexual abuse and has subsequently sued the federation for failing to protect her from retaliation.<sup>5</sup> Former federation President Jean-Claude Sidibé, whom the McLaren Report alleged had violated FIBA's supposed "zero tolerance" policy for sexual abuse, was named the president of the Mali Basketball Federation in December 2022.<sup>6</sup>

On June 21, 2023, FIBA announced that it imposed on Amadou Bamba a lifetime suspension from carrying out a function or participating in any FIBA or FIBA-related activities, along with a fine of CHF80,000 (US\$88,000). And although FIBA has taken steps to develop a new safeguarding policy and has set up a "Safeguarding Council," it is still not clear how athletes can report abuses.<sup>7</sup>

### ***Haiti Football Federation***

In 2020, Human Rights Watch interviewed numerous witnesses and collected evidence of systemic human rights abuses in Haitian football, including confiscation of players' passports, labor rights abuses, grooming child athletes for sexual exploitation, and threats

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<sup>3</sup> McLaren Global Sport Solutions, McLaren Independent Mali Basketball Abuse Investigation, *Integrity Officer Report to the International Basketball Federation (FIBA)*, September 14, 2021, <https://www.mclarenglobalsportsolutions.com/pdf/FibaReport-09-2021.pdf> (accessed March 29, 2024).

<sup>4</sup> "Mali: Coach of younger basketball participant sued for sexual assault" [n.d.], *newsline*, <https://newsline.news/mali-coach-of-younger-basketball-participant-sued-for-sexual-assault/> (accessed March 28, 2024); "Mali: Girls' Basketball Coach Indicted for Sexual Assault," Human Rights Watch news release, July 30, 2021, <https://www.hrw.org/news/2021/07/30/mali-girls-basketball-coach-indicted-sexual-assault>.

<sup>5</sup> Kalika Mehta, "Sexual abuse: How FIBA fail to protect Malian athletes," *DW*, January 26, 2023, <https://www.dw.com/en/sexual-abuse-how-fiba-are-failing-to-protect-young-malian-athletes/a-64501299> (accessed March 28, 2024).

<sup>6</sup> Ibid. See also Alexis Billebault, « Abus sexuels dans le basket malien : le retour de Jean-Claude Sidibé ravive le scandale », *jeuneafrique*, January 14, 2023, <https://www.jeuneafrique.com/1407946/politique/abus-sexuels-dans-le-basket-malien-le-retour-de-jean-claude-sidibe-ravive-le-scandale/> (accessed March 28, 2024).

<sup>7</sup> Geoff Berkeley, "FIBA's draft of safeguarding policy set for approval after final review," *Inside the Games*, November 25, 2022, <https://www.insidethegames.biz/articles/1130852/fiba-draft-safeguarding-policy> (accessed March 28, 2024); FIBA, "FIBA announce members of newly created Safeguarding Council," May 23, 2022, <https://www.fiba.basketball/news/fiba-announce-members-of-newly-created-safeguarding-council> (accessed March 28, 2024).

to kill witnesses and survivors.<sup>8</sup> The athlete players' union FIFPro documented at least 34 alleged victims, including children at the national football training center, by 10 possible abusers, including former Haitian Football Federation President Yves Jean-Bart.

In November 2020, FIFA's Ethics Committee handed Jean-Bart a lifetime ban, the maximum punishment in football.<sup>9</sup> Jean-Bart appealed the decision to the Court of Arbitration for Sport, an international body to settle disputes related to sport through arbitration. In February 2023, the court annulled the ban and sanctions.<sup>10</sup> The court does not use a survivor-centered framework and has proven, for women athletes in particular, to be an inadequate justice mechanism.<sup>11</sup> The arbitration mechanism's terms of reference do not require it to take human rights into account, arbitrators have no trauma-informed approach or training, and the court makes decisions based upon sport federation rules that in many cases exclude human rights as a consideration. In March 2023, FIFA announced it would appeal the decision, due to "very serious procedural and substantive flaws."<sup>12</sup> In a June 2023 ruling, the Swiss Federal Court rejected FIFA's appeal, confirming the Court of Arbitration for Sport decision in favor of Yves Jean-Bart.<sup>13</sup>

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<sup>8</sup> "Haiti: End Sexual Abuse in Football," Human Rights Watch news release, November 18, 2020, <https://www.hrw.org/news/2020/11/18/haiti-end-sexual-abuse-football>

<sup>9</sup> "Haiti: Lifetime Ban for Football Chief," Human Rights Watch news release, November 24, 2020, <https://www.hrw.org/news/2020/11/24/haiti-lifetime-ban-football-chief>

<sup>10</sup> "The life ban imposed on Yves Jean-Bart, former president of the Haitian soccer federation, is annulled due to insufficient evidence to establish the existence of violations of the FIFA rules," Court of Arbitration for Sport media release, February 14, 2023, [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Media\\_Release\\_7661.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Media_Release_7661.pdf); "Haiti: FIFA Failing Sex Abuse Survivors," Human Rights Watch news release, February 21, 2023, <https://www.hrw.org/news/2023/02/21/haiti-fifa-failing-sex-abuse-survivors>.

<sup>11</sup> "Haiti: FIFA Failing Sex Abuse Survivors," Human Rights Watch news release, February 21, 2023, <https://www.hrw.org/news/2023/02/21/haiti-fifa-failing-sex-abuse-survivors>

<sup>12</sup> Ed Aarons and Romain Molina, "Fifa appeals against Cas verdict on Jean-Bart because of 'substantial flaws,'" Guardian, March 20, 2023, [https://www.theguardian.com/football/2023/mar/20/fifa-appeals-cas-decision-on-jean-bart-because-of-substantial-flaws-in-verdict?CMP=share\\_btn\\_tw](https://www.theguardian.com/football/2023/mar/20/fifa-appeals-cas-decision-on-jean-bart-because-of-substantial-flaws-in-verdict?CMP=share_btn_tw) (accessed March 28, 2024).

<sup>13</sup> "Swiss supreme court dismisses FIFA appeal against lifting Haiti soccer official's life ban," AP News, July 6, 2023, <https://apnews.com/article/haiti-fifa-swiss-court-jeanbart-e8a1bafa5e9e8eb7d45789cfd6f2589> (accessed April 9, 2024).

The Haitian police's specialist child protection unit began investigating the sexual abuse complaints in 2020,<sup>14</sup> but no progress has been made given the dysfunctional state of the Haitian judicial system, which is currently aggravated by the security crisis.<sup>15</sup>

### *Sport in Afghanistan*

A November 2018 report in the Guardian detailed allegations by 20 female players of repeated sexual assault by the former president of the Afghan Football Federation, Keramuddin Karim, going back to 2016.<sup>16</sup> Following media reports, the Afghan government undertook an investigation. On June 8, 2019, FIFA handed Karim a lifetime ban. On June 9, 2019, the Afghan attorney general issued a warrant for Karim's arrest.<sup>17</sup> However, Karim was never arrested.<sup>18</sup>

Since the Taliban takeover of Afghanistan in August 2021, thousands of women and girls have been denied the right to secondary and higher education and the right to play sport.<sup>19</sup> Taliban forces closed training centers and threatened athletes with violence, athletes reported.<sup>20</sup> Some Afghan women and girl athletes went into hiding and sought to destroy evidence of their ties to sport including medals and sport kits.<sup>21</sup>

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<sup>14</sup> Jonathan Crane and Barbara Mohr, "Haitian football's sexual abuse scandal: A tangled web," April 6, 2020, <https://www.dw.com/en/haïtian-footballs-sexual-abuse-scandal-a-tangled-web-with-jean-bart-at-its-center/a-53668379> (accessed March 28, 2024).

<sup>15</sup> Human Rights Watch, "*Living a Nightmare: Haiti Needs an Urgent Rights-Based Response to Escalating Crisis*" (New York: Human Rights Watch, 2023), <https://www.hrw.org/report/2023/08/14/living-nightmare/haïti-needs-urgent-rights-based-response-escalating-crisis>.

<sup>16</sup> Suzanne Wrack, "Fifa examining claims of sexual and physical abuse on Afghanistan women's team," November 30, 2018, <https://www.theguardian.com/football/2018/nov/30/fifa-examining-claims-sexual-physical-abuse-afghanistan-womens-team> (accessed March 29, 2024).

<sup>17</sup> "AGO Issues Arrest Warrant For Ex-Football Chief," TOLO News, June 9, 2019, <https://tolonews.com/afghanistan/ago-issues-arrest-warrant-ex-football-chief> (accessed March 29, 2024).

<sup>18</sup> Thomas Gibbons-Neff and Fahim Abed, "Afghan Soccer Official, Charged With Sexual Abuse, Evades Arrest," August 24, 2020, <https://www.nytimes.com/2020/08/24/world/asia/afghanistan-soccer-sex-abuse.html> (accessed March 28, 2024).

<sup>19</sup> "Afghanistan: Taliban Deprive Women of Livelihoods, Identity," Human Rights Watch news release, <https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>

<sup>20</sup> George Wright, "Afghanistan's female volleyball players tell of threats and fear," BBC News, September 23, 2021, <https://www.bbc.com/sport/volleyball/58612964> (accessed March 28, 2024).

<sup>21</sup> George Wright, "Afghanistan women's cricket team: Players hiding in Kabul fear Taliban rule," September 1, 2021, BBC News, <https://www.bbc.com/sport/cricket/58396310?zeph-modal-register> (accessed March 28, 2024); <https://www.washingtonpost.com/sports/2021/08/20/khalida-popal-afghanistan-women-soccer/>

Human Rights Watch has interviewed athletes from basketball and other sports teams who remain in hiding in Afghanistan or have sought asylum elsewhere.<sup>22</sup> Many women and girl athletes in exile are seeking recognition as Afghanistan's national team.<sup>23</sup>

Since the Taliban takeover, the International Olympic Committee (IOC) has provided funding to the Afghan National Olympic Committee (NOC) under the Taliban's sport leadership.<sup>24</sup>

The IOC in October 1999 had suspended Afghanistan's NOC until 2003 on grounds that the Taliban was barring women from competing in sports.<sup>25</sup> Human Rights Watch has called for the IOC to reimpose the ban on the Taliban-run Afghanistan NOC from the Olympic Movement until women and girls can safely exercise their rights to participate in sport.<sup>26</sup>

***Human Rights Watch encourages the Special Rapporteur to recommend the following to state and non-state actors:***

- Governments should fully investigate the alleged abuses, including by immediately opening judicial investigations into the allegations, holding all those responsible to account, and ensuring reparations to the survivors.
- Sports governing bodies should hold accountable all those involved in abuse through disciplinary sanctions up to and including a permanent ban proportionate to the gravity of the abuse and the officials' or members' involvement. Sports governing bodies should fully cooperate with any parallel criminal investigations to

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<sup>22</sup> Abigail Pesta, "Her Love of Basketball Left Her Stateless," Marie Claire, March 8, 2022, <https://www.marieclaire.com/politics/afghan-women-athletes-refugees/> (accessed March 28, 2024); Murali Krishnan, "Afghanistan women athletes in peril, future uncertain," July 10, 2022, <https://www.rfi.fr/en/international/20220710-afghanistan-women-athletes-in-peril-future-uncertain-kabul-taliban-sport> (accessed March 28, 2024).

<sup>23</sup> Juliet Macur, "As the World Focuses on Soccer, a Women's Team in Exile Aches to Play," New York Times, December 3, 2022, <https://www.nytimes.com/2022/12/03/sports/soccer/world-cup-soccer-afghanistan-women.html> (accessed March 28, 2024).

<sup>24</sup> "IOC holds talks with Afghan General Directorate of Physical Education & Sports," International Olympic Committee news release, November 18, 2021, <https://olympics.com/ioc/news/ioc-holds-talks-with-afghan-general-directorate-of-physical-education-sports>; "International Olympic Committee announces \$560,000 aid for Afghan athletes," Business Standard, December 9, 2021, [https://www.business-standard.com/article/sports/international-olympic-committee-announces-560-000-aid-for-afghan-athletes-121120900372\\_1.html](https://www.business-standard.com/article/sports/international-olympic-committee-announces-560-000-aid-for-afghan-athletes-121120900372_1.html) (accessed March 28, 2024).

<sup>25</sup> "IOC Bars Afghan Athletes from Olympics," ABC News, August 21, 2000, <https://abcnews.go.com/Sports/story?id=100745&page=1> (accessed March 28, 2024).

<sup>26</sup> "Ban Taliban from the Olympic Movement," Human Rights Watch news release, December 5, 2022, <https://www.hrw.org/news/2022/12/05/ban-taliban-olympic-movement>

- ensure justice for abuse survivors. All actors should establish a process to ensure survivors receive prompt and adequate reparations for the harm they suffered.
- All actors should establish – or where present, strengthen – reporting mechanisms for survivors and whistleblowers to safely report abuse.

## Child Abuse in Sport in Japan

A 2020 Human Rights Watch report documented Japan’s history of corporal punishment in sport—known in Japanese as *taibatsu*—and found child abuse in sports training throughout Japanese schools, federations, and elite sports.<sup>27</sup> Human Rights Watch documented experiences of more than 800 former child athletes—more than 50 from in-person interviews, and 757 from an online survey—including Olympians and Paralympians. The survey had participants from 45 of the 47 Japanese prefectures, and 50 sports.

Public outrage led to important reforms in 2013, such as setting up hotlines to report abuse. However, Human Rights Watch found that these reforms are optional “guidelines” instead of rules, that progress has been uneven and unmonitored, and that there is no mandatory reporting of abuse complaints or statistics.

Human Rights Watch found that child abuse in sport remains accepted and normalized in many parts of Japanese society, and that it is difficult for young athletes to file complaints against a powerful coach or official. Schools and federations rarely punish abusive coaches, often allowing them to continue coaching.

In some cases, abuse of child athletes has directly resulted in life-long injury or death. Between 1983 and 2016, there were at least 121 young athletes who died while participating in school judo in Japan.<sup>28</sup> It is unknown how many of these cases involved abuse by coaches, but the rate of judo deaths in Japan has “no parallel” in other developed nations.<sup>29</sup>

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<sup>27</sup> Human Rights Watch, *“I Was Hit So Many Times I Can’t Count”: Abuse of Child Athletes in Japan* (New York: Human Rights Watch, 2020), <https://www.hrw.org/report/2020/07/20/i-was-hit-so-many-times-i-cant-count/abuse-child-athletes-japan>.

<sup>28</sup> Ryo Uchida, “Facing the cervical accident of the middle-advanced person in the 12th fatal accident of school judo,” *Yahoo Japan*, May 16, 2016, <https://news.yahoo.co.jp/byline/ryouchida/20160516-00057737/> (accessed July 6, 2020).

<sup>29</sup> Mike Burke, “108 school judo class deaths but no charges, only silence,” *Japan Times*, <https://www.japantimes.co.jp/news/2010/08/26/national/108-school-judo-class-deaths-but-no-charges-only-silence/>.

***Human Rights Watch encourages the Special Rapporteur to provide the following recommendations to state and non-state actors:***

- Ban all forms of abuse by coaches against child athletes in organized sport;
- Delineate the rights of athletes, including the right to participate in sport free of abuse;
- Mandate training for all coaches of child athletes;
- Mandate that any adult who becomes aware of child athlete abuse must report it; and
- Refer abuse cases to law enforcement for criminal investigation, where appropriate.

**Sex Testing of Women Athletes**

For decades, sport governing bodies have regulated women’s participation in sport through abusive “sex testing” regulations that target women athletes with some variations in their sex characteristics that cause their natural testosterone levels to be higher than typical. The policy that has received the most attention and legal scrutiny (with a case currently pending before the European Court of Human Rights<sup>30</sup>) is the “sex testing” regulations published and enforced by World Athletics, the body governing global track and field competitions. The World Athletics “sex testing” regulations have been recognized, including by the Office of the United Nations High Commissioner for Human Rights, as contributing to a cascade of human rights violations against athletes with variations in their sex characteristics.<sup>31</sup> Similar sex testing policies have also been used to police women in other sports, including football.<sup>32</sup>

The 2019 and 2023 regulations target women with higher natural testosterone.<sup>33</sup> These regulations require women athletes targeted to submit to testing based on arbitrary gender norms and then to undergo medically unnecessary interventions to “normalize” them to those norms before they can compete. While the regulations do not

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<sup>30</sup> Graeme Reid and Minky Worden, “Caster Semenya Won Her Case But Not The Right to Compete,” <https://www.hrw.org/news/2023/07/18/caster-semenya-won-her-case-not-right-compete>.

<sup>31</sup> OHCHR, “Intersection of race and gender discrimination in sport,” A/HRC/44/26, <https://undocs.org/en/A/HRC/44/26>.

<sup>32</sup> Kyle Knight and Minky Worden, “Zambian Woman Footballer Sex Tested Because FIFA Allows It,” <https://www.hrw.org/news/2022/07/13/zambian-woman-footballer-sex-tested-because-fifa-allows-it>.

<sup>33</sup> For Human Rights Watch’s full analysis of the 2019 regulations and the versions of the regulations that came before 2019, please see our 2020 report, “They’re Chasing Us Away From Sport,” available here: <https://www.hrw.org/report/2020/12/04/theyre-chasing-us-away-sport/human-rights-violations-sex-testing-elite-women>.

demand surgical intervention, in practice the focus on “normalizing” women with “differences of sex development” (DSD) has led to athletes undergoing many forms of medically unnecessary interventions, including surgical and pharmacological, and is part of a pattern of broader medical abuse against women with variations in their sex characteristics.

While a broad range of women have higher testosterone, including those with polycystic ovarian syndrome (PCOS) and Congenital Adrenal Hyperplasia (CAH), the regulations exclusively target a subset of those women—women with a DSD diagnosis. Indeed, they specifically exclude other women with higher testosterone who may freely compete. DSD is synonymous with other terms such as “variations in sex characteristics,” “intersex,” and refers to some diagnoses that make people “hyperandrogenic,” and those terms may be used in studies published on the topic. The women covered under the regulations were assigned female at birth (on their birth certificates), identify as women, and have competed in the girls or women’s category of sport their entire lives.

The 2019 and 2023 regulations continue sports’ governing bodies’ long-standing scrutiny and testing of women for conformity to arbitrary standards that has extended for more than 50 years. Sports’ governing bodies have acknowledged that sex testing regulations, which have remained consistent in purpose and practice over decades, are inherently degrading and humiliating and have caused serious harm to women.<sup>34</sup>

The 2023 regulations are more restrictive and severe than the 2019 regulations. Policymakers lowered the testosterone threshold once again, this time to 2.5 nmol/l, and require women to keep it below this level for 24 months (a quadrupling of the previous time) before being allowed to compete. These regulations now apply to all athletics events. These regulations continue to be based on deeply contested science and have no apparent objective basis other than to exclude women with XY chromosomes.<sup>35</sup>

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<sup>34</sup> See Arne Ljungqvist, *Doping’s Nemesis* (Cheltenham: Sportsbooks Limited, April 2011), pp. 182-183; Ljungqvist et al., “The History and Current Policies on Gender Testing in Elite Athletes,” *International SportMed Journal*, p. 225.

<sup>35</sup> See, for example, finding at *Mokgadi Caster Semenya v International Association of Athletics Federations*, CAS/2018/O/5794, Judgment, 30 April 2019, para. 610. Available at [https://www.tas-cas.org/fileadmin/user\\_upload/CAS\\_Award\\_-\\_redacted\\_-\\_Semenya\\_ASA\\_IAAF.pdf](https://www.tas-cas.org/fileadmin/user_upload/CAS_Award_-_redacted_-_Semenya_ASA_IAAF.pdf).



***Human Rights Watch encourages the Special Rapporteur to provide the following recommendations to state and non-state actors:***

- Rescind the World Athletics Eligibility Regulations for the Female Classification (Athletes with Differences of Sex Development) 2023.
- All sports governing bodies should commit to a comprehensive audit of their policies to ensure they are in line with the “fundamental principles” of the Olympic Charter and the International Olympic Committee Framework on Fairness, Inclusion, and Non-Discrimination on the Basis of Gender Identity and Sex Variations,<sup>36</sup> including:
  - No athlete should be precluded from competing or excluded from competition on the exclusive ground of an unverified, alleged, or perceived unfair competitive advantage due to their sex variations, physical appearance, and/or transgender status.
  - Athletes should never be pressured by an international federation, sports organization, or any other party – either by way of the eligibility criteria or otherwise – to undergo medically unnecessary procedures or treatment to meet eligibility criteria.

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<sup>36</sup> IOC, International Olympic Committee Framework on Fairness, Inclusion, and Non-Discrimination on the Basis of Gender Identity and Sex Variations, 2021, <https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf>.