

## THE HUMAN COST OF WOMEN'S SPORTS: AN EXAMINATION OF GENDER-BASED HUMAN RIGHTS VIOLATIONS IN SPORTS

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### ABSTRACT

*The recent incident of protests by the Indian wrestlers against the president of the Wrestling Federation of India on the ground of sexual harassment of female athletes has sparked a debate about the role of domestic and international laws in regulating such practices. These concerns are particularly relevant given the general lack of implementation faced by equality and non-discriminatory legislation. This research paper focuses on how domestic and international laws protect the human rights of female athletes and how they can be more appropriate and effective in addressing the complex issues surrounding gender in sports. Moreover, it explores the legal and ethical implications of gender testing in sports and considers the potential impact of international law on regulating these practices. Overall, the paper concludes that the use of gender tests in sports must be carefully considered in light of athletes' rights and the need to maintain the integrity of sports. It suggests that international law has an important role and that a balanced approach must consider all stakeholders' rights and interests. This may involve the development of more nuanced and flexible approaches and greater efforts to promote understanding and respect for all the players of different genders.*

### INTRODUCTION

Women's history in sports has been marked by a persistent struggle for equality, recognition, and respect. Despite facing numerous obstacles and biases, women athletes have persevered and made significant strides towards achieving parity with their male counterparts. However, this progress has come at a cost. In reality, women in sports are still subjected to numerous human rights violations, including discrimination, violence, and harassment, based solely on their gender. Recent events, such as the demonstration by leading Indian wrestlers, including Vinesh Phogat and Bajrang Punia, against the Wrestling Federation of India's chief over allegations of sexual abuse, cast doubt on the actual effectiveness of the organisation's and society's pro-female policies. These incidents raise questions about the level of commitment

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to ensuring gender equality and protecting the rights of female athletes and whether the current policies are enough to address the ongoing challenges facing women in sports. This research paper examines the human cost of women's sports by exploring the various forms of gender-based human rights violations that women athletes are subjected to. By shedding light on these issues, I hope to raise awareness of the ongoing challenges facing women in sports and contribute to the ongoing efforts to achieve gender equality.

## HUMAN RIGHTS VIOLATIONS FACED BY WOMEN IN SPORTS

Women face a discouraging attitude not just from society but also from within when they consider choosing sports as a career option. Despite that, few of them go ahead with sports, but still, they face difficulties surviving. Different forms of human rights violations have been persistently acting as a barrier for them, holding them back from excelling compared to men. As noted by Usha Nair and Nisha Eapen in "Women and Sports in India"<sup>1</sup>, human rights violations faced by women in sports include the gender pay gap, which is exploitative of women, biased media coverage, sexual harassment, gender testing and various cultural and religious barriers.

The Forbes' latest rankings of the Top 50 Highest-Paid Athletes<sup>2</sup>, released in 2022, enlists the top 50 sports stars who combined to make nearly \$3 Billion in a year, which includes just two female tennis players, Naomi Osaka and Serena Williams, making the ratio of female to male athletes 1:24. As reported by CNBC<sup>3</sup>, The International World Cup of 2019 shows a similar picture where the winning amount given to the winning women's team was almost ten times less than that of the men. These incidents of pay gaps highlight the grave picture which is still persisting in society. Several organisations have taken measures focusing on the elimination of this enormous pay gap; as per the report of Hindustan Times<sup>4</sup>, in cricket, pay parity has been introduced by the Board of Control for Cricket in India (BCCI), and the fees of international matches will be same for both men and women's cricket team. However, rooting out the

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<sup>1</sup> Lopez De D'Amico, R., Koushkie Jahromi, M., & Guinto, M.L.M. (Eds.). (2021). *Women and Sport in Asia* (1st ed.). Routledge. <https://doi.org/10.4324/9781003131885>

<sup>2</sup> Birnbaum, J., & Craig, M. (2023). *The World's Highest-Paid Athletes 2023*. Forbes. <https://www.forbes.com/lists/athletes/>

<sup>3</sup> Hess, A. J. (2019, June 8). The 2019 Women's World Cup prize money is \$30 million—7.5% of the Men's World Cup prize. *CNBC*. <https://www.cnbcm.com/2019/06/07/the-2019-womens-world-cup-prize-money-is-30-million.html>

<sup>4</sup> Mandani, R. (2022, October 28). Men, women cricketers to get equal match fees. *Hindustan Times*. <https://www.hindustantimes.com/india-news/men-women-cricketers-to-get-equal-match-fees-101666895329358-amp.html>

problem of unequal payment is not easy and will require a collective global effort by all organisations.

The media plays a crucial role in shaping public perception and opinion about sports and athletes. Media representatives play a significant part in creating gender stereotypes persisting in sports by giving more coverage to men as compared to female players. As discussed by D. Chattopadhyay in his paper on Gender bias in India's newspaper coverage<sup>5</sup>, because of the sparse representation of sportswomen by the media, athletes like Geeta Phogat and Mari Kom became more famous after the release of their biography than their contributions in their sports. A. R. Nair & Karthika, in their case study based on the Indian women's cricket team<sup>6</sup>, argues that even if women in sports do receive media coverage, it is portrayed in such a way that it bolsters the stereotypical view of the audience.

Sexual harassment of sportswomen is another human rights issue that violates women's right to equality and dignity. Not only are the cases increasing, but the severity with which they are being handled also depicts a grim picture. As per the data gathered by the Right to Information Act, between 2010 and 2020, 45 complaints of sexual harassment were reported to the Sports Authority of India, of which 29 were against coaches. India Today<sup>7</sup> notes that in many of these complaints, the accused were dealt with just minimal punishments, such as transfers and pay cuts. Furthermore, it is to be noted that many women choose not to come out and prefer to leave the sport altogether because of the social stigma associated with it.

Apart from the challenges within sports, women also face challenges posed by society. There persists a discouraging attitude towards female participation in sports. This can be seen in countries like India and Pakistan, where women's participation in sports is seen as a violation of their cultural or religious values, which can result in discrimination and exclusion. This discouragement affects not only individual women but also future generations of girls who aspire to sports as a field they can choose. Moreover, the notion that sports are not meant for women and that they are weaker and less capable than men is still deeply ingrained in the minds

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<sup>5</sup> Chattopadhyay, D. (2016a). Gender bias in India's newspaper coverage of Male and Female Athletes at the 2014 Incheon Asian Games. *Global Media Journal*, 7(2). <https://caluniv.ac.in/global-mdia-journal/Article-Nov-2017/A6.pdf>

<sup>6</sup> Nair, A., & Karthika, C. (2018). Gender Unevenness in the Sports Pages of Newspapers: A Case Study Based on Indian Womens Cricket Team. *International journal of pure and applied mathematics*, 118.

<sup>7</sup> Chingakham, D. (2023, January 19). Wrestling to cricket: When allegations of sexual harassment rocked Indian sports. *India Today*. <https://www.indiatoday.in/sports/other-sports/story/india-sports-sexual-allegations-harassment-wrestling-to-cricket-2323675-2023-01-19>

of many individuals and communities. This notion not only affects the representation of women in sports but also affects the quality of resources and facilities provided to them. As a result, women face difficulties achieving their full potential as athletes, leading to unequal representation and recognition in sports. Mari Kom, Babita and Geeta Kumari have shared their incidents where their families acted in opposition to their careers under the influence of their prevailing thinking, which is exploitative of women considering them inferior to men.<sup>8</sup>

## THE EXPLOITATIVE PRACTICE OF GENDER TESTING IN SPORTS

Gender testing in sports is another barrier women players face; it refers to determining an individual's biological sex, usually in the context of competitive sports. Gender testing includes a series of physical examinations and genetic testing to determine the presence or absence of specific sex chromosomes or hormones. Despite ensuring fair competition in sports being the primary purpose of gender testing, it ends up violating the human rights of sports persons and especially women, along with the exclusion of intersex athletes.<sup>9</sup> The series of these tests date back to the mid-1900s when it began with providing femininity certifications and later took the form of inspections, physical examinations, chromosome testing, and testosterone level testing.<sup>10</sup> They were later made compulsory for all female athletes by the International Association of Athletics Federations (IAAF) in 1950. Following these tests, the organisations ended up barring female athletes who are found with excess testosterone levels than normally found or a Y chromosome until they lower them with medical procedures, considering them as unfairly benefitted among fellow athletes in that category.

These tests ended up exploiting several female athletes who naturally had excess male hormones, as the athletes who failed these tests were humiliated by the coaches, players and society at large; they were often regarded as male impostors who cheated by participating in the female category.<sup>11</sup> Many female athletes, including Dutee Chand, Caster Semenya, Helen Stephens, Stella Walsh and many others, faced severe exploitation; some even ended their lives. For instance, in 2006, Soundarajan, an Indian athlete who won a silver medal in the 800m

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<sup>8</sup> Correspondent, H. (2011, March 6). An uneven playing field. *Hindustan Times*.

<https://www.hindustantimes.com/india/an-uneven-playing-field/story-M1r1ox7OHfvzHzoA2JtQoI.html>

<sup>9</sup> Padawer, R. (2016, July 18). The Humiliating Practice of Sex-Testing Female Athletes. *The New York Times*. [https://www.nytimes.com/2016/07/03/magazine/the-humiliating-practice-of-sex-testing-female-athletes.html?\\_r=0](https://www.nytimes.com/2016/07/03/magazine/the-humiliating-practice-of-sex-testing-female-athletes.html?_r=0)

<sup>10</sup> Reeser, J. C. (2005). Gender identity and sport: is the playing field level? *British Journal of Sports Medicine*, 39(10), 695–699. <https://doi.org/10.1136/bjbm.2005.018119>

<sup>11</sup> Quint, & Quint. (2021, October 18). The History of Gender Testing in Women's Athletics. *The Quint*. <https://www.thequint.com/sports/the-history-of-gender-testing-in-womens-athletics>

at the Asian Games in Qatar, ended up with a gender test controversy. She failed the test as she carried a Y chromosome, stripping up her silver medal and ending her sports career. She faced severe depression from the humiliation and even tried to end her life.<sup>12</sup>

United Nations Special Rapporteur on health, in 2016, criticised these sex verification practices explaining how many athletes ended up with gonadectomy, which is the removal of reproductive organs and partial clitoridectomy in the absence of symptoms or health issues warranting those procedures just in order to become eligible to participate; these unnecessary surgeries later proved fatal for them. However, although IAAF ended mandatory testing in 1992, and several countries stopped this practice at domestic, it continued on a case-by-case basis in different sports.<sup>13</sup>

### EXISTING LAWS CONCERNING WOMEN'S RIGHTS IN SPORTS

While women's participation in sports may not generally be perceived as a human rights issue, there is a link between women's equality in sports and human rights at large. They share a common vision of pay parity, increased access to education, freedom, and broader opportunities. Globally, organisations are protecting and advocating rights for women. Still, the formation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979, which India has also ratified, brought a change with itself as it was the most extensive global agreement for safeguarding women's human rights.<sup>14</sup> Several organisations advocate equal human rights, such as the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR).<sup>15</sup> The UDHR talks about how every person has a right to participate in society's cultural life. CEDAW specifically talks about the same opportunities in sports and physical education, showing the importance of sports in the cultural life of the people.

Measures specific to India include Article 14 of the Indian constitution, the Prevention of Sexual Harassment at Workplace Act (POSH), the National Policy for the Development of

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<sup>12</sup> Quint, & Quint. (2021, October 18). The History of Gender Testing in Women's Athletics. *TheQuint*. <https://www.thequint.com/sports/the-history-of-gender-testing-in-womens-athletics>

<sup>13</sup> Simpson, J. L., Ljungqvist, A., De La Chapelle, A., Ferguson-Smith, M. A., Genel, M., Carlson, A., Ehrhardt, A. A., & Ferris, E. (1993). Gender Verification in Competitive Sports. *Sports Medicine*, 16(5), 305–315. <https://doi.org/10.2165/00007256-199316050-00002>

<sup>14</sup> Lemmon, M. (2019). Evening the playing field: women's sport as a vehicle for human rights. *The International Sports Law Journal*. <https://doi.org/10.1007/s40318-019-00148-5>

<sup>15</sup> OHCHR. (n.d.). *Universal Declaration of Human Rights*. <https://www.ohchr.org/en/universal-declaration-of-human-rights>

Women in Sports, the Sports Code, the National Commission for Women Act and others. Article 14, one of the fundamental rights, guarantees equality before the law and equal protection of laws to all individuals. This serves as the foundation for protecting women's sports rights, including the right to participate in sports, access to facilities, and fair treatment in terms of pay, benefits, and recognition. Additionally, Article 14 also ensures that women are protected from sexual harassment and other forms of gender-based violence in the context of sports.

The POSH Act (2013), which saves women from all forms of sexual harassment in the workplace, applies to all organisations and workplaces, including sports organisations, with more than ten employees. In the sports sector, the POSH Act is crucial in ensuring that women athletes are protected from sexual harassment and abuse. The Act provides a legal framework for them to report incidents of harassment and seek redress and helps to create a safe and equitable workplace environment. The POSH Act is important in promoting gender equality in sports and ensuring that women's human rights are protected.

The National Policy for the Development of Women in Sports is a policy in India that aims to promote and encourage the participation of women in sports at all levels. The policy was developed to address the issues faced by women in sports and to create an enabling environment for women to participate in sports. The policy aims to create a gender-sensitive environment in sports and promote gender equality in sports. The policy lays down guidelines for developing women's sports in India, including promoting women's sports at all levels, improving access to facilities and resources, and addressing the challenges women face in sports. It also focuses on increasing the visibility of women in sports through media coverage, improving the standard of women's sports, and providing financial support to women's sports.

### **SUGGESTIVE MEASURES FOR INDIA**

As discussed above, India does have laws and policies for the protection of women's rights in sports; however, to address the continued exploitation and abuse of women in sports more effectively, India must collaborate with international law to protect their rights, creating a legal framework that specifically addresses the unique challenges faced by women in the sports industry. For example, the CEDAW<sup>16</sup> convention requires states to take all appropriate

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<sup>16</sup> *Convention on the Elimination of All Forms of Discrimination against Women.* (n.d.).  
<https://www.un.org/womenwatch/daw/cedaw/>



measures to eliminate discrimination against women in all areas of life, including sports. This means that India can use this framework to tackle the systemic barriers that prevent women from participating in sports on an equal footing with men, such as unequal pay, limited opportunities for coaching and leadership positions, and a lack of adequate support and resources. The Beijing Platform for Action<sup>17</sup> also provides a comprehensive set of recommendations for states to take action to advance gender equality in all areas of life, including sports. Moreover, by collaborating with international law, India can access a wealth of resources and expertise from the international community, including best practices, research, and tools for monitoring and evaluation. This will enable India to enhance its efforts to promote gender equality in sports and improve its ability to address the challenges faced by women in this sector.

## CONCLUSION

In conclusion, the human rights violations women face in sports are a crucial issue that needs to be addressed globally. The sports industry, being male-dominated, has not been fair to women. Still, the situation has improved over time with the introduction of international and India-specific laws. The international legal framework for protecting women's rights in sports, such as the International Covenant on Economic, Social and Cultural Rights, lays the foundation for protecting women's rights in sports. In India, The Prevention of Sexual Harassment at Workplace Act and The National Policy for the Development of Women in Sports aim to protect women's rights and provide equal opportunities in sports. However, it is still essential to keep in mind that the inconsistent implementation of these legislations is a persistent challenge. It is essential that all relevant stakeholders, including governments, sports organisations, and media outlets, collaborate to enforce existing laws and promote gender equality in sports effectively. Only through sustained and collective efforts can we create a more level playing field for women in sports and facilitate their ability to reach their full athletic potential without hindrance.

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<sup>17</sup> *The Beijing Platform for Action: inspiration then and now.* (n.d.). UN Women – Beijing+20. <https://beijing20.unwomen.org/en/about>