



# **Cross-Community Working Party on ICANN and Human Rights**

Collin Kurre and Michael Karanicolas, Co-Chairs

ICANN63 | October 22, 2018

# CCWP-HR ICANN63 Agenda

## 1. Welcome and Introduction

## 2. Updates

- a. CCWG-Acc Work Stream 2 Recommendations – *Bernie Turcotte*
- b. Human Rights Bylaw – *Michael Karanicolas, Right to Know Coalition*

## 3. Presentations

- a. ICANN Org's HR Impact Assessment – *Betsy Andrews, ICANN*
- b. ICANN Diversity Analysis – *Akriti Bopana, CIS India*
- c. Progress toward a Multistakeholder HRIA – *Collin Kurre, ARTICLE 19*
  - Discussion of corresponding IGF Workshop (14 Nov, Paris)

## 4. Open Community Discussion

- a. Human Rights in Ongoing GNSO PDPs
- b. Areas of focus moving forward? Potential projects?

## 5. AOB

- Leadership changes: Call for CCWP-HR Co-Chair

# Cross-Community Working Party on ICANN and Human Rights

## Objectives, Responsibilities, and Scope of Work:

1. **Map HR effects** of ICANN policies, procedures, and operations
2. **Provide a forum** for related discussions
3. **Research** ways to better harmonize ICANN's policies and procedures with human rights standards and legislation
4. **Provide** information, suggestions, and recommendations to SOs, ACs, and broader community
5. **Propose** procedures and mechanisms on how chartering organizations can fulfill HR bylaw

# ICANN POLICIES AND HUMAN RIGHTS

## HUMAN RIGHTS PRINCIPLES

**INHERENT:** human rights derive from the humanity of each person.

**UNIVERSAL:** all human beings have the same human rights.

**INALIENABLE:** human rights cannot be given up.

**INDIVISIBLE:** there are no conflicts between rights and no priorities among rights. There will be situations or occasions where rights must be balanced and prudent decisions taken about how all rights can best be protected and promoted.

**INTERDEPENDENT AND INTERRELATED:** the enjoyment and fulfillment of any right depends on the enjoyment and fulfillment of other rights.

**EQUALITY AND NON-DISCRIMINATION:** all individuals are equal as human beings and by virtue of the inherent dignity of each human person.

**PARTICIPATION AND INCLUSION:** all people have the right to participate in and access information related to decision-making processes affecting them.

**ACCOUNTABILITY AND RULE OF LAW:** States and other duty-bearers are answerable for the observance of human rights.

## TREATIES



## ICANN

The Internet Corporation for Assigned Names and Numbers coordinates the policy making and distribution of domain names and IP numbers. It therefore is often referred to as the "telephone book of the Internet."

## ICANN GLOSSARY

**DANE:** DNS-based Authentication of Named Entities

**DNSEC:** Defined conditions of nondisclosure

**DISP:** Documentary Information Disclosure Policy

**DNSSEC:** Domain Name System Security Extensions

**CAC:** Governmental Advisory Committee

**CNSO:** Generic Names Supporting Organization

**gTLD:** Generic top-level domain

**IGNs:** Internationalized Domain Names

**IGOs:** Inter-Governmental Organizations

**INGOs:** International Non-Governmental Organizations

**IRP:** Independent Review Panel

**PDP:** Policy Development Process

**RPMs:** Rights Protection Mechanism (as related to Intellectual Property Rights)

**RDAP:** Registration data access protocol

**WHOIS:** an Internet service that provides information about a domain name or IP address

## Scoping the relation between ICANN and Human Rights

This is a preliminary scoping in anticipation of the Human Rights Impact Assessment that will be carried out by the ICANN organization in 2018.

This illustration has been produced by the Cross-Community Working Party on ICANN and Human Rights (CCWP-CHR).

Find more information and join the mailing list by visiting [icannhumanrights.net](http://icannhumanrights.net).

## RIGHTS INVOLVED

RIGHT TO PRIVACY

RIGHT TO FREEDOM OF ASSOCIATION

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

RIGHT TO FREEDOM OF EXPRESSION

PARTICIPATION, INCLUSION, EQUALITY AND NON-DISCRIMINATION

RIGHT TO SECURITY

DUE PROCESS

## THEME

2013 Registrar Accreditation Agreement

WHOIS

New gTLD subsequent procedures WG

New gTLD subsequent procedures WG

IP addresses

Free and fair use of domain names

New gTLD subsequent procedures WG

Internationalized Domain Names

Rights Protection Mechanisms

Documentary Information Disclosure Policy

Protection of rights to fair and equal treatment

DNSEC

PDP procedure

CAC early warning

Reconsideration Request

IRP Process

All Dispute Resolution processes within ICANN

Documentary Information Disclosure Policy

## ICANN POLICY OR PROCESS

- Data escrow provider financial support
- WHOIS accuracy specification requirement
- Thick WHOIS implementation review team
- Next generation gTLD registration directory service
- RDAP changes and privacy
- Applicant guidebook
- Application fees
- Registrar accreditation process & insurance requirements
- CNSO new gTLD auctions proceeds drafting team
- Coordination and distribution of IP addresses
- The right to use all words and names in domain names
- Content-based gTLD String Evaluations
- Applicant guidebook
- Implementation of Internationalized Domain Names
- Review of protection IGO/NGO names in all gTLDs
- Review of curative rights protections in IGO/INGOs in gTLDs
- New gTLDs subsequent round WG
- PDP to review RPMs in all gTLDs
- Defined conditions of non-disclosure
- Awareness of Ombuds office for complaint
- Implementation of DNSSEC
- Implementation of DANE
- CNSO PDP improvements discussion group
- Effect of failure and the use of the Ombudsman
- Parties made aware of Ombuds and Complaints Offices
- Documentary Information Disclosure Policy requests

# Cross-Community Working Party on ICANN and Human Rights

## Other Work, Past and Present:

- *Paper*: ICANN's Procedures and Policies in Light of Human Rights, Fundamental Freedoms, and Democratic Values (2014)
- *Paper*: ICANN's Corporate Responsibility to Respect Human Rights (2015)
- *Paper*: Potential Human Rights Issues Arising from gTLD Subsequent Procedures (2016)
- *Paper*: Initial Sketch for Human Rights Impact Assessment Model for GNSO PDPs (2018)
- *Model*: Human Rights Impact Assessment for ICANN PDPs

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# ICANN Bylaws: Human Rights Core Value

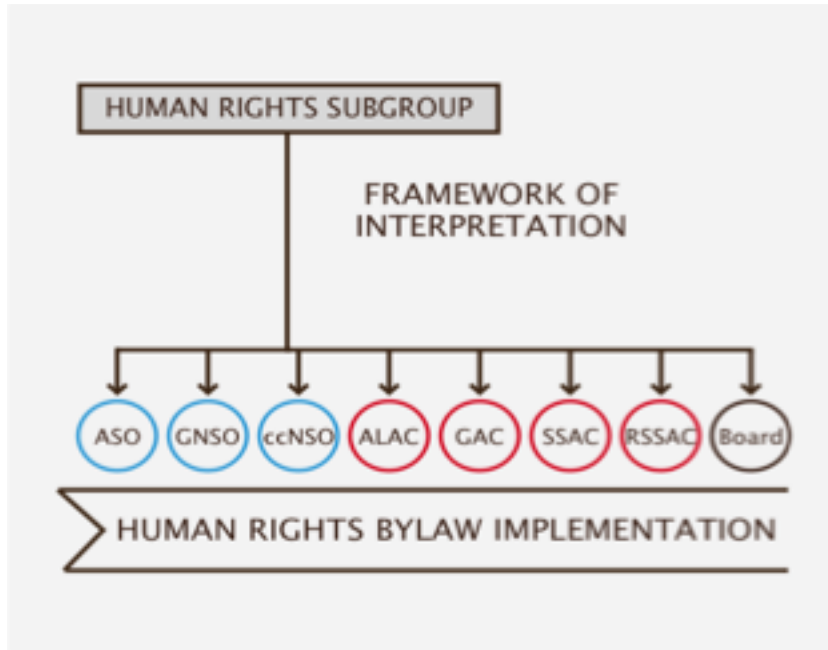
**1.2.(b)(viii)** “Within the scope of its Mission and other Core Values, **respecting internationally recognized human rights as required by applicable law.** This Core Value does not create, and shall not be interpreted to create, any obligation on ICANN outside its Mission, or beyond obligations found in applicable law. This Core Value does not obligate ICANN to enforce its human rights obligations, or the human rights obligations of other parties, against other parties.”



## Interim Human Rights Core Value CAVEAT

**27.2.(a)** “The Core Value set forth in Section 1.2(b)(viii) shall have **no force or effect unless and until a framework of interpretation for human rights ("FOI-HR")** is (i) approved for submission to the Board by the CCWG-Accountability as a consensus recommendation in Work Stream 2, with the CCWG Chartering Organizations having the role described in the CCWG-Accountability Charter, and (ii) approved by the Board, in each case, using the same process and criteria as for Work Stream 1 Recommendations..”

# Human Rights Framework of Interpretation: Implementing the Core Value



- Up to each SO/AC and ICANN org to develop their own policies, mechanisms, and/or frameworks to fulfill the Core Value
- SOs could consider defining and incorporating Human Rights Impact Assessments (HRIAs) into respective PDPs

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# ICANN Organization's ongoing Human Rights Impact Assessment

Betsy Andrews, Public Responsibility at ICANN



Timeline courtesy of [London Human Rights & Responsible Business](#)



# Diversity Analysis



**Akriti Bopanna**  
Policy Officer, Centre for  
Internet and Society

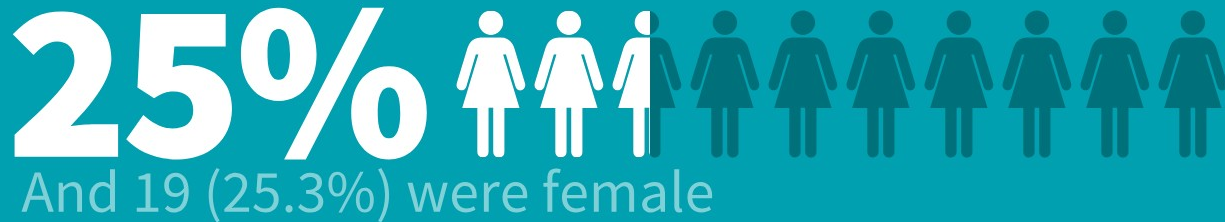
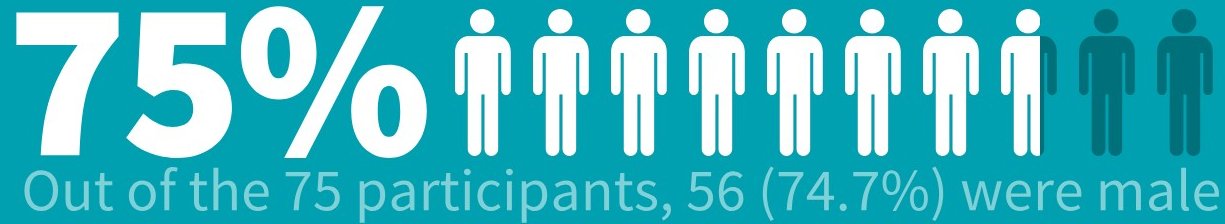
# Introduction

- Given the significance of the multistakeholder nature of ICANN, it is imperative that stakeholders continue to question and improve the inclusiveness of its processes.
- On our road to implementation of the WS2 Recommendations particularly in this case those of the Diversity subgroup, it would be good to begin with knowing the status quo and how diverse the participation at ICANN currently is.
- As stakeholders are spread across the world, much of the communication discussing the work of ICANN takes place over email. Various mailing lists inform members of ICANN activities and are used for discussions between them from policy advice to organizational building matter and hence we decided to analyze these lists.

# Methodology

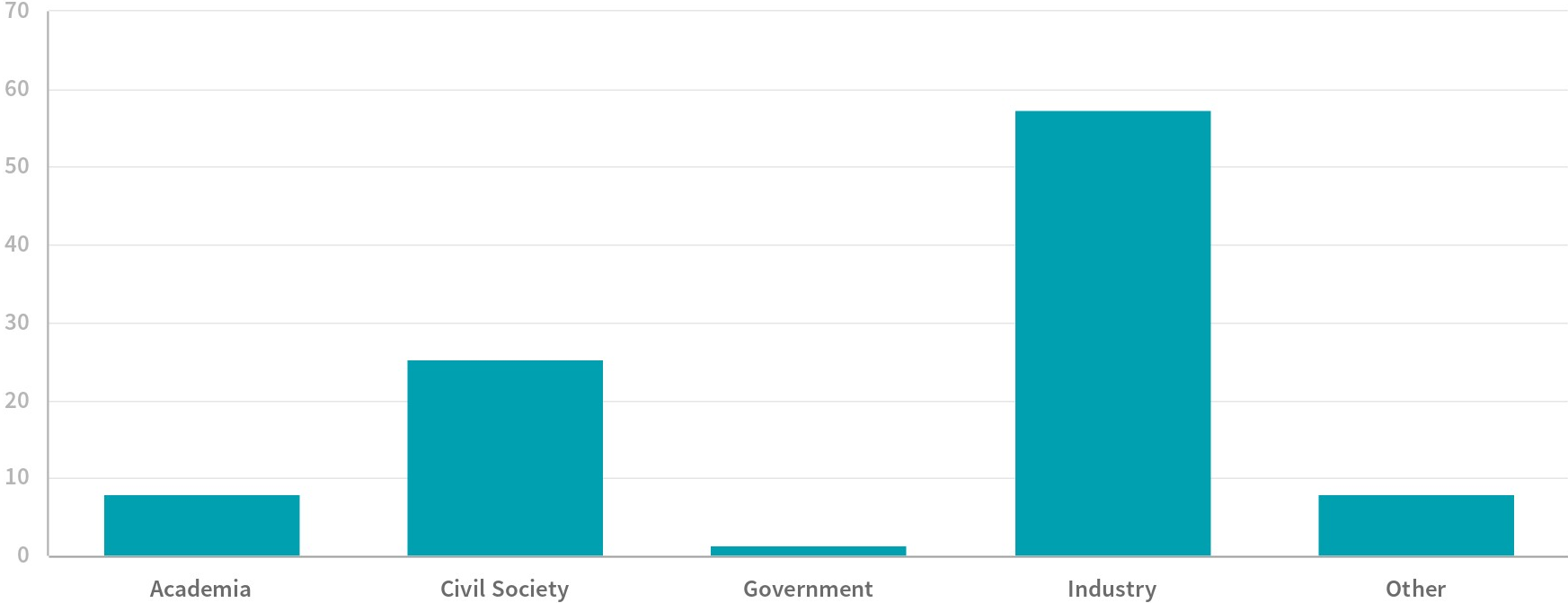
- 1 From January 2016 to May 2018, we analyzed the five most active At-Large Working Group mailing lists since most of their mailing lists are public.
- 2 The 5 were Outreach and Engagement, Technology, At-Large Review 2015-2019, IANA Transition and ICANN Accountability and Finance and Budget mailing lists.
- 3 The number of active participants were determined by who had sent more than the median number of mails in their working group.
- 4 We looked at the diversity among these active participants by focusing on their gender, stakeholder grouping and region.
- 5 In order to arrive at the data, we referred to public records such as the Statement of Interests which members have to give to the GNSO Council. We also used, where available, ICANN Wiki and the LinkedIn profiles of these participants
- 6 A total of 218 participants were present on the 5 mailing lists that were looked at.
- 7 Of these,, 92 were determined to be active participants out of which 75 were non-staff members.

# Gender Diversity

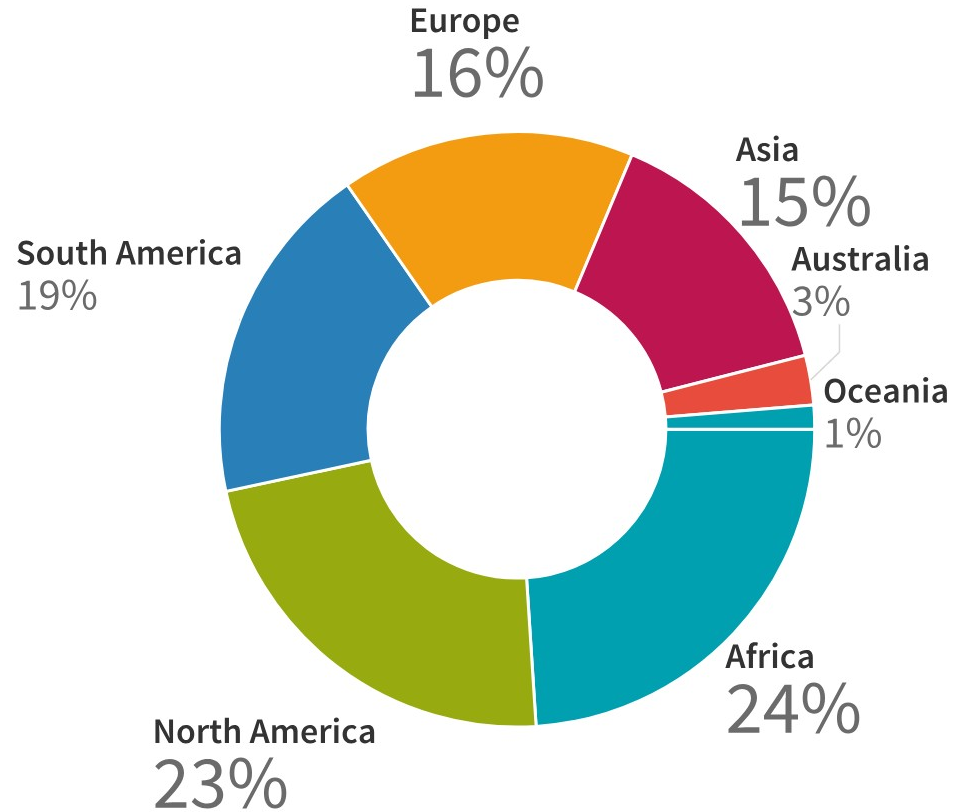




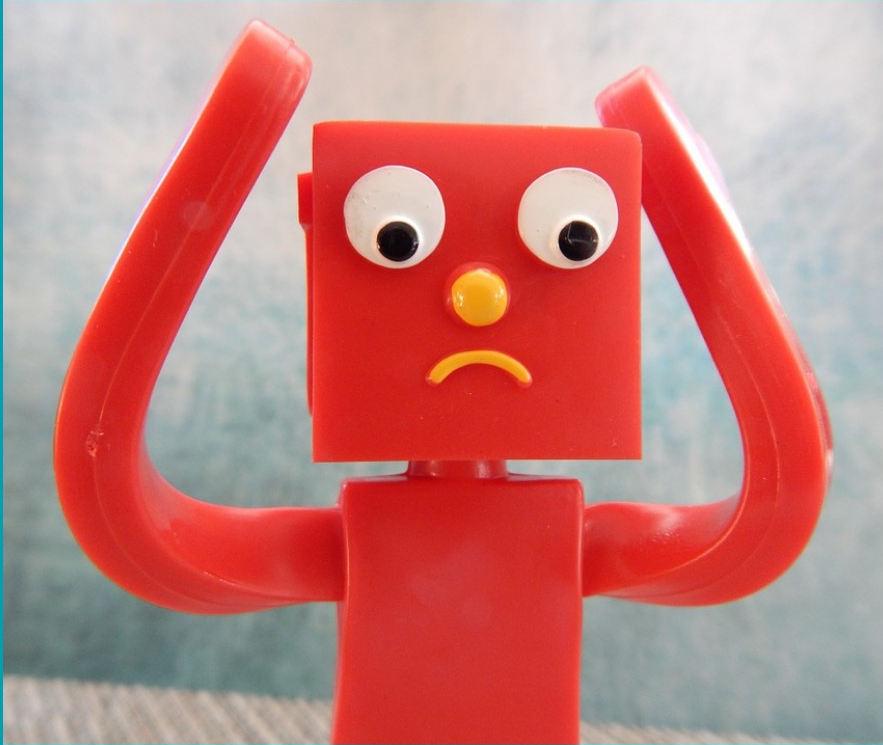
# Stakeholder Group



# Regional Diversity



# Potential concerns



- The vast number of the people participating and as an extension, influencing ICANN work are male constituting three fourth of the participants.
- The mailing list were dominated by individuals from industry. This coupled with the relative minority presence of the other stakeholders creates an environment where concerns emanating from other sections of the society could be overshadowed.
- Only 14.7% of the participants were from Asia, which is concerning since 48.7% of internet users worldwide belong to Asia.

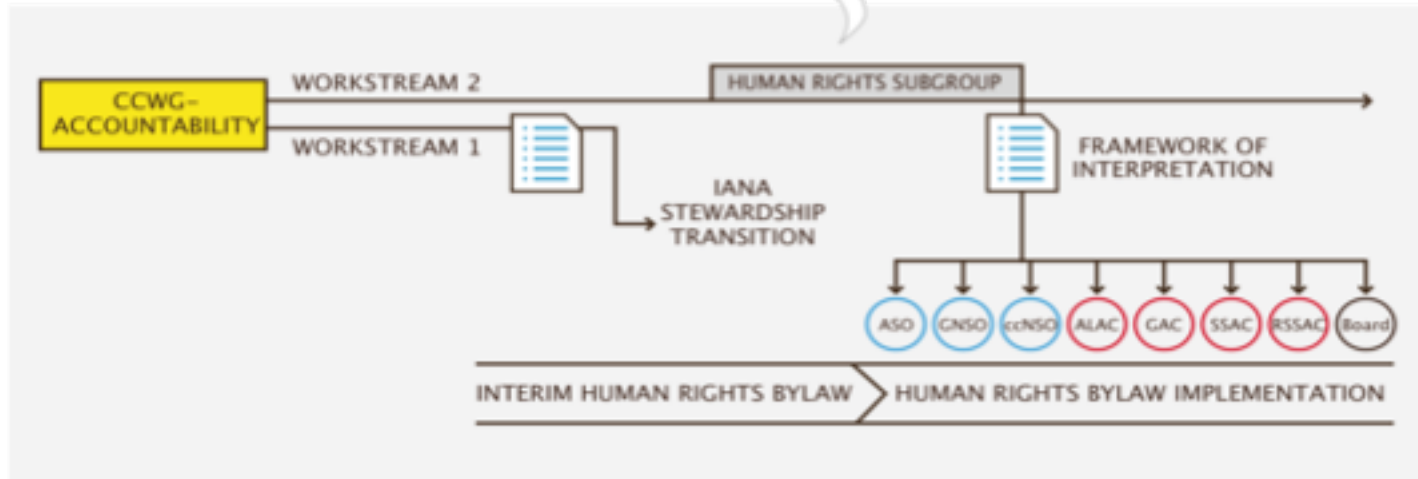
# ICANN Organization

- When we asked ICANN through DIDP's for a race and citizenship breakdown of their employees, we were told that they do not store this information in most of their offices and in the 2 that they do, they cannot share it with us.
- We filed a DIDP to ascertain whether there was a bias in how much ICANN paid men viz-a-viz women by asking for the average salary for female and male employees. However we were told that ICANN org's remuneration philosophy and practice is not based upon gender" which is why they said that they have "no documentary information in ICANN org's possession, custody or control that is responsive to this request.
- With opaque responses such as the above it is difficult to assess how much work needs to be done to make ICANN, the institution a more diverse place.
- We hope that implementation of the WS2 Diversity recommendations will help in resolving this.

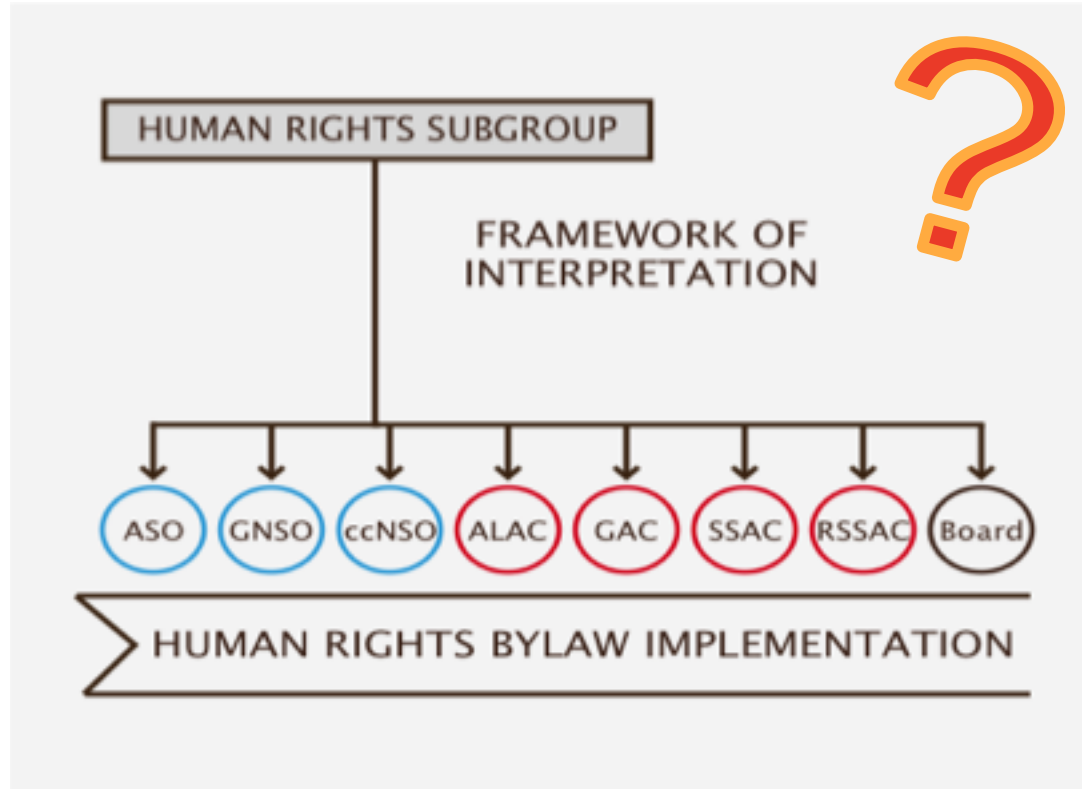
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# How It's Made: HR Core Value Edition

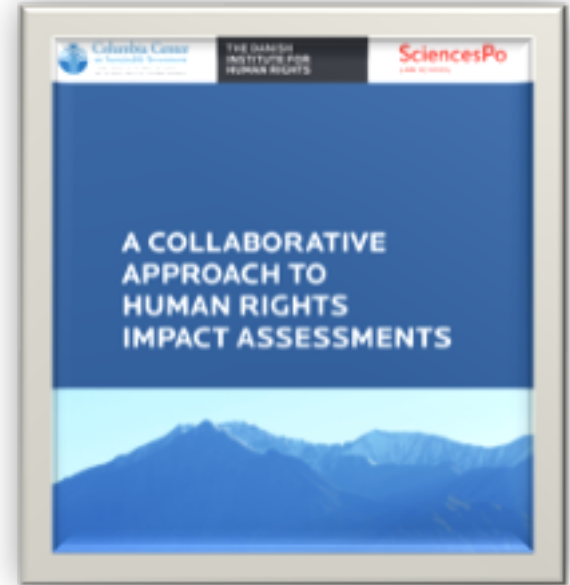


But how will it happen? Where can we help?



# Idea: Multistakeholder HRIAs

- Meaningful inclusion
- Stakeholder / community engagement through the process
- Generate trust and achieve more accountable process
- Overcome perceived bias
- Overcome information asymmetry





# Idea: Multistakeholder HRIAs

## I. RIGHT TO PRIVACY

"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation." (UNDHR Article 12)

Negative impact scenario(s):

Likelihood of impact:

Very high    High    Medium    Low    Very low

Severity of impact:

Very high    High    Medium    Low    Very low

Vulnerable groups, if any:

Potential safeguards:

Avenues for remedy:

Potential positive impacts, if any:

At what point in the process could this occur?

- Policy development processes (GNSO, ccNSO, ASO?)
- Development of recommendations (ALAC, SSAC, RSSAC?)
- Development of GAC Communiqués?

How should it be completed? By whom?

How should it be made public?

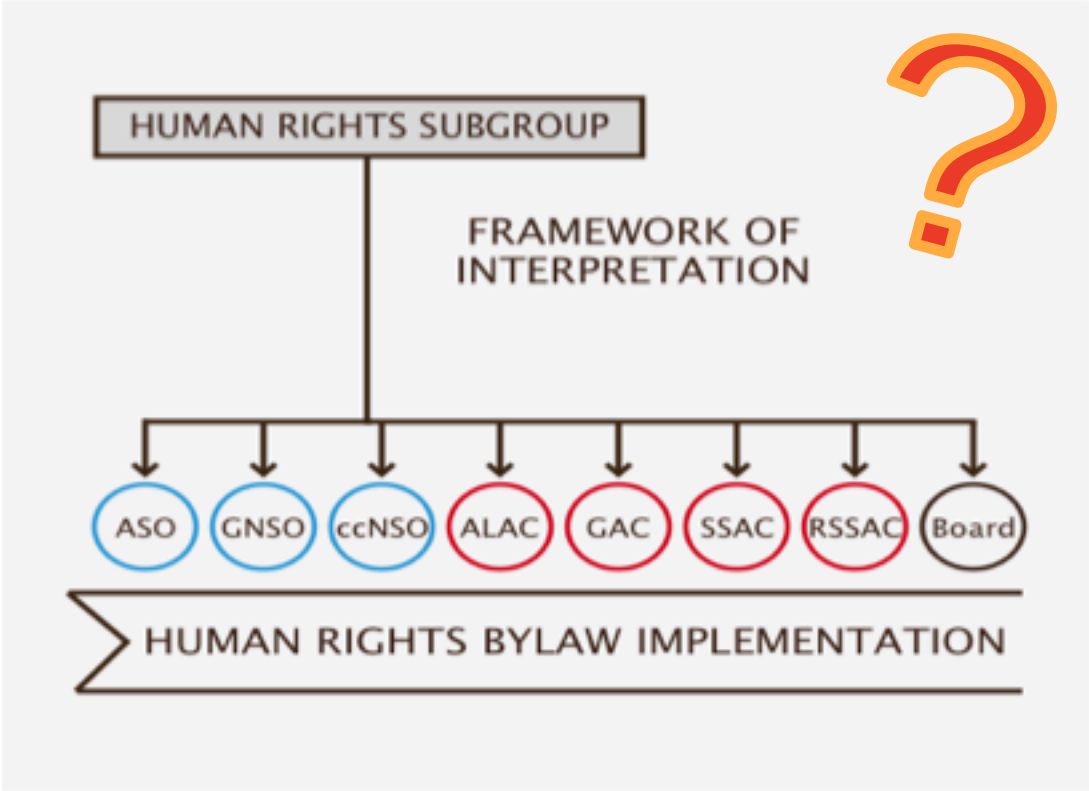
- Included in an issue report? As an annex to recommendations?

# “A Multistakeholder Approach to HRIAs: Lessons from ICANN” Workshop



Wednesday 14 November, Paris

# Other ideas?



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# Join or follow the CCWP's work

Visit our website: [icannhumanrights.net](http://icannhumanrights.net)

Post your questions and ideas to the list:  
[cc-humanrights@icann.org](mailto:cc-humanrights@icann.org)

Or get in touch directly:  
[collin@article19.org](mailto:collin@article19.org)

**Thank you!**