

UNIDENTIFIED FEMALE: Thank you very much, [everybody]. Welcome to the CCWP ICANN and Human Rights. Today is Wednesday, the 20th of February, 2019. I will pass the mic over to Collin. Thank you.

COLLIN KURRE: Thank you very much. Yes, good morning, good evening, good afternoon, everyone. Welcome to this meeting. It seems like David and possibly other people are having issues with the audio. Is there anyone else who can't hear me speaking? Can anyone ...

Okay, great. You've got it fixed. Perfect. Welcome, David.

So today is a really exciting day because we're going to be discussing work that has been under construction for the past – well, for the better part of the past year. So we've got a pretty packed agenda, so I think that we can dive right in.

Let's see here – oops. Here we go. Here's the agenda for today. As you can see, about half or maybe a little bit more than half of the meeting will be dedicated to looking over the different multi-stakeholder human rights impact assessment model that has been developed within this cross-community working party.

We'll also be showcasing a new model for human rights impact assessment that has been under construction. There are several people from this HRIA team that are on the call today, so hopefully we'll be able to share some insights into the challenges and lessons that we learned in the course of this work.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

We'll also be talking a little bit about the recent paper that was published by one of our members and about our session for the upcoming meeting at Kobe. I realize that I have actually neglected to introduce my Co-Chair, so I'll turn the mic over to her to introduce herself quickly before diving into the next slide.

Akriti, is your audio working okay?

Hmm ...

No, we can't hear you. So maybe we can work on that. I'll go on to the next slide while we're working on that. Then just feel free to pipe out to test things out if you need to.

So first we're going to start with a bit of a retrospective, looking at the different human rights impacts assessment models that have been put forth within the ICANN community until now.

So some of you may recall that the first thing that was produced was an initial sketch. This was contributed by our CCWP member, Vidushi Marda, at the Abu Dhabi in November 2017. I have just pasted a link to the document in the chat in case you wanted to have a look.

The main points were that it kind of mapped out the different criteria for carrying out an independent human rights impact assessment and then mapped this phases onto the steps of the Generic Names Supporting Organization's policy development process.

One of the key things that it brought to the table was charting objectives and responsibilities for each phase of the assessment. However, a lot of the community feedback – I see we're having

troubles. I'm going to carry on since this is more of a retrospective so that you guys can work out your dial-ins by the time we get to the discussion.

So, right. A lot of the feedback that we received at the end of November 2017 was that this work was premature, as Work Stream 2 wasn't even close to being completed at that point. Other contributors also identified the additional burden on staff members who might not have the bandwidth or expertise to carry out an impact assessment. And there were concerns that it was unclear how the community would be involved.

So, in response, the next iteration was the questionnaire model. Here I can also put a link in the chat. So the main development of this questionnaire model was that it was trying to be more inclusive in terms of participation so that more people could feed into [inaudible] – oh goodness. That's a very loud noise. And it wouldn't be completely dependent on ICANN [staff] to carry it out – oh my goodness. That is a loud noise. Sorry, I got a little bit distracted.

This was also building on previous work of the CCWP to identify the salient human rights that were impacted by ICANN's policies and operations.

However, we received quite a bit of community feedback on this saying that it was maybe not so clear how the different rights enumerated would relate to the work of the policy development process. So perhaps we could have added queues or links to make the connection. And

people were unclear about how clear this impact assessment out and when.

I think that the key point here is that, when we started trying to carry out the trial HRIA, we found that this format/method was not very operational because the rights were too siloed and it was kind of hard, just from a user experience perspective, to scroll up and down and be able to fill in the information in the right place.

So the next model that we developed was in the form of a spreadsheet. Here I can share the link to that in the chat. You can just have a look at how the work was evolving. As we began getting involved in the PDP, in the subsequent procedure policy development process, we realized that a lot of the impacts were coming from proposed changes that had been recommended by the working group, so kind of looking at government or regulatory change models of impact assessment.

We tried to base this on focusing on the status quo or changes, but this proves to also not be particularly operational, as not only was the link to human rights not very clear, but there was superfluous information that was added into the spreadsheet. And it was also difficult to process.

A big concern was that this might have been what I call a dead-end exercise, meaning that this wouldn't necessarily feed into the different work of the policy development process in a meaningful way.

So this brings us to the current exercise. Before we get to – here I can paste the current model. Here, I'll just skip around [the] new slide. So this brings us to the current model that we've been working with, which was developed earlier this year, just last month in January And – oops.

Here we go. And it similarly uses the collaborative spreadsheet format, but it's now geared towards recommendations.

Now that you guys have this link in the chat so that you can have a look at the current model as we're talking about it, I want to back up and look at how this trial run on the subsequent applications policy development process went and maybe get some feedback from some of the folks that contributed to the team, who I can see are in this meeting.

So you will have seen that, on the CCWWPHR list, we jointly identified subsequent procedures as the most relevant policy development process for trial in November 2018. At that point, we assembled a small team of volunteers to help carry out the assessment. They were mostly newbies, myself included.

So our first step was gathering and reviewing resources on subsequent procedures to understand the state of play and the major actors and what was being decided. We formed [Slack] channel to share resources and ideas on this.

Over the course of the past couple months, people like – let's see – Austin, Iona, and Stefan and a couple of others – and Akriti, of course, and I – have all been contributing to meetings of the subsequent procedures while contributing – maybe “observing” is a better word – to try to see how this human rights impact assessment could be incorporated in this and other policy development processes.

I think now I will open the floor to the HRIA team members in particular and see if anybody had any comments on challenges or lessons learned or general experiences in contributing to subsequent procedures.

AKTRITA BOPANNA: Hi, everyone. Collin, can you hear me now?

COLLIN KURRE: Yes we can. Thanks.

AKRITI BOPANNA: Okay. So, hi, everyone. I planned to introduce myself. I'm Akriti Bopanna. I work in Bangalore, India, at the Centre for Internet and Society. So, as of my engagement with ICANN, I was on the HRIA team and I think – I don't know that this was a [challenge that we would need to meet], but [I was] at a couple of meetings, and I think the biggest thing, at least to me, is the fact that it was really [dense]. So [inaudible] in a couple of meetings, but [with all the meetings I was in], I realized much later. In [inaudible] understand and believing what they were talking about. All the documents that were put out were pretty long and pretty in-depth.

It's not as easy for somebody who's not been part of the [inaudible] actually, so it's quite difficult to [inaudible] and [inaudible] the HRIA the impact of the applications on the rights are. Everyone also seems to be already like an expert. It's kind of hard to [bridge] anything that [inaudible]. It was a [inaudible] time to understand what's happening and then process what the impact of what it will be.

So I think Collin is maybe better than that, given her experience with ICANN, and I'm hoping to get better at that in the couple months that follow.

COLLIN KURRE:

Thanks for sharing that experience. Did any of our other trial HRIA team members have a similar experience or anything to add to that?

Yes. David, I see you've got your hand raised. Please come in.

DAVID MCAULEY:

Hey, Collin. Thank you very much. This is David McAuley speaking for the record. I wasn't part of that team, but I do have a question about it. My question is, how does this fit in to the PDP process? I'm just not clear on that. In other words, you mentioned that you were observers, so I'm wondering, is this just a test in the background or does this have an impact in this particular PDP? Will it have an impact? Will these observations be made known to the group? Or is that reserved for something that might be catastrophic? I don't even know if that's been identified. I tend to doubt it.

So I'm just trying to figure out what does this mean to the PDP group itself. Thank you.

COLLIN KURRE:

Yeah, thanks. I was kind of [flicking] around in this slide because I felt that I had included something on there. This has been a big question. As Akriti mentioned, there were – and this was something that was echoed

in our channel quite often when we were discussing during subsequent procedures meetings – a lot of us who didn't necessarily see how this work that we were carrying out would be most effective within the subsequent procedures process as it stands, given that it is in the stage of the working group, over the past few months, has been in reviewing the public comments received.

So a lot of the things that we were logging and tracking were based on these public comments that have been received are based on the report that has already been written. In that way, our methodology has been largely retrospective rather than forward-looking.

So, as you can see in the spreadsheet, there was already quite a lot of work that was done to begin teasing out these rights impacts and indeed making recommendations that would hopefully be able to be operationalized by the Subsequent Procedures Group.

However, one of the biggest questions about how human rights impacts assessments will work in the ICANN policy development process is when they should be carried out and how this work can be folded back into the recommendations that are ultimately turned into policy within the process.

So I'm not sure. I might defer to you, David, or to somebody else who has had a bit more experience in policy development processes or subsequent procedures. Where would you say that this work could come in? Would it be something that would be most effective in public comments? Or is it something that could be posed to the working group chair and incorporated that way?

I'd be happy to take note of any options that come up in today's meeting for further exploration.

DAVID MCAULEY:

Collin, hi. It's David McAuley speaking again in reply to your question. I am not a member of Work Tracks 1 through 4 in this SubPro PDP. I am taking part in Work Track 5. So I really can't answer the question. I would suspect – but I don't know this – that public comments is a decent place. But there may be there may be other opportunities as well. I really can't say because I'm really not that familiar with the principle dynamics of this particular PDP. Maybe somebody else here is. Thanks.

COLLIN KURRE:

Okay. Thank you for that contribution. This is something that we had considered as well as part of the team, which is one of the reasons why the most recent model that you see on your screen, which is actually called the – we've deemed it the rec model – is geared towards recommendations.

One of the unexpected learnings that we got from participating in the subsequent procedures meetings in the current stage of the working group was that it become quite clear how to sign post and use really clear language in public comments in order for it to be more easily processed by the group when they all come together and feed it into a spreadsheet and go through all of the different recommendations made in public comment.

So this is one of the reasons why we decided to try to almost reverse engineer this [tool] to be able to help interested community members make more informed and robust public comments that clearly link to the issues that are set forth from in either the report or whatever document or proposal is being commented on, teasing out the impact scenarios, human rights, vulnerable groups, and then making very clear recommendations based on these observations.

The problem with this is that, as I mentioned, the HRIA methodology that we used was largely retrospective, so that means we were using a lot of [inaudible] research, looking at the wiki reports or mailing lists and then relying very heavily on a review of public comments. The comment from the Council of Europe and from the Non-Commercial Stakeholder Group and the At-Large Advisory Committee were all really useful in that regard because they did a great job of identifying a lot of salient concerns related to human rights. And then also relying on guidance from staff.

So, in the future, one could imagine that, when this is being carried out in an earlier phase of work of a policy development process, then the recommendations coming from the impact assessment could be [creamed] off and then sent into a public comment and worked into the PDP that way.

But that being said, I don't have a great answer of this how this work that we already completed can be fed back into SubPro's. But I would say that a lot of these comments were already identified. A lot of these issues were already identified in public comments that were made on the issue report. So this is kind of more of an exercise in visualizing and

creating a mechanism to be able to more faithfully engineer such comments moving forward.

Does that make sense?

Okay, great. So I've got a couple more things to cover before we move onto the next part of our agenda as I wanted to really make this into a dialogue, if possible, and began to ask the people on this call more of logistical questions about how this could be useful moving forward.

So if the goal of this is to make more robust or informed public comments that can therefore feed into the process in that way, or – and this is just an idea here. These are all drafts. It doesn't seem like the bylaw will be, as you saw in my mail, coming into effect within the next six months. So we do have some time to test out models and try to really hone this and make it something useful for the community.

The first big question is, who should carry out these impact assessments? Anybody have any thoughts or suggestions about who in the ICANN community or outside of it would be an appropriate person or people to do so?

Okay. It seems like we've got a quiet call today, so we'll just skip to the next question of when this assessment should be carried out. Some of the ideas that were put forth were if it should be carried out as part of the initial issue report or even before, right when the PDP is being started, or if it should be something that is worked on continuously throughout this process and then only finished at the point of public comment.

Does anybody have any input or feedback on timing?

AKTRITA BOPANNA:

I think that it would be that we still don't it have from the beginning. Or just an [informal] meeting is more of a [inaudible] to identify issues that the [government] [inaudible], and then, if such, if the issues seem significant enough by the working group and whoever is working with [then], then they could be the concerns that could then be [injected] into the [Board] as opposed to just being identified and then sort of not incorporated into the working group.

COLLIN KURRE:

Hmm. That's a really good point. Actually, I'm looking at the spreadsheet now, and maybe this Column C isn't a great one since you said that because it seems like "issue" might not be a great word because, if we're talking about issues starting off, then it might be something like "issue" in the sense of a topic of conversation rather than "issue" in the way that it's used here, which is referring something rather concrete that is related to a topic that was set forth in the report.

So maybe this is – I'll mark this in yellow. Maybe we can think about terminology there.

David, you've got a hand up. Please come in.

DAVID MCAULEY:

Thanks, Collin. Just to answer the question of when, my suggestion would be that it would be continuous through the work of the PDP from

inception. I've taken part in a number of PDPs and it seems to me that that way, the person – if this is a standing committee – the CCWP – then maybe that can answer the question of who. People would, from this committee, join various PDPs as they're so inclined.

But early participation would help them appreciate the PDP as it develops and would also be fair to the PDP that issues in this respect would be raised certainly and probably better handled early than late. Thanks. Bye-bye.

COLLIN KURRE:

Thank you. And, yeah, that is concern that has been raised in the past, that, if people just parachuted in and made comments at a late stage or without having been involved previously, then it was unclear whether the recommendations would be given so much weight or if they would be accepted.

Oops.

So looking at the tool, since we've got – it's already been [inaudible]. It already seems to me that the word "issues" might potentially be problematic. Is there anybody else that anybody has noticed in looking at the tool that is either missing, unnecessary, confusing? What do you think about the spreadsheet format? Is it something that works or doesn't? If this tool was put in front of you without any kind of explanation, would you be able to understand it?

Yes, Akriti, please.

AKTRITA BOPANNA:

There are two things that I thought that potentially could be added. One is [if there] is any [developing] international human rights legislation or instrument that talks about the rights that we're referring to. And maybe it doesn't have to be international in the form of the U.N. or anything but sort of anything like an [e-directive] or anything that sort of links back on human rights [inaudible] framework. Does that make sense? Because I know it's difficult for ICANN because ICANN [inaudible] of what it does. But I don't [inaudible] if you had that sort of aspect it would make our case stronger for [inaudible].

The other thing I thought was, when we're doing this session – I know ICANN is going their own internal HRIA -- [inaudible] tool [inaudible] community in general, it would be useful to have [inaudible] this to the organization, so then, when you're looking at how much can be implemented, or, as you know [inaudible] to be implemented, there could be a comparison [inaudible] and then, when you're pitching it to whoever and it comes up in the report [inaudible] or we can do a better job of representing to ICANN what needs to be done on [inaudible] risk assessment we will just on the implementation [inaudible] on behalf of the organization [inaudible].

COLLIN KURRE:

Awesome. Yeah, those are great suggestions. You'll see that I've added a new column H, which is applicable human rights law. Really, that's a really good idea because, if the wording was the bylaw, which is that ICANN will respect human rights are required by applicable law – so that is a really great addition.

Does anybody else have any other comments on the spreadsheet? Just the model itself.

Okay. I think I might pick on someone if I may. Joanna, I see that you have joined the call. Welcome. Thank you very much. I noticed that you added a lot of language to the EURALO [prep] hot topics about balancing rights, which is really interesting to me. Do you think that this tool as I stand in the way that it's formatted could be something useful in helping the At-Large community perform or identify these balancing acts?

Okay. It seems that she is unavailable. Okay, so we'll take these questions to the list. I don't really want to spend too much time on this because we've got other things on the agenda. So we'll take these questions to the list and keep on working on this methodology – ah, she doesn't have a mic. That's okay. I just really liked what you were saying about the privacy and security and things like that. Great. We can take this to the list.

All right. I'll move it on to the next section and pass it over to my Co-Chair, Akriti.

Oh, sorry. I had a hand. Bruna, would you like to say something before we move on.

BRUNA SANTOS:

Hi, Collin. Thanks for the floor. Apologies for not [having] on the chat – but I was just wondering about the vulnerable groups. [inaudible] because I just don't know – I mean, please don't kill me for saying that. I

am aware of the need of highlighting whether or not this program or decisions of the working group might affect vulnerable groups [inaudible].

[inaudible] that the amount of time [or] how it affects vulnerable groups should be maybe a recommendation on how this program, like the [inaudible] program, should be maybe more concerned or more, I don't know, raising awareness to the effect of vulnerable groups. I would say that maybe we could transform this issue [to one of the negative impact] or put it under the negative impact part because it's just that, during the discussions, I tried to [inaudible] in the past year. Whenever I highlighted anything about vulnerable groups, I was told before that this was nothing [inaudible] of the program. So I'm just thinking [inaudible] maybe comments we might have to the chart. That was it. Thanks, Collin.

COLLIN KURRE:

Yeah, great. Thanks for that suggestion, Bruna. That is definitely one of the goals. If this is a tool to be used, while we want to keep it thorough and as comprehensive as possible, if people don't use it or if we have categories of information that are superfluous or unnecessary, then it might harm the longevity of these types of using these mechanisms to uphold the bylaw.

So I think that's a great idea about including the mention of vulnerable groups in the negative impact scenarios.

I think that another potential modification that we could do to make things clearer is that we could add another tab within this spreadsheet

that gives a bit of an explainer about what the different categories of information are, perhaps even having some sort of drop-down menu for salient human rights so people don't feel compelled to invent them on the fly.

So, yeah, those are great suggestions. Unless anybody has anything else to add about this tool, I will turn it over to Akriti.

AKRITI BOPANNA:

[inaudible] summarize basically what was written by Monica [inaudible] early in the morning for her, so I'm going to present it instead. The paper largely [reads of] the need for ICANN [inaudible] law to have binding human rights obligations. It essentially translates back to the framework of interpretation that was created during the working [inaudible] work team on accountability [inaudible] the facts of the [inaudible] [SOI].

Just to start off with the [inaudible] was develop [inaudible]. It was clarified that it was a core value and not a commitment. The former is an obligation while the latter or not necessarily intended to be applied consistently and comprehensively to ICANN's activities. [To summarize the SOI], the applicable law -- that is the law practiced in the jurisdiction that ICANN is operating -- does not mandate further human rights [inaudible] issues under the core values.

So, as that, there can be no enforcement of human right obligations by ICANN or any other body against any other body.

[inaudible] operations, the law can vary. By and large, ICANN recognizes and can be guided by international human rights. But it basically boils down to the jurisdiction where they're operating.

And it's involved in [inaudible] the human rights instruments that are relevant are also those required by the [inaudible] law.

[inaudible] responsibility to uphold those human rights laws [inaudible]. it says that ICANN should engender a [law] violating human rights. So there's no positive obligation to follow to follow human rights [inaudible] for falling short of not violating any. It also says that they should take into account human rights when making policy. But [inaudible] that these human rights [positions] should be given [inaudible].

Additionally, ICANN has many core values. At any point, one of the others can be used to cite that human rights [inaudible] given more importance. For example, there's another core value which says that ICANN should duly consider the public policy advice of governments and other authorities [inaudible].

So if [inaudible] that the government wants to promote a decision before the [inaudible] at the expense of any human rights, than that would be very much possible within this framework of interpretation.

So that is basically the context for the paper was on, but the paper advocates for the framing of legal duties of informal actors like ICANN. That is one of the interesting points about the fact that whether we engender [inaudible] legally binding human rights obligations of whether the status quo as it is is sufficient.

I'd love to hear from anyone if they have any particular thoughts about this.

COLLIN KURRE: Sorry, Akriti. Could you repeat the question, please?

AKRITI BOPANNA: Yes. Basically, the [inaudible] topic [inaudible]. I thought a good place to start is whether we need ICANN to have legally binding international human rights obligations at all or if people in the room thought the status quo was sufficient.

COLLIN KURRE: Yes, I see David has his hand up. Please come in.

DAVID MCAULEY: Thanks you. Thanks, both. As somebody who was a participant in the CCWG on Accountability and was actively involved in the discussion of the new bylaw on human rights, the one caution I would note is that, in coming up with blanket human rights obligations to fit onto ICANN, care needs to be taken to recall ICANN's limited role in Internet governance.

Akriti, I'll use the second bullet on the screen here, this community discussion screen. The second bullet says, "Appropriateness of the U.N. guiding principles." Using that as an example, I recall that the guiding principles were basically telling businesses, including ICANN, I suppose, if ICANN were to embrace the U.N. guiding principles carte blanche, if

you have leverage among your business relationships, then use it to bring about a good human rights outcome. ICANN, of course, has some leverage amount registries and registrars, and registrars in particular can affect the operation of domain names.

So it could conceivably at least, or I think an argument could be made, that it could drag ICANN into the content business, where it has no business. So that just underscores the point I'm trying to make, that care needs to be exercised in embracing human rights to make sure that they fit or ICANN has the flexibility to stay within its limited remit.

So thanks very much for the question.

COLLIN KURRE:

So if I may chime in here, I've been thinking about this. Actually, could I please ask people to mute their microphone if they're not speaking? We've got a little bit of an echo.

Okay, cool. Even if we take into consideration the limited remit and all of the limitations that occur in the second half of the human rights bylaw, after the bit that is easiest to remember, which is that ICANN should respect internationally-recognized human rights as required by applicable law – I do see that sometimes that we might have an instance of the reliance on applicable human rights law and the deference to human rights policy, like corporate social responsibility, might not serve to reinforce each other but rather to reduce the effectiveness of each other. This is just a thought based on the difficulties that we've been having even in determining the applicability of laws like the GDPR, where does it apply, who does it apply to, how does it apply. This didn't

even become a question until we had the big fine that came into the picture.

So when we're talking about ICANN respecting human rights as required by applicable law, I do think that, while it's great to develop these types of mechanisms like we're doing, it's good to think critically about the ways we could potentially incentivize this beyond what is required by applicable law through risk management or other mechanisms because I'm not sure if a legally binding international human rights treaty is necessarily on the [inaudible] the discussion of this in the United Nations. And even if it happens, it's a question of if and when it would ever be applied to ICANN.

So these are really great points that you're making and that Monica teases out in her paper. Thanks for bringing them to the table.

AKTRITI BOPANNA:

Basically, all the [three] reasons that you specifically mentioned on why these are important, could we talk about them? The first [inaudible] identified is that currently, as the [inaudible] is, there's an imbalance between hard legal [inaudible] and soft law. That would be anything that is trade or investment or any sort of commercial international obligations that are set in stone and they're hard and they're easier to enforce. When we talk about human rights, it's always soft law. It's always the weaker side of international law.

The second thing is that, when you have binding obligations for human rights, then it's easier for individuals whose rights have been violated to

have a remedy, a [inaudible] mechanism. So those that are effective can access [inaudible].

This doesn't guarantee this under the ICANN bylaws because [inaudible] because of the sort of [gray meter] of ICANN's obligations to respect international human rights.

The last one suggested that certain actors, such as ICANN – this was the work that they're engaging in – they've been [inaudible] are in the act of balancing exercise around these rights. So if they don't have an explicit recognition of their human right obligation, then how do you go forward from here and develop access [inaudible]?

This might come down to another [inaudible] paper that is about whether enforcement is better down to domestic law or to international law instruments, whether there's instruments [that can be suggested] for international trade agreements or for the [investment] treaties.

I personally would think that international law instruments is taking the [inaudible] that trade agreements and things like that work better because domestic laws can vary so greatly across nations that they might not have the same uniform interpretation that can international law can manage [inaudible] international law [guidance].

Does anyone else have any differing opinions? Or any sort of opinions on this?

COLLIN KURRE:

It could be interesting to consider how the European Union system here as some sort of super-national law body, regional law, because recently, at the high-level Internet governance meeting they had in Brussels, they were talking about that the theme of this year's IGF is going to be making a human-rights-centered Internet, which sounds very good, but as we've seen, can be very difficult to operationalize.

So it could be that maybe trying to apply the regional legislation or something that's not necessarily – well, I guess European law could be a good case study to start with, which is another reason why I'm super glad to see that Joanna is here from EURALO because this quite in line with a lot of the European charter on fundamental freedoms and things like that. Whereas the United States, for example, where it might be good fit to leverage legislation on ICANN, unfortunately doesn't have very robust human rights protections codified into law as such.

AKRITI BOPANNA:

One of the other issues that people have pointed out is that ICANN [inaudible] human rights issues are not relevant to matters of a [technical mission] but a lot of the policies in [inaudible] human rights implications. A lot of the policies [inaudible] Internet society can be [inaudible] policy engagement [inaudible] concerned with the WHOIS policy [inaudible] trademark under the uniform dispute resolution policy to accept [inaudible] requirements in the [inaudible] agreements.

There's also the balancing, again, [inaudible] as well as ICANN's contractual agreement with [inaudible]. So the jurisdiction issue is sort of an amalgamation of many little issues within [inaudible] that were

never particularly dissolved within the [WS] [inaudible] one or two recommendations [inaudible].

[inaudible] really comes down to what principles in international law currently are relevant to ICANN. I don't see that there's [inaudible] principles that are actually relevant for [inaudible] informal actors like ICANN because they usually treat [inaudible] to [inaudible] ratify these agreements and are generally legally binding only to states.

Even when it comes down to what international [inaudible] might be applicable under [jurisdictional] law, it comes [inaudible] jurisdictions remain uncertain. Because of ICANN's status as a private organization, it's very difficult to ascertain which country has ratified a human rights [inaudible], which domestic human rights registration applies to ICANN that is only [inaudible] registrations that apply to public bodies or whether it applies to private actors.

There are some sort of laws which have been [inaudible] anti-discrimination laws, maybe those data protection, labor standards, etc. But by and large, it would appear that ICANN is not generally required to respect internationally recognized human rights applicable law.

Another thing is that the enforcement mechanisms for these self-enforcement mechanisms are not very strong. So one of the mechanisms that ICANN has envisioned was an independent review mechanism. But she talks about how that's only been used once since it came up [inaudible] the number of conflicts that ICANN policies have had and could have potentially had with human rights obligations.

Because of ICANN's non-profit character, some of the documents that they [inaudible] working group think that companies usually have [to uphold] because they don't have any [inaudible] consumers. They don't the type of pressure that general corporations have to uphold any of the human rights obligations that can potentially come up.

So that's more about that, and that's pretty much what her paper talks about. But it's a really good paper and [inaudible]. I will post a link here for anybody. If anyone wants to talk about it, then Collin and I will be [eager] to talk more about it.

But otherwise—

COLLIN KURRE: And Monica.

AKTRITI BOPANNA: Yeah. And Monica. If there's no one else who has any questions, then we can move on to the ICANN64 agenda.

So [inaudible] envision for the meeting. If I'm not mistaken, I think it's on a Wednesday, Collin?

COLLIN KURRE: I will look that up right now.

AKTRITI BOPANNA:

Yeah. So as far as I know, it's on a Wednesday. We'll be looking at discussing, firstly, updates on the CCWG Accountability Work Stream 2 implementation. We had one at ICANN [inaudible] and we've not heard much more since then. So we're planning to have someone talk about that.

There might be new members or even older members to have a discussion on the human rights bylaw and the framework of interpretation. The extent of it would [inaudible] what exactly [inaudible] if anything, what it binds the organization to. The results of our human right impact assessment. So we go through the methodology, the results, what recommendations we've come up with, and how further to go from that.

Lastly, we're looking at having an open community discussion about whether these impact assessments are tools for constructive engagement of our stakeholder groups at all. [inaudible] better have the foundation [inaudible] to reach out to how to have the best, most open-minded but less intensive conversation about this.

So if any of you have any suggestions about it, please let us know. Or if there's any other [inaudible] if someone would like to talk about or address.

Otherwise, yeah, this is what the agenda looks like.

COLLIN KURRE:

Great. Yeah. And I just wanted to hammer home any recommendations on who we could get in the room. I actually ran into someone from the

NTIA the other day by chance. We found it quite interesting how much we agreed on at the end of the day about having more robust discussions and having more interactions between stakeholder groups. So this could be a really great opportunity to see what the utility of these different mechanisms could be for people from across the community, even if they want to come and tell us that it's horrible and shouldn't be implemented.

So would anybody have any suggestions? Some things that have come up previously would be members of the GAC International Human Rights Working Group or even the Public Safety Working Group. But is there anybody else or constituencies or even individuals who might be interested in talking about trade-offs between privacy, security, freedom of expression, and other rights?

All right. Noted. We'll pose that question to the list as well. We can give people time to think and reflect and then maybe we can do a bit of outreach and see if we can get a bunch of different kinds of people in the room so that we can have a more robust discussion and make maximum use of our face-to-face time.

All right. With that, I think that we can just move to the very last bit of our agenda, which is Any Other Business. Is there anything that anybody wanted to raise, flag, or otherwise talk about before we leave the call?

Okay. Perfect. It seems like there is none, so I'll go ahead and say that we can stop the recording and wrap the meeting up here. Thanks to everyone who came, and we are looking forward to seeing you in person at Kobe.

UNIDENTIFIED FEMALE: Thank you very much, Collin. Thank you, everyone, for attending the call. Goodbye.

COLLIN KURRE: See you on the list.

[END OF TRANSCRIPTION]