

**ICANN**

**Moderator: Maryam Bakoshi**

**May 29, 2015**

**8:00 am CT**

Coordinator: Recording has started. Speakers please proceed.

Woman: Thank you very much (Chuck).

Pranesh Prakash: This is Pranesh. Could the speakers also...

Niels ten Oever: So can you all hear me now?

Woman: Yes.

Man: Yes.

Pranesh Prakash: Hi, this is Pranesh. Could the speakers please introduce themselves before speaking? That'll also help with the transcription later.

Monika Zalnieriute: Okay so is it my part to speak now or not? This is Monika

Man: There will be a transcription in this session. No so Monika...

Monika Zalnieriute: Yes. Yes I'm here.

Man: Hi, can you hear me?

Monika Zalnieriute: I can hear you very well. Can you hear me like this?

Man: (Unintelligible).

Niels ten Oever: Hello everyone. So right now I'm connected by telephone. Hello. So right now I'm connected by telephone so my connection should be better. Now we have started with the recording so I would like to officially welcome you all to the Cross-Community Working Party on ICANN's corporate responsibility to respect human rights.

I would like to welcome everyone from a wide range of geographies and organizations and backgrounds in this session. I really appreciate you being here. We have a proposed agenda which has three major themes.

The first one is reports -- which has the subthemes comments, ensuring we have (unintelligible) and approval procedures - secondly the sessions in Buenos Aires, and thirdly the update on other community activities. Are there any - would anyone like to make any addition to this agenda? Marília you have your hand raised. Please. Speak up Marília.

Marília Maciel: Thank you Niels. This is Marília Maciel speaking. I just would like you to please mute your mic when not speaking because we're having a little bit of noise in the back. Niels I just would like to ask you to ask someone who is not

in Adobe but only on the phone introduce themselves. I think that Pranesh was here with us but I can't see him in Adobe.

And just to make a suggestion for us to add if possible a point to discuss how we are going to tackle human rights issues in the pre-meeting that NCUC is organizing. I think that it is an important moment for outreach in the region and to get more people involved in the discussion. So if we can dedicate a few minutes to that it would be nice. Thank you.

Niels ten Oever: Perfect. I have added that in to the agenda as Point 4. So we'll definitely discuss that. Do we have stated everyone's names for the record sufficiently? So could all the people who are on the phone please state their full name just for the record please?

Pranesh Prakash: This is Pranesh Prakash from the Centre for Internet and Society.

(Vipil Karbunda): Hi this is (Vipil Karbunda), again from the same Centre for Internet and Society.

Niels ten Oever: And then this is Niels ten Oever from our (unintelligible) team. So again great to have you all here. And now I would like to ask Monika if she could give a short introduction all of you of the first version of the report she wrote and on whom several of us have been commenting up to now. Monika, go ahead.

Monika Zalnieriute: Okay. Can you hear me all right?

Niels ten Oever: Yes.

Monika Zalnieriute: Okay very good. So my name is Monika and I have been working with Niels and Gabriel from Article 19 on this report which we have circulated

around. And first of all I would like to thank (Michelle) and (Mary Anne) and Stephanie for their ideas and especially (Mary Anne) for all the comments.

I'm indeed working on them now trying to incorporate the ideas and suggestions into the updated version, which we once again I hope will be able to share for the final input.

Before I go into briefly introducing what is in the paper I would like to say that Stephanie Perrin told me earlier that Kathy Kleiman is really closely involved with the UDRP review procedures. And she has been drafting some sort of a comment herself earlier for the ICANN commenting procedures.

So I think I will get with her and - to realize what is the situation close in more detail before we proceed with the UDRP part. But let me briefly introduce you what is in the paper and so we can discuss and decide finally what do we do with the UDRP and how do we proceed further.

So generally the idea of this paper is to make some practical recommendations for ICANN how to actually implement the corporate and social responsibility to respect human rights. So what do we do in this paper is that we briefly introduce the whole idea and update the community on what has been going on so far and say that we want to structuralize this into something more certain.

And then we discuss initially several Internet specific initiatives to - on corporate and social responsibility to respect human rights. And after that in Part 2 of the paper we move on to certain specific points and try to incorporate those more general ideas into the ICANN specific context.

Finally after this we try to outline one case study where we think that human rights assessment, impact assessment, would really be necessary and there we discuss the UDRP case, which we all need to discuss whether we need to have it as a separate paper or as a part of this particular report.

And then finally we designed everything into several concrete points of recommendation which we can still perhaps finalize together. And I will work on these issues these days over the weekend especially so we can have something more substantial by next week.

So I hope that most of you had a look at the paper and could make some comments and perhaps discuss how best to proceed, especially on the UDRP part. And once again I'm really grateful for all the input particularly from (Mary Anne) and all the comments. They really proved particularly useful in addition to Niels' and Gabriel's comments. So thank you. I will now give a word back to Niels.

Niels ten Oever: Thank you very much for that overview Monika. So before I start to go through some issues and lists I have I would like to ask whether people have comments on the paper that they would like to discuss. Pranesh, please come in.

Pranesh Prakash: Yes. I just had a quick - one short point. I'm sorry I haven't really had too much of a chance to go through the paper in detail and to supply detailed comments.

I just wanted to - I just think it might be relevant while setting up the (rugged) framework for and how it applies to ICANN, it might also be useful to point out that unlike most other businesses which have kind of been considered while putting together those principles and the framework, ICANN operates

as a virtual, de facto monopoly and so there are no alternatives to ICANN even if ICANN doesn't respect human rights, it's human rights obligations.

And so while looking into the question of respect versus protect I think the fact that ICANN operates as a monopoly, okay, has, you know, has some amount of bearing that is a de facto, you know, entity that all of the users of the Internet, you know, in a sense have to use.

And so it's not a regular not-for-profit corporation in that way. And I think this kind of bears pointing out when setting up the framework.

Niels ten Oever: Thank you very much for that, for that argument, Pranesh. I'd also be very interested what you think would - what consequences that would have for human rights analysis and for human rights impact assessment. Do you think that would have any further impact or is it simply something that we should state there is no alternative so they should have even higher obligations to work on human rights because there is no alternative?

Pranesh Prakash: Given the current internationally accepted frameworks there is no direct impact. And given that the internationally accepted framework as things stand are the (RANI) principles. There is no direct impact because (RANI) doesn't go into this particular argument that I'm making.

But I think - so even if we can't directly here make a point that because of the difference from other regular businesses that directly becomes the duty to protect and not just to respect.

Even if we can't make that argument it's worth speaking there and to state that because of this there is a possibility to state that the duty on ICANN is even more than that on any other regular business in which case there are

alternatives and there are ways of moving away from that business and of shaping that business and in seeking other kinds of actions against that business by its customers which don't exist really with ICANN since there are no alternatives to it.

So in terms of analytically, yes it puts a greater burden on ICANN but does it do so legally? Perhaps not. But when we say that we must reference all of this, all of the arguments we are making are in the realm of soft law. None of them is in the realm of hard law.

Okay so given that this is one other extension to soft law that we can kind of at least speak even if not - even if not directly state that this is how the (RANI) principles are to be understood. That might be a bit of frustration but at least worth stating here.

Niels ten Oever: Monika, please come in. I see you have your hand raised.

Monika Zalnieriute: Okay thank you very much for this idea and comment. I think you're totally right because ICANN is not a traditional corporation in many different senses. First of all it's difficult to motivate its proper social responsibility because neither do they have any direct competition nor direct customers as such nor anything of the usual corporations would have.

And I think that's one of the reasons why ICANN is lagging behind with human rights so much because there is no way to motivate it for the very same reasons you actually mentioned.

But I'm not sure. I really support the idea and argument. And we could actually articulate it in a perhaps soft way. But I'm afraid that if we push it too far it might freak them out even more by saying that, you know, look guys,

you have the monopoly; that's why you should perhaps we already have the responsibility to protect human rights.

I think we could elaborate this argument in a soft way saying okay perhaps the obligation gets stronger. And you could draw certain parallels in IP law for this. Certain monopolies do have greater obligations towards their customers or towards people in their non-profits.

So we could do this. Just I would like to then gather some input from you guys whether should it be very soft, just simply mention that or we should elaborate it more and then perhaps get the fire back. Thank you Niels. I give you back the word.

Niels ten Oever: Thank you very much Monika. And I see (Mary Anne) has her hand raised. I'd like to pass the stick to (Mary Anne).

(Mary Anne): Hi everyone. Can you hear me?

Monika Zalnieriute: Yes.

(Mary Anne): Can you hear me?

Niels ten Oever: Yes.

Monika Zalnieriute: Yes we can.

(Mary Anne): Just a sec. About that point, I'm wondering if one could be a little bit technical about this. I just put it in a note because I think it's a very important point that's being raised.



But I would hold it back on this until we really need it because if there's any more pushback, you know, you could then say, "And by the way, as a monopoly the obligation is actually higher," rather than as Monika says perhaps get people's back up too quickly. It's something to hold back until it's needed.

Perhaps that very observation - or hide it in a note. Just a technical way to approach it so the point is made but not headlined and is used later if necessary to make the point stronger. Thank you.

Niels ten Oever: That's great. So I think we'll - would anyone like to respond to this? So we might mention that there is a specific case that ICANN has the monopoly but we'll definitely not push as far as saying that then because of that ICANN has the responsibility to not only respect but also protect because it will make people really jump the fence probably within ICANN staff but also within other constituencies.

So we'll probably simply mention that that's the case. Would that sound okay? Is that in line what you said (Mary Anne)?

Lee Hibbard: Niels?

Niels ten Oever: Yes.

Lee Hibbard: Can you hear me? Because I'm not sure whether - I don't know how to press the button. It's Lee from the Council of Europe.

Niels ten Oever: Ah welcome Lee. Lee, yes we can hear you. Please come in.

Lee Hibbard: I think (Mary Anne) wants to speak first. Ladies first in case she wants to follow up. No?

(Mary Anne): Hi Lee. I'm just getting confused with my mouth to my microphone here. No just to say to - yes just to say that's right. They also - you know they do have this responsibility. We just don't rub their noses in it right now. Only when we need to. So yes, fine with me.

Lee Hibbard: Okay. Okay can I come in, just to say that - yes it's Lee Hibbard from the Council of Europe. Apologies for being so silent. Thank you very much Niels. Thank you very much Monika and to Article 19 for this report. I think it's very good and I'm really - I mean I'm reading it and I'm re-reading it and actually as we speak, as you speak.

And I like it. I like it and I like what it's saying. I like where it's going personally. I mean I haven't spoken to colleagues here in the Council of Europe but I mean it's very complementary with the work of the working group in the GAC which is going to start very soon.

And it's complementary in the sense that it's taking it from darklisted from the ICANN perspective rather than the member states as you actually say in the paper, Monika.

The question of rubbing their nose in it or not - I think it's - I wouldn't go too far along that line. I think it's understood actually that there is a responsibility. I don't think one needs to harp on too much about the fact that there may not be a responsibility. I think it must be understood that there is something.

I don't think that's the main point. It's what you were saying elsewhere which is what's the best way, what's the best win-win way for responsibility to be

taken and to be done. And I'm thinking about the accountability angle of the work of ICANN, etcetera.

I think also in international law in general - I mean the working group in GAC is also about international law. Maybe it's a bit broader than the work of this cross-community working party. I wonder how much international law expertise needs to be brought in.

I think the status of ICANN is as you said particular. I guess there must be other examples of other companies who have also a particular status. And I wonder whether they could be teased out of the discussion to show other examples where, you know, projects and other associations have also embarked on responsibility to respect human rights.

That would be like such a peer pressure almost to show the companies maybe with less economic activity are being responsible in this context. So that's that.

And I think the last point I'd like to make is that there needs to be some sort of nexus between what ICANN does and how ICANN interacts with the government. Now that's the job of the working group. But you may want to - and apology if I've missed it from the paper - but it may be worth just touching upon how you see the role of governments in this context.

One thing is what ICANN does but also it's up to governments to - you know, to bear the duty for that, for making sure that human rights are protected and respected. So unless I missed it, you know, what relationship needs to be built between them to make sure that ICANN does its job properly. That's my point, thank you.

Niels ten Oever: Thank you very much Lee. I see Marília has her hand raised so I'll go on to Marília. Go ahead please. Marília? Okay I don't hear Marília so I see Rafik has his hand raised as well so I go to Rafik first then.

Rafik Dammak: Thanks Niels. Okay maybe it's not about the process itself but maybe if you can remind about what we agreed in the beginning about this report and what we wanted to achieve here. We don't have everyone in this call and we have I think in our discussion in the mailing list because I interpret this report as more of an input for now.

And I would expect that we try to have the working party to work on its own deliverables. So this is more research. And I think that what was proposed at the follow-up from Singapore meeting and just here try to recall what we agreed and to have everyone in the same page and the same understanding.

So I don't think we need to be kind of tactical here, but it's really more to recall what are the expectation of other members in the working party. In Buenos Aires we think we will try to familiarize about the working party with the rest of the community to give them updates and so on. And we are going to have our public session end the working party session in the same day. So just as kind of reminder here.

Niels ten Oever: Thank you very much for that clear reminder Rafik yes and let me please reiterate on what Rafik said, that this report is strongly building on the work that's been done by the - for many years in ICANN within the different constituencies on human rights, more specifically on the report done by the Council of Europe and the Article 19 report on human rights that followed on that and the sessions that were organized in the past three or four - three ICANN meetings especially on this topic.

And we've been trying - we've established that there is a broad community interest in this topic which is why we set up the cross-community working party and to further this work to make it more concrete.

We worked further on this report to see what could be concrete measures that ICANN should take without expanding its mandate but really trying to stick to ICANN's current policy and operations mandate and see how to get those in consistent with human rights and best practices. So that's the background of the current report that we are working on.

And here we would need to see what would be the best strategy to continue with that because there is the part in there on the UDRP as it has been flagged by Monika. And UDRP is an issue that could function as an example of the things that we are talking about. But it could also - it might also be a distraction from our work because it's a very specific example that might be discussed later.

So I'm very interested to hear what people think about the specific part on UDRP and whether people think it should be included or not. Rafik, please come in.

Rafik Dammak: Yes Niels what you're asking me exactly.

Niels ten Oever: Sorry, come again Rafik.

Rafik Dammak: Yes I'm here. I just was asking what are you asking me exactly?

Niels ten Oever: Ah so do you think that the piece on UDRP should be in this report or do you think we should save it for later when there is an official UDRP review?

Rafik Dammak: Well I mean - well the review it can be a long process because - and my understanding the staff is working to kind of maybe to do kind of study and collect more data. But I guess maybe - well as Monika thought maybe she can work with Kathy to - at least to get better understanding about the background in EDRP and how it - what kind of evolution here because we know just how the EDRP has now processed but there is also the (RS).

So I guess we might put it but I think it's still to be ongoing work. I'm not sure how the rest of the community can - will react with that but to be honest I guess it's more maybe something for ongoing work, not necessarily waiting for the review but maybe not high priority for now.

Niels ten Oever: Okay, thank you very much Rafik. That's indeed a very good argument that there will be ongoing work. Another argument against it. Could it be that this is a very specific example of human rights work, of human rights impact with very specific analysis which is a bit different from the examples that are normally always given, which are always in the gTLDs, so that would be - which have their own processes of course.

So that would be a reason to put it in here as an illustration. What are other people's thoughts on this?

Lee Hibbard: Can I come in Niels?

Niels ten Oever: Yes please Lee. Come in.

Lee Hibbard: Thank you Niels. It's Lee Hibbard from the Council of Europe just to say that we had spoken earlier in previous calls about the duration of this work. And I see it as being at least three more meetings whereby we will keep discussing and meeting and preparing and drafting.

And I think that this is going to burn for some time. It's an important thing - UDRP. It's - I guess you know better than I - it's quite well entrenched in ICANN's, you know, ICANN's ecosystem.

And I just wonder whether that needs to come in later. I mean what's the point? I mean it's a big point and it's a singular point. And I could see it running on its own in another paper or a sequel to give it more room to breathe if you're seeing this over a period of time.

So it depends how you want to put it together. I would - it could be interesting to separate it and put it as a standalone for future. You know there's some very important points in there apart from the UDRP which need to come out which need to be, you know, which need to breathe.

And I think that going into details of what can be done, how it can be done is good discussioning material. So it may be a bit - it may be premature or it may not give due credit to the EDRP stuff to put it only in part of this report.

I wonder whether it has more room and more legs as they say in a later report in the next meeting. And that way you can test that part of the report while we're in Buenos Aires.

Niels ten Oever: Okay thank you very much for that point Lee. Are there others who would like to express their opinion on this point?

(Mary Anne): (Mary Anne) here, but I see Monika's hand is up. Monika do you want to go first?

Monika Zalnieriute: No thank you. You may go first and then I will also express my opinion afterwards.

(Mary Ann): Yes I take Lee's point completely mainly because the current articulation of that case study in this particular document is still a little bit in the raw, you know, in a draft form. So I think it needs time to ripen and be, you know, refined.

But I really - the idea of a case study. I think a lot of people when they first hear about this stuff, you know, human rights, la, la, la, you know, it's really good to show some key (unintelligible) examples.

It's a way of - I mean it's politically too sensitive right now whereas perhaps bringing up this particular case in a more succinct form and then at least it just points to a further working out of it differently at a later date maybe?

Niels ten Oever: Okay well this seems to be a relatively consistent opinion forming here. So Monika how do you see it?

Monika Zalnieriute: Can you hear me properly?

Niels ten Oever: Yes.

Monika Zalnieriute: Okay. My (plan) is very similar. I think that if we put the UDRP in the text of all this corporate social responsibility we lose a lot of its own teeth. And although I support the idea of (Mary Anne) that it's good to have a case study and real serious examples how what are the issues there?

But having the drawback from the benefits I think that it perhaps would be better to take out the UDRP and then develop and perhaps find a very good



strategic moment to release it for the UDRP (own) procedures or even if it doesn't work perhaps as a separate paper.

Or we could have several case studies released as a separate report. But yes I think my idea is that also perhaps we should - we would have more impact if we separated these two parts. Thank you.

Niels ten Oever: Okay thank you very much. I see Pranesh also has his hand raised. Pranesh, come in.

Pranesh Prakash: Hi this is Pranesh here. I just wanted to note that I agree with Rafik and Niels that we should keep this in. I don't see a need to really remove it from the existing document. I do note however what (Mary Anne) and Lee have pointed out. This is in a bit of a draft stage. Perhaps that's to be expected.

And so it could use more work but I don't see why for that reason we need to remove it from here. I think we can keep it here as an example of what the rest of the document is talking about and also at a later date, you know, work on this as a case study and on it as an independent larger document looking just at the UDRP and human rights because there is - that's also an area about which there is much that has been written.

And all this what has been written as far as I know is (pre-RANI). And so perhaps in those (post-RANI) days we could revisit some of that including with the examples from across the world, given that there are participants in this call from multiple places and on the mailing list from multiple places. We can surely put that together.

And so I don't see why these two things are necessarily exclusive of one another. I think we should have both.

Niels ten Oever: Okay that's interesting. So there seems to be a bit of a differing opinion there. But there I'd like - ah so I see (Mary Anne). (Mary Anne) I see you in the queue and I see you also (created) some text. So could you make that point please?

(Mary Anne): Yes my point is I wouldn't want to - I'm not saying either/or. I think it can be left in. It just needs to be edited back so it looks like in the report very briefly. At the moment it's trying to be a full example in this document. I wasn't particularly taken out. It's just a question of shaping it correctly with records to further extension later.

But if others feel it should be left out altogether than I have no strong position either way. But I was not saying leave it out per se. That's all, just to be clear on that.

Niels ten Oever: Okay so it seems now that we're moving towards that we might leave it in but we need to do a bit more work on this and leaving as an example. Lee would you - you said you seem to be a bit of an opposite point. It might be better to remove it and leave it for later?

Lee Hibbard: I don't think that - thank you Niels - I don't think that - I don't mind what you wish to do. I think it's important. And you may think it's sensitive and it's entrenched in the ICANN system because it works some would say and these sorts of discussions.

I just think it's standalone or it's definitely something for the future. But if you're following the (unintelligible) report which has come out, we're also in the process of familiarizing and sensitizing and raising awareness of the issue step by step. And the report has a lot of stuff in it. So you know if you take it

over three meetings for example then you've got a lot to get out there and discuss.

And I just think that yes it's valuable but I mean there's so much stuff to discuss and all the details and the proposals have been putting it in, recommendations that it's probably too much stuff too quickly. And for me UDRP is a separate beast. And I think it needs room. And I would like to see a discussion just on that.

So I think it's - one can mention it. One can raise it there. But I would certainly like to see it developed and stand alone more because of its importance, maybe even in a separate paper but as part of the continuum of this work. That's all. Thank you.

Niels ten Oever: Thank you very much Lee. And Monika is making some - I see I have Marília and Monika in line. So I haven't heard Marília yet so I'd like - love to hear Marília first and then go to Monika to come up with a - to see if we can come to a - to see how we can handle this.

Marília?

Marília Maciel: Thank you Niels. My point is more related to the strategic moment for us to introduce UDRP because as you know, UDRP is in a going reform. And there are some people that are very involved with that suggest that requirement that you already mentioned.

When we bridge from what we are doing with UDRP we need to realize that where are starting to meddle with intellectual property community inside ICANN that has a very strong position, a position inside the organization.

So maybe in this moment that we are trying to assert ourselves and constitute a working group and make the community accept the work that we're doing we need to be really careful and sure when you start to work with intellectual property and the UDRP.

So my suggestion that in the beginning of the report is try to establish the direction of the way that we are doing it -- and I liked it very much -- from the consolidated report into the report that you have produced for the last meeting and this document.

And I think that this needs to be clear even for our own community.

What I seen that I lack a little bit is to get some people involved in this discussion here so they can read the work and memorize that you're doing with the actual politics and policies that are being discussed right now in ICANN.

So for instance if we get (CDP) in Matthew Shears, if we can get Avri in, if we can get people such as, you know, (Birdret) or Kathy Kleimann that is very involved with the UDRP I'm sure that they would have more amazing terms of connecting this document to the actual ICANN discussions and responsibility of intellectual property and so on.

But they would also have the view on the strategic moment in which to introduce the subtle things.

So maybe right now things to work on on the transition and accountability the deadlines are starting to be a little bit more clear is the moment to pull these people away and to explain the progression of what we are doing.

So I tend to agree with Avri that I do think that the UDR (people) is very important. But I would concentrate on establishing the work and the kind of making what we have work done so far more clear and understandable and to reach these people and get them in so we can really start an in-depth discussion on UDRP.

And I think that people suggest Kathy they are fundamental if we want to bridge into this other topic. Thank you.

Niels ten Oever: Thank you very much on that strategic note Marília. That's really useful.  
Monika?

Monika Zalnieriute: So I would like to somehow get so to the overall idea because I would support the ideas of Lee and Marília perhaps more than the other part because I also think that we just simply lose the strength and the potential impact of the work that we have been doing with the UDRP.

If we release it as a sort of among all of those ideas a recommendation and we might even lose discussion on recommendations all together. If people will try to fight about the UDRP as perhaps we might potentially get in our session.

So, do we really want that? And taken into account our goals as Marília has just highlighted I think that, then, especially as we have the review procedure is simply seems to be slightly more logical to separate the paper, maybe gather some input from people who work closely on the - on that review procedure.

And just we will definitely gain more impact. It's my opinion.

But then let's decide how do we proceed, whether we want to keep something there. And if we do, if we decide that we do them perhaps, do we shorten the part so it occupies slightly less space in the document or do we keep it as it is?

Because it's - the time is running out very fast and we need to decide how do we proceed this. As Niels says, we want to have an editor to work on it next week. So let me know then what would be the sort of consensus for the moment. Thank you.

Niels ten Oever: That's very good. And I think the strategic points made by Marília are very good because I think when we saw the discussions as they happened in last time in LA - was it LA, yes, where we - where there's - where people said there was already we need to gain more traction, we need to see more work going on human rights in this Cross Community Working Party that it might evolve in another -in another kind of working group and that there were concerns from other constituencies that it might indeed be good to may be very shortly mention it as an example.

And then during this meeting bring it up and then see how it falls and see what - and connect with people who are working on it so that we can elaborate and have a more elaborate strategy on this so that we do not get diverted off our main path which is coming up with the recommendations and pushing the specific human rights work forward.

Rafik Dammak: Niels can I speak in the queue?

Niels ten Oever: Yes please come in Rafik. Rafik then (Depaul) and then Monika.

Rafik Dammak: Thanks. Okay, maybe I was not clear when I explained in the beginning, but so the ERP is really a sensitive issue. Some group has really strong opinion about it, including our own group. I mean in NCAG.

So yes I think yes we can mention it as said as ongoing work because we need to know also about the review process. I'm trying to get more information. And Kathy will - can help us. So the process will start in a few months, however.

What I want me to focus is not really to spend more time about the UDRP or just mention it. That's it. We need really to get the working party to do more work if we want to get the real momentum. I mean Monika and you did a really good job in term of drafting all this report, this briefing and document.

We will try to compile all of them and put them online. And the workers say that it will be available soon so we have it, trying to make it available with all information the charters on.

But it's really important to - I mean to think about how to get the working party to start work - I mean to do work on it to define some - even it's one or two pages, but to do kind of to have more cross community discussion.

I see this report as kind of research as an issue report that can lead us to more discussion.

So having the UDRP of course will lead us maybe to see how other groups will react. Maybe then we can kind of to see what we should do in that time. So myself I can assume some position based it on in the past for the few years how things went when we try to talk about UDRP about (unintelligible) and so on.

But then it's mostly I'm thinking about how we get this working party to work more.

So let's - I mean let's say if you want really to have I mean to edit and to print. So let's focus more kind of to make it more so to that have - to have this report and then we - let's think more how we can use your first working party meeting.

We have a lot now three public session. We would have our fourth. But we need to move from just having (unintelligible) session to get. But, and we still get to try to get more buy-in, more involvement from the community.

And there will be updated different community in Buenos Aires meeting. But we need to think how we can use this report to do more in a real discussion with them the working party.

And so, yes. I mean, we need to think kind of I'm trying - see this is more kind of tipping point how we move to more doing work of the cross community. We need to move from just public session and reports and so on.

That I think almost for one year we did that I think we get the momentum. So we're in Buenos Aires it will be I think kind of when the work was out for the Cross Community Working Group and IANA transition will decrease. And that's the momentum that we can try may be to move to get more people participating.

So just try and hear more about kind of yes, more strategy yes. Sorry to be long here.



Niels ten Oever: Thank you very much Rafik. That sounds very logical. (Depaul), please come in.

(Edward): Yes, hi. This is (Edward). I - as I see I'm having some trouble connecting to the Adobe Connect so my comment is a little late. But I'd like to put forth my idea about whatever it's worth to you know.

I was - I mean (unintelligible) visibility of whether (unintelligible) UDRP part in the report are not to the wider community. But in case we decide to not keep it in I definitely think that we should just seek some of the examples from that box and incorporate it in the report even perhaps even the beginning of the report.

Because that, you know when I was going through this report and some of the other documents as well on this issue it occurs to me that, you know, the documents are written with a sort of presumption that ICANN should adopt a CSR CIC chat procedure and practices. But not enough emphasis has been put in any of these reports on what are the disadvantages if ICANN does not do that?

So I think the UDRP, you know, actually bring that out quite well, you know, because it's narrows it down to specifics. It's - and, I mean, without getting start in the specifics at least it gives us a few illustrations of what can go wrong.

So I mean, yes that's my take on this.

Niels ten Oever: Thank you very much (Depaul). That's - yes, so we need balance this a bit.

Rafik do I see you raise your hand again? Please come in.

Rafik Dammak: I think I spoke enough. Sorry.

But...

Niels ten Oever: Okay.

Rafik Dammak: ...maybe we can - sorry, maybe we can ask - sorry. And we ask really question.

(Alexander) was asking about the GAC participation. Maybe you can explain if how we is doing liaison with the GAC here so...

Lee Hibbard: Can I come in?

Niels ten Oever: Yes please, yes Lee please.

Lee Hibbard: Sorry. I have to run to another meeting there so I'll be brief.

The GAC Working Group is going to meet. I'm just going to pick it my computer. It's going meet on the 22nd so on a Monday at 2 o'clock to 3 o'clock. So that's the first time it meets. And I imagined I don't how the GAC agenda (unintelligible). It will then be reported in by the chair or co-chair thereafter.

Now Rafik your question is what, exactly, how to interface with the GAC working group?

I mean, quite clearly I think that, you know, once you agree we can share this report with the GAC Working Group. I hope I can thing with your blessing when you tell me.

There is - there are terms of reference of the GAC Working Group which I have to double check whether they are now public or not. I - excuse me for not knowing this but I seen the terms of reference. There has been some contents.

So I will do the liaison back and forth once I get that information. And I'll do that relatively soon.

I don't know of any other documents by the GAC Working Group yet, but they're a bit - they're delivery's slow in moving forward. I mean that it's been constituted. There's been - there's now an email address and these sort of things. And there are 29 members in this GAC Working Group including international organizations.

So it's extremely popular. I think and a very busy very dynamic working group.

Now it's being chaired and co-chaired by Peru and the UK. And I think that's just judging by the numbers there's a lot of interest.

I don't know whether that answers your question Rafik because I didn't catch it properly.

Rafik?

Rafik Dammak: I think - yes, thanks Lee. It was more a question from (Alexandra) in Adobe Connect. I think she's in the queue and maybe she can clarify what she wanted to know exactly.

Lee Hibbard: Okay. So...

Niels ten Oever: (Alexander) please come in? (Alexander)? I'm afraid (Alexander) has some audience issues. Lee could you perhaps also update us on the COE reports?

Lee Hibbard: Yes, oh yes. Yes thank you, Niels. That's a good point. How could I forget that?

Because the - the - as a follow-up to the report, which was down as you know, by Monika and by Thomas Schneider, who's now GAC chair there was discussion in one of the committees in Council of Europe in Strasberg late last year on a political jump forward, a declaration on ICANN human rights in the world of law which has been discussed by the member states, the 47 members states and the observers.

And there has been a meeting yesterday at the political level between the member states. And they have discussed it. We had Nigel Hickson here for that. And we discussed - it's a page and a half two page draft declaration so we had political - it's politically binding. It's not legally binding. It's such like a law binding instrument.

And it simply connects ICANN to human rights and the rule of law issues and encourage member states and encourages through member states to ICANN the need to respect human rights as you all know well and love and to ensure that, you know, due diligence is carried out and efforts are made to ensure the governments of - in the Council of Europe are able to protect, effectively

protect human rights of people even in the GAC, sorry even in the ICANN communities and to make sure that one, you know, they (unintelligible) their job properly in protecting against any violations, any challenges to those human rights.

So this draft declaration it's going to be - there's a deadline I think today for final comments. But if all goes well, then on the 3rd of June there will be fingers crossed a declaration adopted by the 47 member states, the governments on ICANN, a human rights (unintelligible) of law which will be the first document I think of its kind which brings together and connects ICANN to their responsibility to respect human rights also within the framework of the UN resolution.

But, of course, you know, it's up to the member states to protect the rights of citizens. And so that it also address from the point of view of the governments too.

So it's very, very - it's a very - it's politically very important. And we will of course, distribute and share it once it's adopted. And it's quite straight-forward but, very, you know, succinct and should have the impact necessarily. Well, of course it rings to the work that you're doing in the Cross Community Working Party as is mentioned by Nigel Hickson actually and to look at the GAC Working Group. So, it's looking good.

Niels ten Oever: Okay, and will it come out before Buenos Aires?

Lee Hibbard: Yes, that's the point. Well, okay fingers crossed. I mean, I can't I - you know, there may be comments which come in and things go delayed, but so far so good, fingers cross.

In two hours from now I will know more. But, I mean certainly next week, you know, it's all planned for 3 June. And I very much hope it will be agreed, adopted and launched.

Niels ten Oever: Yes it would be really great if we could be connected closer in with this working party into that work because it sounds really relevant.

Lee Hibbard: Well the work of the council, yes?

Niels ten Oever: No. The work on this report and it's furthering through in its implementation because it seems really closely connected...

Lee Hibbard: Yes, but, what I...

Niels ten Oever: ...to what we're doing here.

Lee Hibbard: But the work of the Council of Europe is not the work of the GAC Working Group. The work of the Council of Europe is declaration of the Council of Europe with regard to ICANN and human rights rule of law.

The GAC working group is a separate matter. And they will certainly be very interested in what this statement, this standalone declaration of the Council of Europe. And it will hopefully it will have some resonance, like it will have resonance with the Cross Community Working Party.

But yes, just to be clear they're separate things, but they are linked.

Niels ten Oever: Yes. Thank you very much Lee. So we are going quite rapidly through the agenda.

So we've had the report. We've discussed comments on the report. We said it is we want this to be report on behalf, an issue report on behalf of the Cross Community Working Party.

We have to say that we have one more week maximum work on this if we want to have it edited and checked before Buenos Aires.

So I would really like you all who have comments to send them before Tuesday that have input so that we have the rest of the week to come to a finalize text.

So that would be really - that would be the only workable solution to have something done before Buenos Aires.

I see Marília has a point on this. Marília please come in.

Marília Maciel: Thank you Niels. I just would like you to ask you for clarification on the status of the charter because I believe the charter mentions that we could easily document and report as the CCWG. And this is an interesting idea.

However, if we did not - if staff and formally approve (unintelligible) in the meeting then I would advise us to text it a little bit more careful and maybe issue this report as, you know, (unintelligible) report and ask for blessing of CWP on the meeting that we're going to have in Buenos Aires.

I just think that in order to tell people that and show that they have ownership on this process maybe it's better if we ask for endorsements face to face in Buenos Aires and not on the list right now because we had a kind of a low activation list. But I don't know what to think and what this specific start of the chart is.

Niels ten Oever: So in that case it would be a in - so you're proposing that it would be a - Article in 19. And Monika and the people who contributed to it, they can be mentioned but not as a formal product of the Cross Community Working Party? Is that what you're suggesting?

Marília Maciel: This is my feeling right now because I believe that not many people participated. And we ask them if they would like to endorse as a CWP. And it would be great if they do. And this could a first outcome of our work.

But maybe we should do that with more people in Buenos Aires when they have the chance to get more contact with the issues of the report. And that's right now on the list. So yes, you've got my suggestion and correct.

Niels ten Oever: What are other people thinking about it because it will be quite relevant to have this - it will have - it will make quite a big difference whether it's from one organization or from the Cross Community Working Party.

Rafik Dammak: (Unintelligible) this is Rafik. I'm jumping in.

Niels ten Oever: Yes Rafik please come in, yes.

Rafik Dammak: As I said, I mean this is - the work that Monika and you did for (Gabriel) so yes, maybe people can endorse and so on. I'm not sure about the organization because, you know, it takes more time for such process. I mean talking about the SO and AC in ICANN.

So it's that can be a topic for discussion in Buenos Aires. So it's, I mean, it's an input. I mean it's an ICANN issue report when we start policy development process in ICANN. So yes, people can endorse or support.



I don't really expect a lot of comments for now. We are just three weeks before ICANN meeting. It's really getting quite busy. So yes.

Niels ten Oever: Okay Monika, Marília? Monika go ahead.

Monika Zalnieriute: I agree. Mostly I think whatever most of the people decide we gain more supportive the better. But then, at least, what is good if this one doesn't go as a cross community product and at least we have a chance for UDRP to have it. So that's one of the good (unintelligible). So I guess however community decides to do it.

But I would support Niels in this view that we perhaps with some influential if more people would have a chance to approve it somehow and then we present it as a common product rather than just individual organization. I would agree with Niels.

Niels ten Oever: Marília?

Marília Maciel: Thank you Niels. Exactly my suggestion goes along the same of what Monika just said. I believe that maybe we can accept comments and suggestions until Tuesday. Then we achieve a stable version of this we can send it to the list and ask for support of endorsements or of individuals and organization that are likely staged to sign as contributors or people that endorse this report so it's not just you and Monika.

But I'm sure that if you think of GAC for instance even if (Patrick) gets the time to read the report and I'm sure - I'm not sure if he will. I'm sure on Buenos Aires I'm sure that he would need to come to SAC and ask them if they would like support.

So, you know, to be a Cross Community expert I think that we need to give them a little more time and probably talk face to face in Buenos Aires.

And Monika's right so for UDRP it's very important that we get this as a (unintelligible) work. So let's try to have this as a first piece of our work and get endorsement for it in Buenos Aires.

Niels ten Oever: Okay, so that Rafik is your hand still up? Would you like to come in? No Monika?

Monika Zalnieriute: I think I'm okay.

Niels ten Oever: So please lower your hand then. So am I getting from this then people think it would be the best way to frame this as an Article 19 issue report for the Cross Community Working Party to on ICANN's corporate and social responsibility to respect humans rights?

Should it be framed like that and then up for adoption and then it could be adopted by the CCWP? Because I think it is quite important to have a no document out before BA right?

Okay it seems that people are - that that seems to be the consensus here. Is there anyone who would like to a something for or against that?

I would have preferred to have seen it as a product of the CCWP. But I also see that we might've need more time and more work. And we will do more reports and more work on this. So this could be an consensus so then we'll work on that, that excellence.

So accept comments up to Tuesday and then we'll go into the finalizing session.

We had a rough update from Lee on other community activities on human rights. Are there other people that would like to inform this meeting on other activities on human rights in and around the ICANN space?

Okay so it seems like there are no further updates behind the work of the GAC and Council of Europe.

Then we have two sessions in BA. One will be a working session, a session of the working group where we can work and hammer out what a next report would look like and what the specific contributions of people will be to the work so that we can start perhaps a bit earlier this time than we did this time and last time. That would be great.

And then we've got a public session in which I think we can elaborate on the report we made on the comments and on a more broader topic of discussion.

Do people have more specific ideas about the sessions in Buenos Aires? Rafik please come in.

Rafik Dammak: Thanks Niels. I guess maybe sending some agenda to have discussions in mailing list because we need to move - we had already two session.

We need to think how we can use this the public session and also think about the agenda for the working group meeting.

And in fact the working group meeting will be - I mean in the same day with the public session but it will be around 5:00 PM.

So we can also use it as a kind of maybe to do some retrospective and to see to learn from that experience.

And I guess now, as we discussed about the report also we - maybe you can use that session to kind of them respond and see how - I mean, what can be developed later in the next (unintelligible) till then from Buenos Aires to Dublin.

Niels ten Oever: Sounds great Rafik. And I'll come up with an agenda and share that on the list. Marília has a point. Marília please come in.

Marília Maciel: Thank you Niels. I just would like to go back to the point of trying to involve people that have been working in ICANN for years from the community.

I just feel that more and more as we advance in concrete topics and UDRP is the next one we don't need them.

So I was wondering if in the meeting in Buenos Aires we could not reach out to these people and ask for their views in terms of what is the evolution of these documents that we have produced looking back at the Council of Europe reports until now what is their assessment and how they feel that the next challenges are and how do they connect what we're doing with the work that they are heavily involved, such as accountability, such as UDRP?

So I think that is an opportunity strategically to bring them in as, I mean commentators, speakers and also for us to have more concrete elements in order to continue writing more and more concrete reports.

So maybe I know that there are always problems with clashing and other sessions. But we could reach out to them right now and try to see if some of them at least would be available.

And I'm not ready to reach out and to us them and to think that this is a good idea so maybe to connect it with our accountability and UDRP or the privacy discussions. We could think about this too and an invite our own people to give their views about what they see the connections are...

Niels ten Oever: It's always great to have new people in there. And indeed some people are very busy and they're pressure might be going a bit down with accountability work going down. It is definitely connected to it. So, it would be great if we could get indeed more people and we - who that we could invite.

So you were thinking of (Bill), Avri, Matthew, and others as well?

Marília Maciel: Yes, Kathy Kleimann and probably Stephanie Perrin for privacy although Kathy also covers privacy issues.

Niels ten Oever: I have (Bill), Avri, Matt, Kathy. Did you mention someone else?

Marília Maciel: Oh was just saying that Kathy's not coming to BA. Maybe we could try to get her remotely. I mentioned Stephanie Perrin on privacy as well.

Niels ten Oever: Yes, Stephanie - but Stephanie is active on the list. I will send these people a short update on our work and invite them specially to the working session even more - and open session as well. But we would definitely like to hear their input and hear their views.

And public session is not clashing with other important sessions so that might really work.

So I'll follow-up on that Marília. But please feel free also of course to nudge them and remind them of the work we are doing.

I want to shortly read out - oh yes we would go ask them for the assessment of our - or Marília says that some sort of - it would be great to go a bit further and ask these people for their assessment of our work. Yes that would be great. We could do that and responsibility to speak in the public session yes, sounds really reasonable.

So I'll come up with a draft agenda and then circulate that. And if we agree on that then we can invite people for that. Does that make sense?

Marília says great. I'm just annotating the chat here. That's good.

Are there - then as a final thing before we are heading to round up is I wanted to read out a comment made by (Alexander) who had some audio issues.

And he said guys just a quick comment observation. An elaborate description of the UDRP case study will definitely attract territorialism from the Russian GAC representatives as at the Singapore meeting they were very vocal on the (Korean) domains issue from the human rights perspective.

It's a very debatable issue in terms of exactly that relates to the ICANN remit. But if the human rights starts talk with UDRP in detail, I can expect a reaction.

It means that there seems to be a strong link for them between ICANN and the incident in the human rights contacts. So I can expect it will be efforts to stick it in.

So this reinforces the view that we're going to leave out the larger part of the UDRP analysis right now, but we'll definitely stick it in as an example.

So with this I think we are heading toward the end of our meeting. We've been talking well over an hour. I'd like to all thank you all very much for your time.

Having a final - I don't see any hands if anyone would like to have some closing remarks now would be the time. If not I would like to stimulate you all very hard to come up with your comments before Tuesday preferably even into weekends because I know Monika will be working hard on this. And we'll be doing so as well and looking forward to continue working with you all on this and looking forward to seeing you in BA of course and on the list.

So on that account I would like to say all enjoy the weekend. And we can stop the recording here Marília. Thank you.

END