

Work Stream 2 Topic:

Human Rights

Scope

Human Rights considerations are among the further proposed changes to the Bylaws to be evaluated in Work Stream 2 (WS2).

The following is excerpted directly from the CCWG-Accountability Work Stream 1 (WS1) report:

A commitment to discuss additional accountability improvements and broader accountability enhancements in 2016 that do not need to be in place or committed to prior to the IANA Stewardship Transition. These include: [...] Developing and clarifying a Framework of Interpretation for ICANN's Human Rights commitment in the Bylaws.

In Recommendation #6 of the CCWG-Accountability WS1 report, the group reaffirmed ICANN's 'Commitment to Respect Internationally Recognized Human Rights as it Carries out its Mission.'

Respecting internationally recognized human rights was adopted as a core value in the Bylaws adopted by the ICANN Board on 27 May 2016:

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

The following activities will be included in Work Stream 2 activities:

- *Develop an FOI-HR for the Human Rights Bylaw.*
- *Consider which specific Human Rights conventions or other instruments, if any, should be used by ICANN in interpreting and implementing the Human Rights Bylaw.*
- *Consider the policies and frameworks, if any, that ICANN needs to develop or enhance in order to fulfill its commitment to respect Human Rights.*
- *Consistent with ICANN's existing processes and protocols, consider how these new frameworks should be discussed and drafted to ensure broad multistakeholder involvement in the process.*

- *Consider what effect, if any, this Bylaw will have on ICANN's consideration of advice given by the Governmental Advisory Committee (GAC).*
- *Consider how, if at all, this Bylaw will affect how ICANN's operations are carried out.*
- *Consider how the interpretation and implementation of this Bylaw will interact with existing and future ICANN policies and procedures.*

The following is excerpted directly from Annex 12 of the CCWG-Accountability WS1 report, clarifying further work to be done in WS2:

To ensure that adding the proposed Human Rights Bylaw provision into the ICANN Bylaws does not lead to an expansion of ICANN's Mission or scope, the CCWG-Accountability will develop a Framework of Interpretation for Human Rights (FOI-HR) as a consensus recommendation in Work Stream 2 to be approved by the ICANN Board using the same process and criteria as for Work Stream 1 recommendations, and the Bylaw provision will not enter into force before the FOI-HR is in place. The CCWG-Accountability will consider the following as it develops the FOI-HR:

- *Consider which specific Human Rights conventions or other instruments, if any, should be used by ICANN in interpreting and implementing the Human Rights Bylaw. • Consider the policies and frameworks, if any, that ICANN needs to develop or enhance in order to fulfill its commitment to respect Human Rights.*
- *Consistent with ICANN's existing processes and protocols, consider how these new frameworks should be discussed and drafted to ensure broad multistakeholder involvement in the process.*
- *Consider what effect, if any, this Bylaw would have on ICANN's consideration of advice given by the Governmental Advisory Committee (GAC).*
- *Consider how, if at all, this Bylaw will affect how ICANN's operations are carried out.*
- *Consider how the interpretation and implementation of this Bylaw will interact with existing and future ICANN policies and procedures.*

Community Discussion

Human Rights are mentioned in the Minority Statements included in the CCWG-Accountability WS1 report, excerpted below:

Eberhard W Lisse, CCWG-Accountability Member, ccNSO:

I still have very strong concerns about the way the CCWG-Accountability has dealt with ICANN's Accountability to Human Rights. The Final Report must state, at a minimum, that: Within its mission and in its operations, ICANN will respect fundamental human rights, inter alia the exercise of free expression, free flow of information, due process and the right to property without any qualifications.

Tijani Ben Jemaa, CCWG-Accountability Member, ALAC

I express my concern that in the proposed text, it is not made clear that the ICANN obligation to respect Human Rights covers the issues included in the ICANN mission only and not be expended to cover other aspects such as the content.

There is a [CCWG-Accountability Working Party 4](#) tasked with addressing the topic of Human Rights. There is a separate community-led group, which has been active for a while, called the Cross-Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights (or CCWP-HR). Many members of the CCWP-HR have been active in the CCWG-Accountability on human rights issues. They have created a human rights impact assessment [list of documents](#) and asked members of the group to contribute to it with publicly available information about ICANN. The CCWP-HR is also drafting an infographic mapping human rights principles with related ICANN policies and processes, which will be launched at ICANN56 in Helsinki.

As noted in the CCWG-Accountability WS1 report, the FoI work is expected to take place within WS2 by the CCWG-Accountability.

Resources

CCWG-Accountability WS1 [report](#) (23 Feb 16)

CCWG-Accountability WP4: Human Rights

- CCWG-Accountability wiki [here](#)
- [WP4 mailing list](#)

Related discussion groups:

Non-commercial Stakeholders Group Cross-Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights (NCSG CCWP-HR)

- NCSG wiki [here](#)
- [Charter](#)
- Mailing lists (subscribe via hyperlink below)
 - General [CCWP-HR](#)
 - [CCWP-HR Research](#)
 - [CCWP-HR WS2](#)
 - [CCWP-HR PDPs](#)

Internet Research Task Force Human Rights Protocols Considerations Group (IRTF HRPC)

- [IRTF HRPC mailing list](#)
- [HRPC website](#)
- Documentary film: [Net of Rights](#) (2016)

Relevant resources and publications:

APC Issue Paper - [Business and Digital Rights: Taking Stock of the Guiding Principles for Business and Human Rights in the ICT Sector](#) (Jun 2016), by David Sullivan

Global Partners [Digital Travel Guide to the Digital World: Cybersecurity Policy for Human Rights Defenders](#) (16 May 2016), by Carly Nyst

IRTF HRPC “[Research into Human Rights Protocol Considerations](#)” draft-tenoever-hrpc-research-02 (13 May 2016), by Niels ten Oever

UN Human Right’s Council, ‘[Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)’ (11 May 2016), by David Kaye

ACM SIGCOMM Computer Communication Review 25 46:2 (Apr 2016) “[Values and Networks: Steps Toward Exploring Their Relationships](#)” by Carsten Orwat & Roland Bless

CCWP-HR, Article19 and IHRB produced ‘[ICANN’s Corporate Responsibility to Respect Human Rights: Recommendations for Developing Human Rights Review Process and Reporting](#)’ (Oct 2015)

UN Human Right’s Council, ‘[Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)’ (11 May 2011), by Frank La Rue

United Nations Human Rights, Office of the High Commission, “[Guiding Principles on Business and Human Rights, Implementing the United Nations ‘Protect, Respect and Remedy’ Framework](#),” HR/PUB/11/04 (2011)

The Danish Institute for Human Rights ‘[Guide to the SDGS](#)’ (Sustainable Development Goals)