

# WP4 Meeting #6 (6 October @ 22:00 UTC)

## Attendees:

**Sub-group Members:** David McAuley, Ellen Blackler, Gary Hunt, Greg Shatan, Kavouss Arasteh, Leon Sanchez, Markus Kummer, Niels ten Oever, Robin Gross, Tatiana Tropina (10)

**Staff:** Bernie Turcotte, Berry Cobb, Brenda Brewer, Melissa King

**Apologies:** Martin Boyle

*\*\*Please let Brenda know if your name has been left off the list (attendees or apologies).\*\**

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## Transcript

- [Transcript WP4\\_6 October.docx](#)
- [Transcript WP4\\_6 October.pdf](#)

## Recordings

- The Adobe Connect recording is available here: <https://icann.adobeconnect.com/p1jcpmae0ap/>
- The audio recording is available here: <http://audio.icann.org/gnso/gnso-wp4-06oct15-en.mp3>

## Notes

*These high-level notes are designed to help you navigate through content of the call and do not substitute in any way the transcript.*

LS -Agenda is to work through the public comments . Documents have been produced by Tatiana Tropina and Niels ten Oever.

Ellen Blackler (EB) - excellent work on the document. Areas of divergence 2. On 1 clarify what 2 out of 23 means. Divergence #3 limiting text divergent.

NO - even with this text the commenter felt this left ICANN open to a significant risk.

GS - are only doing specific comments or will we review the entire document?

LS - need comments GS

GS - issues with number breakdowns - BT will fix.

DM - Areas for Refinement - Concern with proposed new wording in item 2. This wording would be very hard to accept ICANN would PROTECT human rights. Ok to RESPECT and not PROTECT.

Robin Gross [GNSO - NCSG]: According to Article 29, ICANN doesn't respect privacy rights (EU).

LS - this should probably be included in the document (new point)

GS - we should stick to comments provided.

TT - create additional document for an assessment of the comments. The current document is mostly a snapshot.

LS - We should prepare 1 document with two chapters, 1 which is a summary and 1 which is an analysis and participants should complete their contribution to this document in the next 24 hours so it can be discussed at the next meeting of WP4

LS - other tract which is agreeing on the wording to be added to the Bylaws. The proposed text for discussion is: Within its mission and in its operations, ICANN will be committed to respect internationally recognized human rights laws and standards.

DM - Why standards?

NO - not my addition.

Niels ten Oever: The BC believes that the Universal Declaration of Human Rights is comprehensive statement of human rights that is appropriate for ICANN14. The BC does not support having ICANN selectively commit to certain human rights while excluding others. Nor does the BC support having ICANN commit to the United Nations Guiding Principles on Business and Human Rights, which was proposed by some sub-group members15. ICANN is not a business and would be a poor fit with the limited view of human rights originally developed by the UN for Businesses in the resource extraction industry.

MK - WSIS wrestled with this which was a very hard topic - the only agreement was UDHR. this would be sufficient and would probably generate consensus in our context.

TT - no cherry picking so need general language. finally opposed to mentioning UDHR but could live with it if a minority view.

LS there was an agreement not to mention any specific instruments.

GS - does not agree we should stay away from mentioning existing documents. 5 comments recommended UDHR.

General discussion on strategy forward

Discussion of poll for WP4

- Should there be a reference to specific document in the Bylaws text (human rights context) - (yes or no)?

- If a document is included should it be the UDHR (yes or no)?

- Another Document or documents? (list)

LS - Going forward - complete the document, reply to the Poll, continue the discussion of the document on the next call as well as the results of the poll.

## Documents Presented

- Google doc: (HR language in ICANN's bylaws)  
[https://docs.google.com/document/d/1qGYKB3d2pjx0iFGj8a8lywgM7WgYqTpis\\_4-ldkbtg8/edit](https://docs.google.com/document/d/1qGYKB3d2pjx0iFGj8a8lywgM7WgYqTpis_4-ldkbtg8/edit)
- [Within its mission.pdf](#) (wording to be added to the Bylaws)

## Chat Transcript

Brenda Brewer: (10/6/2015 16:26) Welcome all to WP4 Meeting #6 on 6 October 2015 @ 22:00 UTC! Please note that chat sessions are being archived and follow the ICANN Expected Standards of Behavior: <http://www.icann.org/en/news/in-focus/accountability/expected-standards>

Niels ten Oever: (16:59) Hello everyone

ellen blackler: (16:59) hi

Markus Kummer: (16:59) Hi all

David McAuley: (17:00) phone issues here - trying to sort

Greg Shatan: (17:00) Hello all.

Niels ten Oever: (17:00) Very softly

Niels ten Oever: (17:01) Hearing now

Bernard Turcotte Staff Support: (17:01) Ola

Niels ten Oever: (17:01) Boa noite!

Niels ten Oever: (17:01) a bit loud

ellen blackler: (17:01) a little echo

Markus Kummer: (17:01) just fine

Tatiana Tropina: (17:01) Fine now

Niels ten Oever: (17:01) excellent for me

David McAuley: (17:02) Thanks Niels and Tatiana

kavouss arasteh: (17:03) Hi Every Body

Brenda Brewer: (17:03) we are calling you now Kavouss!

ellen blackler: (17:04) i have a few comments. ( it was excellent)

ellen blackler: (17:04) i put them in the google doc but happy to go thru them here

Tatiana Tropina: (17:05) Ellen, your comments are very useful - I went through them briefly

Niels ten Oever: (17:05) Shall we work in Google Doc?

Niels ten Oever: (17:05) Yes

Tatiana Tropina: (17:05) yes we can

David McAuley: (17:05) I think we may have lost Leon

Brenda Brewer: (17:05) I hear Leon

Niels ten Oever: (17:05) Leon seems to be on mute, no?

Brenda Brewer: (17:06) He asked for you to please restate your request Ellen

David McAuley: (17:06) yes

David McAuley: (17:06) now

Niels ten Oever: (17:07) [https://docs.google.com/document/d/1qGYKB3d2pJx0iFGj8a8lywgM7WgYqTpis\\_4-ldkbtg8/edit](https://docs.google.com/document/d/1qGYKB3d2pJx0iFGj8a8lywgM7WgYqTpis_4-ldkbtg8/edit)

Tatiana Tropina: (17:07) Excellent point!

Niels ten Oever: (17:07) Good with me

Tatiana Tropina: (17:09) Agree, Ellen.

Tatiana Tropina: (17:09) But Niels will explain it

Tatiana Tropina: (17:09) may be we can clarify it better

ellen blackler: (17:09) i understand

Tatiana Tropina: (17:10) or rephrase, so it will be clear

Markus Kummer: (17:11) Also my suggestion: can Niels and Tatiana walk us through the comments?

Robin Gross [GNSO - NCSG]: (17:12) Thanks to Niels and Tatiana for preparing this document for us!

Tatiana Tropina: (17:13) Guys we are working on it right now online and correcting - join us if you want

Niels ten Oever: (17:13) agree - changed

Tatiana Tropina: (17:14) Thanks for the comment, Greg

Niels ten Oever: (17:14) [https://docs.google.com/document/d/1qGYKB3d2pJx0iFGj8a8lywgM7WgYqTpis\\_4-ldkbtg8/edit#](https://docs.google.com/document/d/1qGYKB3d2pJx0iFGj8a8lywgM7WgYqTpis_4-ldkbtg8/edit#)

Niels ten Oever: (17:14) Excellent point Greg, thanks

Niels ten Oever: (17:15) Happy to respond

Tatiana Tropina: (17:15) We referred to the "areas" of consensus

Bernard Turcotte Staff Support: (17:17) @neils - correct

Bernard Turcotte Staff Support: (17:17) Should remove the break downs of the 23

Bernard Turcotte Staff Support: (17:18) the 20 were the comments that generally supported the proposal without specifically referring to human rights

David McAuley: (17:19) I've stayed in chat

Bernard Turcotte Staff Support: (17:19) Correct

Bernard Turcotte Staff Support: (17:20) similarly for the 3 against

Bernard Turcotte Staff Support: (17:20) Looks good Greg

David McAuley: (17:23) yesr hard to hear Bernie

Tatiana Tropina: (17:23) Greg, this is a good idea.

Bernard Turcotte Staff Support: (17:23) correct

Tatiana Tropina: (17:23) Let just everyone go through the comments and add anything they think is missing

Tatiana Tropina: (17:24) we tried to summarise everything because many comments refer to the same issues

Niels ten Oever: (17:26) we're first discussing the summary, not positions, right?

kavouss arasteh: (17:26) ICANN is not international protector of human right but to respect it

Robin Gross [GNSO - NCSG]: (17:26) According to Article 29, ICANN doesn't respect privacy rights.

Tatiana Tropina: (17:27) I think this is very valuable comment and we probably will agree with this, but we didn't invent it - it came from public comments which we had to summarise :)

Tatiana Tropina: (17:27) May be we have to make a disclaimer?

kavouss arasteh: (17:27) Robinm, May you cut and paste that Article pls

Tatiana Tropina: (17:28) we are making this clarification right now in the doc

ellen blackler: (17:28) good idea leon

David McAuley: (17:28) ok, my mistake

Tatiana Tropina: (17:28) David, it's a good point because we certainly need this clarification to avoid confusion

Niels ten Oever: (17:28) No thanks, that was my point

David McAuley: (17:29) Thanks Tatiana

Niels ten Oever: (17:29) Yes

David McAuley: (17:29) yes

Tatiana Tropina: (17:29) we can!

David McAuley: (17:30) lost my phone - sorry will be in chat only, no battery

kavouss arasteh: (17:30) I am not convinced by the explanation given by Robin

Niels ten Oever: (17:31) This was not in the comments, right?

Tatiana Tropina: (17:31) We can may be start the new doc to reflect all the discussions and opinions?

Tatiana Tropina: (17:32) Or we can have this later from the transcript. Will be helpful for drafting the framework doc

kavouss arasteh: (17:32) We shall in no way claim that ICANN does b not respect article x or Y wizthout given all valid arugments

David McAuley: (17:32) If the case you mention is data retentio waivers, Robin, I imagine ICANN might see that differently since they give individual waivers, albeit not group waivers

Niels ten Oever: (17:33) lol re: DelBianco postulate

David McAuley: (17:33) I like the postulate as well, thank you Greg

kavouss arasteh: (17:33) Leon, this is a complex area that would be difficult to get in

kavouss arasteh: (17:33) I do not see any possibility that CCWG examine the case .

Niels ten Oever: (17:34) +1

Niels ten Oever: (17:34) Happy to work on next document. Once we agree on this

Tatiana Tropina: (17:34) Absolutely

Tatiana Tropina: (17:34) Greg, one good point after another :)

Robin Gross [GNSO - NCSG]: (17:34) here is one letter Article 29 Working Party sent to ICANN in 2012 : [http://ec.europa.eu/justice/data-protection/article-29/documentation/other-document/files/2012/20120926\\_letter\\_to\\_icann\\_en.pdf](http://ec.europa.eu/justice/data-protection/article-29/documentation/other-document/files/2012/20120926_letter_to_icann_en.pdf)

David McAuley: (17:34) Niels, are you in the HR working party? If so could you enlighten us as to where that group is and whether we should coordinate

Niels ten Oever: (17:35) Happy to do so :)

David McAuley: (17:35) Thank you

kavouss arasteh: (17:35) According to Article 29, ICANN doesn't respect privacy rights (EU). is a matter to EU to prove or claims and not CCWGIf Article

Tatiana Tropina: (17:35) we were thinking about references but decided to go for summary

ellen blackler: (17:36) agree leon

Tatiana Tropina: (17:36) I think this doc is about public comments, assessment will be the next step.

David McAuley: (17:40) yes

David McAuley: (17:41) Good suggestion Tatiana

Tatiana Tropina: (17:42) Have another suggestion

Tatiana Tropina: (17:42) Raised my hand again

Tatiana Tropina: (17:44) Then we can work in parallel

Niels ten Oever: (17:44) +1

Niels ten Oever: (17:45) So we can do analysis in paralel in new doc

Niels ten Oever: (17:45) in which the discussions are also represented

Tatiana Tropina: (17:45) (1) create a new goodle doc for assessment (2) work on this summary/snapshot

Niels ten Oever: (17:45) +1

Tatiana Tropina: (17:45) well just copy paste the summary in the new doc so we can all comment and evaluate? Just an idea

David McAuley: (17:46) no phone Leon, are we to add assessments in this doc under that title?

David McAuley: (17:46) add "assessments" that is

Tatiana Tropina: (17:47) cool so we will have two docs, one summary, one with assessment

Leon Sanchez: (17:47) yes David, please

David McAuley: (17:47) thank you

Tatiana Tropina: (17:49) Leon, is this deadline only for assessment or for proposing the language and drafting the framework docs as well?

Tatiana Tropina: (17:49) Two docs I assume!

Tatiana Tropina: (17:49) So people can add thing to the summary as well?

David McAuley: (17:49) Sorry Greg - I may have added to the confusion on two vs one - will stay silent and see what is decided

Tatiana Tropina: (17:50) though.... If we are going to make this assessment it will be better to have everything in one doc :( it's gonna be a big mess then

Tatiana Tropina: (17:50) agree Leon. I am changing my opinion about two docs - we need only one.

David McAuley: (17:50) agree with that Leon

Tatiana Tropina: (17:51) Niels, +1

Tatiana Tropina: (17:51) I wonder how to separate clearly

Tatiana Tropina: (17:51) Because there has already been confusion concerning summary/analysis

Tatiana Tropina: (17:51) Good. Then intro to each chapter.

David McAuley: (17:53) The DB Postulate - could be a movie title

David McAuley: (17:53) thriller

Niels ten Oever: (17:54) Greg, you have a copy / example of this template

Greg Shatan: (17:54) I will circulate the draft that Steve prepared that I am thinking about.

Niels ten Oever: (17:54) Thanks!

David McAuley: (17:55) Sorry for no phone - Niels - are there examples of HR standards that are not laws?

Greg Shatan: (17:56) Which Working Group is that?

Tatiana Tropina: (17:56) I don't think it was Niels

Niels ten Oever: (17:56) Let's remove the standards

Niels ten Oever: (17:57) It was not me suggesting the standards

David McAuley: (17:57) sorry - thought it was Niels

Leon Sanchez: (17:57) ok

Leon Sanchez: (17:57) I too thought it was Niels. My mistake. Sorry

Niels ten Oever: (17:57) np

Niels ten Oever: (17:57) let's remove standards

David McAuley: (17:58) Thanks Tatiana

David McAuley: (17:58) I agree on removal of standards

Niels ten Oever: (17:58) BC agreed with UDHR I think

Tatiana Tropina: (17:59) I am very much against adding the reference to specific documents I wonder how we proceed if we have this in public comments

Niels ten Oever: (17:59) The BC believes that the Universal Declaration of Human Rights is comprehensive statement of human rights that is appropriate for ICANN14. The BC does not support having ICANN selectively commit to certain human rights while excluding others. Nor does the BC support having ICANN commit to the United Nations Guiding Principles on Business and Human Rights, which was proposed by some sub-group members15. ICANN is not a business and would be a poor fit with the limited view of human rights originally developed by the UN for Businesses in the resource extraction industry.

ellen blackler: (18:00) i dont thinkthe BC meant to say it HAD to have a reference to the UDHR

Niels ten Oever: (18:00) yes

David McAuley: (18:00) yes we can

Bernard Turcotte Staff Support: (18:00) yes

ellen blackler: (18:00) ti was saying a reference was acceptable

Tatiana Tropina: (18:00) We have opposition in the group as well, so there is probably consensus (re Ruggie principles)

Niels ten Oever: (18:00) I also think that there are no comments that say that reference to UDHR is \_neccessary\_

Greg Shatan: (18:01) @Markus -- and now we are combining the two!

Tatiana Tropina: (18:01) I am very much against refereing to UDHR

Tatiana Tropina: (18:01) the simple broad language will be the best option

Niels ten Oever: (18:01) I also think we should not re-open the document selection discussion

Leon Sanchez: (18:03) I just want to make clear that I am not trying to re-open the discussion on document selection but only recognize that is something that was commented by some in the PCP

Niels ten Oever: (18:04) internationally recognized human rights law is even more high level and less contentious imho

Niels ten Oever: (18:04) UDHR was not requested as necessary by public comments

Tatiana Tropina: (18:04) I know - just really wondering what to do with UDHR because it was mentioned in the public comments!

Markus Kummer: (18:04) @Niels: agree, even more high level, but then it may be too high level for some, as it is open to interpretation

Tatiana Tropina: (18:05) but still we have to address this and explain why haven't we refer to this

Tatiana Tropina: (18:05) And let's delete standards :D

Greg Shatan: (18:08) I don't think we should quibble over the use of the word "appropriate" vs. "necessary"

Greg Shatan: (18:09) As far as I'm concerned, it's still an open question....

Greg Shatan: (18:09) I don't remember when we closed it.

Tatiana Tropina: (18:09) Greg, I agree - it should be solved in one way or another :)]

Tatiana Tropina: (18:10) I didn't mentioned the number of the pages ;)

Greg Shatan: (18:13) We can turn it into an app. Then it won't have pages at all.

Tatiana Tropina: (18:13) Interactive app. Why not.

Niels ten Oever: (18:13) But would it be android or ios?

Tatiana Tropina: (18:13) So anyone can fill the empty spaces with the flowers, etc

Greg Shatan: (18:13) Windows and Blackberry

Tatiana Tropina: (18:14) Niels, we have to go for both to avoid further divergencies

Niels ten Oever: (18:14) FLOSS or copyrighted ;)

Greg Shatan: (18:14) Copyleft

Niels ten Oever: (18:14) Let's do Symbian

Greg Shatan: (18:14) Palm Pilot!

Greg Shatan: (18:14) Newton....

Niels ten Oever: (18:14) SIM app!

Niels ten Oever: (18:14) Or integrate in baseband

Greg Shatan: (18:14) Talking Barbie.

Tatiana Tropina: (18:15) I see you will end with cave painting soon

Greg Shatan: (18:15) [http://www.nytimes.com/2015/09/20/magazine/barbie-wants-to-get-to-know-your-child.html?\\_r=0](http://www.nytimes.com/2015/09/20/magazine/barbie-wants-to-get-to-know-your-child.html?_r=0)

Greg Shatan: (18:15) Picasso did, why shouldn't we.

Tatiana Tropina: (18:15) green tick if yes?

Bernard Turcotte Staff Support: (18:16) Should the CCWG text on Human Rights refer to the Universal Declaration of Human Rights or not?

Greg Shatan: (18:16) Are we voting on the question or the answer?

ellen blackler: (18:16) can type q in the notes or the chat?

ellen blackler: (18:16) i see it

Bernard Turcotte Staff Support: (18:17) those could be two questions

Leon Sanchez: (18:17) We are voting on the question

Niels ten Oever: (18:17) Will the question be: should there be a reference to a specific document in the bylaw text?

Tatiana Tropina: (18:17) I can't hear anything

Niels ten Oever: (18:17) Or will the question be: Should we refer to the UDHR in the bylaw text?

Greg Shatan: (18:18) Should the Human Rights bylaw refer to any specific Human Rights document?

Bernard Turcotte Staff Support: (18:18) Should the CCWG text on Human Rights refer to the Universal Declaration of Human Rights or not?

Brenda Brewer: (18:18) To Check tick either for or against, see last icon on menu bar on top (hand raised icon) Then select "Green/Agree" or "Red /Disagree"

Greg Shatan: (18:18) If yes, should that document be the UDHR?

Niels ten Oever: (18:18) Else we're conflating issues

Niels ten Oever: (18:18) +1 Greg

Greg Shatan: (18:18) I have proposed two questions.

Tatiana Tropina: (18:18) Ah I thought we are answering the question. Sorry.

Tatiana Tropina: (18:18) Greg +1

David McAuley: (18:18) I'm back online

Bernard Turcotte Staff Support: (18:19) Should there be a reference to specific document in the Bylaws text (human rights context)?

Bernard Turcotte Staff Support: (18:20) (yes or no)

Tatiana Tropina: (18:20) Wrong assumption

Tatiana Tropina: (18:20) yep :)

Niels ten Oever: (18:20) Or ICCPR, etc, etc, etc ;)

Bernard Turcotte Staff Support: (18:20) If a document is included should be the UDHR (yes or no)

Tatiana Tropina: (18:20) great point actually

Tatiana Tropina: (18:20) I mean Greg's point

Bernard Turcotte Staff Support: (18:21) second

Greg Shatan: (18:22) Use my first question and Bernie's second question.

Bernard Turcotte Staff Support: (18:22) Should there be a reference to specific document in the Bylaws text (human rights context) - yes or no

Bernard Turcotte Staff Support: (18:22) If a document is included should be the UDHR (yes or no)

Bernard Turcotte Staff Support: (18:23) who are we polling?

Tatiana Tropina: (18:23) Gret. I wanna have a choice even if I answer no. because if anything shall be included I would go for Universal D

Niels ten Oever: (18:23) There is a typo in there

Bernard Turcotte Staff Support: (18:23) ?

Greg Shatan: (18:23) 23:22 UTC

David McAuley: (18:23) it is now 23:23 UTC I think

Bernard Turcotte Staff Support: (18:23) will fix typos

Niels ten Oever: (18:23) oks

Greg Shatan: (18:23) Time marches on.

David McAuley: (18:23) woops off by a min

Markus Kummer: (18:25) Laws and principles would also work

Leon Sanchez: (18:25) Bernie we are polling WP4 participants

Tatiana Tropina: (18:25) Greg, this is international law :)

Bernard Turcotte Staff Support: (18:26) go

David McAuley: (18:26) Leon may be on mute

Leon Sanchez: (18:26) yes Kavouss

Tatiana Tropina: (18:26) well alright there are several instruments that international law is represented by, and conventions are one of them. My understanding. I am lawyer but probably less sophisticated one, need more practice :D

David McAuley: (18:27) Broad terms like that, though, may it exceedingly hard on ICANN to know its duty

Niels ten Oever: (18:28) This is not completely my understanding

David McAuley: (18:28) yes Leon

Greg Shatan: (18:28) Most of my time is not spent in the field of international law. In any event, I'm always in learning mode. That's why they call it the "practice" of law. :-)

Tatiana Tropina: (18:28) If we have to complicate it to that extend I rather go for UDHR....

David McAuley: (18:29) That is why I like UDHR

Tatiana Tropina: (18:29) I changed my mind!

Greg Shatan: (18:29) That may take us down many twisty pathways.

Markus Kummer: (18:29) @Tatiana: that's why I suggested referring to the UDHR in the first place: short and sweet!

Bernard Turcotte Staff Support: (18:29) who shall we poll

Bernard Turcotte Staff Support: (18:30) ?

Tatiana Tropina: (18:30) @Markus I am now getting there :D

Greg Shatan: (18:30) UDHR has the benefit of clarity....

Niels ten Oever: (18:30) @Bernard WP4 members, right?

Tatiana Tropina: (18:31) After 15 years of practicing law I rather go for simple things )

David McAuley: (18:31) OCCAM found his razor

Greg Shatan: (18:32) If Occam is in the CCWG, I would keep him away from sharp objects.

Tatiana Tropina: (18:32) David, I am still wondering which option has fewest assumptions

ellen blackler: (18:32) i have a stupid question...will i get the poll in my email or i have to go find it?

David McAuley: (18:32) Again - many thanks to Niels and Tatiana for doing this document prior to tonight's call

Bernard Turcotte Staff Support: (18:32) can I have a closing time please

Bernard Turcotte Staff Support: (18:32) and day

Tatiana Tropina: (18:33) Can we have a clear summary again: steps 1,2,3

Bernard Turcotte Staff Support: (18:33) Oct7 23:59 UTC it is

Tatiana Tropina: (18:33) :) thanks!

Tatiana Tropina: (18:34) Yes

ellen blackler: (18:35) and the poll will be emailed to the IWP4 list?

David McAuley: (18:35) Kavouss may be on mute

ellen blackler: (18:35) thanks!

Markus Kummer: (18:36) Thanks, good call. Bye all.

David McAuley: (18:36) Thanks all, and bye



Tatiana Tropina: (18:36) thanks!

Bernard Turcotte Staff Support: (18:36) bye all

Greg Shatan: (18:36) Bye all!

ellen blackler: (18:36) thanks all!

Tatiana Tropina: (18:36) bye all

Niels ten Oever: (18:36) bye

Robin Gross [GNSO - NCSG]: (18:36) thanks, Leon and all. bye!

Gary Hunt - UK Government: (18:36) Good night!