

**ICANN Transcription**  
**ICANN Copenhagen GNSO-NCSG ICANN & Human Rights Meeting**  
**Wednesday 15 March 2017 at 17:00 CET**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The recording and transcriptions of the calls are posted on the GNSO Master Calendar page: <http://gns0.icann.org/en/group-activities/calendar>

Niels ten Oever: Hello everyone. I would like you welcome you to the cross-community working party on ICANN's corporate and social responsibility to respect human rights. Everyone who is interested please feel free to join us at the table. There is sufficient place here at the table. Also because this is very much a conversation.

Let me first inform of outline. This is a informal group. It is a working party so we do not make official binding policies. What we're trying to do here is combine the different threads of the human rights work that is popping up and ongoing all over ICANN. So we're trying to understand where there is work, trying to see where work can be formed by other work and expertise from external areas, and where we could do some research to also help this work continue.

So everything here is to inform other work and the only way we can do that is if we connect all part of the community. And that's exactly what we're trying to do here. And therefore I'm also very happy to see members from so many different parts of the community present here. Next slide please.

So we have quite a packed agenda today with updates from things that have been going on in the community. But I do not want to start off without thanking ICANN staff for bringing everything together. And also thanking the council of Europe for organizing a webinar with us on the new GTLDs and the GTLD process vis a vis community applications and their impact on human rights. It was very well visited and the discussion is ongoing.

The Council of Europe has - is continuing to spark relevant discussions for as we've seen in the past days and as we'll see probably in the highlights later on. Does anyone have any suggestions or additions to the agenda? No? It's also already pretty packed. And if not we can always tack things on there. Any other business. We have 90 minutes so let's go ahead and at any time feel free to put your hand up at - in the Adobe connect room or here physically and colleagues please let me know if there's a hand rising behind me.

So first of all we've had a session with the government advisory committee -- especially their working group on international law -- where we gave them an update on our work. And we were updated on the cross-community working group on (unintelligible) ICANN accountability human rights sub group which we'll discuss in a bit here as well.

But let's first go into a small update on policy development processes that are potentially relevant for human rights and the work that's ongoing there so we see where we dare. So I would like to first call on Ayden to give us a short update on where the work on RDS is. Ayden, please come in.

Ayden Ferdeline: Thank you for that Niels. Hi everyone, Ayden Ferdeline for the record. So I'm going to update you today on the work of the next generation registration directory service policy development process working group.

But I also see there are other members of the working group around the table. So feel free to intervene if you feel there is something that I have not

captured, or if you would like to add some additional clarity around an update that I bring.

So for those who are not aware, two years ago the board initiated a GNSO policy development process to define the purpose of collecting, maintaining, and providing access to the registration data of domain names and to consider safeguards for protecting that data. And this was based on recommendations in the expert working group final report -- which has been an import -- which we've been relying on quite heavily in the early stages of the working group. This was our fourth face to face meeting but over the past 15 months.

We've been deliberating on two questions really. What are the fundamental requirements for (GTOD) registration data? And do we need a new policy framework or a next generation registration directory service to address those requirements? Again, we're still in the early stages of our work.

We've done everything from compile lists of potential data elements for a future RDS -- which we coded according to a rubric -- which the working group participants developed. We have debated both use and misuse cases for the current Whois system, how is it used to date by various stakeholders. And we've listened to perspectives from different stakeholders in the community on everything from privacy concerns, law enforcement and policing concerns, intellectual property protection concerns, security concerns, and issues around malicious use and abuse.

But what is perhaps most relevant for this working group -- in terms of where this working group touches upon human rights -- would be to do with privacy. To privacy -- as I'm sure many of you will know -- it's a fundamental human right recognized in the UN declaration of human rights among other international and regional treaties. Privacy underpins human dignity and other key values such as freedom of association, freedom of speech. So it's an extremely important issue.

And the issue with the Whois system today is that it is an open access system where if you register a domain name anyone in the world, for any reason whatsoever, can retrieve the registration details of who has registered that domain name. Now there are questions around how accurate that data is and sometimes there are privacy proxy services that are used to cloak that data.

But in my opinion at least -- the system isn't fit for purpose. So at this meeting we've had - we met today and we also met on Saturday -- so we've had four and half hours with the working group. And we also had the great privilege of having a number of data protection commissioners speak to the community earlier this week.

So we've been able to have some really important discussions on what is the purpose of this system. And we've had a lot of very valuable input that will guide us in the coming months ahead.

So I think I might leave the update there for now. But essentially the ship is on course. We are considering privacy issues and that is really important. For me at least. Thank you.

Niels ten Oever: Thank you very much for that update Ayden and here is Aarti with a response. Aarti please come in.

Aarti Bhavana: Hi I just like to -- Aarti Bhavana for the record. I just to add that today's session was very interesting because it was the UN special (rapporteur) on privacy who came to talk to the group and discuss very fundamental issues that need to be considered when coming up with new ideas.

And there was also the data commissioners who the sub group has sent a list of questions to about data protection. And they will be providing on Thursday in writing very soon so that would be something to look out for.

Today's session was -- while it may not have dealt with a lot of concrete issues -- but it did begin a discussion which is great and this entire meeting -- this particular meeting in Copenhagen -- has been great from the point of privacy because of the special focus that has been given to it. So that's something that the - I think now hopefully the working group will consider in even more detail. And it's something that our group has pointed out multiple times. So that's great for us at least. Thanks.

Niels ten Oever: Thank you very much Aarti. So if there are no other points I would like to go to the overview of the next PDP. And that is on the auction proceeds. And we actually just come from the working group.

The working group is still very much setting out how it's going to go into the process of how the process will be designed. And who can partake, under which conditions, in designing the process. And can the people who might be potential benefactors of the fund be part of the designing process.

So it is - the process is in its very early stages. And that means two things. A, it's going to take a while. But B, if you want to tag along and follow that process this is a good moment to do so if you're in it for the long run. No, sorry. That's a good point.

Then for a relatively short overview of that point, I would like to go to one that's not mentioned on the slide but is very relevant especially when it comes to the right of due process. And that is the independent (peer) review process that is become one of the sharpened teeth of the accountability process. And one of the people driving that important work is David McAuley and he is here with us today. David?

David McAuley: Thank you Niels. I'm David McAuley. I work with VeriSign and I'm speaking in my capacity as the lead person in the IRP implementation oversight team. And this will be a brief update what's happening.

On October 1 of last year new bylaws were adopted by the ICANN board. And within the new bylaws is a reconstituted independent review process. We've moved away from the old process where it was procedural in nature - sort of a procedural review to make sure that things were done according to bylaws requirements. And now we've got that but we've also got substantive reviews.

And the standard by which this new bylaw will judge things is, did action that was taken -- action or inaction that was done by the ICANN board or by ICANN staff -- did it amount to a violation of the articles of incorporation of the bylaws? There - and it covers things like did ICANN exceed its mission? Did ICANN do something in response to an expert panel that it claims it believes went beyond the articles or bylaws?

The expert panels in the new GTLD program. There were panels that looked at things like confusing string similarity and legal objections, community objections and things of that nature. Those are the panels that we're talking about. They didn't have an appeal mechanism, they do now. Things like ICANN's response to a request for documents. Did that amount to a violation of the articles or bylaw in what they did? Those things can be reviewed.

There's two additional subsets that the board - that the panel can review that don't require the standard of violation of bylaws or violation of articles. And those two things are, has ICANN enforced its contractual rights under the IANA naming functions contract? And PTI service complaints that can't be solved through mediation can be taken as a claim to an IRP by someone who feels that PTI - a direct customer of PTI feels that the service was somehow inadequate.

So that's in place as of October 1. But there are three things that need to be done too to bolster it and to make the new IRP the fully functioning IRP that we all expect. There is an ongoing IRP -- you can still bring a claim -- but it's

going to be under old rules. And it'll be set up under the International Center for Dispute Resolution which is the preexisting admin support, that's all there.

But what we want to do now is create new rules and that's - our committee is looking to develop new rules. We put out a draft of rules -- these are rules of procedure I'm talking about -- which are important in bringing cases like litigation or arbitration. We put out a set of rules, we got a robust series of comments that we're now pouring through. And many good, complicated comments that we have to work through.

And so at the end of that process we will come up with rules that would be submitted to the board for approval. And that would take care of the rules. Another of the three things that needs to be done to support the IRP is to make sure that you have administrative support like the ICDR -- the International Center for Dispute Resolution -- that is taking care of the administrative side of this. Paying panelists, organizing things, whatever it might be.

And then the third thing that needs to be done is to create a standing panel of panelists that will hear IRP cases. And the benefit of a standing panel is they will come to this job with some knowledge of ICANN and will develop that further over the tenure of their service. And this panel must be at least seven members -- can be more, that's not specified -- but it must be at least seven.

And from that standing panel claimants and ICANN will choose -- through a methodology -- three panelists that will hear any one case. So that process begins with an expression of interest that ICANN will develop and release. That'll be done very shortly. I'm in touch with ICANN legal they've worked through some drafting. I've helped them with drafting and our group has and I believe that that will be out in very short order.

That document will seek applications from people to be members of the standing panel. To go through the member - to go through the responses

and sort of organize them to find out which are the most responsive and best qualified will be taken up by ICANN staff, ICANN board, and SOs and ACs. And then from that pool of good -- well qualified -- candidates, the ICANN SOs and ACs will nominate the panelists.

They'll nominate seven -- or more -- and ICANN board will confirm them as panelists. And they cannot unreasonably withhold confirmation. So that process is in train and when all that is done there will be a fully constituted new IRP process. And that's roughly where things are now. Niels.

Niels ten Oever: Very impressive and important work, David. Is there anything you would call upon us with which we could support your work? Or you don't need anything?

David McAuley: The IRP IOT is a closed team so that's not open for joining right now. Everybody here that's a member of an SO or an AC should be aware of this. We're trying to get the word out. We've written to each of them saying that this job is coming your way. That job being to nominate panelists.

But there's also - a part of that is to work with ICANN board and staff on sort of vetting the responses to the expression of interest. And so that's going to be landing in their lap some time I believe in the first half of this year. So that would be something that people could do.

And then the other thing is to pay attention. This is a very important as - I think you were right this is a very important new development, it's a very important panel. It's - this is the top tier of claims mechanism within the ICANN world. Before you go outside to litigation or whatever. It's important, it is - it will (hear) empowered community claims as they arise.

And so the more people that are observing this the more disciplined it will be I believe. And people can get in touch with those of us on the IOT and I believe we will have very well qualified candidates applying. I'm certainly

hopeful and I believe so. I - from the indications I have that'll be the case. And let's hope for the best. And I think it'll work out good and people I think -- I hope -- will stay abreast of this.

Niels ten Oever: Thank you very much for co-developing this important accountability process David. So now I'd like to go to Martin Pablo Silva Valent to give a short overview on the PDP on the rights protection mechanism and its relation to human rights.

Martin Pablo Silva Valent: Thank you Niels. This is Martin Silva for the transcript. I will try to be as concise as I can and I will not explain every detail of the PDP. But I would like to give you the sense of what was the basic human right aspect behind it.

The right protection mechanism working group is a review working group of all right protection mechanisms. That means they're going to look into especially in the trademark clearing house, the rapid (unintelligible) mechanism, and the (UDPR) - UDRP.

We are right now in the phase of the trademark clearing house. We are very advanced on - the reason we started on that is because we wanted to have a new - the new GTLD round with a review process. And I guess the approach on this is okay, the trademark clearing house is about protecting trademarks. And how can we bring balance to trademark protection? Because it is often that trademark protection is abused or it can get away from the limits that we actually intended in the first place.

On the same side on the other part is that the trademark clearing house -- once we improve the trademark protection -- because they're all - there are tweaks that can be made to protect better and more trademarks. So my role -- at least a human right advocate -- is to (unintelligible) these changes in the trademark clearing house and are not against human rights.

And the other side what can I do to improve human rights in the existing trademark clearing house? To put an example on this we can talk about how the trademark clearing house treats design marks -- for instance -- which are trademarks that are both text and images. Or we could talk about geographical names, indicate (geographical) indications. Or (demonations) (sic) of origins. And whether there (comentary) (sic) aspects to it - to them.

Like are we going to only protect producers that are from a certain area? Or we also going to protect whole geographic names as a new part of the trademark clearing house? And should we change the name then because it's not only just trademarks, we're trying to protect all other sorts of rights? And if we're going to do that what are the sort of rights?

This is a new debate, you know. Is it only trademarks then? It's also - it's a database that should have other sort of rights and with new process of verifications and things. So we are now reviewing that series of - if you go to the working group you are going to see a series of questions that we are trying to answer. I think that's a very useful way to understand where we are and to seeing those questions the different parts that (it could arise as).

That's - another example could be the amount of protection we're giving to a given trademark. Are we going to allow -- for instance -- typos? Is the trademark clearing house going to take in account also typos of a trademark? How it's going to solve that. If someone misspells Google is Google going to be notified that someone is trying to register a typo trademark?

Or that's not relevant because typos can make new words entirely? Only one letter can mean something different so it's not relevant that a typo should be enough to trigger the process. And the issue again with (these two) to -- maybe to wrap up a little bit and allow for questions this -- if we allow trademark to be over-protective or get out of hand -- just so it to use maybe a metaphor -- it can go (with issue) into some of basic human rights (which) (unintelligible) in ICANN. Mainly freedom of expression.

But it's allowed use in the domain -- the DNS -- space. It's allowed having your domain, being able to have a relevant domain name to not being taken away your domain name, and to have a sort of balance. To not try to replicate trademark law on DNS law. Or DNS rules if you want.

Niels ten Oever: Thank you very much for that overview. I see David McAuley's hand is up. David, please come in.

David McAuley: Thank you Niels. Let me apologize there is something I forgot to mention about IRP that I would like to mention. And it touches on human rights -- in an indirect way I suppose -- and that is what are the qualifications for someone to be a standing panelist?

I discussed this in another group earlier where we were getting a little bit more into that. But I think it's germane here. And so I'd like to mention that under the bylaws -- and I think as far as support goes the people in this room should broadcast this information widely if possible -- but under the bylaws a panelist - or ICANN will take reasonable efforts to achieve cultural, linguistic, gender, and legal tradition diversity and diversity by geographic region.

And then earlier I forgot about independence -- (Richard Hill) helped me -- and independence too from ICANN SOs and ACs. And so those are roughly the qualifications. So that's important. Thank you Niels.

Niels ten Oever: Thank you very much David. I see here a comment from (An-itmans Khalish) from IPC regarding IRP and mechanisms for challenging decisions that impact human rights. The community needs to determine through policy making what the steps will be to dispute this decisions of the board.

There the - a question of request for reconsideration and also the question whether less formal mechanisms within their rights given to empower community should be used before the more formal processes of request for

reconsideration and independent review panel. There's a comment from (Anne).

Martin thanks very much for that overview. Are there any other questions or comments? If not, then the - we can go to the left. PDP which is scheduled back to back to us. I know there's a lot of interest. I am very thankful for all you being here but let's see how many people are following the subsequent procedures working group on (OGTLD)s? Great.

I asked (Vidoushe) who is not following it close to give a short overview and maybe you could help us if we have missed anything. Would you be so kind to help us with that? Perfect.

(Vidoushe Mata): Yes. Thanks Niels. (Vidoushe Mata) for the record. So the subsequent procedures PDP. We as a CCWP only got in touch with them because the - at the last ICANN meeting we presented a paper on subsequent procedures and human rights issues arising out of it. As of now the group is I think gearing up for a community concertation. And they divided into four work track sub groups.

I'm not sure of the exact ICANN-ese but basically four groups. The first track is on overall process, support, and outreach. The second is on legal and regulatory issues. The third is on string contention objection and procedures. And the last one is on (IDN)s. But maybe if you could give us an idea of exactly at what stage those groups have reached that would really helpful. Thank you.

Gertrude Levine: Sure. My name is "Gg" Levine. I'm the - with the registry operator for dot pharmacy. And I participate in the second and third work tracks so I can share a little insight on those.

In the second work track one of the issues that they were looking at -- in terms of contractual compliance -- has to do with background checks for

applicants and whether the existing background checks are sufficient or even necessary. And how they play into the applicant review process.

In sub-track three -- as you mentioned -- they're looking at string contentions and objections. One of those issues concerns the community applications, the -- I forget the acronym -- but the process for giving priority to community applications. Looking at whether that's fair, whether it's been done consistently and fairly. And also looking at the process for community-based objections and what is the appropriate standing in order to be eligible to lodge an objection as a community.

Another one regarding string contention is confusingly similar strings. And what to allow or disallow at the beginning of the process and - as opposed to what should be the basis of an objection. For instance, plurals and singulars. There is the thought among some members of the group that singulars and plurals should not be both allowed. So for instance if there's an existing domain name -- like car -- then in subsequent rounds cars would not be considered.

But that is something that remains to be seen and as you mentioned we're - or the PDP is opening up several questions to the community for feedback. Probably next month.

Niels ten Oever: Thank you very much for that great one-two - ad-hoc collaboration on that great overview.

I believe that the sub-team three on the GTLD subsequent procedures covers freedom of expression community applications and objections, right? So that might be exactly something for this group to look at. And it might be something to field the report that we brought up last time and bring it in during the community - the input process. There, so that might make sense. So thanks very much for that great overview.

Thirty minutes in we've reviewed the PDPs. We're going strong. We've still got also some other things filling (out behind me). That's great. There are also still seats at the table.

So now let's quickly go to the next slide which is the update on the human rights relevant topics in Workstream Two. And there I'd like to invite Rafik Dammak who is co-rapporteur for the diversity work sub group to give us a quick update of where you are in that work. Rafik, please come in.

Rafik Dammak: Thanks Niels. Rafik Dammak speaking. So for the diversity sub group we kind of stuck a little bit late compared to other sub groups but we are trying to kind of to catch up on that matter.

We - what we tried in the beginning is to - we had a (strawman) document to kind of to collect input and from there we created the second I would say - first version of the draft report. And we are going through that since we are having (unintelligible) comments.

We also try to work with the ICANN staff with regard to the data collection. For example, how we are collecting data about people attending the ICANN meetings. Or the different profiles you could have in the ICANN website. And so on. And see to find the kind of maybe some inconsistency - inconsistencies in how they are collecting data or getting some information like data and the country.

When we're - when we were working on the (strawman) document -- the report -- what we tried first to do is to define at list of diversity elements. And we spent some time there because there was kind of different understanding in you know, even the sub group members.

So if I can go quickly through the list we have geographical and (racial) representation, language, gender, and -- I'm so sorry -- age, physical ability,

skills, and (I think) also now - also the stakeholder group and diversity of view point.

We are finding sometimes kind of say some concerns among members of the sub group with regard to those elements of diversity. And to kind of the - how to define them. So like we spent some time to clarify what we mean by the diversity of skills because many people got the impression that we are talking - putting skills first versus diversity which is not the point.

It's really about - even in when we are, let's say if we focus just in the case of appointing for leadership position. We don't want just to have people with the same skill set that try to (think) and kind of diverse and different profile and so on. And to see how we can do that. And also we highlighted that we - it's not just the focus with regard to the leadership position but all kind of representation. Like in review team working groups and so on.

Also with regard like with gender some people may confuse gender with let's say sexual orientation and you have to clarify that. And also do we need to - how much we need to be - to go deep in the details in defining the list of maybe how people can define themselves, define their gender. Should we go like (in) extreme case like what Facebook doing having like 53 different gender or just a low (possibility) that people self-identification. So we are kind of trying to work on that.

Also given it may be kind of -- maybe the same -- we are also trying to put some idea for recommendation and there was kind of (sections) and have the idea of diversity office. It's kind of -- I'll say it again -- it's kind of (straw man) and we are trying to work more to see what kind of the requirements and what kind of function and that's (can) I would say -- (search) office. Maybe not, we don't need an office but that can field that.

Why we are still working on the report. We tried to work on the questionnaire to send to this one. This is to get that feedback and to see what are the kind

of current mechanisms (practiced) they are put - they are having in place. And also to check with them about this list if they have different, let's say definition or other element of diversity that we should take in account.

So because the time constraint and also very - kind of let's say that we have deadline. So we are trying now to get the report and the questionnaire - release in then the same time. We get feedback about the questionnaire during the session in Friday for the (CCWG). Just in kind of in maybe (this was) interesting but it's also I think it - it's quite important to have in mind.

Because we are a diversity sub group we have people asking to get interpretation service. And it was quite interesting to see how much we have to go through just to get such support. Because it's also important for us to think about - that any recommendation we have to put on (face) we have to consider. Like the - to consider about the budget and to see how that can be implemented.

So what I just can say at the end is we still need more volunteers to join us. Because as a diversity sub group we also need more diversity of point of view and to try to see how we can maybe if we are missing something and how to cover that. Again also we need to work more about the data collection because there are already some - I would say some data collection managed by the ICANN staff and we need to work more on that.

And for example we get some - we - the IT I would say - IT related team shared with us some a project going on like how they're defining some - I would say the profile within the different ICANN website and so on. We are thinking maybe how we can give them input and to include already some data that can help us for data collection. Yes. That's it.

Niels ten Oever: Thanks so much for that sort of overview Rafik. And also thank you very much for dealing with this complex subjects of diversity of the SOs and ACs

which is now part of the over work since the transition and trying to define what diversity really means.

So if we can summarize people need - you need still support in the sub group but people can also look ahead for the questionnaire to come to the SOs and ACs and have a good response to that.

Rafik Dammak: I think it's also an important - (maybe) discuss is if we are going to work on diversity you need to (unintelligible) situations just about kind of indicators and checklist. It's really how we can improve diversity within ICANN. And so that's the challenge for us is even when spending time just defining the elements and how - what kind of recommendation we can have in place.

And so we're trying to get from the community but also there's something we ask several time is let's see what are the maybe different experience outside ICANN. We are we're not going to reinvent the wheel so let's see how it will go.

Niels ten Oever: Thank you very much for (putting) this important and also sensitive work, Rafik. So if there are any -- I know this is a topic very close to heart of many people -- so if you have any expertise or advice feel free to share it with Rafik. Or maybe even join the sub group and join the fun of the CCWG.

Then to the next step. Unfortunately, Michael Karanicolas -- this is the first time that I pronounced his name right -- is the with the co-rapporteur for the transparency subgroup -- had to go back to Canada early. He is of the Center for Law and Democracy. So I'm covering for him. I can tell that they have been the sub group that has been one of the fastest in getting their work done.

And their transparency work is now open for public comment. So if you look at the website of the cross-community working group for accountability or on

the open public comments you see the new transparency standards. It leans heavily on the capacity - on the expertise and external standards that's there.

So please have a look. Especially people who are very well versed in ICANN to see do these external standards fit on ICANN, is this rightfully adopted, does this work? And please file a public comment.

Then let's go to the next part, next slide please (Mariel). And that is the human rights sub group of which I am a co-rapporteur. But there are luckily also other members of that sub group here in the room so feel free to correct me if I give a misrepresentation.

So as part of the transition we now have a human rights core value in the bylaws. But it will only be activated once we have developed a framework of interpretation in Workstream Two. We had developed a framework of interpretation which the sub group shared with the CCWG (plannery) (sic). And we had two readings but then the sub group realized we also need to make some considerations in a considerations document as we were mandated to by the Workstream One report.

And then we found there was a bit of difference between Annex six which described our full work and Annex 12 which described the work of all sub groups. And in Annex 12 it said that the consideration should be part of the framework of interpretation. So when we saw that we pulled the framework of interpretation, continued our work on the consideration document. And once we have both done we will submit them as one document to the (plannery) (sic) and then onward for public comment.

I think we're making good progress on the consideration document. So I expect that within not too long of a time we will submit that to the CCWG (plannery) (sic) and then you will find it among the public comments. So that was an overview of the CCWG on accountability work.

Next slide please (Mariel). Do people have any questions on this? No?  
Then we can go ahead -- instead of looking backwards of where we are --  
into looking forwards. But not before we have addressed the hand of Dave  
McAuley.

Oh, and there is a question in the chat on diversity. Sorry. The inclusion of  
gender non-conforming was discussed in the working group on diversity.  
When and what were the outcomes? I think this is a question to Rafik. Has  
the topic of non-conforming genders been discussed in the working group on  
diversity? So the different gender identities.

Rafik Dammak: Sorry. I think that what I tried to explain about that I mean that's not - it's not  
binary gender. That can be even much more and we were discussing how  
we can -- I would say -- profile that ability. So maybe not having kind of  
specific list but just like, you know, self-identification.

But we also still was ongoing and the issue was raised already but the word --  
maybe the gender conformity -- was not used) as it is like so but this kind of  
issue was discussed, yes.

Niels ten Oever: Thank you very much. So now we can continue to a presentation of a draft  
document. We have currently two draft documents in the works in the cross-  
community working (party). And like to go over to (Vidoushe) who has been  
leading the work on a draft on economic, social, and cultural rights.  
(Vidoushe), take it away. Next slide please.

(Vidoushe Mata): Thanks Niels. And (Vidoushe Mata) for the record. So the draft that we're  
going to discuss is economic, social, and cultural rights at ICANN. And as  
you can image the minute I say that sentence there are some (existential)  
questions which I will address before I get into the actual draft.

We're 45 minutes into the session and we haven't mentioned I think the  
elephant in the room which is Ruggie. So I'm going to do it now. One of the

questions that we got when we began work on this document is why are we looking at a particular instrument and why are we looking at economic, social, and cultural rights on the working group as part of the CCWG's work is still looking at the (suitability).

So the CCWP in the past has deemed the guiding principles as (irrelevant) framework for ICANN to follow its mission. And pending what the CCWG's group decides we decided that we shouldn't kind of let that stop our work. And so we will look into economic, social, and cultural rights because -- regardless of whether the Ruggie principles are adopted or not -- ICANN still must work through its obligations to human rights as part of its core value.

The Ruggie principles can be one way to do it. And if it's adopted then the ICESCR -- which is the document that we're going to be discussing -- will apply. And if not we think that it's important that if - we think that it's important to discuss human rights responsibilities to private actors with the capabilities for governance and public engagement that ICANN enjoys.

So that was the first clarification. The scope of this paper hence I guess is limited to the mandate of the CCWP, which is to map policies and procedures within ICANN and try and understand the human rights impact of them. Can we go to the next slide please? Could we just scroll down maybe? Okay, thank you.

So when we were looking at the international -- oh I'm sorry for the acronym without the expansion. The International Covenant of Economic, Social, and Cultural Rights -- which is the ICESCR -- we first - the first article of - the first two I think was actually that found deliverance within the ICANN universe was the guarantee against discrimination and protection of equal rights.

So ICANN's leadership currently reflects only about 26% of women. And 40% of the leadership is from North America alone, 63% are native English speakers. So now while ICANN's policies in a vacuum don't perpetuate this

problem of diversity we think that it's important for us to look at the different ways in which this can be meaningfully addressed.

For example, the CCWG's human rights sub group has discussed (sensitization) towards a multi-dimensional approach taking account the geographical origin of board members, the languages represented, the genders... Okay and the genders represented among the leadership.

And so we think this is important to kind of flag as something that we not only point out in reports like this but also implement within policies looking forward. The second article that we looked into was article 15 which reflects the right of everyone to take part in cultural (life), to enjoy the benefits of scientific progress, and to benefit from the protection of model and (unintelligible) interest resulting from scientific, literary, or artistic protection.

So the first aspect of policies and procedures that we wanted to discuss was community rights. So one of the most illustrative examples would be dot amazon where you had this sort of tension between IP rights but also community rights.

So you had the application being objected to by Brazil and Peru on the grounds that this would disqualify the (GTLD) from being used for the purpose of environmental protection and also a geographic region. But also Amazon is a company that has built up good will over many years. And so the tension I think has never really been apparent as it was in that particular case.

So in this -- in the case of dot amazon -- ICANN delayed rejection of Amazon's application after suggestion from the GAC. And also because of the absence of dot amazon on the CCTLD list. But I think what this particular case highlighted very clearly was the need for a clearer policy with respect to categories, and also in respect of how do we dissolve this tension between two legitimates rights in a case like this.

The second part of community rights that I don't think -- and I'm happy to be corrected and I'm happy to listen to aspects that I may have missed out -- but an aspect of community rights that hasn't been explored is responsible allocation of community rights. So for example we know that ICANN doesn't go into content. And ICANN and content is a whole other universe which probably deserves (the) people of its own.

But granting a TLD that represents certain concerns of public safety and health and of human rights obviously merits some sort of protection -- whether it's at the application stage or whether it's the stage of granting the said application. And so we think that maybe the policies shouldn't go - shouldn't necessarily move into content obviously. But also kind of make sure that the granting of TLDs per se doesn't lead to misleading people.

And in the document that's linked -- I think it's linked -- we have an example of dot help. And while we don't have - we don't propose a solution, we do think that this is worth thinking about at the stage of drafting policies. Next slide please. Thank you.

So the second topic that I'd like to discuss is accreditation of registrars. So we know that the fee that is to be paid by registrar applicants is quite high. And we were wondering about whether there were any studies carried out by ICANN to understand what role the particular fee plays in actually accrediting registrars.

And so we found (DNS) studies in the middle east and the (unintelligible) region. And what this study argues is that yes, registrars do complain of high fees but if we lower the fees then that would lead to -- and I'm quoting here -- "the domain extension might be abused or perceived to be of inferior quality".

So we think that this does merit another level of investigation to see exactly if A if it has ever happened, B if we do think that it's going to happen is there a policy or procedure that we can put in place to kind of correct for that.

Milton Mueller: (I have) a clarification question.

(Vidoushe Mata): Yes.

Milton Mueller: You said that registrar fees would affect the domain extensions...

(Vidoushe Mata): Yes.

Milton Mueller: ...for (unintelligible). So are you confusing registry fees with registrar fees? Because registrars don't - they just register within existing TLDs.

Rafik Dammak: Okay I think (Vidoushe) is... (Vidoushe)'s talking about I think the (fee) that registrar are paying for that accreditation. Like the \$3000. But I think one of the point they made in the report is not just about the fees but the other requirements. Like the insurance and so on that's higher but I guess...

(Vidoushe Mata): Can I cut...

Rafik Dammak: Yes, please.

(Vidoushe Mata): Sorry, (you were)...

Rafik Dammak: No, no, that's...

(Vidoushe Mata): Sorry, I didn't mean to cut you off but the cost that - the fee is in addition of the insurance and all of the other aspects Rafik mentioned.

So because - so whenever we talk about accreditation of registrars the first thing that you will hear is the problem about fees. And so we wanted to kind

of understand what this figure is made out of, like what are the different aspects that, you know, go into the fees...

Milton Mueller: It's actually a much simpler question...

(Vidoushe Mata): Hey.

Milton Mueller: ...is this - that's an economic question.

(Vidoushe Mata): Hey.

Milton Mueller: What price, what's the barrier to entry.

(Vidoushe Mata): Hey.

Milton Mueller: Nothing to do with the nature of the domain extension. So when you grant a registry -- a TLD -- you are giving them a name that they run. When you grant a registrar an accreditation you're saying they can register name under any TLD.

(Vidoushe Mata): Hey.

Milton Mueller: So a lowering of the registrar fee I can't see - I don't understand how you're saying that has any connection to the perception of value of a particular domain extension.

(Vidoushe Mata): So let me just quote from the report again. It says "The fees charged by the registry operators..."

Milton Mueller: Registry operators.

(Vidoushe Mata): Yes. Registry operators. Yes, yes.

Milton Mueller: Okay. So not registrars, because you have registrars up there.

(Vidoushe Mata): Yes. But...

Woman: Just a question -- it may be clear and I haven't at all worked on this report and so it may be obvious -- but I'm wondering if there could be a connection made of registrar's fees - if that has an impact of diversity of registrars?

If you're thinking about having an - a better geographic diversity of registrars between the North American and Western Europe and the rest of the world. But that's - perhaps that's not an issue but it's just an idea for how it might be relevant.

Rafik Dammak: I think it's trying to recall what the rise of those registrar they're concerned...

Niels ten Oever: Will everyone please state their name.

Rafik Dammak: ...Rafik. Rafik speaking.

Niels ten Oever: A heated debate. Very good. Continue. With names.

Rafik Dammak: I mean the fees is not really the big barrier for registrar. It's all the requirement around - even like for example like there is about the insurance. It's difficult to find in the region that insurance that will give you the kind of service you are looking for. So that's what I call and need to come back to the report but it's not really the fee that I see as the barrier.

(Vidoushe Mata): Thanks. So the next issue is the disadvantages occurred - incurred, sorry - by financially weaker applicants. So we know that ICANN allows the dispute resolution by means of (connecting) auctions in the event it stays in contention. And we also know that this is a fairly expensive process.

But the costs incurred in the event that an applicant chooses to initiate dispute resolution or file an objection has been highlighted in the past as something that inconveniences disproportionately people with pockets that aren't as deep as the opposing party. So because we - we're hoping that ICANN's accountability mechanisms are used more frequently and are more accessible.

We think it's important for us to look at whether we can put policies in place that kind of make it a level playing field or to kind of address the disadvantages that are disproportionately felt by one type of party alone. The next is the application - sorry applicant support program.

Niels ten Oever: Okay, shortly cut in because I see there's a hand from (Marilia).

(Vidoushe Mata): Yes.

Niels ten Oever: (You wait)? Okay, sorry.

(Vidoushe Mata): So the applicant support program currently has 50 -- and currently I say I think March 1, 2017 -- has 54 candidates seeking support. And the last evaluation for the request of financial assistance was made around 2013.

So financial - the financial assistance handbook-- which looks at whether a candidates qualify or not -- have certain threshold criteria there. And - which is fine. But the problem here is that the exclusion of candidates from the financial assistance program also disqualifies them from the GTLD program of the same round. Which we think maybe it's an inadvertent problem but it should also be something that is looked into because it feeds indirectly with article 15 and also article 2 point 2 of the ICESCR.

And the last aspect that we'd like to discuss -- I'd like to discuss -- is the (see and say) usage of domain names. So there are certain reserved words that

are listed (out) but there are also words that aren't allowed to be part of the process because they go against morality and public order.

So in 2008 there was a suggestion to have certain restrictions and distinctions -- and what we understand as morality and what we understand as public order -- but these are yet to be implemented. So either creating a framework at the level of policy development where we have certain restrictions and we have certain parameters against which we measure these terms would be useful. But it does not exist at the - it doesn't not exist currently.

So this is just sort of like a first round of mapping our different policies and procedures. I'm happy to hear feedback and also to be pointed to different aspects in the ICANN universe that we could look at to strengthen the report. Thanks.

Niels ten Oever: Thank you very much (Vidoushe). Also for being brave and taking up issues and going around as a bit of a miner and explorer with taking the international covenant in one hand and seeing where it fits on the ICANN universe. Which might create some ripples.

Let's see what some of those ripples or questions or suggestions might be. And I already have a hand from (Marilia). (Marilia) please come in.

(Marilia): Thank you Niels. This is (Marilia) speaking for the record. I join you in congratulating (Vidoushe) for the work that she has developed.

I think that it's very necessary that we touch upon the issue from an economic and social rights perspective. Which I think it's still a barrier. It's not a given to many parts of the community there that there should be any rights related to the domain name industry - economic and social rights.

So when you see the CCT review that was presented, one of the outcomes of - and conclusions of the review was that there is a huge concentration in the new GTLD of market. But the question that they pose to the community's if the community wants to do something about it then we need to implement policies right now because this is not going to change by itself. We need correction on the next round.

But it's if. It's a big if. So it's not certain that there is sort of unanimity that it should change or not. So I think it's very important that you call attention to this fact with regards to the points that you mentioned it. So first of all when you said community rights my ear sort of heard community applications. But you talk about something else and the points that you raise are important.

But one of the things that we shouldn't forget is that there are (pending) issues from the first round. With regards to community applications that have to do with human rights as well so rights of association, identity online. So this is an unresolved issue that we have raised with the (CO), we have raised with the board in meetings that we had this week.

And no one seems to know (unintelligible) speaking how to solve the issue of community applications. It's still up in the air and it has fallen into an ICANN black hole of procedure. No one knows how to resolve the issue.

So I think that there is a very important human rights concern not only for the main case that (gate) that we mention a lot but for the other community applicants. So we should definitely include that in the list of issues that we are examining. When it comes to the role that the fee plays I think that it is important. The fee - it is an important obstacle. But it is to a certain extent.

What the DNS marketplaces studies reveal as well is that it's not only a problem of getting into the market, it's also a problem of having a sustainability in the market when you (weigh) in. So what we see in the

(unintelligible) regions is that the number of registrars is not increasing. In some regions the number of registrars is decreasing.

And registrars are being bought by registrars -- big ones -- from developed countries. So there is a market concentration there. And even when you have a TLD that is regionally relevant, some registrars from developed countries they do not want to sell it because they do not think that the market is big enough is relevant enough for them to sell it. So even if you have a domain name you are sort of blocked.

You don't have registrars in your region you don't have registrars in developed countries that want to sell it. So there is a lack of sustainability in the market that I'm afraid -- when we look at the entry point of applications -- we fail to capture.

So one of the things that we need to look in the (users of the) subsequent procedures is to make sure that we make the questionnaire that is open for comments now circulate in these communities that can provide answers. And these communities are not part of the ICANN process. They are not part of the SOs and ACs. Because they are excluded from the market.

One of the points that was - were raised this week is to used stakeholder engagement to reach out to these communities -- to these registrars that are not in the market anymore, that left the market -- to understand what they did that. Why they did that. What are the reasons that led them to leave the market. So I think that we really need to spread the word with regards to this questionnaire to get as diverse views as possible. It's a very complex long questionnaire but we don't need to focus on everything.

If you approach a stakeholder, you can call attention to the part of the questionnaire that concerns that particular stakeholder. But I think that it is the way to understand what is going on because if we focus only on

applications it will be an important step but I think that it will not be sufficient maybe.

(Vidoushe Mata): Thank you. That's really useful (Marilia).

Niels ten Oever: Thank you very much (Marilia). I would like to let everyone know that this is a draft document on which we are working so everyone is very much invited to help us working on this.

At this moment I'm also going to close the queue because I have two very nice presentations still coming up. But this should then be a good motivation to join the mailing list and our calls and our work. So I have two comments that - from the remote participants that I did not read out yet so please let me do that and I'm very sorry. I apologize to the remote participants.

Community applications should be made a higher priority in the next round per the Council of Europe recommendation. They should be given a priority round. And there should be lot of flexibility on background checks if the standards of being a community applicant is met. Although we should check for commercial backers who may only have a financial interest and not a community interest. Also the community should allocate funds to community applicants from the 500 million in the (option) proceeds.

And then another comment, the trademark clearing house rules currently cover exact match to trademark only with certain small variations such as a dash. Also you can add domain names that have been already adjudicated to have been cyber-squatted. So those were two different comments, two different points. Very relevant. Great.

Milton had his hand up and if that hand was a relatively short hand I'm also happy to take that one. Milton? Go ahead.

Milton Mueller: Yes I just want to make it clear -- for the record this is Milton Mueller at Georgia Tech -- that there are profound philosophical disagreements about the nature of rights. This is actually a philosophical debate that's been going on for about 300 years.

And so when I hear the word human rights I think of very fundamental, categorical, proscriptions on state action. You know, you can't murder people. You can't you know, suppress their freedom of expression. You have to provide due process. These are very basic, categorical, and almost absolute kinds of guarantees.

The problem I have with the UN as it's evolved over the last 50 years is it has expanded its nature of rights to the point where essentially they no longer provide clear guidance in any policy direction. So that you can essentially pick any right in that enormous list that has proliferated and use it to cancel out any rights claim of anybody else.

So let's take the Amazon case in which (Vidoushe) clearly recognized a conflict. Now to some of us Amazon was not just trademarks versus so-called cultural rights -- which actually...

Niels ten Oever: Milton?

Milton Mueller: Yes.

Niels ten Oever: We have a presentation...

Milton Mueller: Okay.

Niels ten Oever: ...on exactly this topic...

Milton Mueller: All right so I'll leave that...

Niels ten Oever: ...so I will not limit your freedom of expression here but maybe I would request for a freedom of just expansion in time...

Milton Mueller: Yes...

Niels ten Oever: ...and then we'll come back and...

Milton Mueller: ...well let me - but I think there's an issue here that what we saw also in both (Marilia)'s speech and (Vidouche)'s was the rights framework essentially being applied to everything including fundamental economic issues.

You know, you're talking about how high should the registrar fee be, all right? Now there are all kinds of analytical tools that's we've developed for analyzing, you know, entry barriers - do you approach this as an economic issue or are you approach it as a rights issue?

It seems to me that the rights framework is now capable of encompassing every single issue that we do. You know, how much market entry should there be? How high should the fee be? And I think that gets you into trouble because again it doesn't really give you a clear basis for deciding these things.

Niels ten Oever: And the next presentation is exactly trying to reconcile that problem.

Milton Mueller: Well I'll believe it when I see it. I think the...

Niels ten Oever: Exactly. And that's why we're going to look at it now.

Milton Mueller: Well. Okay, so you don't want me to express the alternative point of view then?

Niels ten Oever: So yes I would love that. After the presentation.

((Crosstalk))

Milton Mueller: So let me just give you one very specific example.

Niels ten Oever: No, I would like to go to...

Milton Mueller: Just one point that will not be made in your presentation, okay? You talk about the relationship between the price of a registrar fee and diversity in the market, okay?

Now economics will tell you that if you lower the price, yes you will make it easier for people in poorer regions of the world or poorer segments of the population to enter the market. But you'll also make it easier for everybody else in the world to enter the market. So you may not actually -- on net -- increase diversity.

Niels ten Oever: Maybe you should take that call.

Milton Mueller: That's you. Nice diversionary tactic. Okay so I think I've made my point is that you, you know, have to be careful. If you want to make something a right, I say make it as limited and narrow and focused as possible and defend it to the death.

If you expand the concept of rights to every single policy issue that ICANN does you're not doing rights advocates a favor. You are simply cancelling out all of these conflicting claims.

Niels ten Oever: And on that happy note, I go over to the Danish Institute for Human Rights, (Cathrine Bloch) who has been working a lot on human rights impact assessments.

Human rights impact assessments have been discussed quite a bit in the community but what they exactly are and how they are conducted I don't

think we already all have the same conceptions about that. So (Cathrine) might help to clear up some fog and maybe hand off some solutions or see where there are problems. (Cathrine).

(Cathrine Bloch): Thank you. Great. Well thank you for inviting me here today. I'm quite new to the whole ICANN community and to the general issues around registries and human rights. So this is kind of my first venture into the ICANN area of work. Whereas -- as mentioned by Niels just now -- I've been doing a lot work on human rights impact assessments for companies.

Working with companies in various sectors but primarily in the extractive sector also food and beverage. So ICT and the specific issues around registries is relatively new to me. Could you click the next slide please? Yes. And the next one.

So I was asked by Niels to come here and talk a little bit about my experience with human rights impact assessment and also to provide some perspectives on what this specifically means for ICANN and for registries. And of course I'm quite taken aback by the amount of knowledge and experience already in the room and the amount of details that are being dealt with that all have human rights dimensions to them. I appreciate the concern raised right before.

Our institute director (Jonas) has once said that human rights are man-made troublemakers that force us to think about some of the world's most fundamental dilemmas. So that's also the approach that we take at the Institute.

A pragmatic approach to understanding what are the relationships between different rights? What are the dilemmas that they force us to focus on? And how should they be understood when it comes to very contexts? Both when it comes to the role of the state in protecting human rights as well as when it comes to the role of business in respecting human rights. Next slide.

So the Danish Institute for Human Rights is Denmark's national human rights institution. And for those of you who don't know what a national human rights institution is, it's a state-funded institution but independent of government mandated to monitoring human rights in a given country. And as Denmark's national human rights institution we also have a specific mandate not only to advise governments internationally but also to advise the private sector on human rights. There are around 100 national human rights institutions world-wide. Next slide please.

So in the Danish Institute for Human Rights -- as I mentioned before -- we're mandated to work directly with companies and we've done that since the late 90s. So (even before) the adoption of the Ruggie principles -- the UN guiding principles on business and human rights -- we work with companies to promote their respect for human rights and support them in human rights implementation.

And we do so in line with a set of corporate engagement principles that we work from. And what we hope to do through the work that we have directly with individual companies is move that experience into the public domain. So looking at specific dilemmas -- human rights dilemmas -- how they play out in different corporate concepts and sectors and then provide public domain outputs and tools and resources which basically elaborate on what is it that's expected of corporate actors vis a vis human rights. Next slide please.

So some of the results that we've had through our work in corporate engagement have of course been through the individual work that we've done with corporate actors where we've also been working with some ITC sector companies such as (TeliaSonera). And it also includes the reports that we develop and put out into the public domain on our direct engagement with companies including when we work with companies on doing assessment of their human rights impacts.

So there are a number of reports out there with some of the experiences that we had from that work. And then finally some of the results -- that we also have out there in the public domain -- are of course our tools and resources that we have developed on the back of our engagements and experience working directly with companies but that we've put out into the public domain for other actors to use.

Both for companies to use to improve their human rights performance as well as for states, civil society, national human rights institutions to use on how to engage with companies on human rights challenges and issues. Next slide.

So one of these tools is actually a toolbox and guidance on human rights impact assessment which goes through the various stages of a human rights impact assessment. All the way from the planning and scoping phase, understanding the business context operations, activities, relationships, et cetera to collecting the data and how that should be done, to analyzing the impacts, the human rights challenges to impacts, mitigation, and management and then to the reporting and evaluation process.

And then we placed stakeholder engagement as a central part of all of these different phases and a central part of the impact assessment process. Because when doing a human rights impact assessment, it's both about looking at human rights as the scope for your analysis but also as looking - at looking at human rights as a part of the process through which you conduct your analysis.

So the way that you should be conducting your analysis or your assessment of the human rights impact should be in a way that includes the voices of the rights holders. So the ones that could potentially be impacted by the business operations. And I think we've heard some good perspectives on that community engagement and (important) - importance of involving communities in the TLD area here today. Next slide please.

So I think it's important for me to say here today that when it comes to human rights impacts assessments there is no one size fits all. There are different levels of assessments being applied according to the sector, the type of operating environment, context that business operate in.

So this is a basic overview of the different types of human rights impact assessments that are currently out there. There are what we would call integrated human rights impact assessments -- which very much speaks to the traditional impact assessment domain -- where you would have regulatory requirements on okay if you want to build a mine or set up a factory in a given context, you would have to look at the social environmental impacts associated with that.

And there we're seeing a move towards integrating human rights into those traditional processes for social, environmental, and health impact assessments. We're also seeing a move toward looking at specific rights -- for example children's rights -- in connection with those assessments.

Then you have the standalone human rights impact assessments where you have assessments conducted at company level. So where you look at a specific company in a specific sector. And then look at well, what are the human rights challenges and issues that may be associated with that specific company and their activities and relationships, et cetera?

You have the community-led impact assessments which is relatively new. But there is some interesting developments in that area of having actually the communities be the ones who lead the impact assessment, who set the terms for it, and are the ones who are the one leading the process.

Then you have issue-based impact assessments focusing on specific issues or challenges. And then there are the product-based impact assessments. And I think for -- specifically for the activities of ICANN as well as for the registries -- the product-based impact assessment is interesting. Because

that's where you enter into an assessment of a specific business activity, a service or good -- and what type of impact that has on the enjoyment of rights in a specific context.

You also have the sector-wide impact assessments where there has been conducted a sector-wide impact assessment for the ICT sector in Myanmar for example -- that's out there in the public domain -- which looks at the various elements of the ICT sector specifically when it comes the impacts in Myanmar.

And then you have multi-stakeholder impact assessments which is not something that already exists but something that we're in the process of -- at the Danish Institute -- looking into developing. So how can we bring different actors together on doing the impact assessments? Next slide please.

What kind of unites these impact assessments is -- as I mentioned before -- the way in which human rights is integrated both into the scope and the process through which the impact assessment is done. So when it comes to the key criteria for impact assessment of course one of the first key criteria is that what we're looking at the benchmark through which we're assessing company performance -- is against international human rights - standards.

And there exists - there actually exist a number of tools that elaborate on exactly what human rights mean in a business context. What is the expected level of conduct of business in relation to various human rights and the way in which they may be related to them through their activities.

Then a second criteria is that a company should be looking at addressing the full scope of their impact. So not just their own activities but also the things that can take place through business partners. So for example when we have been talking here about registrars or the conduct of registrants or government actors as well that becomes important to the context of registries and to ICANN as well.

Then thirdly it's important to adapt a human rights-based approach in which you do the impact assessment. So as I mentioned before it's important to have participation and inclusion of the ones whose rights are potentially being impacted. So that could include the registrants. It could also include the users of the domains.

There also has to be equality and non-discrimination in the way in which you conduct your assessment. And transparency and accountability as well in the process. Then an important element is also ensuring that there is some level of accountability. So we've also been discussing here access to remedy ways in which to raise complaints, issues, et cetera. That's a key component also to the impact assessment process and what should be within the scope of an impact assessment. Looking at that.

And then finally it's important to highlight that when we're doing an impact assessment we're looking at the impacts to rights not the impacts to the business or business activities. So we're looking at impacts to the rights holders. And they should be prioritized in accordance with severity to the rights holders not in severity to the business. I think that's a key distinction from what else we're seeing out there in terms of the interpretation and understanding of materiality and what materiality is.

Next slide please. Oh, next - the one through four. Yes. So when it comes to some of the opportunities and challenges of course one of the key opportunities of human rights impact assessments is that it really supports building human rights capacity within organizations.

You've probably already experienced that through the human rights working group. What you've been able to achieve here it's a good tool for also engaging with various stakeholders and building alliances and it can also be a good way of addressing issues before they become more severe.

Of course a part of the challenge with human rights impact assessment is that it's not an exact science it's relatively new. It's an emerging practice. There aren't many reports out there in the public domain and especially not specifically for this field. It's important to work with organizations that have experience in this space who know what impact assessments are, how they can work, et cetera.

And to engage with organizations that have knowledge about the specific challenges and issues which is not always what happens in practice. And then it's important to report back to the stakeholders on the results of the impact assessments which to a great extent is not really being done. And that is, you know, one of the key challenges.

And then of course there's a - there can be, you know, a lot of the information that you gather through an impact assessment can be very (qualitative). So there's a lack of data to measure kind of content of impact assessments across the various sectors. Next slide please. The one before. Yes. Great. Okay.

So just to give you a couple of examples that I was able to find -- which aren't really kind of covering exactly what it is that ICANN is dealing with and registries -- but just to mention some actors within the IT (Tigle) industry who've been working with some of - who've been conducting human rights impact assessments.

We have (Tigle Famera) who've - who did a company-wide type assessment focusing specifically also on the challenges of freedom of expression and privacy where they applied a full kind of assessment tool across their activities and had a consolidation performed as well. We supported in that process.

Then there's (Tigle Noi) who also recently conducted an impact assessment focusing on some of their countries where they had some of their biggest

challenges especially when it came to government interference and their role and engagement with governmental actors where they also looked at some of the similar issues around, of course, freedom of expression and privacy.

There's a full report out on the (Tigle Noi) assessment. On (Tigle Famera) you can also find some information online. Next slide. So what are some of the particular challenges for registries and ICANN? And of course you already know a lot of these and are already dealing with them as I've been able to hear here today so I'm quite humbled in my participation here.

But what I think is important to mention is that it's about - when it comes to impact assessment there's - it's not a, you know, it's no big challenge. What you need to understand is what are the business activities, what is the business model for registries, and what are the associated challenges for example around privacy around freedom of expression? What are the business relationships, who do registries engage with in terms of you know, their engagement with ICANN, government, registrars, registrants? Who is being impacted? Understanding well who is the rights holder in the context of registries and ICANN?

So of course it's the registrants. It's also users, others that access the domains and communities that may be impacted. And then finally I think it's worth mentioning that -- and I'm being a bit presumptuous here -- but Article 19 and the Danish Institute for Human Rights is currently working together on a relatively new project to look at developing a model of what it could look like with a human rights impact assessment for internet registries.

So that's it from my end and of course very happy to take questions.

Niels ten Oever: Thanks so much (Cathrine). And since we are in the last minutes of our room -- and I've been trying to get a bit more room space here that's unfortunately not possible -- so what I can do is if we try to make ourselves (distributedly) (sic) available outside of this room to have a bit more discussions.

Two things I really wanted to do. I'm (affordedly) (sic) have to move the discussion of permits report and the progress on that to the list. So all please join the list because as you see quite some interesting discussions and developments.

Secondly we have Robert Guerra here of the SSAC and the SSAC has shared a letter from SSAC to us. Robert could you perhaps give a bit of context to that letter so that will help us understand that letter in the time to come?

Robert Guerra: Sure. Thank you and it's great to participate in the work that this group's been doing. The letter that most people may have seen -- I'm just going to go through a couple points -- and just kind of the thinking behind putting together the letter.

I think some key aspects is that the SSAC in its discussions is very keen that the - that any language that gets developed though perhaps useful also recognize the very limited remit of ICANN. And that it also be informed by - in terms of remit but also what is the actor or actors that we're looking at. Are we looking at ICANN the organization or the ecosystem of a variety of different actors that are involved in ICANN?

In developing this letter when (refer ICANN in most) cases we're referring to ICANN the organization, the one that hosts this. It's already doing a variety of good things in regards to transparency, in regards to meetings, transparency at board meetings, however it's not using a frame. And a frame that is used by other actors is a corporate social responsibility or human rights impacts assessment.

And so perhaps in doing that it'd be able to show that it's already working on this topic. And so what we put together in our statement is that it's very

important to stay in its larger remit because we recognize that many other actors may think of working in this space means that it affects them as well.

There've been a lot of side conversations that I've had with people, with contracted parties, that think that any of this (unintelligible) will affect them and so the focus is first on ICANN the organization that's based in Marina Del Rey. Are they following best practices in regards to procurement and a variety of other things and there's work that this group and others can do to improvement.

And so that could be informed by doing a human rights impacts assessment that - so it could develop the corporate social responsibility framework which it does not have. If you take a look at large telcos and others they -- and you've mentioned few -- is ICANN could do the same. And then it would see - it could compare its metrics that it's already developing in whether it's accomplishing it or not. But it needs to do that first before.

And in the letter we talk about you know, (processes and other). And then -- separate to that conversation -- is that if other entities at ICANN wish to improve their corporate responsibility then it's very important that those discussions take place -- and it's hopeful that others will improve their corporate social responsibility -- but that the role of the CCWG accountability should make sure that it falls within the narrow scope and remit that ICANN has.

So that is our - a little bit of explanation and I'm happy to take some questions but unfortunately I didn't know we were running long so I'm going to have to leave in about 10, 15 minutes.

Niels ten Oever: Thank you very much Robert for that context. And we have the letter so we can always take that as the next point for discussion. Next slide please (Mariel).

And since we are in the business of domains here anyhow I'd like to present our new website which is at ICANN human rights where we try to bring all these complex discussions together so we can continue the discussion between the meetings and do that work on the mailing list.

Unfortunately, we're out of time. So I really hope we can continue the discussion in the hallways and on the mailing list so we can make next steps on these converging and exploring topics. Thank you all very much for your attention. And have a great day. Bye.

END