



Designing a Human Rights Impact Assessment for ICANN's Policy Development Processes

Final Report

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October 2019

Acknowledgements

Many individuals contributed to this endeavor, and we are grateful to all who dedicated time and energy toward making this project a success.

In particular, thanks to Michael Karanicolas, Niels ten Oever, and Vidushi Marda for their contributions to early work; the members of the “Trial HRIA” team for their assistance in the PDP trials; and David McAuley, Jorge Cancio, Kathy Kleiman, and Michele Neylon for their support and contributions. Thanks also to Emil Lindblad Kernell and Malgorzata Pek for their insights and human rights expertise; Julie Hedlund and Maryam Bakoshi from ICANN staff; and the Subsequent Procedures Working Group members and Co-Chairs, Cheryl Langdon Orr and Jeff Neuman.

About the CCWP-HR

The Cross-Community Working Party on ICANN and Human Rights (CCWP-HR) is a multistakeholder forum for research and discussion on the relationship between human rights and global DNS coordination. This is related — but not limited — to policies, procedures, and operations, with a particular focus on ICANN’s responsibility to respect human rights. The primary goal of the CCWP-HR is to provide information, facilitate dialogue, and make suggestions to ICANN the corporation, its Board of Directors, and the ICANN community on ways to better harmonize ICANN’s policies and procedures with internationally recognized human rights and corporate social responsibility standards. Membership is open to any interested individual regardless of affiliation.

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Introduction

The internet significantly facilitates the exercise of human rights today, but it also offers unprecedented capacity for their interference. The companies and standard-setting bodies that manage the internet's infrastructure have a direct impact on whether human rights are facilitated or restricted. In recent years, telecommunications companies, internet platforms, and other companies involved in the management of global internet infrastructure have begun developing and incorporating human rights policy commitments in recognition of this influence.

Human rights in the field of Internet Governance has come a long way, first finding a mention in the 2003 Geneva Declaration of the World Summit on the Information Society (WSIS).¹ In 2012, the United Nations recognized that “the same rights that people have offline must also be protected online” in its Human Rights Council Resolution on the promotion, protection and enjoyment of human rights on the internet.² Subsequently, at the NETmundial Global Multistakeholder Meeting on the Future of Internet Governance in 2014, it was further reiterated that human rights should form an important basis of Internet Governance principles.³

An important actor in the Internet Governance space is the Internet Corporation for Assigned Names and Numbers (ICANN), an international non-profit organization incorporated to manage the internet's unique identifier systems. ICANN coordinates the directory which links website names with server numbers. This coordination of unique identifiers in the domain name system (DNS) allows people around the world to connect to the same global network. The DNS is integral to the way users navigate and use the internet; hence, the human rights aspects of ICANN's policies are an important consideration.

In light of this, ICANN incorporated a policy commitment to respect internationally recognized human rights in 2016. This “Human Rights Core Value” specified that ICANN's decisions and actions should be guided by “respecting internationally recognized human rights as required by applicable law,” within the scope of its Mission and other Core Values. The provision was made at the time, however, that the new human rights bylaw would remain dormant unless and until a framework of interpretation was developed and approved by the ICANN Board.

¹ World Summit on the Information Society- Declaration of Principles (December 2003): <https://www.itu.int/net/wsis/docs/geneva/official/dop.html>

² United Nations Resolution on “The promotion, protection and enjoyment of human rights on the Internet” (adopted 5 July 2018): <https://digitallibrary.un.org/record/845728?ln=en>

³ NETmundial Outcome Document (April 2014): <http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Document.pdf>

This “Human Rights Framework of Interpretation and Considerations” (HR-FOI) was subsequently developed within the multistakeholder ICANN community.⁴ It was completed in November 2017, gained plenary approval in March 2018, and was sent to the ICANN Board for final approval in November 2018 as part of the Work Stream 2 Recommendations on Enhancing ICANN’s Accountability.

As of October 2019, the ICANN Board has yet to approve the HR-FOI and the Human Rights Core Value remains inactive, nearly three years after its adoption.⁵ A key element of the HR-FOI is the stipulation that the various Supporting Organizations and Advisory Committees that comprise the ICANN community will be responsible for developing their own policies and frameworks to fulfill the Human Rights Core Value once it’s effected. This provision is highly unlikely to change over the course of implementation, which means that work carried out within the ICANN community to develop and test new models for fulfilling the Human Rights Core Value should remain relevant and applicable whenever the operational implementation of Work Stream 2 recommendations begins.

Thus far, Human Rights Impact Assessments (HRIAs) have emerged as the most salient approach for incorporating and upholding the Human Rights Core Value. Originally suggested in the HR-FOI as a potential means of incorporating human rights considerations into policy development processes, these assessments are a systematic process to investigate, measure, and address the human rights impacts of policies, products, and operations. HRIAs are increasingly used by companies, governments, and civil society alike as a mechanism for due diligence. Whereas other types of assessments, such as data protection or environmental impact assessments, focus on specific products, activities, rights, or impacts, HRIAs are rooted in international human rights frameworks and seek to document a broader range of actual and potential impacts.

HRIA Model Research & Development

Efforts to begin developing HRIA models and methodologies tailored for ICANN policy development processes kicked off in the CCWP-HR as work on the HR-FOI was coming to an end. The challenge of designing an operational impact assessment methodology to uphold the

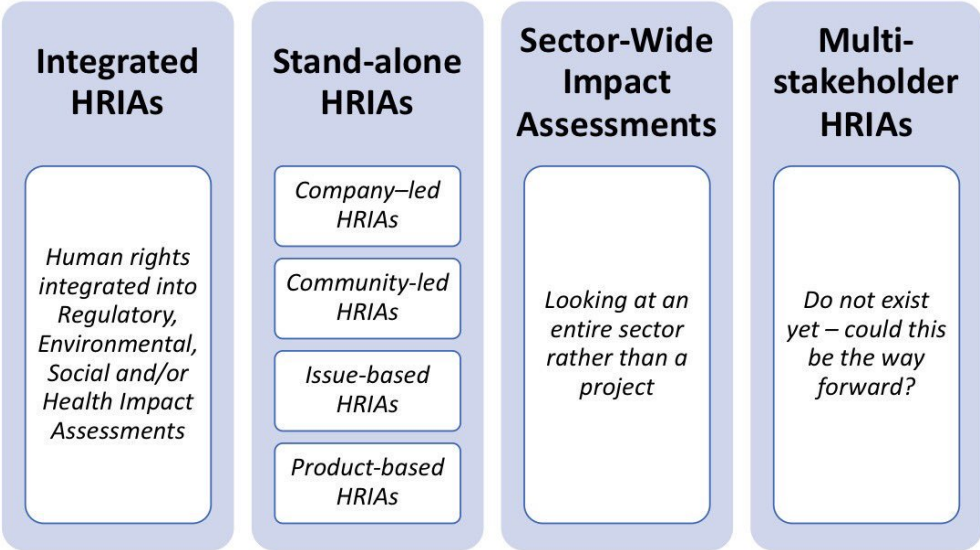
⁴ Human Rights Framework of Interpretation (HR-FOI) Final Report (March 2018): <https://www.icann.org/en/system/files/files/ccwg-acct-ws2-annex-3-hr-foi-final-recs-27mar18-en.pdf>

⁵ The WS2 Board Caucus Group and Implementation Team, formed in February and August 2019 (respectively), began liaising on implementation details in August (see <https://community.icann.org/display/WEIA/WS2-IT>), but timelines and opportunities for community engagement remain unclear at the time of writing.

Human Rights Core Value was seen as an opportunity to explore the emerging concept of “multistakeholder HRIAs,” first introduced in a joint research paper in March 2017.⁶

Figure 1: Types of Human Rights Impact Assessments (HRIAs)

Image courtesy of the Danish Institute for Human Rights



Multistakeholder HRIAs are premised on meaningful inclusion and stakeholder engagement throughout the process, with representatives from companies and communities coming together to jointly develop and undertake impact assessments. Such a collaborative approach was viewed as having the potential to achieve a more accountable process, while generating trust among participants. Multistakeholder impact assessments can also overcome the perceived biases of strictly company-led HRIAs, which are often conducted internally with little consultation from civil society or affected communities, and community-led assessments, which may lack crucial information about decision-making processes.

In impact assessments, the term “communities” generally refers to groups of people living in the same locality. When applied in the ICANN context, however, the term “community” could be expanded exponentially to encompass the entirety of internet users, as well as other companies, academia, technical operators, and even governments. Multistakeholder HRIAs in ICANN therefore have the potential to benefit from the differing perspectives and skill sets of these stakeholder groups, thereby resulting in an impact assessment that is potentially more comprehensive, actionable, and technically sound.

⁶ Columbia Center on Sustainable Investment, Danish Institute for Human Rights, and Sciences Po Law School Clinic, *A Collaborative Approach to Human Rights Impact Assessments* (March 2017). http://ccsi.columbia.edu/files/2014/05/A-Collaborative-Approach-to-HRIAs_Web.pdf

Between November 2017 and July 2019, efforts were undertaken to design multistakeholder HRIA models that could be tested, and ideally adopted, within the ICANN community. It was envisioned that such work could also generate benefits beyond ICANN, yielding approaches and lessons learned that could benefit the development of multistakeholder impact assessments in other fields and regions. This collaborative and iterative process ultimately resulted in four distinct models: the Initial Sketch, Questionnaire Model, Change Model, and Comprehensive Model.

In this section, we explain these iterations and provide references to the evolving work in an effort to increase the transparency of our thinking and demonstrate our logic for supporting the Comprehensive Model. At the end of each description, we provide a list of pros (ticks) and cons (crosses) that demonstrate the strengths and weaknesses of each model gathered through community feedback. We hope that this paper will increase the collective understanding, and thus support, of this work while also providing a resource for other organizations or institutions that may benefit from understanding our experience within ICANN.

Initial Sketch ⁷

The “Initial Sketch for an HRIA for the Generic Names Supporting Organization’s (GNSO’s) Policy Development Process” was presented to the CCWP-HR and other interested groups in November 2017. The document identified key considerations and assessment criteria, briefly surveyed HRIA structure and design, and then proposed an initial design mapping the objectives and responsibilities for each phase of the assessment onto the different stages of the GNSO policy development process.

- Positive response to initiative in general*
- Lack of clarity on how the ICANN community would be involved*
- Potential burden on ICANN staff, who may not have the bandwidth or expertise to do a thorough HRIA*
- Modeling said to be premature, as Work Stream 2 recommendations had not yet been finalized*

⁷ Human Rights Impact Assessment for ICANN PDPs – “Initial Sketch” (November 2017): <https://icannhumanrights.net/wp-content/uploads/2018/05/Draft-HRIA-initial-sketch-for-PDPs-in-the-GNSO.pdf>

Questionnaire Model ⁸

Building on initial feedback received, a new assessment model was subsequently presented to the community in May 2018. This operational approach took the form of a questionnaire to be carried out collectively by working group members and signed off by the chairs and/or an independent party. It was suggested that the questionnaire could be completed first when drafting the issue report, and then once more when writing recommendations.

In terms of format, the questionnaire responses were grouped by particular human rights likely to be impacted by ICANN policies and processes, which had been previously identified in mapping exercises carried out within the CCWP-HR.⁹ Additional data points such as “likelihood” and “severity of impact” were added to reflect best practice among impact assessment practitioners. Unfortunately, the Questionnaire Model proved to be non-operational in initial trials due to challenges for real-time collaboration and general difficulties with capturing, representing, and revising relevant information.

- First step toward “Multistakeholder HRIA” premised on stakeholder engagement and meaningful inclusion*
- “Positive Impact Scenario” field and additional salient human rights added*
- No links or cues to help people make connections between salient rights and relevant procedures*
- Reservations expressed about proposed timing and completion of assessment*
- Ultimately found to be non-operational in initial trials*

Change Model ¹⁰

Developed in November 2018, the next model converted the questionnaire fields into spreadsheet categories to better enable remote multistakeholder collaboration. As the name implies, this model was geared toward identifying the human rights impacts of changes to

⁸ Human Rights Impact Assessment for ICANN PDPs – “Questionnaire Model” (May 2018): <https://icannhumanrights.net/wp-content/uploads/2018/05/DRAFT-ICANN-HRIA-questionnaire-model.pdf>

⁹ ICANN Policies and Human Rights Diagram (January 2018): <https://icannhumanrights.net/wp-content/uploads/2018/07/ICANN-and-Human-Rights-Jan2018.pdf>

¹⁰ Human Rights Impact Assessment for ICANN PDPs – “Change Model” (December 2018): https://docs.google.com/spreadsheets/d/1iR3ZTPRxIHSWBNIzKb_4atnnwOhwbs8iLXCILnxdn8o/edit#gid=0

current practices or ICANN consensus policies under consideration in policy development processes.

It was envisioned that a new spreadsheet would be generated in the earliest stages of a PDP and collectively filled out and utilized throughout the life of the process. The idea was that this approach could facilitate contributions from subject-matter experts interested in lending their expertise to PDPs but unable to commit to extensive (or indefinite) processes. In the same way, consistently documenting impacts and recommendations could also facilitate knowledge capture and transfer, which could in turn enable relay participation in long-running decision-making processes.

While the collaborative spreadsheet format was a significant improvement, this model was similarly discarded in trials due to operational difficulties. Another key observation was that the Change Model was a “dead-end” exercise lacking a clear value add and linkages to other ICANN activities, which would ultimately hinder or even preclude widespread adoption by other members of the ICANN community.

- Collaborative spreadsheet deemed easier to use and understand than questionnaire model*
- Format facilitates knowledge management, inclusion of external expertise, and relay engagement*
- Link to human rights impacts still not clear*
- Difficult to process information involving no change to status quo*
- “Dead-end” exercise*

Comprehensive Model ¹¹

The final model was designed to facilitate robust engagement in the policy development process itself in order to maximize the utility of time spent on the assessment. Most importantly, a new “Recommendations” category was developed to provide clear, concise, and realistic suggestions for mitigating negative human rights impacts. Other fields like “Topic” and “Short Description” were also added to allow participants to quickly skim and sort information in the spreadsheet.

¹¹ Human Rights Impact Assessment for ICANN PDPs – “Comprehensive Model” (January 2019): https://docs.google.com/spreadsheets/d/1EKpMCef8kiZ2tJE2AU78q9_oeJehGbR7bWpQ5wt7D5l/edit#gid=853107611

Another key development in this model was the addition of a “Guidance” tab following constructive comments from CCWP-HR members during the face-to-face meeting at ICANN64 in March 2019.¹² In addition to clarifying links to salient rights, human rights instruments, and the ICANN Bylaws, this guidance is intended to establish normative criteria so that multiple individuals can use the tool to the same effect (see Annex 1).

Additional information about the outcome of trial assessments using this model can be found in the “PDP HRIA Findings” section below.

- Model geared toward constructive recommendations about how to resolve negative impacts*
- Guidance tab adds clarity and normative standards*
- Potential for information overload*

Trial PDP HRIA Overview

Testing of late HRIA models on ICANN policy development processes began in November 2018, following a widely attended session on multistakeholder HRIAs convened by CCWP-HR members at the 2018 United Nations Internet Governance Forum.¹³ This section provides a summary of the PDP HRIA trial process including the goals, methodology, and approach.

Goals

The primary goals of the PDP HRIA trial were:

- Refine collaborative HRIA models in specific ICANN policy development processes;
- Assess the utility of said models; and
- Explore the potential for involvement from other parts of the ICANN community or organization.

¹² See <https://64.schedule.icann.org/meetings/962172>

¹³ IGF 2018 WS #349 “A Multistakeholder Approach to HRIAs: Lessons from ICANN” (November 2018): <http://www.intgovforum.org/multilingual/content/igf-2018-ws-349-a-multistakeholder-approach-to-hrias-lessons-from-icann>

Secondary project goals included:

- Sustained demonstration of the link between DNS policies and human rights;
- Development of new frameworks for expert engagement in policy development processes; and
- Practical engagement with ICANN newcomers to share knowledge and become more involved in policy development processes as a team.

Methodology

While this Trial HRIA was a largely ad hoc endeavor, it was nonetheless guided by a loose methodology that deserves some clarification. From the beginning, it was decided that a pragmatist approach to social science research would be applied to single case study by a select group of volunteers. It was not necessary to explicitly choose methods from the outset, as the researchers preferred an iterative, adaptive approach to developing the experimental procedure. The first three process attempts, or models, were deemed inadequate through reflexive conversations with PDP members, Trial HRIA volunteers, and other ICANN community members.

During the trial of the final Comprehensive Model, the volunteer HRIA team primarily employed informal participant observation methods to monitor discussions while filling in a live, shared spreadsheet aimed at simplifying the process. In an effort to increase the validity and reliability of the substantive findings, secondary methods were used to triangulate the initial findings. For instance, members of the team often reached out to members of the PDP with more contextual knowledge of an issue being discussed. Additionally, the Subsequent Procedures PDP had already been underway for roughly three years by the time the Trial HRIA was launched, so an abundance of materials had already been generated by the group (e.g. issue reports, public comments, email list servs, conference call recordings, and meeting notes). These documents served as primary sources to provide necessary background and clarity on issues before, during, and after the participant observation period.

In the following section, elements of the case selection and data collection period are presented before moving on to a discussion of the case findings.

Approach

- 1. Identify PDP for trial.** Three PDPs were initially suggested for the trial case: the EPDP on gTLD Registration Data,¹⁴ Rights Protections Mechanisms,¹⁵ and Subsequent Procedures.¹⁶ Community feedback indicated that the EPDP was too extraordinary for assessment because of its frantic pace, despite its short timeline and unique structure making it an appealing option. The Rights Protection Mechanisms PDP was found to be too complex, since it had been going on for years and was extremely technical and legal in nature. This process of elimination left Subsequent Procedures (or “Sub Pros”), which is aimed at evaluating whether changes or adjustments are needed to procedures that will guide the future creation of New Generic Top Level Domains (New gTLDs) within ICANN. It was subsequently determined that the impact assessment would only focus on Sub Pros Work Tracks 1-4, as Work Track 5 had not yet completed its issue report at the time of launch.
- 2. Assemble team.** A call for volunteers to assist with the Trial HRIA was put out within the CCWP-HR in December 2018, shortly after the target PDP was identified. In the end, ten ICANN community members from seven different countries volunteered to join the team, with the CCWP-HR Co-Chairs serving as coordinators. In terms of background, five volunteers came from academic institutions, three from NGOs, one from government services, and one from a law firm. Many were brand new or relatively new to ICANN policy development processes, and all were members of the Non-Commercial Stakeholder Group (NCSG), the Non-Commercial Users’ Constituency (NCUC), or both.
- 3. Establish communication channels.** Once the team was formed, dedicated communications channels were established based on the group’s preferences to facilitate coordination and knowledge exchange amongst members.
- 4. Review resources.** Specific resources reviewed included the new gTLD Subsequent Procedures Final Issue Report,¹⁷ Initial Report (Overarching Issues & Work Tracks 1-4),¹⁸

¹⁴ Expedited PDP on the Temporary Specification for gTLD Registration Data (“EPDP”):

<https://gnso.icann.org/en/group-activities/active/gtld-registration-data-epdp>

¹⁵ PDP Review of All Rights Protection Mechanisms in All gTLDs (RPMs):

<https://gnso.icann.org/en/group-activities/active/rpm>

¹⁶ PDP New gTLD Subsequent Procedures (Sub Pros): <https://gnso.icann.org/en/group-activities/active/new-gtld-subsequent-procedures>

¹⁷ Subsequent Procedures Final Report (December 2015):

<https://gnso.icann.org/sites/default/files/file/field-file-attach/2016-12/subsequent-procedures-final-issue-04dec15-en.pdf>

¹⁸ Subsequent Procedures PDP Initial Report: Overarching Issues & Work Tracks 1-4 (July 2018):

<https://gnso.icann.org/sites/default/files/file/field-file-attach/subsequent-procedures-initial-overarching-issues-work-tracks-1-4-03jul18-en.pdf>

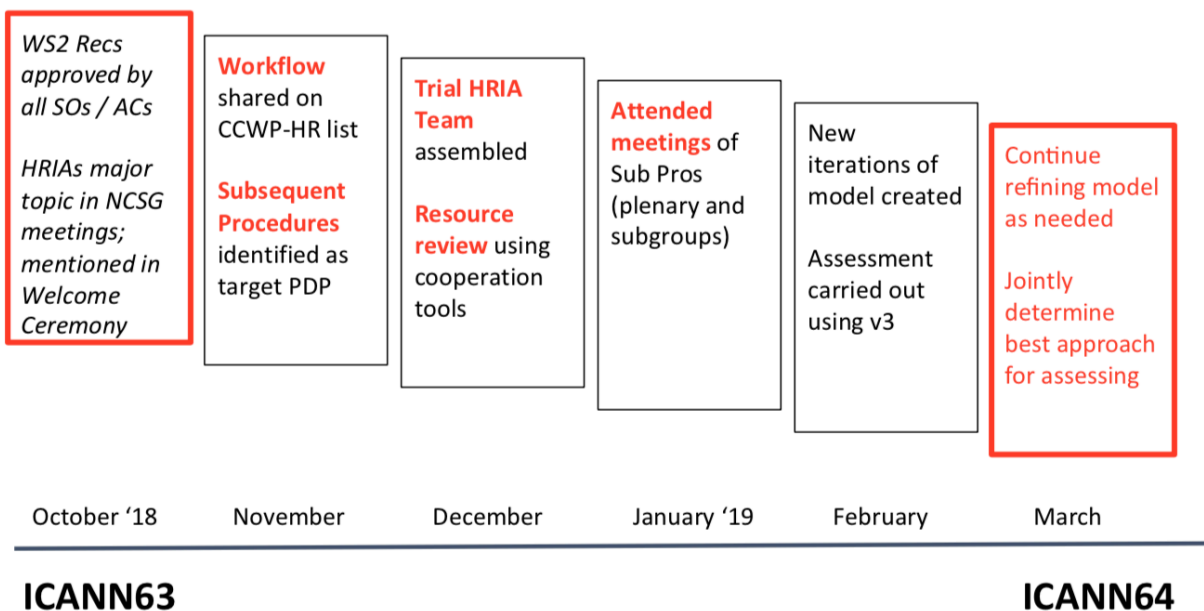
and mailing list archives.¹⁹ This was an important step as many of the Trial HRIA team members were ICANN newcomers and none had been previously active in the target PDP.

5. Engage in PDP. Following the resource review, several members of the Trial HRIA agreed to contribute firsthand to several working group meetings in order to contribute to the assessment and get a better feel for the working group’s status and dynamics. In order to do so, each volunteer had to obtain working group membership by completing a form and submitting a Statement of Interest.

6. Refine assessment methodology. The Trial HRIA team closely collaborated throughout the resource review and direct participation phases to jointly determine the best approach for carrying out the assessment based on shared experiences in the PDP. Several revisions of the “Comprehensive Model” were generated during this time, with refinement of the tool continuing after active trial engagement in the working group had ended.

Figure 2: Process timeline for Trial HRIA on ICANN PDP

Image courtesy of the CCWP-HR



¹⁹ GNSO New gTLD (“Sub Pros”) Working Group mailing list archives: <https://mm.icann.org/pipermail/gnso-newgtld-wg/>

Trial PDP HRIA Findings

Format Utility

The Comprehensive HRIA format showed potential as a tool to allow stakeholders with divergent positions and opinions to engage constructively through the collection and comparison of empirical evidence, anecdotes, and general observations.

The model was also successfully tested as a tool to engineer robust and influential interventions during in-person and virtual working group meetings. This was done by constructing relevant interventions using components from each of the assessment fields:

- *Description*
 - *Negative impact scenario*
 - *Impacted groups / rights*
 - *Applicable human rights laws / Bylaws*
 - *Recommendation*

Taking one row of the completed Sub Pros Trial HRIA as an example,²⁰ a participant of an HRIA could deliver the following sample intervention to the members of the policy development process:

“The general lack of appeal mechanisms in the Applicant Guidebook is a problem. Independent Review Processes are formal, expensive, long, and only cover procedural grounds, not actions made on substantive or technical grounds. The lack of appeals means access to due process or recourse may be impeded, particularly for under-resourced or inexperienced applicants. This is likely to negatively impact minority communities, not-for-profits, or Global South applicants and severely impact applicants’ rights to equal treatment, non-discrimination, and procedural fairness, as well as ICANN’s standards for accountability. A potential solution for mitigating this risk is to create streamlined, transparent, and dedicated appeals channels within this process.”

While this engagement technique was only tested in real-time meetings during the trial phase, it has potential for similarly informing robust and recommendation-based public comments or mailing list exchanges. We acknowledge that the tool may still evolve into future iterations during an official HRIA of a process. For example, it may be useful to add a way to track the

²⁰https://docs.google.com/spreadsheets/d/1EKpMCef8kiZ2tJE2AU78q9_oeJehGbR7bWpQ5wt7D5I/edit#gid=853107611

content, date, time, author and format of an intervention made to the PDP regarding an issue raised in the HRIA. This would be valuable given the fact that many PDPs last several years and have high participant turnover.

Procedural

The key findings on the procedural effectiveness of our Comprehensive Model Trial HRIA relate to timing, knowledge, roles, and flexibility. We understood from the beginning that we began an HRIA several years into an ongoing PDP. The late timing, especially combined with the lack of issue-specific knowledge held by the volunteer team, hindered the effectiveness of the team during the process. It would be interesting to compare this trial to a second case conducted earlier in the lifespan of a PDP. The earlier timing of an HRIA intervention, or even the launch of a concurrent HRIA process throughout the lifespan of the PDP, would likely increase the knowledge and confidence of volunteer HRIA members, ultimately contributing to a more effective and integrated assessment process.

Another procedural variable worth noting is volunteer roles. This case relied on strong leaders crowdsourcing help from volunteers in shared online resources such as group chats and calendars. Individual meetings were triaged by the project leaders based on the estimated topical relevance, then volunteers were asked to sign up to contribute to high-priority PDP meetings and help out with the assessment where they could. By avoiding a strong commitment of members, a larger group was likely attracted. However, in a future case, it may be useful to assign volunteers to certain roles such as GAC liaison, Work Track focal point, Human Rights legal advisor, etc. This would allow the working group co-chairs to serve as coordinators of the HRIA while sharing more responsibility among the other volunteers.

The final element to note was the crucial level of flexibility. As we have clearly demonstrated, it took many iterations to find a viable process to test. We are under no illusion that a formal HRIA would need a fixed process from start to finish. While roles, timing, funding, and other structural elements would serve as a solid foundation for the process, the methods of collaboration and data collection should be allowed to evolve during the HRIA to best suit the needs of the volunteers and adapt to the unique situations of the PDP or other process.

Substantive

It's important to note that many of the substantive observations and recommendations included in the Trial HRIA were extracted from public comments rather than developed by the Trial HRIA team directly. While substantive impacts would be the aim of an official HRIA, the Trial HRIA's primary goal was to pragmatically develop a model for adhering to ICANN's Human Rights Core Value. Thus, the substantive recommendations presented in this section do not necessarily represent original ideas, but rather a collection of observations harvested

from primary sources, participant observation, and additional outreach then synthesized into a replicable format as a proof of concept for the general application of HRIA methodologies to ICANN processes.

Based on the information collected, the top human rights concerns for the Subsequent Procedures PDP related to inconsistent interpretations and striated commitment levels with respect to the “public interest”; a proliferation of insufficient dispute resolution processes with no appeals mechanisms; and insufficient accountability mechanisms in Community Priority Evaluation proceedings. The primary impacted groups were identified as minority or local communities, non-profits, and Global South applicants, and the salient human rights were procedural fairness and due process; equal treatment and non-discrimination; freedom of expression; and broad economic, cultural, and social rights.

The following PDP-specific recommendations were made based on these observations:

Public Interest

- Consolidate ICANN’s various Public Interest Commitments and ensure that they’re in-line with international human rights standards and best practices;
- Update “Spec 11” to reflect ICANN’s Human Rights Core Value; and
- Use tools such as impact assessments to document and justify the balance of legitimate interests.

Dispute Resolution

- Delineate which party holds ultimate responsibility in dispute resolution (ICANN or third-party provider);
- Ensure that a single dispute resolution center exists for both substantive and procedural grounds;
- Develop / enforce guidelines for consistent documentation of proceedings; and
- Create a streamlined and transparent appeals mechanism.

Community Priority Evaluation

- Introduce a binding obligation that panelists’ background and affiliations be published and kept up-to-date;
- Require that panelists sign off on ICANN’s Public Interest Commitments prior to making decisions;
- Include panelists with human rights expertise in the pool of evaluators.

Recommendations

Additional effort and resources should be allocated toward increasing awareness of the Human Rights Core Value and its implications across the ICANN community. Learning about the CCWG-Accountability recommendations can shed light on the processes that resulted in their development, as well as the new standards that must be incorporated into the respective Stakeholder Groups and Constituencies. It also provides an opportunity for engagement that is at the same time forward-looking and grounded in past processes, which may be particularly beneficial for impacted communities or individuals, human rights subject-matter experts, and ICANN newcomers more broadly, including Fellows and NextGen participants.

Beyond these general efforts to raise awareness about the context and operationalization of accountability standards, more targeted and robust engagement is required from different parts of the ICANN community in order for multistakeholder HRIAs to become a valid tool for operationalizing ICANN's Human Rights Core Value. Given the Core Value's grounding in "applicable law," contributions from relevant members of the Government Advisory Committee (GAC) or experts on potentially applicable international human rights instruments would be particularly salient.

Finally, it would be useful to hold an open community discussion on the results of this trial in order to determine the community's willingness to work on additional trial cases or, eventually, to begin formalizing HRIA procedures within ICANN. In the instance that there are too few volunteers or insufficient interest within the ICANN community to continue this work, the ICANN organization or Work Stream 2 Implementation Team may consider approaching human rights practitioners or qualified non-governmental organizations to undertake development and incorporation of further models. Such an approach may have the added benefit of getting external experts interested and involved in ICANN processes. However, the caveat must be made that seasoned ICANN participants are often uninterested or unwilling to engage with new individuals or ideas, which may complicate the involvement of external experts or broader attempts at organizational change.

Conclusion

These initial efforts to design a multistakeholder human rights impact assessment for ICANN's policy development processes represent a significant milestone towards the operationalization of ICANN's Human Rights Core Value. While the final "Comprehensive Model" shows good potential for successful execution in future PDPs, we understand that these assessments are

an iterative process and hope that future initiatives can continue building on our methodology and lessons learned.

We welcome feedback on any aspect of this initiative and extend an open invitation for any interested individuals to get involved in the next phase of work. To become a member of the Cross-Community Working Party on ICANN and Human Rights, visit <https://icannhumanrights.net/> or the CCWP-HR page on the ICANN Community website.²¹

²¹ <https://community.icann.org/display/gnsononcomstake/CCWP+on+ICANN+and+Human+Rights>



Guidance for completing this ICANN Policy Development Process Human Rights Impact Assessment (PDP HRIA)

Field	Explanation	Tool Tip																								
PDP Topic	A few words to describe the broad topic being considered.	Useful for grouping and sorting.																								
Short Description	A few words describing the specific issue at hand.	Useful for quickly locating information.																								
Description	One or two sentences summarizing the issue.																									
Negative Impact Scenario(s)	<p>Negative impacts resulting from the situation described. To determine whether an adverse human rights impact has occurred or is likely to occur, one should consider:</p> <ul style="list-style-type: none"> - Substantive content of the right in question - Nature of business interaction or interference with the individual's right(s) - Causality - Experience and views of the rights-holders in question - Data and evidence collection, where possible 	Multiple impacts can be listed in bullet points, or broken out into multiple rows.																								
Impacted Groups	<p>Rights-holder groups who may be negatively impacted. Particular attention should be paid to groups that may be vulnerable to cumulative impacts, such as:</p> <ul style="list-style-type: none"> - Women, children, or elderly people - LGBTQ - Ethnic minorities - Religious minorities - Indigenous peoples - Persons with disabilities - Refugees or migrant workers - Human rights defenders 	Multiple groups can be listed in bullet points, or broken out into multiple rows.																								
Severity of impact	<p>Severity of impact is determined by considering the scale, scope, and irremediability of the impact:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;"></th> <th style="width: 60%;"></th> <th style="width: 20%;"></th> </tr> </thead> <tbody> <tr> <td rowspan="3" style="text-align: center; vertical-align: middle;">SCALE</td> <td>Life- or long-term health-threatening</td> <td style="text-align: center;">High</td> </tr> <tr> <td>Tangible infringement to access of basic freedoms (expression, education, livelihood, etc.)</td> <td style="text-align: center;">Medium</td> </tr> <tr> <td>Other impacts</td> <td style="text-align: center;">Low</td> </tr> <tr> <td rowspan="3" style="text-align: center; vertical-align: middle;">SCOPE</td> <td>>50% of identifiable group or >5,000 people</td> <td style="text-align: center;">High</td> </tr> <tr> <td>11-50% of identifiable group or 1,000 - 5,000 people</td> <td style="text-align: center;">Medium</td> </tr> <tr> <td><10% of identifiable group or <1,000 people</td> <td style="text-align: center;">Low</td> </tr> <tr> <td rowspan="3" style="text-align: center; vertical-align: middle;">IRREMIADIABILITY</td> <td>Impact cannot be remedied</td> <td style="text-align: center;">High</td> </tr> <tr> <td>Impact would be difficult to remediate</td> <td style="text-align: center;">Medium</td> </tr> <tr> <td>Impact can be easily remediated</td> <td style="text-align: center;">Low</td> </tr> </tbody> </table> <p><i>** While some type of numerical ranking might prove useful in the analysis of human rights impacts, it's important to remember that analysis can't rely on scoring alone and a thorough narrative description of impacts and proposed mitigation measures should always be provided.</i></p>				SCALE	Life- or long-term health-threatening	High	Tangible infringement to access of basic freedoms (expression, education, livelihood, etc.)	Medium	Other impacts	Low	SCOPE	>50% of identifiable group or >5,000 people	High	11-50% of identifiable group or 1,000 - 5,000 people	Medium	<10% of identifiable group or <1,000 people	Low	IRREMIADIABILITY	Impact cannot be remedied	High	Impact would be difficult to remediate	Medium	Impact can be easily remediated	Low	
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Positive Impact Scenario(s)	Positive impacts may be noted, but the identification of "positive" human rights impacts is not the primary objective and should not detract from identifying and addressing adverse impacts.																									

<p>Examples of potentially Salient Human Rights</p>	<p>Individual rights and freedoms</p>	<ul style="list-style-type: none"> - Right to Privacy - Freedom of Expression / access to information - Right to effective remedy - Right to equal treatment / non-discrimination - Freedom of association - Right to Political participation - Right to Property - Right to Education - Right to Work / Fair remuneration - Right to a Fair trial 	
	<p>Collective rights</p>	<ul style="list-style-type: none"> - Self-determination - Economic, social, and cultural development - Peace and security - Right to benefits of culture - Principle of non-discrimination in the exercise of rights 	
<p>Examples of potentially Applicable Human Rights Instruments</p>	<p>International treaties / conventions</p>	<ul style="list-style-type: none"> - Civil and Political Rights (ICCPR, 1966) - Economic, Social, and Cultural Rights (ICESCR, 1966) - Elimination of All Forms of Racial Discrimination (ICERD, 1965) - Elimination of Discrimination against Women (CEDAW, 1979) 	
	<p>International declarations</p>	<ul style="list-style-type: none"> - UN Declaration of Human Rights (1948) - Rights of the Child (1923) - Rights of Disabled Persons (1975) - Right to Development (1986) - Cultural diversity (2001) - Rights of indigenous peoples (2007) - Sexual orientation and gender diversity (2008) 	
	<p>Regional instruments</p>	<p>AFRICA</p> <ul style="list-style-type: none"> - African Charter on Human and Peoples' Rights (1981) <p>AMERICAS</p> <ul style="list-style-type: none"> - American Convention on Human Rights (1969) and its Protocols (1988 & 90) <p>EUROPE</p> <ul style="list-style-type: none"> - European Convention on Human Rights (1950) - European Social Charter (1961) and Protocols (1988, 91, & 95) - European Framework Convention for the Protection of National Minorities (1995) 	
	<p>State constitutions and legislation</p>	<p>E.g. national human rights acts</p>	
	<p>State thematic legislation</p>	<p>E.g. non-discrimination laws</p>	
<p>Summarized examples of potentially Relevant Bylaws</p>	<p>Commitments (1.2.a)</p>	<p>(iii) Respect creativity, innovation, and free flow of information</p> <p>(iv) Employ open, transparent, and bottom-up multistakeholder PDPs</p> <p>(v) Apply policies consistently, neutrally, objectively, and fairly without discriminatory treatment</p> <p>(vi) Remain accountable through mechanisms defined in Bylaws</p>	
	<p>Core Values (1.2.b)</p>	<p>(ii) Seek and support broad, informed participation reflecting functional, geographic, and cultural diversity of the internet</p> <p>(iv) Introduce and promote competition in registration of domain names</p> <p>(viii) Respecting internationally recognized human rights as required by applicable law</p>	
	<p>Discrimination (2.3)</p>	<p>CANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause</p>	
	<p>Fairness (3.1)</p>	<p>ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness</p>	

	GAC role (12.2.a)	The GAC should consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.	
Recommendation	<p>Recommendations should be geared toward mitigating any negative human rights impacts that have or are likely to occur.</p> <p>They should be clear, concise, and realistic, but don't necessarily have to provide details about roles or implementation, as these are things to be negotiated within the multistakeholder ICANN community.</p>		Make sure that recommendations are easily communicated and understood!
Relevant links	Links to background information or other relevant materials from the ICANN website.		Only one link is permitted per cell.

* Link to model: https://docs.google.com/spreadsheets/d/1EKpMCef8kiZ2tJE2AU78q9_oeJehGbr7bWpQ5wt7D5l/edit?usp=sharing