

Commenter	Highlight of comment	HR sub-group response	Explanation
ALAC	The ALAC believes it is imperative to ensure that the continued discussions concerning Human Rights are clearly scoped within ICANN's technical remit as set forth in ICANN's mission and bylaws. This remit is limited to coordinating the allocation and assignment of Domain Names, Internet Protocol(IP) addresses, Autonomous System (AS) numbers, and protocol port- and parameter numbers. As the Security and Stability Advisory Committee (SSAC) stated previously, assessments based on content accessed through these unique identifiers should not be in scope for discussions regarding Human Rights in an ICANN organisational context. This means any binding language that holds ICANN accountable to a Human Rights' core value should fall within the scope of ICANN's limited remit. Such binding language can only be required by applicable law and should be implemented via a Human Rights Impact Assessment and followed by the development of a Corporate Social Responsibility (CSR) policy for ICANN.	No change made	No change requested
ALAC	As a final consideration, the ALAC would like to ask the Subgroup to clarify the statement on 'Human Rights Impact Assessments (HRIAs)' on page 8 of the Draft Fol: 'HRIAs should not consider particular Human Rights in isolation since they are universal, indivisible, interdependent, and interrelated.' How does this relate to the criterium that Human Rights are only to be respected by ICANN as required by applicable law, and if applicable law does not require this within a certain jurisdiction, that the particular Human Right is not relevant to ICANN?	No change made	The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.
SSAC	Sinc+A1:B24e there are no associated security and stability aspects, the SSAC is pleased to offer its support for the draft Framework of Interpretation for Human Rights. The SSAC notes that, as a Chartering Organization of the CCWG-Accountability, formal SSAC approval of the final version of the Framework of Interpretation for Human Rights will be required in due course.	No change made	No change requested
gNSO-BC	In addition, the BC recommends that the phrase "internationally recognized human rights" in the Bylaws be considered together with the reference "as required by applicable law", as recommended by the Working Group. Under the Human Rights Core Value, existing international human rights declarations and covenants continue to have no direct application to ICANN as they create obligations only for nation states. ¹ We note that the question of applicable law in any given situation will need to be determined on a case by case basis.	No change made	No change requested

gNSO-BC	In addition to the FOI itself, the Sub-Team also published a set of “Considerations” that the Sub-Team took into account in preparing the FOI, to serve as further guidance regarding the FOI and ICANN’s application of the Human Rights Bylaw. We support these considerations, which reiterate that ICANN, as a non-state private entity, is not party to any human rights instruments <i>per se</i> and acknowledges that human rights are universal, indivisible, interdependent and that as such, no particular human right should be considered in isolation.	No change made	No change requested
gNSO-IPC	The IPC believes implementation of the FOI-HR will require considerable additional work and input from the ICANN community. As the FOI-HR impacts ICANN policy development for gTLDs directly, the IPC strongly suggests that discussions on how the Human Rights Bylaws should be implemented in the context of gTLD policy development, GNSO Working Group procedures and GNSO procedures generally, are all best and most appropriately left to the GNSO. Policy experts within the GNSO community are well situated to determine how best to structure and sequence such implementation. This is also consistent with ICANN’s long-standing practices regarding the relative roles of different structures in the larger ICANN system	No change made	No change requested
gNSO-IPC	The Revised ICANN By-Laws specify that no Request for Reconsideration or Independent Review Panel solely based on the Human Rights Bylaw may be invoked unless and until the FOI-HR is adopted. However, if one assumes that these grievance procedures apply as soon as the FOI-HR is adopted by the Board, then ICANN should be careful to understand and document any and all applicable grievance procedures which may appropriately apply before these more formal remedies come into play. For example, could the Human Rights Bylaw serve as the basis for an Empowered Community enforcement sanction? What is the role of the Ombudsman and/or the Complaints Officer in connection with implementation of the FOI-HR or the application of the Human Rights Bylaw? If a limited Public Interest Objection has been filed against an application for a new gTLD on Human Rights grounds and fails, does that preclude other avenues to pursue grievances based on claims of Human Rights violations? Again, we believe that these questions need to be answered in an orderly manner with bottom-up Multistakeholder participation. The Board should consider whether formal adoption by the Board of the FOI-HR prior to such questions being answered would be premature.	No change made	No change requested

gNSO-NCSG	<p>We are pleased to see that the FoI-HR makes it clear that ICANN should not expand its mission while applying the Human Rights Core Value, but rather ensure in its operations and policy development processes that it does not negatively impact human rights. We are also pleased to see that the FoI-HR clearly outlines that all Supporting Organizations and Advisory Committees, as well as ICANN the organization, should “take the Core Value into consideration in its policy development or advisory role. It is up to each SO and AC, and ICANN the organization, to develop their own policies and frameworks to fulfill this Core Value.” We welcome the adoption of the FoI-HR and the subsequent activation of the Human Rights Bylaw.</p>	No change made	No change requested
gNSO-RySG	<p>We start from this assumption – that ICANN is a largely open, community-driven organization with a solid history of respect for human rights. The RySG is fully committed to observing Human Rights (HR) as per the ICANN bylaw. We appreciate the flexibility given to the SOs in considering the usefulness and appropriateness of Human Rights Impact Assessments (HRIAs). We will pay heed to the Framework adopted by ICANN so that its provisions are appropriately considered in a manner consistent with ICANN’s mission and goals as well as the GNSO’s and RySG’s missions, goals, and methodologies.</p>	No change made	No change requested
gNSO-RySG	<p>The RySG is concerned that an opening of the ICANN community dispute-resolution mechanisms to broad HR-based claims would present a potential risk of undue strain on ICANN’s resources. Lastly, ICANN must take steps to ensure that the community and public at large recognize that Reconsideration Requests and Independent Review Process matters are limited to issues where ICANN (board or staff) allegedly violated its articles or bylaws – and are not suitable forums for any and all HR-based claims that might involve the Internet or DNS.</p>	No change made	No change requested
gNSO-RySG	<p>With respect to reference to “internationally recognized human rights”, we wish to emphasize that these existing human rights declarations and conventions create obligations for nation states, not private entities; as acknowledged in the accompanying Framework of Interpretation, “ICANN, as a non-state private entity, is not a party to any Human Rights declaration, covenant, or instrument.” These declarations and conventions should not be taken to create any positive obligations for ICANN as a private, non-state actor, particularly in leveraging any of the existing accountability mechanisms for HR-based claims.</p>	No change made	No change requested

gNSO-RySG	Further, we support the need for balance and flexibility in applying the Core Values, as compared to binding commitments, including in the context of these dispute resolution mechanisms. As noted in the Framework of Interpretations:	No change made	No change requested
Govt-Brazil	<p>On page 3, the first sentence of the third paragraph reads: “Finally, there is no standing hierarchy in the treatment of the different Core Values”.</p> <p>As a suggestion of amendment, Brazil proposes redrafting the first sentence of the third paragraph on page 4 as follows: “Finally, there may be a hierarchy in the treatment of the different Core Values, according to the values they embody and the importance the multi-stakeholder community attaches to these values.”</p>	No change made	The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.
Govt-Brazil	<p>On page 4, the first two sentences of the fifth paragraph read: ““Applicable law” refers to the body of law that binds ICANN at any given time, in any given circumstance and in any relevant jurisdiction. It consists of statutes, rules, regulations, etcetera, as well as judicial opinions, where appropriate.”</p> <p>Brazil suggests substituting the word “binds” with “applies to”. Brazil also suggests including, before the word “etcetera”, express reference to “customary international rules and principles”.</p>	No change made	The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.
Govt-Brazil	<p>On page 6, the first full sentence at the top of the page reads: “However, ICANN the community and the organization could refer to any of the widely adopted Human Rights declarations, conventions and other instruments while taking human rights into account in its policies and operations.”</p> <p>Brazil suggests redrafting the above sentence as follows: “However, businesses can be subject to international customary law rules and principles as they evolve in the field of human rights. Further, ICANN the community and the organization should refer to any of the widely adopted Human Rights declarations, conventions and other instruments while taking human rights into account in its policies and operations.”</p>	No change made	The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.

Govt-Switzerland	Accordingly, we propose that the following paragraph on page 4 (under “internationally recognized human rights”) be reworded as follows: “However2 because they only create obligations for States. By committing to one or more of these international instruments, nation states are expected to embed human rights in their national legislation. Businesses should respect human rights as set out in the UN Guiding Principles on Businesses and Human Rights.”	No change made	Rugby Principles or the UN Guiding Principles on Businesses and Human Rights were considered in detail by the FOI sub-group on HR and the consensus was that they could not be made applicable to ICANN because, as one example, ICANN is not a business in the sense intended here.
Govt-Switzerland	As to “internationally recognized human rights”, a reference to the UNGP as standard for business enterprises should be included, as mentioned above. In addition references to other universal human rights agreements from the UN should be included, such as the Convention on the Rights of the Child, the International Convention for the Protection of All Persons from Enforced Disappearance, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx for reference). Furthermore, also the humanitarian international public law should be considered, such as the Geneva Conventions. Finally, there are also relevant regional agreements which should be considered, such as the European Convention on Human Rights and the Budapest Convention on Cybercrime.	No change made	Some of the Agreements, Conventions etc. listed here are simply not applicable to ICANN. Two examples of this are that some of these texts would apply if ICANN were involved in an armed conflict or would require ICANN to be responsible for criminal investigations.
Govt-Switzerland	Regarding the interpretation of the section “as required by applicable law”, we consider that this element should never be used as a means to implicitly relativize the universality of human rights, subjecting and/or constraining them to national legislation. It would be desirable to include expressly that this means to “comply with all applicable laws and respect internationally recognized human rights”.	No change made	The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.

Govt-UK	<p>The argument that the entirety of the UN Guiding Principles could not be cited as a reference point, or source of guidance, for interpreting ICANN's Human Rights Core Value, is readily understood and accepted: much of the text is concerned with State responsibilities.</p> <p>However, it is very disappointing that there is no reference in the Framework to the UN Guiding Principles despite the direct applicability of key elements of the second pillar relating to corporate responsibilities. These relate for example the conduct of due diligence, ensuring transparency, the undertaking of impact assessments, instituting mechanisms for correcting negative impacts, and generally integrating a culture of commitment to respect human rights throughout the organization. As such they provide fundamental elements of universal best practice for effective adherence to human rights and therefore merit direct reference in the Framework of Interpretation.</p>	No change made	Ruggy Principles or the UN Guiding Principles on Businesses and Human Rights were considered in detail by the FOI sub-group on HR and the consensus was that they could not be made applicable to ICANN because, as one example, ICANN is not a business in the sense intended here.
Govt-UK	Given the private sector-led, multi-stakeholder constitution of ICANN there seems to be no inherent disruptive conflict or inconsistency created by reference to these elements in the universally accepted UN Guiding Principles. It is hoped, therefore, that in the course of finalising the Framework of Interpretation following the current public consultation, there will be further consideration of the applicability of those elements of corporate responsibility contained in the UN Guiding Principles on Business and Human Rights and of the value of their due reference cited in the final document as an instrument for all the SOs and ACs – including the GAC - and their respective sub-groups and constituency parts to take fully into account in their strategies for implementing the human rights core value.	No change made	Ruggy Principles or the UN Guiding Principles on Businesses and Human Rights were considered in detail by the FOI sub-group on HR and the consensus was that they could not be made applicable to ICANN because, as one example, ICANN is not a business in the sense intended here.
Govt-UK	Furthermore, if these UN Guiding Principles are not directly cross-referenced in part by the Framework of Interpretation, it would be a lost opportunity for the ICANN community to be a global transnational beacon for advancing corporate respect for human rights.	No change made	Ruggy Principles or the UN Guiding Principles on Businesses and Human Rights were considered in detail by the FOI sub-group on HR and the consensus was that they could not be made applicable to ICANN because, as one example, ICANN is not a business in the sense intended here.
Ricardo Holmquist	in the different sections of the document it states that Human rights must be observed, that they are Core Values, and that in some events, the Core Values should be balanced. Looking at the other Core Values, there is no sense for that. Human Rights must be observed, there is no other Core Value more important than this.	No change made	The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.

<p>Shiva Kanwar</p>	<p>On page 6, regarding „consider which specific Human Rights conventions or other instruments, if any, should be used by ICANN in interpreting and implementing the Human Rights Bylaw“, it has been stated that “a conflict between any Guiding Principle and an ICANN Bylaw provision or Article of Incorporation must be resolved in favor of the Bylaw or Article.”</p> <p>I would like to propose that in event of a conflict between any guiding principle (or any other human rights declaration, principle, convention or instrument) and an ICANN Bylaw provision or Article of Incorporation, the first thing to be done should be an attempt to reconcile the two conflicting provisions and arrive at an amicable solution that reflects the essentials of both positions. Allowing the Bylaws to prevail outright - without any attempt to reconcile them with the concerned Human Rights Guiding Principle - would essentially limit the spirit of the core value to respect internationally recognised human rights.</p>	<p>No change made</p>	<p>The HR FOI is meant to interpret the Bylaw dealing with Human Rights and cannot modify this Bylaw.</p>
<p>Shiva Kanwar</p>	<p>On page 8, regarding „consider how the interpretation and implementation of this Bylaw will interact with existing and future ICANN policies and procedures“, it has been stated that “SOs and ACs could consider defining and incorporating Human Rights Impact Assessments (HRIAs) in their respective policy development processes”, and that “ICANN the organization could also consider instruments such as HRIAs to assess their impact on Human Rights.”</p> <p>If this is to be followed by the SOs, ACs and the ICANN Organisation, the methodology and tools to be used to undertake this Human Rights Impact Assessments should be identified.</p> <p>This inclusion of HRIAs gives rise to several questions such as; will any existing tools and methodology be adopted to undertake the HRIA, or will ICANN develop its own? Also, will the SOs, ACs and ICANN the Organisation use the same tools and methodology to undertake the HRIAs, or can they differ across ICANNs organisational structure?</p>	<p>No change made</p>	<p>Beyond the scope of the FOI-HR</p>