

Registries Stakeholder Group Statement

Issue: **Draft Framework of Interpretation for human Rights**

Date statement submitted: **16 June , 2017**

Reference URL: <https://www.icann.org/public-comments/foi-hr-2017-05-05-en>

Background

As part of the IANA Transition, **the CCWG Accountability recommended a bylaw change to make an explicit undertaking by ICANN to respect Human Rights.**

The new bylaw provision appears as an **ICANN Core Value** at section 1.2(b)(viii) and says this:

(viii) Subject to the limitations set forth in Section 27.2, within the scope of its Mission and other Core Values, respecting internationally recognized human rights as required by applicable law. This Core Value does not create, and shall not be interpreted to create, any obligation on ICANN outside its Mission, or beyond obligations found in applicable law. This Core Value does not obligate ICANN to enforce its human rights obligations, or the human rights obligations of other parties, against other parties.

The referenced additional section, Bylaw Section 27.2, says this:

Section 27.2. HUMAN RIGHTS

*(a) The Core Value set forth in Section 1.2(b)(viii) shall have no force or effect unless and until a framework of interpretation for human rights ("**FOI-HR**") is (i) approved for submission to the Board by the CCWG-Accountability as a consensus recommendation in Work Stream 2, with the CCWG Chartering Organizations having the role described in the CCWG-Accountability Charter, and (ii) approved by the Board, in each case, using the same process and criteria as for Work Stream 1 Recommendations.>*

(b) No person or entity shall be entitled to invoke the reconsideration process provided in Section 4.2, or the independent review process provided in Section 4.3, based solely on the inclusion of the Core Value set forth in Section 1.2(b)(viii) (i) until after the FOI-HR contemplated by Section 27.2(a) is in place or (ii) for actions of ICANN or the Board that occurred prior to the effectiveness of the FOI-HR.

The Framework

The Framework is divided into two parts. The first part is the proposed Framework of Interpretation for the ICANN Bylaw on Human Rights. The second part addresses the “considerations” listed in paragraph 24 of [Annex 12](#) of the CCWG Accountability Final Report.

Registries Stakeholder Group Statement

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on the Draft Framework of Interpretation for Human Rights. We applaud the approach taken by the working group in establishing an overall framework for human rights that clearly establishes that the core value will be applied consistent with ICANN's mission and mandate.

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.

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.

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.

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:

The Human Rights bylaw needs to be balanced against other Core Values in the case where not all Core Values can be fully adhered to simultaneously. Furthermore, this interpretive rule recognises that there must be flexibility in applying the Core Values, based on “many factors” that occur in “any given situation”. This is also made clear in the Core Values section of the Bylaws, which states that the Core Values are intended to “guide” ICANN in its “decisions and actions”.

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.