

Human Rights Gap Analysis for ICANN's Proposed Bylaws Amendments and Documents to Implement the NomCom2 Review

Final Report

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Acknowledgments

Many people helped with this project, and we are grateful to everyone who put in their time and effort to make it a success.

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About the CCWP-HR

The CCWP-HR is a multistakeholder forum currently chartered as a sub-entity of the Non-Commercial Stakeholder Group (NCSG) within the Generic Name Supporting Organisation (GNSO) but remains open to the rest of the Internet Corporation for Assigned Names and Numbers (ICANN) community for research and discussion on the relationship between human rights and global Domain Name System (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 Org, its Board of Directors, and the ICANN community on ways to better harmonize ICANN's policies and procedures with internationally recognized human rights laws and corporate social responsibility standards. Membership is open to any interested individual, regardless of affiliation.

About the Authors

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Maryam Lee has 10 years of experience in human rights advocacy, policy making, and capacity building to nurture a progressive society. She is trained as an educator and is passionate about development. She is currently working on business and human rights in digital spaces in an effort to harmonize human rights and technology.

Introduction

In May 2023, ICANN published the Proposed Bylaws Amendments and Documents to Implement the second Nominating Committee Review (NomCom2 Review).

We welcome ICANN's decision to release the document in its entirety, in line with Workstream 2 Recommendations on ICANN Transparency.

We welcome the recommendations in the proposed Amendments in their entirety and urge that there should be no further amendment.

Two-year terms (recommendation 7):

We note that the recommendation outlines that, "NomCom members, except for leadership positions, should serve two-year terms, and be limited to a maximum of two terms."

We welcome this recommendation and urge that it is implemented as worded with no modifications.

From a human rights perspective, it is important for ICANN NomCom members to serve two-year terms and be limited to a maximum of two terms.

Accountability: By limiting the terms of NomCom members, ICANN also helps to ensure that the committee is accountable to the global Internet community. This is because members who know that they will only serve for a limited time are more likely to make decisions that are in the best interests of the community, rather than in their own self-interest.

In addition to these human rights considerations, limiting the terms of NomCom members also helps to ensure that the committee is efficient and effective. By rotating members on a regular basis, ICANN helps to bring new ideas and perspectives to the committee and prevent the development of entrenched interests.

All voting members (recommendation 9):

We note that the recommendation outlines that, "All NomCom members should be fully participating and voting members, except for NomCom leadership."

We welcome this recommendation and urge that it is implemented as worded with no modifications.

ICANN is responsible for managing the Internet's root zone, which is a critical piece of infrastructure that allows computers to communicate with each other. As

such, it is important that ICANN be accountable to the public and that its decisions be made in a transparent and inclusive manner.

Allowing all NomCom members to participate and vote would help to ensure that ICANN's decisions are made in the best interests of the public. This is because it would give all stakeholders a voice in the decision-making process. Additionally, it would help to prevent the capture of ICANN by special interests.

Excluding NomCom leadership from the voting process would help to prevent conflicts of interest. This is because NomCom leadership is responsible for overseeing the NomCom process and making sure that it is fair and impartial. If NomCom leadership were allowed to vote, they could potentially use their position to influence the outcome of the process in their favor.

Standing Committee (recommendation 24):

We note that the recommendation outlines that, “An empowered body of current and former NomCom members should be formed to ensure greater continuity across NomComs, and in particular, to recommend and assist in implementing improvements to NomCom operations.”

We welcome this recommendation and urge that it is implemented as worded with no modifications.

It is important that ICANN be able to build on the work of previous NomComs and that there is a smooth transition from one NomCom to the next.

An empowered body of current and former NomCom members would help to ensure greater continuity across NomComs in a number of ways. First, it would allow for the sharing of knowledge and experience. This would help to ensure that new NomComs do not have to start from scratch and that they can benefit from the lessons learned by previous NomComs.

Second, an empowered body of current and former NomCom members would help to identify and address any challenges or gaps in the NomCom process. This would help to ensure that the NomCom process is as effective as possible and that it meets the needs of the global community.

Overall, an empowered body of current and former NomCom members would help to promote transparency, accountability, and fairness in ICANN's decision-making process. This would be in line with the human rights principles of participation, equality, and non-discrimination.

Unaffiliated Board Directors (recommendation 27):

We note that the recommendation outlines that, “Provide clarity on desire for independent directors and designate three specific seats for ‘Unaffiliated’ Directors.”

We welcome this recommendation and urge that it is implemented as worded with no modifications.

The creation of three specific seats for ‘Unaffiliated’ Directors is important because it sends a signal to the public that ICANN is committed to independent decision-making. It also ensures that there will be a diversity of voices on the Board, which is important for ensuring that ICANN’s decisions reflect the needs and interests of the global community.

Conclusion

CCWP-HR is grateful to have participated in this public comment process in accordance with the November 2019 ICANN Board approval of the FOI-HR.

We welcome feedback on any aspect of this initiative and extend an open invitation to 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 (CCWP-HR), visit [the CCWP-HR page](#) on the ICANN Community website.