Human Rights Gap Analysis for ICANN's Draft IANA and PTI FY24 Operating Plan and Budgets

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.

In particular, thanks to members of the Cross-Community Working Party on ICANN and Human Rights (CCWP-HR) and Non-Commercial Stakeholder Group (NCSG) for their contributions to early versions of the HRIA methodology and the Non-Commercial Stakeholder Group Policy Committee and membership and various individual members for providing comments on earlier versions of the analysis.

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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Summary

On September 15, 2022, ICANN published the Draft IANA and PTI FY24 Operating Plan and Budgets, requesting feedback from the community. We note that ICANN published the draft Plan and Budgets as part of the PTI 2020- 2024 Strategic Plan.

We welcome the work of ICANN on releasing the document in line with Workstream 2 Recommendations on ICANN Transparency. Our analysis shows that, primarily, the document is a good first step but has fundamental gaps in ensuring the full implementation of Section 27.2 of the ICANN Bylaws (on Human Rights) and other Bylaws with an impact on human rights.

CCWP-HR therefore calls on ICANN to implement the recommendations below.

a) **Comments on the Lack of Human Rights Impact Assessments or Data Protection Impact Assessments**

We note that PTI has various functions, which include:

A. IANA Naming Function
   a. Providing oversight and management of the root zone for the Domain Name System (DNS). The root zone defines top-level domains (TLDs), and this work includes receiving and evaluating changes against policies and operational requirements
   b. Protecting the trust anchor for the DNS, including performing key signing ceremonies to maintain community confidence in the system
   c. Providing oversight and management of the .INT TLDs for intergovernmental treaty organizations
   d. Fostering support for Internationalized Domain Names (IDNs) by maintaining a shared repository of IDN practices and label generational rulesets (LGRs) across TLDs
B. IANA Numbering Function
   a. Allocation of Internet number resources (IP addresses and Autonomous System Numbers) to RIRs
   b. Management of returned Internet number resources
   c. Maintenance of general Internet number registries
   d. Administration of the unicast portion of the special-purpose "in-addr.arpa" and "ip6.arpa" DNS zones

In order for PTI and IANA to carry out these functions, there is a need to store data and interact with both internal and external stakeholders who would be required to collect, process, and store this data.

Various IANA numbering functions include the management of returned Internet number resources and the maintenance of general Internet number registries. Although this information does not in itself constitute personal data, it can be used in combination with other data to infer the general personal data of Internet users, including their names, addresses, dates of birth, and IP addresses. IANA and PTI must ensure that robust data and privacy protection policies, mechanisms, and processes are in place to ensure that peoples' personal data is not compromised.

We therefore recommend that PTI and IANA must include human rights impact assessments (HRIAs) and data protection impact assessments (DPIA) as part of their planned activities in the FY24 Operating Plan, and ensure that these activities are adequately supported in the budget.

HRIAs and DPIAs are activities that include engaging in consultation with both internal and external stakeholders of an institution in order to accurately determine the potential and actual effects of their corporate policies, practices, products, and services on human rights and data protection, respectively, and take actions to lessen any negative effects.

Section 27.2 of the ICANN Bylaws (on Human Rights) and the Framework of Interpretation on Human Rights (FOI-HR) recognises the HRIA as a methodology by which ICANN can comply with its obligations under the Bylaws.

The United Nations Guiding Principles (UNGPs) on Business and Human Rights places the responsibility on corporations such as ICANN, IANA and PTI to respect the human rights of their customers and stakeholders. By conducting HRIAs and DPIAs, ICANN, IANA and PTI will ensure that they are in compliance with various legal requirements such as the European Union General Data Protection Regulations (GDPR), among other applicable data protection and privacy laws.

Furthermore, note that the Draft FY24 IANA Budget includes an allocation of $0.6 million for IANA support activities carried out by entities other than PTI. As it is not clear which entity would perform these functions and which functions would fall under this budget line, this allocation raises questions regarding the extent and scope of third party access to IANA and PTI's databases.

We thus recommend that, in the instance where any external entity has access to the IANA and PTI databases or is contracted to build or maintain any new databases, ICANN, IANA and PTI should ensure that the process of procuring these services includes an evaluation to ensure that the contractor's products, policies, and practices are compliant with Section 27.2 of the ICANN Bylaws (on Human Rights) as a condition of procurement. These activities should be recognised in the FY24 Operating Plan.

As such, ICANN, IANA and PTI should include budgetary support for both internal and third party HRIAs and DPIAs. The UNGPs places a duty of care on corporations such as ICANN, IANA, and PTI to ensure that the third parties they contract do not violate or undermine human rights while carrying out their contractual obligations.

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.