Summary report of
the first Human Rights
Impact Assessment for
the ICANN organization

commissioned by

ICANN

FOCUS ON

HUMAN

RIGHTS

Löning *Human Rights &*
Responsible Business

About Löning – Human Rights & Responsible Business

Founded in 2014, Löning – Human Rights & Responsible Business is a Berlin-based human rights consultancy and think tank. With our diverse team, we support global companies and organizations step-by-step as they integrate respect for human rights into their strategies and daily operations. By providing a structure for the process of human rights due diligence, we help organizations navigate through the process and ensure it is compatible with international standards. We look at facts impartially and comprehensively, tackling difficult issues and providing practical tailored recommendations for action.

The core project team:

visit us online:
loening-berlin.de

Markus Löning
CEO, Project Director

Stephanie Borowiec
Consultant, Project Manager

Cecilia Barral Diego
Legal Consultant, Project Lead Analyst

About ICANN

ICANN's mission is to help ensure a stable, secure, and unified global Internet. To reach another person on the Internet, you need to type an address – a name or a number – into your computer or other device. That address must be unique so computers know where to find each other. ICANN helps coordinate and support these unique identifiers across the world. ICANN was formed in 1998 as a not-for-profit public-benefit corporation with a community of participants from all over the world.

ICANN's Global Presence

ICANN has evolved and rapidly expanded in the last few years, increasing its physical footprint and achieving greater global outreach. The ICANN organization (hereinafter "ICANN org") operates in 33 different countries with a unique workforce – a total of 397 staff members, with 318 based in an office and 79 working remotely in affiliation with a regional office or engagement center.

What is a Human Rights Impact Assessment?

Globalization and digitalization are radically changing the lives of the global population. Ideas, goods and people are moving around the globe at an unprecedented speed. The worldwide division of labor creates new knowledge, making the development of technologies faster by the day and products available and affordable for many. Yet, the protection of human rights has not kept up with the speed of these developments. Since the 2011 adoption of the United Nations Guiding Principles on Business and Human Rights, which set the standards for corporations to prevent and address human rights issues, the pressure for organizations to respect human rights has rapidly increased.

A first important step for organizations to fulfill their human rights due diligence obligations is to identify human rights impacts and subsequently to manage them effectively. A Human Rights Impact Assessment (HRIA) is a process to identify and prioritize the impacts an organization has on human rights, to analyze how effectively these impacts are managed by the organization and to develop actions for improvement.

All human beings are born free and equal

H R I A

Executive Summary

ICANN, as a globally operating organization, is committed to respecting human rights in its daily operations. The new ICANN bylaws [01] include a commitment to "respect internationally recognized human rights as required by applicable law." In June 2016, the global multistakeholder community began to work on the development of a Framework of Interpretation (FOI) for human rights, [02] to guide how this commitment should be understood, following the process called for in the bylaws. In parallel to these discussions, ICANN org recognized the importance of proactively carrying out an internal assessment of its daily business operations.

The scope of the internal HRIA for ICANN org was limited to the following four areas:

Human Resources

Event Planning

Procurement

Security Operations

The following report is drawn from a thorough document review, interviews with management personnel, on-site visits and an online staff survey. Data collection took place between February 2018 and June 2018. Our analysis identifies actual and potential impacts of ICANN's operations on people's rights and assesses the effectiveness of current measures in place to manage these impacts.

Overall, ICANN org's processes and policies cover important human rights issues such as health and safety, non-discrimination, access to remedy, data privacy and working hours and leaves. The physical security of staff members and event participants is ensured through professionally managed security operations. In addition, ICANN public meetings, which are open to all interested stakeholders, contribute to local economies, both financially and by bringing knowledge and expertise.

ICANN org, however, has an opportunity to make further improvements in all areas under the scope of this exercise. These include enhancements of processes to foster equal and fair treatment of staff, internal grievance mechanisms to raise and investigate complaints, management of human rights risks in the supply chain and effective management of human rights considerations running ICANN Public Meetings.

Through the HRIA project, we engaged with staff members to explain the benefits of the assessment for their organization. More than 80% of ICANN staff consider human rights an important core value for ICANN org. Staff members with whom we engaged are open to new insights and keen to meet the high ethical standards ICANN org has set for itself. This report presents a summary of the process, the identified human rights impacts at ICANN org and the resulting recommendations. This HRIA should be seen as the starting point for continuous improvement in human rights performance.

Overview of the HRIA Process

The legal framework for this assessment includes the Universal Declaration of Human Rights,[03] and core international human rights instruments,[04] as well as the labor standards set up by the International Labour Organization (ILO).[05] This HRIA is based on existing methodologies and well-recognized guidance on human rights impact assessments, such as the Guidance and Toolbox for Human Rights Impact Assessments from the Danish Institute for Human Rights[06] and the UN Guiding Principles on Business and Human Rights.[07]

Another key aspect of an HRIA is the engagement with relevant stake-holders, in particular with the rights-holders who are potentially most impacted, i.e. ICANN staff. The graphic below provides an overview of the assessment process.

03 | The Universal Declaration of Human Rights: un.org/en/universal-declaration-human-rights/
04 | United Nations Core International Human Rights Instruments: ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx
05 | ILO (Fundamental and Technical) Conventions: ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12000:0::NO:::
06 | The Danish Institute for Human Rights, Human Rights Impact Assessment: Guidance and Toolbox: humanrights.dk/sites/humanrights.dk/files/media/dokumenter/business/hria_toolbox/hria_guidance_and_toolbox_final_may22016.pdf_223795_1_1.pdf
07 | UN Guiding Principles on Business and Human Rights: ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

01.
Preparation

Stakeholder analysis and engagement plan

Development of ICANN's Impact Assessment Frameworks for each of the four assessment areas

Research and analysis of the country-specific human rights situation of operating countries (Development of a Country Risk Register tool)

02.
Data Collection & Engagement

Review of all relevant documents

Interviews with ICANN staff members of all relevant functions as well as with all Regional Directors

On-site visits to ICANN offices in Los Angeles, Singapore and Istanbul

Survey sent to all staff members – 183 (46%) of ICANN staff members responded to the online survey

03.
Analysis, Mapping & Prioritizing Impacts

Mapping human rights impacts

Prioritizing impacts considering the severity of the impact and the leverage of the ICANN Organization

04.
Developing Recommendations & Reports

Developing recommendations for improvement and discussion of recommendations with key ICANN staff from the different departments
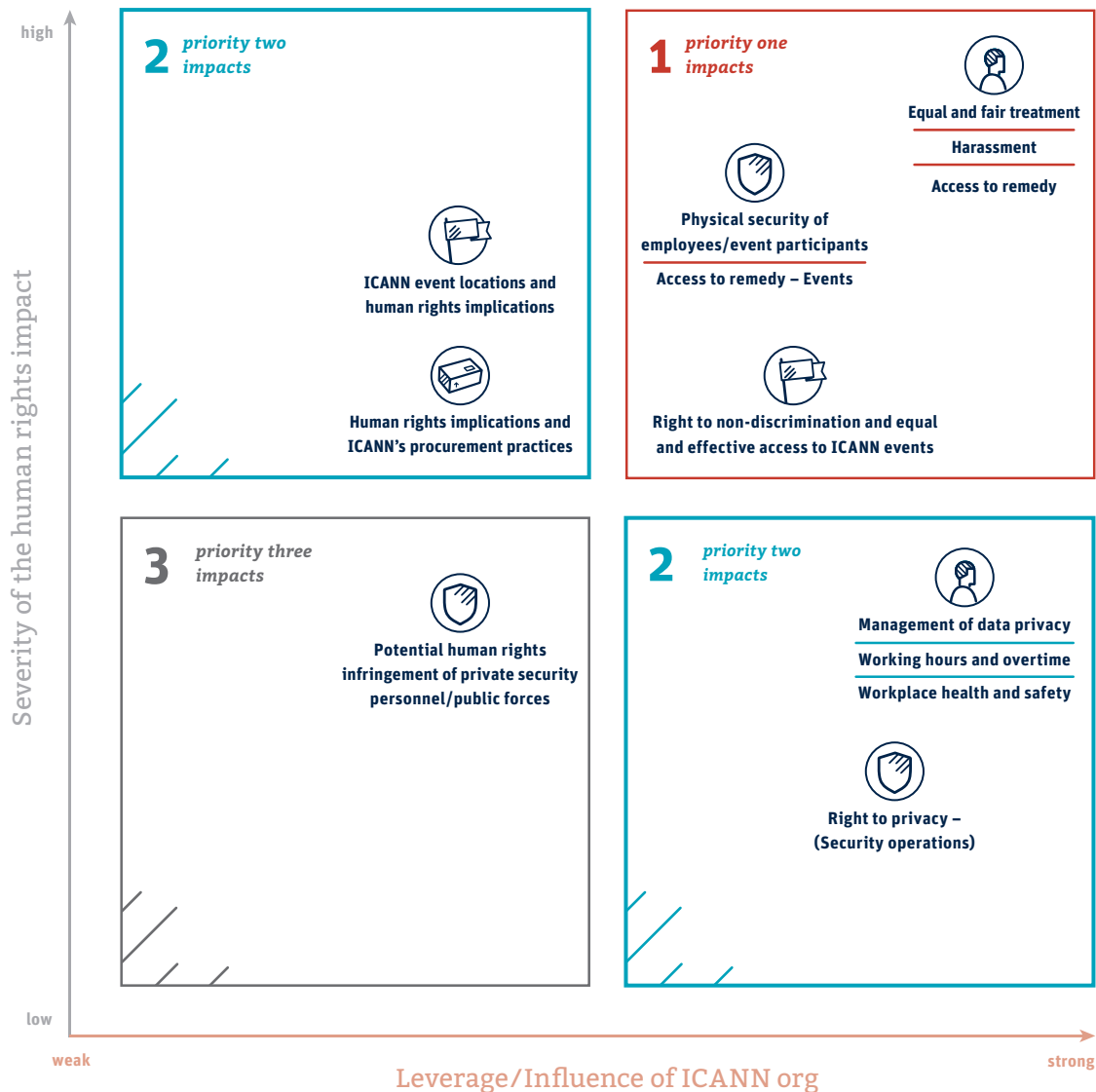
Developing roadmap for implementation

Communicating results: HRIA report and summary report

I M » **P A C T S**

Identification of Human Rights Impacts at ICANN Organization

The matrix shows the identified human rights impacts at ICANN org. Following the UN Guiding Principle on Business and Human Rights, we have prioritized the impacts, numbered 1, 2 and 3, considering the following factors:

» Severity of impact (i.e. the amount of people potentially affected, how serious the impact is, and the ability to restore those affected to the same or similar situation)

» Likelihood of the impact to occur (in the case of potential impacts)

» Leverage of ICANN org (i.e. the influence ICANN has to improve or address the human rights impact)

1.1 Equal and fair treatment

Whether and to what extent is equal and fair treatment ensured, considering hiring, recognition practices, promotion, personal development, compensation and benefits, as well as disciplinary measures (incl. dismissal processes)?

Are measures to prevent any form of discrimination at the workplace adopted?

What are employees' perceptions of existing practices?

» ICANN org follows U.S. legislated "Equal Employment Opportunity" practices with a policy in place prohibiting any form of discrimination and covering all important employer-employee relationships such as promotion, training, discipline, compensation and hiring.

» ICANN org has some measures to prevent discrimination, such as a promotion process involving several parties to ensure that the process is fair, as well as compensation practices based on market comparisons. However, the measures currently do not cover all areas stated in the policy and survey results indicate the perception that further actions need to be taken to ensure equal treatment across all areas.

» The Human Resources Team is currently working on improving practices and formalizing procedures concerning hiring, promotion and compensation to improve consistency, transparency and equal treatment.

» ICANN org provides adequate space and time for prayer or other religious or spiritual rituals. The "Equal Employment Opportunity" law legally obliges the organization to make reasonable accommodations for disabled applicants and workers.

1.2 Harassment

Harassment is closely related to the right to non-discrimination. Harassment can create a hostile working environment where the victim is made to feel unwelcome and does not have the same opportunities for advancement in a workplace.

Key questions for the assessment are as follows: Is a policy in place prohibiting all forms of harassment? Are measures to prevent any form of harassment adopted? Is there an effective complaint procedure in place? What are employees' perceptions of existing practices?

» ICANN org has a clear "Prohibition on Harassment" policy in place prohibiting all forms of harassment and outlining the reporting procedure.

» ICANN org regularly conducts online training on harassment aimed at staff and managers as a preventative measure.

» Processes to prevent and address harassment need to be improved, especially the investigation and follow-up procedure and the perception among staff of the existing complaint mechanism.

1.3 Access to remedy – Grievance mechanisms

Effective and functioning grievance mechanisms have a pivotal role in ensuring workers' access to remedy, i.e. the right of workers to seek redress for negative human rights impacts. Are existing grievance mechanisms for receiving, processing and resolving complaints of workers in place? Are workers able to freely exercise workers' rights and report suspected violations of their rights without fear of retaliation?

» ICANN org has different procedures in place, which are outlined in the "Prohibition of Harassment" policy and in the "Anonymous Hotline" policy, specifically stating that retaliation against any staff member who makes use of these mechanisms is prohibited. To enhance flexibility, the Open Door Policy presents an additional way of raising complaints at any level of management.

» The vast majority of staff members have not used these mechanisms.

» Current mechanisms need to be improved to ensure effective investigation and follow-up.

1.4 Physical security of ICANN staff in general and in the context of ICANN events, incl. participants

Special attention was given to the security arrangements aimed at ensuring physical security of employees, including remote workers. What risk assessments, preventative measures, emergency procedures and complaint procedures are in place, including monitoring and remedial action? What are the security arrangements in the context of ICANN events (with a focus on ICANN Public Meetings)?

» ICANN org has clear and well-managed procedures in place aimed at safeguarding the physical security of ICANN staff and event participants.

» Employees are informed about the security-related matters at the location where they are based (survey results indicate that 88% feel informed).

» In the context of ICANN events, information on security and health and safety risks are provided to participants beforehand (survey suggests 87% of employees feel well informed about it).

1.5 Access to remedy – Security related-matters, incl. ICANN events

Considerations for the impact assessment

Overall assessment of ICANN org's current practices

In the context of security arrangements, what complaint procedures are in place to allow staff (and participants, in the case of ICANN events) to report any security, health and safety-related concerns?

» An adequate and accessible mechanism is in place to report security-related incidents or concerns.

» The survey shows 83% feel informed of the mechanism (participants can raise any issues or concerns at the Health and Safety Center at ICANN Meetings).

1.6 Right to non-discrimination and equal and effective access to ICANN events

Considerations for the impact assessment

Overall assessment of ICANN org's current practices

What efforts and measures are taken by ICANN org to ensure equal and effective access to ICANN events (with focus on the Public Meetings) to the extent possible?

» ICANN org implements the cross-community Meeting Strategy Working Group (MSWG) recommendations, including regional rotation for ICANN Public Meetings; ICANN Public Meetings are free with open access and selected sessions broadcast live.

» ICANN org has a "Meeting Accessibility Statement" in compliance with the Americans with Disabilities Act of 1990, against which locations are assessed; participants are asked via registration if special assistance in case of physical limitation is necessary and support is provided.

» An adequate grievance mechanism is in place (participants can resort to the Ombudsman for any complaints).

2.1 ICANN event locations and human rights implications

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

Due to regional rotation of ICANN Meetings, potential human rights risks for employees and participants might arise e.g. due to the political and social situation in host countries; the severity of these impacts varies depending on the local context. Is this considered and to what extent does the Meetings team adopt measures to reduce the human rights risks that might arise for some employees/participants?

» ICANN org generally is aware of the need to balance the regional rotation of ICANN meetings with potential impacts on employees'/participants' human rights; if issues arise, information and support is provided to keep everyone comfortable (to the extent possible); and remote participation is generally possible (however sometimes difficult for ICANN staff in certain positions).

2.2 Human rights implications and ICANN's procurement practices

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

Depending on the supply category and sourcing country, supply chains and relationships with contractors can be challenging from a human rights perspective. To what extent do existing procurement practices integrate human rights considerations?

» Well-managed and standardized procurement practices, guidelines and trainings are in place.

» Approximately 50% of ICANN staff are involved in pro-curement practices

» Currently, human rights are not considered in a formalized way in ICANN org's procurement process.

2.3 Management of data privacy

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

Are employees' right to data privacy respected, e.g. by ensuring that only information that is justifiable for business purposes is stored, updated and correct? Are information requests about employees managed in a safe manner? Is access to employees' data restricted appropriately?

» ICANN org has privacy-related policies in place concerning information requests, data privacy, and inspection of employment records (survey results suggest low awareness among staff about the policies, the kind of data stored and who has access to it).

» ICANN org currently is implementing the European Union's General Data Protection Regulation (GDPR) organization-wide.

2.4 Working hours and overtime

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

Key questions include: Is paid minimum holiday leave in line with ILO standards? Does ICANN org observe different religious and cultural holidays where appropriate? Is overtime used infrequently and kept below 12 hours per week per employee in accordance with international standards? Is sick leave as well as maternity and paternity leave provided? Are flexible working arrangements considered and applied consistently?

» ICANN's Overtime Policy for non-exempt staff, Holiday Policy and Vacation Policy are in line with international standards. ICANN org observes different religious and cultural holidays where appropriate.

» Sick leave, as well as maternity and paternity leave, are provided according to national law (survey suggests 88% of staff feel they can take sick leave without fear of retaliation).

» There is no limitation of overtime for exempt staff.

» Survey comments suggest the perception of inconsistency when trying to balance working hours due to overtime.

» Clear guidelines for Flexible Work Arrangements are in place (staff perceptions indicate that the implementation is not uniform and depends on the manager).

2.5 Workplace health and safety

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

Are health and safety measures and training in place? Do sufficient mechanisms to report health and safety concerns exist?

» Appropriate health and safety measures for employees (such as training and guidelines) are in place.

» Mental health training currently is only offered by an external online platform and is not mandatory.

» Awareness of mental health and of reporting procedures for mental health concerns needs to be improved.

2.6 Right to privacy – (Security operations)

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

Security management can have implications on the right to privacy of workers. What is being monitored? Are individuals properly notified when they are being monitored?

» The ICANN Security Team is aware of privacy concerns; all employees sign a Non-Disclosure Agreement (NDA), in addition to ICANN's main external security provider.

» Currently there are no written terms on the right to privacy of employees when adopting physical security measures, e.g. clear terms on when employees are being monitored and what is being monitored or whether for instance, monitoring practices apply at any time or not.

3.0 Potential human rights infringement by private security personnel/public forces

Considerations for the impact assessment

Overall assessment of ICANN org's current practices to manage the impact

ICANN org operates offices and organizes events worldwide requiring private and public security personnel support for securing its workers, participants and property. What expectations does ICANN org have when working with third-party private and public security personnel? Are human rights expectations communicated (particularly in high-risk scenarios)? The severity of the impact could potentially be high, yet the likelihood of this impact to occur in the context of ICANN org is low.

» Background checks for third-party security personnel at offices are conducted prior to hiring or their roles and responsibilities clearly defined.

» In the case of ICANN Public events, ICANN org does not have a direct contractual relationship with private security personnel. (The Security Operations team briefs security personnel and follows a "soft security approach" in order to ensure appropriate use of force and the respect of human rights).

» ICANN's Security Operations team also engages with public forces and local authorities if necessary, depending upon the level of risk (greater engagement in high-risk locations).

The journey ahead

Conducting an HRIA is an essential step towards establishing effective human rights due diligence processes that are aligned with internationally recognized standards. Overall, this HRIA shows that ICANN org has well-managed processes and policies in place. The following recommendations will support ICANN org in its proactive approach to build upon existing structures and further integrate the respect for human rights into its daily operations.

RECOMMENDATIONS

Further embedding the respect for human rights into the organizational culture

As a first important step, we recommend ICANN org develop and publicly publish a human rights statement endorsed by the CEO, expressing ICANN org's general commitment to respect human rights, in line with the bylaws. Awareness raising internally, through training and communication, is crucial to create a culture of compliance and respect for human rights. Top management need to be involved to demonstrate the importance of the topic to the organization. The Board and Executive Team of ICANN org should regularly discuss human rights issues.

Establishing an effective governance for human rights

ICANN org should identify a relevant department to oversee the implementation of recommendations and further due diligence processes, supported by a cross-functional human rights committee comprised of members of other relevant departments. The CEO should receive regular reports from the department charged with overseeing the implementation of the recommendations and further due diligence processes.

Establishing continuous due diligence processes for human rights

We recommend a follow-up HRIA to this first assessment after one year of implementation, evaluating if impacts have been improved and risks mitigated. Furthermore, ICANN org should consider new areas/operational activities (such as Global Stakeholder Engagement, Governmental Engagement, Policy Development Support) in any future assessments. ICANN org should integrate human rights into existing organization-wide monitoring or assessment processes and report transparently and regularly on human rights to build trust and engage with external stakeholders.

Strengthening the human rights of ICANN employees

People are ICANN's most valuable assets. Through further improvement of its practices with a focus on equal and fair treatment of employees (including processes to address harassment) and grievance mechanisms, ICANN org has the opportunity to strengthen the human rights of its staff members. We recommend the following actions:

» Develop clear guidelines and undertake training (e.g. unconscious bias and non-discrimination training to ensure fair hiring, promotion and personal development practices; training on harassment, including face-to-face training, tailored to specific regions and job functions).

» Increase transparency and enhance equal treatment through establishing clear descriptions of existing procedures (e.g. disciplinary procedure, promotion process, personal development processes, compensation process).

» Continue to raise awareness of the existing complaint mechanisms and review existing mechanism: ensure clear and effective follow-up processes, communicate the process behind the mechanism proactively and transparently, train staff members who deal with concerns.

» Consider establishing another line of reporting outside of ICANN org's management structure to enhance existing grievance mechanisms; this new investigatory line of reporting should have enough leverage to raise issues at the highest levels and be able to take swift action (in particular in case of harassment and other forms of discrimination). Having multiple communication channels in place increases the likelihood that workers will find an avenue with which they feel comfortable.

We identified the following opportunities for improvement regarding Overtime, Health & Safety and Workplace Privacy to strengthen current practices:

» Building on its flexible working culture, ICANN org can further strengthen its positive impacts by working towards reaching arrangements to balance working due to overtime and to foster flexible working consistently across the organization.

» ICANN org should raise awareness on mental health issues as well as on the various avenues for seeking support to further support employees with regard to health concerns.

» In the course of implementing the European Union's General Data Protection Regulation (GDPR), ICANN org has the opportunity to ensure that employees are aware of the personal data gathered and collected and who has access to it. Furthermore, employees should be informed about the type of data that must be collected, or in which cases staff members have the opportunity to not provide information.

Embracing the cultural diversity of the ICANN organization

ICANN org has a diverse and multicultural workforce. To further embrace a culturally respectful and sensitive work environment, ICANN org should regularly conduct training and open discussions on cultural (and religious) diversity and ensure that cultural differences are taken into account when implementing policies and training. ICANN org can better reflect cultural differences by conducting more regional face-to-face trainings.

Proactively managing potential human rights risks in the supply chain

ICANN org has a diverse vendor base and an international supply chain. We recommend ICANN org further develops the formal integration of human rights considerations into procurement processes to proactively reduce potential human rights risks and foster positive impacts in the supply chain. The first important step is to define expectations for vendors regarding human rights through a Supplier/Vendor Code of Conduct (CoC) based on international standards.[08] Consequently, these expectations should be integrated into the existing procurement process through the following steps: make the Vendor CoC part of contractual relationships, consider human rights in the supplier selection (e.g. by integrating human rights requirements into the call for proposals), develop a general risk overview of suppliers and monitor high-risk suppliers (e.g. by using a balanced score card including human rights considerations).

Depending on internal resources, this can be focused on strategic suppliers as a first step. The scope should be gradually broadened in the mid to longer term to the rest of the supplier base, further identifying and managing high-risk vendors.

The ICANN Procurement team should integrate human rights into existing training and guidelines on procurement to ensure ICANN staff involved in procurement practices have sufficient knowledge about human rights considerations.

08 | Respected international standards include the United Nations Guiding Principles on Business and Human Rights (UNGPs), the UN core international human rights instruments and the labor standards defined by the International Labour Organization (ILO).

Ensuring physical security of employees and event participants

Ensuring physical security of staff members and event participants is important for ICANN org. Security Operations at ICANN org are professionally managed with clear guidelines and well-structured procedures in place. ICANN org should continue this good practice and work towards full staff awareness on security matters.

To further establish best practice in security management, ICANN org should consider the following:

» Develop written terms on workplace privacy to ensure ICANN org respects the privacy of employees and visitors in its monitoring practices

» In the case of high-risk scenarios, consider requesting the event venue provider to conduct background checks of on-site venue security personnel

Effectively manage human rights considerations when running ICANN events

ICANN org balances regional rotation of meetings, according to the ICANN Meeting Strategy Working Group (MSWG) recommendations,[09] with potential human rights impacts for event participants that might arise due to the human rights context in the given meeting location. Proactively managing human rights risks and impacts should become a formal part of organizing events.

Specifically, in addition to the security risk assessment, we recommend ICANN use established human rights reports by reputable sources (such as the U.S. Department of State annual human rights reports,[10] the Corporate Social Responsibility (CSR) Risk Check tool[11] or the Human Rights and Business Country Guides[12] for specific locations) to understand the human rights risks of the chosen meeting location and evaluate if/how many participants might be impacted and the severity of the impact. If potential human rights risks for participants are identified, ICANN org needs to determine to what extent the risks can be reduced through preventative measures. These findings and measures should be proactively communicated with all relevant parties. Ultimately, it is a balancing act between the potential human rights impacts versus global coverage of ICANN Public Meetings.

It should be stated in written form that if any staff member feels uncomfortable to attend an event due to the human rights situation in the given place, they should be able to do so without fear of retaliation by management. As an alternative, ICANN org members have the ability to participate meaningfully in meetings remotely through well-established practices.

09 | ICANN Meeting Strategy Working Group (MSWG) Recommendations: meetings.icann.org/en/future-meeting-strategy
10 | US Department of State - Human Rights Reports: state.gov/j/drl/rls/hrrpt/
11 | CSR Risk Check tool: mvorisicochecker.nl/en/world-map
12 | Human Rights and Business Country Guides: globalnaps.org/human-rights-and-business-country-guides/

Conclusion: An evolving and collaborative process

ICANN is a unique global organization with the mission to manage key aspects of an important shared global resource, the Internet. By undertaking this HRIA, the ICANN org has demonstrated its commitment and embraced its responsibility to enhance human rights, setting itself apart from many global organizations and businesses.

Human rights discussions will continue to evolve on the basis of ongoing collaboration and mutual understanding. Beyond its obligation to respect internationally recognized human rights, the ICANN org should strive to leverage its visibility and influence to strengthen human rights within the ICANN org and beyond. The ICANN org, the ICANN community, and the ICANN Board of Directors should continue to support human rights assessments and thus the improvement of human rights performance at ICANN.

MISSION

Löning *Human Rights &*
Responsible Business

Löning *Human Rights &*
Responsible Business