

Cross Community Working Party  
on ICANN's  
Corporate and Social Responsibility to  
Respect  
Human Rights

Working Update to GAC WG on Human  
Rights and International Law

March 8 2016      18:00 – 19:00  
ICANN55      Marrakech

# Agenda

1. **Short introduction to CCWP HR** (Niels ten Oever)
2. HR & ICANN visualisations (SG1) (Marilia Maciel)
3. Cases in which ICANN is impacting human rights (SG2)  
(Aarti Bhavana)
4. Human Rights Impact Assessment (SG3) (Motoko Aizawa)
5. Update on Human Rights in CCWG Accountability  
(Tatiana Tropina)

## Follow or join the work

- Reports and mailinglist is available at <https://icannhumanrights.net>
- Joint session GAC WG HRIL & CCWP HR  
Tuesday 18:00 – 19:00 Room Cristal
- CCWP HR Working Session  
Wednesday 17:00 – 18:00 Room Opale

# Continuing the discussion

ICANN 50 London

- Report

by Thomas Schneider & Monika Zalnieriute,  
facilitated by CoE

ICANN 51 LA

- Session

ICANN 52 Singapore

- CCWP-HR established

- GAC WG

- Report

by Article19

ICANN 53 BA

- Sessions

(GAC WG, CCWP-HR, meetings with constituencies)

- Report

by Article19

ICANN 54 Dublin

- Sessions

- Report

by CCWP-HR

ICANN 55 Marrakech

- Sessions

- 5 subgroups with draft outputs

# Charter / Terms of Reference CCWP-HR

- Raise awareness
- Map policies, procedures and operations that impact human rights
- Provide information, suggestions and recommendations to chartering orgs and ICANN community
- Propose procedures and mechanisms for HR impact assessment
- Develop and explore CSR guidelines that are in place or should be created
- Produce position papers and statements where appropriate

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RIGHT INVOLVED	THEME	ICANN POLICY OR PROCESS
Freedom of expression	New gTLD programme <ul style="list-style-type: none"> <li>- Rights protection mechanism               <ul style="list-style-type: none"> <li>- Trademark Clearinghouse (TMCH)</li> <li>- Uniform Rapid Suspension Procedure (URS)</li> <li>- Post-delegation dispute resolution procedure (PDDRRPs)</li> <li>- Public Interest Commitments (specification 11 of the Registry Agreement)</li> <li>- Registry contract (specification 7 - “abuse” not clearly defined)</li> </ul> </li> <li>- IDNs</li> </ul>	Applicant Guidebook <ul style="list-style-type: none"> <li>- community-based TLDs</li> <li>- Sensitive strings</li> </ul> New gTLD subsequent round Rights protection mechanisms is all gTLDs New gTLDs subsequent round Curative Rights protection for IGOs/INGOs Protection of International Organization Names is all gTLDs
Freedom of association	New gTLD program	Applicant Guidebook <ul style="list-style-type: none"> <li>- community-based TLDs</li> </ul>

<b>Economic and social rights</b>	New gTLD programme	<ul style="list-style-type: none"> <li>- Application fees</li> <li>- Registrar accreditation process &amp; insurance requirements</li> <li>- GNSO new gTLD auctions proceeds drafting team</li> </ul>
	IP addresses	Coordination and distribution of IP addresses
<b>Privacy</b>	WHOIS	<p>Next generation gTLD registration directory service</p> <p>Registration Data Access Protocol (RDAP) changes and privacy</p> <p>Thick WHOIS Implementation Review Team</p> <p>WHOIS accuracy specification requirement</p> <p>Data escrow provider financial support</p>
	2013 Registrar Accreditation Agreement	Defined Conditions of Nondisclosure (DCND)
	Documentary Information Disclosure Policy (DIDP)	Implementation of DNSSEC
	DNSSEC	GNSO PDP improvements discussion group
	PDP procedure	PDP to review all RPMs in all gTLDs
<b>Right to security</b>	Rights protection mechanism	DIDP Requests
	Documentary Information Disclosure Policy (DIDP)	
	GAC early warning	Effect of failure and the use of the Ombudsman
	Reconsideration Request	
<b>Due process</b>		



	IRP Process	Effect of failure and the use of the Ombudsman
	All Dispute Resolution processes within ICANN	Need to ensure that parties know about Ombudsman for unfair process
<b>Gender/Race/ diversity issues</b>	Protection of rights to fair and equal treatment	Awareness of Ombudsman office for complaints

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# **Specific cases on ICANN's impact on Human Rights**

# Terms of Reference

The group is analyzing the following cases:

- New Rules under UDRP
- Name Collisions Management Framework
- Geographic Regions Review
- Rights Protection Mechanisms in All gTLDs

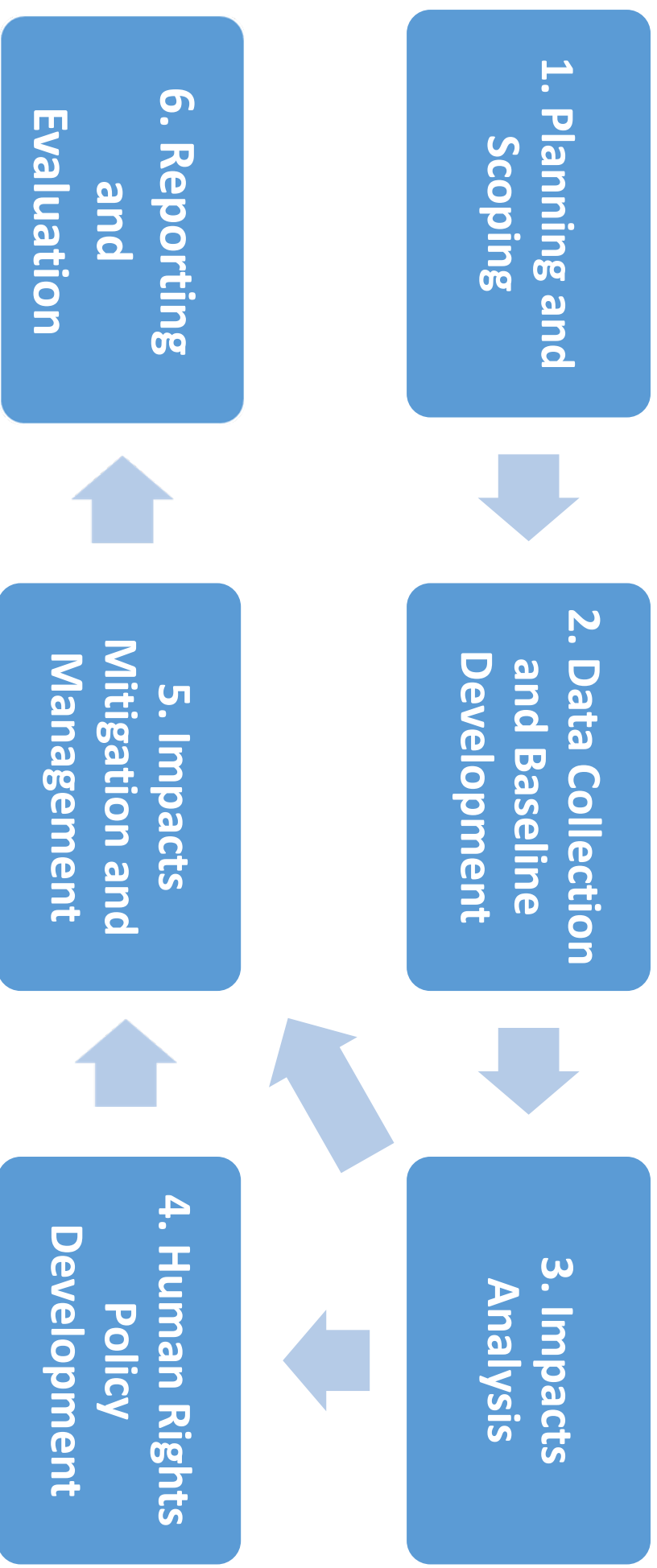
# Update

- **New UDRP rules:** Preliminary paper done, more detailed analysis underway.
- Freedom of expression, due process, appeals
- **Geographic Regions Review:** Right to participation, right to be represented, freedom of association, democratization of IG processes
- **RPM:** Mapping cases on issues of free speech, access to medicines, competition concerns and procedural fairness

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# A Human Rights Impact Assessment - process overview



# Phases 1 and 2 – Planning, Data Collection, and Baseline Development

## Phase 1

Summary of business activities and human rights context, using a questionnaire + Stakeholder identification

## Phase 2

Baseline report describing a status quo of human rights performance



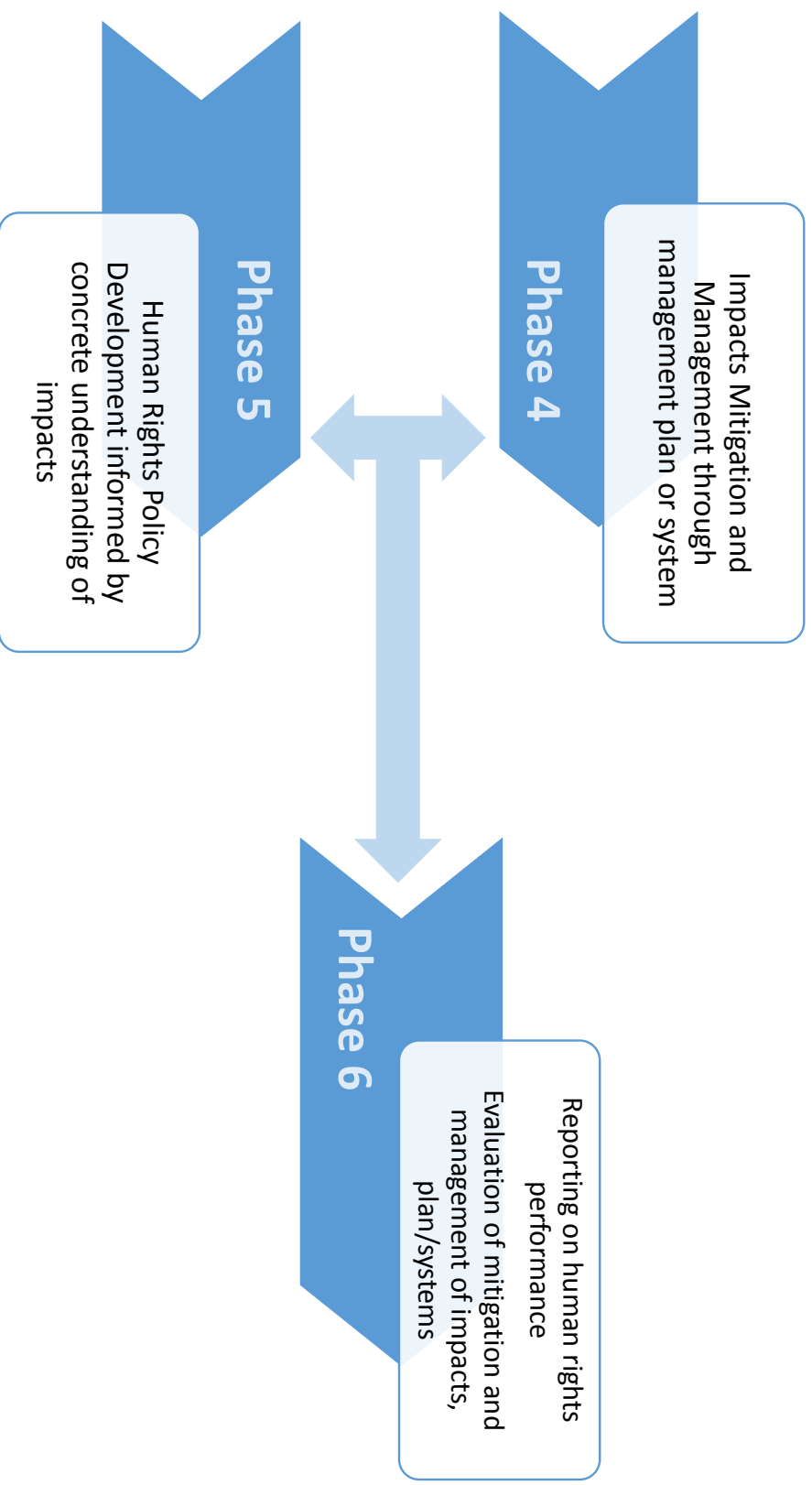
# Phase 3 – Impacts Assessment

## Phase 3

Focus on adverse human rights impacts by key functions through three scenarios:

- “Causation”
- “Contribution”
- “Direct Business Linkages”

# Phases 4 through 6



# For discussion

- Timeline and resources
- The role of the ICANN board, management, and the community
- The role of CCWP-HR
- The role of external human rights stakeholders and experts

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# CCWG-Accountability & Human rights

- Third Draft Proposal: Recommendation #6: Reaffirming ICANN's Commitment to respect internationally recognized Human Rights as it carries out its mission. Bylaw language+ transitional bylaw
- Public comments: no framework for interpretation, risk of litigation, risk of IPR, deadline for WS2 is too tight
- Final report: consensus language.

## Final report: Annex 06.

“Within its Core Values, ICANN will commit to respect internationally recognized Human Rights as required by applicable law. This provision does not create any additional obligation for ICANN to respond to or consider any complaint, request, or demand seeking the enforcement of Human Rights by ICANN.

This Bylaw provision will not enter into force until (1) a Framework of Interpretation for Human Rights (FOI-HR) is developed by the CCWG Accountability as a consensus recommendation in Work Stream 2 (including Chartering Organizations’ approval) and (2) the FOI-HR is approved by the ICANN Board using the same process and criteria it has committed to use to consider the Work Stream 1 recommendations.”

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