
DUBLIN – GAC Human Rights and International Law
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UNKNOWN SPEAKER: ...and it's something that has been taking up by governments in different shapes and forms. And so I just wanted to mention that. Also that the guiding principles are getting more and more influential vis a vis business. And that ICT sector companies are increasingly taking up the guiding principles. We can come back to that. The next slide please.

So you already heard about the corporate responsibility to respect human rights, that's pillar two. And basically it's about companies' responsibility to carry out due diligence to understand the human rights impacts, and to manage, to mitigate, compensate, and look at not just its own activities, but activities through its business relationships to understand human rights impacts throughout its own area of influence.

And so, it's a complicated idea perhaps, but the way John [Ruggy] describes it is simply knowing and showing. Right? So companies have a responsibility to understand what it's doing. It needs to inquire. It needs to discuss. It needs to know. And then it needs to show. So that means communicating, that means reporting.

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And so this is the essence of the guiding principles as far as the corporate responsibility to respect human rights. And in that sense, it's a fairly straightforward idea. Of course, the implementation is not all that simple. The other thing that I need to stress is that while guiding principles say companies must implement all of the relevant human rights, that means the rights in the international bill of human rights, and the eight [IOL] conventions. At the same time, companies are allowed to prioritize because there are rights that are going to be impacted more severely than others, so you can prioritize in accordance with severity.

You can also prioritize in accordance with resources. So it's not about all of the rights today. You can sequence. You can prioritize. And in that sense, it's a very practical framework. The next slide please. So then the question is, why are these really relevant for ICANN? ICANN being a non-profit organization.

And we've had a lot of discussions around this issue, but in essence, ICANN seems like a hybrid corporation. You saw in the video, with the hand pointing both to the government and companies. You know, maybe ICANN does fit somewhere in between. Yeah? So it does have this characteristic of a business. It's managed like a business. It has significant business relationships, through registrars.

It can also influence Internet content. This might be a controversial statement, but in fact, by a choice of domain name, it can influence what goes inside the domain name. And as a result, it's a very influential player in the business world. And so, because the UN GPs are an authoritative source of business and human rights, because they're also taken up by ICT companies around the world, with very similar dilemmas in their operations.

And as ICT has expressed their priority rights that come into play as user's privacy and data protection issues, there are a lot of similarities with ICT companies. And in that sense, we think that ICANN is, that the UN GPs are actually a very appropriate reference point for ICANN. The next slide please.

And so, in essence, what this report recommends....

...this wonderful energy within ICANN to tackle many governance issues, of which human rights is one. There is also energy to tackle transparency issues, accountability issues. So I think what the community needs to do is to build on this momentum, and take a very consistent approach towards human rights.

That also means taking a very practical approach in carrying out perhaps, and starting very, in a very concrete area, such as understanding what the human rights impacts might be in a

policy development area, and to perhaps apply a fairly simple human rights review process to understand what the human rights impacts might be, to consult on those with global stakeholders, and to report out on the results of that application of the process, with a view to taking on more ambitious agendas, such as creating a human rights policy for overall ICANN operations.

And in order to do that, perhaps to carry out a human rights impact assessment across all of ICANN's operations, beyond the policy development area that I just talked about. Also looking into ICANN's CSRO, corporate responsibility strategy and reporting, as a lot of companies are starting to do, and also recognizing the importance of transparency reporting, that a lot of ICG companies are taking up and innovating, because when you have a dilemma the best remedy for the dilemma is to put it out in the public domain, to encourage a public debate.

And so, in conclusion, what this report recommends is for human rights discussions to be squarely integrated into ICANN's business discussion and business decision making process, alongside all of the discussion on values, alongside all of the discussions on risk management, ICANN's reputation, so that they are... Human rights decisions are not taken separate from business decisions, but as an integral part of business decisions,

because after all, that's what business and human rights framework is all about.

So with that, I will finish. Thank you very much. And over to you.

MARK CARVELL:

Thank you very much. That's extremely informative presentation both on the cross community working party and this important publication, which sets out a kind of agenda and the long term approach to work within ICANN to ensure, as you say, full respect for human rights issues in all ICANN's process and policy development and decisions.

And we always envisioned for the GAC working group on human rights and international law, that we have some close working with the cross community working party. That's one of our objectives, really, to compliment and contribute to the cross community working party, and to be informed about what you're doing in that working party, and identify how we in fact, can assist with that and contribute from the government's perspective in particular.

So there is a great deal of seam setting there, which I think is very helpful. And that brings me on to the... We haven't got time to discuss your paper now. That's clearly the case. We will... As members of the working group, we will certainly take

the paper away and read it with great interest. And we can keep in contact on the proposals and recommendations for roadmap and so on, and practicalities of the work over the course of the coming months.

I'm sure the membership of the GAC working group will want to contribute to that, and exchange views and so on. So this brings me on to the terms of reference for our group, the working group. A draft was circulated. And before I start, I should explain that the working group now has three co-chairs. There is myself, Mark Carvell from the UK, and then to my left, Maria Castanon, Milagros Castanon, sorry, from Peru. We were the two originating co-chairs.

And then on my right, Jorge Cancio from Switzerland who has joined the leadership team for the GAC working group. We envisioned quite a lot of work, and there is going to be a sort of burden sharing exercise, and of course, the help from the members of the working group on that as well to cover the workload.

So let me come onto the terms of reference, which have been revised, a little bit tweaked. They comply with the template which was developed for the working group on public safety. So we've adjusted the approach for drafting the terms of reference in line with the GAC best practice, if you like, as demonstrated by

the public safety working group. And that's how we've approached the revision.

And we've also taken account of the comments that were made at the meeting in Buenos Aires. It's not our intention now to seek your agreement of these draft terms of reference, but what I would like to do is to propose that we could confirm a process for finalizing these terms of reference, in the near future, through written comments. What we might do now is just invite some initial major substantive comments on the text at this meeting.

But as I say, we haven't got much time, and everybody is desperate to go to lunch. So if anybody wants to signal any particular points now before we agree a written process for finalizing, I invite you to do so. Jorge or Milagros, did you want to say anything at this point? I sort of led off on everything, even though we are a democratic.

Okay, I invite, yeah, please, India, yes, thank you.

INDIA:

Thank you Chair. Thank you for the excellent presentation. It was very helpful in understanding as well as highlighting the importance of human rights and international law within ICANN. We would like to reiterate our commitment to actively

participate in the working group. We have one recommendation. We would like to include issues relating to intellectual property within the ICANN space, which might have an impact on human rights.

Additionally, we appreciate and strongly support the last bullet point under the areas of interest in the terms of reference, that is, issues related to the increase in the number of internationalized domain names, including multilingualism, and the promotion of cultural diversity. Thank you.

MARK CARVELL:

Thank you very much India. That's a very helpful comment. We certainly noted your point about rights, intellectual property rights, and your commitment to the group. That's extremely helpful to have on record, thank you. Does anybody else have any initial comments to make?

If not, what I would like to proceed quickly to do is to seek your agreement to the process of finalizing these draft terms of reference. They were made available fairly soon before this meeting in Dublin. So we're conscious that you might want time to consult with a new administrations and with stakeholders, quite possibly. And they do build on previous terms of references, not entirely new. We're not starting from scratch,

but then again, I'm conscious that you all wish to do some consultations.

And I have in mind a period of four weeks for inviting written comments on this, but I seek your views on whether that is acceptable and a sufficient period of time. That would be, take us up to 17, 18 November. And after that, we as a working group will then finalize that. The co-chairs will collect the comments and then we will put that out to the working group so that everybody is clear on who has commented and what comments had made, and then we'll start a process to adjust the terms of reference to taking out of the comments received.

Does anybody have any views on that kind of timeline, which in total, would take us into early December, as producing a final version of the terms of reference. Is everybody agreeable to that timeline? I don't see anybody raising their hand to object.

Okay. Yeah. If we're all agreed by non-objection, consensus based, that decision. Okay. Well we'll work on that basis then, and we'll confirm this timeline in a GAC communique. And then we'll initiate the process for the help of the GAC secretariat to set up and ensure the mail list is function so we'll receive your comments and so on.

Great, okay, good progress...

[Foreign language]

I was notified of two points. There was a cross community working party meeting this morning. I could invite a very brief report on that, if it's possible. And the other AOB item is, we're conscious, of course, of the CCWG accountability working party, number four, working on a possible bylaw change with regard to human rights. And Jorge, maybe you have...

So those are two AOB items. Does anybody else have any other AOB items so that we're clear what we're going to get through in the next five minutes? Yup, okay, Neil it's over to you, thanks.

NEIL:

Thank you very much. So this morning's session was very well attended, and we gave a much longer presentation about the report, which some very constructive points were brought up. And the main point was how can we ensure that this framework will fit ICANN's very particular nature. And that is something that we will be working on the coming time, and how we will concretely do that will be discussed during the session that we'll have at 5 o'clock.

I think that is pretty much our summary from this morning. Of course, there will be a transcript so you can also look at back there, and I will not take more time from your session.

MARK CARVELL: That's great. If anybody has a question, you have one minute. Jorge, yeah?

JORGE CANCIO: Thank you very much. And in fact, we would be very thankful for you keeping us up to date to that kind of work, because it's really important. We shouldn't duplicate efforts for sure. Thank you.

MARK CARVELL: Okay. So we go to the second AOB item, the CCWG accountability working party for the progress on that. [Inaudible] would you be able to update us? No doubt it has been moving quite fast in the last few days. Thank you.

UNKNOWN SPEAKER: Thank you very much. And Jorge, please add on to me because we're both in working party four. This issue was last discussed on sort of, let me take one step back. The working party four made a summary of the public comments made during the public comment period on the second draft report, that was sent to the CCWG. And after that it was discussed last Friday, where there seemed to be broad agreement on the text that was

suggested, that will not have reference to a particular document, but which will have a commitment for ICANN within its scope and mission, to respect internationally recognized human rights.

It was mentioned that the text might need a bit of refinement, but this option was definitely preferred by the working group, and I think we're almost there on reaching consensus. So issues are definitely converging there, and it seems that matters are going really constructively. Thank you.

MARK CARVELL:

Thank you. That's very good news that it's all heading in a positive direction to a hopefully speedy conclusion. So that's excellent, good news. Okay. We've gone through all of the agenda items. Milagros, did you want to say anything more?

Jorge anything? Anybody else? Lee?

LEE:

Thank you. Thank you Mark. Just to say that for those of you who are perhaps not aware, the Council of Europe, 47 member states, on the 3rd of June this year, agreed upon a declaration on ICANN human rights and the rule of law. From my perspective, it's a first time that we seen an international governmental

setting the reference to ICANN in a document which is agreed by so many countries together.

And that document scopes out the issue of human rights and rule of law in ICANN, and encourages member states to engage with ICANN in looking at the issues of corporate responsibility, policy statements, and due diligence mechanisms, etc. And invites, explores ways to insist the GAC actually, as well as the ICANN and its communities, in making arrangements to ensure that human rights and rule of law issues are considered, respected, or referred to in ICANN's policies and procedures.

So that's a clear mandate for the Council of Europe to go further and to assist you colleagues in the work of these different groups. Thank you.

MARK CARVELL:

Thank you very much Lee. And I'll be able to help secure that relationship with the Council of Europe, and advance the offer to assist the work of the GAC working group in the future, because I'll be in Strasburg as a member of the Bureau of the Council of Europe's steering committee on media and information society, which developed the declaration that you referred to. So the Bureau is meeting in early November and the full steering committee in Strasberg will meet in December, and I'll be at both of those meetings.

So that's very helpful. I'll be reporting to the Council of Europe accordingly on this, the work to date, and also the work of the cross community working party, I think it will be important to inform members of the Council of Europe, which is 48 states, 47, 47, 47 states. Okay. Thanks very much Lee.

Unless anybody has any final points, I think we can all go to lunch. And which everybody would agree, no doubt very pleased about. Okay, I draw the meeting to a close and look forward to our next physical meeting probably in Marrakesh. Yup, okay, many thanks for sparing your time, precious time during the lunch break to help us out here. It's much appreciated. Thank you.

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