ICANN85 Mumbai | CF – GNSO: NCSG Human Rights Townhall
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ANDREA GLANDON

Hello and welcome to the NCSG Human Rights Town Hall. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior, the ICANN Community Anti-Harassment Policy, and the ICANN Community Participant Code of Conduct Concerning Statements of Interest.

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RAFIK DAMMAK

Thanks, Andrea, and thanks to everyone who joined us for this meeting. It's listed as a NCSG meeting, but the most important word there and the title is Town Hall. So, the idea is really to have this session with the whole community to discuss about human rights in a format to allow more intervention and discussion.

And so, we are looking forward to the participation of everyone to join us in this dialogue. And with that, I will hand over to Farzaneh Badiei who will explain about the session agenda and how we will proceed for today. Farzaneh.

FARZANEH BADIEI

Thank you, Rafik. Hi, everybody, and welcome. This is an experimental town hall that we are planning to do every meeting. So, we thought that after the RDRS Human Rights Impact Assessment that we did last meeting, people said that why don't we do a Human Rights Town Hall so that we can talk about all the human rights issues that different members of the community think that need to be considered in the policy, in ICANN governance, and stuff like that.

So, we are implementing that suggestion. You see four topics on this slide, and we don't have speakers. Of course, Michaela and I are going to speak if you don't, but we don't have set speakers. So, we are relying on you to turn the mic on and tell us what sort of human rights issues you think are at stake that is not much talked about. And then, we just have these four blocks of 15 minutes each topic.

We don't have to go per topic, and if you think that there are some human rights things that we are not discussing, you can just raise them during one of these blocks. Especially during the DNS abuse and human rights safeguard, because we've discussed that, we had another session that was dedicated to it. I mean, of course, we can

discuss more. But if you feel that you want to talk about something else, that's quite okay, too.

So, let's go on to RDRS and registration data access. As we know, RDRS is the pilot project for triage of the disclosure request of registrants' private and sensitive data. ICANN has implemented this pilot project, and recently the Board directed the CEO to continue the program for another two years. There are human rights issues at stake with how we go about implementation of RDRS.

One thing is the authentication of law enforcement that we are discussing with the practitioner group here at PSWG. And we are also looking at how we can make RDRS itself more transparent through reporting, but also ideas such as how can you make the forum more informative about human rights. So, we can just go around and talk about our concerns and if there are concerns.

One thing that I have noticed is for the authentication, I believe that for authentication, the law enforcement and GAC believe that there is no need for another additional policy. This is what NCSG, while we think that authentication process should be done by law enforcement, we think that when it comes to the implementation of it in RDRS or any other system, then the reporting mechanism, bringing transparency, how to prevent abuse of the system has to be done through some kind of policy guidelines and stuff like that.

Now, without further ado, tell us what you think. Raise your hand. This community is very chatty when it comes to the public forum. Oh, my God. Okay.

NAOUM MENGOUDIS: Naoum, I'm from the Hellenic police.

FARZANEH BADIEI: Hello. Yeah, the police.

NAOUM MENGOUDIS: Regarding the policy that you mentioned, how would you imagine such a policy for the authentication mechanism? Because it's purely a technical thing, and of course, there will be some transparency on how it works and how it authenticates law enforcement.

And a frequently asked questions document is being compiled with all the questions we've heard so far to clarify everything and make it transparent, but I don't see the need for policy for just a technical issue. How it will be used, it's up to you. Of course, we are not obliged to disclose because it was done via an authenticated agent, but what's your thoughts?

FARZANEH BADIEI: Thank you. So, we are not so sure what sort of avenue we are going to take, but we need the RDRD to do more transparency reporting and we need it to be like more thematic as well. For example, what

sort of categories of crime is the disclosure request being based upon. And sometimes, you can, in some ways, if there was like a subpoena involved, it's good data points to have.

And another thing that we are thinking is to have structures in place to prevent abuse and abuse of the system. But of course, law enforcement itself has protocols and we know that, but the abuse of the system itself is something that we need to consider how we can…. and we might have to do some kind of like policy around that. Michaela, do you want to add anything?

NAOUM MENGOUDIS Can I take the floor? Thank you. So, it's Naoum again. So, it's not about the technical aspect of the authentication mechanism. It's just that we need full transparency, full logging of actions. For example, who made what request. You can try to ask the request on the statistics, like if it was via the authentication mechanism or if it was indirectly and the registrar did his own due process to verify if it was a law enforcement agent.

You can even have options to count how many subpoenas were attached or if it was an emergency waste. All of this, of course, they would help with transparency and we support that. But because I've been hearing specifically for the authentication mechanism, I think it's out of policy scope. So, let's maybe make this clear so we can move on with the details.

FARZANEH BADIEI

The technical aspect of it, yes. I don't feel comfortable saying that this is purely technical, but yes, the stuff that we are saying now is more about transparency and preventing abuse. Another thing is that also when it comes to authentication, the technical stuff, we have been discussing this, there are problems with authentication mechanisms, like they get hacked, and then there will be fraudulent requests that they pretend that they are law enforcement.

And that is also another thing that we need to think about. Because even very good, very well-sourced systems could get hacked and could have criminals pretend that they're law enforcement that have and try to request. But then the thing is that for this, for RDRS, I don't know how that would play out.

What I'm worried about is that the registrar just thinks that, okay, so this is authenticated law enforcement, it's an ICANN mechanism, and without doing any kind of due diligence, they just give the date. But yeah, your point is taken. We will take that back to NCSG and we'll see what sort of policy we want to wear.

RAFIK DAMMAK

Yeah, thanks, Farzaneh. I think we have maybe some people who want to speak from the room, but they are not in Zoom. So, let me double check.

WES HARDAKER

Sorry, I'm not in Zoom.

RAFIK DAMMAK Yes, please.

WES HARDAKER Sorry for not being in Zoom. I was sitting in the back of the room because I was planning on listening. But I did want to bring up one point. So, my name is Wes Hardaker. I am the board chair of the Data Protection and Privacy Committee caucus on the Board. One important element that if we're going to think about creating policy, and I'm all for policies that help human rights, that's certainly a big subject of mine as well, we do have to be careful thinking about how we're going to craft policies for different things.

Authentication is a very different topic than authorization. So, authentication means I get to prove who I am. And so right now, the state we're in is the RDRS system accepts requests saying I'm Wes and I'm part of the FBI or I'm part of Europol, right? There is no authentication.

So, adding an authentication mechanism allows you to achieve all of the goals that you're actually hoping for, because if you're wanting to do things like look at abuse, where too many requests are coming in from one organization, without authentication, I can come in and say I'm Wes from the FBI one day and Wes from Europol the other day and Wes from Antarctica another day, and you have no ability to track that.

And authentication does not mean authorization, which is the other thing that I think gets confusing in some of these dialogues. Authentication means that once that has been done, I can only be Wes from Antarctica and I can't pretend to be other things. Then you know who I am and you can make an informed decision as a registrar of, is that law enforcement agency actually have jurisdiction in my realm? Are they one that did come with a warrant too?

I think your notion of wanting to track things like warrants or the other magic word? It's the end of a week. I apologize, my vocabulary is just escaping my brain quickly. But when you want to track all that type of data, regardless of whether you want it to be more transparent or not, you have to have the information first.

So, I think authentication actually works generally in your benefit because it allows you to do that sort of human rights tracking and transparency that you so wish. Now, the current policies don't say because you're authenticated, you get access. That's not in there at all. It just allows the registrar to make a much more informed decision about whether they should grant access or not.

I would expect that the average registrar is not going to change their decisions because it's only giving them information about really being able to trust it. If anything, they may start denying some because now the person is no longer authenticated. Final point. I take great happiness in your desire to make sure that we have a secure authentication mechanism that is not subject to

spoofing or hacking or all that type of thing. There is no perfect system. I will argue that any authentication system is better than the hello, my name is Wes from Antarctica labels that we have right now, right?

Any authentication system will at least have a badge and a badge number or something like that to give more information, right? So, I'm going to go back and sit back in the room and listen at this point, but there's been a lot of confusion in this week around those separate categories. I just want to make sure when you're thinking about defining it, you keep clear roles into what the different mechanisms are that we need to talk about. Thank you.

RAFIK DAMMAK Thanks, Wes. Farzaneh, we have also someone else here in the queue, and I think Michaela after.

FARZANEH BADIEI Can I just say something briefly?

RAFIK DAMMAK Yes, yes.

FARZANEH BADIEI So, absolutely, we have been working with the practitioner group the past year because we are supportive of authentication of law enforcement time and time again. We think that it does bring more accountability. So, that is not, we are not saying do not

authenticate. But we also make that differentiation and we are very much aware that authentication is not authorization.

However, what NCSG has been concerned about, and we have said it before, is that not all the registrars are bound by doing fundamental rights balancing if they are not in a GDPR jurisdiction. There might be other jurisdictions that also require some kind of fundamental rights balancing.

So, when you see an authenticated law enforcement agency use the ICANN system, then if you're not really thinking about nothing obligates you or there is no best practice, then you might just as well just disclose it and say, okay, well, it was authenticated without doing that fundamental rights balancing.

Now, we are not saying that we want contractual obligation for that fundamental rights balancing, but we want the community to think about this, how can we encourage that standard? And there are some policies in the SSAD that talks a little bit. It doesn't directly say it, but sorry, I went on. Go ahead, Rafik.

RAFIK DAMMAK Okay, yeah. Thanks, Farzaneh.

ANDREW CAMPLING Thank you, Andrew Campling, not representing anyone. Obviously, I completely agree with the points about transparency, but also, as said around authentication and authorization. I guess the other side of that, looking at balance, is it will be fantastic if there was

also an expectation that the data, when it is accessed in an authorized, authenticated way, is complete and has been validated through proper, effective know-your-customer processes, because otherwise it's all pointless if what you get is not complete or not validated. It's almost not worth providing.

So, I think you need to look at it from a balanced point of view. If there is a potential crime, that the victims have got some opportunity for the person that perpetrated it being found. Thank you.

RAFIK DAMMAK Thank you. Okay, to manage the queue, so I think we'll go back to those in Zoom. So, Michaela, Fidya, and then we have someone here, and then we go back again to the queue in Zoom. Michaela, please go ahead.

MICHAELA SHAPIRO Thank you, Rafik. Michaela, for the record. I just wanted to come in on, I was really heartened by the comments from Wes relating to the distinction between authentication and authorization. It's really nice to hear that others are also resonating with that message and that it's something that we've been discussing for a while. And so, it's really great to hear that others are also latching on to that idea.

So, I really appreciate you bringing in that distinction, Wes. And I wanted to add as well, I think it's that piece, that distinction that

could help also with Naoum's question related to what should be the scope, or at least how I understood Naoum's question about what is within the scope of a policy development process versus what doesn't necessarily need a full, I guess, community input or a full, I guess, a bigger process than the development of the protocol itself.

So, my understanding, I'm also similar to Farzi, hesitant to say that the development of an authentication mechanism is purely technical. That's partly a philosophical question, but partly also where folks like myself who come in, we understand that it's really impossible to distinguish between, or I guess that it's impossible to say that something is just purely technical. That being said, it doesn't mean that the development of the protocol that does the authentication needs a full broad scope policy development process. I think my understanding is I don't think PDPs tend to develop technical protocols.

So, I wonder if there's an alternative mechanism that could work just so a working group or, for example, just having the SSAC or other kind of folks who are interested in that technical process who have the ability to provide more of a, have the expertise to be able to do that. Technical development, those folks are happy to, they can have their own thing, but separately, the policy development process, in my opinion, at least, and I would imagine the NCSG concurs is the question about transparency, what data is being

requested, what data is being utilized to make the decision around authentication.

And then, of course, there's a separate process of what does the registry or registrar do when they get that request and what questions should they be asking themselves. So, I hope that was coherent, but just wanted to reiterate, I thought Wes's comments really helped to find that bridge between where Naoum was coming from and where perhaps NCSG is coming in. Thanks.

RAFIK DAMMAK Thanks, Michaela. Fidya.

FIDYA SHABRINA Thank you. Fidya, for the record. Speaking on my personal capacity. Human rights is a very broad and complex topic. It's great that we have a few points here to just map out what is there on the plate. I would want to share a comment or probably also you can take it as a question if anyone would like to respond to that.

It's about the internet access in countries that are currently having conflict outbreaks, which probably these days are more countries or particular areas, and the government there might limit the internet access for avoiding misinformation or escalating the situation. For whatever reason that is, how should we look at it? Like, is limiting internet a good thing?

Because maybe like at times, people really need to reach out for whatever emergency that they're having. But at times also like

being cautious of the propaganda that anyone is able to put out there and anyone is able to consume. So, what would you say in terms of these days where conflict is more commonly occurring? Thank you.

RAFIK DAMMAK

Yeah, thanks, Fidya. I guess we can continue to take the comments and then go back to Farzaneh if he wants to respond. Yes, please go ahead.

TORSTEN KRAUSE

Hello, my name is Torsten Krause. I'm affiliated with the German Digital Opportunities Foundation. Thanks to Wes for clarification. And I would like to point out that we should also think about that this authentication mechanism is not just for law enforcement agencies. We have several other authorities in place.

They are also dealing with urgent and serious issues and also should have an access way, an entryway to the RDRS, also knowing that there is no guarantee that they get this information in the end, but to have a channel how to authenticate for other, for example, state media authorities or maybe also for such kind of trusted flaggers like IWF or something like that.

Secondly, I would like to underline or to agree what was mentioned before, that we also should have in place a kind of a scheme or a mechanism to distinguish between several kinds of crimes or something like that.

I'm concerned or I understand and I also appreciate arguments from actors who are saying that the disclosure of such personal data from persons who are striving for democracy, for women's rights, for some other issues in some countries can become under threats by state actors if such information is disclosed, but we have also crimes, for example, regarding child sexual abuse, even to children who cannot express themselves, who cannot come in and take their rights by their own, where it could be easier to decide to disclose this data so that law enforcement can handle and can strive for the right of the abused people.

And thirdly, I would like just to say thanks. Maybe it's not the right forward here, but that it seems to be that we have a solution for the handling of urgent requests in the timeline with 24 hours, even though we argue for a shorter time frame. But there is, in the end, everyone who's dealing with such an urgent request is not necessary to use all of the 24 hours so they can handle it faster. It would be appreciated. Thanks.

RAFIK DAMMAK Okay, thanks. So, we'll go with Michael, and I think we don't have anyone else in the queue, so we can maybe respond or comment.

MICHAEL GRAHAM Michael, not Michaela. Michael Graham, I'm with the IPC, and one thing I might note the other day in a session before the GAC in which Gabe and a representative from Interpol spoke, and my

understanding, and Wes, I'm not going to ask you to come back up, maybe just to confirm, but my understanding is that the Public Safety Working Group, in working through some models that they're working on, on authentication, have in mind and will keep in mind the human rights aspect of that and the protection of information. Yes, no?

WES HARDAKER I am not, unfortunately, familiar enough with that charter to answer. Greg, do you have an answer for that by chance?

GREG DIBIASE Sorry, can you repeat the question?

MICHAEL GRAHAM Basically, keeping in mind as the teams are working on some models for law enforcement agency authentication models, I know there are a couple of them that Gabe spoke of the other day, that in doing that, they are keeping in mind some of these human rights concerns that are being brought up.

And before that, I guess the other issue, which I think is a much knottier issue, that's K-N-O-T-T-Y, is transparency in the process and how far. The transparency in the process seems very good. Transparency in some of the information might not be that good and might threaten the human rights of others.

GREG DIBIASE

Yeah, I think the ultimate goal is transparency in the process of identifying the requester, right? It's identifying who this person is and that they are able to speak on behalf of this organization. And I think the next steps from that work are going to get more detail. After ICANN in the next coming months, we're going to have more detail about how we develop this authentication mechanism. But I don't think I have more details than that right now.

WES HARDAKER

I mean, I'll add a little bit. Regardless, so I'm a technologist, I'm an absolute geek, that's actually my job. I deal with authentication systems. I've helped debug them. I've helped write them. I would look at what the authentication mechanism is doing is how do you log in? And without being able to log in, you can't have an audit log.

You can't have transparency because you don't actually know who's doing what. So, to some extent, I don't think human rights consideration has a whole lot to do, and feel free to correct me when I'm wrong, with being able to log in to prove who you are. It has absolutely a lot to do with what data you can get to or other things or what types of requests you can make and whether you're abusing the system.

That's where I think human rights considerations comes in more. I will note that it becomes very tricky because if you prove that you are coming in from some agency and that agency is under the jurisdiction of the local area, it actually doesn't matter whether

you're using RDRS or not. The legal system will make those requests happen regardless of whether it goes through ICANN's RDRS or whether they go to the door and knock. They're going to get the information if they have the legal authority to do that.

But the authentication mechanism in ICANN, as I said before, actually helps you, I think. It allows you to know and allows you to log and allows you to implement that transparency. I'm not saying it's going to happen, that's not my role, but you can't get much transparency without an authentication mechanism.

RAFIK DAMMAK Okay, thanks. I suspect is not you Sebastien who is going to speak, or?

SEBASTIEN DUCOS No, actually, I raised my hand for my neighbor, but I would love to have a hand afterwards.

RAFIK DAMMAK Okay. Yeah, I think we can continue if it's okay with Farzaneh if she doesn't want to jump in or comment. Okay. Yeah, let's go ahead.

NAOUM MENGOUDIS Thank you. Naoum, I'm from the Hellenic Police. Regarding Michael's comment, as we said, the implementation is very technical. It doesn't have any human rights associated with it. But, for example, the Community Represent, which is the European law

enforcement agency altogether, not just the Hellenic Police, all law enforcement agencies, they have integrated human rights workflows.

For example, we are supervised by prosecutors, we cannot just issue requests lefts and rights, there has to be an official investigation opened, documented, audited, et cetera. So, this is the core part that the way the law enforcement will operate will be respectful to human rights via their workflow because authentication is just technical.

Plus, it helps with the transparency if we keep full transparent logs, it will help with the auditing for the human rights verification. And in answer to Michaela's comment about whether policy will be needed or not she thinks it's not clear yet, I suggest maybe we can just put it on ice for now and maybe let the system, when it is developed, we can let it run for a pilot period to see how the workflow goes and see what may need to be detailed by policy and et cetera. So, I don't think it's any use discussing it now.

RAFIK DAMMAK Okay, Sebastien, then Michaela. I'm not sure, Michael, is it an old or new hand?

SEBASTIEN DUCOS Michael's hand is a previous hand, right?

MICHAEL GRAHAM Yeah, it's an old hand.

SEBASTIEN DUCOS Okay. So, I wanted to make a point still to your point, Michael, and incompetent to Naoum's. If Europol has these search criteria, Interpol doesn't for example. Interpol is a is a global address book of law enforcement. It has no particular say on what the jurisdiction may consider as human right or not. And this is one of the big problems for registrars when those requests come transnationally.

You may well know that you have an authenticated person in front of you that is indeed authorizing their jurisdiction, but that jurisdiction has no power over what you're doing and may even request things that are illegal in your own.

ANUP KUMAR PRASAD I have a trailing question.

RAFIK DAMMAK Okay, just to keep the order. So, Michaela, then we go back to you. Michaela.

MICHAELA SHAPIRO Thank you. Michaela, for the record. Just very quickly to Naoum's comment. I agree that I don't think today there's much more to discuss, but I think that's because we don't actually have that

authentication mechanism before us, at least from my understanding, it's still in development.

So, what I would urge is we continue to have these conversations, continue to discuss, but prior to being deployed, it would be very helpful to have a discussion of the technical elements of how this will work, as there perhaps there might be gaps that we could perhaps help to fill in and building on the human rights procedures you already have in place.

And just one quick response to Wes as well just about the technical versus not, I just wanted to add that, or sorry, the human rights element versus not, I just wanted to add the fact that you're even considering who can log in, that there is a need for authentication mechanisms to prevent abuse of the system.

These are all elements that for us -- this is actually human rights and a human rights balancing act in and of itself, and we do completely agree that these are integral for having that transparency element there. So, thank you so much again for bringing that up.

RAFIK DAMMAK Thanks. Yes, please.

ANUP KUMAR PRASAD My name is Anup Kumar Prasad, for the record. So, my question is, if the authenticate person is compromised, shall it not violate the processes of MLAT, there are treaties, mutual legal assistance

treaty, that helps in communicating via the countries to seek information. So, does that help in this sense?

RAFIK DAMMAK: We don't have anyone else I think in the queue. Okay, we have now, but just before, Farzaneh wanted to intervene.

FARZANEH BADIEI: Yeah, so, actually, Naoum is the cop here in the room. He can tell you a little bit more about MLAT. But the feedback we have received is that MLAT is not a suitable mechanism for digital issues. But I'll let Naoum to continue. And by the way, we haven't decided that whether we agree with you on MLAT or not. It is a legitimate channel. Go ahead.

NAOUM MENGOUDIS: Thanks. Naoum again. Was the question that if MLAT is sufficient as an existing channel for this kind of request. Well, MLAT is the least quick channel of all. For example, for our cases, it may take up to two years to get back a reply, and sometimes we don't even get back a reply to the data that we requested.

Like we had a case that instead of giving us the registration information of the suspect, we got back the registration information of the victim of an account. Anyway, this legal scene is starting to change. For example, now with the evidence regulation of the European Union, it will be much quicker to directly make

requests and consider it within your jurisdiction, because until now the jurisdictional issues also are a problem.

Like, for example, an American-based registrar does not think that I have jurisdiction over some data that may be of an EU citizen. For example, this will change legally, like GDPR will change the scene, and also the evidence will change the scene too. But still, this back and forth, it's very time consuming if you need like immediate information for a botnet…

ANUP KUMAR PRASAD In case of cyber wars going between two countries, so how would the registrar deal with it from two different specific areas.

NAOUM MENGOUDIS In case of what?

ANUP KUMAR PRASAD Cyber warfare going on like what we have seen in the past.

NAOUM MENGOUDIS Like one country will do like malicious requests with malicious intent. It is up to the registrar's due process as we mentioned every time to see. Like, for example, they can receive a request from Hellenic police, they can have it in mind like were there any malicious requests in the past?

Like, is this like a good law enforcement agency? Because as I've been hearing around, there are some countries that are considered not that respectful of human rights. So, this all should be taken into account. But the authentication part at least makes contact so much quicker.

ANUP KUMAR PRASAD: If there are two geographic regions, like A and B, and they are having cyber warfare, I think we need to have someone C looking over the whole thing.

NAOUM MENGOUDIS: Yes, but I don't think this is up to the, I don't know, to ICANN. The registrar should be aware, like, for example, if one country asks for information, and the information, like the data owner belongs to another country or the data subject is another civilian, they should keep it in mind. But I don't how we can deal with it.

ANUP KUMAR PRASAD: I believe to the respective dignitaries here, I would propose for a DNS abuse grievance officer, that would be mutually agreed between the registrars.

NAOUM MENGOUDIS: But will he oversee like every request, like everything will be passed via him, I don't think it's feasible.

RAFIK DAMMAK

Yeah, thanks, and we appreciate the interaction, but let's see if there are other comments. I believe Sebastien who wants to intervene.

SEBASTIEN DUCOS

No, just quickly on this and many other points, it sounds because we're here at ICANN that ICANN would be a perfect body for that sort of, but there is absolutely no way ICANN as an organization is going to take that sort of responsibility in terms of liability or whatever. So, defaults being the registrars take their responsibilities individually. It's what we're living today.

RAFIK DAMMAK

Okay. Checking if there is anyone else in the queue who wants to speak here and in Zoom. We don't have any, so maybe Farzaneh, if you want to go through the other topics and let's get started a discussion.

FARZANEH BADIEI

Yeah, I actually want to address Fidya's question. Fidya, I think that your question was, what is the role of ICANN in internet shutdowns as we see them increasingly happening? When I was young, I got involved with ICANN 15 years ago, which was a long time ago, and then at the time, there was this division of labor, there's still a division of labor, that Internet Society and other organizations

would work on Internet connectivity. And [00:41:34 – inaudible] and ICANN would work on DNS stability. And this is my impression.

But I think that as we see increasingly shutdowns that hamper access to DNS and security and weakens the security and stability of the DNS. And I think that ICANN needs to start thinking about its role and how it can contribute to the conversation when shutdowns happen. One thing that happened, so when Taliban took over Afghanistan a few years ago, we did nothing. There was no program. We didn't know what was going on with their DNS.

We didn't have these conversations in a systematic way. Of course, the people at IANA, they work really hard and they really monitor the issues, but we didn't do more than that. But a few years after, when the Ukraine war happened, ICANN came up with this program called the Emergency Access. It's a program that organizations can apply and get some help for connectivity. But now, I am an emergency assistance program for continued internet access.

I am grateful that you're asking this question because I am originally Iranian, and we have been facing one of the longest internet shutdowns. And this is during a war when people are in need of access to information and the internet to keep themselves safe. But of course, an oppressive regime is an oppressive regime. And so, they shut down the internet, bringing various excuses.

And now, I believe that we need to rethink what we want to do in these situations, because we are not living in the time of peace. So, I think that we need to think about how we can help people and

network operators to keep the DNS stable, how to keep their domain names, because now they might not be able to. pay for their domain names and there are various blockings. I'm not saying that we should go outside of the mandate and mission of ICANN.

I always am an advocate for keeping the ICANN mission limited. Sorry, I went on and on. Another thing that I wanted to say is that the reason I'm still involved with this process and ICANN process is that the multi-stakeholder model at the end of the day works. When there was internet shutdown and it's ongoing, people could have some access to satellite internet.

And the Islamic Republic wrote a letter to ITU and said that we want ITU to make Starlink deactivate these terminals. And ITU in another ruling had said that, yes, Starlink should do that. This would have never happened in ICANN. If the Islamic Republic or any other government comes to ICANN and says that we want the domain names of people to be deleted or the root zone to be changed because our people are misusing it and terrorists are misusing it, ICANN would never do that.

And this is why it's so important to keep these organizations multi-stakeholder and non-governmental? Sorry, I went on and on. Thank you for that great question. I think that it makes us think, what can we do in times of crisis and conflict for everyone in the world to have access to essential services of the internet? Go ahead.

RAFIK DAMMAK Okay. Thanks, Farzaneh. Let's see if anyone want to give a try to respond or to comment or to intervene, we welcome anyone also in the audience, they can join us. Yes, Chris, please go ahead.

CHRIS BUCKRIDGE Thanks, Rafik. Chris Buckridge here for the record, ICANN Board, speaking personally, not speaking for the Board on this occasion. I want to say thank you, Farzi, for raising these issues. I know it was also a topic that we tried to get to in the session in the public forum this morning, and didn't.

We ran out of time, as we did with many other speakers, and that's something for us to consider in logistical fashion going forward. I think in relation to the assistance fund you mentioned, one important point is that it's a request that initiates that. And so, I think I would certainly encourage if there is specific uses that people can foresee for such funding in an emergency situation, a request is absolutely warranted.

And I think hopefully that website, the URL that I shared there will have information on how to proceed with that request. But I think that's a really important point to be aware of and to consider as you go forward. Thanks.

RAFIK DAMMAK Thanks, Chris. Yes, Bruna.

BRUNA SANTOS

Thanks, Rafik. Hi, everyone. Just replying to your point, Chris, I think like as Farzaneh said, we do appreciate these initiatives in general but also, NCSG plans to be more vocal about these issues, but at the same time I feel like this is a moment in time and in history where both ICANN Org and the Board could be more proactive in terms of addressing human rights violations around the globe.

And we're not asking you to go against any sort of like jurisdiction or member state and do anything like that. But it's kind of like basic requests perhaps for ICANN to advocate stronger for its multi-stakeholder model within ITU and other spaces, or perhaps for some amount within the grants program to be directed towards connectivity related programs like the ones trying to address internet shutdowns around the globe and so on.

And I just feel like maybe right now it seems like this is a new issue, but I feel like every single year we have the point about internet shutdowns being raised in public forums, whether it's in Sudan or places in the African continent having elections or anything like that, this is not a new issue, and I do believe that this could be a very strong points for ICANN to advocate about its own community, its long-term contribution to the technical and broader stability of the internet and having a concrete and specific investment towards connectivity could also work in that sense, like expanding from the

support for the community but also into like stronger investments towards connectivity especially in places facing shutdown.

So, maybe just adding concrete suggestions here and also thanking you guys for engaging with this topic, given that during the public forum we were not allowed to speak. Thanks a lot.

RAFIK DAMMAK Okay, thanks, Bruna. Okay, I don't see anyone else in the queue. I'm giving a chance if anyone wants to intervene. Okay, I think we can maybe go through other policy-related topics. Farzaneh, if you want to present the next.

FARZANEH BADIEI Yeah, absolutely. So, we have only 10 more minutes.

RAFIK DAMMAK I think more than 10, I believe.

FARZANEH BADIEI Oh, really?

ANDREA GLANDON 24 minutes.

FARZANEH BADIEI Oh, 24. This is the first time [00:50:56 – inaudible] we have more time. That's fantastic. Okay, great. So, I wanted to touch upon

something that was mentioned about urgent requests. Urgent requests, if they are too urgent and they make the registrar to make a quick decision, it could put the registrants at risk. And this is why we are very worried about it.

There was a public comment about urgent request, about the timeline, but also, they asked us for other stuff that what was our opinion. And there we also said that the policy for urgent request was a little bit vague. And the criteria and the definition, like, for example, critical infrastructure and stuff like that. And it could potentially put registrants at risk.

So, while we understand the need for urgent requests to happen, first of all, we think that law enforcement should be able to do urgent requests and nobody else. And then also another… I just lost the train of thought. Sorry, it's 4:37 a.m. here. I've been awake since last night. Okay. Yeah, but we are still discussing all this. And I see Sebastien's hand up, so I'm going to go down. I'm going to put a link to our public comment and all the discussion on urgent requests in chat.

RAFIK DAMMAK Okay, thanks, Farzaneh. And Sebastien.

SEBASTIEN DUCOS This is Sebastian Ducos again, for the record, speaking in my own capacity. About being open only to law enforcement or not, I think it was the point before that we may need to visit that. There are

some non-police agencies that may be deemed important enough to get access to the button.

The other point, and I've made this on the mic before, pressure put on registrars to answer things urgently when they don't have the capacity to assess what they're being asked tend to be no. And we need to watch that too that we're not creating a no machine that will make the registrars look bad but will make ICANN in general look bad. Let's not try to find a solution that looks like a solution just because we've promised one and turns out to be a no machine.

RAFIK DAMMAK Thanks, Sebastian. Anyone. Oh, yes, please.

TORSTEN KRAUSE It's Torsten again just for clarification. To add, other certain authorities was not pointed to urgent request, and also, there is no disagreement from my side to what Farzi and you mentioned. Thanks.

FARZANEH BADIEI Oh, that's great.

RAFIK DAMMAK Yes, Farzaneh.

FARZANH BADIEI That's really great that we agree because we always like to agree with child protection and safety people and they do great work, so that's great. Okay, Rafik, go ahead.

RAFIK DAMMAK No, I have nothing to say. I just was asking if you want to add something. And then we have Andrew in the queue. Please go ahead.

ANDREW CAMPLING Hi, Andrew Camping, still speaking for myself, but for transparency, I am a trustee of the Internet Watch Foundation, which looks for and takes down child sex abuse material. In the event we come across live activity, then I believe we would automatically refer that to law enforcement for them to pursue if it's a sort of a child safety issue so that would be quite consistent with the requests coming via law enforcement for an urgent request.

RAFIK DAMMAK Okay, thanks. Okay, so Farzaneh, do you want to develop about the other topics we have, what we have and we can see in the screen?

FARZANEH BADIEI Yeah, and how does the room feel like? At any point, anybody that sees that some kind of like human rights thing that they want to talk about? Is Avri there? And I did not succeed in getting Avri. She had a conflict, but she told me that she might be able to come in for

15 minutes. But If at any point you think that there are certain human rights considerations that we are not talking about, then please do take the mic. Otherwise, we can go to DNS abuse and human rights safeguard. We had a really good human rights impact assessment session on DNS abuse.

RAFIK DAMMAK Farzaneh, maybe we have one, someone wanted to intervene.

FARZANEH BADIEI Oh, okay. Go ahead.

ANUP KUMAR PRASAD For that record, my name is Anup Kumar Prasad. I just wish to know that how the digital human rights are being incorporated and if there is any new terms that can be incorporated with the human rights because there are new attacks that are evolving and that might not be even named or have been termed. So, how do the human rights of that victims are looked upon?

FARZANEH BADIEI Should I take the question or should we go to Michael and then after that?

RAFIK DAMMAK Yeah, you can respond quickly and then we can go to the next person.

FARZANEH BADIEI

So, basically what we do, and I would like Michaela, if she's available, to also cover this question. Basically, what we do is that we use UDHR as a framework. And we use other frameworks as well, but civil society has developed, for the past 15 years, 20 years, has developed human rights impact assessment frameworks, has worked on it, has looked at different conventions, what's applicable, how can you do these impact assessments.

So, we have a pretty robust human rights impact assessment framework that you can work within it to see how that framework can address the issues. And Article 19 is one of the organizations that has consistently been doing that, especially for internet infrastructure. And then there is another one, which is this Danish Business and Human Rights Center, that they have also developed that kind of standard human rights thing. But Michaela, would you like to add anything?

MICHAELA SHAPIRO

Hi, Michaela for the record. No, very little to add there. I mean, really just to say the idea is that while there may be new threat vectors, as you alluded to, the idea is that the types of questions that we would be asking the assessments that we're making, tend to still live within the kind of same framework. So, the idea is that they adapt and we adapt those.

You may still be asking the same questions, the answers might change, the precise nature of the response will vary. And if you wanted to set up a time after this, we're happy to share some of the resources that we've developed. We've done these sessions for a number of topics as Farzaneh mentioned across the years.

So, we have a lot of session recordings that you can listen to us drone on and on in detail about these kind of these topics and how they can be applied but if there's something specific that you think you're having some trouble seeing the link between how we do that kind of human rights balancing and the kind of questions that would be most applicable for that particular topic. I'm very happy to set up a time after this to speak in more detail or feel free to drop it in the chat and we can always bookmark it for a future session. Thank you.

MICHAEL GRAHAM

Thanks. Michael Graham, for the record. And I only bring this up because, Farzi, you brought up Avri's name, so I'm not using it in vain. But I have had a couple of conversations with her, and did right before this session, of the concern with looking at human rights with a narrow focus, where as noted, it is an extremely broad area. There are a lot of rights there. Personal rights to privacy, personal rights to avoid fraudulent activity, personal rights to property. And sometimes those rights may conflict with each other.

So, the issue becomes one in looking at not only as a general topic, but also how it's applied here at ICANN of the proportionality and how that's analyzed. And just putting this out there, Michaela, for future reference, one thing that Avri mentioned was perhaps we have a workshop on it and put together some hypotheticals and just discuss, not so much that we reach a conclusion or a rule, but so that we sensitize ourselves to the fact that anytime we are looking at human rights in our PDP processes and such, we are noting that there's a whole penumbra of rights that need to be considered together and not separately. Thanks.

ANUP KUMAR PRASAD Just adding to your hypothetical question.

RAFIK DAMMAK We have, I think, Andrew, then, yes. But before, Farzaneh wants to take the question and respond later.

FARZANEH BADIEI Yes, we actually have done several of those sessions with hypotheticals because we had this. So, the community was like, what do you mean human rights? How does that apply to us? And so, we did the first human rights, like when we just sat down and we talked through different scenarios.

Of course, it was about activists and journalists, and we can have another one of those sessions again. It can be just like human rights impact assessment. But I have to say that human rights

impact assessment is very holistic. So, you can look at different rights, and then see but what is the impact, what's the highest impact on which rights and what are the mitigation mechanisms.

The thing that we need to pay attention to is that if we are like doing, so for example, for DNS abuse and mitigation, we are combating in a way, I don't want to say that because it's not a technical thing, but we are combating the phishing and malware and stuff like that, which contributes to the health of the internet and the DNS, and it could protect some human rights.

But then another thing that we have to do some kind of balancing to see whether these mitigation mechanisms that we have, whether it is mechanisms that we have, they don't have disproportionate effect on other rights. So, I think there is room for improvement. The human rights check that ICANN has is an evolving framework.

And we have just started, the last one was Latin Diacritics, and for this DNS abuse, we are trying to just start from the beginning throughout the process, and it's upon the working group to decide how they want to apply and how to do it more holistically. So, sorry, I went on and on. Michael, I think you might want to say something on that. No?

MICHAEL GRAHAM No, I'm fine. In having this be foremost in the mind, I think it would be useful to have the discussion. I'll go back and look at some of

the previous sessions as well, because I want to ensure that if this ground has been covered, that we return to it by reference rather than going over old ground.

And I certainly don't want to do that. But insofar as it is, we have clearly made human rights part of the analysis, the human rights assessment, I think it is vital that in defining what that assessment covers, that we have this proportionality balancing, as you say, foremost in our mind.

RAFIK DAMMAK Thanks. Yes, Andrew.

ANDREW CAMPLING Thank you. Andrew Campling again, just agreeing with I think it was Michael. Yeah, sometimes it feels like because ICANN mainly deals with data, it's easy to focus on the right to privacy. And it occasionally feels like that's being given sort of overweight as a qualified right versus other human rights, particularly rights of victims as opposed to registrants.

So, it sounds like the rights assessment looks at both sides and proportionality and the trade-offs. So, that's encouraging because, as I say, it's easy to get distracted by the thing that we can control and lose sight of the potential or actual victims and their rights, which might be absolute rather than qualified rights. Thank you.

RAFIK DAMMAK Thank you. Yes, please.

ANUP KUMAR PRASAD So, with that trailing hypothetical question part, this hypothetical question arises from my viewpoint of seeing one of my states, Manipur, where the internet shutdown was for more than 200 days because of the ethnic violence kind of thing, and which has also affected the economic rights, the livelihood rights of many people out there.

So, when we see that we have only a holistic assessment of the human rights here, I believe we need to optimize it, we need to have the optimized assessment. So, the question is, if a local administration has curtailed the rights of any journalist or of any individual or of any group, by developing to a code that leaves the group or the individual in abeyance state, that means he has no other way to communicate with the world or to any constitutional offices, and only he has the internet to communicate with his offices and report the matters.

So, how the human rights safeguards take place here, and what are the whistleblower mechanisms out here? Two precise questions.

DIPAK PARMAR Dipak Parmar for the record. In Indian context, it's Article 19 of the Constitution, the right of freedom is there, but subject to restriction. And unfortunately, this may not be the forum where we have a power to decide on this issue when state comes in a picture.

ANUP KUMAR PRASAD

Not relevant to only state, but as a whole. So, what are the mechanisms how the human rights are safeguarded here? Not only with Article 19, but any officer or who looks after it or any internet ombudsperson or digital ombudsperson to look on this matter and to get reported.

RAFIK DAMMAK

Yeah, thanks. Just doing a time check. So, we have six minutes left and we are going maybe toward wrapping up this session. So, Farzaneh, if you want to respond or comment for what we heard as the last interventions, and if you want to elaborate on any points just in the way we can wrap for this session.

FARZANEH BADIEI

Yeah, so that is a really good point. And so, all the efforts that we are putting into this accountable law enforcement access is to prevent abuse of human rights. And access to domain names at ICANN is very important for the Non-Commercial Stakeholder Group. And as you said, there are internet shutdowns and people access to the internet, and domains could be hampered if there are law enforcement agencies that just want to take down a domain.

Especially in India, blocking and taking down a domain takes place a lot. There is a report on that, actually. But unfortunately, we don't have a solution for territorial issues, and that is one of the problems. But for the global domain name system, we are trying to

provide that standard, a human rights standard to be applied as globally as possible so that there can be some benchmark of human rights standard that hopefully we can commit to at least when it comes to the gTLDs. Yeah, that's it.

RAFIK DAMMAK Farzaneh, thanks. We have someone else in the queue.

İDIL KULA Hello, it's İdil for the record. I'm an ICANN Fellow for the second time. And since we are having this human rights town hall, I would like to speak about the fourth wave human rights. One of the fourth wave human rights is just to access to a proper environment and clean environments. And actually, it goes to more ecological rights.

And we are having impact assessments in order to have proper policy development processes. And we have some kind of good frameworks for human rights impact assessments. So, this is my question to our community as a general question. Like, don't you think that we can have more ecologically aligned impact assessment for the DNS infrastructure's impacts on ecology or in general entire infrastructure impacts on ecology because we are actually in a crisis, not from a political viewpoint but from a scientific point of view we have the data.

And I would like to open up the stage for your comments, any comments, and I would like to lead any initiative if you are willing to have any ideas in order to get the DNS infrastructure with the

green initiatives, with the carbon emission reporting, water consumption, energy consumption reporting, as well as any other resource management and pollution reduction initiatives.

So, the thing with the ecology is actually in human rights incidents, the harm is there. It is very easy to actually, it's easy to assign. I mean, you can speak on about, but when it comes to ecological harms, it is very hard to speak about them. And the harm is not calculated, to be honest. So, the harm is not going on state or registered.

So, the compensation will not be there when we need it, and if we don't start to calculate or measure our ecological impact regarding the entire infrastructure and operation, at the end of the day, we might be just like out of proper and continuous resilience of internet or whatever. Yeah, I would love to see any comments from the floor and from everyone. Thanks.

RAFIK DAMMAK Okay. Time check, we have two minutes, so if you will intervene to have really quite short. So, Juan and Tapani. Tapani.

TAPANI TARVAINEN Just very briefly. Look at greenicann.org. It's an NCSG driven old project for exactly this which has been kind of a slow but it's reawakening. People are gathering behind it. Have a look.

İDIL KULA Thanks.

RAFIK DAMMAK Thank you. Okay, Farzaneh, do you want to say a few words, and then I guess we can close the town hall for today.

FARZANEH BADIEI Yeah, I really wanted to go over the domain hijacking and UDRP review, but we are going to do these town halls as a staple meeting. So, hopefully we are going to cover them in the next meeting. Thank you very much for attending and paying attention.

RAFIK DAMMAK Thanks, Farzaneh. Thanks for everyone for attending this session and joining us for this discussion. As I said, we will try to have this on a regular basis and to hear also from the community. With that, let's close this meeting. Thanks.

ANDREA GLANDON Thank you. You can stop the recording.

**[END OF TRANSCRIPTION]**