

ARTICLE¹⁹

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CAN INTERNET PROTOCOLS AFFECT HUMAN RIGHTS?



Universal Declaration of Human Rights



Universal Declaration of Human Rights





WSIS > Tunis Agenda

42. We reaffirm our commitment to the **freedom to seek, receive, impart and use information**, in particular, for the creation, accumulation and dissemination of knowledge. We affirm that measures undertaken to ensure Internet stability and security, to fight cybercrime and to counter spam, must protect and respect the provisions for privacy and freedom of expression as contained in *the relevant parts* of the Universal Declaration of Human Rights and the Geneva Declaration of Principle

UN Human Rights Council 2012

- 1. Affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

UN General Assembly 2013

4. Calls upon all States:

- (a) To respect and protect the right to privacy, including in the context of digital communication;
- (b) To take measures
- (c) To review their procedures, practices and legislation

5. Establish Special Rapporteur Privacy



NETmundial

Human rights are universal as reflected in the *Universal Declaration of Human Rights* and that should underpin Internet governance principles.

Rights that people have offline must also be protected online, in accordance with international human rights legal obligations, including the *International Covenants on Civil and Political Rights* and *Economic, Social and Cultural Rights*, and the *Convention on the Rights of Persons with Disabilities*.

UN Special Rapporteur FoE

- 2015 report:

Governments should promote the use of strong encryption and protect anonymous expression online
- 2016 report:
- Intermediary liability
- Private entities should ensure the greatest possible transparency in their policies, standards and actions that implicate the freedom of expression and other fundamental rights.
- Private entities should also integrate commitments to freedom of expression into internal policymaking, product engineering, business development, staff training and other relevant internal processes.

Lawrence Lessig

Societal values

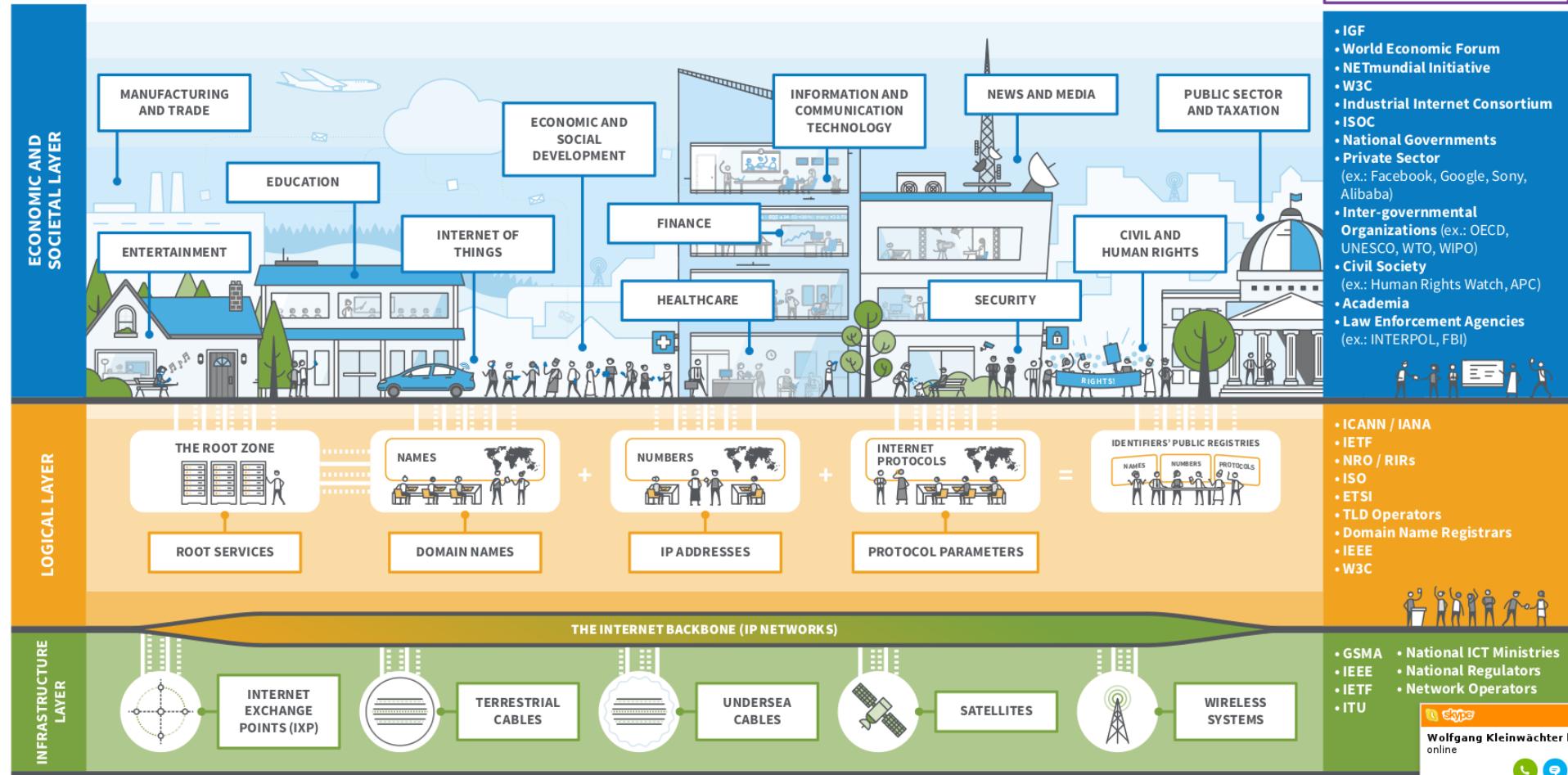
Architecture

Law

Market

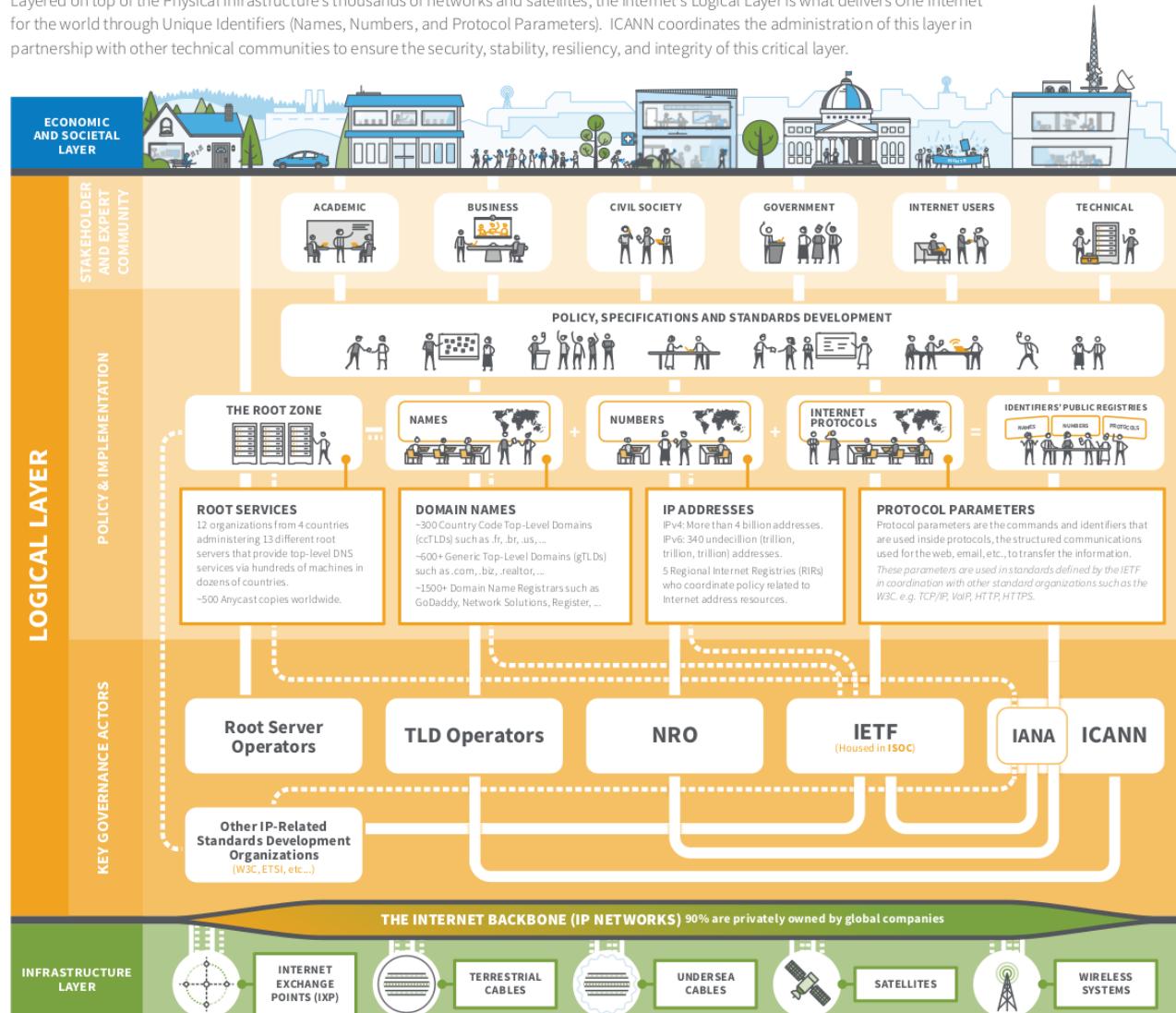
THE THREE LAYERS OF DIGITAL GOVERNANCE

No one person, government, organization, or company governs the digital space. Digital Governance may be stratified into the three layers depicted here: Infrastructure, Logical, Economic and Societal. Solutions to issues in each layer include policies, best practices, standards, specifications, and tools developed by the collaborations of stakeholders and experts from actors in business, government, academia, technical, and civil society. For a map of Digital Governance Issues and Solutions across all three layers, visit <https://map.netmundial.org>.



THE LOGICAL LAYER OF DIGITAL GOVERNANCE

Layered on top of the Physical Infrastructure's thousands of networks and satellites, the Internet's Logical Layer is what delivers One Internet for the world through Unique Identifiers (Names, Numbers, and Protocol Parameters). ICANN coordinates the administration of this layer in partnership with other technical communities to ensure the security, stability, resiliency, and integrity of this critical layer.



TECHNICAL OPERATIONS

The technical operating community is made up of multiple independent actors bound by common principles and mutual commitments that ensure the security and stability of the Internet Infrastructure. Each actor's community develops policies and standards in an open, inclusive, and consensus-based approach.

KEY GOVERNANCE ACTORS

ICANN *Internet Corporation for Assigned Names and Numbers*

Helps coordinate the Internet's systems of unique identifiers including domain names and IP addresses, as well as manages the IETF's protocol parameter registries.

www.icann.org

IANA, the Internet Assigned Numbers Authority, is a set of functions housed and operated within ICANN. It acts as the top-level allocator for blocks of IP addresses and AS numbers, proposes creation of and changes to DNS top-level domains, and manages lists of unique identifiers used in Internet protocols.

www.iana.org

IETF *Internet Engineering Task Force*

Develops and promotes a wide range of Internet standards dealing in particular with standards of the Internet protocol suite. Their technical documents influence the way people design, use, and manage the Internet. The IETF operates under the Internet Society (ISOC) with architectural oversight provided by the Internet Architecture Board (IAB).

www.ietf.org

ISO *International Organization for Standardization*

Standardizes, among many other things, the official names and postal codes of countries, dependent territories, special areas of geographic significance.

www.iso.org

NRO *Number Resource Organization*

A coordinating body for the five Regional Internet Registries (RIRs). The RIRs manage the distribution of IP addresses and Autonomous System Numbers in their regions of the world.

www.nro.net

AFRINIC www.afrinic.net
APNIC www.apnic.net
ARIN www.arin.net

LACNIC www.lacnic.net
RIPE NCC www.ripe.net

TLD Operators *Top Level Domain Operators*

Organizations which have been assigned the management of Top-Level Domains such as: Generic TLDs (.com, .edu, .info, .name etc...), Country Code TLDs (.fr, .us, .gh, .cn etc...) and non-ASCII alphabet TLDs (in language such as Chinese, Korean, Arabic, Russian, French etc...)—among others.

Root Server Operators

12 independent organisations operate the 13 authoritative name servers (A through M) that serve the Domain Name System (DNS) root zone. The name servers are a network of hundreds of physical servers located in many countries around the world.

www.root-servers.org

W3C

The World Wide Web Consortium (W3C) is an international community where Member organizations, a full-time staff, and the public work together to develop Web standards. W3C's mission is to lead the Web to its full potential.

www.w3.org

STAKEHOLDER AND EXPERT COMMUNITY

Academic

- Institutions of higher learning
- Academic thought leaders
- Professors & students

Business

- Private-sector companies from across industries
- Industry and trade associations

Civil Society

- International organizations
- Non-governmental organizations
- Non-profit organizations
- Think Tanks

Government

- National governments
- Distinct economies recognized in international fora
- Multinational governmental and treaty organizations
- Intergovernmental organizations
- Public authorities (with a direct interest in global Internet Governance)

Internet Users

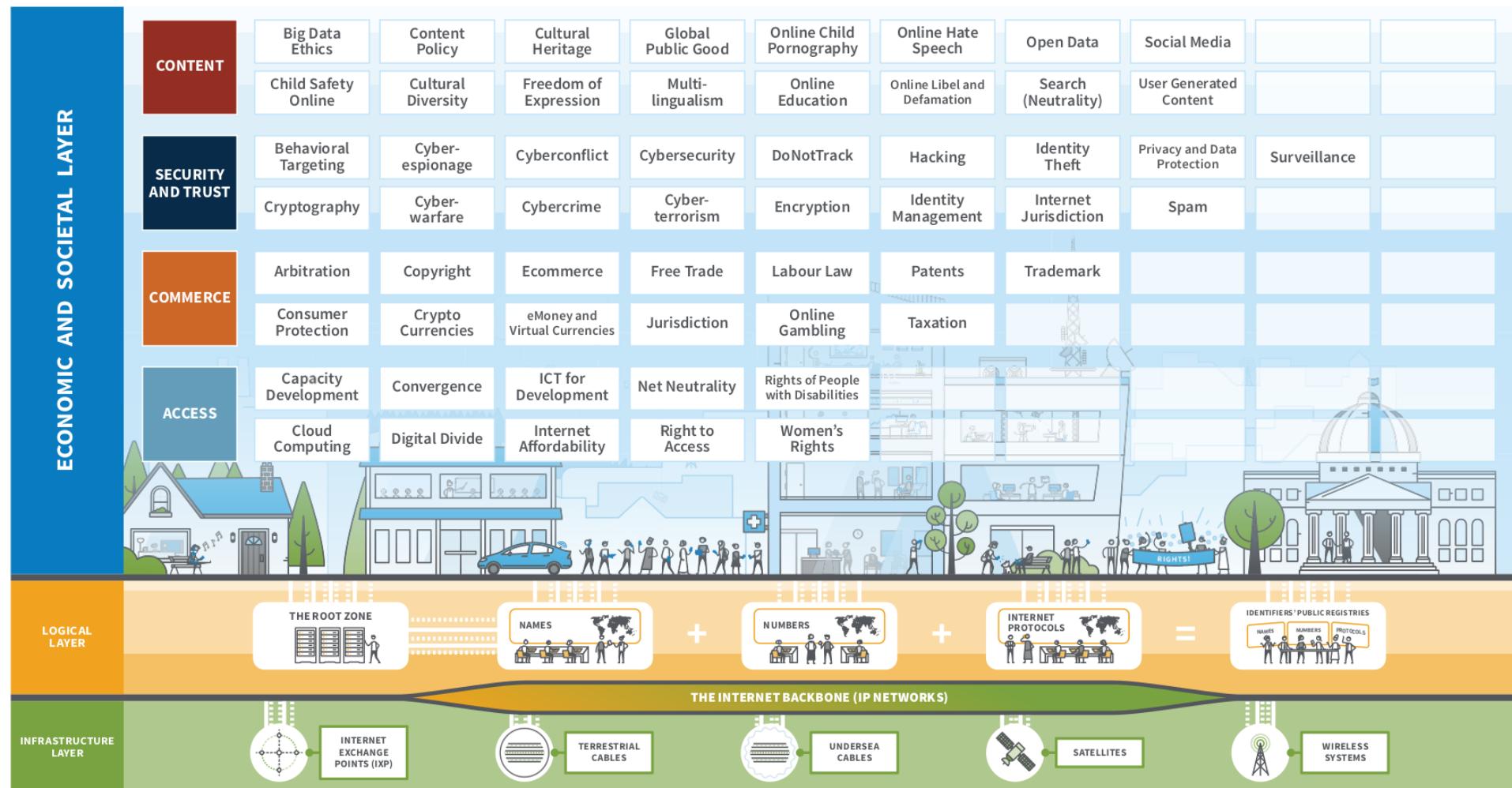
- Private citizens interested in regional or global Internet Governance

Technical

- Internet engineers
- Computer engineers
- Software developers
- Network operators

THE ECONOMIC AND SOCIETAL LAYER OF DIGITAL GOVERNANCE

No one institution is able to design, develop, and implement solutions for the many Economic and Societal issues. Solutions to these issues require distributed, innovative, and collaborative issue-specific networks, coalescing organizations, experts, and stakeholders from governments, international organizations, the private sector, the technical community, and civil society. Solutions include policies, standards, specifications, best practices, and tools.



Impact of Internet Protocols on Human Rights

Why

- Standards and protocols form the basis of the Internet.
- Internet is (often) a rights enabling infrastructure.
- Is there a correlation?

Why

- Standards and protocols form the basis of the Internet.
- Internet is (often) a rights impacting infrastructure.
- Is there a correlation?

RFC1958

- Many members of the Internet community would argue that there is no architecture, but only a tradition, which was not written down for the first 25 years (or at least not by the IAB). However, in very general terms, the community believes that:

the goal is connectivity,

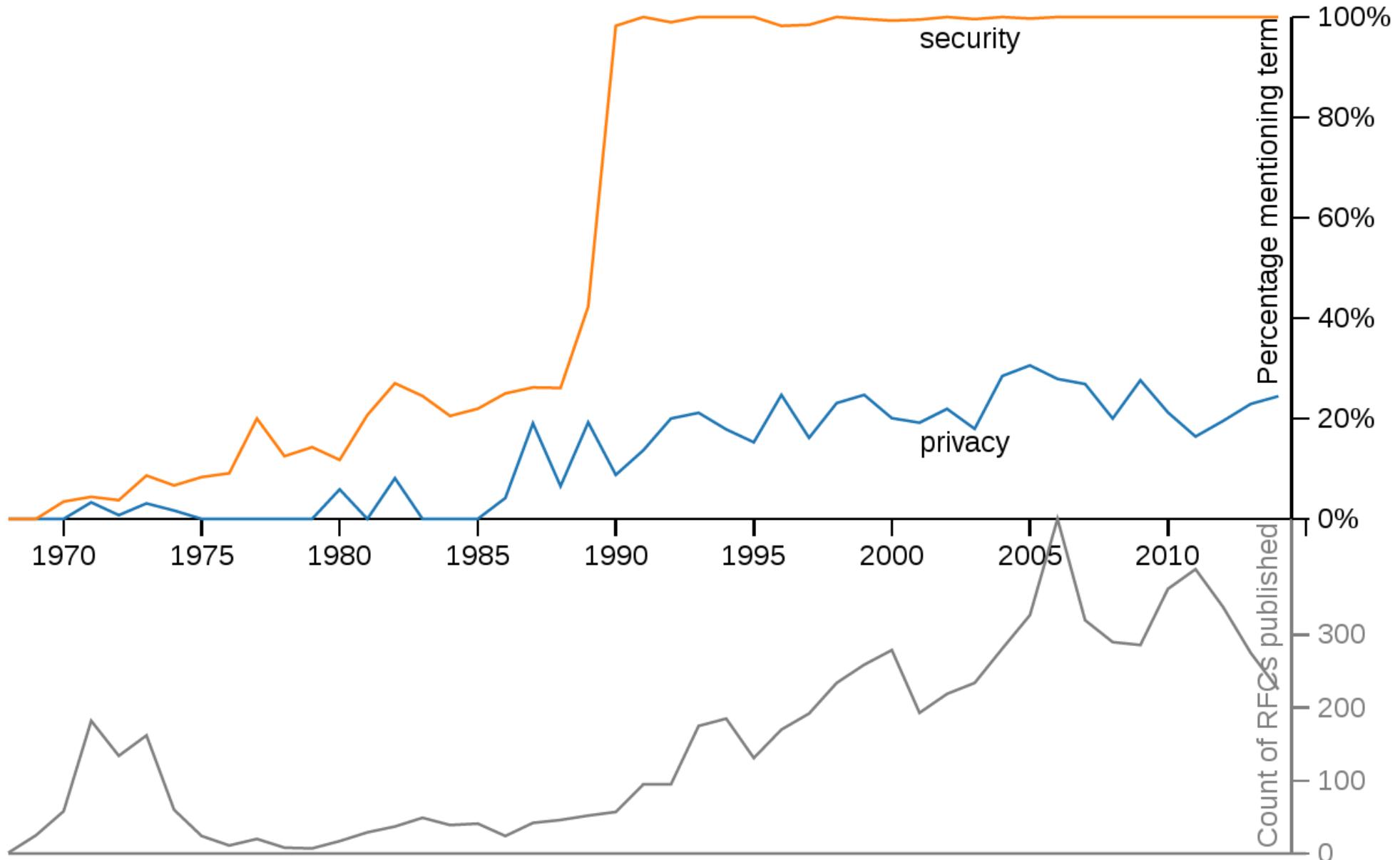
the tool is the Internet Protocol, and

the intelligence is end to end rather than hidden in the network. (emphasis added)

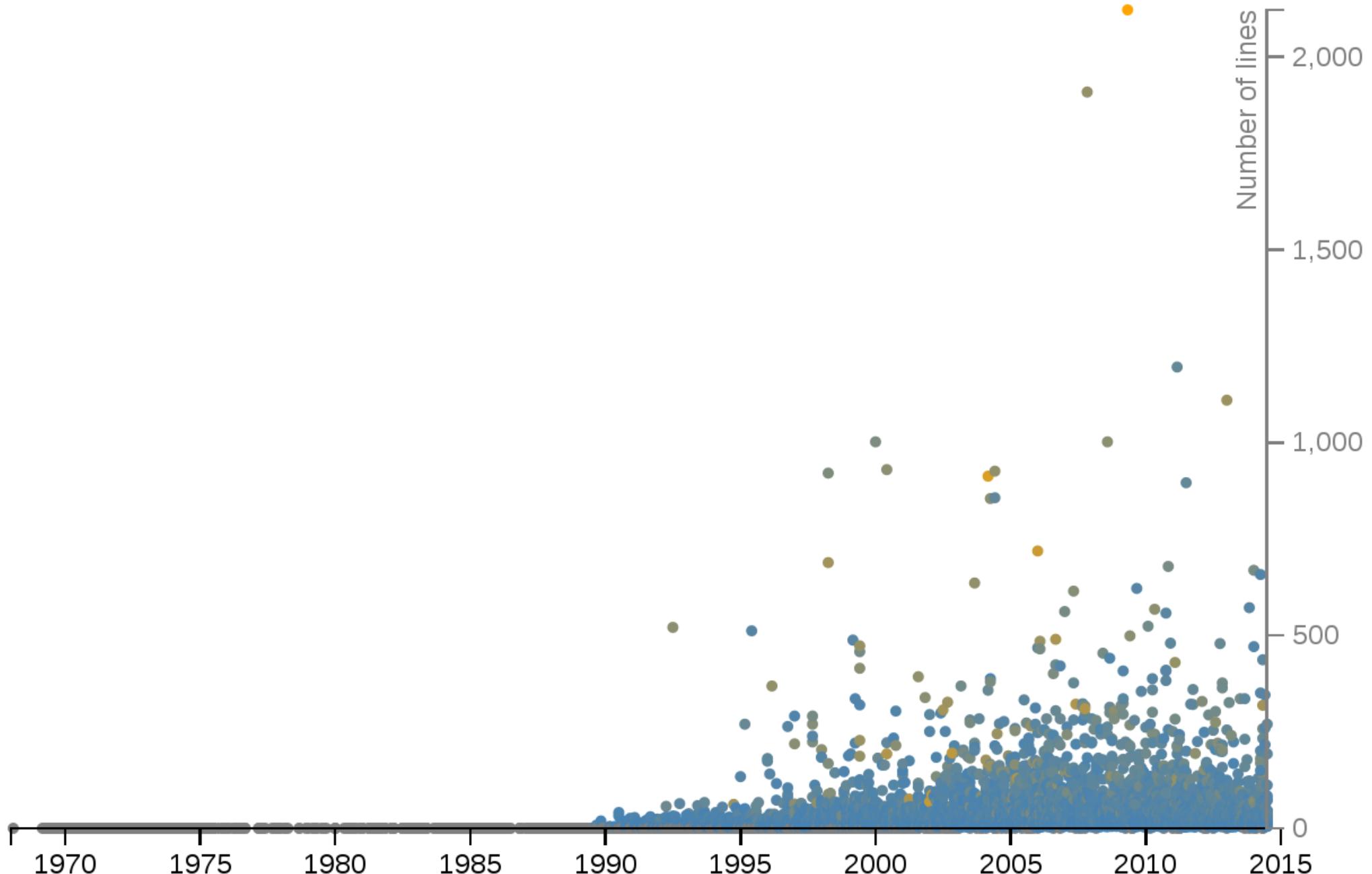
RFC3935

The Internet isn't value-neutral, and neither is the IETF. We want the Internet to be useful for communities that share our commitment to openness and fairness. We embrace technical concepts such as **decentralized control, edge-user empowerment and sharing of resources**, because those concepts resonate with the core values of the IETF community. These concepts have little to do with the technology that's possible, and much to do with the technology that we choose to create.

Increased work on security



Length of security considerations



Antecedents

- The entrypoint is RFC6973
Privacy Considerations for Internet Protocols
 - Offers guidance for developing privacy considerations for inclusion in protocol specifications.
 - Aims to make designers, implementers, and users of Internet protocols aware of privacy-related design choices.
 - Suggests that whether any individual RFC warrants a specific privacy considerations section will depend on the document's content.
 - Defines engineering terminology to describe
 - Entities
 - Data and Analysis
 - Identifiability
 - Builds on previous body of security analysis by recognizing the threats to privacy are security threats.
 - This research intends to do the same for Freedom of Expression and Freedom of Association

Human Rights Protocol Considerations

content agnosticism
connectivity
privacy
security
open standards

= *freedom of expression*

<p><i>interoperability</i></p> <p><i>resilience</i></p> <p><i>reliability</i></p> <p><i>robustness</i></p>	<p>= <i>connectivity</i></p>	
<p><i>resilience</i></p> <p><i>reliability</i></p> <p><i>confidentiality</i></p> <p><i>anonymity</i></p> <p><i>authenticity</i></p>	<p>= <i>security</i></p>	<p>= <i>freedom of expression</i></p>
<p><i>privacy</i></p> <p><i>content agnosticism</i></p> <p><i>open standards</i></p>		

interoperability
resilience
reliability
robustness

= *connectivity*

resilience
reliability
confidentiality
anonymity
authenticity

= *security*

privacy
content agnosticism
internationalization
censorship resistance
open standards
heretogeneity support

= *freedom of expression*

Right to Security

*reliability
confidentiality
integrity
authenticity
anonymity*

= right to security

Rights of Assembly and Association

*connectivity
decentralization
censorship resistance
pseudonomity
anonymity
security*

= right to *freedom of assembly and association*

Rights of participation in cultural life, arts & science

*open standards
localization
internationalization
censorship resistance*

= right to *participate in cultural life , arts and science*

Non discrimination, equal protection, presumed innocent & political participation

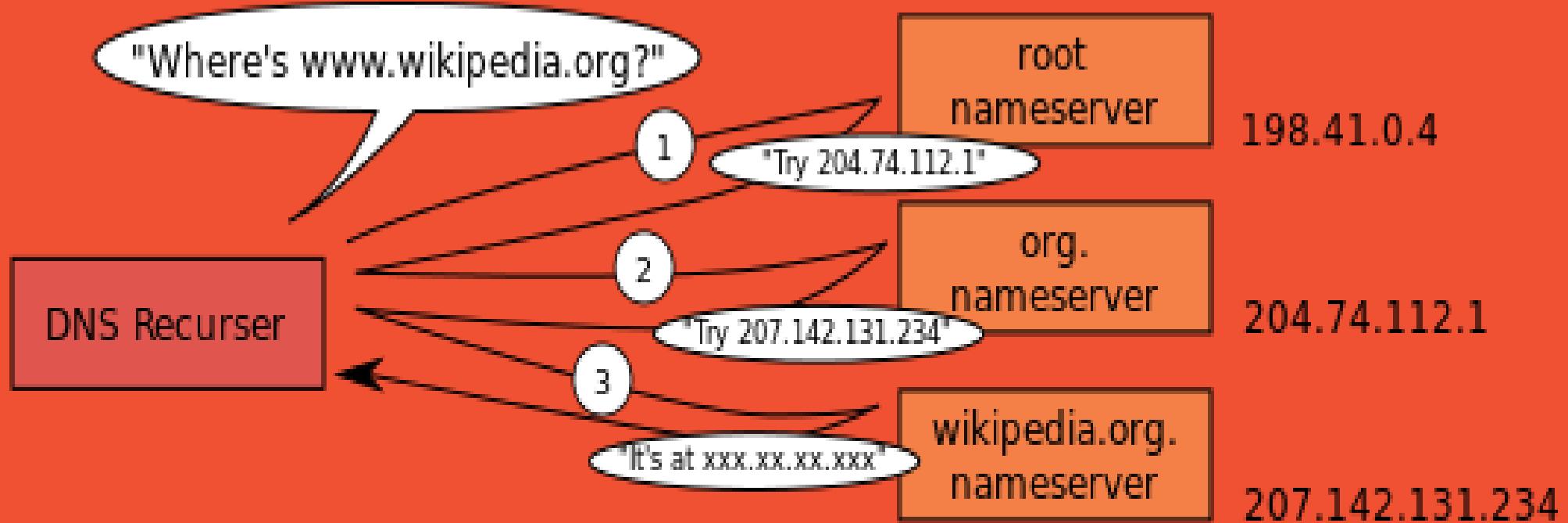
<i>anonymity</i>	
<i>privacy</i>	
<i>pseudonymity</i>	
<i>content agnosticism</i>	$= non-discrimination$
<i>content agnosticism</i>	
<i>security</i>	$= equal \ protection$
<i>anonymity</i>	
<i>privacy</i>	
<i>security</i>	$= \text{right to be presumed innocent}$
<i>accessibility</i>	
<i>internationalization</i>	
<i>censorship resistance</i>	$= \text{right to political participation}$

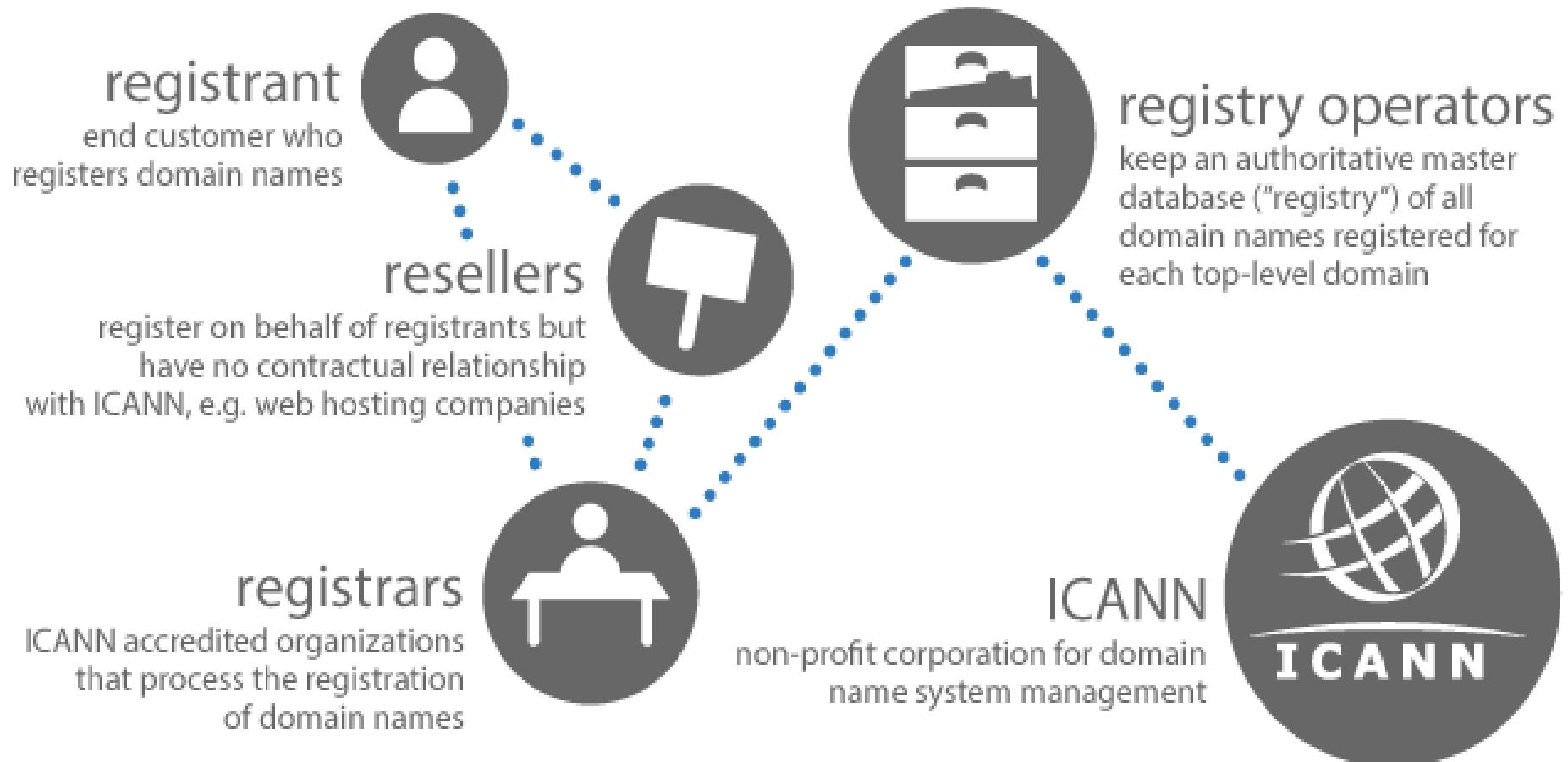
Balancing rights

- Security & Privacy
- Decentralization
- End-to-end vs middleboxes
- Design & Implementation

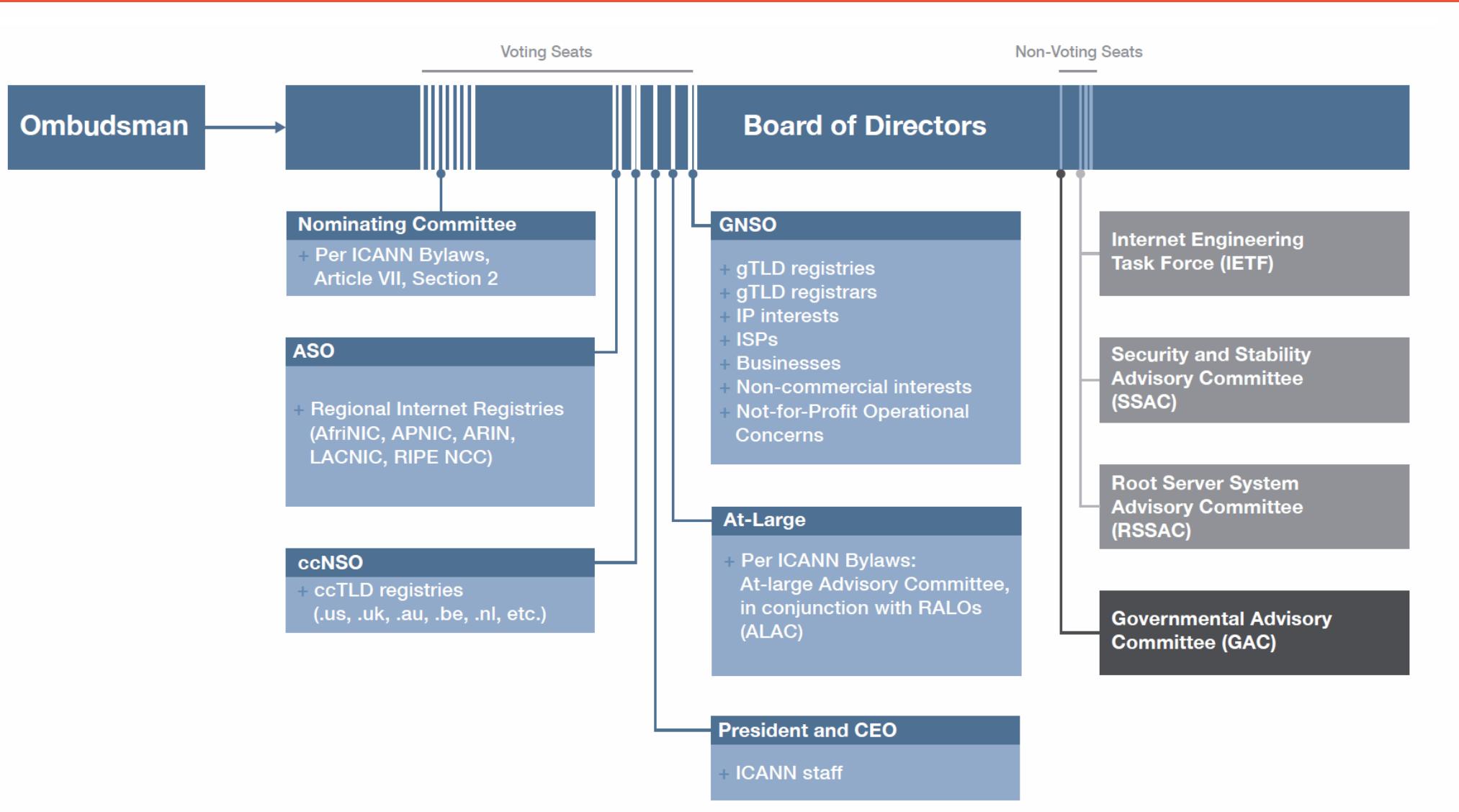


I CAN'T EVEN





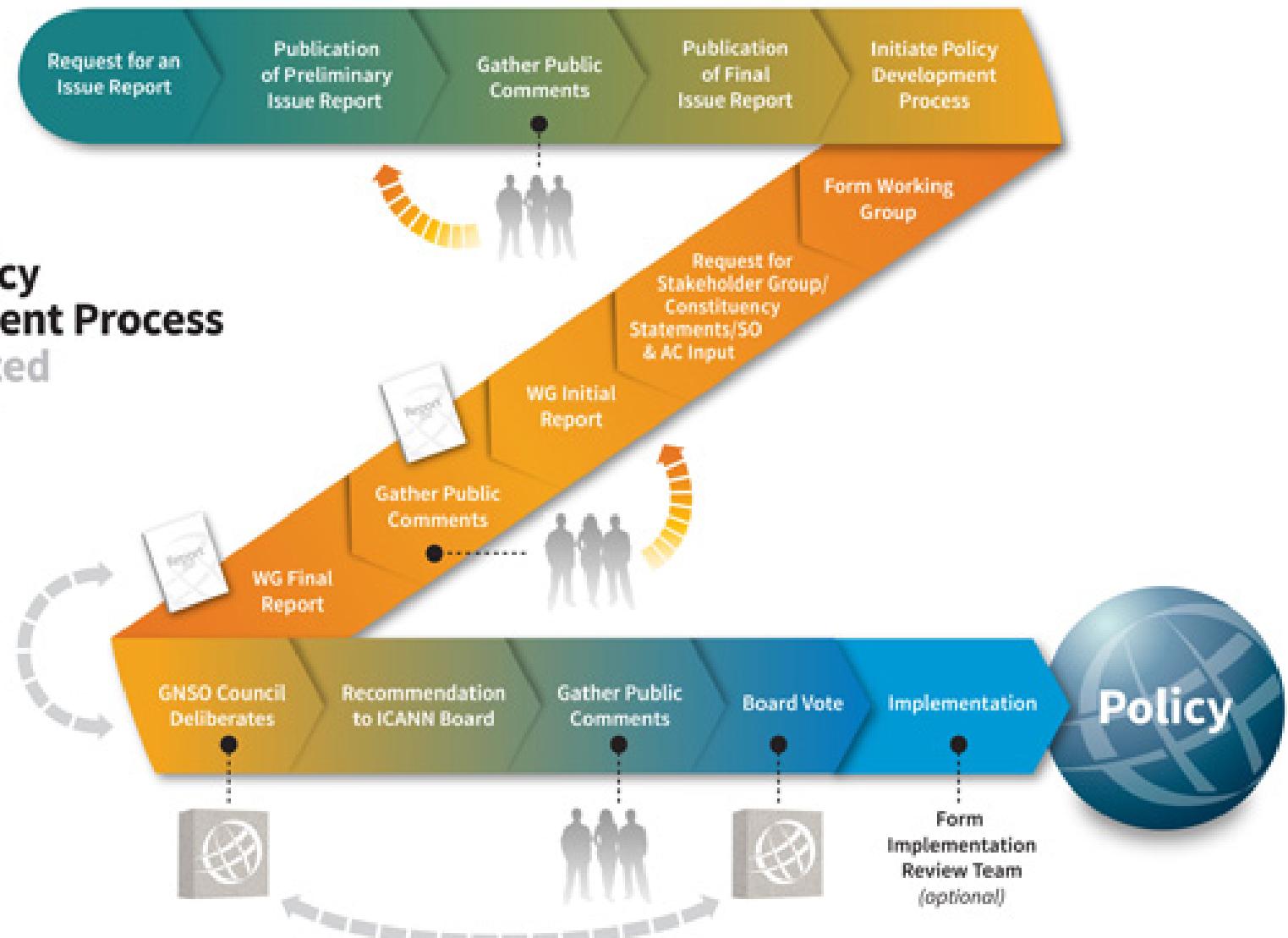
domain registry process



GNSO Policy Development Process

*Summarized

*Some steps omitted, for brevity.



Phase 1

Community Proposal



CCWG-Accountability Proposal

Phase 2

NTIA Review & Evaluation

4-5 Months



ICG Proposal and CCWG-Accountability WS1 Operationalization

Bylaw Changes Drafted

Bylaw Changes Adopted

Accountability WS2 Proposal Process

ICANN
54

*L-days:
Legislative Days

ICANN
56

Phase 3

Transfer of Stewardship



Finalize Implementation

Why?

"ICANN is bound to operate "for the benefit of the internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law"

- Article 4 of ICANN's Articles of Incorporation

ICANN's policies and operations have the potential to impact human rights

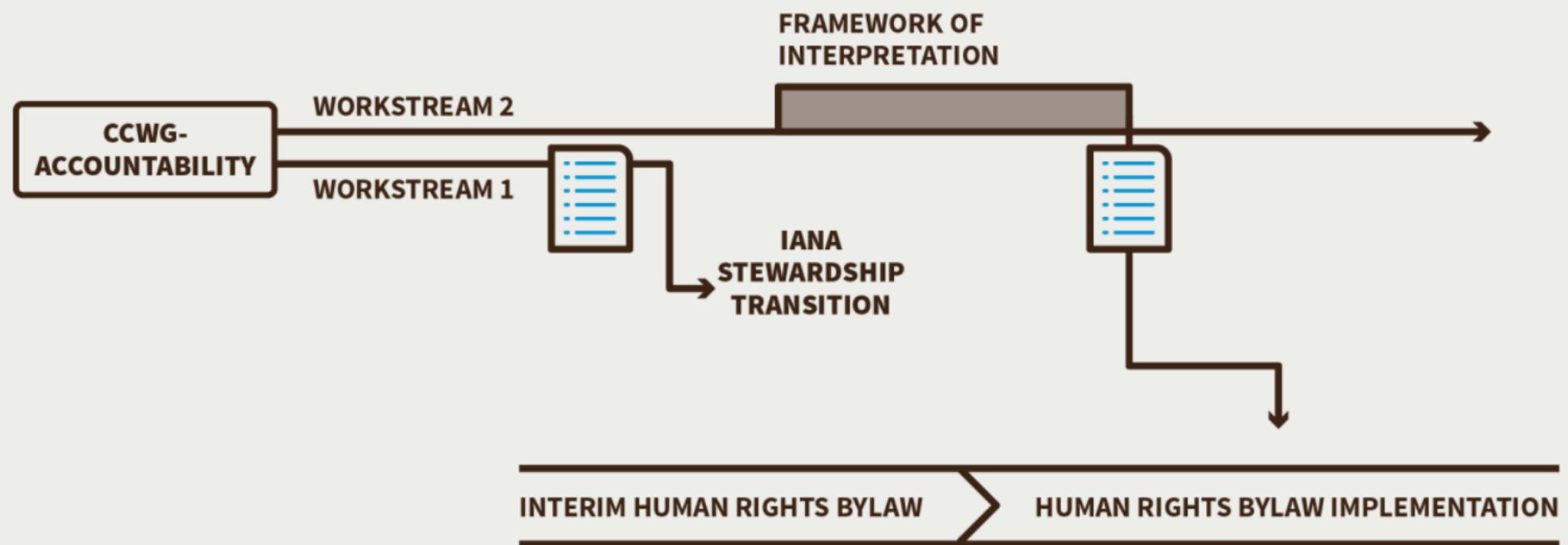
Human Rights Bylaw

Subject to the limitations set forth in Section 27.2, **within the scope of its Mission and other Core Values, respecting** internationally recognized human rights as required by ***applicable law***. This Core Value does not create, and shall not be interpreted to create, any obligation on ICANN outside its Mission, or beyond obligations found in applicable law. This Core Value does ***not obligate ICANN to enforce*** its human rights obligations, or the human rights obligations of other parties, against other parties.

a) The Core Value set forth in Section 1.2(b)(viii) shall have no force or effect

unless and until a framework of interpretation for human rights ("FOI-HR") is (I) approved for submission to the Board by the CCWG-Accountability as a consensus recommendation in Work Stream 2, with the CCWG Chartering Organizations having the role described in the CCWG-Accountability Charter, and (ii) approved by the Board, in each case, using the same process and criteria as for Work Stream 1 Recommendations.

(b) No person or entity shall be entitled to invoke the reconsideration process provided in Section 4.2, or the independent review process provided in Section 4.3, based solely on the inclusion of the Core Value set forth in Section 1.2(b)(viii) (i) until after the FOI-HR contemplated by Section 27.2(a) is in place or (ii) for actions of ICANN or the Board that occurred prior to the effectiveness of the FOI-HR.



ICANN

POLICIES AND HUMAN RIGHTS

ICANN

The Internet Corporation for Assigned Names and Numbers coordinates the policy making and distribution of domain names and IP numbers. It therefore is often dubbed as the 'telephone book of the Internet'.

ICANN GLOSSARY

DANE: DNS-based Authentication of Named Entities
DCND: Defined conditions of nondisclosure
DIRP: Documentary Information Disclosure Policy
DNSSEC: Domain Name System Security Extensions
GAC: Governmental Advisory Committee
GNSO: Generic Names Supporting Organization
gTLD: Generic top-level domain
IDNs: Internationalized Domain Names
IGOs: Inter-Governmental Organisations
INGOs: International Non-Governmental Organizations
IRP: Independent Review Panel
PDP: Policy Development Process
RDAP: Registration data access protocol
RPMs: Rights Protection Mechanism (as related to Intellectual Property Rights)
WHOIS: an Internet service that provides information about a domain name or IP address

Scoping the relation between ICANN and Human Rights

HUMAN RIGHTS PRINCIPLES

INHERENT: human rights derive from the humanity of each person.
UNIVERSAL: all human beings have the same human rights.
INALIENABLE: human rights cannot be given up.
INDIVISIBLE: there are no conflicts between rights and no priorities among rights. There will be situations or occasions where rights must be balanced and prudent decisions taken about how all rights can best be protected and promoted.
PARTICIPATION AND INCLUSION: all people have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being.
ACCOUNTABILITY AND RULE OF LAW: States and other duty-bearers are answerable for the

INTERDEPENDENT AND INTERRELATED: the enjoyment and fulfilment of any right depends on the enjoyment and fulfilment of other rights.

EQUALITY AND NON-DISCRIMINATION: all individuals are equal as human beings and by virtue of the inherent dignity of each human person.
RIGHT TO FREEDOM OF EXPRESSION: all people have the right to freedom of expression, including freedom to seek, receive and impart information and ideas through any media and regardless of frontiers.

RIGHT TO FREEDOM OF ASSOCIATION: all people have the right to form and to join trade unions, professional associations and other non-governmental organizations, and to participate in peaceful assemblies and processions.

RIGHT TO SECURITY: all people have the right to be free from fear and violence.

RIGHT TO DUE PROCESS: all people have the right to be treated fairly and equally under the law.

RIGHT TO PARTICIPATION, INCLUSION, EQUALITY AND NON-DISCRIMINATION: all people have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being.

RIGHTS INVOLVED

RIGHT TO PRIVACY
RIGHT TO FREEDOM OF ASSOCIATION
ECONOMIC, SOCIAL AND CULTURAL RIGHTS
RIGHT TO FREEDOM OF EXPRESSION
RIGHT TO SECURITY
PARTICIPATION, INCLUSION, EQUALITY AND NON-DISCRIMINATION
DUE PROCESS

observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in international human rights instruments.

Universal Declaration of Human Rights

Treaties

Guidelines

- International Covenant on Civil and Political Rights (ICCPR) 1966
- International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979
- Convention on the Rights of Persons with Disabilities (CRPD) 2006
- UN Guiding Principles on Business and Human Rights (2011)
- UN Global Compact (2000)

- Protect (states)
- Respect (non state actors)
- Remedy

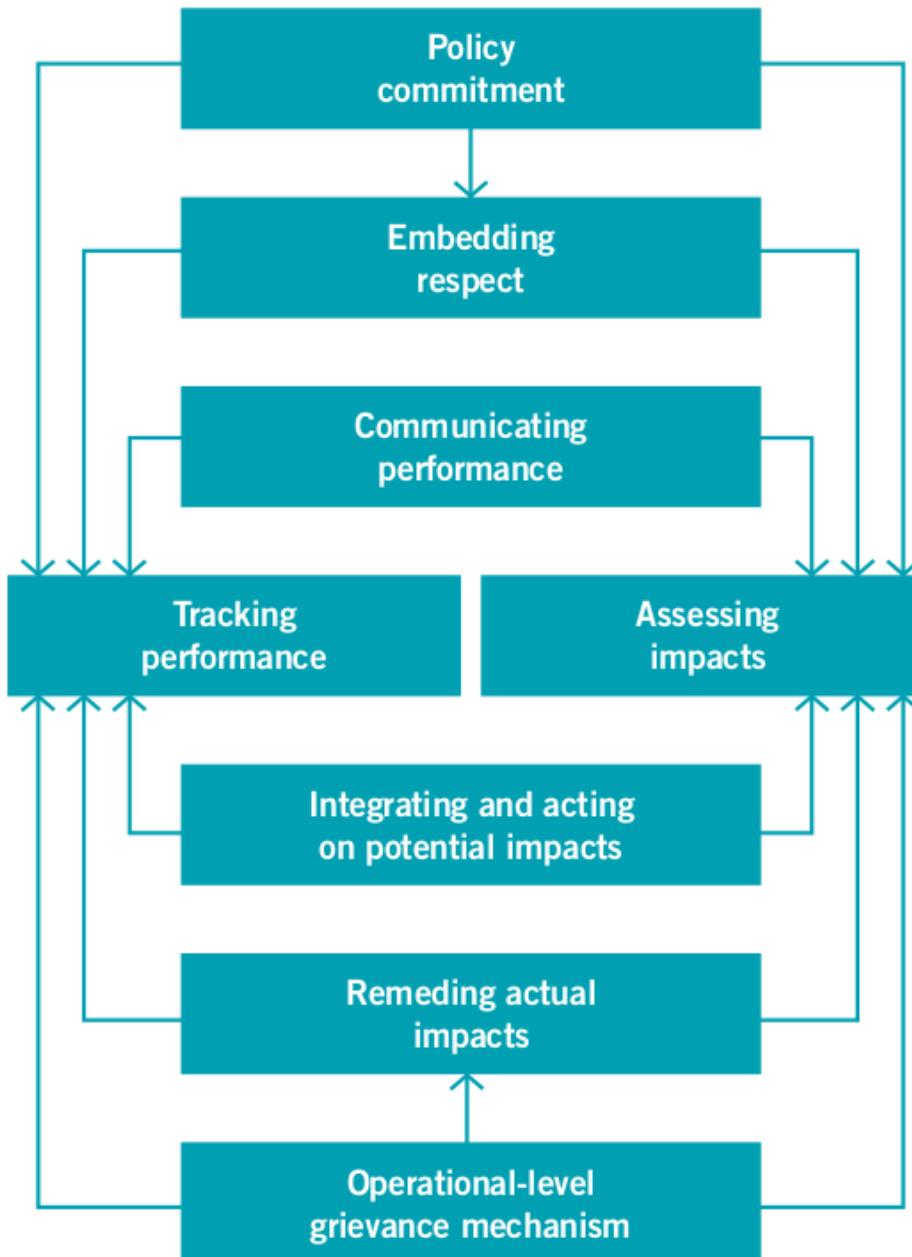
THEME

- | THEME | ICANN POLICY OR PROCESS |
|---------------------------------------------------------|---------------------------------------------------------------------|
| Documentary Information Disclosure Policy | Defined conditions of non-disclosure |
| 2014 Registrar Accreditation Agreement | Data escrow provider financial support |
| 2013 Registrar Accreditation Agreement | WHOIS accuracy specification requirement |
| WHOIS | Thick WHOIS implementation review team |
| New gTLD subsequent procedures WG | Next generation gTLD registration directory service |
| New gTLD subsequent procedures WG | RDAP changes and privacy |
| IP addresses | Applicant guidebook |
| Free and fair use of domain names | Community based TLD |
| New gTLD subsequent procedures WG | Application fees |
| Internationalized Domain Names | Registrar accreditation process & insurance requirements |
| Rights Protection Mechanisms | GNSO new gTLD auctions proceeds drafting team |
| DNSSEC | Coordination and distribution of IP addresses |
| Protection of rights to fair and equal treatment | The right to use all words and names in domain names |
| PDP procedure | Content-based gTLD String Evaluations |
| GAC early warning | Applicant guidebook |
| Reconsideration Request | Sensitive strings |
| IRP Process | Community based TLD |
| All Dispute Resolution processes within ICANN | Implementation of Internationalized Domain Names |
| Documentary Information Disclosure Policy | Review of protection IGO/NGO names in all gTLDs |
| | Review of curative rights protections in IGO/INGOs in gTLDs |
| | New gTLDs subsequent round WG |
| | PDP to review RPMs in all gTLDs |
| | Implementation of DNSSEC |
| | Implementation of DANE |
| | Awareness of Ombudsman office for complaint |
| | GNSO PDP improvements discussion group |
| | Effect of failure and the use of the Ombudsman |
| | Need to ensure that parties know about Ombudsman for unfair process |
| | Documentary Information Disclosure Policy requests |

Different Processes Ongoing

- GAC WG Human Rights and International Law – Government Working Group
- CCWG on Accountability WS2 – Human Rights Subgroup – Cross Community Design Team for Framework of Interpretation
- CCWP-HR – Informal discussion and research group on human rights

Key elements of the Corporate Responsibility to Respect



Step 1

- Create a human rights review process
- Review existing policy development process itself for human rights impacts and consider areas of improvement
- Apply the human rights review process on a pilot basis for ICANN's policy development process

Step 2

- Taking into account the results of the pilot, formalise the human rights review process for ICANN's policy development process
- With this input, consider a human rights policy statement in the context of policy development process

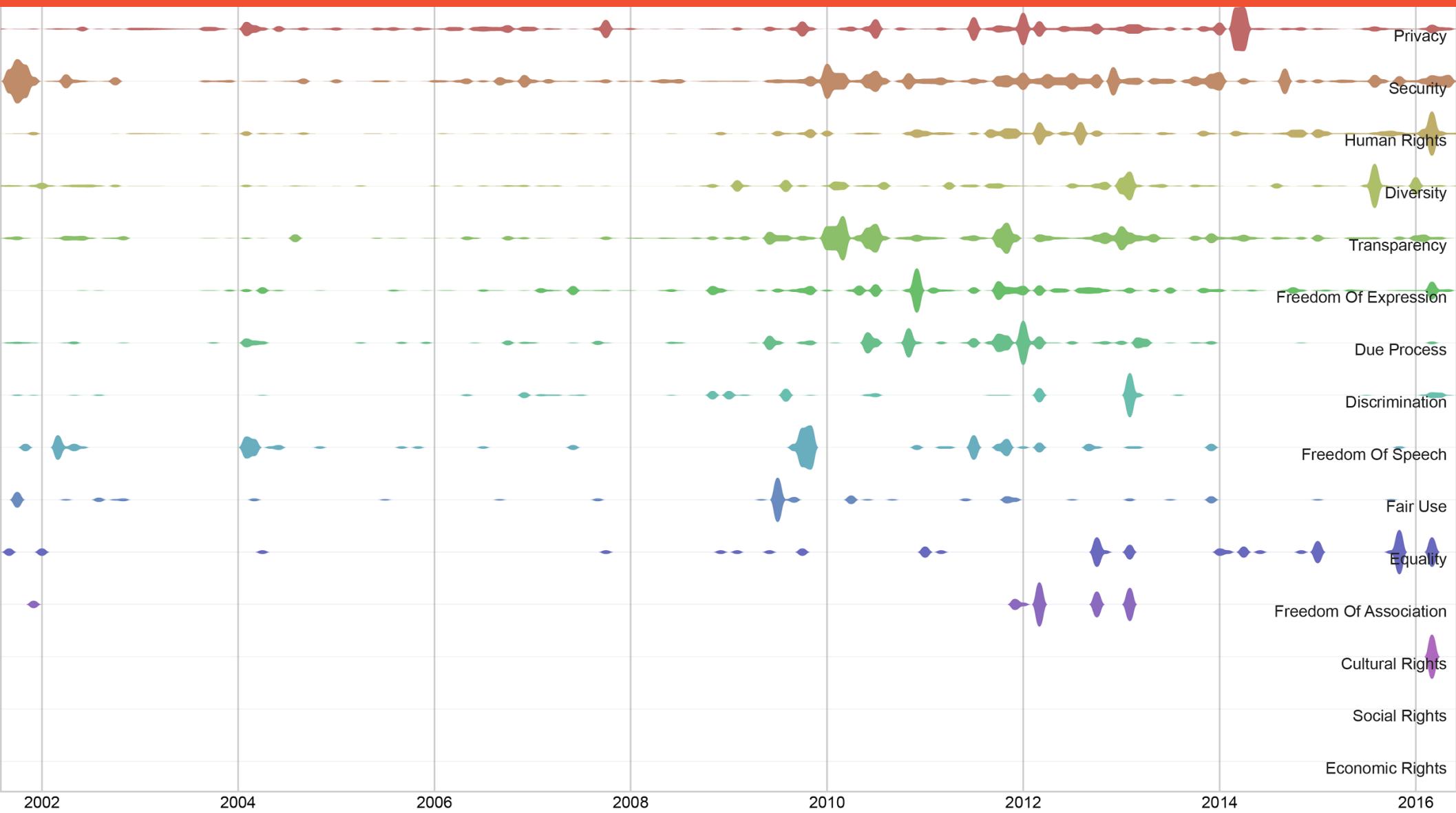
Step 3

- Consider carrying out an organisational level human rights impact assessment for the entire ICANN operations, in collaboration with external experts
- Consider an organisation-wide human rights policy statement, integrating the human rights policy for policy development process

Step 4

- Consider a CSP strategy
- Consider a CSR reporting

Never a dull moment



ICANN

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Scoping the relation between ICANN and Human Rights



RIGHTS INVOLVED



Join or follow the work

ICANN

Mailinglist: <https://mm.icann.org/mailman/listinfo/cc-humanrights>

Website: <http://www.icannhumanrights.net>

IETF

Mailinglist <https://www.irtf.org/mailman/listinfo/hrpc>

Website: <https://hrpc.io>

<https://irtf.org/hrpc>

Github <https://github.com/nllz/IRTF-HRPC>

References

IETF RFC Graphs are produced by Nick Doty
<https://npdoty.name/privacy-reviews/iwpe/>

ICANN Diagrams are produced by ICANN
www.icann.org

Social graphs and discourse analysis created by Niels ten Oever using <https://github.com/nllz/bigbang>

```
if write code(protocols):
    consider human rights implications
elif run internet infrastructure:
    respect human rights
elif engage in internet governance:
    build in human rights protections
else
    carry on and use FLOSS
```

