

Thank you Madame Chair,

Let me begin by thanking our cofacilitators from Jamaica and Australia who listened intently to our informal discussions over the past weeks with unwavering patience and poise, and who have made this proposal to plenary today. We recognize the very difficult position they are in to try to find convergence on these thorny issues. As this is our last time taking the floor, we would also like to thank you and the Secretariat for all your hard work, as always.

Madame Chair, separate from the tenacious work of our cofacilitators, Canada continues to have serious concerns with what we conclude is an overly broad scope of this treaty and its constituent components. Alarming, what we have seen over this session is a relentless push to expand the scope of this treaty and make its provisions broader and more ambiguous.

This is why Canada made a proposal in the informals on the scope of this treaty to carve off some very basic and fundamental conduct that, while states might criminalize domestically, is too open to abuse to come under our UN treaty. We note that this proposal was not included in the report back from the cofacilitators. We accept this; however, we will continue to consider how this essential proposal will be included in our Convention.

Madame Chair, what began several sessions ago as an opportunity for States to work together in cooperation to address core and defined crimes that continue to pose problems for all of us, has now evolved into what appears to be a general criminal Mutual Legal Assistance treaty which leaves it completely in the hands of any state to decide what conduct is a “crime” or “a serious crime”, and then opens up a menu of measures for states to crackdown on that conduct. We can find no other UN criminal justice treaty, or any treaty for that matter, that leaves it completely in the hands and whims of Member States to define the breadth and type of subject matter that comes under the scope of the instrument, in perpetuity.

This represents the potential, and indeed inevitability, for Orwellian reach and control by those states who will choose to abuse this instrument. Unfortunately, in our world today, we see no shortage of examples. Criticizing a leader, innocently dancing on social media, being born a certain way, or simply saying a single word, all far exceed the definition of serious crime in some States. These acts will all come under the scope of this UN treaty in the current draft.

Madame Chair, we have heard arguments that human rights and safeguards are already included in the draft. Our view is that, much like the criminal conduct itself, the current language on human rights permits every state to apply their own conception of human rights, a conception which includes criminalizing the offences I listed above. At the same time, the current safeguards in the text are essential, but they are mainly procedural. They focus on how States investigate and prosecute, but not the scope of “criminal” conduct under the treaty.

Other arguments we have heard are that countries can maintain strong grounds for refusal, that States will do these things anyway, and that any State’s conduct under this treaty is no one’s business but their own. Madame Chair, this is a UN Convention, and as such our responsibility is much bigger than ourselves, it is to the people in those places where there are no protections and where this treaty will be an unprecedented multilateral tool to extend the reach and collaboration of repression and persecution.

Madame Chair, the purposes for which the UN was founded include:

One: “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

and Two: to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”

It is inconsistent with our mandate at the UN to have one aspect that contradicts the other, to have a treaty that speaks on behalf of the UN but with a scope so broad that it obligates, condones and facilitates the domestic and international crackdown on an almost unbounded breadth of conduct. That is why Canada made our proposal and that is why we will continue to advocate for its inclusion going forward. As such, it is our plea that as we leave here, delegates and experts will look again at this treaty and our proposal, not solely from the domestic lens, but also with these broader but equally important concerns in mind.

Madame Chair, we remain very open to discussions with any delegation on our proposal and we look forward to further productive engagement on this issue in the intersessional period and during our next negotiation in the early New Year.

Thank you Madam Chair.