**C-Fam Statement during the Informal consultations of co-facilitators on 2020 treaty body review for States and civil society**

*Friday, 28 August 2020, Palais des Nations, Geneva*

Thank you,

It has been our hope for some time that UN member states would review the work of UN treaty bodies, not just with regard to considerations of functionality and resources, but also substantive output. As an organization primarily focused on the protection of life in the prenatal phase and the protection of the family we are especially alarmed by the lawless promotion of abortion and LGBT issues by UN treaty bodies.

We invite you all to read our written submission on this latest round of treaty body review on the OHCHR website, for further information. We only want to offer here some of our principal suggestions and comments.

First, it is essential for the credibility of the UN human rights system that the opinions expressed by UN human rights experts, and UN treaty bodies in particular, should be legally sound. They should never interfere in internal policy debates that are best left to democratic lawmaking. Nor should they adopt extravagant or expansive interpretations of human rights treaties

In this regard, even a cursory review of the substantive output of UN treaty bodies can only lead to the conclusion that UN treaty bodies are failing to deliver the high-quality legal work that is expected of them. Even the recent report of the U.S. Commission on Unalienable Rights lamented the poor quality of much of the output of the UN human rights system. This does not bode well for human rights.

To help rectify this, we believe it is essential for UN member states to develop a set of basic competence requirements for UN treaty body members and a process for member states to verify that such requirements are met. Requirements should include the ability of experts to interpret the text of treaties in a legally sound way, as they were adopted by UN member states, as well as a commitment to not attempt to impose new obligations on states that states never agreed to in the treaties.

Second, UN member states, as the principal architects and stakeholders of the human rights system, have the duty to ensure UN treaty body members are held to the highest ethical standards and that UN treaty bodies are not captured by special interest groups. C-Fam experts have documented extensively over the last twenty years how UN treaty bodies have been co-opted by the abortion industry to promote abortion rights.

In this regard, we must sadly note that UN treaty bodies have not been able to police themselves. This is unacceptable. Treaty bodies possess great power simply because of the pulpit they have through being part of the UN human rights system. More is expected of them.

To aid treaty bodies in this and defend the integrity of the UN human rights system, UN member states have the authority to adopt a code of conduct for treaty body members and to develop a mechanism whereby states or other stakeholders can impugn treaty body members in cases when they exceed or abuse their authority. Such a mechanism should also be called into play when a conflict of interest or other ethical issue may arise calling into question the ability of UN treaty body members to execute their duties impartially and without bias.

Thirdly, and lastly, we must reiterate that unless this review of the treaty bodies looks to first order concerns it will not help the treaty bodies to function effectively and efficiently. Increasing the resources and supporting the ever expanding range of activities that treaty bodies create for themselves will not help improve the quality of the substantive output of UN treaty bodies.

Treaty bodies have developed a vast set of new tools that expand their mandate and artificially aggrandize their authority. For example, treaty bodies increasingly comment publicly on intergovernmental negotiations between UN member states. They also comment on the internal political debates and even domestic litigation before they are even resolved. This is a recipe for politicization and double standards.

To fix this, the General Assembly may scale back the OHCHR support for treaty bodies, to stop facilitating all non-mandated activities like concluding observations and exhaustive abstract general comments that are not based on the reports of states parties but on third party information as well as for media and press work of the UN secretariat to publicize the work of UN treaty bodies in this regard, so that only mandated activities of UN treaty bodies are supported..

It is true that UN member states may not dictate the working methods of UN treaty bodies, but they can certainly direct the OHCHR, which is an organ of the UN secretariat subject to the General Assembly’s direction and guidance.

This is a first order concern. When member states parties to a UN human rights treaty submit their periodic report, their reporting obligation is fulfilled. They have no obligation to entertain concluding observations, lists of questions, or follow-up processes, that have no mention in UN human rights treaties. All of these non-mandate activities should be discussed in this round of treaty body review.

I will end mentioning a fundamental principle of law, applicable across all different branches of law. *Ex inuria ius non oritur*. An offense against the law cannot give rise to a binding legal obligation. We see the principle most often cited in cases where a nation unlawfully occupies another’s territory or when a squatter asserts a property claim on a land they never legally possessed. In both cases the occupation cannot give rise to a binding legal obligation, because there was never a lawful claim of right.

I wish to cite it as a caution to all those who think that the mere repetition of false claims by UN human rights experts and their acceptance by some states can create new customary international law. False legal claims, such as the frequent claims of UN treaty bodies that abortion is a human right or that unfettered sexual autonomy has the same status as religious freedom in international human rights law, can never give rise to binding legal obligations, even if UN member states were to accept such claims.

We look forward to continue to work collaboratively with UN member states and civil society in this review process.

Thank you.