



Concerns regarding the Cybercrimes Convention

Overall document:

As cybercrime recognizes no geographical boundaries, to effectively prevent and combat same should include the international sharing of data and the ability to cross jurisdictions. Cybercrimes are committed by some States as well as other actors. Further, by each State adopting individual laws, fines, procedures, policies it is negating the effectiveness of a universal agreement. **What then is the purpose of a universal cybercrimes treaty if each State must adopt its own rules and implementation?**

Similarly, implementation measures, reporting, management of investigations and prosecutions can be best coordinated through a central organization such as an UN agency. Serving as a “coordinator” that agency would build the reporting system, track ongoing investigations and prosecutions and report the results. Measures should include critical success factors such as: number of cybercrimes reported, investigated, closed without action, value of restitution collected and restitution redistributed to victims. Data should be disaggregated by type of cybercrime, location and number of perpetrators and victims, type of technology used in committing the crime, law enforcement agencies involved in the investigation and jurisdictional laws violated in committing the crime, number of “whistleblowers” provided protection.

The subject of human rights should reflect that “whistleblowers” [member(s) of civil society reporting human rights violations committed with ICTs to the proper authority] need to be protected from retaliation of any form. If the State, that is a signatory to the Cybercrimes Convention and/or other international human rights agreements cannot protect the civil society member(s) then the UN agency serving as “coordinator” would be responsible for preventing retaliation by the perpetrators.

Language should be kept simple and forward looking to ensure that if a crime covered under this convention and/or another international agreement, is committed utilizing information and communications technology, then the crime falls under extraterritorial jurisdiction. Adult perpetrators as well as enablers can be investigated and prosecuted by extraterritorial law enforcement and extraterritorial courts. Signatories should include Information Communication Technologies (ICT) and other multi-stakeholder organizations.

Protection of Sovereignty- preferred language:

This Convention shall apply, in accordance with its terms, to the prevention, detection, investigation and prosecution of adult perpetrators and enablers of the use of information and communications technologies for criminal purposes for offences set forth in this Convention or other international agreement to which the State is a party to.

This Convention shall also apply to the detecting, collecting, obtaining, preserving and sharing of evidence data or information, including but not limited in electronic form, of offences set forth in this Convention or other international agreements to which the Signatory is a party to.



Respect and Protection for Human Rights- **preferred language:**

States Parties shall carry out their obligations under this Convention in accordance with their obligations under international human rights law, including but not limited to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of All Forms of Discrimination against Women, and additional protocols and other applicable international human rights instruments to which they are a party.

States Parties shall address the particular impacts of cybercrime on members of diverse groups in measures undertaken to prevent and combat cybercrime.

Further, civil society member(s) reporting human rights violations covered under this Convention or any other human rights international law to the proper authority will be protected from retaliation.