



Policy Brief **First Draft Treaty**

October 2021

Background

Why a treaty

The World Health Organization describes violence against women as ‘devastatingly pervasive.’ Globally, 35 percent of women will survive sexual assault or domestic violence in their lifetime. This widespread human rights violation has intensified alarmingly during the COVID-19 pandemic. Existing international legal architecture does not offer sufficient protection. The Convention on the Elimination of All Forms of Discrimination Against Women contains neither the word violence nor rape, and most nations do not deem its relevant General Recommendations legally binding. Present-day agreements and monitoring bodies do not adequately hold states accountable for ending violence against women and girls. They suffer from a lack of resources, expertise, and deficient systems. Regional mechanisms are geographically limited, and do not cover 75 percent of the world’s women. At the UN level there is no specific legally binding instrument on violence against women. Given the pervasiveness of violence against women and the role treaties play in driving change, this is a legal gap with grave consequences, in urgent need of a remedy.

About Every Woman Treaty

In 2012, then UN Special Rapporteur on Violence Against Women, South African law professor Rashida Manjoo, called for a new global framework to address violence against women. Frontline activists and legal scholars heard her call, and convened at Harvard’s Carr Center for Human Rights Policy to discuss. A global movement was sparked. The Every Woman Treaty (‘Every Woman’) coalition now comprises 1,700 women’s rights activists, including 840 organizations in 128 nations. In 2019, Every Woman launched a public campaign and embarked on a global diplomatic effort, calling for a new international agreement to end violence against women and girls.

About the process

While it will be nations that negotiate a final text, Every Woman provides a sound, practical, and evidence-based draft instrument as a point of departure. A cornerstone of the eight year long process to prepare the first draft was Every Woman’s *nothing about us without us* approach. Our

co-founders led an international effort to map how a new global treaty could best deliver backup to frontline activists, justice for survivors, and safety to women and girls everywhere. From the outset experts hailing from every continent were consulted. Scholars, frontline responders, grassroots activists, survivors, and human rights attorneys were among those who shared recommendations on treaty language and content. The first draft treaty is also informed by an in depth literature review of 650 sources,¹ and extensive engagement with diplomats and policy makers from more than 100 nations.

The first draft treaty

Overview

The new treaty would mandate that governments implement a package of proven interventions. These include delivering law reform, training for police, judges, nurses, and doctors, prevention education, survivor services, and funding. The treaty closes the above-mentioned normative, geographic and enforcement gaps in international human rights law, ensuring a safer world for women and girls.

Part One – Purposes, Definitions, General Principles and General Obligations

The treaty's purposes are to:

- clarify norms to prevent, protect, eliminate and condemn violence against women and girls;
- offer states guidance as to designing measures and cooperation frameworks to eliminate violence against women and girls;
- support states to offer training;
- provide monitoring and reporting guidelines; and
- establish an international monitoring body.

The treaty incorporates the concept of intersectionality. It recognizes that some groups of women and girls are at particular risk of violence. The treaty uses the clearest possible definitions, where practicable adopting those that correspond with existing international standards.² It also uses the broadest possible scope to cover every woman, everywhere, at all times. The treaty compels states to involve survivors and civil society in the development of legislation and policies, and in their implementation. It outlines that a state's failure to prevent, protect, eliminate and condemn violence against women and girls is deemed to condone this violence.

¹ These resources are housed in an e-library available at <https://projects.iq.harvard.edu/violenceagainstwomen>.

² For example, the definition of girl child repeats the definition from the *Convention on the Rights of the Child*.

Part Two – Prevention and Protection

Under the treaty, states must adopt prevention measures including a multi-sectoral community response. They must establish or strengthen an existing national institution to coordinate and monitor progress, and oversee action planning. The treaty mandates that states collect and disseminate a wide range of data on violence against women and girls, and that states implement relevant age-appropriate education and training (to healthcare workers and officials like law enforcement). Conducting public awareness-raising programs on women's and girls' human rights is also a state responsibility per the treaty.

Part Three – Investigation, Prosecution, Reparations

The treaty prescribes a holistic response. It requires that government agencies collaborate to ensure a multi-sectoral community response. Policy and legislative responses include the establishment of specialized police and prosecutorial units with specific duties and responsibilities. States must ensure accountability of perpetrators, reparations for survivors, and dissemination measures for the national policy to eliminate violence against women and girls.

Part Four – Specific Situations

The treaty directly addresses:

- violence against girls;
- violence against marginalized groups of women and girls;
- violence as a violation of the universal human right to health;
- domestic violence;
- violence in family law contexts; and
- violence against women and girls in armed conflict, in accordance with the Rome Statute for the International Criminal Court.

Guidance is also given for addressing violence against women and girls in particular contexts, with respect to:

- nationality laws;
- online violence;
- sexual violence;
- sexual harassment in the world of work, in accordance with the ILO Violence and Harassment Convention 190;
- trafficking;
- economic security and controlling a women's money; and
- harmful practices.

Part Five – State Implementation

The state obligation of due diligence is detailed in the treaty. This obligation compels states to prevent, investigate, punish and provide mechanisms for legal redress and reparation for violence against women and girls. The treaty requires budget allocation. It outlines that states must guarantee access to justice, ensure timely and swift legal proceedings, and establish response, protection and support services, like crisis centers, shelters and helplines.

Part Six – Monitoring Mechanisms

The treaty provides for the creation of an independent monitoring mechanism, a secretariat, a state party reporting process, an individual complaints system, and an inquiry procedure for grave or systematic violations. It requires cooperation between states and the multilateral system to end violence against women and girls that cuts across so many mandates.

Part Seven – Final Provisions

The treaty sets out how it shall enter into force, how its revision may be requested, and how disputes shall be settled. No reservations may be made; states cannot opt out of complying with particular treaty provisions.