

The International Legal Framework of Peace Negotiations: Requirements and Recommendations for Enforcing Women's Rights

Executive Summary

Peace negotiations regularly exclude women participants and neglect to sufficiently address issues pertaining to women and girls.¹ These omissions violate international law, including the Security Council Resolutions on women, peace, and security, which require that peace negotiations involve equal participation by women and ensure women's rights.² Getting women to the table is a critical first step, but it can only be the starting point to meaningful women's participation in peace negotiations. Women must not only be present but also be equipped with knowledge of the international legal framework that governs how peace negotiations ensure the rights of women and girls. Their fellow negotiators must likewise be made aware of this body of binding international law, so that they are more likely to cooperate to advance, rather than obstruct, equal rights for women and girls.

The Global Justice Center has developed a compilation of relevant provisions from international legal instruments that govern which rights must be ensured in the course of peace negotiations. While the compilation is not an exhaustive list of all relevant provisions, it provides a representative sample of important gender equality requirements. Following is a table identifying these provisions.³ While some of these instruments are legally binding, either on all parties due to their incorporation into customary international law or on certain parties that have agreed to be bound, others are persuasive in that they represent the growing consensus of States.



¹ Christine Bell & Catherine O'Rourke, *Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution of 1325 on Peace Processes and Their Agreements*, 59 INT'L & COMP. L.Q. 941 (2010).

² See S/RES/1325; S/RES/1820; S/RES/1888; S/RES/1889; S/RES/1960; S/RES/2106; S/RES/2122.

³ A more extensive document, which contains the relevant excerpts, and further details on each legal instrument, is available at <http://globaljusticecenter.net/index.php/publications/advocacy-resources/409-the-international-legal-framework-of-peace-negotiations-requirements-and-recommendations-for-enforcing-women-s-rights>.

Table: International Legal Provisions Governing Peace Negotiations & Women's Rights

WOMEN'S RIGHT IN PEACE NEGOTIATIONS	LEGAL INSTRUMENT	RELEVANT PROVISIONS
Non-Discrimination on the Basis of Sex	UN Charter	Article 1(3) (purpose of the UN)
	Universal Declaration of Human Rights	Article 2 (universality of rights)
	Geneva Conventions of 1949	Common Article 3 to the Geneva Conventions
	International Covenant on Economic, Social & Cultural Rights	Article 2(2) (non-discrimination)
	International Covenant on Civil and Political Rights	Article 2(1) (State non-discrimination), Article 25 (political participation), Article 26 (equal protection)
	African Charter on Human and Peoples' Rights	Article 2 (protection of every individual's access to rights), Article 18(3) (elimination of discrimination against women)
	Convention on the Elimination of All Forms of Discrimination Against Women	Article 1 ("discrimination against women" definition), Article 2 (elimination of discrimination), Article 3 (advancement of women), Article 4 (temporary special measures), Article 5 (elimination of prejudicial practices), Article 6 (trafficking & exploitative sex work), Article 7 (political participation), Article 8 (international representation), Article 12 (health care & family planning)
Non-Discrimination against Women in Guarantee of Economic, Social & Cultural Rights	International Covenant on Economic, Social & Cultural Rights	Article 3 (equal right of men and women to enjoyment of all economic, social and cultural rights), Article 7 (equitable, just working conditions)
	Convention on the Elimination of All Forms of Discrimination Against Women	Article 10 (equal rights in the field of education), Article 11 (equal employment opportunities), Article 12 (equal access to health care services)
	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Article 13 (equal work and career advancement opportunities),
Women's Equal Participation in Peacebuilding and Politics	Universal Declaration of Human Rights	Article 21 (universal and equal suffrage)
	International Covenant on Civil and Political Rights	Article 25 (political participation)
	Convention on the Elimination of All Forms of Discrimination Against Women	Preamble, Article 4(1) (temporary special measures), Article 7 (political participation), Article 8 (international representation)
	1995 Beijing Declaration and Platform for Action	Article 142(a) (equal participation and opportunities for women)

	UN Human Rights Committee General Comment	Number 25, Paragraph 3 (universality of rights), Paragraph 23 (equitable access to public service positions)
	U.N. Security Council Resolution 1325	Article 2 (increasing women's participation in conflict resolution and peace processes)
	CEDAW General Recommendation	Number 23, Paragraph 15 (temporary special measures)
	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Article 9 (promotion of female political participation)
Integration of a Gender Perspective	1995 Beijing Declaration and Platform for Action	Article 142(b) (gender balance and perspective)
	CEDAW General Recommendation	Number 24, Article 12(1),
	U.N. Security Council Resolution 1325	Article 5 (incorporating a gender perspective into peacekeeping operations), Article 8 (adopting a gender perspective while negotiating and implementing peace agreements)
	U.N. Security Council Resolution 1960	Article 5 (clear orders through chains of command and codes of conduct prohibiting sexual violence)
	CEDAW General Recommendation	Recommendation 19 (gender-based violence precludes women's enjoyment of rights)
	1993 General Assembly Declaration on the Elimination of Violence Against Women	See all provisions
	1993 Vienna Declaration and Programme of Action	Article 38
	1995 Beijing Declaration and Platform for Action	Paragraphs 112-130 (integration of requirements of violence against women into national legislation and international bodies)
	U.N. Security Council Resolution 1325	Article 10 (protection of women and girls from gender-based violence, including sexual violence)
	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Article 3 (protection of dignity and freedom from violence), Article 4(2) (promote peace education to eliminate gender-based violence)
Accountability for Crimes of Sexual Violence	Geneva Conventions of 1949	Article 27 (prohibitions against rape and "indecent assault")
	Additional Protocols to the Geneva Conventions of 1977	Article 76 ("special respect" for women prohibits rape and "indecent assault")
	Ad Hoc International Criminal Tribunals	ICTY & ICTR (procedural and evidentiary advances allowed rape and sexual violence to establish war crimes, genocide and crimes against humanity)

	Rome Statute of the International Criminal Court	Article 7 (rape and sexual violence are crimes against humanity when part of a widespread or systematic attack); Article 8 (rape and sexual violence considered war crimes)
	U.N. Security Council Resolution 1325	Article 11 (states' responsibility to end impunity for rape and sexual violence and to exclude these crimes from amnesty provisions)
	U.N. Security Council Resolution 1960	Article 5 (timely investigations of alleged abuses)
	U.N. Security Council Resolution 2106	Article 3, 10, 15 (fight impunity through accountability mechanisms)
	CEDAW General Recommendation	Recommendation 30 (use CEDAW reporting in accountability efforts)
	Geneva Conventions of 1949	Article 146 (effective sanctions), Article 147 (definition of unlawful conduct), Article 148 (no absolution for grave breaches)
	The Princeton Principles on Universal Jurisdiction	Principle 7 (amnesties)
	U.N. Security Council Resolution 1325	Article 11 (exclusion of violence against women, including sexual violence, from amnesty provisions)
Gender-Sensitive Training of Officials	1995 Beijing Declaration and Platform for Action	Article 124 (Governments to mainstream a gender perspective)
	U.N. Security Council Resolution 1325	Article 6 (incorporation of gender perspective into trainings of military and civilian police)
Legal and Cultural Reform	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Article 5(a) (modify social and cultural patterns)
	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Article 5 (elimination of harmful practices), Article 17 (right to positive cultural context)