

Submission on amendments to

Autonomous Sanctions Amendment (Afghanistan) Regulations 2025



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Recommendations

1. Introduce sanctions preventing the transfer of arms and related materiel to Afghanistan
2. Ensure any restrictions on financial transactions do not affect remittances sent by the Australian community to women in Afghanistan
3. Ban travel of specific perpetrators of gender apartheid, gender persecution, and other gender related crimes including but not limited to war crimes, crimes against humanity, genocide and breaches of CEDAW

Introduction

This submission responds to the Department of Foreign Affairs and Trade's public consultation on proposed amendments to the Autonomous Sanctions Regulations 2011 (Cth). It accounts for both the proposed legislative amendment and the draft explanatory statement. The submission is prepared from the perspective of organisations working to support gender equality in Afghanistan and supporting high risk Afghan women, including Afghan women's human rights defenders. The submission discusses the issue of arms and related materiel transfers, financial sanctions, travel bans, and Australia's obligations under the Women, Peace and Security agenda.

Azadi-e Zan

Azadi-e Zan is a women's rights organisation that has been working with high-risk women since August 2021. Primarily, we support Afghan women's human rights defenders (WHRD) needing to flee persecution from the Taliban. Over the years we've helped over 360 WHRD and their families flee to final destinations of safety around the world and several hundred other high-risk individuals such as those who worked for government and international organisations, who also belong to ethnic minority groups. We also maintain detailed knowledge of the situation for women's rights in the country, and women's rights defenders, and undertake strategic advocacy and community engagement at a national and international level to continue working for the rights of Afghan women.

Rural Australians for Refugees

Rural Australians for Refugees (RAR) is based in rural communities throughout Australia. RAR supports people seeking refuge and asylum and since August 2021 has prioritized support for Afghan families, LEE and women at risk. The RAR Afghan subcommittee was established in January 2022 to provide information to RAR members and to support over seventy members who were sponsoring families and women at risk from Afghanistan. In 2023 the Afghan subcommittee declared its priority to be support for women and girls in Afghanistan and campaigned for the restoration of their human rights. RAR has sponsored Afghan families and single women to settle in Australia in addition to supporting families to settle in France, Germany and Spain. RAR members are currently supporting women and families in Afghanistan and funding the undercover education of over 1,000 women and girls in Afghanistan.

Arms or related materiel

The Arms Trade Treaty obliges states party, including Australia, to prevent the transfer of arms to final destinations where they can be used to “facilitate serious acts of gender-based violence or serious acts of violence against women and children.”¹ Women’s rights groups fought hard for the inclusion of this provision in the treaty specifically because individual weapons might be used to threaten women during specific acts of violence. However, because gender-based violence is rooted in power inequality and discrimination, weapons might also exacerbate gender-based violence by amplifying the power of the organisations or groups responsible for social, political, economic, or political discrimination.²

The Taliban are absolutely using brute force to maintain a regime of gender apartheid in Afghanistan. Gender apartheid is committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups, or by one gender group over another gender group or groups, and committed with the intention of maintaining that regime.³ Accordingly, Australia must do all it can to prevent the transfer of any weapons or related materiel to Afghanistan.

Financial sanctions

Taliban leadership and perpetrators of horrendous crimes against women continue to act with impunity within Afghanistan. While the transfer of international funds has vastly reduced since the withdrawal of the International Security Assistance Force, it remains paramount that key individuals within the Taliban are cut off from international financial flows. Afghan women’s groups have been asking for this as part of restorative justice and preventative measures for the ongoing suffering of their community.

However, it is crucial that any efforts to increase financial sanctions on Afghanistan do not affect the transfer of funds Afghan Australians and other members of the Australian community send as remittances or donations, especially to high-risk women in need inside Afghanistan. The vast majority of these transfers are undertaken using registered money agents within Australia. This service is used because it is safest for the recipients in Afghanistan, with the transfer agent being able to take the money to a local store or other location that is low risk for a recipient, for whom it may not be safe to visit a bank or other institution used by MoneyGram or Western Union.

¹ Arms Trade Treaty, Article 7.4

² <https://www.lowyinstitute.org/the-interpreter/gender-based-violence-arms-trade-treaty>

³ <https://www.globaljusticecenter.net/wp-content/uploads/2023/10/Gender-Apartheid-Expert-Legal-Brief-CAH-Treaty.pdf>

Travel bans

Just as the perpetrators of the Taliban's gendered crimes go unpunished inside Afghanistan, many are also free of consequence for their actions outside of Afghanistan. Afghan women's civil society has repeatedly asked for tighter travel bans on many members of the Taliban as part of restorative justice, as a deterrent to prevent further crimes, and to uphold the general response of the international community that the Taliban is a terrorist organisation and not the legitimate government of Afghanistan. As such, Australia should indeed increase its autonomous sanctions regime to include travel bans for individual members of the Taliban and their family, ensuring they are unable to enjoy the benefits of life and commerce in liberal western democracies.

Ideally, when Australian civil society organisations have cases of individuals who have allegedly perpetrated gendered crimes, the government would have mechanisms to include those specific individuals on the travel ban lists.

Women, Peace and Security

Australia has a National Action Plan on Women Peace and Security (WPS) that requires implementation by a range of federal government organisations. So far, the Australian Tax Office has not been included in the implementation of WPS, despite its importance in implementing sanctions, which are an important part of the diplomatic tool kit for dealing with situations of international peace and security.

Many of the Security Council resolutions on WPS include the importance of sanctions as part of the implementation of the WPS Agenda.⁴ Resolution 2242 discusses the importance of including gender expertise in sanctions decisions relating to countering violent extremism.⁵ Resolution 2467 calls for sanctions committees to include targeted sanctions for sexual violence.⁶ Azadi-e Zan has previously shared information with DFAT and the UN Special Rapporteur on Torture about the Taliban's use of sexual torture against women's human rights defenders in prisons since returning to power.⁷

In the past, Australia, unlike our five eyes partners, has not specified gender-based violence in our policy statements or justifications for imposing sanctions. This is not acceptable.⁸ Australia now also has a Gender Equality Strategy. If we are serious about

⁴ See UNSCRs 1820, 1888, 1960, 2106, 2242 and 2467

⁵ UNSCR 2242 (2015), Operative Paragraph 12

⁶ UNSCR 2467 (2019), Operative paragraph 10

⁷ <https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/cfis/cfi-ga79/subm-identifying-documenting-investigating-cso-azadi-e-zan.pdf>

⁸ Such as during the Tatmadaw's genocide of the Rohingya, when Canada and the US were extremely specific about the use of sexual violence in their imposition of targeted sanctions, but Australia was not.

there being consequences for serious breaches of the violations of the rights of women and girls, we must be up front about it in our public messaging and decision making.

Conclusions

This submission broadly supports updates to Australia's autonomous sanctions in respect of Afghanistan that see a ban on all arms and related materiel, and an increase in travel bans and targeted financial sanctions. However, it is important that any changes to financial sanctions do not affect the mechanisms the Australian community use to send donations and remittances to women in Afghanistan who are in extreme need. As a matter of principle, and Australia's evolving policies on global gender equality and WPS, the government should be clear in its messaging and policy statements about the role that breaches of women's rights has had in these, and any other, sanctions decisions.