

Public Submission on the new DFAT International Gender Equality Strategy

Introduction

This submission will focus on gender equality issues in situations of armed conflict, post conflict and fragile states. Accordingly the legal and policy framework it will draw on is the suite of Security Council resolutions on Women, Peace and Security; as well as CEDAW General Recommendation 30 and Australia's Second National Action Plan on Women, Peace and Security. Goal 16 on Peace, Justice and Strong Institutions and Goal 5 on Gender Equality are the most relevant Sustainable Development Goals.

About the author

Susan Hutchinson is the Executive Director of *Azadi-e Zan*, a new NGO that has been helping Afghan women's rights defenders since the fall of Kabul. She is also the architect of the *prosecute; don't perpetrate* campaign to help end impunity for conflict related sexual violence by having governments investigate and prosecute their own nationals who perpetrated sexual violence as war crimes, crimes against humanity and genocide while fighting with ISIS in Syria and Iraq. Susan is a civil-military professional, with expertise in protection of civilians and complex emergencies. She is currently undertaking a PhD at the Australian National University's Coral Bell School. Susan is also a founding member of the Civil Society Coalition on Women, Peace and Security.

Healthcare in emergencies

For many years, Australia provided significant funding to support groundbreaking services in sexual and reproductive health care in emergencies. In times of humanitarian crisis, sexual and reproductive healthcare is often one of the first household items to fall from the list of priorities. This can have significant flow on effects for women and their children both in the short term and long term. At the moment, Azadi-e Zan is seeing this first-hand with the families of women's rights defenders we are trying to support who are living in exile outside Afghanistan. Family planning is not available. Access to maternal health care is scarce, which in turn can increase the risks to mother and child. Education and health outcomes can be reduced for both mother and child, so can economic outcomes. Women's organisations campaigned for the Australian Government to increase their funding for sexual and reproductive health rights the last time the US reintroduced the Global Gag rule. It is of the utmost importance that funding for such service delivery be increased. Crisis such as the gender apartheid in Afghanistan and the women fleeing the Taliban, the refugee crisis from Ukraine, Yemen, Syria, South Sudan, Ethiopia and Somalia all experience significant gendered dimensions of their crises. The women require gender specific health care. This funding should go to small organisations with the capacity to provide localised care, over large multilaterals with less capacity at a local level.

Ending impunity for conflict related sexual violence

DFAT needs to work with its OGA partners and manage coordination with international actors to ensure that Australia is meeting its international obligations under the Rome Statute to investigate and prosecute our own nationals who have perpetrated sexual violence as war crimes, crimes against humanity and genocide. When ODA is delivered by OGA, DFAT needs to make sure justice initiatives are aligned with the intent of the women, peace and security resolutions, to ensure the investigation

and prosecution of conflict related sexual violence. At least 200 Australians travelled to Syria and Iraq to join ISIS. They were among the tens of thousands of foreign fighters who travelled from over 80 countries, many of which are States Parties of the Rome Statute of the International Criminal Court (ICC). The principle of Complementarity of the ICC obliges States Parties to investigate and prosecute war crimes, crimes against humanity and genocide within their own court systems.

When sexual violence is perpetrated as part of an armed conflict, it is a war crime.¹ When that violence is widespread or systemic, it is a crime against humanity.² When it is used to destroy, in whole or in part, an ethnic, racial or religious group it is genocide.³ Under Australian law, these offences, their attempt, complicity, incitement or conspiracy is punishable with imprisonment for 25 years to life.

By 2018 both houses of the Australian Parliament had passed multi-party motions recognising ISIS' genocide of the Yazidi and calling for the government to investigate and prosecute Australians who perpetrated these crimes.⁴ Minister Dutton publicly stated such investigations would be prioritised. But privately, the Minister and his Department began revoking the citizenship of Australians who were known to have perpetrated these crimes.

But so far, the relevant departments have failed to ensure Australians who perpetrated these crimes were investigated or prosecuted. This needs to change. Submissions are being made to the new Inquiry by the Joint Parliamentary Committee on Intelligence and Security on the updated revocation of citizenship bill as well as the Joint Standing Committee on Foreign Affairs Defence and Trade inquiry into the rights of women and girls.

Ensuring the national sanctions program aligns with gender justice

The Australian government speaks proudly of its sanctions regime. But there are two key aspects of the regime that require greater alignment with gender justice. Firstly, when an individual has is subject to sanctions, it should be Australia's policy as is the case in Canada and the US, that if the individual is known to have perpetrated sexual violence, this is included in the public justification for the sanctions. This justification was markedly absent in many of the sanctions against military leaders from Myanmar after the Rohingya genocide. Australia has still imposed sanctions on far fewer military leaders of the Tadmaw than our five-eyes allies, which is incredibly disappointing given the women, peace and security relevance of Myanmar to Australia's Foreign Policy and the number of Burmese people in Australia who feel the ongoing gender violence of the military.

The second issue is the ongoing facilitation of arms trade to countries know for their gross violence against women. The gender provisions of the Arms Trade Treaty were written specifically to stop both state and non-state actors gaining greater power by attaining additional small arms. Between DFAT and Defence, the ongoing issuing of licences for the transfer of small arms to Saudi Arabia is

¹ <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=59F6CDFA490736C1C1257F7D004BA0EC>

² <http://legal.un.org/icc/statute/romefra.htm>

³ <http://www.preventgenocide.org/law/convention/text.htm>

⁴ <https://www.lowyinstitute.org/the-interpreter/pain-hearing-australia-s-parliament-recognises-yazidi-genocide> (accessed 18 Sep 23)

contrary to the spirit of the convention and should not be allowed to continue.⁵ So too is the case for the sale of weapons to countries and companies where there is evidence they may end up in Yemen.⁶

⁵ <https://www.lowyinstitute.org/the-interpreter/gender-based-violence-arms-trade-treaty> (accessed 18 Sep 23)

⁶ <https://www.theguardian.com/science/2019/jul/30/australian-weapons-maker-eos-insists-none-of-its-products-used-in-yemen> (accessed 18 Sep 23)