

Senator Mark Bishop
Chair
Senate Foreign Affairs, Defence and Trade Legislation Committee

**Inquiry into the Defence Amendment
(Parliamentary Approval of Overseas Service) Bill 2008 [No. 2]**

Dear Senator Bishop,

Thank you for inviting the Human Rights Council of Australia to make a submission to your Inquiry into the Bill

The mandate of the Human Rights Council of Australia Inc focuses on the promotion and protection of human rights domestically and internationally. While there is no direct human rights issue involved in the proposed amendment to current legislation, war and violent conflict virtually by definition involve the most serious, widespread and systemic conditions for human rights violation.

The Council accepts that international humanitarian law and international human rights law do seek to prevent the violation of human rights and to moderate the activities of armed forces, and as a result that they diminish violations as far as possible. They therefore make a contribution to the prevention of abuses of human rights. However, they are not able to prevent all violations which are inevitable in times of conflict.

The Council is of the view that every effort should be made to prevent war (military action) itself – the only completely effective way to stop violations. Since that is seemingly impossible, the next best thing is to make it both very demanding to justify going to war and very difficult to go to war.

Surrounding decisions to go to war with as much formality and technicality as possible contributes to delays and hence reflection about the necessity of engaging in armed conflict. A decision of such seriousness perforce deserves and requires a decision-making process equal to the most serious that our constitutional system provides and that is a decision of the Parliament. This does not guarantee an

enlightened outcome but does enable public debate about the necessity and desirability of engaging Australians in armed conflict.

Accordingly the Human Rights Council of Australia would like to express support for the Defence Amendment Bill and urges your Committee to recommend its adoption.

Yours sincerely,

André Frankovits
Executive Director
14 October 2009

The Human Rights Council of Australia

The Human Rights Council of Australia Inc. is a private non-government organization which promotes understanding of and respect for human rights for all persons without discrimination through adherence to the International Bill of Rights, and other human rights instruments, internationally and within Australia.

The Council was established in 1978 and for many years, under the leadership of James Dunn, has been an important link between the Australian human rights movement and human rights activists in other parts of the world. The Council is affiliated with the International League of Human Rights and has Special Consultative Status with the United Nations Economic and Social Council.

The Human Rights Council of Australia Inc is incorporated under the Associations Incorporation Act 1984 (N.S.W.) and is a non-profit organization.

For further information regarding the Council and its membership, visit <http://hrca.org.au/>