



13th October 2009

The Secretary
Senate Foreign Affairs, Defence, and Trade
Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

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

Just Peace Queensland Inc, thanks your committee for the invitation extended by Chair Senator Mark Bishop in his letter dated 7th September, to make a written submission on the above named Bill.

This submission does not purport to be a detailed clinical analysis, or an assessment of the technical aspects, or of the proposed wording of the Bill.

Its primary purpose is to demonstrate why we in Just Peace sincerely believe that there is an urgent need for such a Bill, and to indicate in principle support for a Bill that; "ensures that, as far as is constitutionally possible, Australian Defence Force personnel do not serve overseas in warlike actions without the approval of both Houses of the Parliament".

Just Peace places on record that it is not aware of the original proposed by Senator Mason in 1985, nor did it have prior knowledge of the contents of the Bill now proposed by Senator Ludlam.

Although this submission is not presented in a strictly formal manner or format it is our hope that the contents will assist the committee's Inquiry.

Just Peace considers that enactment of a Bill that expresses the intent of the proposed Bill is of vital importance, and that to do so would be in the long term National Interest.

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Australia - Representative Parliamentary Democracy

Security, quality of life, and almost every other facet of life in Australia, is regulated or impacted by legislation and laws. These laws are formulated, amended, or abolished by elected representatives exercising their responsibilities through the established processes of the Parliament.

Just Peace submits that a significant majority of Australians would agree that there is no more serious or profound life threatening/life changing decision that any Government can make, than one that commits its Defence Force and its country to war.

Just Peace finds it incomprehensible that there is not a strict parliamentary process in place underpinned by law such as that proposed in the Bill, so as to prevent the Government of the day from committing the country to war without parliamentary debate and approval.

It is surely not un-reasonable that a decision of such magnitude, being made in the name of all Australians, should be subjected to the most rigorous scrutiny by Parliament.

It is difficult to believe that the proposed Bill is being subjected, as it should be, to the rigorous scrutiny of the Parliamentary processes, whilst the current practice it seeks to replace is not required to meet the same reasonable and necessary Parliamentary standards.

The harsh reality, and horrendous consequences, resulting from a commitment to war are;

- . Death of ADF personnel
- . Serious permanent physical and psychological injury to ADF personnel
- . Serious disruption and devastation of families of ADF personnel
- . Massive expenditure of billions/millions of dollars of taxpayers money on open ended commitments to war
- . Deaths and serious permanent injury to innocent civilians including women and children in occupied war torn countries
- . Destruction of civilian housing rendering thousands to homelessness
- . Destruction of public and private infrastructure and essential services
- . Over stretching ADF resources which diminishes its capacity to be involved in peace keeping, peace building, or more localised disasters.

Just Peace does not seek to represent the above examples as the only considerations and consequences of a decision to commit to war.

Deployments to War/Combat Zones

Since 1950 Australian Governments have committed its ADF personnel to War/Combat zones in Korea, Malaya, Vietnam, 1st Gulf War, Afghanistan and Iraq*. (see later comments)

It is not the purpose of this submission to debate in great depth the rights and wrongs, or the overall merits of the decisions to deploy personnel to all of those War/Combat zones.

However in retrospect and with the advantage of hindsight it is reasonable to deduce that the decisions were not always based on fact or with a clear strategic plan in place.

As the Wars/Conflicts were in progress when Australia intervened, there was ample time available before the commitment of troops to critically scrutinise and evaluate the likely consequences of such an action.

History now graphically records that all of the horrendous consequences alluded to at page 2 of this submission have been experienced by Australians, and all of the people residing in those countries ravaged by war/conflict.

Invasion of Iraq*

In the months prior to the then Governments commitment of ADF personnel to the war in Iraq, it was confronted by a concerted and broadly based community campaign which opposed the war and Australian involvement.

The major grounds on which opposition was based, were those listed at page 2, and the following;

- . There was a significant body of opinion that deemed the proposed pre-emptive invasion of Iraq to be illegal
- . There was no credible evidence to support the reason given by the Government that Iraq possessed WMD's
- . There was no credible evidence to support the claim that Iraq was linked to Al-Quida
- . There was no proposed exit strategy/plan during or post war
- . That Australia and Australians would become prime targets for terrorist attacks as a result of involvement in the war.

On 15-2-03 over a million Australians joined many millions throughout the world, to protest against a pre-emptive invasion of Iraq.

It was reported that public opinion polls indicated that between 58-70% of Australians opposed the war.

Australia's Parliamentary Opposition Parties opposed the war and the commitment of ADF personnel.

The fact that an Australian Government can disregard and dismiss the valid concerns of a significant number of Australians on such a profound issue as going to war, without a mandatory requirement for it to submit the matter to the people's Parliament for debate, approval, and subsequent review, is surely not acceptable.

When consideration is given to one of the stated prime objectives to justify military intervention recently in Afghanistan and Iraq has been the need to establish or restore a robust representative parliamentary democracy, the above situation is somewhat ironic.

Submission to the Prime Minister

Due to the opinions and concerns already expressed in this submission, Just Peace made a submission to the Prime Minister in August 2008. It made a request that the Government take legislative action to address and correct the situation.

Just Peace did not present its request in the form of a Bill, and it did not seek to address technical or constitutional considerations.

The submission is outlined hereunder for the purpose of illustrating that the the intent and spirit of the proposed Bill is similar.

"There is no more profound or life threatening/changing decision a Government can make than to commit its Defence Force and its country to war.

We submit that your Government must take swift, decisive and responsible action to prevent any future Federal Government from committing our country to any war or armed conflict on the spurious grounds that the Howard Government took us to a pre-emptive and illegal war in Iraq.

We suggest that the legislation should embody the following elements;

- . That it be unlawful for the Prime Minister, Cabinet, or an individual Minister, to agree to, or declare that Australian Defence Forces will be committed to a war zone, or to an area where armed conflict is in progress, or an area where there is a strong probability that armed conflict will occur, until such time as the following requirements are met in full;
- . That a full and factual Ministerial statement is presented to both houses of Parliament, outlining the justification for, and the consequences of, committing the ADF to war/armed conflict.
- . The statement should also contain an estimate of the duration of such military action, and a proposed preliminary Exit Strategy.
- . That all Members/Senators be given the opportunity to participate in the debate, at a joint sitting of both houses of Parliament.
- . That the decision to commit ADF to war/armed conflict, or not to do so, must be determined by a free vote of Members/Senators at a joint sitting.

Cont'd

The following matters should be included in the legislation, or be the subject of separate legislation;

- . That it be unlawful for an Australian Government to initiate, or to act in concert with the Government of another country or countries, to launch or support a pre-emptive armed invasion on another sovereign nation state.
- . That it be unlawful for an Australian Government to initiate, or to act in concert with another country or countries, to launch or support an armed interdiction, of a foreign vessel in International Waters.
- . There is also a need to take account in the legislation of a situation when Australia needs to defend itself without prior notice of attack, or with short notice of a pending attack. Mechanisms need to be prescribed in the legislation to enable a decision to be made by a war cabinet or a select authorised group, to take military action in defence of our country".

Defence Amendment(Parliamentary
Approval of Overseas Service)Bill 2008(No.2)

Just Peace Queensland Inc has made this submission without reference to the Defence Act 1903, and in particular the existing Section 50C.

The proposed 50C Parliamentary approval of service of members of Defence Force, Clauses (1) to (10);

- . Appear to be realistic and reasonable and if adopted would address most of the concerns expressed in the submission.


Clause (11) Although not referred to in our submission the exclusions listed in (b) to (e) are reasonable and necessary.

(a) Just Peace is not aware of the provisions of section 116B.

In this submission Just Peace has tried to demonstrate why it believes a Bill such as that proposed is necessary to ensure that Australia is a true representative Parliamentary Democracy.

Yours in Peace


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