



Submission from the Women's International League for Peace and Freedom (Australian Section)

**to the Senate Foreign Affairs, Defence and Trade
Legislation Committee's Inquiry into the Defence
Amendment (Parliamentary Approval of Overseas
Service) Bill 2008 [No. 2]**

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Introduction

The Women's International League for Peace and Freedom was established in Europe in 1915. We are an international NGO in consultative status with the United Nations' ECOSOC and UNESCO. The Women's International League for Peace and Freedom also has special consultative relations with the FAO, ILO and UNICEF. Our organisation works for social and racial justice, human rights and an end to war as a means of dealing with human conflicts. This submission is made on behalf of the Australian Section of our organisation henceforth referred to as WILPF.

WILPF welcomes the opportunity to make this submission to the Committee's inquiry.

Undemocratic Precedent

WILPF was gravely concerned when in 2003, the Howard government made the decision to commit Australian troops to the invasion of Iraq. We were also deeply concerned that the decision had been made without parliamentary approval. Since in February and March 2003 we were very well aware that extraordinarily large numbers of Australian citizens had come out in numerous demonstrations and protests around the country to oppose Australia's involvement in that invasion, and that even greater numbers of Australians were consistently expressing their opposition to the war in credible opinion polls, we knew that Prime Minister Howard's decision flew in the face of the clearly expressed wishes of the Australian people.

It appeared to us that PM Howard had made his decision impetuously – even precipitately - to commit Australian troops to any putative war that the United States (US) President might countenance by way of response to the attacks on the Twin Towers and the Pentagon. Mr Howard's own presence in the United States at the time of the attacks appeared to draw him into a course of action from which he never wavered. In that context, it appeared to us likely that Mr Howard had made up his mind to back the US President's decision to invade Iraq well before he had availed himself of the opportunity to consult with his parliamentary colleagues. It appeared that his decision was one made with no prior consultation with his own Cabinet, much less with the Liberal Party room, and certainly not with members of the Australian armed forces. Thus, the very closeness of the relationship between our Prime Minister and US President George W. Bush concerned us, as it was apparent that Mr Howard would go to great lengths to please the President and that momentous decisions (such as the decision to take the country to war) could be made on the basis of the vagaries of a comfortable personal relationship between two leaders of nation states.

We therefore regarded the Prime Minister's decision at that time as grossly undemocratic. At that time, we were among those who called for the decision to commit Australian troops to the invasion of Iraq to be put before our representatives in Parliament. We welcomed Senator Bartlett's Bill aimed at ensuring that a repetition of such an undemocratic decision should never be allowed. At the time, such legislative protection appeared to us to be a fundamental requirement of any mature democracy in the 21st century. This remains our view.

Such a Decision Should Not Be Repeated

However, in terms of our present constitutional and legislative arrangements, it still remains a possibility that an unaccountable and undemocratic decision could be repeated. In the absence of a constitutional assurance, we are dissatisfied with the present legislative arrangements that allow for a decision such as PM Howard's (referred to above) to be made without reference to the people's representatives in the Parliament.

WILPF believes that it is important that Australia's parliament should have oversight of any decision to commit our country's troops to a war. Without such parliamentary oversight, the possibility exists for an Executive (or indeed for an influential leader acting virtually alone) to make a rash or overzealous decision that has little or no backing from the electorate.

The decision to take a country to war is a momentous decision, one with implications for all of the nation's citizens.

As part of the citizenry, we expect and desire a great deal more moderation in our government's decision-making processes.

Without ensuring that the electorate supports a decision to take the country to war, it is possible that Australia could emerge, following an Executive or Prime Ministerial decision on an issue of great moment, with a very divided society. The potential therefore exists following such an unaccountable decision as that of PM Howard in 2003 (as outlined above) for a fracturing of our Australian society that would be most unwelcome, even dangerous. For instance, it is not beyond the bounds of possibility that civil strife and unrest might ensue if the divisions were allowed to fester and grow.

To avoid the possibility of a rash decision being taken by a very small group of the Executive, it is important that legislation should be put in place that provides adequate checks and balances. This would ensure the necessary accountability through the involvement of the people's directly elected representatives in the parliament.

Comparison with Other Democracies

We note that many comparable democracies already have constitutional or legislative arrangements requiring parliamentary approval of a decision to commit troops to war.¹ Still other nation states are in the process of debating or adopting similar arrangements.

Subsection 11

We are pleased to note that Subsection 11 of the present Bill ensures that the Bill "does not apply to normal, non-warlike overseas service". Thus, assuming the Bill is adopted, appropriate exemptions would exist to ensure that no impediments would interfere with overseas service for Australian troops in such missions as a peacekeeping operation, an emergency deployment or disaster relief.

Conclusion

In light of these considerations, we welcome the return of this Bill and wholeheartedly support its substance. Senator Bartlett deserves credit for bringing an earlier version of this Bill to the Senate and we thank Senator Ludlam for bringing it back.

It is our sincere hope that your Senate Committee will be able to recommend the Bill's adoption by the Senate and that, in due course, the Bill will be accepted by the House of Representatives.

*Submission prepared by
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¹ For example: Denmark, Finland, Germany, Ireland, Slovakia, South Korea, Spain, Sweden, Switzerland and Turkey.