



**Australian
Human Rights
Commission**

Sex Discrimination Commissioner

Kate Jenkins

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Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600

By email: jsct@aph.gov.au

Dear Committee Secretary,

Submission on the Inquiry into the withdrawal of Australia's reservation under the Convention on the Elimination of All Forms of Discrimination against Women

The Australian Human Rights Commission (the Commission) welcomes the opportunity to make a submission to the Joint Standing Committee on Treaties on the withdrawal of Australia's reservation under the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW).

The Commission supports the withdrawal of Australia's reservation under CEDAW, in relation to the exclusion of women from combat duties.

Australia's ratification of CEDAW

Australia ratified CEDAW on 28 July 1983¹ with two reservations, one of which related to the inclusion of women in combat roles. At this time, Australian Defence Force (ADF) policy preventing women from serving in combat roles was inconsistent with Article 11 of CEDAW, which requires States parties to 'take all appropriate measures to eliminate discrimination against women in the field of employment'.²

CEDAW permits ratification by States parties subject to reservations, provided they are not incompatible with the object and purpose of CEDAW. States parties can also withdraw their reservations at any time. In its statement on reservations, the Committee on the Elimination of Discrimination against Women called on all States parties to re-examine their self-imposed limitations to full compliance with all the principles in CEDAW by the entry of reservations. The Committee noted that removal or modification of reservations would indicate 'a State party's determination to remove all barriers to women's full equality and its commitment to ensuring that women are able to participate fully in all aspects of public and private life without fear of discrimination or re-creation'.³

Changes to ADF policy regarding women in combat roles

On 27 September 2011, the then Minister for Defence announced that the Australian Government had formally agreed to the removal of gender restrictions from ADF combat roles.⁴ From 1 January 2013, all ADF employment categories were open to women serving in the ADF. The Australian Government's policy to remove gender restrictions from ADF combat roles was fully implemented as of 1 January 2016.⁵

These policy changes are consistent with current Government initiatives to increase the representation of women in the ADF, informed by the Commission's recent *Review into the Treatment of Women in the ADF*. Led by the former Sex Discrimination Commissioner, Elizabeth Broderick, the Review provided 21 recommendations to increase the participation of women in the ADF, all of which were accepted. It was noted in the Review that the removal of gender restrictions from combat roles was 'an important step in providing women in the ADF with equal opportunity in their work and career progression'.⁶ The Commission also advocated for the Australian Government to confirm a timetable for the withdrawal of all reservations to CEDAW in its submission under Australia's Second Universal Periodic Review.⁷

A withdrawal of Australia's reservation under CEDAW in relation to the exclusion of women from combat roles would also be consistent with the recent proposal by the Australian Government to repeal Section 43 of the *Sex Discrimination Act 1984* (Cth) (SDA), which currently exempts discrimination against women in connection with employment, engagement or appointment in ADF positions involving combat duties.⁸

Conclusion

The Commission supports the withdrawal of Australia's combat duties reservation under CEDAW.

The removal of gender restrictions from ADF combat role employment categories provides women with the opportunity to apply and be considered for all ADF positions. Australia's existing reservation to CEDAW relating to the exclusion of women in combat roles is therefore no longer relevant and should be withdrawn. The removal of this reservation would also send a strong message of commitment by the Australian Government to eliminating all forms of discrimination against women.

The Commission has been working in collaboration with the ADF since 2014 to assist in relation to cultural reform and gender issues. During this time, the Commission notes progress on gender issues, including changes to assist women to enter combat roles.

Please do not hesitate to contact the Commission should you have any further queries in relation to this submission.

Yours sincerely

Kate Jenkins
Sex Discrimination Commissioner

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¹ Australian Human Rights Commission, *Women's Human Rights: United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (2008)*, <https://www.humanrights.gov.au/our-work/sex-discrimination/publications/women-s-human-rights-united-nations-convention-elimination>.

² Department of Foreign Affairs and Trade, *Treaties: Convention on the Elimination of all Forms of Discrimination against Women*, <http://www.info.dfat.gov.au/info/treaties/treaties.nsf/alldocids/333d22b9ed69b058ca256b300024f1ba>.

³ *United Nations on the Elimination of Discrimination against Women*, UN GA Res 18-19/53, UN GAOR, 53rd Sess, Supp No 38, UN Doc A/53/38/Rev.1 (14 May 1998). At: <http://www.un.org/womenwatch/daw/cedaw/reports/18report.pdf>.

⁴ Department of Defence, *Latest News: Removal of Gender Restrictions from ADF Combat Role Employment Categories*, <http://www.defence.gov.au/women/>.

⁵ Department of Defence, *Latest News: Removal of Gender Restrictions from ADF Combat Role Employment Categories*, <http://www.defence.gov.au/women/>.

⁶ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force* (2012), p. 182. At: <http://defencereview.humanrights.gov.au/reports>.

⁷ Australian Human Rights Commission, *Australia's Second Periodic Review, Submission by the Australian Human Rights Commission under the Universal Periodic Review* (2015), p. 4. At: <https://www.humanrights.gov.au/submissions/australia-s-second-universal-periodic-review>.

⁸ *Civil Law and Justice Legislation Amendment Bill 2017* (Cth).