



GPO Box 1555, Melbourne, VIC 3001
Website: vichumanist.org.au

15 October 2021

The Secretary,
Senate Foreign Affairs, Defence and Trade Committee,
Parliament House,
Canberra, ACT

Dear Secretary,

Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2020

The following submission is made on behalf of Humanists Victoria, a secular organisation whose members foster an ethical and reasoned life-stance, and support human rights, democratic processes, and just and inclusive governance.

We would respectfully like to make the following points about this Bill.

1. The lack of parliamentary scrutiny of the issues behind committing Australian troops for overseas service are now out of step with public opinion, the practice of other democratic countries and international law.
2. Whether Australian troops should be deployed in war, or peace-keeping exercises, is currently the prerogative of the Queen's representative, the Governor-General. However, the convention has been that the Prime Minister and Cabinet of the day formulate the decision. In some cases, such as sending troops to Vietnam, Afghanistan and Iraq, the Prime Minister alone has decided. Even if the decision is presented to Parliament for further discussion, the role of Parliament has been limited.
3. The *Defence Act 1903*, which this Bill seeks to amend, does not stipulate that parliament should approve a decision to deploy troops overseas. By contrast, Italy, Austria, Sweden and the Netherlands have legislated that their parliaments must do so. Many other countries require strenuous debate and investigation by parliament before any decision about the use of military force is made.
4. A Roy Morgan poll of 1,052 Australians in November 2020 found that 83.3% wanted parliament to vote on whether our troops are sent to fight abroad. There had also been an increase of 6% in the number of people supporting that view since a similar poll in 2014. ¹
5. In the United Kingdom, whose convention Australia has followed, the royal prerogative also applies, and parliamentary approval to commit troops to fight overseas has not been needed. However, since the Iraq War of 2003, and acknowledgement that involvement there was based on poor intelligence and poor judgement, that convention has been amended. The House of Commons

Humanists Victoria (Humanist Society of Victoria Inc. Reg. No. A0020272M)

Humanists Victoria strive for a society in which all individuals can attain their full potential through promoting an ethical, reasoned and compassionate approach to life.



now debates conflict decisions before troops are committed, except when an emergency makes this impossible.

6. Consideration of international law has also been part of the debate in the UK, as well as in other countries, in relation to action against the Islamic State. Since 2018 there has been growing awareness of the International Criminal Court's jurisdiction over the crime of aggression (Article 8bis of the Rome Statute). This has raised the prospect of military and political leaders being held criminally accountable for actions in overseas conflict, providing further encouragement for democratic oversight, scrutiny and safeguards.

7. Humanists Victoria submit that, except in cases of emergency, Australia should not deploy troops overseas without parliamentary approval, nor without rigorous debate about the purpose of the engagement, its legality, prospects of success and whether all alternative options beside a military commitment have been explored.

8. However, this would require ready access to expert opinion. The budget for the Department of Foreign Affairs and Trade has flat-lined over the last three decades, while that of the Defence Department has more than trebled.² Diplomatic expertise needs to be more highly valued and the independence of the Public Service restored. Independent, expert legal advice may also be needed in view of the growing complexity of international relations and international justice.

This concludes the submission.

Yours faithfully,

Stephen Stuart
Acting Secretary, Humanists Victoria

[HV SFADTC]

¹ <https://warpowersreform.org.au/overwhelming-support-for-war-powers-reform-roy-morgan-poll/>

² <https://www.lowyinstitute.org/the-interpreter/budget-of-skewed-priorities>