

Submission to the Senate Inquiry into Overseas Military Deployment

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Introduction

I support the bill introduced by Senator Steele-John.

I wrote and distributed a short bill in 2003 aimed at democratic control of launching an armed attack on a foreign country, except in an emergency. This was necessary even though at the time S.31C of the Crimes Act prohibited advocating an armed attack of a foreign country, a provision the AFP declined to enforce.

Unfortunately, our country has virtually no democratic control in any immediate sense over a decision under the Defence Act to commit Australian military personnel to armed conflict overseas. Even our close allies have greater control than that.

Having said that, any controls must allow for an immediate and appropriate response in the event of an armed attack or imminent armed attack on Australia.

Previous history

In the case of Vietnam, Australians were told that we had received a request for assistance from the government of South Vietnam. In fact this was only after we had asked them to ask us. And this was in a conflict which started because we supported defying a UN resolution on holding elections for the whole country and re-unifying it. The total human cost of that war was about 2-3 million people, about 521 of which were Australian troops. There were also those disabled in body or mind. 20% of the 60,000 personnel in Vietnam have or have had PTSD. The cost to my immediate family was a cousin who killed himself in Vietnam because of what was happening there. We have sustained 1273 military suicides in the last twenty years.

In the case of Iraq in 2003, despite knowing by the time we attacked that Iraq had no weapons of mass destruction, we committed Australian troops in support of an attack which commenced with heavy missile strikes on a major capital city, Baghdad. The war resulted in about 450,000 deaths, and an unknown number of seriously wounded. Our entry was based on a legal opinion, unreferenced, from Campbell and Moraitis. There were contrary legal opinions, including that of the UK Attorney General Lord Goldsmith. At the time the Prime Minister John Howard said he was prepared to commit Army Reserve forces to serve in Iraq, including a close relative of mine, if he so chose. He said there were acres of intelligence on Iraq, which he had no time to read. A government Inquiry in the UK, the Chilcot Inquiry, exposed the way intelligence on Iraq was manipulated to "sex it up". The government claimed it was enforcing a UN resolution on Iraq, but not on an active current request from the Security Council to do so. There is a procedure for activating a request to intervene militarily in the UN Charter, and it involves the chiefs of staff of the military forces of the US, UK, Russia, China and France. This procedure was not observed. In 1991 our navy was committed to support a war with Iraq, and it went ahead

despite it being known that France's President Mitterand had found a peaceful solution to the wrongful attack by Iraq on Kuwait.

In the relatively long leadup time to launching a military attack on Iraq, the Prime Minister promised a parliamentary debate on our role. This was not held. False information was fed to the public, such as that Iraq had a role in the attack on the World Trade Center in 2001, that weather balloons were weapons, that cropspraying aircraft were for chemical weapons delivery, that Niger was supplying Iraq with uranium*, and that pharmaceutical factories were making chemical weapons. This was despite Australia having people on the inspection teams, and advice from our Office of National Assessments. Misleading aerial photographs and recordings of unnamed people were supplied to the press, much of which ran it to the public uncritically, with many admitting later it was false, but generally not those in Australia. To his credit the Opposition Leader Simon Crean initially questioned the decision.

Fortunately our troop casualties in Iraq were light, but there were injuries among Australian civilian workers in the country. Although it is rumoured that we sustained troop casualties in men who entered Iraq before the deadline we set the Iraqi government to resign.

- Based on a purported letter from a male Niger Mines Minister, even though the Minister was female, and the US ambassador to Niger was female and presumably would have been aware of women in the Niger ministry.

When the going gets tough, the rules of war get ridden over roughshod

We, Australia, end up being associated with, or in some cases involved, in the war tactics of an ally.

Examples:

The saturation bombing of a neutral country, Cambodia, which gave rise to the Khmer Rouge and the Cambodian holocaust.

The Abu Ghraib prison in Baghdad, where there was an unstated policy of ill-treatment of prisoners, for which minions were made to pay in military trials. Rumoured torture in Bagram in the Afghanistan war.

The extensive use of Agent Orange defoliant containing dioxin in Vietnam which left a legacy of birth deformities.

After the Tet uprising in Vietnam, the use of bomblets or daisy cutters in the city of Hue.

Operation Phoenix, which involved widespread abuse and murder of civilians, with active involvement by us at senior level, and the use of napalm, affecting civilians such as the young girl Kim Phuc.

Rendition during the war in Afghanistan, including that of Australian citizens, with apparent passive involvement by Australian security services personnel.

There appears to have been a failure, before the Iraq war, to appoint a third party to safeguard POWs captured by Australian forces, as required by international law.

The "turkey shoot", basically shooting retreating forces in the back as they fled from Kuwait in the 1991 Iraq war.

The use of 50mm rounds against civilians in Hilla in Iraq.

A helicopter attack killing unarmed Reuters journalists in Iraq, with the whistleblower, not the perpetrators, being the one who went to gaol, and is still there. In Australia another whistleblower about alleged war crimes in Afghanistan is currently being prosecuted. Soldiers in the ranks are the ones being blamed, but senior staff haven't declared what the actual unspoken rules of engagement were.

The RAF strafing of a busy marketplace in Iraq.

The boost to the heroin trade because of the war in Vietnam, shipments of which were allegedly aided by US government Air America planes.

The use of heavy UK bombers on Gharai village in Fara province in Afghanistan.

Untendered contracts to repair Iraqi infrastructure going to a company associated with the US Vice-President.

The use of contractors, who aren't subject to military or civil service law.

Up to a reported 17000 drone strikes, where quite possibly two thirds or more of fatalities, "collateral damage", weren't the human target, who may or may not have been identified correctly as a serious opponent.

So this aspect of any military cooperation, rules of engagement if you like, deserves public and parliamentary discussion before going to war (except in an emergency).

Within our own forces, it is an issue, as the recent local inquiry into alleged war crimes in Afghanistan highlighted.

The AUKUS pact and potential war with China

This is an example of apparent "thick face, black heart", to use a Chinese expression, total negation of the concept of bona fides, and highlights how easily, despite a convention that treaties are to be submitted for approval to Parliament before ratification, Australia can be committed to a foreign relations stance which could actually destabilise our security, and lead to war. At the end of August 2021, the Defence Minister and the Foreign Affairs Minister both released a statement after meeting their French counterparts in Paris, saying that the joint submarine project was on track, and that a variety of plans for accompanying forms of cooperation with France including security cooperation in the Indo-Pacific were in full swing. Ten days later, after a negotiation with the US and UK which surely must have taken much more than ten days, this was repudiated, materially altering our relationship with China, and with France and possibly the wider EU.

In this context leaders talk of maintaining the rules-based order including ITLOS findings against China on islands in the South China Sea, but they don't talk about ITLOS findings on the return of Chagossians to their island home in the western Indo-Pacific region.

De facto repudiation of the 1972 Australian agreement recognising the PRC, which DFAT says on its website involved recognising Taiwan as a province of China, deserves a full public discussion, because of its potential for war.

Conclusion

Taking us to war is the most serious thing a government can do. It is not unknown for leaders to define themselves by being war leaders, willing to spill the young blood of our servicemen and service women as cannon fodder in order to buy political favours distinct from the actual issue in hand, or to distract the public from domestic issues because “we must all pull together”. Sometimes in a real emergency that is valid.

But other than in an emergency, such as an immediate attack on Australia or its allies, the decisions need active discussion and full consideration by the public, and the parliament.

That is why the current bill under consideration is necessary.