Chapter 2

Background to the bill

2.1   Over recent years, many countries and international organisations have acknowledged the need to have deployable civilian expertise standing ready to assist in the immediate aftermath of conflict.[1] In his report to the Security Council, the Secretary-General stated:

> Decades of international experience have taught us that, while every case is unique, certain types of support are almost always needed. Time and again, war-ravaged people have asked us to help them establish security and safety, restore basic services and core Government functions, support a political transition and jump-start economic recovery.[2]

2.2   Despite this recognised need for early and better targeted assistance, the international community, as expressed through the United Nations, concedes that it often fails to provide civilian experts such as judges, police officers, administrators and engineers, and when it does it is too late and the numbers are insufficient. For example, the Secretary-General reported that too often the international community has missed the early window of opportunity to provide basic security and shore up and build confidence in political processes and strengthen core national capacity necessary for sustainable peace. He said:

> Time and again, we have failed to catalyse a response that delivers immediate, tangible results on the ground. Often, it has taken many months before essential government functions resume or basic services are available. In some cases, it has taken several years before the international community has aligned its efforts behind a common strategic vision. Capacities and resources have been insufficient to meet urgent demands on the ground. Even though capacity is limited, we frequently struggle to focus scarce resources on a limited set of agreed results that can enhance confidence in and commitment to a peaceful future.[3]

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1   UN Security Council, 'Security Council hears 60 speakers, asks Secretary-General to advise organisation within one year on best ways to support national peace building efforts', 20 May 2008. SC/933, http://www.un.org/News/Press/documents/2008/sc9333.doc.htm (accessed 2 July 2009) and UN Security Council, Annex to letter dated 2 May 2008 from the Permanent Representative of the UK to the UN addressed to the President of the Security Council, S/2008/291.

2   United Nations Security Council, 'Report of the Secretary-General on peace-building in the immediate aftermath of conflict, S/2009/304'. S/PV.61, 22 July 2009, p. 4.

3   United Nations, General Assembly, Security Council, 'Report of the Secretary-General on peacebuilding in the immediate aftermath of conflict' A/63/881–S/2009/304, 11 June 2009, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/PCS%20S%202009%20304.pdf (accessed 22 October 2010).

2.3   A number of countries have already taken steps within their respective administrations to improve their civilian capacity for stabilisation, nation building and crisis management operations. They include the United States, the United Kingdom, Canada, Germany and the European Union. Australia is following their example and has begun to take concrete steps towards developing a deployable civilian capacity that can, when requested, respond quickly to crisis and post conflict situations.

Origins of the Australian Civilian Corps

2.4   Australia has a long and established history of providing civilian personnel to assist in stabilisation and reconstruction operations around the world particularly in the Asia Pacific region. For example a number of government departments including DFAT, Attorney-General's Department, AusAID, Australian Electoral Commission, Customs, Department of Finance and Deregulation, Office of Financial Management, and Treasury, have contributed to peacekeeping operations in Bougainville, East Timor and Solomon Islands.

2.5   On numerous occasions, Australia has also provided civilian specialists, especially in health and reconstruction, to assist countries recover from the effects of natural disasters. For example, Australia provided civilian assistance following an earthquake and tsunami that hit Western Solomon Islands on 2 April 2007, which affected over 36,000 people, damaging or destroying thousands of houses across 304 communities.[4] It also provided assistance in December 2008, when tens of thousands of people along the northern coast of PNG were displaced by a combination of king tides, high seas and two tropical depressions in the Pacific.[5] Australian Civilian specialists also responded to the call for help following the September 2009 tsunami that struck Samoa and parts of Tonga, claiming over 140 lives and devastating villages along the south-east coast of Samoa.[6] Around the same time a series of earthquakes caused widespread destruction in West Sumatra. A month later, Australians had cleared school sites, erected temporary education and health facilities, provided school supplies and were working with authorities in Padang to meet water supply needs.[7]

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4   Queensland Government, Environment Protection Agency, 'Fact Sheet Solomon Islands tsunami', updated 16 May 2007; and AusAID, Solomon Islands, http://www.ausaid.gov.au/country/country.cfm?CountryID=16&Region=SouthPacific (accessed 6 January 2009).

5   UN Office for the Coordination of Humanitarian Affairs, Regional Office for Asia and the Pacific, 'Papua New Guinea: Tens of thousands displaced by coastal flooding', *Humanitarian News,* 12 December 2008.

6   UN News service, 'Over 3,000 Samoans left homeless by deadly Pacific tsunami', http:www.un.org/apps/news/printnews.asp?nid=32443 (accessed 8 October 2009).

7   See AusAID website, 'Responding to regional disasters', Archived http://www.ausaid.gov.au/hottopics/topic.cfm?ID=6431_7034_6666_3570_5245 (accessed 22 October 2010).

2.6   While Australian civilians have contributed to stabilisation and recovery efforts over many decades, recently some Australians identified the potential for Australia to improve its response in this area through a more coordinated whole-of-government approach to the recruitment, training and deployment of such personnel.[8]

Recognised need

2.7   The concept of 'a deployable public service' was raised by representatives attending the 2020 Youth Summit that meet in Canberra on 12 and 13 April 2008. The idea involved:

> …the development of a 'bureaucratic reserve' of government officials available to assist in the development of governance in less developed countries and failed states.[9]

2.8   Meeting a week later, the 2020 group discussing Australia's future security and prosperity recognised that 'once intervention [in a crisis situation] began it was important that there was a structure to transition to capacity building, and ultimately to return sovereignty to the local population'. At this point, the group noted the idea generated at the Youth Summit for the establishment of a deployable public service and included this proposal in the list of ideas it presented to the government.[10]

2.9   Of the many proposals to come out of the 2020 gathering, the government responded favourably to this idea of a deployable public service and 'agreed to develop a policy framework to enable rapid deployment of civilian experts to assist in international disaster relief, stabilisation and post conflict reconstruction efforts'. It stated that once established, a national deployable civilian capacity would:

> …allow more rapid and early delivery of stabilisation and recovery assistance to countries that experience conflict or natural disaster. The program will be sufficiently adaptable to allow Australia to tailor its response to a particular event or emergency and will improve Australia's integration into multilateral reconstruction and stabilisation operations'.[11]

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8   For example, in 2008, the committee found that to achieve an effective whole-of-government training framework for civilian deploying to an overseas operation, the Australian Government 'must find a way to integrate the separate training programs and ad hoc courses into a coherent whole.' It went on to suggest that a central agency was required to provide overarching strategic guidance and planning. See Standing Committee on Foreign Affairs, Defence and Trade, *Australia's involvement in peacekeeping operations,* August 2008, p. 179.

9   *Australia 2020,* Australia 2020 Summit Final Report, Commonwealth of Australia 2008, p. 367.

10   *Australia 2020,* Australia 2020 Summit Final Report, Commonwealth of Australia 2008, p. 378.

11   Australian Government, *Responding to the Australia 2020 Summit*, Commonwealth of Australia, 2009, p. 227 or p. 240, http://www.australia2020.gov.au/docs/government_response/2020_summit_response_full.pdf (accessed 22 October 2010).

2.10   During 2009, AusAID led a whole-of-government taskforce, comprising members from Defence, AFP, PM&C, the Australian Government Solicitor and Attorney-General's Department, to formulate policy for developing an Australian deployable civilian capacity. Mr Robert Jackson, who was leading the team, informed the committee in June 2009 that no new agency would be created. Australia's deployable civilian capacity was not intended to be a humanitarian initiative; it was to provide 'technical experts for post-conflict and post-disaster environments to start the stabilisation and reconstruction phase'. He explained that the term 'reconstruction' should be interpreted in a broader context—'the economy, the machinery of government and essential services as well'. The intention was to have people pre-identified so that the process of getting people on the ground to assist was speeded up.[12] The 2009 Budget statement on Australia's International Development Assistance Program announced that in cooperation with other government agencies, AusAID would:

> …pre-identify, train, deploy rapidly and sustain civilian technical expertise. The program will build on Australia's experience of deploying civilian experts in post-conflict situations, for example in East Timor and Solomon Islands, and improve Australia's integration into multilateral reconstruction and stabilisation operations.[13]

In January 2010, AusAID published a document that provided detailed information about the proposed Australian Civilian Corps (ACC).[14]

The Australian Civilian Corps

2.11   The ACC is intended to enable Australia to deploy civilian specialists rapidly to contribute to stabilisation and countries affected by natural disaster or conflict. It will comprise a register of up to 500 civilians chosen for their knowledge and skills in areas such as public administration and finance, law and justice, engineering, health administration and community development and for their ability to work in demanding overseas environments. They are to be drawn from all levels of government and the broader Australian community and stand ready to be called up for overseas service when a country requests assistance to cope with an emergency or crisis situation. According to AusAID, register personnel 'will be expected to be able to deploy within 28 days for assignments up to three to six months'.[15]

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12   *Committee Hansard*, 19 June 2009, pp. 40–41.

13   Statement by the Hon. Stephen Smith MP , Minister for Foreign Affairs and the Hon Bob McMullan MP, Parliamentary Secretary for International Development Assistance, *Budget Australia's International development Assistance Program, A Good International Citizen,* 12 May 2009, p. 41.

14   AusAID, *The Australian Civilian Corps, Supporting stabilisation and recovery from disaster and conflict,* January 2010.

15   AusAID, *The Australian Civilian Corps, Supporting stabilisation and recovery from disaster and conflict,* January 2010, pp. 3 and 16.

2.12   AusAID stated that all ACC personnel will receive comprehensive training prior to deployment. They will undertake core training after joining the register and training specific to their particular assignment prior to any deployment. The training programs are to ensure that they 'can perform effectively in challenging overseas environments and integrate well with other deployed Australian Government personnel, host countries and multilateral organisations'.[16] The training would be designed to build competencies specific to overseas deployment that range from the more general competencies including understanding stabilisation and recovery practices, first aid, teamwork and leadership skills to situational and cultural awareness.

2.13   The Office of the Australian Civilian Corps, located in AusAID in Canberra, is to manage deployments in cooperation with other government agencies. It will develop the register over four years and be responsible for:

- recruiting civilian specialists onto the Australian Civilian Corps register;

- ensuring that register personnel are prepared for deployment;

- strategic planning for deployments;

- managing deployments including logistics, human resource and security matters;

- implementing public communication strategies; and

- providing support for whole-of-government input and advice.

2.14   The Office is to provide appropriate deployment program design, risk-management and security arrangements for deployments. AusAID explained that the Office would consist of AusAID staff and secondees from other Government departments such as Prime Minister and Cabinet, Department of Foreign Affairs and Trade, Defence, Australian Federal Police and the Australian Government Solicitor.[17]

2.15   Those on the register are to remain in their regular employment until agreeing to deploy. They will be paid a salary, commensurate with the environment into which they are going. While on deployment, they may work in-line with host government officials or as advisors. The Australian Government has established an interim deployment capacity and intends to have the ACC fully operational by 2011.[18]

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16   AusAID, *The Australian Civilian Corps, Supporting stabilisation and recovery from disaster and conflict,* January 2010, pp. 12–13.

17   AusAID, *The Australian Civilian Corps, Supporting stabilisation and recovery from disaster and conflict,* January 2010, p. 19.

18   AusAID, *The Australian Civilian Corps, Supporting stabilisation and recovery from disaster and conflict,* January 2010, p. 20 and Statement by the Hon. Stephen Smith MP , Minister for Foreign Affairs and the Hon Bob McMullan MP, Parliamentary Secretary for International Development Assistance, *Budget Australia's International Development Assistance, A Good International Citizen,* 11 May 2010, p. 31.

2.16   Submitters to the inquiry and analysts such as Anthony Bergin and Bob Breen support the concept of Australia developing a deployable civilian capability.[19] For example, the CPSU noted the importance of having 'a group of people who can be quickly deployed to provide timely and appropriate assistance in stabilisation, recovery and development planning activities to countries affected by natural disasters and conflict'.[20] The committee also notes that the establishment of the ACC is consistent with measures taken by some other countries to develop their deployable civilian capacity and with the United Nations' call for improved responses to post conflict situations.

2.17   While there is strong support for the establishment of the ACC, a number of submitters and the Senate Standing Committee for the Scrutiny of Bills have raised specific concerns about certain provisions of, or omissions from, the proposed legislation. The CPSU went so far as to question the need for a new and separate employment framework. It stated that the Public Service Act 'comes with a decade of precedent in its application' and 'a new Bill, to deal with the temporary employment of people in highly stressful situations is of concern'.[21]

Committee view

2.18   The committee recognises that the establishment of the ACC is in keeping with international developments and is a practical and sensible way of managing Australia's deployments of civilian specialists to countries affected by conflict or natural disaster. While the committee fully supports the policy, its focus in this report is on the employment framework that is to be established under the provisions of the bill.

2.19   The committee notes the CPSU's view that there appears to be no compelling reason for separate legislation and that the Public Service Act provides an appropriate employment framework for ACC personnel who will be engaged as Commonwealth employees. The committee understands, however, that the government's intention was to establish a legal and employment framework that would be designed especially to meet the particular demands placed on ACC personnel. Even so, in light of the standing of the *Public Service Act 1999*, the committee in the following chapter relies on it as a model against which to assess the provisions of the bill.

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19   Anthony Bergin and Bob Breen, 'Rudd's Army: A Deployable Civilian Capacity for Australia', *Policy Analysis*, Australian Strategic Policy Institute, 25 May 2009.

20   *Submission 3*, p. 1.

21   *Submission 3*, p. 1.