



**United Nations Human Rights Council 58<sup>th</sup> Session**

**Biennial high-level panel discussion on the question of the death penalty**

***The contribution of the judiciary to the advancement of human rights and the question of the death penalty***

**Oral Statement**

**25 February 2025**

The Law Council of Australia and the International Bar Association's Human Rights Institute oppose the death penalty under all circumstances.

In retentionist jurisdictions, an independent, impartial and competent judiciary is indispensable in ensuring strict adherence to fair trial rights and due process guarantees, and applying the law in conformity with international human rights law and standards.

Judges also have first-hand insight into issues and limitations within a criminal justice system that may undermine access to justice and the right to a fair trial.

Under international law, the death penalty can only be imposed in very limited circumstances following a fair trial before a competent, independent and impartial tribunal, including access to effective legal assistance and equality of arms at all stages. It must not be carried out before the sentenced person has had opportunity to resort to all judicial appeal procedures and non-judicial avenues, and to have these resolved.<sup>i</sup>

Any violation of fair trial guarantees renders a death sentence arbitrary, and a violation of international law.<sup>ii</sup>

Mandatory death sentences that grant courts no discretion to consider the individual circumstances of the offender are also arbitrary in nature, underscoring the importance of judicial discretion.<sup>iii</sup>

We call for international abolition of the death penalty and, in the interim, for all retentionist States to commit to an immediate moratorium on executions and to commute existing death sentences.

Thank you.

***Statement delivered by Juliana Warner, President of the Law Council of Australia***

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<sup>i</sup> A violation of the prohibition on the arbitrary deprivation of life: see Human Rights Committee General Comment No. 36 [CCPR/C/GC/36](#) paras 41, 46. See also [UN Safeguards guaranteeing the protection of the rights of those facing the death penalty](#) (25 May 1984) ECOSOC Resolution 1984/50.

<sup>ii</sup> Ibid para 41.

<sup>iii</sup> Ibid para 37.