

Law Council argues against Australia-China Extradition Treaty due to concerns over trial fairness

The Law Council of Australia will today argue against the ratification of the Australia-China Extradition Treaty in the absence of sufficiently robust protections to ensure, among other concerns, a fair trial of those whose extradition to China may be sought.

The comments will be made in a public hearing of the Joint Standing Committee on Treaties Inquiry into the proposed [Treaty on Extradition Between Australia and the People's Republic of China](#) at Australian Parliament House today.

Mr Stuart Clark AM, President of the Law Council, said that reports that China does not act in accordance with procedural fairness and the rule of law standards in criminal proceedings raises questions about whether the proposed treaty is indeed in Australia's national interest.

"Numerous expert bodies, including the UN Committee Against Torture and the US State Department, have recently expressed strong concerns about the ability of China to provide a right to a fair trial for those charged with criminal offences or prevent the torture of prisoners," Mr Clark said.

"International extradition serves an important function in allowing States to cooperate, respect each other's sovereignty, and ensure that criminals are not able to evade justice. However, there is an important national interest in ensuring that the administration of justice accords with fundamental rule of law principles and human rights obligations."

Mr Clark said that the Law Council's concerns include:

limited protections for the right to a fair trial; limited evidentiary thresholds for determining an extradition request; presumption against bail; absence of limits for executive decision making; consequences for breaching an undertaking that the death penalty will not be imposed; insufficient protections for children; inadequate monitoring systems and China not being party to *the International Covenant on Civil and Political Rights*.

"The treaty omits a common safeguard in Australia's extradition treaties to ensure protection of an extradited person's right to a fair trial, namely the ability to refuse a request where extradition would be 'unjust or oppressive'," Mr Clark said.

"Unless these concerns are addressed the Law Council opposes the ratification of this treaty."

The Law Council has made a number of recommendations aimed at improving the safeguards in the proposed Australia-China Treaty and extradition regime. These recommendations can be found in the [Law Council's written submission](#) to the inquiry.

The hearing will take place today, 2 May, from 11.45 am at Australian Parliament House (Committee Room 1R5). It will be broadcast live at www.aph.gov.au

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