

Policy statement on

Human Rights and the Legal Profession

Key principles and commitments

May 2017

The Policy was first adopted by Directors in June 2016.



Law Council
OF AUSTRALIA

Key principles and commitments: background and rationale

1. The Law Council endorses an approach, consistent with international law and practice, which confirms that all human rights are universal, indivisible and interdependent and interrelated.¹
2. The Law Council has adopted this *Policy Statement on Human Rights and the Legal Profession: Key Principles and Commitments* to provide a framework for ongoing activities of the Law Council in relation to human rights, and in evaluating the merits of legislation, policy and practice by reference to international human rights law.
3. The *Key Principles and Commitments* are directed to:
 - the domestic implementation of international human rights in Australia;
 - advocacy in relation to human rights in Australia and internationally;
 - education and public awareness in relation to human rights; and
 - participation in the international human rights system.

Key principles

The common law

4. The protection of human rights has developed over centuries of landmark common law and legislative changes. The piecemeal advance is reflected in, amongst other documents, the *Magna Carta* 1297,² the *Liberty of the Subject Act* 1354, the *Petition of Right* 1628, the *Habeas Corpus Act* 1679, the *Bill of Rights* 1689 and *Act of Settlement* 1701, the *Reform Act* 1832, and the *Married Women's Property Acts* 1870, 1882 and 1893, as well as in the first ten amendments to the *Constitution of the United States* 1788, the *Bill of Rights* 1791.
5. Fundamental common law rights recognised in Australia now include the right of access to the courts, immunity from deprivation of property without compensation, legal professional privilege, privilege against self-incrimination, immunity from the extension of the scope of a penal statute by a court, freedom from extension of governmental immunity by a court, immunity from interference with vested property rights, immunity from interference with equality of religion, the right to access legal counsel when accused of a serious crime, no deprivation of liberty except by law, the right to procedural fairness when affected by the exercise of public power, and freedom of speech and of movement.³
6. In accordance with the principle of legality, in the absence of clear statutory words, Australian courts will not impute to legislatures an intention to abrogate fundamental common law rights.⁴

International human rights system

7. Since the establishment of the United Nations (**UN**) in 1945, Australia has been an active participant in the development of an international system for the protection and promotion of human rights. The Law Council endorses a continuing central and constructive role for Australia in the international human rights system.
8. In 1945, Australia was a founding member of the UN, and played an active role in drafting the UN Charter. In ratifying the UN Charter, Australia accepted as a purpose of the UN the achievement of international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.⁵ In becoming a member of the UN, Australia pledged to take joint and separate action in co-operation with the UN for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.⁶ The Law Council recognises the purpose of the UN, and the pledge of Australia, to act to promote universal respect for and observance of human rights and fundamental freedoms.

9. Australia also played a prominent role in drafting the *Universal Declaration of Human Rights* which was adopted by the UN General Assembly on 10 December 1948.⁷ The Law Council recognises the *Universal Declaration of Human Rights*, as a fundamental constitutive document of the UN, and part of customary international law.
10. Prior to and since 1948, Australia has entered into a series of international treaties for the protection and promotion of human rights. The Law Council confirms that the act of entering into an international treaty and agreeing to be bound by the obligations therein imposed is the act of a sovereign State. The Law Council also confirms that every treaty to which Australia is party is binding upon it, and must be performed by it in good faith;⁸ that the human rights treaties which Australia has entered into set out in clear terms Australia's international human rights obligations; and that Australia is bound to comply with their provisions and to implement them domestically.
11. The Law Council further confirms that the human rights treaties to which Australia is party are binding upon Australia in respect of its entire territory,⁹ and extend to all parts of Australia without limitation or exception. Provisions of internal law may not be invoked as justification for a failure to perform a treaty.¹⁰
12. The Law Council recognises that Australia is subject to obligations under seven 'core' international human rights treaties to which it is a party, and to supervision of its human rights performance by the human rights 'treaty bodies' established under those treaties. The seven human rights treaties are:
 - *Convention on the Elimination of All Forms of Racial Discrimination (CERD)*(entry into force 4 January 1969; entry into force for Australia 30 October 1975, except Article 14, 4 December 1982);
 - *International Covenant on Civil and Political Rights (ICCPR)* (entry into force 23 March 1976, except Article 41 which came into force generally on 28 March 1979; entry into force for Australia 13 January 1980, except Article 41 which came into force for Australia on 28 January 1993);
 - *International Covenant on Economic, Social and Cultural Rights (ICESCR)* (entry into force 3 January 1976; entry into force for Australia 10 March 1976);
 - *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* (entry into force 3 September 1981; entry into force for Australia 27 August 1983);
 - *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)* (entry into force 26 June 1987, including Articles 21 & 22; entry into force for Australia 7 September 1989);
 - *Convention on the Rights of the Child (CRC)* (entry into force 2 September 1990; entry into force for Australia 16 January 1991 and the two optional protocols to CRC:
 - *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (entry into force 12 February 2002; entry into force for Australia 26 October 2006);
 - *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (entry into force 18 January 2002; entry into force for Australia 2 August 2007); and
 - *Convention on the Rights of Persons with Disabilities (CRPD)*(entry into force 3 May 2008; entry into force for Australia 16 August 2008).¹¹
13. The Law Council recognises that Australia is also a party to the *Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty*,¹² and to other important multilateral treaties in the areas of international refugee law,¹³ international humanitarian law,¹⁴ international criminal law¹⁵ and international labour law.¹⁶ The Law Council recognises all of these treaties as imposing a continuum of obligations upon Australia which contribute to the protection and promotion of human rights.

14. The Law Council further recognises that the human rights treaties to which Australia is party are supplemented by a series of non-binding, but authoritative internationally agreed standards, especially relevant in relation to the administration of justice and treatment of prisoners, including juvenile prisoners.¹⁷
15. On 3 April 2009, the Australian Government formally announced Australia's support for the UN *Declaration on the Rights of Indigenous Peoples* which had been proclaimed by the General Assembly in 2007 as 'a standard of achievement to be pursued in a spirit of partnership and mutual respect'. The Law Council recognises that, whilst the Declaration is not a treaty, courts have held and commentators contend that many, if not all of its provisions, reflect customary international law.
16. The Law Council also recognises and endorses increasing international attention to human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.
17. In relation to economic, social and cultural rights, the Law Council emphasises the obligation of States to take measures to the maximum of its available resources with a view to achieving progressively the full realisation of these rights, without prejudice to obligations that are immediately applicable according to international law.
18. The Law Council endorses an approach, consistent with international law and practice, which recognises three types or levels of obligations *to respect, to protect and to fulfil* human rights. The obligation to respect requires States to refrain from interfering directly or indirectly with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil requires States to adopt appropriate positive measures to facilitate the enjoyment of human rights.
19. Under international human rights law, certain human rights are absolute, and no limitation upon them is permissible. These are the prohibition on genocide, freedom from torture, cruel, inhuman or degrading treatment or punishment, the right to be free from slavery and servitude, the prohibition on prolonged arbitrary detention, the prohibition on imprisonment for inability to fulfil a contractual obligation, the prohibition on the retrospective operation of criminal laws, the right to recognition as a person before the law, freedom from systematic racial discrimination.¹⁸ For all other rights, limitations (or restrictions) may be imposed provided certain standards are met.¹⁹ Some rights have express limitation clauses setting out when the rights may be limited, while others have implied limitations, and some treaties contain a general limitation clause. In general, where a provision appears to limit rights, the Parliamentary Joint Committee on Human Rights considers three key questions: 1) whether and how the limitation is aimed at achieving a legitimate objective; 2) whether and how there is a rational connection between the limitation and the objective; and 3) whether and how the limitation is proportionate to that objective.²⁰ The Law Council endorses the approach of the Parliamentary Joint Committee on Human Rights to the assessment of limitations on human rights.
20. Australia has accepted optional individual complaints procedures to UN human rights treaty bodies.²¹ The human rights treaty bodies have generated a significant body of human rights jurisprudence in the form of views and decisions in relation to individual complaints, and also in the form of general comments and general recommendations. The Law Council recognises this body of jurisprudence as an authoritative source of legal interpretation of international human rights law.
21. As a member of the UN, Australia is also subject to scrutiny by the UN Human Rights Council (in particular through the process of Universal Periodic Review), as well as by the 'special procedures' of the Human Rights Council, that is, independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. On 7 August 2008, Australia extended an open invitation to all thematic special procedures of the Human Rights Council to visit Australia. The Law Council welcomes the scrutiny of Australia's compliance with its international human rights obligations by UN human rights bodies. This is a necessary and appropriate consequence of Australia's participation in the international human rights system.

22. The Law Council recognises that States have obligations to respect, protect and fulfil human rights in situations over which they exercise authority or effective control, whether or not such control is exercised in accordance with international law.²²
23. The Law Council also recognises that State responsibility is engaged as a result of conduct attributable to a State that constitutes a breach of its international human rights obligations whether within its territory or extraterritorially.²³ The Law Council further recognises that State responsibility extends to acts and omissions of non-State actors acting on the instructions or under the direction or control of the State, as well as to acts and omissions of persons or entities which are not organs of the State, such as corporations, where empowered by the State to exercise elements of governmental authority, and acting in that capacity.²⁴
24. In relation to the duty of States to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises, and in relation to the responsibility of business enterprises to respect human rights, the Law Council endorses the *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework (Guiding Principles)*.²⁵

National human rights institutions

25. In 1993, the UN General Assembly adopted the *Principles relating to the Status of National Institutions* (the **Paris Principles**) which provide an agreed basis for assessing the independence and effectiveness of national human rights institutions by reference to a clearly defined and broad-based mandate based on universal human rights standards; independence guaranteed by legislation; autonomy from government; and sufficient resources. The Law Council endorses the Paris Principles.
26. The Law Council recognises the importance of allegations of human rights violations being addressed at the national level, through the provision of domestic remedies, and that recourse to international procedures should ordinarily occur only after domestic remedies have been exhausted or where domestic remedies are unavailable or unduly protracted.

Other Law Council policy statements

27. This *Policy Statement on Human Rights and the Legal Profession: Key Principles and Commitments* is intended to complement and be read together with the following Law Council policy statements (as they may be amended from time to time):
 - *A Charter: Protecting the Rights of all Australians* (November 2008)
 - *Indigenous Australians and the Legal Profession* (February 2010)
 - *Rule of Law Principles* (March 2011)
 - *Guidelines on Law Council Intervention on International Human Rights Matters* (July 2011)
 - *Principles applying to Detention in a Criminal Law Context* (June 2013)
 - *Principles applying to the Detention of Asylum Seekers* (June 2013)
 - *Asylum Seeker Policy* (September 2014)

Commitments

In adopting this *Policy Statement on Human Rights and the Legal Profession: Key Principles and Commitments*, the Law Council of Australia makes the following commitments:

Domestic implementation of human rights

1. to promote the implementation of Australia's international human rights obligations, federally and in the States and Territories, through appropriate constitutional, legislative, administrative and other measures which should include, as a minimum, a federal charter or bill of rights, as well as State and Territory charters of rights such as the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and the *Human Rights Act 2004* (ACT);
2. to promote the recognition, application and justiciability of international human rights standards in the Australian legal system, federally and in the States and Territories;
3. to promote the provision of and access to effective judicial and other domestic remedies for violations of human rights;
4. to promote the development of policy, federally and in the States and Territories, by reference to:
 - 4.1 international human rights obligations and jurisprudence, including in relation to those rights which are absolute and in relation to the assessment of permissible limitations on human rights; as well as
 - 4.2 domestic human rights jurisprudence and legislation;
5. to support the scrutiny of legislation - federal, State and Territory - for compliance with Australia's international human rights obligations, as well as the accompaniment of new Bills and disallowable instruments by statements assessing their compatibility with those international human rights obligations;
6. to promote respect for human rights by Australian corporations and other incorporated and non-incorporated entities, including through implementation of the Guiding Principles and human rights impact assessment processes;
7. to promote an institutional framework in Australia for monitoring progress towards, the full enjoyment of human rights, including by monitoring laws, practices and obstacles affecting human rights and by the collection of statistical data in relation to the enjoyment of human rights in Australia;

Advocacy in relation to human rights

8. to promote substantive equality before the law for all Australians, including effective measures to ensure the continuing improvement of the economic and social conditions of all Australians;
9. to advocate for the human rights of persons in custody and detention, and for the application and enforceability of international human rights standards in places of custody and detention;
10. to advocate for the human rights of persons in Australia who are non-citizens, including asylum-seekers, persons who hold protection visas and permanent humanitarian visas and non-citizens on temporary visas working in Australia;
11. to support members of the legal profession advocating for human rights domestically and internationally;
12. to challenge legislation, policies and practices - federal, State and Territory - that contravene Australia's international human rights obligations, involve discrimination on the ground of sex, race, colour, language, religion, social origin, disability or the exercise of protected employment rights, or otherwise impede equality before the law;

13. to support the independence and effectiveness of Australia's national human rights institution, the Australian Human Rights Commission, in accordance with the Paris Principles, as well as State and Territory human rights and equal opportunity bodies;
14. to make representations in relation to legislation, policies and practices of other countries which affect the liberty and security of persons, the treatment of persons deprived of their liberty or the equality of persons before the courts and tribunals, or which otherwise pose a threat to the rule of law, including the independence of the judiciary or legal profession;²⁶
15. to collaborate with civil society, non-government organisations and business in advocacy in relation to human rights;
16. to advocate for the abolition of the death penalty internationally and for the ratification by all States of the *Second Optional Protocol to the International Covenant on Civil and Political Rights*;

Education and public awareness in relation to human rights

17. to promote awareness of and compliance with international and domestic human rights standards and procedures within the legal profession and amongst law enforcement officials, including the judiciary, prosecutors, the police and prison officials, as well as amongst members of parliament, the public service, business, and within the broader Australian community;
18. to promote participation by members of the legal profession in professional development about human rights law and practice, and core competency requirements in relation to human rights in ongoing professional legal education;
19. to promote the study of human rights and Australia's role in the development of the international human rights system in Australian schools, as well as the study of human rights history, law and practice in Australian tertiary institutions, and core competency requirements in relation to human rights in legal education;
20. to acknowledge the achievements of Australian human rights law students and human rights practitioners and advocates, nationally and internationally;
21. to promote the dissemination of UN human rights reports, concluding observations, decisions, views, and other human rights material in readily accessible form;
22. to promote awareness of the work of the Parliamentary Joint Committee on Human Rights in examining bills and legislation (including delegated legislation) for compatibility with international human rights standards, and to encourage Parliament to address human rights concerns and issues identified by the Committee in the development and refinement of legislation;
23. to support initiatives such as the Law Institute of Victoria's Charter Case Audit database which contains information about Victorian court and tribunal decisions in which issues arose under the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*;

Participation in the international human rights system

24. to advocate for Australia to become a party to international human rights treaties, including accepting optional protocols and other procedures providing for scrutiny by international human rights treaty bodies;
25. to advocate for Australia to withdraw reservations to international human rights treaties;
26. to use the Law Council's special consultative status with the UN Economic and Social Council to engage with and contribute to the work of UN human rights bodies in the supervision of Australia's compliance with international human rights obligations;

27. to promote the timely submission by Australia of periodic reports to the UN Human Rights Council and international human rights treaty bodies, prepared in consultation with human rights and civil society organisations and in accordance with relevant reporting guidelines, as well as frank and constructive engagement by Australia with international human rights bodies;
28. to promote timely and effective follow-up by Australia to concluding observations and recommendations of the UN Human Rights Council and international human rights treaty bodies, in accordance with relevant reporting guidelines and with the participation of human rights and civil society organisations; and
29. to support the nomination and election of suitably qualified Australians to UN human rights bodies.

Endnotes

- 1 See, for example, *Vienna Declaration and Programme of Action*, adopted by consensus at the World Conference on Human Rights on 25 June 1993 (Part 1, para 5); *Convention on the Rights of Persons with Disabilities* (Preamble (c)).
- 2 This is the usually cited first 'enactment' of the original 1215 pact.
- 3 Chief Justice RS French 'The Common Law and the Protection of Human Rights', *Anglo Australasian Lawyers Society*, 4 September 2009, Sydney, referring to and expanding upon the list provided by J Corrin, 'Australia: Country Report on Human rights' (2009) *Victoria University of Wellington Law Review* 37 at 41-42.
- 4 *Potter v Minahan* (1908) 7 CLR 277 per O'Connor J at 304; *Bropho v Western Australia* (1990) 171 CLR 1 per Mason CJ, Deane, Dawson, Toohey, Gaudron and McHugh JJ at 18; *Coco v The Queen* (1994) 179 CLR 427 per Mason CJ, Brennan, Gaudron and McHugh JJ at 437; *Kartinyeri v Commonwealth* (1998) 195 CLR 337 per Gummow and Hayne J at [89]; *Al-Kateb v Godwin* (2004) 219 CLR 562 per Gleeson CJ at 577 [19]-[20]; *Electrolux Home Products Pty Ltd v Australian Workers' Union* (2004) 221 CLR 309 per Gleeson CJ at 329; *Saeed v Minister for Immigration and Citizenship* (2010) 241 CLR 252 per French CJ, Gummow, Hayne, Crennan and Kiefel JJ at [15]; *Lee v New South Wales Crime Commission* (2013) 251 CLR 196 per Gageler and Keane JJ at 307-311 [307]-[314]. Also JJ Spigelman, 'Principle of legality and the clear statement principle' (2005) 79 *Australian Law Journal* 769; M Gleeson AC, 'The Meaning of Legislation: Context, Purpose and Respect for Fundamental Rights' (2009) 20 *Public Law Review* 26; D Meagher, 'The Common Law Principle of Legality in the Age of Rights' (2011) 35 *Melbourne University Law Review* 449; B Lim, 'The Normativity of the Principle of Legality' (2013) 37 *Melbourne University Law Review* 372.
- 5 Article 1(3).
- 6 Articles 55 and 56.
- 7 The General Assembly proclaimed the *Universal Declaration of Human Rights* as:

'a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.'
- 8 Article 26 of the *Vienna Convention on the Law of Treaties* (acceded to by Australia 13 June 1974, entry into force for Australia and generally 27 January 1980).
- 9 Article 29 of the *Vienna Convention on the Law of Treaties*.
- 10 Article 27 of the *Vienna Convention on the Law of Treaties*.
- 11 Australia is not a party to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (entry into force generally 1 July 2003), or to the *International Convention for the Protection of All Persons from Enforced Disappearance* (entry into force generally 23 December 2010).
- 12 Entry into force 11 July 1991; entry into force for Australia 11 July 1991.
- 13 These include:
 - *Convention relating to the Status of Refugees* (1951)
 - *Convention relating to the Status of Stateless Persons* (1954)
 - *Convention on the Reduction of Statelessness* (1961)
 - *Protocol relating to the Status of Refugees* (1967)
- 14 These include:
 - the *Geneva Conventions* (1949)
 - the additional protocols to the *Geneva Conventions* (1977)

- 15 These include:
- *Slavery Convention* (1926)
 - *Convention on the Prevention and Punishment of the Crime of Genocide* (1948)
 - *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (1956)
 - *Rome Statute of the International Criminal Court* (2002)
- 16 These include:
- *Forced Labour Convention* (1930), ratified by Australia 2 January 1932
 - *Freedom of Association and Protection of the Right to Organise Convention* (1948), ratified by Australia 28 February 1973
 - *Right to Organise and Collective Bargaining Convention* (1949), ratified by Australia 28 February 1973
 - *Equal Remuneration Convention* (1951), ratified by Australia 10 December 1974
 - *Abolition of Forced Labour Convention* (1930), ratified by Australia 7 June 1960
 - *Discrimination (Employment and Occupation) Convention* (1958), ratified by Australia 15 June 1973
 - *Worst Forms of Child Labour Convention* (1999), ratified by Australia 19 December 2006
- 17 These include the *Basic Principles on the Role of Lawyers* (1990), and the *Guidelines on the Role of Prosecutors* (1990), as well as in the in the criminal law context:
- *Standard Minimum Rules for the Administration of Juvenile Justice* (1985) (Beijing Rules)
 - *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (1988)
 - *the United Nations Guidelines for the Prevention of Juvenile Delinquency* (1990) (Riyadh Guidelines)
 - *the United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (1990)
 - *the Revised Standard Minimum Rules for the Treatment of Prisoners* (2015) (Mandela Rules)
- 18 For example, the rights in Articles 6(3), 7, 8 (1) and (2), elements of 9(1), 11, 15, 16, 18 and elements of Articles 2(1) and 26 of the *International Covenant on Civil and Political Rights* (ICCPR) are absolute: see Article 4(1). Other rights are capable of being subject to narrowly prescribed restrictions: for example Articles 12, 14, 19, 21 and 22.
- 19 See, for example, the following General Comments of the UN Human Rights Committee:
- General Comment No 29, States of emergency (Article 4), at [2] to [6]
 - General Comment No 34, Freedoms of opinion and expression (Article 19), at [22], [34] and [35]
 - General Comment No 35, Liberty and security of person (Article 9), at [15] and [66]
 - General Comment No 27, Freedom of movement (Article 12), at [14] and [15]
 - General Comment No 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, at [6]
- 20 For example, Practice Note 1; also *Annual Report 2012-2013* at [1.53].
- 21 These are:
- *First Optional Protocol to the International Covenant on Civil and Political Rights* (entry into force 23 March 1976; entry into force for Australia 25 December 1991).
 - *Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women* (entry into force 2 December 2000; entry into force for Australia 4 March 2009).
 - *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (entry into force 3 May 2008; entry into force for Australia 20 September 2009).
- Australia is not a party to the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (entry into force generally 22 June 2006).
- 22 *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights* (2012), Principle 9 (Maastricht Principles).
- 23 Ibid. Principle 11. The extraterritorial application of a State's human rights obligations has been consistently affirmed in international jurisprudence. For example, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories (Advisory Opinion)* (2004) ICJ Reports 163, [107]-[111]; *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)*, Judgment of 19 December 2005, [216-217]; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v Russia)*, Order Indicating Provisional Measures, 15 October 2008, [109], [149]; UN Human Rights Committee, General Comment No 31 (2004), at [10]; *Munaf v Romania*, UN Human Rights Committee Communication No 1539/2006 (2009), [14.2]; UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No 3 (1990), [13], [14]; CESCR, General Comment No 12 (1999), [36], [37]; CESCR, General Comment No 14 (2000), [39]; UN Committee against Torture, General Comment No 2 (2007), [16].
- 24 Maastricht Principles, Principle 20.
- 25 The Guiding Principles were developed by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, and annexed to his final report to the United Nations Human Rights Council (UN Doc A/HRC/17/31), and endorsed by the Human Rights Council in its resolution 17/4 of 16 June 2011.
- 26 See the Law Council's *Guidelines on Law Council Intervention on International Human Rights Matters* (July 2011) and, in particular, Articles 9, 10 and 14 of the ICCPR.