

# Juvenile justice concerns

The Law Council of Australia and the Law Society of WA have voiced strong opposition to the WA government's new juvenile justice legislation.

The Law Council President, David Miles, called the legislation "draconian" and said the federal government had not taken a strong enough stand against the WA government.

"Australia has ratified international treaties which impose clear obligations on us: the treaties are not merely guidelines to be interpreted by the West Australian or any other government," he said.

The President of the Law Society of WA, Rick Cullen, said his Society

had reviewed the Act and considered it to be an ill-advised piece of legislation.

"The Law Society recognises that a serious problem exists with a number of hard core re-offenders and that certain criminal acts clearly needed to be punished by a term of imprisonment or detention," he said.

"However, this legislation casts much too wide a net and will capture a whole range of young offenders who have very real prospects of leading a normal and productive life in society.

"The Society is totally opposed to the imposition of mandatory jail sentences as it removes any discretion for the judge to apply commonsense and

compassion where appropriate in individual cases."

Mr Miles said mandatory imprisonment of repeat juvenile offenders "at the Governor's pleasure" would appear to breach Article 40(a) of the Convention on the Rights of the Child which provides that a variety of dispositions shall be available to ensure that children are dealt with appropriately.

Mr Miles said imprisonment by direction of the Government instead of the discretion of a court and the imposition of minimum sentences mandated by the government appear to be in conflict with Australia's international obligations.

## Australia on new UN crime body

Australia has been elected a member of the new United Nations Commission on Crime Prevention and Criminal Justice.

The Commission will seek to build bridges between different legal systems to ensure that organised crime cannot exploit those differences.

The 40 member-state Commission will be responsible for the development and implementation of the UN crime prevention and criminal justice programme.

Announcing Australia's election to the new Commission, the Attorney-General, Michael Duffy, said the criminal justice programme, which dates back to 1948, was no longer targetting areas of concern to governments.

"The criminal justice programme has set sound standards and norms in a diverse range of areas including juvenile justice, treatment of prisoners and the protection of human rights, however the programme commenced in a time when crime was a primarily national issue," he said.

## Boat people confusion a worry: Law Council

The President of the Law Council of Australia, David Miles, expressed concern about the "confusion" which arose in relation to legal representation for the Top End's most recent boat people.

Mr Miles was referring to the situation where Immigration officials were saying the people did not want legal representation, yet when they got to court the majority said they did.

"The right of every person to legal advice and representation is absolutely clear, and the difficulties that apparently occurred between the Department of Immigration and the Legal Aid Commission in Darwin should be examined with a view to rectifying any potential causes of problems," Mr Miles said.

"It must be remembered that people who land on our shores may not be familiar with our legal system, or with the rights which all persons in Australia (whether citizens or not) enjoy. "There is a need for those rights to be explained, and it is likely that they

could best be explained by a lawyer. "To ask a person from some countries if they want a lawyer would simply frighten them.

"There are countries in which all lawyers work for the government, and they have little or no role in defending people against charges laid by the authorities.

"It is assumed that if they are charged, they are guilty.

"Therefore, in offering legal advice and representation, the role of the lawyer in Australia, and the legal rights of all persons, need to be explained.

"When any person's liberty is under threat, they are entitled to legal advice at the earliest possible stage, and provision of that early advice should be ensured by the government.

"The Law Council hopes that the humane and dedicated efforts of all those who try to help people in difficulty will not in future be made less effective, nor people's rights jeopardised, by the sort of confusion that occurred in Darwin," he said.