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ICJ Victoria Press Release - Mandatory Sentencing

ICJ Victoria opposes any move to legislate mandatory prison sentences. The experience around the world is that mandatory sentencing does not reduce crime. The same experience shows locking more people up for longer terms increases crime.

Mandatory sentencing will mean more people are jailed. In the short-term those people will be 'off the streets'. But, when released, they are more likely to re-offend.

The USA recognised the disadvantages of mandatory sentencing for drugs and firearms offences and, in 2014, started to wind them back with positive outcomes for communities.

Mandatory sentencing also raises concerns about the rule of law. Separation of powers between the Parliament, which makes the law, the Executive, which publicly administers the law, and the Judiciary, which, in relation to the criminal law, imposes punishments, has served Australians well. Trouble starts when one arm of government tries to do the work of another. The Judiciary does not interfere in the work of the legislature; neither should the legislature interfere in the work of the Judiciary.

Sentencing of an individual requires individualised sentencing, that is, the courts must have the power to sentence according to differences between individuals even in the case of the most serious crime.

Justice requires proper consideration of all the circumstances of the crime and the offender. Mandatory sentencing, because it denies that proper consideration, can and does create injustice.

Michael Cahill SC
Chair
International Commission of Jurists, Victoria
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