

**Memo to Department of Foreign Affairs and Trade on Foreign and Domestic Human Rights Concerns for New Government – June 2019**

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***Asia*****Afghanistan**

As negotiations continue on a settlement between the US and the Taliban, fighting has intensified across the country. Many Afghans have raised concerns about the implications of a deal with the Taliban for vitally important achievements in freedom of expression and women's rights in Afghanistan. More civilians were killed in the Afghan conflict in 2018 than at any time since 2008 when the UN started keeping records. In the first quarter of 2019, civilian deaths caused by Afghan government and US forces outpaced those caused by insurgents for the first time.

The deteriorating situation for civilians makes it increasingly untenable for Afghan refugees to return home safely. Australia, as a country that has played a major role in Afghanistan's reconstruction after 2001, should recognize its responsibility for assisting the protection of the human rights of Afghans. The most tangible way Australia affects the lives of Afghans is in its handling of Afghan asylum seekers. Many Afghans seeking asylum in Australia are the predominantly Shia Hazara ethnic group. Attacks by groups claiming allegiance to the Islamic State have targeted Afghanistan's Shia minority in suicide attacks at mosques and other facilities, causing thousands of civilian casualties. Australia should defer deporting rejected Afghan asylum seekers while the security situation remains so dire. Asylum adjudicators should treat Afghan asylum claims with due reference to the UN High Commissioner for Refugees' (UNHCR) April 2016 Eligibility Guidelines on the International Protection Needs of Asylum-Seekers from Afghanistan, including the limitations on any "internal flight alternative."

Australia's punitive approach to dealing with asylum seekers who arrive by boat, by holding them on Manus Island in Papua New Guinea and in Nauru, disproportionately affects some of the most vulnerable people from one of the world's most unstable countries.

Torture by Afghan police and intelligence agency officials is systematic and widespread. As Australia played a vital role funding and mentoring Afghan security forces, we urge your government to send a clear public message to the Afghan government that the use of torture needs to end, and that those complicit in torture need to be held accountable.

We recommend that your government:

- As a key supporter of women's rights in Afghanistan, back calls for women and civil society to participate fully in peace talks to ensure that gains achieved after 2001 are not lost in any settlement;
- Support essential services for Afghan women and girls, including schools, clinics, hospitals, shelters, and legal services, and make clear these will be Australia's priorities in any settlement;

- Urge the Afghan government that Australia’s continued support to the government and its security forces will in part be conditioned on continued progress toward accountability for serious human rights violations and equality for women, including in talks on a settlement with the Taliban;
- Defer removal of rejected Afghan asylum seekers from Australia while the security situation in Afghanistan remains dire;
- Press the Afghan government to take responsibility for ending torture by Afghan security forces and hold perpetrators to account.

## **Bangladesh**

The Bangladesh government has heightened its crackdown on civil society, media, and the political opposition. On December 30, 2018, the ruling Awami League won over 95 percent of the contested seats in parliament elections. Ahead of the election, authorities detained senior members of main opposition parties, lodged politically motivated cases against thousands of opposition supporters, and violently suppressed peaceful expression of dissent. Election day was marred by allegations of serious irregularities including ballot stuffing, voter fraud, violence, and partisan behavior by electoral officials. Prime Minister Sheikh Hasina has ignored international calls for an independent investigation into alleged abuses.

The government increased its crackdown on free expression. The Information and Communication Technology Act (ICT ACT), widely criticized for its use in censoring expression online, was amended in 2013 to incorporate harsher penalties, restrict the use of bail, and allow the police to make arrests without warrant for publishing any online content deemed in violation of the law’s overly vague and broad terms. Arrests soared, and in some cases have been for actions as trivial as “liking” a comment on Facebook. The government acknowledged that the ICT Act was being misused and revoked section 57, passing the Digital Security Act of 2018 (DSA) in its place. But the DSA only tightened the government’s chokehold on free speech. Under the DSA, “propaganda” denigrating the nation is punishable with life imprisonment. Journalists are under immense pressure to self-censor or risk arrest.

In May 2018, the government announced a “war on drugs” and within months security forces killed nearly 100 people and arrested thousands more. Enforced disappearances and extrajudicial killings by security forces, particularly by the Rapid Action Battalion and the Detective Branch of the police, continue with impunity. Security forces persist with a longstanding pattern of covering up unlawful killings by claiming the deaths occurred during a gunfight or in “crossfire.”

Bangladesh is now host to nearly one million Rohingya refugees fleeing ethnic cleansing by the military in neighboring Myanmar. Despite the pressures of hosting a continuing influx of refugees, there should be no forced refugee returns and any repatriation arrangements for refugees who voluntarily return should ensure the returns are safe and dignified. Meanwhile, Bangladesh plans to relocate refugees to Bhasan Char, a remote silt island in the Bay of Bengal. Hours from the mainland by boat and inaccessible during rough seas, the government has yet to provide assurances that the

island is safe and habitable, whether any move to the island would be voluntary, and that there would be freedom of movement should refugees relocate there.

The ready-made garment industry, which accounts for over 80 percent of Bangladesh's exports, continues to grapple with government and factory repression of protests. Following the collapse of Rana Plaza in 2013, killing over 1,100 people, global brands developed the Bangladesh Accord on Fire and Building Safety (the Accord), a binding agreement between brands and global union federations to ensure that factories meet specific safety standards. On May 19, after being held up in legal battles for a year, the Supreme Court granted the Accord a 281-day extension based on a Memorandum of Understanding between the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and the Accord. During this 281-day period there will be a "BGMEA unit" within the Accord, raising serious concerns about the ability of the Accord, and the RMG Sustainability Council that will take its place in 2020, to maintain the independence necessary for effective oversight and enforcement.

We recommend that your government:

- Publicly call for the revision of the abusive elements of the DSA and ICT Act and for an end to the harassment of human rights defenders and critics of the government who attempt to exercise their right to freedom of expression;
- Raise serious concerns over the well-documented human rights violations by the Rapid Action Battalion and push for it to be disbanded and replaced with a non-military counterterrorism unit;
- Call on the government to promptly investigate existing allegations of enforced disappearances, locate and release those held secretly by security forces, and appropriately prosecute the perpetrators;
- Call for concrete assurances that the Accord – and later the RMG Sustainability Council – will retain the independence necessary for effective oversight and enforcement;
- Emphasize the importance of respecting workers' right to strike;
- Continue to provide support to meet the humanitarian needs of refugees, asylum seekers, and stateless people in Bangladesh, especially the Rohingya;
- Encourage the government to invite independent experts to evaluate the habitability and feasibility of emergency preparedness plans for Bhasan Char. Ensure that there are no forced refugee returns and that any voluntary returns of refugees to Myanmar are organized in a safe and dignified way.

## **Brunei**

Brunei's Syariah Penal Code (2013) went into effect on April 3, 2019. Human Rights Watch prepared a [comprehensive legal analysis](#) of the code, whose substantive provisions and punishments seriously violate fundamental human rights.

Among other things, the law criminalizes consensual heterosexual relations outside of wedlock and anal sex and provides for imposition of the death penalty (specifically, death by stoning) as

punishment. Speaking against the prophet Muhammad is punishable by death and speaking against or mocking other aspects of Islam brings severe punishments.

Theft of articles over a certain value are to be punished by amputations. Lesbian sex, cross-dressing, and consumption of alcohol are to be punished by whipping. Freedom of religions other than Islam are severely restricted with draconian punishments for those who violate the law. Corporeal punishment, such as whipping, is permitted against children. Numerous provisions of the law restrict women's rights. Having an abortion or "intentional miscarriage" is punishable by 10 years in prison.

Many provisions of the law apply to non-Muslims, including anal sex and lesbian sex, *khalwat* (close proximity to a person to whom one is not married in a private place), and publicly consuming food and drink, or smoking cigarettes in daytime during Ramadan. These penalties apply to non-Brunei nationals as well.

Responding to a global backlash to the newly implemented code, in May the sultan stated that the death penalty would not be imposed. However, other rights-violating provisions remain in effect. The moratorium on the death penalty could be reinstated by the sultan at any time.

We recommend that your government urge Brunei to:

- Immediately repeal the Shariah Penal Code (2013);
- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights.

## **Cambodia**

Australia was a leading architect of the 1991 Paris Agreements on Cambodia and the creation of the United Nations Transitional Authority in Cambodia. The goal was to establish democratic governance in Cambodia and protect human rights following Khmer Rouge rule and the Vietnamese occupation of Cambodia. Cambodia has become a repressive, effectively one-party state in which fundamental freedoms are severely and increasingly curtailed. Prime Minister Hun Sen has now been in power for 34 years, while the ruling Cambodian People's Party (CPP) has been in power for 40. Australia has the opportunity, as a longstanding supporter of democracy in Cambodia and a major aid donor, to lead by example in reasserting and working towards the realization of the objectives of the Paris Agreements.

In November 2017, the ruling party-controlled Supreme Court dissolved the opposition Cambodian National Rescue Party (CNRP) and banned 118 party members, including 55 sitting members of parliament from political activity for five years. Hun Sen ordered this ahead of national elections that the CNRP was strongly contesting. On July 29, 2018, elections with only one major party were held and the CPP took all the seats in the National Assembly.

Opposition leader Sam Rainsy was forced into exile in 2016. His successor as leader of the CNRP, [Kem Sokha](#) was arrested on politically motivated charges in September 2017. The government

transferred Sokha from jail in September 2018 to house arrest. Other top CNRP leaders face fabricated charges or remain in exile due to fear of arrest.

In May 2019, the intimidation campaign continued when courts issued summons to more than 150 [local CNRP officials](#) around the country. This followed eight arrest warrants issued against top leaders of the opposition in March 2019.

Cambodia has more than 25 political prisoners, many imprisoned for making critical comments on social media platforms like Facebook.

One of the ways Hun Sen and the CPP maintain power is through the use of violence and intimidation by the security forces against political opponents, activists and critics. In June 2018, Human Rights Watch released a report, "[Cambodia's Dirty Dozen](#)," profiling 12 senior generals in the military, police and gendarmerie who are responsible for grave human rights violations. These close allies of Hun Sen have been implicated in war crimes, torture and ill-treatment, the use of unnecessary and excessive lethal force against protesters, land confiscations, and labor abuses.

The General Department of Taxation, headed by dual Cambodian-Australian citizen Kong Vibol, has discriminatorily targeted independent media and civil society groups by slapping them with allegations of unpaid taxes that were clear attempts to silence independent and critical voices in Cambodia before the July election.

National and local authorities continue to facilitate land-grabbing investors and ignore the land rights of citizens. Cambodia's once vibrant and vocal civil society, led by [trade unions](#), human rights groups and local activist movements, is facing severe restrictions on their rights to freedom of expression, association and assembly as the result of a number of repressive laws that the Cambodian government has adopted in recent years. Traditional media is no longer independent, since the forced closure of *The Cambodia Daily* and the forced sale of the *Phnom Penh Post* to a businessman with ties to the Hun Sen government.

Cambodians living in Australia have expressed concern about surveillance, harassment and intimidation by officials and individuals linked to the CPP. Some members of the community are afraid to attend anti-government protests or post comments online due to fears for family members back in Cambodia. In February 2018, ahead of a visit to Australia, Prime Minister Hun Sen publicly threatened violence against any protesters in Australia who burn effigies of him, saying "I will follow you all the way to your doorstep and beat you right there.... I can use violence against you."

We recommend that your government:

- Impose targeted sanctions against officials in the military and the government who have been implicated in human rights violations, corruption and undermining democracy, including the 12 generals named in Human Rights Watch's [Cambodia's Dirty Dozen](#) report. Such measures should include asset freezes, travel bans, and visa sanctions against them and immediate family members who have been linked to abuses;

- Make a specific and public effort to meet with Cambodian civil society activists and raise individual cases of concern with the government, publicly calling on the government to respect rights to freedom of expression and peaceful assembly and cease use of intimidation or excessive use of force;
- Provide technical and other assistance to local civil society organizations and journalists seeking new opportunities to create independent online news sites to support their efforts in promoting and protecting human rights and free media in Cambodia;
- Publicly condemn threats or harassment against Cambodians living in Australia by, or ordered by, officials of the CPP and conduct law enforcement investigations into any allegations of such harassment.

We recommend that your government call on the Cambodian government to:

- Release all persons imprisoned for peacefully expressing their views or involvement in peaceful protests; drop baseless treason charges against opposition leader Kem Sokha and release him from house arrest; exonerate Sam Rainsy of all criminal charges and allow him to return to Cambodia and resume political activities in safety; immediately and unconditionally drop charges against former Radio Free Asia journalists Uon Chhin and Yeang Sothearin; release labor activist Sam Sokha, dissidents Rath Rott Mony and Ieng Cholsa, and former opposition member Kong Mas; and drop all politically motivated court cases against local CNRP officials;
- Fully and unconditionally restore political rights to all 118 former CNRP members who are currently banned from politics for five years, without them having to seek a case-by-case reinstatement by Prime Minister Hun Sen;
- Restore the CNRP as a lawful political party;
- Repeal or amend the Law on Trade Unions and the Law on Associations and Non-Governmental Organizations (LANGO); recent amendments to the Law on Political Parties that permit the arbitrary dissolution of political parties, ban party leaders from political activity without due process, and delegate judicial powers to Hun Sen to lift the ban on party members for those who seek his pardon;
- Repeal the regulation (No. 170 Br.K/Inter-Ministerial Prakas on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia and the Law on Telecommunications), which allows for arbitrary interference and surveillance of online media and unfettered censorship by the government;
- End land grabs and call for the respect and restoration of land rights of Cambodians.

## **China**

The human rights environment in China has deteriorated rapidly and significantly under President Xi Jinping. In no part of the country is that clearer than in Xinjiang, the western region of the country in which roughly one million of the 13 million Turkic Muslim population are arbitrarily detained simply by virtue of their ethnicity and religion. They are held, outside any legal process, for weeks or months at a time, subjected to “political re-education,” a form of indefinite arbitrary detention, in which they are denied the right to practice their faith, and in some cases ill-treated. According to [The Guardian](#), more than a dozen Australian residents have been detained in those

camps. Outside the camps, Turkic Muslims are also denied their most basic rights, including the freedoms of movement and to leave the country. The region is awash in surveillance technology: Human Rights Watch recently reverse-engineered a [police surveillance app](#), which gathers shocking amounts of information about legal behavior – and uses that information to punish people.

Human Rights Watch has long documented widespread human rights abuses in China, including: violations of the rights to freedom of religion, association, and expression; arbitrary detention; torture and ill-treatment; unfair trials including unlawful imposition of the death penalty; restrictions on labor rights; repression against minority populations in Tibet and Xinjiang; and endemic forced evictions.

Xi's government has also cracked down ferociously on independent civil society – a community of activists that grew out of the relative openness of the 1990s to press for peaceful reform on issues ranging from access to justice to women's rights to environmental protection. Under Xi, feminists, journalists, democracy campaigners, and those who spoke about inequality and discrimination have been given harsh sentences on baseless charges ranging from disturbing public order to subversion. Others have been forcibly disappeared; some, most notably 2010 Nobel Peace Prize winner Liu Xiaobo, died in detention and there has been no accountability for their lack of access to adequate medical care. The 2017 Foreign Non-Governmental Organization Management Law and other regulations have helped Chinese authorities monitor – and weaken – ties between domestic groups in China and their international counterparts.

Chinese authorities also now actively threaten human rights beyond China. In recent years, Human Rights Watch has documented the threats posed by Chinese companies failing to comply with labor standards or threatening data privacy in other countries, the Chinese government's efforts to either weaken key human rights institutions such as the UN Human Rights Council or establish safeguards-free institutions like the Asian Infrastructure Investment Bank, threaten and monitor diaspora communities, and limit academic freedom on campuses around the world. Many of these problems have played out in Australia.

Chinese government officials have enlisted students from the mainland to surveil their teachers and classmates on campuses in Australia and demanded apologies from scholars who have made comments that the government finds offensive. As Duncan Lewis, director-general of security of the Australian Security Intelligence Organisation, has said: "We need to be very conscious of the possibilities of foreign interference in our universities. That can go to a range of issues. It can go to the behaviour of foreign students, it can go to the behaviour of foreign consular staff in relation to university lecturers, it can go to atmospherics in universities."

President Xi's signature anti-corruption campaign involves significant overseas operations, as Chinese officials from the Ministry of Public Security and Chinese Communist Party Central Commission on Discipline Inspection attempt to locate and repatriate individuals allegedly responsible for corruption. At least 10 of China's top hundred "fugitives" wanted on corruption offenses are believed to reside in Australia. Human Rights Watch has reported on several abusive aspects of this campaign: the legally baseless and highly abusive system of arbitrary detention in

which Communist Party members are held during “investigations,” known as *shuanggui*, and multiple impediments to a fair trial upon return to China.

Since January, Australian writer Yang Hengjun has been held in a secret location in Beijing and is accused of “endangering state security.” He has not had access to a lawyer or to his family.

Others have detailed China’s pursuit of criminal suspects in other countries, which typically involves Chinese government officials threatening the alleged fugitives with mistreatment of their family members who remain in China. Human Rights Watch is encouraged by Australia’s efforts to establish new rules with China in September 2017 regarding the conduct of Chinese police in Australia, partly in response to past abuses, but vigorous enforcement will be key.

The Australian government should prioritize implementing tough, clear-eyed policies designed to significantly increase support to human rights defenders inside China, address in coordination with other countries, Chinese threats to human rights around the world, and impose penalties on Chinese government officials who are implicated in serious human rights violations.

Pressing the Chinese government to uphold its stated commitments to the rule of law and government transparency and accountability, values Australia embraces, is right in principle and could help advance a range of Australian interests with China, from environmental protection and product safety to a level economic playing field.

We recommend that your government:

- Increase the human rights reporting capacity of its embassy and consulates in China, and articulate a clear strategy to promote human rights and the rule of law, including support to human rights defenders, as part of its diplomatic engagement;
- In its capacity as a UN Human Rights Council member, take the lead with other like-minded governments to present a joint statement at the upcoming council session calling for independent monitoring of the human rights crisis in Xinjiang with reporting back to the council;
- Impose targeted sanctions against Chinese government officials and entities credibly alleged to be responsible for serious human rights violations;
- Encourage Australian universities to adopt Human Rights Watch’s [12-point Code of Conduct](#) on academic freedom to ensure that all students and scholars of and from China in Australia can enjoy their right to freedom of expression;
- Commit the Australian Federal Police to promptly and thoroughly investigate any allegations regarding Chinese officials intimidating and harassing Chinese citizens residing in Australia and Chinese-Australians;
- Commit to investigating and appropriately prosecuting any Chinese government officials found to be violating criminal law while operating in Australia;
- Raise individual cases of arbitrary detention and ill-treatment with Chinese government officials at all levels, including the cases of Gui Minhai, Huang Qi, Wang Quanzhang, Ilham Tohti, Tashi Wangchuk, Ji Sizun, and Lee Ming-che;

- Make a specific and public effort to meet in Beijing and Canberra with Chinese civil society activists, including Uighurs and Tibetans;
- Advocate publicly and privately for the immediate release of Australian writer Yang Hengjun and build a coalition with other governments whose citizens are wrongfully detained in China.

## India

Australia has deepened its relations with India in recent years, and, according to DFAT, the government has “[placed India at the forefront of its international partnerships.](#)” This should include a commitment to upholding human rights in both countries.

There have been increased restrictions on free speech and on civil society in India. Indian authorities have harassed and at times prosecuted activists, lawyers, human rights defenders, and journalists for their criticism of government actions and policies. Laws prohibiting sedition, defamation and terrorism are frequently used to [chill peaceful expression](#). Laws such as the Foreign Contribution (Regulation) Act are used to shut down [foreign funding](#) for civil society organizations critical of the authorities. These include several prominent domestic human rights organizations working to protect the rights of some of the poorest and most marginalized communities.

One immediate concern is the [arrest](#) of nine prominent civil rights activists and human rights defenders in 2018 by Maharashtra state police, falsely accusing them of being members of a banned Maoist organization and of inciting violent protests.

There is also growing insecurity and fear among minority groups in India. Minority communities, especially Muslims and Dalits, have been targeted by extremist Hindu groups affiliated with the ruling Bharatiya Janata Party in the name of “[cow protection](#).” Instead of taking prompt legal action against the attackers, police frequently filed complaints against the victims under laws banning cow slaughter.

The Australian government has pledged commitment to [promote gender equality](#) around the world and has promised to ensure that its aid programs align with its international diplomatic efforts in relation to gender equality. Six years after the Indian government amended laws and put in place new guidelines and policies aimed at justice for [survivors of rape and sexual violence](#), girls and women continue to face barriers to reporting such crimes. [Girls and women with disabilities](#) face additional barriers in accessing justice, including because of stigma associated with sexuality and disability. Medical professionals continue to perform the degrading “two-finger” test to make derogatory characterizations about whether the victim was “habituated to sex,” even though the Ministry of Health and Family Welfare called for elimination of the test in its 2014 guidelines for medico-legal care for survivors of sexual violence.

Another key area of concern is the lack of police accountability. Investigating officers should undergo mandatory training regarding gender-based crimes, including investigative methods applicable to sexual violence, working with traumatized victims and vulnerable groups such as women and girls with disabilities, protecting victims from harassment, and collecting and

preserving evidence. Australia has a role to play here by ensuring that any future police training exercises between the two countries includes these elements.

Australia should also address the need for police reforms in India more broadly. Indian police routinely commit rights violations, including arbitrary detention and torture. Women, Dalits, the poor, and religious and sexual minorities are particularly vulnerable to police abuses.

We recommend that your government:

- Urge the Indian government to amend the Foreign Contribution (Regulation) Act so that it does not interfere with basic rights to freedom of association and assembly and cannot be misused to prevent the protected activities of civil society organizations;
- Urge the Indian government to repeal sedition, criminal defamation and other criminal laws frequently misused to silence peaceful dissent;
- Raise concerns over the arrest of activists by Maharashtra police and call on the Indian government to drop all pending charges and investigations against those who are facing prosecution for the exercise of their rights to freedom of expression, association, and assembly;
- Raise concerns over attacks on minorities and call on the Indian government to ensure prompt and impartial investigation and appropriate prosecution of the perpetrators and instigators of communal attacks and investigate alleged police inaction in responding to vigilante violence, including by so-called cow protection groups;
- Raise concerns with the Indian government at the highest levels over human rights violations by police. Call on the Indian government to ensure that police behavior towards all individuals conforms to international human rights standards;
- Include appropriate gender and disability sensitization in all ongoing and future police training and assistance programs;
- Raise concerns over the “two-finger” test and encourage the Indian government to ensure that all Indian states adopt and implement the Ministry of Health and Family Welfare *Guidelines and Protocols for Medico-Legal Care for Survivors/Victims of Sexual Violence*;
- Encourage the Indian government to ensure that all parties, state and non-state, implement the Sexual Harassment at Workplace (Prevention, Prohibition, and Redressal) Act, 2013. This includes all levels of the judiciary and other authorities with constitutional power.

## **Indonesia**

Australia deepened its bilateral relationship with Indonesia with the signing of the [Comprehensive Economic Partnership Agreement](#) in March 2019. Closer economic ties with Indonesia also mean more opportunities to raise human rights concerns with the administration of President Joko Widodo. Stronger human rights protections will be beneficial for both countries, particularly in security cooperation, education, and efforts to curb Islamist militancy in Indonesia.

Over the last two decades, intolerance by Islamists has been rising in Indonesia. Hundreds of local Sharia (Islamic law) discriminatory by-law regulations have proliferated across many provinces and regencies. These regulations criminalize gay sex, and discriminate against religious minorities,

women and lesbian, gay, bisexual, and transgender (LGBT) individuals. Indonesia's Commission on Violence against Women (Komnas Perempuan) reported that hundreds of discriminatory national and local regulations are harming women. They include local laws compelling women and girls to wear the jilbab, or headscarf, in schools, government offices, and public spaces.

Authorities still arrest and prosecute people under the blasphemy law, and courts sentenced six to prison in 2018. LGBT people in Indonesia have faced increasingly violent, intimidating, and humiliating police raids that violate their rights to privacy.

The Jokowi administration failed to lift restrictions on foreign journalists from visiting Papua and West Papua provinces, and Indonesian journalists face controls and surveillance there. This hindered efforts to report on an attack by Papuan militants in December that killed at least 17 people.

The Jokowi government took some positive steps in addressing land-grabbing to curb dispossession. In February 2018, with World Bank support, Jokowi initiated a program to register all land in Indonesia, including disputed areas, by 2025. He announced a moratorium on oil palm plantations, which are linked to deforestation, climate change, and abuses against indigenous peoples, instructing his ministries to stop issuing new plantation permits on state forests until 2021. But many indigenous and peasant rights groups contend that moratoriums and land certification alone are insufficient to resolve land disputes. In 2017, the Agrarian Reform Consortium documented 659 land-related conflicts, affecting more than 650,000 households.

The Indonesian government has taken promising steps to end shackling of people with mental health conditions, reducing the number who are shackled or locked up in confined spaces from nearly 18,800, the last reported figure, to 12,800 in July, according to government data.

Australia cooperates with Indonesia to curb irregular migration to Australia. There are serious concerns that these efforts will undermine the right of individuals to seek asylum and to be free from arbitrary detention as provided by international law. Indonesia has not ratified the 1951 Refugee Convention or its 1967 Protocol and has no asylum law or procedure. The government detains migrants and asylum seekers, including very young children with their families, as well as unaccompanied migrant children and those attempting to reach Australia to seek asylum.

We recommend that your government:

- Urge Indonesia to amend or repeal discriminatory regulations on religious affairs, including the blasphemy law, the religious harmony rule, and hundreds of discriminatory Sharia provisions nationwide which discriminate against women, girls and LGBT individuals;
- Publicly and privately raise cases of abuses by security forces in Papua and West Papua with President Joko Widodo, and make clear that future military and police cooperation is dependent upon adequate investigations and prosecutions of credible accusations of serious crimes;
- Publicly call for access to Papua for independent journalists and United Nations monitors;

- Press Indonesia to investigate and appropriately prosecute attacks on minorities, including LGBT people and religious minorities;
- Urge President Joko Widodo to create, in consultation with indigenous peoples' organizations and other relevant stakeholders, a high-profile independent taskforce to investigate, mediate, and resolve land disputes in a time-bound manner, and ensure that rights-holders receive title to their land;
- Provide technical assistance to support Indonesia's implementation of the ban on shackling of people with mental health conditions and earmark assistance toward community-based mental health and support services;
- In pursuing bilateral arrangements to combat people smuggling, ensure that the rights of individuals to seek asylum and be free from arbitrary detention are respected, and that children's rights are protected. Urge Indonesia to ensure that any proposed people-smuggling legislation does not criminalize those acting with humanitarian, rather than financial, intentions in accordance with international standards and that migrants are treated fairly with due regard to their human dignity.

## Malaysia

Malaysia and Australia have long had extensive and wide-ranging relations, many of which were highlighted by former [Foreign Minister Julie Bishop](#) in a visit to Malaysia in August 2018. Malaysia is Australia's [third](#) largest trading partner in ASEAN, and in 2012 the two countries signed a Free Trade Agreement.

The ruling Pakatan Harapan coalition took power a year ago promising wide-ranging reform and protection of human rights. Pakatan Harapan's manifesto called for sweeping changes, including reforming key government institutions and revoking repressive laws. Among the laws to be repealed were the draconian colonial-era Sedition Act; the Prevention of Crime Act, which allows for indefinite detention without trial; and the National Security Council Act, which grants wide emergency-like powers to the National Security Council.

The new government initially took positive action on its reform agenda, declaring a moratorium on the use of the [Sedition Act](#) and publicly announced that it would abolish the [death penalty](#) in all its forms. On September 28, Prime Minister [Mahathir Mohamad](#) addressed the [United Nations](#) General Assembly in New York and pledged that Malaysia would ratify the core international human rights treaties. While the government did a good job in clearing out criminal cases filed by the previous government of Prime Minister Najib Razak against rights and democracy activists and opposition political figures, those positive steps have not been matched by reforms to the abusive laws under which those individuals had been charged. The major exception is the lower house repeal of Najib's Anti-Fake News Law, passed a few months before the May 2018 election. That repeal was blocked by Malaysia's appointed Senate.

Facing objections from a vociferous political opposition, the government has reversed rights commitments and delayed promised actions to enact the human rights sections of its election manifesto. In November, the government lifted the [moratorium on the use of the Sedition Act](#), and

the police now regularly investigate people under that law, which was regularly used by prior administrations to suppress dissent.

The government has yet to reform the other oppressive laws identified in the coalition manifesto. Rather than repealing the [National Security Council Act](#), the government proposed amendments that give the council even more powers and would allow the government to presume company directors guilty of offenses by their companies unless they prove otherwise.

Similarly, the government has yet to ratify any of the core international human rights treaties. Although Malaysia acceded to the Rome Statute of the International Criminal Court in March 2019, it announced in April that it was withdrawing that accession. The government has also announced that it will not ratify the International Convention on the Elimination of All Forms of Racial Discrimination.

Discrimination against LGBT people remains pervasive in Malaysia. Federal law punishes “carnal knowledge against the order of nature” with up to 20 years in prison, while numerous state Sharia (Islamic) laws prohibit both same-sex relations and non-normative gender expression, resulting in frequent arrests of transgender people. In September, a Sharia court in Terengganu state ordered two women be given six strokes of the cane for alleged same-sex conduct. The sentence was carried out in a courtroom in front of 100 witnesses, prompting global criticism.

Members of the new government have made statements opposing rights for the country’s LGBT community, fueling a rise in anti-LGBT rhetoric and violence. On September 21, Prime Minister Mahathir stated that Malaysia “cannot accept LGBT culture.” In March 2019, the minister for religious affairs called the presence of supporters of LGBT rights at a women’s march “an abuse of democratic space,” stating that “the government is firm that LGBT practices will never be accepted in this country.”

We recommend that your government urge the Malaysian government to:

- Fulfill its manifesto commitment to repeal the Sedition Act 1948, the Printing Presses and Publications Act 1984, and the Universities and University College Act and to “abolish draconian provisions” in the Communications and Multimedia Act 1998 to protect freedom of speech in line with international standards;
- Immediately abolish provisions of law making the death penalty mandatory in some circumstances, and make time bound pledges for abolition of the death penalty within the first term of the Pakatan Harapan government;
- Revise the Peaceful Assembly Act 2012 and the provisions on assembly in the Penal Code to protect the right to peaceful assembly in line with international law;
- Repeal the Prevention of Crime Act (POCA) 1959, the Prevention of Terrorism Act (POTA) 2015 and the Security Offences (Special Measures) Act (SOSMA) to end the use of detention without trial;
- Ratify the core international human rights treaties, including the International Covenant on Civil and Political Rights, the Convention against Torture, and the 1951 Refugees Convention

and its 1967 Protocol, and to immediately reverse its decision to withdraw from the Rome Statute;

- Instruct all government officials to end the use of anti-LGBT rhetoric and to protect the rights of the country's LGBT population, including by revoking state and federal anti-LGBT laws.

## **Myanmar**

Serious human rights abuses continue in Myanmar, underlining the need for ongoing engagement on human rights issues.

A campaign of ethnic cleansing, involving killings, sexual violence and arson forced more than 700,000 Rohingya to flee Rakhine State to neighboring Bangladesh since late 2017. Another 120,000 Rohingya remain in internment camp-like settlements after communal violence in 2012.

In August 2018, the UN-mandated Fact-Finding Mission on Myanmar (FFM) issued a report that documented Myanmar security force abuses against the Rohingya population, including murder, rape, and torture, and concluded they amounted to crimes against humanity and war crimes and were carried out with genocidal intent. The FFM also found that the systematic oppression and discrimination amounted to the crimes against humanity of persecution and possibly apartheid.

Australian Foreign Minister Marise Payne [said](#) the government “is deeply disturbed” by the conclusions of the FFM and that “perpetrators must be held to account.” In May 2019, the FFM also [recommended](#) that foreign businesses not enter into any economic ties with Myanmar's armed forces or businesses they control.

Since early January, fighting between the Arakan Army and Myanmar security forces have led to the displacement of more than 35,000 people in Rakhine State. Land confiscations and forced evictions were a major feature of decades of military rule and internal armed conflict and remain a critical issue. The Vacant, Fallow, Virgin land law, amended in September 2018, opens up the possibility for businesses and private companies to make claims on private land, adding to the potential for land conflicts with small land hold farmers and ethnic communities.

The failure to address criminalization of peaceful expression in Myanmar and the decline in freedom of the press has been particularly worrying and remains another major obstacle in Myanmar's reform process. Under the National League for Democracy government, the number of political prisoners has been increasing.

This financial year, Australia provided A\$83 million in aid assistance and [will spend about the same in 2020](#). Australia's longstanding support of human rights defenders in Myanmar should continue for a new generation of activists working to improve respect for the rule of law and basic freedoms of association, assembly, and freedom of the media. Australia also provides vital support to almost 400,000 people in Rakhine, Kachin, and northern Shan States and in Thailand.

We recommend that your government:

- Publicly and privately press the Myanmar government to protect the rights to peaceful expression and assembly and to repeal laws that criminalize peaceful expression;
- Suspend all [military training and cooperation](#) with the Myanmar military, in line with steps taken by the US, UK and European Union;
- Impose targeted sanctions on military commanders and alleged perpetrators of atrocities committed against ethnic Rohingya, including Commander-In-Chief Gen. Min Aung Hlaing (as named in the FFM), and in line with [steps taken by the EU](#), against 564<sup>th</sup> Light Infantry Battalion; Commanding Officer Tun Naing, Border Guard Police in Taung Bazar and Major Aung Myo Thu, Field Unit Commander 33<sup>rd</sup> Light Infantry Division. Australia has so far sanctioned five of the generals named in the FFM;
- Investigate whether Australian businesses or businesses operating in Australia have ties with the Myanmar military. Enact regulations to suspend business ties with those that are economically engaged with the Myanmar military or enterprises they control. Ensure that Australian businesses are not complicit in war crimes or other crimes in violation of international law;
- Publicly support a UN Security Council referral of the situation in Myanmar to the International Criminal Court and press for an international mechanism to assist future prosecutions;
- Continue to use your seat on the Human Rights Council to support the preservation of evidence and investigations for future prosecutions via the International, Impartial and Independent Mechanism;
- Press the government to protect the rights of Rohingya and other vulnerable minorities;
- Support Myanmar refugees in Bangladesh and Thailand and help monitor to ensure any eventual returns are voluntary and safe.

## **Nepal**

Thirteen years after Nepal's decade-long civil war ended, there has been no accountability for the widespread human rights abuses committed by both the Communist Party of Nepal (Maoist) and the Nepalese security forces, despite repeated calls from victims, rights groups, and the international community.

A Truth and Reconciliation Commission (TRC) and a Commission of Investigation of Enforced Disappeared Persons (CIEDP) were formed in early 2015. Around the same time, the Supreme Court struck down key provisions of the transitional justice law, ruling against provisions that could provide amnesties to those responsible for the worse abuses, including war crimes and crimes against humanity. However, the law has still not been amended to bring it into line with the Supreme Court judgment and international human rights principles. In early 2019 the terms of the two commissions expired, and new commissioners have yet to be appointed. Victims and their lawyers have accused the government of attempting to dilute or postpone the process to protect alleged perpetrators. Human Rights Watch and other NGOs have previously documented the systematic failures of the Nepali justice system to investigate and prosecute serious human rights abuses.

After a nearly decade-long process, Nepal enacted a new constitution in 2015. While the constitution guarantees many fundamental rights, it is seriously flawed in denying equal status to women in their right to pass citizenship to their children. In effect, while the child of any Nepali man is automatically deemed a Nepali citizen, Nepali women must demonstrate that the father of their child is a Nepali man. Besides being humiliating, this has the effect of denying citizenship rights to the children of single mothers or women married to foreigners. As a result of this and similar provisions in the past, around four million people living in Nepal lack citizenship certificates, denying them access to basic services.

Despite guarantees of freedom of expression and other fundamental civil and political rights in the 2015 constitution, in recent months a number of journalists have been arrested and the government has tabled a series of bills in parliament that create broadly drawn offenses constraining the press and free expression on social media, as well as limiting the autonomy of the National Human Rights Commission.

We recommend that your government:

- Continue to press Nepal that its transitional justice process not provide amnesties to those responsible for grave human rights abuses in violation of international human rights law and against the landmark 2015 ruling of Nepal's Supreme Court;
- Press the Nepali government to consult with victims and civil society representatives with a view to amending the law establishing the two transitional justice commissions, so that it is consistent with the 2015 Supreme Court ruling and international legal standards;
- Urge the government to promptly appoint credible and independent commissioners to the two transitional justice commissions, so that they can conduct a transitional justice process that puts the interests of victims first;
- Advocate for the equal right of Nepali women to pass citizenship to their children, regardless of the identity of the father;
- Stand with the free press, civil society, and other domestic and international actors in Nepal advocating against curbs on freedom of expression and the independence of the National Human Rights Commission.

## **North Korea**

The Trump-Kim summits in Singapore and Hanoi and the three Moon-Kim summits have all been notable for the absence of any real discussion of human rights issues on the agenda. The international coalition to demand accountability for North Korea's human rights violations – which propelled the creation of the UN Commission on Inquiry (COI) in 2013 that subsequently reported crimes against humanity committed by North Korea's leaders – is faltering. Australian leadership is urgently needed to press for North Korea's human rights situation to be returned to the center of international dealings with the government.

The Commission of Inquiry, chaired by former Australia High Court Justice Michael Kirby, reported that between 80,000 to 120,000 political prisoners are detained in gulags in the mountains, where “deaths on a massive scale occur in the ordinary course of events” and “the camps have the

objective of gradually eliminating the camp population by working many prisoners to death.” The deaths are from “starvation, neglect, arduous forced labor, disease and executions.” The commission found that the North Korean government is carrying out “crimes against humanity,” specifically: “extermination, murder, enslavement, torture, imprisonment, rape, forced abortions and other sexual violence, persecution on political, religious, racial and gender grounds, the forcible transfer of populations, the enforced disappearance of persons and the inhumane act of knowingly causing prolonged starvation.” The COI report concluded “the gravity, scale and nature” of these human rights violations have no parallel in the world today.

Yet in the last 18 months, for the first time in four years, the UN Security Council failed to hold an annual discussion on human rights in North Korea as a formal item on the council’s agenda. The annual discussion had been launched by Australia during its term on the council. In December 2018, the US failed to provide leadership to garner the necessary nine votes to put the issue on the agenda, presumably because the Trump administration was reluctant to upset North Korea in advance of the summit in Hanoi.

In March 2019, Japan suddenly withdrew from its co-sponsorship (with the European Union) of the North Korea resolution at the UN Human Rights Council, citing their hope that doing so would permit a bilateral discussion between Japan and North Korea on cases of Japanese nationals abducted by the North Korean government. Japan had co-sponsored that resolution every year since 2008. No talks between Tokyo and Pyongyang have been announced but North Korea has raised the issue of financial reparations as part of any talks.

South Korean President Moon Jae-in’s government has not raised human rights issues with North Korea except for the issue of family reunions of Korean families separated on opposite sides of the 38<sup>th</sup> parallel by the Korean War. South Korea has not reappointed its special ambassador on North Korean human rights nor has it implemented the provisions of the North Korean Human Rights Act passed by South Korea’s National Assembly in March 2016. South Korea has not raised the issues of South Koreans abducted by the North. While South Korea continues to host and provide access to investigators from the Seoul office of the UN High Commissioner on Human Rights to recent North Korean defectors, it has declined to send representatives to speak at recent OHCHR events.

China continues to detain North Koreans who are fleeing their country and trying to escape to a third country (most often, South Korea) where they can receive protection. China refuses to provide access to the UN High Commissioner for Refugees to detained North Koreans, claiming they are “economic migrants,” and forces them back to North Korea where they face torture, arbitrary detention, forced labor, and in some cases, executions.

We recommend that your government:

- Publicly call on the US, South Korea and other Asia-Pacific nations to include human rights in North Korea on the agenda of meetings and summits with North Korea;
- Support provision of humanitarian assistance to North Korea that targets the most vulnerable members of the population, include pregnant women, children and other disadvantaged groups

on the condition that proper monitoring (in line with international standards) is done to ensure aid reaches only those for whom it is intended;

- Work with EU and its member states, Canada, New Zealand, Latin American and African nations and others to include human rights issues in North Korea in UN Security Council discussions, actions at the UN Human Rights Council, and in bilateral relations with North Korea;
- Urge North Korea to recognize the mandate of the UN special rapporteur on human rights in the Democratic People's Republic of Korea, and the findings of the UN COI;
- Urge China to cease detaining and forcibly returning fleeing North Koreans to North Korea where they will face abuse, release all North Korean asylum seekers detained, and permit North Koreans to either seek asylum in China with access to the UNHCR or travel to third countries where they can seek protection.

## **Pakistan**

Australia and Pakistan have extensive bilateral relations. Australia has at times played a constructive role promoting respect for human rights in Pakistan. However, considerably more could be done.

For the past two years the Pakistan government has been carrying out an assault on free expression and civil society groups. Media censorship is at levels not seen in recent history, dozens of international NGOs have been kicked out of the country and local NGOs are being intimidated and harassed daily. The government of Prime Minister Imran Khan, which came to power following the July 2018 elections, has appeared willing to continue with this crackdown.

In December 2018, Australia alongside EU member states, Canada and Japan, expressed deep concern about the implementation of the international NGO policy and its impact on Pakistan's civil society.

There has been an increase in the use of blasphemy accusations and particularly the use of blasphemy rhetoric by government officials and political parties. Pakistan's "Blasphemy Law," as section 295-C of the penal code is known, makes the death penalty mandatory for blasphemy. Aasia Bibi, a Christian woman accused of blasphemy, was acquitted by the Supreme Court in October 2018 after spending eight years on death row and was finally allowed to leave the country in May 2019.

The Pakistan government has sought to extend the term of secret military courts to try individuals accused of terrorism-related offenses. There are serious concerns regarding fair trial and due process with the trials being conducted in the military courts, particularly significant since the military courts have handed down dozens of death sentences.

We recommend that your government urge the Pakistani government to:

- Amend the international NGO policy to allow the smooth functioning of organizations doing valuable work in Pakistan;

- Stop the crackdown on domestic NGOs and end intimidation and harassment of activists and journalists;
- Amend or repeal the overbroad and discriminatory blasphemy laws;
- Reinstate the moratorium on the death penalty and not extend the term of military courts.

## **Philippines**

Thousands of Filipinos have been killed in President Rodrigo Duterte’s “war on drugs” that began when he took office on June 30, 2016. According to the police, more than 5,200 drug suspects were killed during police anti-drug operations. The national Commission on Human Rights estimates the death toll to be as many as 27,000. Thousands of others were killed by unidentified assailants, many of them believed to be police or government agents. Nearly a hundred children have likewise been killed during “drug war” operations, either targeted or what authorities call “collateral damage.”

An overwhelming majority of these cases remain uninvestigated, while only one case has resulted in the conviction of police officers.

The “drug war” killings were initially rampant in Metro Manila, but soon expanded to other urban areas throughout the country, such as Cebu City in the central Philippines.

In response to increasing condemnation from the international community, President Duterte ordered the country’s withdrawal from the International Criminal Court. The administration likewise stepped up its attacks against “drug war” critics, including activist groups, the Catholic church, opposition politicians, and the media. In December 2018, the authorities brought politically motivated charges for tax evasion against the critical news website Rappler and its editor, Maria Ressa. They have accused other journalists and media groups of plotting a conspiracy to destabilize the government. The same month Duterte urged the public to kill “useless bishops” because “all they do is criticize” the government. Senator Leila de Lima, Duterte’s most prominent critic, has remained in jail since her arrest in February 2017 on trumped-up drug charges.

Meanwhile, the killings of members and leaders of farmers, peasants, environmental, and indigenous groups, and lawyers and journalists continue. The government continues to vilify leftist activist groups, calling them communists and terrorists.

We recommend that your government:

- Press the government of the Philippines to investigate and prosecute police and other law enforcement officials for the unlawful killings of drug suspects;
- Work with other concerned countries at the UN Human Rights Council by joining a core group on a resolution to establish an independent international investigation into the “drug war” killings;
- Urge the government to drop charges and release Senator de Lima, drop charges against Ressa and Rappler, and stop its attacks and harassment of critics, journalists, activists, and members of civil society;

- Instruct the Australian embassy in Manila to routinely obtain updates from the Philippine government about the status of cases of extrajudicial killings related to the “drug war” as well as political killings;
- Ensure that any assistance from the Australian government to state security forces in the Philippines promotes human rights and is not misused on behalf of the “drug war.”

## **Singapore**

Australia has close and deepening military and economic ties with Singapore, which is Australia’s largest trading partner in ASEAN. In 2015, Australia and Singapore agreed to elevate their bilateral relationship and declared it a [Comprehensive Strategic Partnership](#). In 2016, Australia and Singapore agreed to enhance and expand training opportunities for Singapore Armed Forces personnel in Australia and signed an MOU to cover this. In April 2019, they agreed to [elevate that MOU](#) to treaty status on a priority basis.

Singapore regularly uses laws of sedition, libel and contempt, along with a range of regulatory measures, to impose severe restrictions on the right to freedom of speech. In two recent examples, human rights activist Jolovan Wham and opposition politician John Tan were fined S\$5000 on April 29, 2019 for “scandalizing the judiciary” by posting comments on Facebook deemed critical of Singapore’s judiciary, while the editor of an alternative online news site was charged with criminal defamation for publishing a letter accusing government officials of corruption, as has the individual who wrote the letter.

On May 8, 2019, Singapore’s Parliament passed the Protection from Online Falsehoods and Manipulation Act (POFMA), despite concerns from academics, journalists, tech companies, rights groups and members of Singapore’s opposition that it will be used to further suppress freedom of speech. The law effectively gives government ministers the power to determine what is true or false online if that content is available to users in Singapore, to order “corrections” to such content, and to block content that does not comply. The law also carries significant criminal penalties (fines and imprisonment) for non-compliance. During the parliamentary debate, government ministers also stated the law would apply to private, encrypted chat apps, such as WhatsApp. Tech firms and human rights groups predict the POFMA law will be disastrous for freedom of expression and media freedom in Singapore – which is already sharply limited – and quite possibly the region if the model spreads further.

The government maintains strict restrictions on the right to peaceful assembly through the Public Order Act, requiring a police permit for any “cause-related” assembly if it is held in a public place, or in a private venue if members of the general public are invited. The definition of what is treated as an assembly is extremely broad and those who fail to obtain the required permits face criminal charges. In February 2019, Jolovan Wham was sentenced to 16 days in jail under the Public Order Act for organizing a forum at which Joshua Wong spoke via Skype without obtaining the required permits. He is also facing charges for organizing a candlelight vigil and a protest.

Use of corporal punishment is common in Singapore. For medically fit males ages 16 to 50, caning is mandatory as an additional punishment for a range of crimes, including drug trafficking, violent

crimes such as armed robbery, and even some immigration offenses. Singapore retains the death penalty, which is mandated for many drug offenses and certain other crimes. Singapore executed 13 people in 2018, with four executed in the same week.

We recommend that your government urge the Singapore government to:

- Repeal the Protection Against Online Falsehoods and Manipulation Act to protect freedom of speech in line with international standards;
- Amend the Public Order Act to protect freedom of assembly in line with international standards;
- Amend the Administration of Justice (Protection) Act to abolish the offense of “scandalizing the judiciary” and to bring other provisions of the act into line with international standards for freedom of speech;
- Abolish the death penalty for all offenses;
- Ratify all core international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## **Sri Lanka**

Ten years after Sri Lanka’s 26-year civil war ended in May 2009, communal issues have gone unaddressed and serious human rights violations continue. There has been little progress in addressing the war crimes that were committed during the conflict. The bombings of churches and hotels by Islamist militants on Easter Sunday 2019, and subsequent mob violence predominantly against Muslim asylum seekers, shows the danger of renewed communal violence.

In 2015, Sri Lanka co-sponsored UN Human Rights Council Resolution 30/1, which committed the government to 25 key undertakings across a range of human rights issues. A core commitment was to set up four transitional justice mechanisms to promote “reconciliation, accountability and human rights” in the country. These included an accountability mechanism involving international judges, prosecutors, investigators, and defense lawyers; a truth and reconciliation mechanism; an office of missing persons; and an office for reparations. The Office of Missing Persons and the Office for Reparations have barely begun to function. There has been no progress on establishing an accountability mechanism. Instead, Sri Lankan political leaders have repeatedly said that there will be no foreign judges, and that “war heroes” will be protected from prosecution.

Another key commitment was to repeal and replace the Prevention of Terrorism Act (PTA), which provides for prolonged detention without trial and has frequently been associated with torture including sexual violence and rape in custody, with human rights compliant anti-terror legislation. A replacement bill, the draft Counter Terrorism Act, is currently before parliament. In many respects it represents an improvement on the PTA, although several provisions remain problematic and there are concerns that human rights protections will be further diluted through amendments, particularly in the aftermath of the Easter bombings.

The government also committed in 2015 to return land to families that the military appropriated during the war and still occupied. The security forces have not only used this land for military purposes, but also for agriculture, tourism, and other commercial ventures. While the government has released land in a number of sites in the north and east, in other sites the process has been slow.

The Easter Sunday bombings and subsequent events underline existing tensions within Sri Lanka 10 years since the war ended and the urgent need to uphold human rights protections. The government enacted emergency regulations after the attacks that provide sweeping powers for detention without trial and curtail freedom of expression and other fundamental rights.

There have also been alarming incidents of mob violence targeting the Muslim community. Some of these have been partly orchestrated by extremists from the majority Sinhalese Buddhist community. There are widespread concerns that such incidents may escalate.

Among those most vulnerable in the current situation are around 1,700 refugees in Sri Lanka, mostly religious minorities from other South Asian countries, who have been falsely linked to the bombings and are now taking shelter at temporary and insecure sites in poor conditions.

We recommend that your government urge the Sri Lankan government to:

- Fulfill its commitments under Human Rights Council Resolution 30/1 to address wartime abuses through the mechanisms laid out in that resolution, and, in consultation with the Office of the UN High Commissioner for Human Rights, present to the council a time-bound action plan for implementation of its commitments;
- Return military-occupied land to its civilian owners, as it committed to do under Resolution 30/1;
- Replace the PTA with counter-terrorism legislation that is consistent with basic human rights standards;
- Take timely and proportionate action to prevent communal violence, protect vulnerable communities, and appropriately prosecute those responsible for inciting violence and discrimination;
- Cooperate with the UNHCR to protect and make adequate provision for refugees who are at risk of violence since the Easter bombings.

## **Thailand**

Since the May 2014 military coup, Thailand is facing a deepening human rights crisis with no end in sight. The junta held a national election on March 24, 2019 that enshrined continued military rule in suits instead of uniforms. Conditions [essential to a free and fair vote were not met](#). In addition, the junta has kept repressive laws, dissolved a main opposition party, taken control of the electoral commission, manipulated the election results, and handpicked a senate with the power to vote for Gen. Prayut Chan-ocha to be prime minister for another term.

Over the past five years, thousands of dissenting activists, politicians, journalists, and human rights defenders have been taken to military camps for questioning and, in the junta's parlance, "adjusting" of their attitude. The junta has also compelled those released from "attitude adjustment" programs to sign a written agreement that they will not make political comments, become involved in political activities, or oppose military rule. Failure to comply with such agreements could result in a new detention or a sentence of two years in prison.

Thailand's Computer-Related Crime Act gives broad powers to the government to restrict free speech and enforce censorship. This controversial law provides very vague grounds for the government to prosecute anything they designate as "false" and "distorted" information. Even content online that is not illegal can be banned and ordered to be deleted by the court based on a request from a computer data screening committee, appointed by the minister of digital economy and society, stating that the content is against public order or good morals of the people. The explanation given by Thai authorities has troubling implications for human rights reporting. In December 2018, the government blocked the Human Rights Watch Thailand webpage for containing information that was considered by authorities to be "inappropriate."

*Lese majeste* (insulting the monarchy) is serious criminal offense in Thailand. Since 2016, the government has repeatedly requested that the United States, United Kingdom, Sweden, France, Australia, New Zealand, Japan, Cambodia, Laos, Vietnam, and Malaysia send back Thai citizens who sought political asylum from persecution under *lese majeste* charges.

The use of military courts, which lack independence and fail to comply with international fair trial standards, to try civilians remains a major problem. In September 2016, Prime Minister Prayut revoked junta orders that empowered military courts to try civilians for national security offenses, including *lese majeste* and sedition. However, the action is not retroactive and does not affect the more than 1,800 cases already brought against civilians in military courts across Thailand – including the recent sedition case brought against Thanathorn Juangroongruangkit, the prominent opposition politician and leader of the Future Forward Party.

There are serious concerns for the safety of Thai anti-monarchists who fled to neighboring countries after the coup. In Laos, two went missing, while three others were [abducted and murdered between 2016 and 2018](#). In May 2019, three anti-monarchy activists were allegedly forcibly [repatriated from Vietnam](#) to Thailand and have since gone missing.

Thailand's junta failed to create conditions for a free and fair national election in March 2019. The Election Commission of Thailand was neither independent nor impartial, and showed serious bias against candidates and parties opposing military government.

Gen. Prayut has spoken repeatedly in Thailand and at international forums about his government's commitment to return Thailand to democratic civilian rule. Maintaining Thailand's international reputation is a priority for the junta. To consider these pledges to be serious and credible, Australia should stress that Thailand needs to take the following steps.

We recommend that your government urge the Thai government to:

- End the use of abusive and unaccountable powers under section 44 of the 2014 interim constitution;
- End restrictions on the rights to freedoms of expression, association, and peaceful assembly;
- Release all dissidents and critics detained for peaceful criticism of the junta;
- Drop sedition charges and other criminal lawsuits related to peaceful opposition to military rule;
- Transfer all civilian cases from military courts to civilian courts that meet international fair trial standards;
- Ensure a safe and enabling environment for human rights defenders to work – including by dropping criminal defamation lawsuits against them;
- Criminalize enforced disappearance and torture, and conduct thorough, impartial, and independent investigations into all allegations of enforced disappearance, torture, and extrajudicial killings and appropriately prosecute those responsible;
- Call on the Election Commission to impartially and transparently resolve complaints about electoral irregularities.

## **Vietnam**

Australia's bilateral relationship with Vietnam has deepened significantly over recent years since the signing of the Comprehensive Partnership Agreement in 2009. Australia provides extensive development aid to Vietnam and is a significant trading and investment partner. As of 2018, Australia was Vietnam's [eighth largest trading partner](#) while Vietnam was the 15<sup>th</sup> largest for Australia. The two countries hold annual human rights dialogues. These ties give Australia an opportunity and responsibility to speak out on Vietnam's abysmal human rights record, and in particular, the systematic suppression of freedom of expression, association, peaceful assembly, and religion in Vietnam.

The Communist Party of Vietnam monopolizes power through the government, controls all major political and social organizations, and punishes people who dare to criticize or challenge its rule. Basic civil and political rights including the rights to freedom of expression, association, and peaceful assembly are severely restricted. Independent media is not allowed as the government controls TV, radio, newspapers, and other publications. Vietnam prohibits the formation of independent labor unions, political associations, and human rights organizations. Police frequently use excessive force to disperse peaceful public protests that criticize the government. Activists questioning government policies or projects, or seeking to defend local resources or land, face daily harassment, intrusive surveillance, house arrest, travel bans, arbitrary detention, and abusive interrogation. Thugs, apparently collaborating with police, have increasingly launched physical assaults against activists with impunity. Police subject dissidents to lengthy and bullying interrogations, and detain them incommunicado for months without access to legal counsel. Communist Party-controlled courts receive instructions on how to rule in criminal cases, and have issued increasingly harsh prison sentences for activists convicted on bogus national security charges.

Since January 2019, Australian pro-democracy activist Chau Van Kham has been detained in Vietnam, where he is being investigated for alleged offenses including attempting to overthrow the government under article 109 of the Vietnamese criminal code. The police monitor, harass, and sometimes violently crack down on religious groups operating outside government-controlled institutions. Unrecognized branches of the Cao Dai church, Hoa Hao Buddhist church, independent Protestant and Catholic house churches, Khmer Krom Buddhist temples, and the Unified Buddhist Church of Vietnam face constant surveillance, harassment, and intimidation. Followers of independent religious groups are subject to public criticism, forced renunciation of faith, detention, interrogation, torture, and imprisonment.

Vietnam's highly problematic law on cybersecurity went into effect in January 2019 in the face of widespread domestic and international criticism. It increases the country's already severe restrictions on freedom of access to information. Under this law, service providers must take down content that offends the authorities within 24 hours of receiving their request. Internet companies are also required to store data locally, verify user information, and disclose user data to authorities on demand without a court order, all of which threaten the right to privacy and could facilitate further reprisals against dissenters and activists.

We recommend that your government urge the Vietnamese government to:

- Immediately release all persons who have been imprisoned or detained for exercising their rights to free expression, assembly, movement, or peaceful political or religious association and cease arresting and detaining others for such actions, including in the cases of: Tran Huynh Duy Thuc, Le Dinh Luong, Hoang Duc Binh, Luu Van Vinh, Tran Anh Kim, Ngo Hao, Nguyen Trung Ton, Nguyen Van Tuc, Truong Minh Duc, and Tran Thi Nga;
- Release Australian pro-democracy activist Chau Van Kham;
- Repeal penal code articles "carrying out activities aimed at overthrowing the people's administration" (article 109), "undermining the unity policy" (article 116), "making, storing, disseminating or propagandizing information, materials and products that aim to oppose the State of the Socialist Republic of Vietnam" (article 117), and "disrupting security" (article 118). Vietnam also uses other articles in the penal code to target rights campaigners, including "abusing the rights to democracy and freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations, individuals" (article 331). Urge Vietnam to bring its penal code in conformity with its obligations under the International Covenant on Civil and Political Rights (ICCPR), which Vietnam has ratified;
- Repeal article 74 and article 173 of the Criminal Procedure Code, which facilitate holding people for prolonged periods without access to counsel and allow all people detained for any alleged violations including national security to have immediate access to legal counsel upon being detained;
- Amend or repeal provisions in the Law on Cybersecurity and other domestic laws that curb the right to freedom of expression on the internet, remove filtering, surveillance, and other restrictions on internet usage, and release people imprisoned for peaceful dissemination of their views over the internet;

- Immediately recognize independent labor unions and ratify International Labour Organization Conventions No. 87 (Freedom of Association and Protection of the Right to Organize) and No. 98 (Right to Organize and Collective Bargaining);
- Immediately end government-sponsored vigilantism;
- Immediately end restrictions on the movement of rights bloggers and activists within and to and from Vietnam;
- Allow all independent religious organizations to freely conduct religious activities and govern themselves. Churches and denominations that do not choose to join one of the officially authorized religious organizations with government-sanctioned boards should be allowed to operate independently.

## **Middle East**

### **Bahrain**

The case of a Melbourne soccer player, Hakeem al-Araibi, whom Thai authorities detained for months based on an extradition request from Bahrain, has brought Bahrain's atrocious human rights record into the spotlight in Australia. The Bahraini authorities have severely curtailed free speech and opposition political activity. [No independent media](#) is allowed to operate in the country. Authorities have arrested and harassed scores of prominent human rights defenders, journalists, and opposition leaders.

Bahrain's courts continue to convict human rights defenders and members of the opposition, typically after authorities charge them on dubious national security grounds, mostly for peaceful acts of protests. Nabeel Rajab, one of Bahrain's most prominent human rights defenders, was sentenced to five years' imprisonment for his social media activity.

Bahrain took its human rights violations beyond its borders when it submitted an extradition request to Thailand for al-Araibi, then an Australian permanent resident, on trumped up charges. The Australian government's leadership was crucial in securing al-Araibi's release and bringing him back home. Given Australia has little trade or security interests in Bahrain, Australia could speak out on human rights concerns in the country without fear of any backlash.

Since 2012, more than 900 Bahrainis have been stripped of their citizenship for alleged terrorism offenses, often in mass trials that were marred by allegations of due process violations. Most of these individuals were rendered stateless.

On April 20, 2019, Bahrain's king reinstated the citizenship of 551 individuals who had their citizenship stripped through a court order. However, more than 400 others remain stateless. Further, it is not clear on what basis the king decided which individuals were to have their citizenship reinstated.

Human Rights Watch has documented [widespread torture](#) in Bahrain's detention facilities, especially during interrogation, as well as [persistent failures](#) of Bahrain's justice system, which

continues to criminalize dissent and entrench impunity. While authorities have been vigorously prosecuting individuals solely for exercising the rights to freedom of expression, association, and peaceful assembly, there have been very few prosecutions of security personnel implicated in the serious and widespread abuses against detainees. The [few prosecutions](#) in connection with the widespread abuse in detention have almost exclusively involved low-ranking officers, and have – without exception – resulted in acquittals or disproportionately light sentences.

The oversight bodies that the government set up in 2012 have [repeatedly failed](#) to investigate credible allegations of prison abuse or hold officials who participated in and ordered widespread torture during interrogations since 2011 accountable. Further, these oversight bodies have received international criticism, including by the UN Committee against Torture, which [raised concerns](#) that these mechanisms were neither independent nor effective.

Bahrain ended a de facto seven-year moratorium on the death penalty in January 2017 when it executed three Shia men for a bomb attack that resulted in the deaths of three police officers amid allegations that they had been tortured into confessing. In May 2019, the Court of Cassation upheld the death sentences of two men, who were convicted in a mass trial marred by due process violations and allegations of torture. Bahrain currently has eight men on death row.

Despite this repressive environment, Bahrain held [parliamentary elections](#) in November 2018. Almost every single opposition leader was disqualified from participating in the elections. Human rights groups and international officials, including members of the EU Parliament, raised serious concerns about the legitimacy of the elections.

Further, there are significant human rights concerns with respect to Bahrain's actions domestically and with its participation in the Saudi-led coalition in Yemen, which has committed numerous serious violations of international humanitarian law. The coalition has failed to credibly investigate potential war crimes, and coalition members, including Bahrain, have provided insufficient or no information about their role in alleged unlawful attacks.

There has not been a joint statement on Bahrain at the UN Human Rights Council since 2015, despite the persistent record of abuse in the country. Bahrain is currently a member of the Human Rights Council.

We recommend that your government take the lead in drafting and moving forward a joint statement at the next Human Rights Council session, calling out Bahrain's abuses and its harassment of human rights defenders.

We recommend that your government call on the Bahrain government or king to:

- Quash the charges against Nabeel Rajab resulting from his exercise of his right to free speech;
- Schedule a visit of the UN Special Rapporteur on torture, which was accepted with agreed dates in 2013 but then postponed indefinitely;
- Accept the visits of the other UN special procedures, many of whom have submitted visit requests to Bahrain that have gone unanswered, including the Special Rapporteurs on freedom of expression, extreme poverty, human rights defenders, and freedom of assembly;

- Reinstatement of the citizenship of the over 400 individuals who had their nationality stripped and refrain from using this tactic as a punitive measure;
- Allow independent political societies and media to operate in the country;
- Investigate allegations of torture in detention and appropriately prosecute those responsible.

## **Iraq**

Authorities in Iraq are prosecuting thousands of Iraqi and foreign Islamic State (ISIS) suspects in trials riddled with due process violations including lack of communications with family or access to a lawyer during interrogations, extracting confessions through coercion and torture, and being housed in inhuman prison conditions. ISIS suspects are being tried under provision 4 of the counter terrorism law, with no prosecutions for specific crimes committed, such as rape or murder. Because of the nature of the charges, in most cases investigative judges are proceeding with prosecutions based solely on a confession. Victims of ISIS abuse continue to have no role in the proceedings. The death penalty is a common penalty for ISIS suspects. While the Iraqi government is not disclosing execution numbers, Human Rights Watch is aware of close to 100 executions of suspected ISIS members since 2017 but the number is likely higher. These sentences are being applied based on deeply flawed trials.

Some foreign governments with nationals in custody in northeast Syria are negotiating with the Iraqi government to transfer their nationals to Iraq for prosecution. If transferred, these individuals face a risk of torture, unfair trial, and the death penalty in prosecutions that do not allow for victim participation.

Iraqi authorities are also collectively punishing Iraqi families related to ISIS suspects, affecting over 250,000 mostly women and children. They have denied these families security clearances, without which these families lose their right to freedom of movement, access to employment, education, health care, and all welfare programming. Iraq's prime minister is currently considering a proposal to intern these families for an indeterminate period in isolated compounds in the desert.

In Iraq and northeast Syria, Australia has been a member of the anti-ISIS coalition since 2014. In the war against ISIS, the coalition conducted hundreds of airstrikes. These strikes have destroyed civilian infrastructure and by coalition estimates resulted in hundreds of civilian deaths. Public estimates of civilian casualties are significantly higher, and while coalition member states, including Australia, have investigated and reported on some civilian casualty incidents, these investigations have often been inadequate and no Australian investigation has yet resulted in condolence payments, leaving the civilian victims of unlawful airstrikes with no access to reparations or support.

We recommend that your government:

- Take steps to immediately repatriate any Australian children held in Iraq. Repatriated children should be supported with reintegration and psychosocial support programming upon their return;

- Not transfer Australian nationals suspected of ISIS affiliation in northeast Syria to Iraq because of the risks of torture, unfair trial, and execution in Iraq. Instead repatriate these Australian nationals, investigate them, and where there is adequate evidence of a crime, prosecute them;
- Ensure that if any Australians are prosecuted in Iraq, they receive a fair trial with due process, including by providing them with consular access and support, assistance in appointing legal representation, monitoring detention conditions and trials, and advocating privately and publicly with the Iraqi government for the abolition or suspension of the death penalty;
- Advocate with Iraqi authorities at the political, intelligence and military levels to end collective punishment measures targeting Iraqi families with perceived ISIS affiliation, including arbitrary denial of security clearances and restrictions on their ability to return to their communities;
- Conduct thorough and timely investigations where there is credible evidence that Australian strikes have resulted in civilian casualties. If after conducting robust investigations, Australia concludes any of its attacks were unlawful, then it should ensure reparations for the families of the victims. Regardless of the lawfulness of the attack, Australia should also support a unified, comprehensive mechanism for providing ex gratia (“condolence”) payments to civilians who suffer losses due to military operations.

## Israel and Palestine

Israeli authorities continue to expand West Bank settlements, which are illegal under international humanitarian law, at what a recent EU report called an [“unprecedented high level.”](#) A May 2019 [report by the Israeli group Peace Now](#) found that, in the last decade under Prime Minister Benjamin Netanyahu, Israeli authorities built nearly 20,000 settlement units, not including East Jerusalem, 70 percent in areas outside the main settlement blocs. One of the few initiatives to counter this trend is a database of companies doing business in or with illegal Israeli settlements that the Office of the UN High Commissioner for Human Rights is compiling following a 2016 Human Rights Council Resolution.

Israel’s near-total closure of the Gaza Strip, in coordination with Egypt, continues to have a devastating humanitarian impact on the nearly two million Palestinians living in the 41 by 11 kilometer territory. As a result of Israel’s policy to limit travel to largely “exceptional humanitarian cases,” travel out of Gaza via Israel’s passenger crossing is [about 1 percent](#) of what it was in September 2000, before the closure was imposed. This generalized travel ban blocks Palestinians from professional, educational, economic, and other opportunities, separates families and prevents access to medical care for many in need. Severe restrictions on the entry and exit of goods has crippled the local economy and restricted access to electricity, compromising the local water supply, sewage treatment services and hospital operations. About 80 percent of the population depend on [humanitarian aid](#) and the [unemployment rate](#) is above 50 percent.

Israeli forces have also continued to routinely use unnecessary or excessive force against Palestinian protesters. The UN Commission of Inquiry on the [2018 Gaza Protests determined](#) that Israeli forces killed 189 Palestinians and wounded more than 6000 with live fire during protests alongside the fences separating Israel and Gaza between March 30 and December 31, 2018. The commissioners found that, while demonstrations were “at times violent,” 187 of those killings were

unlawful cases in which protesters didn't pose an imminent threat to life or where force was "neither necessary nor proportional." They also found that Israeli snipers "shot at unarmed protesters, children and disabled persons, and at health workers and journalists performing their duties, knowing who they are." Israeli forces fired pursuant to [expansive open-fire orders](#) from senior officials that contravene international human rights law standards, apparently willful killings that may amount to war crimes, since international humanitarian law applies to Gaza given Israel's continuing effective control.

Amid a deteriorating rights climate, Israeli authorities have [denied entry](#) to other [rights advocates](#), [made it more difficult](#) for [Israeli advocacy groups](#) to operate and [branded them as "traitors,"](#) and [banned from travel](#) and [arrested](#) Palestinian [rights defenders](#). Last year, Israeli authorities revoked [the work visa](#) of Human Rights Watch's Israel and Palestine Director Omar Shakir, alleging that he supported boycotts of Israel. When we challenged the deportation order in court, the government highlighted his promotion of our research activities of businesses such as [Airbnb](#) in the settlements and our recommendation that they halt their activities in settlements because of their harm to Palestinians' rights. In April, an Israeli court [upheld the deportation order](#), claiming that Human Rights Watch's work on businesses in settlement constitutes a call to boycott Israel. We have [appealed](#) to Israel's Supreme Court. Many have publicly criticized the deportation order, including [27 European states](#) (all EU states except Hungary), [17 members of the US Congress](#), the [UN Secretary-General](#) and [three UN special rapporteurs](#).

The Australian government has opposed Item 7 at the Human Rights Council, which concerns rights abuses in the Occupied Palestinian Territory (OPT), and voted against resolutions brought under it. However, Australia has also voted against resolutions to address rights abuses in the Occupied Palestinian Territory even when these have not been brought under Item 7, including a Special Session resolution mandating an inquiry into Gaza violence in May 2018 and a resolution on accountability and justice for violations of international law in the OPT brought at the March 2019 council session under Item 2 (reports of the high commissioner). Australia's opposition to resolutions on the OPT brought under different agenda items diminishes the credibility of its critique of Item 7, and results in Australia failing to address serious rights abuses that demand attention.

Both the Palestinian Authority in the West Bank and Hamas authorities in Gaza also clamped down on dissent, [systematically arbitrarily arresting](#) political opponents and critics and torturing those in their custody.

We recommend that your government:

- Encourage Israel to end its sweeping restrictions on the movement of people and goods into and out of Gaza and permit free movement of people to and from Gaza, subject to individual security screenings and physical inspection;
- Call on Israeli authorities to reverse its decision to deport Human Rights Watch's researcher over his human rights advocacy;

- Stop using opposition to Item 7 at the UN Human Rights Council as a shield to oppose addressing pressing human rights concerns, and support resolutions on their merits to address serious rights violations and abuses in the OPT;
- Support publication of the OHCHR database on settlement businesses in line with UN Security Council Resolution 2334 and to reaffirm the international consensus on the illegality of settlements;
- Back efforts to hold accountable those responsible for serious crimes – against both Palestinians and Israelis – including by highlighting the importance of the International Criminal Court and prosecutorial independence should the prosecutor move forward with opening a formal investigation into serious abuses in Palestine;
- Raise concerns publicly about the Palestinian Authority’s and Hamas authorities’ systematic arbitrary arrests of dissidents and torture.

### **Saudi Arabia and Yemen**

Saudi Arabia has continued its harsh repression of human rights activists and peaceful dissidents and failed to provide accountability for numerous laws of war violations in Yemen.

Saudi Arabia has faced increased criticism over its human rights record since the murder of Saudi journalist Jamal Khashoggi by Saudi agents in October 2018. Authorities have failed to provide transparency into the criminal proceedings against 11 individuals currently on trial for his murder and appear to be shielding high-level current and former officials implicated in the murder from additional scrutiny.

In May 2018, weeks before Saudi authorities lifted the ban on women driving on June 24, 2018, the authorities’ opened a large-scale coordinated crackdown against the women’s rights movement, detaining nearly 20 individuals. It brought 11 of the women to trial in March 2019. At least four of the women said that they were tortured in detention.

The charges against women currently on trial include speaking about women’s rights to international journalists, diplomats, and international human rights organizations. Eight women have been temporarily released while still facing trial, but at least five women’s rights activists and one man associated with the women’s rights activists remain detained. Loujain al-Hathloul is among those who is on trial but remains in prison. Two other prominent women’s rights activists, Samar Badawi and Nassima al-Sadah, remain detained without charge or trial.

On April 23, 2019, Saudi Arabia announced the mass execution of 37 men in various parts of the country. At least 33 of the 37 were from the country’s minority Shia community and had been convicted following unfair trials for various alleged crimes, including protest-related offenses, espionage, and terrorism. In addition, beginning in mid-2018 Saudi prosecutors began seeking the death penalty against peaceful dissidents on charges related solely to their alleged activism or political affiliations. Those on trial in capital cases include several prominent clerics, intellectuals, and academics detained in September 2017, including prominent cleric Salman al-Awda, who is on trial solely for alleged ties to the Muslim Brotherhood and opposition to Saudi government policies.

Saudi women fleeing abuse, discrimination, or repression have increasingly sought to escape Saudi Arabia and find safety abroad. Media reports have indicated that Australian authorities blocked entry to two Saudi women with valid visas at Sydney Airport over the past two years, presumably over concerns they would seek asylum. While women fleeing Saudi Arabia expect to face difficulties on their journey, particularly attempts by Saudi authorities to interdict and return them against their will, they do not expect supposedly safe countries with developed asylum systems to stop and return them because of suspicions they will make an asylum claim.

Saudi Arabia leads the military coalition that began operations in Yemen in March 2015. The conflict between the Saudi-led coalition and Houthi forces has exacerbated the dire humanitarian situation and taken a terrible toll on Yemeni civilians. The Saudi-led coalition has committed numerous violations of international humanitarian law, including likely war crimes, and has failed to carry out credible and impartial investigations into alleged violations. The work of the Joint Incidents Assessment Team (JIAT), established in 2016, has fallen far short of international standards regarding transparency, impartiality, and independence. As of May 2019, JIAT cleared the coalition of wrongdoing in the vast majority of strikes investigated.

There is a lack of transparency around Australia's defense exports, making Australia's compliance with the Arms Trade Treaty, which it has ratified, unclear. Australia's internal Defence Department documents obtained under Freedom of Information laws and from parliamentary hearings reveal the Australian government has granted at least 20 export permits for military-related items to Saudi Arabia since 2016. In 2019, the ABC reported that Australia granted a [license](#) to a Canberra-based company, Electro Optic Systems (EOS), to export 500 remote weapons mounting systems destined for Saudi Arabia. (The ABC viewed confidential EOS board minutes which describe signing a Letter of Intent for the sale of 500 remote weapons systems units destined for the Saudi Ministry of Interior). Under questioning in Senate Estimates, Defence refused to categorically say that this weapon system would not be used in Yemen. In past statements, then-Defence Minister Christopher Pyne has stated categorically that defense material exported to Saudi is not used in the conflict in Yemen.

Due in large part to the Saudi-led coalition's continuing unlawful airstrikes in Yemen, a growing bloc of countries has announced an end to arms sales to Saudi Arabia, including Germany, Denmark, Finland, and Norway. The US Congress has also voted to end US support for the Saudi-led coalition military campaign in Yemen, and in the UK a court of appeals is considering a case challenging that UK arms sales to Saudi Arabia is violating the country's own arms export licensing criteria.

We recommend that your government:

- Push for an independent international investigation to determine the circumstances surrounding Saudi Arabia's role in the disappearance and murder of Jamal Khashoggi and identify all individuals, including Saudi government officials and operatives, responsible for ordering, planning and executing any operations connected with the case;
- Publicly call on Saudi Arabia to release all dissidents and human rights defenders imprisoned solely for the peaceful exercise of freedom of expression or based on charges that are not recognizable crimes, including the prominent women's rights advocates currently in detention;

- Facilitate efforts by Saudi women seeking asylum to ensure they can have their asylum claims assessed fairly, promptly, and safely, and do not block Saudi women from attempting to travel to Australia;
- Suspend all sales of military weapons and materiel to Saudi Arabia until the Saudi-led coalition curtails its unlawful airstrikes in Yemen and credibly investigates alleged unlawful attacks;
- Impose targeted sanctions on Mohammed bin Salman and other senior commanders who are substantially responsible for military operations that have resulted in widespread violations of the laws of war and have not taken serious steps to end the abuses;
- Call on Saudi Arabia to halt capital trials for non-serious crimes such as nonviolent drug smuggling and alleged political affiliation and consider a moratorium on the death penalty.

## Syria

The Syrian Democratic Forces (SDF) in northeast Syria with the support of members of the anti-ISIS coalition are holding thousands of Syrians and foreign ISIS suspects in incommunicado detention, and keeping relatives of foreign and domestic ISIS suspects in displacement camps with deteriorating humanitarian conditions. Local authorities have indicated that they do not have the capacity or the political will to prosecute foreign ISIS suspects or investigate their families. Absent a clear way forward, foreign ISIS suspects and their families, some of whom are Australian, are in a legal limbo and at risk of indefinite detention or transfer to Iraq for trials where they face torture and unfair trials.

Australia is a major contributor to the Syria humanitarian response plan, designating around A\$220 million dollars to Syria, and neighboring countries over a three-year period (2016-2019). As the Syrian government regains territory, the humanitarian response is becoming more centralized through Damascus. With that centralization, the risk that the Syrian government co-opts aid operations increases. The government continues to restrict access for international humanitarian organizations and UN agencies, selectively approves humanitarian projects, and requires partnerships with security-vetted local actors, allowing it to benefit from the humanitarian response, and undermining the ability for aid providers to distribute assistance in an impartial, independent and neutral manner.

Since April 26, Idlib and North Hama governorates, the last areas held by anti-government actors, have been subjected to an assault by the Syrian-Russian military alliance, characterized by the use of indiscriminate attacks and prohibited weapons. The area is home to around three million people, half of whom have been displaced. With the Turkish border closed and the escalating fighting, these Syrian civilians have nowhere to go to flee hostilities. Humanitarian conditions within the region are also deteriorating as displacement camps overflow and international humanitarian organizations stop or reduce their programming due to security.

We recommend that your government:

- Take steps to immediately verify the identities of Australian women and children in northeast Syria and allow them to return home. If the Australian government does not send representatives to al-Hol camp, it could bus women and children to third locations and enlist

the help of aid organizations or the SDF, to use DNA kits and interview them remotely to verify identities. Repatriated children should be supported with reintegration and psychosocial support programming upon their return. If the women are accused of a crime or are deemed to be security risks, they can be screened and, as evidence dictates, monitored or prosecuted upon their return to Australia in line with fair trial standards. Absent criminal wrongdoing, they should be afforded rehabilitative support and released;

- Australian ISIS suspects in the custody of the SDF should be repatriated for prosecution in Australia in proceedings that meet fair trial standards; proceedings should ensure victim participation where possible. Australia should not support the transfer of Australian ISIS suspects to Iraq in light of the risks of torture, unfair trial, and execution in Iraq;
- Create a consortium for humanitarian, reconstruction, recovery and resilience programming in Syria to ensure that all humanitarian organizations operating from Damascus adopt the same criteria for programming as a condition of doing business, including insistence on independent and full needs assessments; maintaining confidentiality of beneficiary lists; and insisting on full, unimpeded and regular access to all areas, to avoid a scenario where humanitarian organizations would lower their standards, or barter on project implementation in a competition to gain greater access or more funding;
- Insist on full and unimpeded access for humanitarian organizations to all areas in Syria;
- Publicly and privately advocate with Russia for the immediate cessation of the use of indiscriminate strikes and prohibited weapons in Idlib and Northern Hama, and engage Turkey to open the border to civilians fleeing the fighting.