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June 6, 2019

Hon. Marise Payne  
Foreign Minister  
Parliament House  
CANBERRA ACT 2600

## Re: Protecting Human Rights in Australia's Foreign Policy

Dear Minister Payne,

Congratulations on your reappointment as foreign minister. Human Rights Watch looks forward to working with you to make protection of human rights a strong pillar of Australia's foreign policy.

We attach a memo outlining key human rights concerns and recommendations in specific countries where we work that are priorities for Australia. We also present some overarching suggestions for your consideration, including strengthening Australia's voice at the United Nations Human Rights Council, engaging in public as well as private diplomacy on human rights, imposing targeted sanctions on human rights abusers, more systematically vetting foreign security forces before providing them Australian training or assistance, signing up to the Safe Schools Declaration, and addressing shortcomings in Australia's own human rights record.

As you said in a February 2019 [speech](#) at the Human Rights Council, "Democracy, the rule of law, individual freedom and the right to all to dignity and respect – these values have guided Australians for generations. And these are the values which Australia has sought to promote as a member of the UN Human Rights Council." We urge you to regularly and consistently uphold basic human rights principles and be willing to show human rights leadership, both at the UN and other international forums and in bilateral relations with other countries.

Australia's 2017 Foreign Policy White Paper [notes](#) that an international rules-based order grounded in human rights is in Australia's interests: "Australia's national interests are best advanced by an evolution of the international system that is anchored in international law, support for the rights and

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freedoms in United Nations declarations, and the principles of good governance, transparency and accountability.”

We agree Australia’s interests will be best served over the long term in a region where democracy, rule of law, and human rights flourish.

### **Australia’s Voice at the UN Human Rights Council**

As Australia approaches the halfway point in its term on the UN Human Rights Council, we urge you to show leadership on one or more country situations. Australia has for the most part voted in favor of country resolutions to establish accountability mechanisms for crisis situations, but has not yet taken the next step. With a number of egregious human rights violators on the council, it is important that members who care about human rights not only vote to protect rights but work to ensure country situations are put on the agenda. Violators who are members of the council should be subject to [increased scrutiny](#). To that end, we urge you to work in partnership with like-minded countries to ensure resolutions are created to address serious human rights violations that have so far evaded scrutiny in countries such as China, the Philippines, Bahrain and Egypt.

On China, a resolution is urgently needed to establish an international fact-finding mission on Xinjiang, the region where about one million Uyghurs and other Turkic Muslims have been or are being arbitrarily detained. At minimum, we urge Australia to actively work to ensure a joint statement at the upcoming June session of the Human Rights Council calling on China to support the call of the UN High Commissioner for Human Rights for independent access to monitor and report on the human rights situation in Xinjiang. On the Philippines, accountability for the tens of thousands of extrajudicial killings in President Rodrigo Duterte’s murderous “war on drugs” remains virtually non-existent, and repression of government critics and rights defenders continues to rise. We welcome Australia’s support of joint statements led by Iceland, but more is needed. We urge Australia to join a Core Group with Iceland to present a resolution on the Philippines at the council’s June session. Meanwhile, outside the region, civic space in Bahrain has continued to shrink as prominent rights defenders, journalists, and opposition leaders are harshly punished for rights activism or criticizing the authorities. In Egypt, police systematically use torture, arbitrary arrests, and enforced disappearances to silence political dissent under the guise of combatting terrorism. Authorities are actively dismantling independent civil society groups through restrictive legislation, detaining journalists, censoring websites, and prosecuting rights defenders.

These are just four examples where the council has not yet taken action to put in place monitoring and reporting or investigations. Leadership from Australia could help make that

happen. Each of these countries is a sitting council member, meant to uphold the highest standards of human rights.

### **Engage in Public as well as Private Diplomacy on Human Rights**

We appreciate your efforts last year to [raise your voice](#) for the two Reuters journalists wrongfully imprisoned in Myanmar and your expressions of concern about Brunei's Penal Code and its damaging impact on [LGBT rights](#). We encourage you to continue to publicly raise human rights concerns and cases especially in the region.

We also recognize statements the Australian government frequently makes at the UN in Geneva such as through the Universal Periodic Review process, making concrete recommendations on human rights concerns in specific countries. We urge you to push for a consistent principled position on human rights throughout all Australian embassies so that statements made in Geneva are backed up in-country. Diplomats can regularly use public statements and social media to raise concerns about specific human rights issues. Some ambassadors are already doing this effectively, yet in other countries, social media accounts do not reflect Australian commitment to human rights values or abuses taking place but showcase Australian products and its cooperation with (sometimes authoritarian) governments. We urge Australia's diplomats to find creative ways to show solidarity with human rights defenders and activists, to regularly invite them to embassy events, and to be a louder voice for human rights.

Our joint experience working on the case of Hakeem al-Araibi, the detained footballer in Thailand, shows what can be accomplished by pairing private advocacy with public pressure. Public pressure is critical to building the momentum for change and in supporting civil society organizations promoting human rights. Public pressure is also important to ensure that private discussions are not used to shield violators from international scrutiny.

### **Impose Targeted Sanctions on Human Rights Abusers**

We acknowledge your efforts to sanction five individuals named in the UN Fact Finding Mission report on Myanmar for their involvement in human rights violations against ethnic Rohingya in Rakhine State. Other human rights violators who might travel to Australia should also be subjected to visa bans and asset freezes. In recent years, the US, Canada, and the UK have all passed measures to more easily impose visa bans and targeted sanctions on individuals responsible for committing human rights violations or gross corruption. In the US, the [Global Magnitsky Human Rights Accountability Act](#) fills an important gap in the sanctions toolkit by preserving the flexibility to target individual human rights abusers without punishing the population of entire countries.

We understand that foreign relations necessitates exchanges with unsavory individuals, but Australia should be careful not to send the wrong message by rolling out the red carpet and appearing indifferent to the abuses of foreign officials. In past years, visits by Ethiopian and Cambodian delegations to Australia have included officials with terrible rights records. We urge you to consider implementing a law or regulation similar to the Global Magnitsky Act, and in the interim, under Australia's autonomous sanctions regime, consider implementing a clear process to vet individuals with problematic rights records and add them to Australia's sanctions lists.

### **Systematically Screen Foreign Security Forces before Providing Training or Assistance**

Australia's cooperation with foreign armed forces that may commit human rights abuses means that human rights vetting is crucial for any training of foreign military officers and soldiers. We urge you to introduce a stronger system for vetting foreign officials and security forces of governments receiving Australian security assistance. The government should adopt a law or regulations that would prohibit training and other assistance to foreign military units and personnel who have been responsible for serious rights violations. We urge you to examine the "[Leahy Law](#)," as it is known, in the United States. The law prohibits the US government from using funds for assistance to units of foreign security forces if credible information implicates that unit in the commission of gross human rights violations.

On Myanmar, you have said "[p]erpetrators will be held to account." The introduction of Leahy-style laws or vetting measures in Australia would help to deter foreign security forces from committing human rights abuses by imposing concrete consequences for those abuses. It would also help reformers within overseas security forces in their efforts to upgrade systems of accountability and ultimately help hold perpetrators accountable.

### **Sign Up for Safe Schools**

It is the four-year anniversary of the Safe Schools Declaration, an intergovernmental political pledge by countries to protect students, teachers, schools and universities from attack during times of war. As of May 2019, 90 countries have already endorsed the declaration, including Canada, France, Germany, New Zealand, and the United Kingdom. Australia has not signed it. We strongly urge you to endorse the Safe Schools Declaration.

In August 2017, the attorney general's office stated in a letter to Human Rights Watch that the government had decided not to endorse the Safe Schools Guidelines and Declaration "as they do not fully replicate the language and content of international humanitarian law." However, the declaration does not of itself create a legal obligation but is a political commitment. Countries that endorse the declaration are committing to commonsense measures to better protect students, teachers and schools during times of armed conflict.

**Address Australia’s Rights Record on Asylum Seekers and Refugees**

There is no doubt that Australia’s credibility as a human rights leader in the region has been seriously damaged by its treatment of refugees and asylum seekers, especially those who are offshore. More than five years since the Australian government reintroduced this policy, at least 800 people remain stuck in legal limbo in Papua New Guinea and Nauru.

Instead of forcibly moving people offshore, Australia should do its fair share to respect the institution of asylum. DFAT should work with its Asia-Pacific neighbors for a regional solution that protects the rights of migrants, asylum seekers and refugees. People awaiting resettlement to third countries, including Australia, should be able to find safety in transit countries, be able to earn a living, see their children go to school, and live free from detention. And offshore processing should be dismantled once and for all.

In the memo that follows, we outline a range of human rights concerns in several countries in Asia and the Middle East where we work and where we believe the right mix of pressure and engagement from Australia could make a significant difference in promoting respect for human rights. The countries in Asia are Afghanistan, Bangladesh, Brunei, Cambodia, China, India, Indonesia, Malaysia, Myanmar, Nepal, North Korea, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand, and Vietnam. The counties in the Middle East are Bahrain, Iraq, Israel and Palestine, Saudi Arabia and Yemen, and Syria.

We urge you to consider establishing an advisory group on human rights that meets biannually and provides strategic advice, especially on crisis situations.

We look forward to meeting you in person to discuss some of these ideas further.

Sincerely,



Elaine Pearson  
Australia Director  
Human Rights Watch



**CC:**

Frances Adamson, Secretary of the Department of Foreign Affairs and Trade  
Senator Penny Wong, Shadow Minister for Foreign Affairs