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Committee Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
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Canberra ACT 2600

Submission by Human Rights Watch to the Australian Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade - Foreign Affairs and Aid Subcommittee on the Inquiry into Supporting Democracy in our Region

Summary

Human Rights Watch welcomes the invitation to make a submission regarding the Inquiry into Supporting Democracy in our Region.

Australia is a vibrant multicultural democracy with robust institutions, and we welcome the government's efforts to strengthen human rights in the Asia-Pacific. In the face of growing Chinese government influence and investment in the region, it's even more critical that the Australian government take concrete steps to uphold democracy, rule of law, transparency, and accountability in the Asia-Pacific, and invest in development aid that supports civil society organizations.

Genuine and long-term security and stability in the region depends on people in Asia being able to fully exercise their fundamental human rights and democratic freedoms in countries where institutions protect transparency, due process and the rule of law, and rights abusers are held accountable. However, to date the Australian government has sometimes overlooked or played down human rights violations by supposed regional "allies" in an effort to build a broader coalition of states to counter Chinese government influence, infringing on human rights. Such actions undermine the international human rights system further and make the world less safe.

Clearly and consistently raising human rights concerns with governments in the region will make it clear what Australia values and send the message that human rights and the promotion of democracy are critical in forging a [multilateral response](#) to the Chinese government's assaults on the international human rights system.

As governments from across Asia are increasingly suppressing the work of human rights defenders, journalists, and bloggers, the Australian government should strongly promote the rights to freedom of expression, media freedom, and freedoms of association, religion, and assembly, and stand with Asia-Pacific civil society leaders.

We present some overarching recommendations for Australia's foreign policy, where we believe the right mix of pressure and engagement from Australia could make a significant difference in promoting respect for human rights and democracy in the region.

Strengthen Human Rights in Australia's Foreign Policy

The Australian government should recommit to human rights principles as a fundamental part of its foreign policy. Australia needs to be prepared to defend basic principles of international law, whether through showing leadership at the United Nations or in its bilateral relations with other countries. Australia should do this not just because "it is the right thing to do," but because the country's long-term economic and security interests are best served in a region that respects rights and the rule of law.

The Department of Foreign Affairs and Trade (DFAT) should draft a public policy document on human rights that is updated regularly, setting out DFAT's vision and goals on human rights, targeting particular countries and issues for action, and giving guidance to embassies on effective strategies to advance human rights and promote democracy. Countries such as the [United Kingdom](#) and [United States](#) already do this.

DFAT should also issue an annual public report on serious human rights concerns in specific countries. Such reports demonstrate to the governments concerned that Australia is closely monitoring human rights developments, and set a logical and consistent agenda of issues for diplomats and visiting delegations to raise.

Due to expanding Chinese government influence in the region, Australia is often unwilling to publicly raise serious human rights concerns with its regional neighbors. As part of its annual report, DFAT should regularly assess the effectiveness of its "quiet diplomacy" strategy, which favors private over public messaging on human rights. Experience shows that raising human rights issues privately is rarely effective if not paired with public pressure.

Engage with the UN and Act to Improve Australia's Own Human Rights Record

Australia should also take a stronger leadership role at the UN Human Rights Council. This includes being more outspoken and taking a leadership role on country-specific human rights situations, particularly on Asian countries with egregious human rights records that have managed to evade or weaken Council scrutiny such as Cambodia, China, and the Philippines.

The Australian government should also recognize that its credibility to speak on democracy and human rights also means addressing deficiencies in its own record, including the treatment of First Nations people and their overrepresentation in Australia's prison system, and the abusive treatment of asylum seekers.

This year, Prime Minister Anthony Albanese and Foreign Minister Penny Wong [pledged](#) that Australia will stand with Pacific Islands on the climate crisis. However, the Australian government's continued support for the expansion of fossil fuel industries contributes to the global climate crisis and undermines human rights, including the rights to food, water, health, life, cultural rights, and to a healthy environment.

On September 23, the UN Human Rights Committee [found](#) that the Australian government had violated the rights of Indigenous Torres Strait Islanders by failing to adequately protect them against the adverse impacts of climate change. The Australian government would have more credibility in the [Pacific region](#) to promote democracy and human rights if it took more ambitious climate action and committed to addressing the impacts of climate change on rights.

Apply Targeted Sanctions on Human Rights Grounds

In 2021, the Australian government passed new legislation that makes it easier for the government to impose targeted sanctions on those responsible for serious human rights violations in the region. The Magnitsky-style amendment enables targeted sanctions for serious human rights abuses, serious violations of international humanitarian law, activities undermining good governance and the rule of law, and serious corruption. People who commit serious abuses or corruption with impunity should not be able to travel to Australia or hide their assets in Australian bank accounts. Targeted sanctions raise the cost of serious human rights violations.

Over the past 12 months, the Australian government has only [applied targeted sanctions](#) under the Magnitsky-style amendment against 39 Russian individuals implicated in the death of Sergei Magnitsky. This stands in stark contrast to the governments of Canada, the EU, the UK, and the US, all of whom have sanctioned numerous individuals and entities from a range of countries implicated in abuses. Targeted sanctions need to be coordinated if they are to be effective. The Australian government should examine individuals and entities already sanctioned by other likeminded governments and implement its own targeted sanctions, particularly on individuals and entities in this region, given there is a stronger likelihood of assets in Australia or travel to Australia.

Support a Democracy Summit for Civil Society

Human Rights Watch recommends that the Australian government support democracy in the region by assisting an Australian university to host an Asia-Pacific democracy summit for civil

society. Foreign Minister Penny Wong could address civil society leaders from throughout the region. The summit could discuss ways civil society groups in repressive countries can promote democracy and human rights, such the youth activists leading the [Milk Tea Alliance](#), and how groups in more rights-respecting countries can support them. The summit would be hosted by the Australian government but could be held at a university or foreign policy think tank in Australia. Civil society leaders are vital to a future in which democracy and rule of law are protected, and the government should look to strengthen its public engagement with civil society leaders whenever politicians or government officials are traveling throughout the region.

To strengthen rule of law, transparency, and accountability in the Asia-Pacific in the face of growing Chinese government influence, we urge the Australian government to reinvest in development aid, especially strengthening civil society groups and independent journalists across the region. This includes groups working in exile that are unable to work inside their own countries and at times employing innovative means to ensure support reaches all of those at risk. The Australian government should put the protection of civil society groups at the forefront of its approach in the region and denounce laws that violate international law and restrict freedom of expression, assembly, and association.

Country Specific Recommendations

Concrete actions are needed to address the specific situations in a number of countries in Asia that Human Rights Watch monitors, including China, Cambodia, Indonesia, India, Myanmar, Papua New Guinea, the Philippines, Sri Lanka, Thailand, and Vietnam.

China

In response to the Chinese government's serious and worsening human rights violations, Australia has joined other countries in [raising rights concerns](#) about the Chinese government at the United Nations, and Canberra has publicly called on Beijing to address abuses in Hong Kong and Xinjiang. Concerned governments including Australia should seek to promote [human rights](#) inside China and oppose Chinese government efforts to limit rights protections outside the country. Over the past decade, the Chinese government has conducted assimilationist campaigns with especially grim consequences for [Tibetans](#), [Uyghurs](#), [Hong Kong people](#), and [others](#).

The Australian government should impose targeted sanctions against Chinese government officials who are responsible for crimes against humanity against Uyghurs and other Turkic peoples in Xinjiang. We urge the Australian government to [strengthen](#) Australia's regime under the Modern Slavery Act to address forced labor around the world including in Xinjiang, and consider targeted sanctions on foreign companies,

officials, and other entities known to be profiting from forced labor and other serious human rights abuses.

The Australian government should also publicly increase its support for UN human rights mechanisms to withstand growing Chinese government efforts to undermine the international human rights system. This support would include ensuring access to the UN system for human rights activists, encouraging competitive slates with rights-respecting countries in Human Rights Council elections, and putting forward qualified candidates for special procedures and treaty bodies.

Cambodia

Cambodia's leader, Prime Minister Hun Sen, who has maintained power by force and electoral manipulation since 1993, has now largely eliminated the political opposition and independent media. Threats by Hun Sen and the ruling Cambodian People's Party to dissolve the revived opposition Candlelight Party make it evident that there will be no genuine national elections in 2023 as scheduled. [Over 60](#) political prisoners are in prison on bogus criminal charges. Cambodian authorities have harassed and repressed civil society activists, criminalized free speech both online and offline, and enforced a de facto ban on public demonstrations. In the past two years, the authorities pursued politically motivated prosecutions against more than 150 opposition political party leaders and members, many of whom fled the country fearing reprisals. The government is also continuing a spurious treason prosecution against Kem Sokha, the co-leader of the dissolved Cambodia National Rescue Party. Cambodia's courts remain entirely captured by the ruling Cambodian People's Party and the government, making them incapable of rendering impartial verdicts.

Ahead of [next year's national elections](#), it is crucial that the Australian government publicly criticizes Cambodia's increasingly repressive human rights situation and raises concerns about grave threats to civil and political rights.

Human Rights Watch has [documented](#) how the Cambodian government has used the Covid-19 pandemic to jail union activists, restrict union registration, and block the right to strike in the garment and tourism industries. Cambodia's trade partners, including the Australian government, should use their leverage and increase their pressure on Cambodia to comply with its labor rights obligations.

Indonesia

The Australian government should publicly and privately raise cases of abuse by security forces across Indonesia, including 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 allegations of serious crimes. The Australian government should publicly call for access to Papua for foreign

journalists and UN monitors, and urge Indonesia to amend or repeal discriminatory regulations on religious affairs that discriminate against women, girls, and LGBT individuals.

Indonesia is the incoming chair of the Association of Southeast Asian Nations (ASEAN) in 2023. The Australian government should work with Indonesia and likeminded ASEAN governments to support and enforce tougher [measures](#) on the Myanmar junta. To address crimes against humanity by Myanmar's military, Australia should support targeted sanctions, a UN arms embargo, and UN Security Council referral to the International Criminal Court.

India

The Indian government led by the Hindu nationalist Bharatiya Janata Party (BJP) and Prime Minister Narendra Modi has escalated its [crackdown](#) on civil society groups and the media. Authorities prosecute activists, journalists, peaceful protesters, and other critics on fabricated criminal charges, including of terrorism. They have shut down rights groups using foreign funding regulations or unfounded allegations of financial irregularities. The government has adopted laws and policies that discriminate against religious minorities, especially Muslims.

With Australia's growing trade and political ties with India, Australian officials have been reluctant to condemn the Modi government's [crackdown](#). This "quiet diplomacy" approach has emboldened the Indian government to widen its repression. The Australian government should highlight concerns regarding erosion of the rule of law, especially with the Modi government's laws and policies that [discriminate](#) against Muslims, and the detention and harassment of critics. The Indian government should no longer get a [free pass](#) on human rights from the international community because it is the "world's largest democracy."

Myanmar

[Myanmar](#) is led by a coup-installed junta and a military with a long record of serious abuses. Since the February 2021 coup, Australia has not imposed any targeted sanctions on senior military leaders or entities in Myanmar responsible for human rights violations.

The Australian government should impose targeted sanctions against senior officials and entities in the Myanmar military responsible for abuses, as well as against military-linked companies and other entities. A February 2022 [joint letter](#) to then Foreign Minister Marise Payne lists individuals and entities who should face sanctions. Acting on this list should serve as a starting point for the Australian government to harmonize its position on Myanmar with like-minded governments. Sanctioning military-owned

conglomerates would send an important signal to Australian businesses not to engage and [do business](#) with those entities.

Instead of backing ASEAN's failed "five point [consensus](#)" approach to the junta, Australia should encourage a [coordinated international effort](#) to increase pressure on the junta, including by ASEAN members that can best weigh in effectively with the junta: notably Indonesia, Malaysia, Singapore, and Thailand.

Papua New Guinea

In August 2022, James Marape was sworn in for a second term as prime minister, following an election marred by violence, delays, and electoral irregularities. The PNG government sent extra [security personnel](#) to the Highlands in response to tribal fighting during the election period, after armed men killed at least [18 people](#) in an attack in Enga Province. [Thousands](#) of people fled the violence, which also caused damage to [schools](#) and hospitals. The UN [condemned](#) the escalation of violence, calling for an investigation and prosecution of perpetrators.

PNG remains one of the most dangerous places to be a woman or girl. Over [1.5 million people](#) experience gender-based violence each year. [Two women](#) won parliamentary seats in the national election, returning women to the PNG parliament for the first time in five years.

The Australian government should urge the PNG government to investigate acts of violence against women and girls, including domestic violence and sorcery-related violence, and prosecute perpetrators.

Philippines

The inauguration of President Ferdinand Marcos Jr. in July 2022 has not led to a reduction of serious human rights violations in the Philippines, including extrajudicial killings, arbitrary detention, and harassment of activists. The Australian government should highlight the importance of accountability to the Philippine government and urge the authorities to investigate and appropriately prosecute law enforcement officials implicated in [extrajudicial killings](#) of drug suspects and others. The Australian government should press the government to end the "[red-tagging](#)" of leftist activists as supporters of the Communist insurgency – a pernicious practice of targeting people causing them to be harassed or even killed. Australia should urge the government to immediately drop charges and [release](#) former Senator Leila de Lima. The Australian government should lead an initiative at the UN Human Rights Council to resume monitoring and reporting of the human rights situation in the Philippines by the UN Office of the High Commissioner for Human Rights.

Sri Lanka

President Gotabaya Rajapaksa resigned in July 2022 following massive protests, and his successor, [Ranil Wickremesinghe](#), has continued to use abusive security measures to suppress freedom of expression and peaceful assembly. President Wickremesinghe sent the military to [violently disperse protesters](#) and arrest scores of people accused of participating in protests. He has ordered the use of the notorious [Prevention of Terrorism Act](#) to [detain three student leaders](#) without charge – two of these students remain in custody. In September, Wickremesinghe appointed three people implicated in human rights abuses as government ministers.

The Australian government should call on the Sri Lankan government to: respect the rights of people to freely and peacefully protest and express their views without fear of reprisal or arrest; end the harassment, intimidation, and arbitrary arrest of people believed to have participated in or supported recent protests; repeal the Prevention of Terrorism Act, issue an immediate moratorium on its use in the interim period, review the detention of those held under the law, immediately release all those not facing internationally recognizable charges, and ensure that everyone detained under the law, including those in pretrial detention, are tried promptly and fairly in a regular court; and restore the independence of the judiciary and Human Rights Commission.

Thailand

[Thailand](#)'s democracy has not recovered from the military coup in 2014 led by Gen. Prayut Chan-ocha. The military junta then adopted a new constitution entrenching military rule and allowing engineered elections in 2019 that predictably made Prayut the prime minister. Thai authorities have arrested democracy activists and critics of the monarchy, dissolved a major opposition party, and suppressed youth-led democracy protests, often violently. Despite repeated pledges by the government, [numerous cases](#) of [torture](#) as well as enforced disappearances remain unresolved.

The Australian government should urge Thai authorities to immediately drop charges and release pro-democracy activists [detained](#) for peaceful expression of dissenting opinions, including those charged with *lese majeste* (insulting the monarchy) and violation of Covid-19 emergency measures. The government has failed to fulfill its obligation to ensure human rights defenders can carry out their work in a safe and enabling environment. Human rights defenders continue to face reprisals in the form of intimidation, physical violence, and the abusive use of strategic lawsuits against public participation (SLAPP). The Australian government should expressly oppose the Thai government's [proposed draft law](#) that would severely restrict nongovernmental organizations in violation of the rights to freedom of association and expression.

Vietnam

[Vietnam](#), a one-party authoritarian state, does not hold democratic elections and currently imprisons more than 165 critics of the government, dissidents, and

journalists. The Australian government has of late strengthened ties with the Vietnamese government but it should use its influence to press Vietnam to end its systemic suppression of fundamental civil and political rights, including freedom of expression, [movement](#), association, peaceful assembly, and religion and belief. Australia should also press the Vietnamese government to revise its problematic cybersecurity law, and immediately release all [political prisoners](#), including Australian citizen [Chau Van Kham](#). A failure to consistently raise these abuses with the government only embolden it to further crack down on activists, journalists, and bloggers.

Human Rights Watch welcomes the opportunity to provide any further detail the committee requires and to appear at any briefings if needed.