

**AMNESTY
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Human Rights and Australia's Foreign Policy

Submission to Foreign Policy White Paper consultation

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Submitted by
Amnesty International Australia

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About Amnesty International

Amnesty International is the world's largest independent human rights organisation, comprising more than seven million supporters in more than 160 countries.

Amnesty International is a worldwide movement to promote and defend all human rights enshrined in the Universal Declaration of Human Rights (UDHR) and other international human rights instruments. Amnesty International undertakes research focused on preventing and ending abuses of these rights.

Amnesty International is impartial and independent of any government, political persuasion or religious belief. Amnesty International Australia does not receive funding from governments or political parties.

Documents attached to this submission

Amnesty International Report 2016/17, *The State of the World's Human Rights*, February 2017.

Amnesty International, *Death Sentences and Executions 2015*, April 2016.

Amnesty International, *Australia's Candidacy: United Nations Human Rights Council 2018-2020 - Proposed voluntary pledges*, 8 February 2017.

Joint Civil Society Paper, *Strengthening the Human Rights Council at 10*, civil society paper has prepared by 20 leading international, national and regional non-governmental organisations, including Amnesty International, on the occasion of the United Nations Human Rights Council's 10th Anniversary, April 2016.

1. Summary

- 1.1 Australia's Foreign Policy White Paper is an opportunity to articulate a clear and ambitious vision for Australia's role promoting and defending human rights globally and in our region.
- 1.2 Amnesty International welcomes being able to provide this submission to the Department of Foreign Affairs on the development of Australia's Foreign Policy White Paper. This submission focuses on how Australia's foreign policy can best position Australia to be a strong advocate for universal human rights, in line with Australia's national interests.
- 1.3 Such a role has never been more important for a country like Australia. Since Australia's 2003 Foreign Policy White Paper, there has been a fundamental shift in the balance of power globally towards emerging economic powers and growing rivalry between the United States and China; the existential threat of climate change has crystallised; global insecurity has taken on new dimensions; the number of people on the move worldwide - as both migrants and refugees - has increased; and there is a growing global backlash against globalisation and in some corners of the world a rise of hateful political discourse.
- 1.4 In essence, the world is going through a period of significant structural change. In response, the international community of states and institutions such as the United Nations Security Council and Human Rights Council have struggled and often failed to rise to the challenge in the context of these tensions and pressures. The result has often been devastating for human rights. The world has become more unstable, and less predictable, and fundamental human rights have come under attack.
- 1.5 The time is right for Australia to take stock of where the nation's foreign policy is heading in light of such significant upheaval. This White Paper is an opportunity to put forward a proactive plan for Australian foreign policy in light of these dynamics.
- 1.6 In the post-war era, Australia's security and prosperity has been inextricably linked to the development of codified human rights protections across the world, and through a commitment to multilateralism. As the world goes through an era of significant change, Amnesty urges the Australian government to ensure that it strengthens commitment to these values. In this way, a commitment to human rights principles and multilateralism must inform Australia's foreign policy posture and strategy as we move towards the third decade of the 21st century.

Recommendations

- 1.7 Amnesty International recommends:
 - (1) Australia's Foreign Policy White Paper clearly articulates Australia's strong commitment to the advancement and fulfilment of human rights at home, in our region and around the world. The White Paper should highlight that global progress towards human rights protection is in Australia's long-term national interests.
 - (2) The White Paper commits to ensuring human rights standards guide all aspects of Australian foreign policy including aid, trade, diplomacy, partnerships and agreements. Australia should consider the development of human rights due diligence minimum standards that apply to government departments partnering or entering into agreements with other countries.

- (3) Amnesty International recommends Australia consistently leverages its bilateral relationships to advance human rights norms and hold other nation states, including our allies, accountable to them. To be a credible and effective Australia must be open to criticism and consistent in words and deeds.
- (4) Australia develops an overarching and appropriately funded human rights agenda for the Asia-Pacific region. Such an agenda would set out the approaches, partners and resources Australia will commit over the life of the White Paper to advance and protect human rights in this regional context. The agenda should make the following strategic commitments to address human rights challenges and priorities in the Asia Pacific region:
- a. Advocating for abolition of the death penalty;
 - b. Promoting freedom of expression, including through partnerships and the provision of multi-year funding for civil society organisations and national human rights institutions;
 - c. Promoting the rule of law, including by ensuring partner countries are held accountable when serious human rights abuses are committed;
 - d. Upholding the protection of civilians;
 - e. Maintaining Australia's contribution to the provision of humanitarian assistance in response to conflict and crises;
 - f. Investing in regional cooperation to improve the treatment of refugees and people seeking asylum and provide safe and legal pathways for people to reach durable protection;
 - g. Remaining a key player in regional efforts to eliminate violence against women; and
 - h. Maintaining capacity building support to assist Pacific states to ratify and implement core human rights treaties.
- (5) Australia continues to pursue strategic multilateralism and increase efforts to promote critical reforms to multilateral institutions in order to advance peace, security, rule of law and human rights outcomes.

2. Human rights, global trends and Australia's interests

- 2.1 Since the end of World War II and the signing of the Universal Declaration of Human Rights, the endeavour to promote and protect human rights has contributed to demonstrable gains for Australia and the world.
- 2.2 This international framework has contributed to a world which has, over time, been more stable than the world before 1945. Cruel and inhumane laws such as capital punishment have been relegated to a small number of outlier states; there has been progress towards equality and freedom from discrimination in most corners of the globe; global cooperation has made great strides in the realisation of economic and social rights such as access to safe water and education; and perpetrators of war crimes and crimes against humanity have been held criminally responsible for their actions.
- 2.3 Human rights have provided a legal framework, a web of accountability mechanisms, the momentum and perhaps most importantly, an international language to describe how to protect what is fundamental to all of us: human dignity. For these reasons, human rights are the bedrock of good foreign policy and international diplomacy.
- 2.4 Increasingly though, the world's human rights gains are coming under threat.¹ 2016 was a year in which governments and armed groups in every region abused human rights in a multitude of ways with impunity. Large parts of Syria's most populous city, Aleppo, were destroyed by air strikes and street battles, while the cruel onslaught against civilians in Yemen continued, chemical weapons were used against civilians in Darfur, Sudan and mass unlawful killings were carried out in South Sudan.
- 2.5 In the Asia-Pacific region the plight of the Rohingya people in Myanmar worsened and they were subject to horrific and violent attacks, while more than 7,000 people were killed extra judiciously in the Philippines' so-called "drug war". In Turkey, Egypt and Malaysia there were vicious crackdowns on dissenting voices, while hate speech increased across large parts of Europe and the United States. At the same time, the world continued to face its gravest refugee crisis since the Second World War, while relationships between powers such as the United States, China and Russia grew more tense.
- 2.6 Australia's interests are better protected when the international system of States upholds human rights norms: Australian companies are better able to operate abroad when the rule of law is upheld; Australian citizens travelling overseas are safer when national laws uphold their rights; and Australia is more secure and prosperous when we are not having to respond urgently, and at great expense, to global and regional security threats. Given the well documented links between the violation or denial of rights and instability and violence,² Australia cannot afford to be complacent when other States appear to be taking regressive steps away from human rights.
- 2.7 Amnesty International strongly supports the sentiment expressed by Australia's Minister for International Development and the Pacific at the recent High Level Segment United Nations Human Rights Council:

¹ Amnesty International, *The State of the World's Human Rights*, 22 February 2017, available from:

https://static.amnesty.org.au/wp-content/uploads/2017/02/air201617-english_2016-17.pdf?x66249

² Office of the High Commissioner for Human Rights, *Early warning and economic, social and cultural rights*, 2016, available from: http://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning_ESCR_2016_en.pdf

*“It is more important than ever for nations like Australia to ensure that human rights remain a fundamental pillar of our foreign policy and global outreach ... We will continue to stand up for human rights, not just because it is the right thing to do, but because human rights are inextricably linked to economic and social development and to global security, stability and prosperity”.*³

- 2.8 Importantly, Australia also has the characteristics to be an effective human rights advocate. As a democratic and stable middle power, a successful and vibrant multicultural society with comparatively low levels inequality, and an active civil society, we are positioned to be principled and effective at advancing human rights through a range of strategies. Importantly, such a foreign policy posture is also in line with Australia’s national values: Australia is a relatively open, pluralist, tolerant country, with respect for the rule of law.
- 2.9 The White Paper should reinforce Australia’s commitment to full realisation of the Universal Declaration of Human Rights, including civil and political rights; economic and social rights; the rights of all people to be free from discrimination; the rights of Indigenous Peoples; and the rights of children and people with different abilities.

Recommendation 1: Amnesty International recommends Australia’s Foreign Policy White Paper clearly articulates Australia’s strong commitment to the advancement and fulfilment of human rights at home, in our region and around the world. The White Paper should highlight that global progress towards human rights protection is in Australia’s long-term national interests.

3. Safeguarding human rights

- 3.1 A commitment to human rights means much more than lofty sentiments orated at the United Nations. Human rights norms and standards should guide all aspects of foreign policy and be given effect in all relevant policy documents and legislation.
- 3.2 Australia should ensure the inclusion of robust human rights safeguards in all bilateral and multilateral agreements, including extradition treaties, trade deals, development contracts and security agreements, including those that cover police, military and intelligence cooperation arrangements.
- 3.3 Australia’s approach to ensuring this human rights due diligence should be consistent across government departments, and this is not always the case. For example, under police cooperation agreements the Australian Federal Police routinely shares information with other governments to aid in criminal investigations, even where the information provided by the AFP could result in a death penalty charge being pursued.⁴ Even after the tragic executions

³ Minister for International Development and the Pacific, Senator the Hon Concetta Fierravanti-Wells, *High Level Segment United Nations Human Rights Council*, 27 February 2017
http://ministers.dfat.gov.au/fierravanti-wells/speeches/Pages/2017/cf_sp_170227.aspx?w=p2wUImE1t7kKI1%2BiOm3ggg%3D%3D

⁴ Joint NGO briefing, *Australian Government and the Death Penalty: A Way Forward*, May 2015, available from:
https://static.amnesty.org.au/wp-content/uploads/2016/09/150521_Death_Penalty_-_A_Way_Forward.pdf

of Australian citizens Myuran Sukumaran and Andrew Chan in Indonesia in 2015, the AFP continues to share information about individuals suspected of involvement in the drug trade with governments that retain the death penalty for drug crimes.⁵

- 3.4 To ensure greater consistency in Australia's approach, Amnesty International recommends Australia develops human rights due diligence minimum standards to set out the safeguards required by Australian government departments before entering into agreements with other countries. This could be achieved through policy or legislation.

Recommendation 2: The White Paper commits to ensuring human rights safeguards and standards practically guide all aspects of Australian foreign policy including aid, trade, diplomacy, partnerships and agreements. Australia should consider the development of human rights due diligence minimum standards that apply to government departments partnering or entering into agreements with other countries.

4. Consistent and confident human rights leadership

- 4.1 As the world moves into an increasingly multipolar and uncertain era of international relations, and as states that traditionally claimed to champion human rights abroad have begun to look more inwardly, there is a role for Australia to provide enhanced global leadership in response to human rights concerns. To take on a more confident leadership role, Australia needs to reconsider its current diplomatic posture and approach.
- 4.2 Australia's 2003 Foreign Affairs and Trade Policy White Paper stated:
- "We eschew the soap box and look for effective solutions and a genuine dialogue on human rights issues that make a difference".⁶*
- 4.3 This is a pragmatic course of action that will often produce good results. However quiet diplomacy is not the only tool in Australia's diplomacy toolbox, and its efficacy in response to grave human rights violations is questionable at best. In Amnesty International's experience countries are much more motivated to resolve human rights concerns when they face international pressure, as long as that pressure is strategically applied through the leveraging of bilateral relationships and coordinated multilateral action.
- 4.4 There have been numerous occasions where Australia has stayed silent or perhaps pursued a quiet diplomacy approach when Amnesty International believes it would have been far more effective to take a public stand against abuses. Australia was extremely quiet in its response to the Sri Lankan Government's commission of grave human rights abuses and war crimes against civilians at the end and in the aftermath of the Sri Lankan civil war. Australia did not support a UN Human Rights Council resolution to establish an international

⁵ Report of the Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into Australia's Advocacy for the Abolition of the Death Penalty, *A world without the death penalty*, 5 May 2016, chapter 4: "Law enforcement and the death penalty", p. 50.

⁶ Commonwealth of Australia, *Advancing the National Interest: Australia's Foreign and Trade Policy White Paper*, 2003, p. xviii.

investigation into the crimes committed - an investigation that Amnesty notes has been vital to the pursuit reparations and justice reforms in Sri Lanka.⁷

- 4.5 More recently, Australia has said relatively little publicly about the widespread and systematic violations of human rights in Malaysia, Myanmar and the Philippines. Despite Australia's close ties and leverage with the United States, Australia has also remained silent in response to President Trump's efforts to ban immigration from seven majority-Muslim countries.⁸
- 4.6 Amnesty notes the historical and political context in which Australia engages in our region, and that there is an understandable resistance to the idea that a nation like Australia may "lecture" its Asian neighbours on human rights. For this reason, Amnesty stresses the need for Australia to maintain absolute consistency in public and private statements on human rights concerns. In this way, the Australian government must be ready to urge the country's traditional allies and international partners - such as the United States - on human rights issues just as strongly it would to some of its neighbours.
- 4.7 Maintaining consistent positions in response to human rights violations and abuses includes not only high level (Ministerial) diplomacy, but also pursuing robust advocacy through Australia's many embassies and consular posts around the world. For example, in countries cracking down on freedom of expression, Australia could be more proactive about reaching out to local media and human rights groups and sending representatives to bear witness to politically motivated trials.
- 4.8 To be an effective human rights advocate Australia also needs to also walk the talk domestically. Australia has made a proud commitment over the last 40 years to refugee resettlement, a non-discriminatory migration program and a strong policy of multiculturalism. But these aspects of human rights leadership at home do not excuse Australia for the system of abuse it subjects people seeking asylum to on Nauru and Manus Island.⁹
- 4.9 Australia's recent announcement that it plans to ratify the Optional Protocol on the Convention Against Torture by the end of the year is also very welcome and a real example of human rights leadership in the wake of appalling abuses against children in youth detention in the Northern Territory and elsewhere.¹⁰ This positive step must be followed through, and be bolstered by a consistent approach to advocating for the protections against

⁷ Amnesty International, *Sri Lanka: UN war crimes resolution marks a turning point for victims*, 2 October 2015, available from:

<https://www.amnesty.org.au/sri-lanka-un-war-crimes-resolution-marks-turning-point-victims/>

⁸ Amnesty International UK, *Response to President Trump's comments that 'waterboarding works'*, available from:

<https://www.amnesty.org.uk/press-releases/president-donald-trump-comments-waterboarding-torture-works>

⁹ Amnesty International, *'Island of Despair': Australia's "processing" of refugees on Nauru*, October 2016, available from:

<https://static.amnesty.org.au/wp-content/uploads/2016/10/ISLAND-OF-DESPAIR-FINAL.pdf?x66249>

¹⁰ Amnesty International, "Australian Government must end systemic abuses of children in youth detention", 25 July 2016, <https://www.amnesty.org.au/systemic-abuse-youth-detention/>; Amnesty International, "Secret documents reveal culture of abuse in Queensland juvenile detention", 18 August 2016,

<https://www.amnesty.org.au/secret-documents-reveal-culture-abuse-queensland-juvenile-detention/>

torture and ill-treatment, including speaking out when our close allies express open support for such practices.¹¹

- 4.10 To be an effective and consistent human rights leader Australia must commit to continuously improving human rights at home. That includes measures to protect and enhance the rights of Aboriginal and Torres Strait Islander people, address the shocking over-representation of Indigenous people in the criminal justice system, prevent and respond to racism in the community, ensure freedom of the press and reform laws that criminalise whistleblowing, address high rates of violence against women and family violence, advance the economic and social rights of marginalised and vulnerable Australians, and protect the rights of people seeking asylum to have their claims fairly assessed and for refugees to be protected.
- 4.11 No country has a perfect human rights record, but all governments must recognise they can and should do better. A willingness to receive criticism and accept where improvements can and should be made is an important way of walking the talk on human rights.

Recommendation 3: Amnesty International recommends Australia consistently leverages its bilateral relationships to advance human rights norms and hold other nation states, including our allies, accountable to them. To be a credible and effective Australia must be open to criticism and consistent in words and deeds.

5. Foreign policy priorities in our region: A strategic approach

- 5.1 Since Australia's previous Foreign Policy White Paper in 2003 the world has undergone profound change. Australia's geography - located at the juncture between Asia and the Pacific - means our national interests will continue to be impacted by the political and diplomatic shifts in Asia, the increase of tensions in Northeast Asia, the continued rise of India and the transformation of Indonesia into a global economic power.
- 5.2 While the region has boasted significant economic progress in recent years, the human rights trajectory has been uneven, and has taken a regressive turn in several countries.

Death penalty

- 5.3 As a region Asia remains the most prolific user of capital punishment anywhere in the world, with China leading the world in executions, although the actual death toll remains a state secret. Since lifting its death penalty moratorium in 2014 Pakistan has executed more than 400 people, including individuals who were children at the time of the offence, some with mental disabilities and others sentenced under unfair trials.

¹¹ For example, see Amnesty International response to President Trump's comments that 'waterboarding works', 26 January 2017, <https://www.amnesty.org.uk/press-releases/president-donald-trump-comments-waterboarding-torture-works>

- 5.4 Japan maintains capital punishment, with its executions shrouded in secrecy. There is also a current regressive move to reintroduce the death penalty in the Philippines.
- 5.5 Positively, the Pacific has been death penalty free in 2015 and 2016.
- 5.6 Amnesty has been a strong supporter of the Australian government's renewed and principled opposition to the death penalty. We await the Australian government's formal response to the Parliamentary Joint Committee on Foreign Affairs, Defence and Trade's report *A World Without the Death Penalty*. Amnesty has been particularly encouraged by DFAT's willingness to engage Australian consular posts in advocacy on both individual death penalty cases and in broader advocacy aimed at domestic policy changes in retentionist countries. This work should continue to grow.
- 5.7 Amnesty International recommends Australia adopt a fully funded foreign policy strategy towards abolition of the death penalty and works with other states to encourage universal abolition.

Freedom of expression

- 5.8 Amnesty has documented the crackdown on freedom of expression in Malaysia, where the Sedition Act and the Security Offences (Special Measures) Act (SOSMA) are being used to silence opposition and arrest critics of the government.¹² India uses repressive laws such as the sedition law and the Foreign Contribution (Regulation) Act to curb freedom of expression and harass NGOs. North Korea maintains some of the tightest restrictions on the right to freedom of expression in the world, including the denying almost its entire people access to internet and international mobile phone services.
- 5.9 In Thailand, researchers, environmental activists, academics, journalists and human rights organisations face arrests, criminal investigations, and prosecution.¹³ In Cambodia authorities are increasingly using the criminal justice system to harass and punish civil society activists. Torture and ill-treatment continues to be used to target human rights defenders and marginalised groups in China, Malaysia, Maldives, Nepal, North Korea, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam.
- 5.10 Despite these abuses, many countries in the region have vibrant and fearless civil society, active social and traditional media and national human rights institutions that are willing to stand up to governments, even in response to intimidation.
- 5.11 In addition to utilising strategic diplomacy in response to these concerns, a key strategy for Australia to promote human rights progress in the Asia-Pacific should be investing in civil society. Local and national civil society and human rights institutions face significant capacity constraints, but are vital for opening up freedoms and holding governments accountable to

¹² Amnesty International, *Critical Crackdown: Freedom of Expression under attack in Malaysia*, 2016, available from: http://amnesty.my/sites/default/files/Malaysia_Critical_Crackdown_2.PDF

¹³ Amnesty International, Thailand: "Make him speak by tomorrow": Torture and other ill-treatment in Thailand, 2016 available from: <https://www.amnesty.org/en/documents/asa39/4746/2016/en/>

human rights standards. They require predictable, multi-year funding and technical assistance - some of which Australia is already provides and should continue to do so.

- 5.12 Amnesty International recommends Australia builds and strengthens partnerships with civil society organisations and national human rights institutions to assist in building a human rights supporting environment, particularly in the Asia-Pacific region.

Rule of law and addressing impunity

- 5.13 As noted above, the human rights situation in the Philippines has also taken a brutal turn in the past 12 months. State-sanctioned violence, typically in the form of unlawful killings, has occurred on a massive scale under Rodrigo Duterte's presidency. Over 7,000 predominantly poor people have been killed in the so-called "war on drugs".¹⁴
- 5.14 The recent politically motivated arrest of outspoken critic of President Duterte, Senator Leila de Lima, is another sign of the deterioration of rule of law in the Philippines.¹⁵
- 5.15 While there have been high hopes that a new government in Myanmar led by Aung San Suu Kyi's National League for Democracy would reverse the country's longstanding legacy of repressive rule, this has not been the case. Amnesty and other human rights organisations have reported on appalling abuses committed against the Rohingya people in Rakhine State in Myanmar.¹⁶
- 5.16 Myanmar's response to these crimes has been callous and inadequate, prompting calls by a range of human rights organisations, including Amnesty International, for the UN Human Rights Council to mandate an independent international investigation.¹⁷ Advocacy for such an investigation would be a strategic move for Australia, and demonstrate Australia is willing to step up to advocate for human rights in a consistent and confident manner (see section 4).
- 5.17 The Association of Southeast Asian Nations (ASEAN) has been weak in response to these challenges, and the ASEAN Intergovernmental Commission on Human Rights has been dormant in the face of serious human rights abuses. Malaysia's recent decision to criticise the Myanmar government's treatment of the Rohingya people is an interesting development to watch and encourage.¹⁸ Australia should encourage Southeast Asian nations to respond decisively when their neighbors are violating human rights.

¹⁴ Amnesty International, *"If you are poor, you are killed": Extrajudicial killings in the Philippines' "War on Drugs"*, 31 January 2017, available from: <https://www.amnesty.org/en/documents/asa35/5517/2017/en/>

¹⁵ Amnesty International, *Philippines: Impending arrest of Senator politically motivated*, 23 February 2017, available from: <https://www.amnesty.org/en/documents/asa35/5772/2017/en/>

¹⁶ Amnesty International, *"We are at breaking point" - Rohingya: Persecuted in Myanmar, neglected in Bangladesh*, 19 December 2016, available from: <https://www.amnesty.org/en/documents/asa16/5362/2016/en/>

¹⁷ Amnesty International, *"Myanmar: Urgent action needed to address deteriorating human rights situation"*, 15 February 2017, available from: <https://www.amnesty.org.au/myanmar-urgent-action-needed/>

¹⁸ "Myanmar criticises Malaysia PM Najib for using Rohingya crisis for own 'political interests'", in *The Straits Times*, 20 January 2017, available from: <http://www.straitstimes.com/asia/se-asia/myanmar-criticises-malaysia-pm-najib-for-using-rohingya-crisis-for-own-political>

5.18 Australia also has a special role to play in advocating for partner countries in our region to uphold the rule of law and ensure independent and credible investigations of human rights abuses. Australia should pursue this through high level diplomacy, assisting national human rights institutions (such as the Philippines Commission on Human Rights), ensuring human rights due diligence in the provision of assistance to partners countries, and being willing to pursue international accountability mechanisms where action nationally is inadequate.

Conflict and humanitarian assistance

- 5.19 The region is facing the impacts of several armed conflicts and security threats. The resurgent Taliban in Afghanistan has inflicted a devastating toll on civilians, and armed groups have fuelled insecurity and committed abductions and unlawful killings in central and northeastern India and in Jammu and Kashmir state. The crisis facing Rohingya people in Bangladesh and Myanmar has been beset by restrictions on humanitarian access, as has the humanitarian crisis in Myanmar's Kachin state.¹⁹
- 5.20 The region hosts a significant proportion of the world's refugees and displaced people. Afghanistan is still the world's second-largest refugee-producing country, and over two million displaced people are hosted by Pakistan and Iran.
- 5.21 Australia's role on the UN Security Council from 2013-15 demonstrates Australia's capacity to step up and advocate on matters of global security and humanitarian concern. Australia should continue to play a role advocating for the protection of civilians in the Asia-Pacific region and beyond.
- 5.22 Australia's role providing humanitarian assistance, via independent and impartial humanitarian actors, is also a vital strategic priority in response to peace and security challenges in our region and further afield (particularly large humanitarian emergencies outside of our region such as Syria, Iraq and Yemen). Even in times of fiscal constraint it would be short-sighted to cut back on humanitarian assistance funding, particularly assistance for displaced populations. This is given the importance of life-saving assistance in ensuring communities impacted by violence can survive and rebuild their lives with dignity, avoid recruitment by armed actors, and be protected without needing to seek onward movement elsewhere.

Refugee and forced migration flows

- 5.23 Crackdowns on dissent, repressive laws, marginalisation of vulnerable groups and prolonged displacement in poor conditions are all factors that have led to high refugee and forced migration flows in the Asia Pacific region.
- 5.24 For example, abuses against the Rohingya people in Myanmar and their deprivation in Bangladesh has been a considerable factor in pushing the Rohingya to flee in search of

¹⁹ Amnesty International, Myanmar: Lift restrictions immediately on humanitarian aid, 20 October 2016, <https://www.amnesty.org/en/latest/news/2016/10/myanmar-lift-restrictions-immediately-on-humanitarian-aid/>

protection and livelihoods elsewhere. Given the lack of safe and legal avenues for refugees to seek protection in the Asia Pacific region, Rohingya refugees and others seeking asylum from the region have often been forced to resort to irregular migration.

- 5.25 The refugee and trafficking crisis in the Bay of Bengal and Andaman Sea in 2015 was the horrific culmination of these factors and governments in the region failing to fulfil their human rights and humanitarian responsibilities. Thousands of refugees and trafficked individuals were stranded at sea for months after being abandoned by smugglers and repeatedly rejected from being able to disembark in Thailand, Malaysia and Indonesia. The humanitarian crisis was an abject failure - and one that Australia did little to prevent.²⁰
- 5.26 Australia's more proactive role on the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime since this crisis is welcome, as is Australia's growing focus on the protection of trafficked individuals and abolition of modern slavery.
- 5.27 A critical policy priority for Australian foreign policy in the coming decades will be building regional cooperation to improve the treatment of refugees and people vulnerable to trafficking, and to open up safe and legal pathways for these individuals to reach durable protection.

Addressing violence against women

- 5.28 Violence against women and girls in the Asia Pacific region is widespread - with up to 80 per cent of men in the region admitting to committing acts of physical or sexual violence against women and girls in their lifetime.²¹ The impact of gender based violence in Australia's closest neighbours is shocking: 30 per cent of women in Vanuatu experience child sexual abuse under the age of 15;²² three in five women in Timor-Leste between the ages of 15 and 49, who had ever been in a relationship, have suffered sexual or other physical violence by a husband or male partner in their lifetime.²³
- 5.29 Australia has played and should continue to play a key role in addressing violence against women in the region.

²⁰ Amnesty International, *Deadly Journeys - The Refugee and Trafficking Crisis in Southeast Asia*, 21 October 2015, available from: <https://www.amnesty.org/en/documents/ASA21/2574/2015/en/>

²¹ Australian National Committee of UN Women, *Eliminating Violence Against Women in the Asia Pacific: It's all of our responsibility*, 2015, p. 7 citing Emma Fulu et al, 'Why do some men use violence against women and how can we prevent it? Quantitative findings from the United Nations multi-country study on men and violence in Asia and the Pacific' (United Nations Development Programme, United Nations Population Fund, UN Women and UN Volunteers, 2013)., available from: <https://unwomen.org.au/wp-content/uploads/2015/11/Eliminating-violence-against-women-in-the-Asia-Pacific1.pdf>

²² Australian National Committee of UN Women, *Eliminating Violence Against Women in the Asia Pacific: It's all of our responsibility*, 2015, p. 7.

²³ Amnesty International Report 2016/17, *The State of the World's Human Rights*, Time-Leste chapter, p. 362.

Building state capacity in the Pacific

- 5.30 Pacific states face severe capacity constraints when it comes to implementation of human rights treaties and reporting to treaty bodies. Given the small size of most Pacific states, their substantially under-resourced public service and diplomatic corps, and the wide array of competing development, environmental, security and human rights challenges they face.
- 5.31 Australia plays a special role in providing essential capacity assistance to states in the Pacific region. Australia should continue to fund the UN High Commissioner for Human Rights office in the Pacific, given the critical role this office plays in supporting Pacific states to implement their treaty obligations.
- 5.32 Australia should also continue to provide encouragement and assistance to Pacific states to ratify the core human rights treaties.

Recommendation 5: Australia develops an overarching and appropriately funded human rights agenda for the Asia-Pacific region. Such an agenda would set out the approaches, partners and resources Australia will commit over the life of the White Paper to advance and protect human rights in our region. The agenda should make the following strategic commitments to addressing human rights challenges and priorities in the Asia Pacific region:

- a. Advocating for abolition of the death penalty;
- b. Promoting freedom of expression, including through partnerships and the provision of multi-year funding for civil society organisations and national human rights institutions;
- c. Promoting the rule of law, including by ensuring partner countries are held accountable when serious human rights abuses are committed;
- d. Upholding the protection of civilians;
- e. Maintaining Australia's contribution to the provision of humanitarian assistance in response to conflict and crises;
- f. Investing in regional cooperation to improve the treatment of refugees and people vulnerable to trafficking and provide safe and legal pathways for people to reach durable protection;
- g. Remaining a key player in regional efforts to eliminate violence against women; and
- h. Maintain capacity building support to assist Pacific states to ratify and implement core human rights treaties.

6. Strategic multilateralism

- 6.1 In the face of emerging human rights threats and challenges, the UN system has come under significant strain. The UN Security Council's impotence in response to war crimes and crimes against humanity in Syria has been the starkest example of this. The Council has failed to act to prevent even the gravest of abuses in Syria: the deliberate targeting of hospitals and aid convoys, deliberate siege and bombardment tactics in civilian areas and the widespread and deliberate torture and extermination of detainees.²⁴ Use of the veto and "silent veto" by the permanent members of the UN Security Council is crippling multilateral action in response to emerging peace and security threats.
- 6.2 The UN Human Rights Council has also buckled in response to grave human rights violations. In 2016 Amnesty International and Human Rights Watch took the extraordinary step of calling for Saudi Arabia to be suspended from the UN Human Rights Council for using its position on the Council to obstruct justice for possible war crimes in Yemen.²⁵ Based on the evidence of war crimes committed by the Saudi Arabian-led coalition in Yemen, there was a very strong case for the Human Rights Council to establish an independent international investigation. Saudi Arabia used its position on the council to derail a resolution that would have established an international investigation, thereby undermining the credibility of the Human Rights Council and facilitating impunity.
- 6.3 Without states also taking a stand against the misuse of power in multilateral human rights and security bodies, these institutions will continue to buckle at a time when we need them most.
- 6.4 The White Paper should make clear that Australia is committed to effective and principled engagement through the United Nations, particularly the UN Security Council and UN Human Rights Council. Australia's participation in the multilateral system is not enough. Australia should seek to proactively drive reforms through the UN system so that these kinds of failures do not happen in future.
- 6.5 Australia could consider taking on a more active leadership role in efforts to push for restrained use of the Security Council veto - including one initiative led by France and Mexico on behalf of 99 states, and another led by Liechtenstein on behalf of a group of 27 mainly small countries, which has now been adopted by 112 states, including two of the Permanent Security Council Members (France and the UK).²⁶
- 6.6 Australia's bid for election onto the Council, if successful, will also provide an important platform for Australia to demonstrate principled and effective leadership and pursue much needed reforms. Irrespective of what happens with the bid, Australia should push for reforms to streamline the Council's agenda, enforce membership standards and ensure constructive engagement of civil society in the Council's business. Many of the prerogatives for Human Rights Council reform have been thoroughly highlighted by civil society at the 10 year

²⁴ Amnesty International, *Human Slaughterhouse: Mass hangings and extermination at Saydnaya Prison, Syria*, 7 February 2017, available from: <https://www.amnesty.org/en/documents/mde24/5415/2017/en/>

²⁵ Amnesty International, "Suspend Saudi Arabia from UN Human Rights Council", 30 June 2016, available from: <https://www.amnesty.org.au/suspend-saudi-arabia-human-rights-council/>

²⁶ Anna Neistat, "This is the biggest challenge facing the next UN leader", Amnesty International, 10 October 2016, available from: <https://www.amnesty.org.au/biggest-challenge-facing-next-u-n-leader/>

anniversary of the Council in 2016,²⁷ and Australia is well placed to engage with the multilateral system to drive these reforms.

- 6.7 We urge Australia to continue engaging regularly and constructively with civil society on Australia's Human Rights Council bid, and for Australia to set ambitious voluntary pledges for human rights improvements Australia will make at home and globally if elected onto the Council.
- 6.8 If Australia is successful in being elected onto the Human Rights Council for the 2018-2020 term we urge the government to ensure adequate diplomatic resources are allocated to the Council, both from Geneva and Canberra.
- 6.9 The strength of the UN human rights system relies not only on the willingness of states to participate in good faith and agree to be held to international obligations. The system also relies on states being willing to implement their human rights obligations at home, and to be open to scrutiny through the various UN human rights mechanisms.
- 6.10 Amnesty International welcomes the significant engagement undertaken by both DFAT and the Attorney-General's Department in the Universal Periodic Review process and engagement with human rights treaty bodies and UN Special Procedures. We note, however, that Australia has often failed to follow up on and implement the recommendations of these mechanisms.²⁸
- 6.11 Amnesty urges DFAT, through this White Paper, to ensure Australia is committed to 'international best practice' in both follow up and implementation of recommendations made through UN human rights procedures and bodies. This starts with transparency, and also includes an assurance of stronger domestic accountability. One way to achieve this could be to designate a mandate to the Parliamentary Joint Committee on Human Rights.
- 6.12 A further way to demonstrate a consistent and principled approach to universal human rights is for Australia to progressively ratify significant outstanding treaties. Amnesty strongly welcomed the recent announcement by the Australian government that it would ratify the Optional Protocol to the Convention Against Torture by the end of 2017 and we look forward to implementation of that commitment. Added to this, we urge ratification of:
 - a. the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
 - b. the International Convention on the Protection of the Rights of All Migrant Workers and ILO Convention 169 on Indigenous and Tribal Peoples; and
 - c. the Third Optional Protocol to the Convention on the Rights of the Child.

Recommendation 5: Australia continues to pursue strategic multilateralism and increase efforts to promote critical reforms to multilateral institutions in order to advance peace, security, rule of law and human rights outcomes.

²⁷ See Joint Civil Society Paper, Strengthening the UN Human Rights Council at 10, April 2016, available from: http://www.ishr.ch/sites/default/files/article/files/hrc10_joint_paper_final.pdf

²⁸ Amnesty International, *Australia: Human Rights in Review: 2011-2015*, Submission to the UN Universal Periodic Review: 10th session of the UPR Working Group of the Human Rights Council, November 2015, available from: <https://www.amnesty.org/en/documents/asa12/001/2010/en/>

7. Conclusion

- 7.1 As noted in the opening of this submission, the codification of human rights protections across the world and a commitment to multilateralism have been fundamental in ensuring Australia's security and prosperity since the end of the Second World War.
- 7.2 In an era where the human rights edifice set up in the aftermath of 1945 is coming under threat, and the world itself go through an era of profound change, Amnesty strong urges the Australian government to ensure its strengthens its commitment to these values.
- 7.3 This is an opportune time for the Australian government to take stock and set a clear foreign policy strategy for the nation as the world moves towards the third decade of the 21st century. The recommendations contained in this submission, if adopted, would help ensure proves a principled and effective human rights advocate through its foreign policy. Human rights principles and a commitment to multilateralism must be central planks in Australia's foreign policy strategy.