



SYDNEY CENTRE FOR INTERNATIONAL LAW

FACULTY OF LAW, UNIVERSITY OF SYDNEY

2020 Summit Ideas

The Sydney Centre for International Law (www.law.usyd.edu.au/scil) is a leading scholarly research centre on international law at the Faculty of Law, The University of Sydney. The Sydney Centre makes the following suggestions to strengthen Australia's future security and prosperity in a rapidly changing region and world. **Australia should:**

1. **Repudiate the Bush Doctrine of pre-emptive self-defence in response to terrorism or other threats.** Pre-emptive military strikes are contrary to the international law prohibition on the use of force and Australia's equivocal support for the doctrine in recent years has generated deep suspicion amongst Australia's neighbours in the Asia-Pacific.
2. **Pursue and fund activities to operationalize the "Responsibility to Protect" doctrine, to advance human security in the Asia-Pacific.** This could include early warning and monitoring activities, preventive diplomacy and use of "good offices" in conflict resolution (following, for instance, the Norwegian model), support for regional security institutions, and sponsorship of multilateral responses through United Nations organs.
3. **Sponsor a regional process to develop a comprehensive South Pacific Climate Change Agreement.** Such an Agreement could set an international example of far-reaching provisions on mitigation (reducing and offsetting emissions) and adaptation (financing in situ adaptation and, when necessary, providing for resettlement of those displaced in the Pacific by the effects of climate change). It could also establish early warning and monitoring mechanisms for responding to the security risks created by climate change, including water scarcity, food insecurity, displacement and physical crises.
4. **Develop a comprehensive climate change migration policy to respond to the needs of those anticipated to be displaced by the effects of climate change in the Asia-Pacific region.** At the moment, refugee law, immigration law and human rights law are not well equipped to respond to the challenge of assisting those at risk of displacement from climate change.
5. **Lead a group of like-minded countries to lobby for a five-year moratorium on any new discriminatory bilateral trade agreements.** A moratorium would reduce a key obstacle to multilateral trade liberalisation and assist World Trade Organisation members in completing the Doha Round.
6. **Take the lead in devising new rules for investor-state arbitrations that rebalance legitimacy (procedural justice and third party interests) with efficiency.** Such rules would enhance the resolution of investment disputes and promote economic development, particularly if the rules are contained in new treaties and arbitral institutions in the Asia-Pacific.

7. **Accompany proposed new federal legislation with an International Law Impact Analysis detailing the effects of the bill on Australia's international obligations.** The Senate Scrutiny of Bills Committee's remit could be easily expanded to consider the international impacts of bills (and the process would be a counter-part to the existing process of preparing National Impact Analyses of proposed Australian treaty actions).
8. **Ratify these key international treaties:** (1) Cartagena Protocol on Biosafety (to protect Australia from the risks of genetically modified organisms); and the Optional Protocols to the: (2) UN Convention on the Rights of Persons with Disabilities, (3) UN Convention for the Elimination of All Forms of Discrimination Against Women (both giving individuals a right of complaint to UN bodies for breaches of those treaties) and to the (4) Convention against Torture (allowing independent inspections of detention facilities).
9. **Support the adoption of the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.** Australia should ensure that the individual complaints mechanism is available for all – not just some – ICESCR rights. **Express clear support in the UN General Assembly for the UN Declaration on the Rights of Indigenous Peoples.**
10. **Lobby internationally (including in Asia) for the wider adoption of arms control treaties, including the Comprehensive Test Ban Treaty, Nuclear Non-Proliferation Treaty, and the current negotiations (Oslo and CCW) for a comprehensive prohibition on the use of indiscriminate cluster munitions.**
11. **Comply with its obligation not to allow arbitrary detention by reforming Australia's system of mandatory immigration detention.**
12. **Create a new 'complementary protection' visa category to protect non-citizens from being returned to torture.** Currently Australian law protects people from return to persecution, but people can still be sent back to a place where they face a risk of torture.
13. **Abolish or amend Bridging Visa E to comply with Australia's international human rights obligation not to subject people to 'degrading treatment'.** This visa releases asylum seekers into the community, but bars them from work, Medicare or social security, potentially leaving them destitute or homeless.
14. **Play a more constructive role in seeking reform of United Nations human rights bodies and mechanisms.** In particular, Australia needs to more actively support the new Human Rights Council and strengthen coordination with the Office of the UN High Commissioner for Human Rights.
15. **Build the rule of law in the Asia Pacific by establishing technical assistance programs for underdeveloped law schools, particularly in Cambodia, Laos, Myanmar, Mongolia and the Pacific Islands.** Most rule of law programs currently intervene at much later phases in the legal system, yet legal education is the essential starting point for building the rule of law.
16. **Establish and fund a high level Australian Centre for International Law and Foreign Policy, to conduct research and to provide independent advice to the Australian government.** For example, the German Government funds approximately 150 full-time staff at the foreign policy think-tank, SWP, in Berlin, which has been enormously successful in providing policy solutions.