

**Submission**

**Constitution Transformation Network, Melbourne Law School**

**Introduction**

This submission to the Foreign Policy White Paper argues that Australia's national interest requires more effective use of Australian soft power, in the Indo-Pacific region and globally. Specifically, it argues that policies and practices across the whole of Australian government need to be based on and responsive to an understanding of the diversity of systems of government around the world, in both form and context, in order to provide assistance that works, in a way that is respected by other state parties. Such an understanding necessarily also must take account of the varying impacts of the multiple manifestations of globalisation on the national constitutional systems of the world. Equally importantly, in the face of growing resistance to many of the effects of globalisation, it should be informed by a consistent and carefully considered view about where the boundaries of authority and responsibility ideally should lie between national constitutional arrangements on the one hand and regional and international orders on the other.

Use of soft power (or, for that matter, hard power) in a way that takes adequate account of what might be described as the constitutional infrastructure of other states holds the key to a host of Australia's immediate foreign policy concerns including regional peace and stability, restriction of terrorism, reduction of corruption, and an international climate that is conducive to investment and trade. It would position Australia as a serious, informed and trusted player in tackling some of the most challenging problems of the world, including in the Indo-Pacific region. It would provide a basis for more focussed decisions on which Australian values to pursue and how, enhancing the prospects of successful outcomes. The advancement of the position of women is an example of an Australian value that we would expect to be achieved more effectively in this way.

A policy stance on the part of Australia that engages knowledgeably and perceptively with the attitudes to, and problems of governance facing the various states of the world has always been desirable but now is more necessary than ever, for at least two reasons.

The first is the diminution of the authority of the United States, generally and in consequence of the policy positions of the new administration, increasing the need for Australia to develop its own ways of achieving influence and securing the tangible benefits that flow from it, while at the same time making a positive difference in the world. There has long been competition in this regard from China,







A second underutilised resources lies in Australian universities. At their best, Australian universities offer a rich body of knowledge and insight, with individuals who speak local languages and who frequently have large in-country networks, which are well-placed to inform new directions in Australian foreign policy approaches of the kinds that have been canvassed in this submission.

Our own group is, perhaps not surprisingly, a case in point. It was formed to grapple with many of the problems that have been identified in this submission, including the failure of policies based on assumptions about universality and convergence and the need to engage with new conceptions of relations between states and international orders at a time of fast-moving globalisation. It brings scholars with a global understanding of comparative constitutional law together with others in international law, international humanitarian law, international economic law and Indo-Pacific studies. Network members speak and read local languages and are very well-networked, across the Indo-Pacific region and globally. Members of the group have both significant practical experience as well as knowledge drawn from lengthy engagement in research and analysis. It would be willing to advise or assist in any way, in the further development of the White Paper or generally.

*The Constitution Transformation Network at the University of Melbourne brings together experts in comparative constitutional law, regional and international law and country specific studies to bring a new approach to understanding and supporting constitutional evolution and change across the world, with particular reference to the Asia-Pacific region. This submission is prepared on behalf of the Network by Cheryl Saunders, Will Partlett and Anna Dziedzic.*

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