



**COMPARATIVE ANALYSIS OF  
INDIAN AND AUSTRALIAN  
CONSTITUTION – SIMILARITIES  
AND DIFFERENCES**

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**Abstract-**

The article's main focus is comparison of the Constitution of two world significant nations namely India and Australia. Both countries were subject to the colonial rule and had a status of British subject. Australia was transferred the legislative power through imperial transfer which was planned was India too. But India got Independence in the year 1947 and drafted its own constitution. The comparative study done in this article covers two specific parts. First being the similarities between the both of these constitutions. Similarities covered include democratic structure of governments, rule of law in both countries, legal traditions of India and Australia, federal system of government. The second object covered in this article is the differences in the constitutions of both countries. These differences include allegiance of people, fundamental rights, freedom struggle, emergency provision, citizenship, religious freedom. Both countries have so rich and vast legal history that this comparative study is not enough to cover all facets. Still all efforts have done to cover up major similarities and differences provisionally and pragmatically. Similarities and differences are covered in specific chapters to ease up the understanding. The basic introduction has been given in chapter one while conclusion is covered in the last chapter that summarizes all the objects stated in the article.

**Keyword-** Democratic, Federal, Indian Constitution, Australian Constitution, Rule of law, Fundamental Rights.

**CHAPTER 1**  
**INTRODUCTION**

India and Australia are huge landmass. India being the second most populated country in the world with a population of 1.6 billion. Both Indian and Australian constitutions hold many similarities and differences which will be discussed in detail in the upcoming chapters.

Indian and Australian constitution both are democratic in nature and follow a federal system of governance. There are many provisions in both these constitutions which are similar such as, common market system, laws for vulnerable groups etc. Even many Legal tradition and legal concepts such as rule of law and separation of power are included in both Indian and Australian constitution.

Both nations were under the colonial rule for quite some time. Hence, the Constitutional legislations of both nations have similar provisions in many aspects. Still legislative power transfer was done in case of Australia while India got independence and drafted its own constitution. There is significant difference between various provisions of both constitutions. The very basic difference can be seen by the fact that Fundamental Rights are explicitly mentioned in the Indian constitution while Australian constitution has implied FR's. The Indian constitution was drafted by the Indian forefathers. They took various parts of the constitution from different constitutions around the world. For example, idea of emergency provisions is



taken from German constitution. Hence, Indian constitution has similarities with various constitution and still has unique identity attached to it. The difference covered under the article include difference between FR's as mentioned before, process of amendment, retiring age of the judges, republic nature of the Indian constitution. The allegiance of people is defined differently in both the constitution. While Indian constitution defines its allegiance to the very public of India. The Australian constitution allegiance to Queen of the United Kingdom. The differences are not apparent as such but differ provisionally and it is hard to determine them.

## **CHAPTER 2**

### **2- Similarities between the Indian and Australian Constitution.<sup>1</sup>**

#### **2.1- Democratic structure of the constitution –**

India and Australia being large landmass reflects some pretensions of being a part of Oceania, which are governed as single nations. In addition, it is important to note that both these countries are parliamentary democracies and hence their governments are directly elected by the people through national and regional polls. In every 5 years, federal election are held to elect the representatives of the people. Turnout of these elections in India and Australia is huge. India has two houses of parliament- Lok Sabha and Raj Sabha. For both these houses term of office is 5 years. New government is elected after 5 years in accordance to the will of the people and adult suffrage that is every citizen above 18 years of age have right to

vote and hence contribute in selection of the government.

Australia is also a representative democracy. There are nine parliaments functional in Australia. First being the national parliament situated in the city of Canberra. It also has six state parliament and two territory legislative assemblies. It is noticed that mostly Australian parliaments are bicameral in nature. The parliament here also has two houses namely, House of Representatives and The Senate.

#### **2.2- Federal System of governance -**

Australia and India both practice federal system of government. Although the Australian constitution is noted to more clearly authenticate its federal character through judicial interpretations. This constitution has particularly specified a list of legislative powers and functions which clearly provided to the federal parliaments. Unless and until the federal parliament exercise the above-mentioned powers, they remain with the state and self-governing territories. Whereas in India it is noted that there is a limitation of power and geographical distribution. In India Centre-States relationship majorly formulate the core feature of federalism. Indian Constitution provides for three lists, describing functions and powers of the Centre and State government to make laws. The three lists are- State list, Union list and Concurrent list. 'Union List'<sup>2</sup> specifies areas and matters in which the Union parliament can make laws.

<sup>1</sup> "The Australian And Indian Constitutions, similarities, differences and the challenges of constitutional choice, The Hon.Micheal Kirby AC

CMG Denning Law Journal 2018Vol 30 Special Issue pp 17-49."

<sup>2</sup> "Indian Constitution Article 246(1)- List I, Seventh Schedule"



‘State List’<sup>3</sup> provides for those matters in which only state legislature can make laws. ‘Concurrent List’<sup>4</sup> provides for those matters in which both the union and the state share power to make the laws. This is one of the significant features of the Indian Constitutions. In India, it is important to analyze that the federal character of the constitution is not a separately stated essential in its Preamble (“...A sovereign, socialist, democratic republic”)<sup>5</sup>. On seeing the amendable character of the Indian constitution its federal division have lost their significance to some extent as they can be altered or changed very easily and quickly.

### 2.3- Rule of Law integral part of the constitution -

Rule of law means law of the land. It was propounded by A.V Dicey. Main three characteristics of rule of law are equality before law, supremacy of law and predominance of legal spirit. Both Indian and Australian Constitutionalism hold rule of law as a strong and significant feature. In Indian constitution there is an express feature of establishment of supreme court and the high courts of the states which shows that rule of law is mentioned in the constitution. Supreme court is the apex court and its judgements are binding on all others courts within Indian territory. Hierarchy system prevails in India as the laws declared by the High Court are authoritative and binding to its sub-ordinate courts. Whereas the Australian Constitution does not have exactly a similar provision although it deals with ‘the Judicature’ separately in Chapter. III. Australian constitution has borrowed the concept of

supremacy of judicial decisions, state and territorial laws and lawfulness of federal nature from a constitutional determination of Supreme Court of United States of America (U.S.A). Hence, it is clear that the judiciary of both the countries hold the power to annul the legislative, executive and judicial acts. The Rule of law prevails and supreme court and other subordinate court therefore are independent, neutral and authoritative on ant legal question concerning any wing of the government. Furthermore, both Indian and Australian Constitution include concept of rule of law as an integral part and this also reflects the democratic character of both these nations.

### 2.4- Character and nature Of Courts -

Indian and Australian constitution both provide for separation of power and independence of the judiciary. India has a hierarchical system in the judiciary wherein, supreme court is the highest court followed by the high court of various states, following them the district and other subordinate courts. The courts hold original, appellate, advisory jurisdictions. Supreme court only holds the advisory jurisdiction. The constitution, functions, jurisdictions of the courts are explicitly mention on Indian constitution in Part V from Article 124 to 147<sup>6</sup>. Similarly, Australia has four main federal courts, namely - High Court of Australia, Federal Court of Australia, Family Court of Australia and Federal circuit court of Australia. Chapter III of the Australian constitution deals with establishment, procedure and power of various courts. The High court of

<sup>3</sup> “Indian Constitution Article 246(3)-List II, Seventh Schedule”

<sup>4</sup> “Indian Constitution Article 246(2)- List II, Seventh Schedule”

<sup>5</sup> “Preamble, Indian Constitution.”

<sup>6</sup> “Indian Constitution”



Australia is the apex court of appeal and is parallel to the supreme court in India. These court hear matters of civil, criminal, property, family nature. Although special courts only hear matters concerning to specific laws, for those they are established (For example – Family Law courts). Provisions of fast-track courts are also provided in the constitution which are formulated for speedy trial and delivery of justice.

### **2.5- Responsible and Representative Government-**

India has a parliamentary system of government provided it has a President, it is not a Presidential government. President is only the nominal head, whereas the Prime minister is the real head and is the leader of council of minister and the majority party. Prime minister and his council of ministers are directly responsible for the proper of government and administration of the country. President also has to act on the advice of the prime minister and the council of ministers and therefore is not directly responsible for the management of the country. The council of ministers are responsible for making the major decisions of governance and formulate legislations.

In order to understand the bifurcation in responsibilities in the governmental structure of both India and Australia it is important to understand that there is a separation of powers specified in the constitution between the executive and legislature. Although a strict separation in the powers are not noticed. In Australian constitution it is specified that ‘no Minister of State shall hold office for a longer period than three months unless he is or becomes a Senator or a member of House of Representatives’. Prime

minister is duly appointed by the President in India and is explicitly mentioned in the constitution. In Australian constitution as such Prime minister is not mentioned explicitly although he is considered to be the strongest leader and significant politician. Australia has a Governor- General who is advised by a federal executive council of the commonwealth. The responsibility of the governor general in Australia and President in India are similar to the British Sovereign. It is important to note that the President in India and Governor General in Australia have and particular rights to expel the Prime minister for any type breach of duty from him. Any minister in India can be removed by the parliament through impeachment motion. Whereas in Australia this right lies with the Governor-General And other state governors and is done by invoking the Royal prerogative. Responsibility for the formation of laws is on the legislature, responsibility to enforce or execute these laws is on the executive wing of the government and lastly the responsibility to interpret these laws lies on the judiciary.

### **2.6- Separation of the head of state and that of the government-**

In addition to the above-mentioned point there is a separation in the head of state and head of government. In India and Australia constitution separate the bureaucratic, ceremonial, legislative and military functions of the executive head and functions of Governmental head.<sup>7</sup> This discrepancy is clearly codified in the Indian Constitution under the powers of President and Prime Minister. President of India enjoys a special power that is to grant pardon and commutation of sentences given by the supreme court of India.<sup>8</sup> Prime minister as

<sup>7</sup> “Indian Constitution Article 53(1) and Article 53(2)”

<sup>8</sup> “Indian Constitution Article 72(1)”



the head of the council of ministers, and is completely answerable for the decision and functioning of the government. It is he the Prime Minister who keeps the prime minister updated about the day to day functioning of the government. It is he who represents the will of the people and is the real head. In the modern age this bifurcation of power in between the head of state and the head of government more appropriately reflects the concept of parliamentary governance in India and Australia.

### **2.7- Legal traditions followed in India and Australia-**

India and Australia share many identical characteristic legal traditions. The judiciary in both the countries hold high respect and all the judges are respected, uncorrupted and the judgements delivered by them are binding and accepted by everyone. Judges in India and Australia are both referred as 'My Lord' as a mark of respect and so deferential titles is provided. In Australian constitution, power of executive appointment as mentioned is plenary and uncontrolled.<sup>9</sup>

Both Indian and Australian constitution provides for a strict tenure of judges of Supreme court and other sub-ordinate courts. In India, judges of supreme court hold office till the age of 65 years and judges of High court hold office till the age of 62 years. Hence its can be noticed that both these constitutions provide for a provision protecting the tenure of the judges. A judge can only be removed by an impeachment procedure against him is passed by two-third members of the parliament. This provision of the Australian constitution has never been utilised in the federal domain. Government both at lower and upper house also hold

office for a fixed tenure that is 5 years. Election after every 5 years is conducted for making the new government.

### **2.8- Territorial divisions-**

Territorial division in India and Australia are considered as the responsibility of the government. No alteration can be made until and unless a bill regarding the same is passed by both the houses of parliament. India had presently a total of 28 states and 8 union territories. Each state has its own state government headed by the Chief Minister. Union Territories are administered by lieutenant governors appointed by the President in Northern Territory of Australia and Australian Capital Territory self-governance was effectively endorsed for the electors. A unicameral legislature is formulated in these two territories but still National Parliament has upper hand on the legislations so made.

### **2.9- Common Market System-**

Australian constitution strictly holds prominent provisions for common single market throughout the continental country. This provision is significant as a common single market system cannot be diminished by state legislations such as imposition of heavy taxes, fiscal impediments etc. Australian constitution clearly states, "On the position of uniform duties of customs, trade, commerce and intercourse among the states whether by means of internal carriage or ocean navigation, shall be free".<sup>10</sup> This enactment is dominant in formulation of Article 301 Of the Indian Constitution. It states, "Freedom of trade, commerce and intercourse Subject to the other provisions of this Part, trade, commerce and intercourse

<sup>9</sup> "High Court Of Australia Act 1979, Section 6"

<sup>10</sup> "Australian Constitution, Section 92."



throughout the territory of India shall be free.”<sup>11</sup>

Adoption of such provisions of common trade markets by both the countries is significantly important for the advancement of country's economy. Economic development is an integral part of legal, social and human development and therefore occurs simultaneously. These legislations have been extremely significant for prohibiting threats and problems of selfish localism that is likely to prevail in these huge countries.

### **2.10- Especially vulnerable groups-**

India and Australia both recognises the presence of specially disadvantaged citizens, who might require protection and means of livelihood. Both these countries also determined various vulnerable groups in their jurisdictions who require some special help and benefit. The basis of differentiation in Australia are namely- skin colour, ethnicity, race etc. Points of differentiation in India are religion, economic capacity, region, caste, local customs and prejudices, creed etc. These reasons for the growth of especially vulnerable groups have been disastrous for both these countries. In Indian, there have been many communal violence due to discrimination in religions and India was partitioned also because of this religious division endorsed by the Britishers (Policy of Divide and Rule). Indian constitution explicitly provides for the representation of Anglo-Indian community in the Lok Sabha.<sup>12</sup>

Australia has also adopted provisions for upliftment of the minority groups and in order to end the discriminatory laws. This law states, “with respect to the people of any race, other than the aboriginal race in any state, for whom it is deemed necessary to make special laws.”<sup>13</sup> In 1967, an amendment was made in the Australian constitution with the approval of the electors, “the exclusion of authority to make laws for the aboriginal race in any state was itself removed.”<sup>14</sup> This was done as the driving force in Australia was race. India has determined and made special laws for vulnerable groups namely- scheduled caste and schedule tribes.

Although cannot be said that both India and Australia have been completely successful in removing social challenges suffered by these vulnerable groups. The laws so made are still in progress for better implementation.

## **CHAPTER 3**

### **3- Difference between the Indian and Australian Constitution.**<sup>15</sup>

#### **3.1- Legislative power to make laws-**

The Australian constitution is the product of the Statute of Westminster, 1931 which transferred the power of legislation to the Dominion of Canada, Dominion of New Zealand, Commonwealth of Australia, Union of South Africa, the Irish free state and the Newfoundland. This statute was passed following the conferences that held in the year 1926 and 1930<sup>16</sup>. Later on, the High Court of Australia signified that the supreme power of the Australian Commonwealth lies

<sup>11</sup> “Indian Constitution, Article 301.”

<sup>12</sup> “Indian Constitution, Article 331.”

<sup>13</sup> “Australian Constitutions, Part XXVI Section 51.”

<sup>14</sup> “Australian Constitution, Section 128- Constitutional Alteration (Aboriginals) 1967.”

<sup>15</sup> “The Australian And Indian Constitutions, similarities, differences and the challenges of constitutional choice, The Hon.Micheal Kirby AC CMG Denning Law Journal 2018Vol 30 Special Issue pp 17-49.”

<sup>16</sup> “Statute of Westminster, 1931”



in the resolve of the citizens of Australia. But the fact still remains that while the Australian colonists did a referendum for the drafts of the Australian Constitution in 1890. It was still important to get a legislative power transfer through an imperial legislation.

The same imperial legislative power transfer was designated for the Dominion of India too. But due to the outbreak of World War 2 the plan was postponed which ended with Independence and partition of the country in 1947. The India Constitution was framed by the Dr. B.R. Ambedkar and his other fellowmen of the Congress. Hence, as stated under the Preamble, people of India gave themselves this Constitution and it was not an Imperial transfer of the legislative power.

Even though both the Australian and the Indian legislations have links to the United Kingdom parliament. The links have been completely shattered in case of India. Same cannot be said for Australia. Indian constitution is complete product of the Indian public in any sense whatsoever.

### **3.2- Freedom struggle-**

The struggle for freedom for both the nations was different. While the Australian struggle was of evolutionary nature the Indian freedom Struggle was of serious nature that led to imprisonment of the leaders and sometimes it took a serious offensive nature.

The proposed Australian Constitution had many issues with the British parliament with special regard to Judicial Committee and appeals to the Privy Council. The end result was that the Australian Constitution was amended retaining the principle of appeal to the Queen in Council. The section 74 of the

Australian Constitution states that no appeal shall be allowed to the Queen in Council at the decision of the High Court. In case such appeal is considered by the High Court the reason shall be certified and the appeal shall lie before the Queen in Council.<sup>17</sup>

Indian constitution provided for the creation of the Supreme Court, High Courts of the states, subordinate courts and High Courts for the Union Territories. There was no exception added in respect to appeal to the Queen in Council. The final decision of the Supreme Court would be given the highest authority. Even though the citation by the Privy Council were still preserved to protect the rights and liabilities. The Constitution was the result of the Government of India Act (1935), Indian Council Act (1919) etcetera.

### **3.3- Fundamental rights-**

The Australian Constitution does not contain specific provisions as Indian constitution to protect the fundamental rights. Still it would not be quite true to say that the Australian constitution has provisions to protect the right to enjoy the acquisition of the property on specific condition under federal laws defined under section 51 of Australian Constitution. Section 80 defines right to trial by jury in criminal matters. Section 118 defines no discrimination against the residents of the various states in practising any religion and invalidation of using religion as a factor to gain certain office specified under section 116. The Australian constitution also protects the public against the objects or laws that interfere with free speech which is a necessary part to a democratic system as established under the

<sup>17</sup>“Section 74 Australian Constitution, [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/Constitution/chapter3](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Constitution/chapter3)”



constitution. This protection has been given on an implied basis rather than directly providing it through provisions. The constitution also implies independence of judiciary and impartiality which can be implied by the separate treatment of the Judiciary under the constitution. The Rule of Law is the supreme implied demand of the Constitution.

The India Constitution on the other hand has expressly defined the Fundamental rights under Part III of the Constitution. Article 12 to 35 specifically covers all the guaranteed fundamental rights. These fundamental rights include right to constitutional remedy given under article 32 which permits the person whose fundamental rights have been infringed to approach Supreme Court. The article covers writs that can be used to file a petition in the Supreme Court. There are six fundamental rights given in part three- right to equality, right to freedom, right against exploitation, right to religion, culture and educational right, right to constitutional remedy.

#### **3.4- Secularism-**

Secularism in Australia is determined by the fact that majority people in Australia practise Christianity as a religion although there are certain acrimonies between different factions. These acrimonies are declining as the public of Australia is constituting to have no religion as the census has predicted.

India is a secular country but constitutes of various religions practising their religion with complete freedom. This came after the partition which was done on the basis that Pakistan would consider itself as a religion centric nation while India accepted secularism. Still the partition led to massive

conflict between the three major religious factions namely Hindu, Sikh, and Islamic. The conflict led to violence on both sides of the border.

The Indian Constitution under article 25 dictates that each and every person is entitled to practise, propagate and profess any religion and this entitlement is given to every religion. This provision enshrines the concept of secularism in the constitution. The right to propagate does not hold forcible conversion. Although right to practise has been guaranteed and there is no expressed provision in regard to not practising any religion. Still this factor becomes an inherent part of the concept of secularism which itself is expressly mentioned in the preamble.

Even though both India and Australia have established secularism in their own ways, the growth of religion based political influence in both nations can create challenges of upholding secularism.

#### **3.5- Emergency provisions-**

Emergency Provision has not been expressed in the Australian Constitution, there are no specific provisions for the suspension of the constitutional body and impose an emergency rule in dire times. There were few legislations that were enacted during the world wars but they were not of the emergency or restrictive nature rather were of applicative nature. It has been expressed that power to invoke special emergency prerogatives lies with executive branch in extreme situations. It has also been expressed that special prerogative of assuming legislative function by executive in case legislative wing is paralyzed.



Indian Constitution has specific provisions for the emergency situation. There three type of emergency can be imposed- national emergency, state emergency and financial emergency. The precondition for proclamation of emergency is the President of India should be satisfied that a grave emergency exists which threatens the security of India or any of its part through war or external aggression. The duration for such proclamation is six months. Also contains provision in case if the government is unable to carry out in accordance with the constitution. Even in these situations some parts of constitution shall still prevail with some interruptions. This provision was used in the year 1975 by the then Government and twenty-one month's long emergency was imposed which ended in 1977.

### **3.6- Republic and allegiance-**

The fundamental feature of the Indian constitution is that it defines India as sovereign, democratic, republic under the Preamble. The allegiance of the people of India belongs to the Constitution and the law established. It has no allegiance to the crown or the British parliament. The Australian counterpart has a different situation as it is constitutional monarchy. Section 2 of Imperial Act has proclaimed that the allegiance belongs to Her Majesty and her 'her heirs and successors according to law'. There was a referendum done to remove the reference of Queen and the Crown from Australian Constitution. To accept the republican form of government on the same foundation as of United States of America. The referendum was not favoured by the majority. The deletion of the reference to Queen and Crown has risen again and again but however change is still due its course at least under current monarch.

India and Australia are still the part of commonwealth nations. It is not completely British styled but group most of the nations in this group are independent which are now republics and have common history of British colonial rule. The Indian Prime Minister Jawaharlal Nehru had a huge role in this creation.

### **3.7- Citizenship-**

At the time of federation, Australians as well as Indians enjoyed the status of British subject. After independence, India turned into republic and hence the concept of citizenship was introduced and status of subject to the British Crown was eliminated. Article 5, 11 was added in the Indian Constitution which defines any person as an Indian Citizen if he is born in territory of India or his parents are born or even if his grandparents are born in the territory of India. This was defined under the Government India Act, 1935.

The citizenship status for Australia has not been expressly defined in the Australian constitution. There were no special legislations enacted to define citizenship as well. It was expressed to make laws regarding naturalization and alien also emigration and immigration. Also, any person having citizenship to other country or subject to foreign power would be disqualified to contest elections. The very mention of Australian citizen was done in year 1950. The Australians used to refer themselves as British subject as well as Australian citizen. Following the example of India, Australians also removed and terminated the use of British subject and any privileges that came with it.



### **3.8- Religious freedom under constitution-**

Freedom of religion has been defined in the Australian Constitution and the Australian High Court has defined religion with specific meanings that it is a universal spirituality rather than any specific meaning of any particular religion. This was defined so that any specific religion was not established as the state religion of the Australians. This was also done so that there was no religious influence over the political machinations of the country. In India all religions have been equal status and their meanings and cultures have been accepted so that we have a unity while having a diversity. Even though a single religion does not define the country as whole that is there is no state religion in India as well.

### **3.9 Judges retirement and appointment-**

Judicial appointment and retirement differ in both the nations. Australia previously did not have any retirement age for the judges once appointed to the High court or any federal court. Later on, the legislations were passed that defined the retirement, although the retirement was different for the different courts. The State Supreme and District Courts judges served up to the age of seventy years while the Magistrates and some Industrial Court Judges served up to the age of sixty-five years. The power to amend the retiring age of judges in the Australian Constitution was introduced through Constitution Alteration (Retirement of Judges) 1977. It was fully left on parliament to decide what was the requirement retiring age of the judges should be.

In India the retirement age for the Supreme Court is Sixty-five years, State High Court is Sixty-two years. This is specifically in comparison to various other countries around

the globe. The appointment of the Chief Justice of India is based on the seniority factor. There has been suggestion to raise the retiring age but to no avail from political vicinity.

### **3.10- Amendment-**

The Indian and Australian Constitution has different ways of amendment. The Australian amendment is done when a proposed law is presented in the houses of the parliament and must have passed with absolute majority. Further it must be submitted to electors in each state and referendum must be done. The law then must be submitted to Governor-General for the royal acceptance. There must be majority vote in favour further majority in the number of states also. Hence, amendment is a challenging process in Australia which can be recorded by the fact that out of forty-four suggested amendments only eight have been successful till now.

In India being hugely populated country the power to amend is rather flexible. The proposed bill of amendment needs to be passed by both house of the parliament with a two third majority vote. The Supreme Court has established Basic structure through which amendment is required to follow otherwise this amendment can lead to overthrow of the Constitution as whole.

The Indian and Australian Constitution are very similar in nature with difference being relating to specific provisions. India was supposed to follow the very footsteps of the Australia, South Africa, New Zealand, Canada but became independent and Indian forefathers drafted the Indian Constitution by taking inspiration from other nations hence there are so many similarities as well as differences exist.



**CHAPTER 4**  
**CONCLUSION**

India and Australia being big nations have a written constitution and hold many similarities as well. India is known for its longest, written constitution in the world. Both these constitutions endorse the ancient principles of rule of law and separation of power which is essential for the proper and efficient functioning of the government and the country. Australia and India both are constitutional democracies and here will of the people and welfare of the citizens are of paramount interest. Both these constitutions clearly establish that public interest and equality is supreme.

India and Australia both nations have a rich heritage when it comes to the laws, legislations and constitutions. India has a significant number of customs that were taken in account during the drafting of the constitution. This is evident by the provisions regarding the reservations which cannot be seen in the Australian constitution. Various customs still prevail in India and they act as the source of law for various legislations in India but they need to be in accordance with the Indian constitution. These differences occurred because of India got independence from the colonial rule and the legislative power transfer was not done as it was done in the case of Australia. The ties to British rule were severed profoundly by the Indian forefathers so as to create an identity of the Indian people. Even though some references were still kept as to remind that the Indian people were subject to British rule and that part of history cannot be overlooked. Hence, India is still a part of the Commonwealth nations group. Both the countries have significant differences in the constitutional background and hence it has so much

prospect of learning. These countries since their constitutional inception has a lot of legal history that can be compared to get an in-depth study of both the nations legally speaking.

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