CHAPTER – IV

MALANA’S MODEL AND OTHER PRESENT DEMOCRATIC MODELS: A COMPARISON

The government is merely a servant -- merely a temporary servant; it cannot be its prerogative to determine what is right and what is wrong, and decide who is a patriot and who isn't. Its function is to obey orders, not originate them ~ Mark Twain ¹

Democracy is a form of government in which all citizens have an equal say in the decisions that affect their lives. It encompasses social, economic and cultural conditions that enable the free and equal practice of political self-determination. Democracy allows citizens to participate equally—either directly or through elected representatives—in the proposal, development, and creation of laws. In order to understand the relevance of Malana Model of governance, it is necessary to first compare and evaluate it with the functioning of other present democratic models of the world.

The first democracy, of which we have record, is that which was practiced in ancient Athens. In his capacity as a history writer, Aristotle, in his work, The Athenian Constitution ² (350 BC), writes that the Athenians practiced democracy only to the extent of putting and keeping in power members of a very exclusive group, a group which formed but a minority in the universal group we stylize as society. The Athenian constitution was oligarchical, in every respect. The poorer classes were the serfs of the rich. They cultivated the lands of the rich and paid rent. The whole country was in the hands of nine magistrates, called archons, who were elected according to qualifications of birth and wealth. These ruling magistrates held their positions for life, except for that latter period when they served for a term of ten years. In time, this Greek notion of democracy was set aside in favour of the draw.

¹ www.goodreads.com/quotes/31589-the-government-is-merely-a-servant—merely-a-temporary
He further added that, "... the method of election in the choice of archons is replaced by lot; some way must be found to keep the rich from buying, or the knaves from smiling, their way into office. To render the selection less than wholly accidental, all those upon whom the lot falls are subjected, before taking up their duties, to a rigorous dokimasia, or character examination, conducted by the Council or the courts. The candidate must show Athenian parentage on both sides, freedom from physical defect and scandal, the pious honoring of his ancestors, the performance of his military assignments, and the full payment of his taxes; his whole life is on this occasion exposed to challenge by any citizen, and the prospect of such a scrutiny presumably frightens the most worthless from the sortition. If he passes this test the archon swears an oath that he will properly perform the obligations of his office, and will dedicate to the Gods a golden statue of life-size if he should accept presents or bribes."³

Durant in Our Oriental Heritage: The Story of Civilization continued to write that the head man, the archon basileus, must "nine times yearly ... obtain a vote of confidence from the Assembly" and any citizen may bring him to task for an inappropriate act of his. "At the end of his term all his official acts, accounts, and documents" are reviewed by a special board, logistai, which is responsible to the Council. "Severe penalties, even death, may avenge serious misconduct."⁴

Grecian democracy, however, such as it was, was soon covered over with the murk of the middle ages. Democracy's re-flowering in the world, in respect to the rights of the people, first appeared in England with the Glorious Revolution of 1688. A study of an era known as The Enlightenment is the study of the beginnings of modern democracy.⁵

India is a land of villages and will remain so far decades to come. It will true to say that the heart of India lies in their villages. India is multi-racial,
multi-lingual and multi-religious and throughout the course of her long history. India has received people of various races and languages who had their own distinctness, in origin, speech, rituals and cultures. Multiple waves of conquerors, invaders and peaceful sojourners at different times of history brought to the people of India newer and newer cultural contributions, including religious notions and ideas, ceremonial and practices, cults and rituals and sometimes strong violent prejudices. All these helped to make India with its diverse peoples, its languages, its religions and social ideas and ideals a land of contrasts, which presented on the face of it almost insuperable difficulties in the evolution of a single integrated whole out of these various elements. As a matter of fact, occasionally, in ancient and medieval times a strong centralized Government an empire like that of legendry. Pandavas, Mauryas, Guptas, Chalos, Vijyanagra and of the Mughals helped in making cultural unity rather than of political unity.

MALANA

The village Malana is known for its unique cultural heritage. The village, because of its unique culture, customs, own dialects, traditions and importantly a different system of governance representing great democratic traditions makes its different from the rest of neighboring areas. The people of Malana have their own social structure and life style and they are strict in following their customs. The inhabitants of Malana also have full faith in their self evolved traditions and thus they preserved their identity, individuality and their Self Governing systems uncorrupted by any outside. The village administration is democratic and is believed to be the oldest republic of the world. The village is governed through a council which consists of two assemblies Kor (the lower house) and Jaishthang (the upper house). The Kor provides every villages to express their opinions and feelings where as the upper house entitle the each clan to ensure their representation. Before taking any decision Jaishthang takes prior approval from the Kor and makes it sure that the popular feening of people had been taken care of before any decision taken.
The whole council is headed by Devta Jamlu, the spiritual head. All the citizens whether low or high obeyed him and his decisions are final. His position is final and unchallenged. All the matters pertaining to legislation and judiciary carry the commitment and conviction of the people. The issues not only discussed and taken into both the houses but also subjected simultaneously to referendum, which is restricted only to the male adults. The people can also taken into part or initiate law making process through the members of the Koram. The Kor can approve, reject or send it back with suggestions for amendment the resolution presented before it or even demand for new one. The decision is approved of either unanimously or by the maximum possible majority of the Kor members. The suggestions of the minority members of the Kor are adequately respected. Thus, the opinion expressed by the minority is not rejected out rightly, which, however, find no place in the era of the modern democracy where the decision of majority always prevails.

Though the members of Kor have a decisive role in various matters yet the Jaishthang plays a leading role in running the village government. The three permanent members of the Jaishthang (the Goor, Purjyara and the Karmishth) called as Mundie. They exercise considerably enormous influence in the village. The village government works on the principle of collective responsibility.

The most important feature of Malana village is their Judicial system. The village has three tiers single integrated Judicial system- first is the Koram, second Chhaba and third and final authority Devta Jamlu. The judicial system of the village provides an interesting example of a different legal concepts and procedures hardly available in the modern judicial setup. The Malaneese (the inhabitants of Malana admire their cultures, customs and religious believes. This makes Malana in a modern time a good example that how can we save our roots.

**SWITZERLAND**

In Switzerland, Direct Democracy has a long tradition. Direct democracy can be defined as a form or system of democracy giving citizens
an extraordinary amount of participation in the legislation process and granting them a maximum of political self determination. The origins of Direct Democracy can be traced back to the late the middle ages: archaic forms (assemblies of the electorate discussing and deciding major political issues) have been practiced in part of the country since the founding of the old Swiss Confederacy in 1291. The origin of Switzerland’s modern system of Direct Democracy with formalized opinion polls and frequent referendums lie in the experimental phase of democracy in the 19th century when Switzerland was surrounded by monarchies on the European continent that showed little to none enthusiasm for democracy.6

Switzerland is also world’s most successful nations in economic terms. It is also considered by many to be the most democratic country in the world. Switzerland has a unique democratic tradition and 27 political systems (one federal and 26 cantonal system). Switzerland is a Confederation of 26 cantons [canton = member state of the Swiss Confederation].

Switzerland’s basic political philosophy can be described as a far reaching and sophisticated form of federalism granting cantons and communes a maximum of political self determination and restricting the competences of the federal (national) authorities to the absolute minimum that is indispensable to run a modern, highly (post-) industrialized state. Governments, Administrations, Parliaments and Courts are organized on 3 political levels; Federal (National), Cantonal and Communal. The 1848 federal constitution defines a system of direct democracy (Sometimes called half direct or representative direct democracy since it is aided by the more common place institutions of a parliamentary democracy). The instruments of Swiss direct democracy at the federal level, known as civil rights include the right to submit a constitutional initiative and a referendum, both of which may overturn parliamentary decisions.

By calling a federal referendum a group of citizens may challenge a law that has been passed by Parliament, if they can gather 50,000

6 www.direct-democracy.geschichte-shcweiz.ch/
signatures against the law within 100 days. If so, a national vote is scheduled where voters decide by a simple majority whether to accept or reject the law. Eight cantons together can also call a referendum on a federal law. Similarly, the federal constitutional initiative allows citizens to put a constitutional amendment to a national vote, if they can get 100,000 voters to sign the proposed amendment within 18 months. Parliament can supplement the proposed amendment with a counter-proposal with voters having to indicate a preference on the ballot in case both proposals are accepted. Constitutional amendments, whether introduced by initiative or in parliament, must be accepted by a double majority of both the national popular vote and a majority of the cantonal popular votes.\(^7\) The Swiss Confederation is not based on the usual principle of European nations “one nation – one language”. Switzerland has four official languages (French, Italian, German, and Rumantsch). These languages are used in different regions of the country. The Swiss do learn some foreign languages at school, but they are definitely not “naturally multilingual”. It should be stated clearly, however, that multilingualism is not relevant in everyday life.\(^8\)

Switzerland is a model democracy in the modern world as Athens was in the ancient world. In no other country has political democracy been carried farther than in Switzerland. The Constitution of Switzerland is a unique one in the history of federal constitution. The Constitution was originally enacted in 1848 but was substantially revised in 1874. The most significant aspect of this Constitution is the plural executive, and devices for direct democracy. In view of these various political institutions in the Confederation and Cantons, Felix Banjour has rightly called Switzerland and “a laboratory of politics”. The Constitution of Switzerland is written and rigid and the procedure laid down for its amendment is difficult and complicated. A proposal for a constitutional revision, partial or total, may come from the Federal Assembly or through a demand put forward by 50,000 voters. It is also the chief instrument through which Switzerland has

\(^7\) [www.en.wikipedia.org/wiki/Switzerland](http://www.en.wikipedia.org/wiki/Switzerland)

\(^8\) [www.direct-democracy.geschichte-schweiz.ch/switerlands-political-system.html](http://www.direct-democracy.geschichte-schweiz.ch/switerlands-political-system.html)
attained national unity without nullifying the autonomy of the Cantons. It should be noted that Switzerland is a true federation even though the constitution formally describes it as a confederation. Federalism, writer Zurcher, is “the basic constitutional doctrine on which the government of Switzerland is now posited”.

Only one country in the world--Switzerland--is a direct democracy, in which, to an extent, the people pass their own laws, judge the constitutionality of statutes, and even have written, in effect, their own constitution. In “Direct Democracy in Switzerland”, Gregory Fossedal reports on the politics and social fabric of what James Bryce has called the nation that has taken the democratic idea to its furthest extent. Fossedal surveys Swiss governmental institutions and political issues in order to make the case that the Swiss have developed a unique and perhaps superior model of democratic governance.

“Switzerland and democracy”, says Zurcher, “have in recent years, become almost synonymous”. This rather overdrawn statement is largely justified if we use the term democracy in its political sense i.e., as a form of government in which the people have a direct or indirect share and which is amenable to their control. Political democracy won its final victories in Switzerland in 1848 and 1874 when the federal constitution removed all aristocratic and oligarchic privileges, and republican institutions were established in the confederation and in all the cantons. Further, the Constitution made all citizens equal before law and introduced universal manhood suffrage. Kenrick Jones holds the view that, “it is possible to describe the majority of Swiss communal life as local”.

The Swiss Constitution does not contain a formal bill of rights as the Constitutions of the USA the USSR, India and some other countries do. This, however, is not to suggest that the fundamental rights of Swiss

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12 Jones, Kenrick, Swiss Democracy: A Model for Britain (Great Britain: Arena Books), 2009, p. 31.
citizens are not safeguarded by their national Constitution. The only difference is that instead of being consolidated in a single chapter of the Constitution, references to specific rights of the citizens are scattered all over the Constitution. Thus, the Constitution guarantees to every citizen equally before law and declares that “there are no subjects, nor any privileges of rank, birth, person or family” (Article 4). The Constitution also lays upon the federal government the duty to protect rights granted by the cantons to their citizens. Among the unique features of Swiss Constitution the Direct Democratic devices of referendum and initiative occupy the first place. The referendum means reference of any particular legislation to the people for approval or rejection. In Switzerland, the referendum is the constitutional right conferred upon the electorate to give its opinion on any legislative or constitutional measure already passed by the legislature.13

One of the main characteristics of federalism is the authority of the judiciary. According to Dicey, the characteristics of federalism, the supremacy of the constitution, the distribution of powers, the authority of the judiciary re-appear, though no doubt with modification, in every true Federal State. In Switzerland there was no Federal Judiciary worth the name prior to 1874. All disputes between the Confederation and the Cantons or between Cantons themselves were decided by the Federal Council and the Federal Assembly. The Constitution of 1874 provided for the establishment of a federal tribunal at Laussane, capital of the Canton vaud. There are no inferior federal courts as is the case in the U.S.A. The Federal tribunal is the national court in Switzerland. The reason for the state of affairs is that a large amount of judicial work is done by cantonal courts themselves. In the Swiss Constitution, the Federal Judiciary does not enjoy an equal status with Federal Legislature. The former cannot invalidate the laws enacted by the latter even if they tend to violate the constitution. The reason probably is that the laws passed by the legislature have the implicit consent of the people and as such the formers of the constitution did not consider it

worthwhile to get them scrapped by the judiciary merely on certain technical
grounds. If any law does not appeal to the people they can reject it through
referendum. It is probably this fact which led Hans Huber a judge of the
Swiss federal tribunal, to remark that, “the Swiss as a whole, place
democracy, the observance of the will of the people above
constitutionality”. 

Swiss Democracy rests on a varied and prosperous economy. Not
having been involved in the last war provided a further base for rapid
economic growth after 1945 which allowed the country to claim, on
numerous occasions, that it was the richest in the world in per capital GDP
terms. Swiss society, politics and democracy in part owe their stability, and
much else, to the fact that postwar Switzerland has been highly successful
economically. This has mitigated social unrest and prevented conflict and
extremism. It has also provided resources which have lubricated the system
and kept taxation under control.

Swiss Democracy derives from a divided, but largely harmonious,
society. Stability may seem somewhat surprising given the divisions
inherent in Swiss society; divisions brought about by the way Switzerland
developed historically. Indeed, many Swiss are very conscious that their
country is somewhat fragile because of its divisions. The assumed fragility
comes from the fact that the country lacks ethnic and religious unity. 65% of
Swiss citizens are German speakers, 19% French, 8% Italian and 1%
Romansch. Schyzerdutsch dialects, impenetrable to most outsiders, are
used in everyday life. All three language groups are themselves divided on
religious lines — between Roman Catholic and Calvinist Protestant - and
between urban centers and rural mountain zones. Switzerland also has a
clear class structure with small elite, a very large middle class, and a small
working class.

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Switzerland is held together by political will and its institutions. Despite the diversity of its host society, Swiss democracy is very firmly based. Even more important is the way the country has developed historically. On the one hand, people have consistently chosen to stay together rather than go their separate ways or align themselves with culturally close neighbours. Hence Switzerland is often described as ‘willensnation’ or the product of a national will. On the other hand, Swiss unity and democracy is based on the acceptance, and utilization, of an unusual set of institutions which have provided both safeguards and space for the varying communities to develop and cooperate. These include direct democracy, federalism and neutrality, things seen as major elements of Swiss national identity. Such national institutions and practices are fiercely prized and esteemed. They are thus seen as highly successful - in having enabled the Swiss to survive the last war and then prosper - and morally superior to those of other countries.

The fact that Switzerland is neutral and, before 2002, was outside the United Nations leads many to assume that Switzerland is careless of normal national feelings and interests. Swiss Democracy is very nationally minded. As a result of the strength of these underlying political commitments Swiss political culture is very patriotic and nationally minded. Nothing could be farther from the truth. Though Swiss national feeling is non aggressive it is nonetheless very real. Indeed, it has been said that their foreign policy is actually a domestic policy, designed to keep external complications from disturbing the internal balance. Being aware of their internal fragility the Swiss are determined to maintain their national existence and the institutions and practices on which it is seen to rest.

Swiss Democracy is, above all, a People’s Democracy. Collectively Swiss citizens are regarded as the ‘sovereign’ in a very real sense. Any tendencies to instability are curbed by the fact that, at the basis of the Swiss political system, is the individual citizen. They take a very active part in governance not just by electing MPs but by selecting local government
leaders, deciding policy matters and controlling finance through the various mechanisms of direct democracy. Hence it has always been actively republican and, thus, suspicious of authority. Very often it is the people, and not any political parties, who are regarded as the true 'opposition'. This reflects the fact that the country really emerged from the bottom up in local and cantonal communities.

Swiss Democracy is very much a Limited Democracy. Because of federalism and direct democracy the powers of the Confederation are strictly limited as the Constitution makes clear. All this is laid down in a revised and simplified constitutional document which was approved in 1999 and came into effect in 2000. This introduced a new stress on civil rights and limitations on authority. It can do only those things which the constitution, or the people, allows.

The government, in particular, is very small both in the number of ministers and the size of the civil service at its disposal. There are only seven in the Federal Council and there is no leadership role, only a rotating ceremonial Presidency. Nonetheless the civil service, which is probably bigger than is sometimes claimed, is an important element in policy making. Equally, the Confederation controls relatively few employees and has to make great use of cantonal administrations and non-governmental organizations to see that its policies are carried out.

Switzerland is only partially a traditional Representative Democracy. In theory the lower house, the National Council, represents the people at large, although the cantons are used as constituencies. The Upper House, or Council of States, represents the cantons on a two per full unit basis as in the USA. But, though its members are elected and paid in different ways, they nowadays represent parties as much as cantons. However, the Council of States is still regarded as a revising chamber to control the National Council. The Confederation consists not just of a Federal Council and Courts but includes a bi-cameral Parliament as well. Both houses are equally responsible for the passage of legislation.
Swiss Democracy is highly proportional. Switzerland has a proliferation of political parties at all levels, reflecting the variety of social, regional and religious view in the country. Seats in all parliaments, local and national, and even in the Federal Government, are shared out on a generously proportional basis so that virtually all shades of opinion are represented. An advanced and open list system of Proportional Representation is used. This allows electors to mix and weight the various lists. As a result it is relatively easy for new forces to enter parliament though more difficult for there to be large shifts in opinion and majority as is the case in Britain. The only exception to this is the Council of States, most of whose members are chosen by a French style two-ballot system.

Switzerland is a very Consensual Democracy. Generally speaking Swiss democracy seeks to avoid conflict. This is not just true in industrial relations but in politics as well. The Constitution provides many of the devices for doing this. Thus Federal Councilors are elected by all MPs and not just by their own side, so that those elected tend to have the widest and least sectarian support. Such devices help to ensure that most minorities are heard. Swiss democracy embodies a whole series of checks and balances together with mechanisms for ensuring that as few people as may be are excluded. The aim is to involve as many people as possible and develop solutions which carry the widest possible support.

Switzerland is a real and vibrant polity, not just a tepid affair, marked by some unusual devices. Because Switzerland has both such unusual institutions and such a complicated landscape of cantons and communes, outsiders often regard it as less a real political system than a disparate (and antiseptic) collection of political instruments. Hence it is assumed that there is fundamental agreement on both the nature of the system and its policies. Consequently there is supposed to be no meaningful conflicts or politics so that parties do not really matter.

Switzerland is not static but is changing. It is often assumed that, because of things like, on the one hand neutrality, direct democracy and
federalism and, on the other, the highly proportional nature of elections, that there is very little political change in Switzerland. This too is wrong. There may not be the kind of seismic alterations found in other countries but things do change in Swiss politics. And they have rarely been more changeable than over the last 20 years.  

From the Switzerland experience we can all learn that representative democracy can do much better, if it includes comprehensive and citizen friendly methods of participation. In Switzerland, the most important but a relatively few-issues are decided by the people, important and numerous matters by parliament, and the least important but very numerous issues by the government. That’s what they mean by democracy.

INDIAN DEMOCRACY

The concept of democracy is not new in India, as a substance of self-government lies embedded in our past history. Today this ancient institution has been transformed into a new organ of self-government at a district and block level as a link between the government’s programme and the people. This system probably came into being because the village and the people were too distant from the centers of political power. In the early Vedic period, traces of democratic spirit vibrated the heart of India’s functional republics. Ancient Shastric literature, scriptures such as Rig-Veda, Aitaria Brahman, Panini’s Ashtadhyayi, Kautilya’s Arthashastra, Sukracharya’s Nitisara, the Mahabharata, Inscription on Ashoka’s Pillars, writings of Buddhist and Jain scholars and the Manusmriti are replete with evidence of deliberately elected representative bodies like Sabhas and Samitis in the form of Janapadas (regional bodies), Paura Sabhas (city councils) and Gram Sabhas (village assemblies). These democratic institutions started to decline with the passage of time and the republican states disappeared.  

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15 www.kent.ac.uk/politics/cfs/csp/pdf/CHTWELVE%20Key%20POINTS%20.pdf
Democracy in Modern India is then of recent growth, having been introduced and developed by the British Government. The influences which favored its development were the traditions in which Englishmen themselves has been nurtured, and the familiarity of the English educated classes in India with British political ideals and institutions, which made them demand parliamentary democracy of the British pattern. It is significant, however, that democratic sense of the Englishman or of the English educated Indian but to stern necessity, for the Indian Councils Act of 1861, which for the first time recognized the right of Indian people to representation in the legislative bodies. The Minto-Morley reforms of 1909 form the next important landmark. They increased the size of all the Legislative Councils, gave legal recognition to the elective principle, provided for non-official majorities, and extended the powers of the councils by giving them power to move and vote on resolutions on all matters of general public importance, including the budget. The Act of 1919 introduced several ‘democratic’ features in the Constitution. The new Constitution was worked until 1937 with varying success in the different provinces. The progress of local self-government, obviously important as a training ground for democracy. The elective principle was introduced into the system of local self-government by Lord Mayo in 1873 and extended by Lord Ripon in 1883, elections were regularly held for Municipal Councils and District Boards. Gradually these bodies acquired the privilege of electing their Chairmen. From 1920, when the portfolio of local self-government passed into the hands of responsible ministers, local bodies were clothed with enhanced powers, freed from official control, and made responsible to a substantially enlarged electorate. The Act of 1935 is the last important milestone in the progress of democracy in India. It transfers all departments of provincial government to administration by responsible ministers; proposes to introduce dyarchy at the Center, which means that, subject to the special responsibilities of the Governor-General, ministers will be in charge of the administration of all subjects except defense, foreign policy
and ecclesiastical affairs, and the electorate is enlarged to include between 35 and 40 million voters.17

Democracy like all other systems, work through its different institutions. When India became free in 1947, the people of the country had first opportunity to frame constitution in line with the legacy of the national movement and work it out in true democratic spirit. The most important institutions of democracy are a written constitution, a declaration of rights, elections, political parties, press, public education and legislatures. Such a constitution was framed and on its basis the Indian Republic was established on 26th January, 1950. Indian Constitution is perhaps the lengthiest of all the constitutions of the world. It is a great document embodying the wisdom of the Constitution makers of many generations, based on the principle of liberty, equality and fraternity.

Here are some of the Salient features of the Indian Constitution:

Constitution of India is a written document: A written Constitution has to be framed at a given time and can be adopted in the form of a document in the later stage. It took about 2 years 11 months and 18 days to frame the Constitution. On 26th November 1949 the document was adopted and finally it was enforced on 26th January 1950. Earlier the Constitution had 395 Articles and 8 schedules. Gradually, there were several amendments that took place over a period of time and the number had now reached to 448 Articles in 24 Parts, with 12 Schedules and 97 Amendments to it. This is probably the reason why Indian Constitution is considered to be the lengthiest one in the world.

Rigid yet flexible form of Constitution: The Amendment procedures are the ones that signify the form of Constitution. Indian Constitution is unique due to a rare combination of rigidity and flexibility. There are three categories designed for the amendments. The first category is the one where the amendment takes place with the majority of members who give their votes.

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before sending to the President for the assent. Secondly, a special majority is required where each House of the Parliament has to pass the amendment by a total majority of the members of that particular house and also by the 2/3rd majority of the members who were present and also voted in each House of the Parliament. Later this amendment has to be sent to the President for assent and he cannot deny it. Thirdly, along with the special majority as mentioned in second category, 50% of the State Legislatures have to approve it.

**Federal Structure of Government:** This means that there are two levels of Governments i.e. Central Government and the State Government. Central Government means a single Government that governs the whole country while State Government is confined to a particular state alone. The powers of each of the governments are specified in three lists: the Union list, the State list and the Concurrent list.

**Parliamentary Democracy is another unique feature:** The legislature and the executive are closely linked in a parliamentary form of democracy. The members of the legislature are selected to form a cabinet that in turn is responsible to the executive. In India the President is the Head of the State. The President acts as per the advice of the Prime Minister and the Council of Ministers. Even though there are numerous powers bestowed on the President, practically most of the powers are exercised by the Prime Minister who heads the Council of Ministers.

**Single integrated Judicial System:** There is a single integrated judicial system in India where Supreme Court is considered to be the Apex Court. The High Court’s established in every state come below the Supreme Court and are followed by the lower courts.

**The Fundamental Rights and Duties:** The Constitution guarantees 6 Fundamental rights to all the citizens of the country. Likewise, all the citizens are expected to perform 10 obligations in the form of Fundamental Duties.

**Universal Adult Franchise:** Every citizen of India who has attained the age of 18 years is eligible to vote in the elections irrespective of their
castes, sex, status, religion and race. “One person one vote” is the policy adopted in Indian democracy.

**Directive principles of the State policy:** These principles were included in the Constitution to provide all the citizens social and economic justice. The main objective here is to establish a welfare state in India.

**Independent Judiciary:** The legislature and the executive cannot influence the judiciary and this is the reason India has an independent and impartial judiciary. The judges of all the courts are appointed based on their respective qualifications and cannot be removed easily.

**Provisions of Emergency:** There are a few situations where the Government cannot run in the ordinary fashion and such situations are termed as Emergency situations. There are 3 kinds of provisions of emergencies in India. First one is National Emergency (as a result of war, armed rebellion or the external aggression). The second is State Emergency (arising out of failure of constitutional machineries in states) and the third and final is Financial Emergency. 18

Our Constitution like many other Constitutions contains a declaration of rights. A long list of rights is given and constitutional remedies are also provided for their enforcement. The Constitution also assures the citizens equality of opportunity on matters of employment under the state and the rights to freedom of speech and expression, to assemble peaceably and without arms and to form association and unions. Any citizen can move the Supreme Court for the enforcement of fundamental rights. The Constitution assures to all citizens equality before the law and guarantee that no citizen shall be discriminated against on grounds of religion, role, caste or sex. As a rule, the Judiciary in India displayed remarkable independence and integrity and it can safely be asserted that in normal times the Indian citizens enjoyed their rights fully. The most successful provisions of the Indian constitution are those which deal with elections and the convening of

18 www.edurite.com/blog/the-indian-constitution-and-its-salient-features/2906/
the legislatures – both at New Delhi and in the States. In a limited way India has the experience of working out representative institution even before the country became free. Tracing the roots of India’s democratic institution to 1892, one of the Indian political scientists observed, “The period from 1892 is best described as one which saw the growth and realization of self-government. The evolution of self-government in India has two aspects. On the one hand, it involves the demand by Indians for the government of the country by and for themselves – the nationalist idea; and on the other, the demand for sharing of the political power by an increasing number of people—the democratic ideas”.  

A free and honest press is absolutely necessary for the successful working of democracy. It supplies new and views on matters of day to day public importance. It places before the people important events with comments, inviting suggestions and discussion of important national and international problems. So, the press encourages the spirit of discussion among the people and it educates them politically. Democracy happens to be government by discussion or by public opinion and the press plays a very important part in the formulation of true and right type of public opinion. It becomes an important organ for the expression and creation of public opinion. Its importance is so high in Indian democracy that it is called the fourth estate of the realm. To a large extent it can make and unmake governments as it controls the public opinion.

Political parties are considered to be indispensable for the successful working of modern democracy. They are the core of the democratic system, its alpha and omega, and their nature and organization determine rightly the success or failure of democratic party system brings about harmonious relation between the executive and the legislature, which is very essential for success of a party government.

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The British Constitutional system is the oldest democratic system in the modern world. The British people were not only “the first to discover how to manage a large state successfully on democratic principles” they have also been the first to develop the mental habits necessary for the successful working of democratic institutions. The British were the first to discover how to manage a large state on democratic principles. Great Britain is a ‘Mother Democracy’. The British political institutions have been inherited directly by most of the countries while others are profoundly influenced by her political and democratic ideas. She is the mother of parliamentary democracy in the world. The Constitutional morality and political integrity of her people serve as a lighthouse for new nations. Adaptability and adjustability of the British political institutions from feudalism to capitalism from absolute monarchy to constitutional monarchy and from a police state to a welfare state have all been peaceful and gradual. Similar changes in other countries were, however, accompanied by bloody upheavals and violent revolutions. England was once the mistress of the seas and her colonial empire overawed other nations of Europe. But whereas Great Britain has been the champion of imperialism. Development of England into an Empire is indeed a glowing tribute to the spirit of enterprise and initiative of the British people. She is also responsible for the growth of democratic institutions in various parts of the world. Wherever the British people founded a new government, e.g., Canada, India, South Africa or New Zealand, they carried their political institutions with them. Most of the European countries have been directly or indirectly influenced by the British democracy.  

The continued stability and success of British political institutions are due essentially to the fact that the British people possess the political mentality necessary for it. They have come to regard politics as a sport and, like good sportsmen; they are accustomed to playing the game. In politics,

as in the matters of national defense, England expects every man to do his duty. Politically, the British are a mature people. They take a keen and intelligent interest in politics. There is a high degree of political participation over eighty percent of them turn in to cast their votes in national and local elections. Corruption and graft do not present as serious a problem in Great Britain as they do in most other democratic countries. Possessing as they do, widely diffused habits of tolerance and self-imposed moral discipline which are the ultimate safeguards of their liberty, the British people have made their constitutional system a happy combination of healthy constitutional technique and sound politics.

A pragmatic approach to politics and widely shared habits of tolerance, have made British society relatively homogeneous and politically consensual. It is not that there is a complete absence of ideological cleavages. The Conservative and Labour parties take distinct ideological positions. However, both avoid extremes. Indeed extremist ideologies are largely ignored by the British electorate. This explains why small but vocal communist and fascist groups make no impact on the stability of the British political system. S.E. Finer is correct in saying that in Great Britain there is both, a procedural consensus ensures and a substantive consensus. The procedural consensus ensures that there is a virtually unanimous agreement on the kind of methods that may be used in the pursuit of political goals. The political consensus ensures that these political goals are not so wide apart that they split the nation into hostile and bitter camps. As Macridis and Ward put it, “British politics is emphatically not the politics of all or nothing, it is the politics of less or more”. It is in this consensus that the secret of British political stability lies.22

The English people were the first to discover how to run a state on democratic principles. The English Constitution is distinguishable from the constitutions of many other countries. This is the reason why their constitutional provisions and practices have attracted so much attention

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during the last three hundred years. The English Constitution is primarily an un-written Constitution. There is no such thing as written, precise and compact document which may be called the British Constitution. It was really this aspect of the British Constitution that led De Tocqueville to remark that England has no Constitution. The English Constitution has evolved through the ages, and is largely found in judicial decisions, customs and conventions. Conventions are political usages which have developed during its working and have come to stay as a vital part of the constitution. They are now deep-rooted in the political system of Great Britain. Though these conventions have not been enacted in a statute and thus have no legal sanctions behind them, yet these are scrupulously followed by the governments and the people. The British Constitution does not consist of any such single legal document as it was never passed by any constituent assembly as such. At the same time although the British Constitution is mostly based on conventions and traditions, yet it contains certain regularly enacted laws as its part and parcel. There are a number of historic charters and statutes laying some of the fundamental principles of the British constitutional system such as Magna Carta (1215), the Petition of Rights (1628), the Bill of Rights (1689), the Reform Acts of 1832, 1867 and 1884 and various other statues concerning local government and judicial organization.\(^{23}\) Closely linked with the un-written character of the British Constitution is also another important feature of it, viz., which it is the result of a long and imperceptible evolutionary process. The English Constitution is not a completed thing but a process of growth. In England there is complete absence of any special machinery for making a change in the Constitution of course it does not mean that there occurs no change in the English Constitution. The process of change admittedly goes on almost imperceptibly. British Constitution is known for its legality and impartiality. This important feature of the Constitution simply means the supremacy of law or rule of law. Rule of law has three meaning or it may be regarded from

three different points of view. It means in the first place, the absolute pre-
dominance or supremacy of regular law, as opposed to the influence of 
arbitrary power, and excludes the existence of arbitrary powers or 
prerogatives or even of wide discretionary authority on the part of 
government. In the second place, it means equality of all before the law or 
the equal subjection of all classes to the ordinary law of land administered 
by the ordinary courts. In the third place, it means that the general 
principles of the Constitution which in foreign countries form part of a 
constitutional code, are not the source but the consequence of the rights of 
the individuals as defined and enforced by the courts. The British 
Constitution is the result of the ordinary law of the land. Of the above three 
meanings the first implies the legality and the second impartiality of the 
Constitution. England is a unitary state with a unitary constitution. All 
powers are concentrated in the hands of the central government and the 
British parliament is the Supreme law making authority in the country. It can 
do whatever it pleases, the local bodies in England have no original or 
derived powers. They enjoy only such powers as are conferred upon 
them by the acts of parliament.

Another feature of the English Constitution is the supremacy of the 
British parliament. The Parliament is supreme. It is both a legislative and a 
constitution making body. For passing an Act relating to the grant of 
independence to India and an act relating to the shooting of pigeons, the 
procedure is the same. This fact makes the English Constitution as the 
most flexible constitution in the world. As a result of its being flexible, it is 
always responsive to the needs and aspirations of the people. It means that 
the Parliament in England has the right to make or unmake any law 
whatever and that no person or body is recognized by the law of England 
as having a right to over-ride or set aside the legislation of parliament. It 
further means that the authority of parliament extends to every part of the 
British Dominions. The English constitution sets up a parliamentary form of 
government. It means that the executive is responsible to the legislature.
The party which commands majority in the house becomes the Prime Minister. The ministry remains in office as long as it is able to retain its majority in the House of Commons. House of Commons forms the ministry and its leader becomes the Prime Minister. The ministry remains in office as long as it is able to retain its majority in the House of Commons. If a vote of no confidence is passed against the ministry, it suffers a defeat on some major issue; it must resign and make room for the opposition. The principle of parliamentary responsibility simply means that the ministers are responsible to parliament for all their acts of omission and commission. The credit for first evolving the parliamentary form of government and the party system goes to England. Party system is essential for parliamentary democracy. In England the political battle does not stop with the end of general elections. It is always being fought in the parliament on practically every question. Thus the party struggle is always on.

Some of the writers have described the British Constitution as a mixed form of Government. It contains the elements of monarchy, aristocracy and democracy in the form of the Monarch, the House of Lords and the House of Commons. But the democratic element dominates over the other two elements for all practical purposes. The Queen of England is only the constitutional head of the state. The real authority belongs to the council of ministers which is responsible for all its acts of commission and omission to the House of Commons. England is virtually governed by the House of Commons which consist of representatives of the nation elected at the time of general elections. The British Constitutions is couched in a spirit of tolerance. It is, however, not tolerance alone that makes democratic Government work, that is, the majority is not permanent. It is based upon different views of personal and national interests, views which are susceptible of change and, in a sufficient number of persons, do change from time to time. The British Constitution is a system of checks and counter checks. The leading principle of the constitution is the sovereignty of parliament. This principle checks violent attacks on the constitution by the
Cabinet or the Crown. If the latter violate the constitution, they will at once come into conflict with parliament, and so with the law of the land. But this principle of parliamentary sovereignty is itself subordinate to the political sovereignty of nation; the ministry can get it dissolved. If the parliament and the cabinet join hands, the crown has by his prerogative of dissolution, the power to dismiss both his ministers and the Parliament. Thus the stability of the British constitution is maintained by a system of checks and counter checks.  

Justice in Britain is honest and impartial and it is available to all people alike, rich and poor, high and low. This is due to independence of the Judiciary and the Rule of Law. The rule of law establishes the universality of law. Judiciary is the pride of British heritage and it has been the custodian of the liberties of the people. There is nothing in Britain which is arbitrary. Every action of Government must be in accordance with the law and if any officer of government acts beyond the law or in excess of authority vested in him by law, he can be sued in a court of law and is subject to the same law as an ordinary citizen. Both these characteristics of the judicial system make Britain's rank high amongst the democratic countries, for democracy and its successful functioning depend in a large measure on the just and efficient working of the courts of law. The English men have no Fundamental rights as incorporate in the Constitution. Yet, there is the maximum liberty in Britain.

There are, in Britain, three kinds of law: The Common law, Equity, and Statute Law. The common law arose from the ancient customs of the country and is based on precedents and records. The judges in ancient times decided cases in accordance with the common customs and the decision of one judge was followed by others. But there came before the courts many cases in which common law provided no remedy. The rule of law also implies that the powers of the government can be extended and

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changed only through regular and accepted processes which are known as 
legislation. England has a very sound legal system and her courts justly 
interpret laws of the land and rightly apply them. The British judicial system 
is famous for its excellence and impartiality. It is prompt in its actions and 
independent in its administration Equity is based upon justice and it is 
rooted in the conscience of the judge. Equity is fair play and it looks to the 
intent rather than to the form. Finally, the statute law is composed of Acts 
passed by parliament and thus this is by far the largest source of law in 
modern times. According to Dicey, there was liberty in Britain because there 
was Rule of Law. He holds that Administrative law, which infringes the 
liberties of the people, does not exist in Britain. The relation of law and 
liberty is so traditional in England that rule of law is looked upon as the very 
esSENce of free government. According to this concept, every individual in 
England has certain rights which cannot be infringed. No person can be 
deprived of his rights and liberties without a proper and fair trial in a court of 
Law.25 

As in most countries of the world, there has been a tendency in 
recent years for central control on local government to become more and 
more thorough and for the sphere of local competence to be narrowed. 
Nevertheless, it can be said that local government in England continues to 
function with a substantial measure of autonomy and strength. The success 
of democracy in any given country may often be judged by the success and 
vigor of its system of local government. Democracy in England can stand 
upto this test because the English local government has, by and large, 
succeeded in achieving the two fold aim of government viz to give effective 
freedom to small local units to manage their own affairs and to act as a 
school of democracy. It is through local government institutions that the 
citizen receives many of the services necessary for the normal comforts of 
life. The police which protect his life, liberty and property is controlled by 
local authorities, so are schools to a certain degree, health and welfare

functions, building and maintenance of roads and bridges, gas and water supply etc.

The English system of local government has been considerably reorganized and a certain degree of uniformity has been brought into it by numerous statutes passed during the last hundred and twenty years. In most countries, the national government undergoes far more rapid and radical changes than local government. England may well be described as an exception to this general rule, for both her national government and her local government have their roots in the middle ages and have grown over the centuries without much of conscious planning.

For the purposes of local government, the country is divided into sixty two administrative counties which have been superimposed on fifty two historical counties. A administrative country, which is the largest local division, is divided into rural and urban districts. These districts are further subdivided into rural and urban districts. These districts are further subdivided into rural and urban parishes. Towns and cities which have received municipal charters are called boroughts and county boroughts if the population exceeds 75,000. England has 83 county boroughts, over three hundred boroughs and 813 non county boroughs. They are not included in the administrative counties and have their own local government institutions. Thus, the areas of local government in England are counties, rural and urban districts, rural and urban parishes and boroughts.

The administration of a country is carried on by a county council consisting of a Chairman, Aldermen and Councilors. The Chairman is elected by the councilors and aldermen together. The Aldermen are elected by the councilors from among themselves or from outside for six years, half of them retiring every three years. The Councilors are elected for three year terms in single member constituencies on the basis of universal adult franchise. The chief functions of the county council are administrative rather than legislative as most basic local government legislation is enacted by parliament. It prepares the county budget, levies 'rates', makes and
maintains county roads, builds houses for the working class people, administers medical and poor relief and maintains industrial schools, lunatic asylums etc. The administrative work of the council is carried on by standing committees assisted by paid permanent staff. The county finances are derived from rates on land and houses besides grants and subsidies for specific purposes from the Central Government. The parishes have declined in importance as units of local government. Urban parishes have only ecclesiastical functions while rural parishes have retained a few very minor duties. Parishes with a population of 300 or above have an elected parish council. Those with a population between 200 and 300 can have a council on application.

The local bodies of England enjoy considerable autonomy in their internal affairs. Some sixty years ago, the control of the Central Government was negligible. But in recent years, the Central Government has tended to tighten its control. This tendency has been helped by the practice of grants of money made by the Central Government for financing local services. Control is exercised primarily through the Minister of Health, but other departments such as the Treasury, the Home office, the Ministry of Transport, the Ministry of Education, the Ministry of Agriculture and Fisheries, the Ministry of Town and Country Planning and the Ministry of National Insurance also exercise, supervision and control over different branches of local administration. The Central Government appoints its inspectors to ensure that the money is properly spent.\textsuperscript{26} Local self-government, according to the Herman Finer is still a very strong feature of the British government. Local authorities employ staff nearly to one million. Despite the growth of central control, British local authorities continue to exercise an appreciable measure of freedom in managing their own affairs.

\textbf{United States of America}

In the firmament of world politics today, the name of the United States of America shines like a comet. It is regarded both as a horror and
as a guide. To the teeming millions of Asia, the U.S.A. is the champion of
imperialism and a supporter of colonialism. To the Western democracies of
Europe, the United States of America is the builder of their shattered
economy, saviour of their entity, a sentinel to protect them against the
alarming advance of communism.  

The history of United States of America is only four hundred years
old. The system of government of the U.S.A. represents the oldest, the
most elaborate and the most successful experiment in federal form of
government. It has developed by the process of trial, error and correction
and it has clearly demonstrated the success of the effort to combine central
authority with local self-government and the potential strength of a federal
republic both in foreign and domestic policy. The American system of
government is considered to be ‘the greatest experiment in government that
the world had ever known’. It has exerted tremendous influences on the
government of many other countries such as France and some countries of
the Western Hemisphere. The United States of America, which declared
its independence in 1776 and worked out its present form of government
eleven years later, was in a very real sense the first “emerging nation” of
modern times, the first “underdeveloped area” to throw off its colonial status
and become an independent country.

A nation’s cultural and social system, its physical setting, the state of
its technology, and its relations with other nations all interact with the
fundamental set of rules which we call a constitution and to which all
governmental actions are expected to conform. Indeed, a constitution that
did not fit a society’s cultural patterns and physical needs would soon either
change those patterns and physical needs would soon either change those
patterns and needs or itself shrivel up and die. An effective Constitution not
only allows government to meet immediate problems but helps shape

29 Carr, R.K., Bernstein, M.H. and Murphy, W.F., American Democracy (New Delhi:
society’s ideals and, although possibly less directly and immediately, its practices as well. The common expression, “a living constitution” refers to a basic legal order that is truly part of a nation’s life. It is capable of being adapted by public officials to fit changing problems, and in turn it frequently helps shape official and private judgments about what is proper and improper conduct in public affairs. Constitution is an instrument of government expressing a set of general political principles about society’s ideals, objectives, and legitimate process. To be effective, a constitution must not only fit existing cultural standards and be capable of meeting current problems but also of being “adapted”, as Chief Justice John Marshall said in 1819, “to the various crises of human affairs, whether those crises be generated by economic, social or technological changes or by shifts in power relations within a single country or between nations”. As an instrument of government, a constitution distributes power among governmental institutions.30

The Constitution of the U.S.A. is neither a revolutionary document nor a new invention in political science. In fact there is very little in the constitution that can be regarded as new. The Constitution which came out from the Philadelphia a convention was a model of draftsmanship, of linguistic elegance, of brevity, and of apparent clarity. Though the Constitution is itself very brief, its provisions are built around certain fundamental principles which are the very soul of democracy”. Within the limits of these principles the Constitution has further developed and it has remained by no means statics.

The Constitution as a document is very brief and simple document. Following a brief preamble, three main articles are devoted to the legislative, executive and judicial branches. Four shorter articles are concerned with the position of states, the modes of amendment; the supremacy of the national power, and ratification. The Constitution is on the

30 Murphy, W. F., and Danielson, M. N., American Democracy (Hinsdale: The Dryden Press), 1977, pp. 82-83.
whole, “The work of plain honest men”. It is based on the concept of popular sovereignty. In defending the Constitution Madison, in one of his federalist papers, declared it not only motivated by belief in “the capacity of mankind for self government, but truly republican in that all powers under it were derived directly or indirectly from the great body of the people”. So the principle that people are sovereign is the very soul of the American Constitution. The Constitution imposes positive restraints on all public authorities in the country high and low. These limitations are meant to protect the person, property and civil liberties of the individual against the federal government or state and local governments. In a strict sense every line in the Constitution of the U.S.A. is a limitation on government. American governmental institutions are run by the representatives chosen directly or indirectly by the voters. American Constitution recognizes the principle of separation of powers which means that the three organs distinct and independent of each other each acting as a check upon the others. The people retain the power to amend the Constitution. The Supreme Court is the final court to decide all cases of dispute. The view of Theodore Roosevelt that all powers of a general nature, affecting the nation as a whole, properly belong to the federal government, even though not granted by the Constitution, was expressly rejected by the Supreme Court. In America the supreme authority is placed in the Constitution the supreme law of the land. The Constitution established is rigid one. The American Constitution is very difficult to change. An amendment to it cannot be made by the ordinary process of legislation. It is a very difficult and intricate process. The Constitution provides for two definite methods for making an amendment. Inspite of this rigidity, the Constitution has well adopted itself to the changing times and a condition of life and it has admitted some adaptation and evolution.31

The Government of the U.S.A. is a presidential form of government. The President of the United States holds, “One of the most powerful offices ever created by democratic nation”. Referring to the uniqueness of American Presidency Laski observed, “the American President is both more and less than a Prime Minister”. The United States Constitution vests executive powers in the hands of the individual—the president of the United States of America. His powers are so enormous, wide and overwhelming that he, has been described as ‘the foremost ruler in the world’. The office of the American President has been organized on the basis of non-parliamentary or presidential type of government. There are Presidents in other countries too but their authority is greatly limited by the powers of the legislatures. They are Constitutional or nominal heads of their State. The Indian President, for example, cannot afford to go against the advice of the Council of Ministers which is responsible to the Parliament. In the U.S.A, on the other hand, the President and his Cabinet are not answerable to the legislature. The President of the U.S.A. is supreme in executive sphere, making due allowance for American President is not bound down by any cabinet. He choose his own cabinet, which is at best his personal team of advisor's. It has been rightly characterized as the 'President's family' and it is often remarked that the president of the United States wields the largest amount of authority ever wielded by anyone in a democracy. Lord Bryce regards the American Presidency as the greatest office in the world. Haskin describes that the president of the United States is the foremost ruler in the world. He enjoys real and effective powers as contrasted with the powers of the King or Queen of England or the President of the Indian Republic. The powers of the American President have increased enormously much against the spirit of the original Constitution. The President of America enjoys extensive executive, legislative, financial and judicial powers.\footnote{Kaeley, S. L., Op. Cit., p. 336.}

Like the President of USA, in USA Supreme Court Judges simultaneously play many roles along with the President. First, they are
arbitrators of disputes between individual citizens and thus often between conflicting social interests. Second, where public officials are involved in a case, the Supreme Court often has the task of defining boundaries of authority between various governmental agencies and between government and individual citizens. Third, in defining boundaries of public authority, the Supreme Court may not only check governmental power but also help legitimate controversial policies. Fourth as appellate judges, the Judges supervise the federal judicial system. Fifth, in difficult cases, the Court often modifies existing rules or made new rules for new problems. Thus, Judges play a legislative role. Sixth, like bureaucrats, Supreme Court Judges may play a representational role in the sense of being “chosen from” rather than “acting for”. Customs surrounding Supreme Court appointments require that the Judges come from all sections of the country and that there usually be at least one Catholic and one Jew on the Court. Searches for a woman to fill recent vacancies indicate that women may soon secure at least token representation. The Court may perform an additional representational function by providing a forum for those who have too little political power to secure a real voice in other governmental processes. Last, the Judges may also play an ancillary representational role by protecting the integrity of the electoral processes, by trying to safeguard, as in the white primary cases, the rights of racial minorities to vote, or, as in the reapportionment decisions, the right of every person to have his or her vote counted equally with those of every other citizen. Seventh, by the opinions they write, the Judges may help to educate the public at large and government officials in particular. It is true that few of these opinions are read by other than a cluster of lawyers, public officials, newsmen, scholars, and students experiencing the joys of political science courses. Yet, because these people also write and talk, a general idea of what courts do percolates through some of the community. And knowledge that the Judges have declared that the Constitution permits or forbids certain kinds of policies may well affect public attitudes. Like the Presidency, the Supreme Court
can be a “Great Pulpit” in American politics. Here, incidentally may be the most important legacy of the Court under chief Justice Earl Warren (1954-1969). It frequently reminded Americans of the basic concepts like Democracy, Constitutionalism, Legal Equality and the presumption of innocence that underlie their political system.33

In the United States, as in other democratic country, a vigorous system of local government has existed for a long time. The territory of the continental United States is divided into 50 partially sovereign states. These states vary considerably in area, population and economic condition. The structure of local government varies, not only from state to state, but also within each state. The American system of local government is marked by even greater heterogeneity than is the case with the British system of local government. The degree of ‘autonomy’ exercised by local units in determining their form of government and in carrying out their functions differs considerably, not only from state to state, but also from one local unit to another. In several states of America, countries are further subdivided, the ‘town’ being the principal unit of rural local government and ‘cities’, which are incorporated as municipalities, being units of urban local government. A ‘town’ in this sense is really effective and ‘direct democracy’ is seen in its most vigorous form. The town is governed by a town meeting consisting of all the eligible voters. It meets annually or more frequently to pass ordinances and to discuss and vote upon expenditures and taxes. In certain parts of the U.S.A, the characteristic form of village government is the township. A township is governed by a small elected board with a President, Mayor or Chairman who may or may not be separately elected or vested with special powers. The board is the rule making authority and appoints officials and votes on expenditure and taxes. The most enterprising units of American local government are the cities. The local affairs of each city are administered under a ‘charter’ which is either conferred upon it by the state legislature or, under what is known as

'Municipal Home Rule', is framed by the city itself. The Charter is to a City what the Constitution is to a State or to the Nation. Under their Charters, the American cities have three different types of Local Government. The oldest and still the most common is the Mayor Council form. Under this form of City Government, the Mayor is an independently elected chief executive whose relations with the city council are somewhat like those of a Governor with the state legislature. He usually appoints most of the heads of executive departments subject to the approval of the council. The council, which is the city legislature, passes the ordinances which may be vetoed by the Mayor.

Since 1990, however, many American cities have adopted the Commission – form of Government. Under this form, there is an elected commission consisting usually of three to seven members who collectively exercise the powers of government. For the purpose of administration, the functions of the city government are divided into departments and each member of the commission heads one of them. The city manager type of government has, in Griffith’s opinion, “attracted world-wide attention and has made a really outstanding contribution to the science of municipal government and administration. The city manager system is considered to be the most successful of the three forms of city government in America primarily because it ensures efficiency by separating administration from policy making. Municipal administration deals usually with policy and fire protection, health and sanitation, planning and zoning, roads and other public works, public utilities and public welfare. Education is handled generally by separate school districts which often cut across more than one regular units of local government. Local government is less developed in rural areas than in the cities but the range of its activities is usually the same. In many of the local functions, the state government also takes a direct or indirect share.34

“All men are created equal”, Thomas Jefferson wrote in the Declaration of Independence and since 1776 this statement has been echoed by generations of school children and public officials. Yet there has been no more controversial concept in American social and political history. In the American context, equality has had two aspects. It means, first, that government should not discriminate among citizens by establishing legal classes, but should treat all people alike, especially in matters of discipline. This is the traditional interpretation of the phrase in the Fourteenth Amendment: “nor [Shall any state] deny to any person within its jurisdiction the equal protection of laws”.

In the abstract there is some but not great opposition to equality under the law. Practice, of course, in another matter, as one glance at race problems shows. Far more controversial is the second aspect of equality, that each man should be free to develop his talents to the limit of his ability. This ideal, equality of opportunity is also cherished in America, but it means that freedom is in tension with equality. For, in a free society populated by men of unequal capabilities, advantages and disadvantages not only on those who earned it, but on those to whom it is passed. The son of a millionaire obviously has a greater opportunity of obtain a university education and achieve financial success than has an equally intelligent and motivated son of an illiterate sharecropper. Especially in this Century the belief has been strong that government should do more than not discriminate, that it should act positively to ensure that each citizen has a fair if not completely equal chance to maximize his talents. Free public education and anti discrimination laws are relatively old examples of positive governmental action to further equality of opportunity.35

Civil liberty also depends on governmental power. Without strong government to keep the peace and protect people from fellow citizens who feel little moral restraint in taking what they want or in venting their

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aggressions, real freedom in modern society would be impossible. On the other hand, possession of a near monopoly of physical force can tempt governmental officials to use their power for personal benefit. The history of Nazis and Fascists in Germany, Italy and Spain provides a set of horror stories about the dangers from unchecked “defenders of the people” that are as vivid as the records of Stalinism in the Soviet Union. Civil liberties, whether expressed in terms of natural rights or merely those rights specifically guaranteed by a country’s constitution, thus pose a delicate problem of blending freedom with governmental power. “It is a melancholy reflection”, James Madison wrote to Jefferson in 1788, “that liberty should be equally exposed to danger whether the government have too much or too little power, and that the line which divides these extremes should be so in accurately defined by experience”.36

The American political experiment has been successful beyond the boldest expectations of the founding fathers. No nation in history has ever achieved a greater measure of power and leadership in the world, or a higher degree of political stability and material well being at home, than has the United States. In less than two Centuries, a weak, disorganized society, thinly spread out along the Eastern Coast of a vast and unknown continent, and separated from the old-world fountainhead of Western Civilization by a wide and fearful ocean, has emerged into a large and powerful nation state, one of history’s greatest triumphs of political organization and economic achievement. Americans have managed to live up to the promise of greatness bequeathed to them as their political heritage by the founding fathers. They have brought to governmental affair a considerable talent for inventiveness, experimentation, and adaptation of pragmatic ability to make adjustments to new political conditions, problems, and events. At the same time they have done this, they have remained faithful to certain “first principles” long ago worked out by the founder of the nation. History reveals few examples of this particular talent – of the ability of a people to carry on

what has been called a “permanent revolution” while simultaneously showing a profound respect for those who have gone before and the way of life they have established. It is always difficult and presumptuous to undertake to say what the future well being of a nation depends upon.37 Whether the United States of America is to continue to fulfill its promise as a democratic nation may well depend upon the following:

1. Your ability to recognize, and your willingness to magnify, that portion of your personal motivation in your daily activity that is based upon a desire to serve the public good – the well being of your community, the prosperity and security of your nation, and ultimately the happiness and welfare of all people and all nations.

2. Your ability to understand and safeguard the great principles and traditions upon which our political system is built and to recognize that American democracy has deep roots in the part which must be nurtured through periods of stress and change.

3. Your ability also to accept the fact of change itself to understand new and even more difficult problems, to devise new mechanisms and procedures for dealing with them and to maintain a continuously flexible spirit, one that respects the value of tradition and the usefulness of existing institutions but that sees the need for experimentation and progress.

The world of the last half of the twentieth century will be the difficult place in which to live. It will be troublesome world, a changing world, but it will be an exciting and challenging world.

**Democracy in Australia**

Australia has one of the world’s best models for democracy. Australia’s system of government is founded in the liberal democratic tradition. Based on the values of religious tolerance, freedom of speech and association, and the rule of law, Australia’s institutions and practices of government reflect British

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and North American models. At the same time, they are uniquely Australian.\(^{38}\)

This means that the people vote for candidates from among multiple political parties to represent their interests in parliament, and the decision-making power of elected representatives is subject to the rule of law. The Constitution, together with statute and common law, protects the rights and freedoms of individuals and minority groups; diverse political interests are acknowledged; and all Australians are entitled to procedural fairness in the resolution of disputes.\(^{39}\)

One of the oldest continuous democracies in the world, the Commonwealth of Australia was created in 1901 when the former British colonies—now the six states—agreed to federate. The democratic practices and principles that shaped the pre-federation colonial parliaments (such as ‘one man, one vote’ and woman’s suffrage) were adopted by Australia’s first federal government.

Australia is a federation, a constitutional monarchy and a parliamentary democracy. This means that Australia has a Queen, who resides in the United Kingdom and is represented in Australia by a Governor-General. The Governor General is appointed by the Queen on the advice of the Australian government. The Governor General appoints the ministry and dissolves the parliament, acting on the advice of the Prime Minister. Australia is governed by a ministry headed by the Prime Minister and has a two chamber Commonwealth Parliament to make laws. Government, led by the Prime Minister must have a majority of seats in the House of Representatives. Australia has eight State and Territory Parliaments. This model of government is often referred to as the Westminster System, because it derives from the United Kingdom parliament at Westminster.\(^{40}\) The Australian colonies had inherited an electoral tradition from Britain that included limited franchise and public and plural voting. Abuses such as bribery and intimidation of voters

stimulated electoral change. Australia pioneered reforms that underpin the electoral practices of modern democracies.

Australia’s system of government grew over time from single governors representing the British Parliament to the fully elected representative democracy that functions today. Australia has been a leader in many important democratic steps such as granting women the right to vote and introducing the secret ballot. In 1855, Victoria introduced the secret ballot, which became known throughout the world as ‘the Australian ballot’. Victoria and South Australia introduced the secret ballot, where people placed their votes in an enclosed box so that no one else knew who they had voted for. This meant that people could not be bullied by others into voting for a particular person. Secret ballots, which were later called Australian ballots in the United States, are now considered to be one of the most important features of true democracy.

In the mid 1850s South Australia also brought in the one man, one vote principle, which meant that men could only vote in the area in which they lived. The one man, one vote principle meant that all voters had an equal influence on elections. In 1856, South Australia eliminated professional and property qualifications and gave the vote to all adult men, and in 1892 gave adult women the vote. Another initiative that came from Australia was payment for members of parliament. Victoria introduced this system in 1870. Because of the time demands involved with being a member of parliament, only rich men had the luxury to stand for election. Payment for members meant that poorer men could afford to give up their jobs to become involved with government. This in turn meant that poor sections of the community could have representatives in parliament who understood their needs. In the 1890s the colonies adopted the principle of one vote per person, stopping the practice of plural voting.41

During the first few decades of European settlement in Australia, power lay in the hands of the governors who ruled on behalf of Britain. The early colony of New South Wales did not have its own government and could not make its own laws. In the early 1820s a council was created which could advise the governor. Its members were appointed by the British Parliament, which had ultimate power over any decisions the council or the governor made. A proper court system was also set up in New South Wales. Similar changes were made a couple of years later in Tasmania (which at the time was called Van Diemen's Land) and Western Australia. South Australia had a small government from the mid 1830s but its members were chosen by the British Government. The governor could suggest laws for the colony but they had to be approved by Britain.

Around 1830, people in New South Wales began to push for a representative government, one with members who were elected to represent the people. Finally, in 1843, the people got their chance to vote but only for some members of the new parliament. The other members were chosen by the British. The governor still had most of the power and the only people who could vote were wealthy landowners. By the mid 1850s New South Wales, Victoria and Tasmania had elected governments but it was still only men who owned a lot of property that could vote. Poorer men felt it was unfair that they had no vote - and therefore no say in government - but they still had to pay taxes. This was one of the complaints that led to the Eureka Stockade in Victoria in 1854, where miners rebelled against government authorities. The authorities responded harshly but most people sympathized with the miners. Not long after this event both Victoria and South Australia extended the vote to all men over 21 regardless of how much property they owned.

Australia’s government is based on a popularly elected parliament with two chambers: the House of Representatives and the Senate. Ministers appointed from these chambers conduct executive government, and policy decisions are made in Cabinet meetings. Apart from the announcement of
decisions, Cabinet discussions are not disclosed. Ministers are bound by the
principle of Cabinet solidarity, which closely mirrors the British model of
Cabinet government responsible to parliament.

The Australian democracy has at its heart, the following core defining
values, freedom of election and being elected, freedom of assembly and
political participation, freedom of speech, expression and religious belief, rule
of law and other basic human rights.

The Australian democracy has at its heart, the following core defining
principles:

- Responsible government since the government is answerable to the
  parliament for its actions and for those of its departments as
  administered by the Public Service.

- Ministerial responsibility since a minister is expected to accept full
  responsibility for decisions made by his or her department.

- Rule of Law since all Australian people (including Australian authorities)
  are equally required to uphold the law and are subject to legal and
  judicial process.

- Parliamentary sovereignty since the government is required to seek the
  approval of the parliament for many decisions including to create new
  or to amend existing law.

- Separation of powers since power is distributed between the Ministry,
  the Courts and the Parliament so as to define discrete and distinct
  roles and functions and such that a monopoly of power is avoided. The
  separation however, is imperfect since ministers are derived from the
  parliament and belong to both the parliament and the Cabinet at once
  (this is not the case in some other democracies e.g. U.S.A). In addition,
  the prime minister chooses High Court judges.42

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Dicey once suggested that there were two essential conditions for the establishment of a federation, a body of countries 'so closely connected by locality, history or race as to make in the minds of their inhabitants the impress of a common nationality', and 'a peculiar state of sentiment' among those inhabitants leading them to 'desire union but not unity'. The federating colonies of Australia make a perfect case under the first head. Australia has a federal system within which power is primarily divided between the commonwealth and state and Territory governments.43

Because the number of members of parliament each State could elect depended on the size of its population, the smaller colonies were concerned there would be more representatives from the more populated States. The smaller colonies worried that decisions could be made favouring the bigger States over the smaller ones. This was one reason why the Senate was created, which has the same number of representatives from each State. The Senate (the upper house) and the House of Representatives (the lower house) have almost the same amount of power. Through this system, a law has to be approved by the majority of representatives (in the lower house) and a majority of States (in the upper house) in order to be passed.

Another democratic feature of the new system was a responsible government, where ministers who are in charge of certain areas (for example defense or transport) have to be members of parliament. This means ministers can be voted out if the population is unhappy with how they do their job. In America, ministers (who are called secretaries in the United States) are chosen by the President, not the people. Australia is a federation whereby power and authority is shared between federal and state parliaments, governments and courts. In Australia, three levels of government cooperate across many areas e.g. education, health and law enforcement and local government is involved in many others e.g. roads. The Australian electoral process provides for each Australian to be represented by one member and

up to 12 senators in the federal Parliament. Each Australian is also represented at the state or territory level and at the local level of governance. Other federations include Germany, Canada and the United States of America.

There are a total of 9 parliaments across Australia. One federal (or national) parliament, located in Canberra and six state parliaments and two territory legislative assemblies, located in the capital cities of each state or territory. Representatives at each level are selected through regular and frequent popular elections. Legislative assemblies, located in the capital cities of each state or territory. Representatives at each level are selected through regular and frequent popular elections. Most Australian parliaments are bicameral.

The federal House of Representatives has single member representation—a system designed to elect major parties and support efficient government; while the Senate has multi-member representation. This system elects 12 senators to each state and two to each self-governing territory. It is designed to protect the interests of the states. Members and senators divide their time between electorate duties and parliamentary duties. For all citizens over the age of 18 it is compulsory to vote in the election of both federal and state governments, and failure to do so may result in a fine or prosecution.

Like the United States and unlike Britain, Australia has a written constitution. The Australian Constitution defines the responsibilities of the federal government, which include foreign relations, trade, defense and immigration. Governments of states and territories are responsible for all matters not assigned to the Commonwealth, and they too adhere to the principles of responsible government. In the states, the Queen is represented by a Governor for each state.

When drafting the Constitution, Australians used the United States Constitution as one of their models. Unlike the United States' version, Australians did not include a Bill of Rights which would have guaranteed
certain rights for Australians. The only right which is clearly stated in the Australian Constitution is freedom regarding religion. The Australian government is not allowed to force people to take up or abandon a religion. The Constitution sets out the roles and powers of the national parliament, the government and the courts. It guarantees the protection of certain rights and freedoms defines the responsibilities of the Commonwealth government (such as foreign relations, trade, defense, immigration and taxation) and places constraints on government authority. Amendments to the Constitution are infrequent, as they are only possible following the approval of the electorate through a national referendum, and the passage of an amendment bill through Parliament.44

The Australian Constitution can be amended only with the approval of the electorate through a national referendum in which all adults on the electoral roll must participate. A bill containing the amendment must first be passed by both houses of parliament or, in certain limited circumstances, by only one house of parliament. Any constitutional changes must be approved by a double majority—a national majority of electors as well as a majority of electors in a majority of the states (at least four of the six). Where any state or states are particularly affected by the subject of the referendum, a majority of voters in those states must also agree to the change. This is often referred to as the ‘triple majority’ rule.

The double majority provision makes alterations to the Constitution difficult. Since federation in 1901, only eight out of 44 proposals to amend the Constitution have been approved. Voters are generally reluctant to support what they perceive as increases in the power of the federal government. States and territories may also hold referendums.

A democratic feature of the Constitution is that it cannot be changed unless Australian voters agree by voting for the change in a referendum. The Australian Constitution is a written federal constitution that provides the basic


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rules for the operation of the nation laid out under three separate titles: the Legislature (the Parliament), the Executive (Governor-General and ministers) and the Judiciary (the High Court and other courts). The Australian Constitution contains eight chapters and 128 sections and may be changed by referendum according to the rules set out in section 128 of the Constitution. The central features of Australia’s constitutional system are the doctrines of responsible government and separation of powers.

Under responsible government, the executive is accountable to the parliament and the parliament to the people. The doctrine of separation of powers ensures the separation and independence of the executive and legislative branches of government from the judiciary. The independence of the courts, and their separation from the legislative and executive arms of government, is of great importance in Australia. Judges, in interpreting and applying the law, act independently of the government. The Australian Constitution contains an implied guarantee of freedom of communication in relation to political matters, which the High Court has determined is essential to the proper functioning of Australia’s system of democratic and representative government. Australia’s Constitution prohibits the Australian Parliament from making any law for establishing any religion, imposing any religious observance, or prohibiting the free exercise of any religion. From the earliest days of European settlement, religious diversity has been a fact, and religious freedom has been a part, of Australian life. While Australia is predominantly a Christian country, there are large communities that practise Islam, Buddhism, Judaism and Hinduism. Australia also has a rich history of Indigenous traditions and beliefs, as well as a diversity of other faiths. Australia is a liberal, multicultural society, and the Australian Government practices constant vigilance, through the rigorous investigation of complaints by statutory bodies, to ensure the human right to free religious expression is protected for all community members.

Laws are developed by the executive and must be approved by both houses of parliament. Once a law is passed, the separation of powers
doctrine means parliament and the executive are bound to accept a decision of the courts about what a particular law means and how it is to be applied.

As the highest law in Australia, the Constitution specifically protects certain rights and freedoms, including trial by jury in specified circumstances, the free exercise of any religion, and just terms for acquisition of property. The Constitution also gives jurisdiction to the High Court of Australia to hear challenges to the lawfulness of government decisions.45

The judicature refers to those employed in the administration and dispensation of justice. The High Court of Australia is at the very top of the Australian judicature. It is the final court of appeal. The functions of the High Court of Australia are to interpret and apply the law of Australia; to interpret the Australian Constitution, to resolve legal disputes between Australian parliaments, Australian governments and/or the states; to decide cases of special federal significance including challenges to the constitutional validity of laws; and to hear appeals, by special leave, from state and territory courts. Common law may not override an Act of Parliament; however, an Act of Parliament may override existing common law. The High Court of Australia and the Federal Court of Australia variously interpret constitutional provisions and Commonwealth laws. The judges of the High Court are appointed by the Governor-General (acting on advice of the Federal Executive Council). The functions of the High Court are to interpret and apply the law, to decide cases of special federal significance, and to hear appeals from federal, state and territory courts. The High Court also acts as a final court of appeal. In Australia, anyone, including the government, can have the lawfulness of their actions scrutinized in a court of law and be held accountable for any activity determined to be inconsistent with the law.

Government policies are implemented by a professional and apolitical public service. Citizens have the right to be given reasons for administrative decisions made about them by government officials, and to have those

decisions independently reviewed through the administrative tribunal system and/or the courts. There are also ombudsmen and commissions that can inquire into government decisions and allegations of misconduct. In addition, networks of parliamentary committees have mandates to review various spheres of government activity and legislation. It is fundamental to the administration of justice in Australia that a person accused of a criminal offense is presumed innocent until proven guilty beyond all reasonable doubt.

A person can only be detained by police for a limited period before being either released or charged with an offense and presented to an independent judicial officer (judge or magistrate) who decides whether the person may be detained in custody pending trial. In some cases an initial assessment may be made by police, with provision for judicial review. The question of whether to initiate criminal proceedings on serious charges is determined by an independent office, for example the Commonwealth Director of Public Prosecutions in the case of federal offenses.

An accused person has the right to a fair trial, including the right to be informed of the charges laid against them. A trial must take place before a judicial officer who is independent of the executive government and legislature. Generally, a person who is placed on trial for a serious offense that is punishable by a significant term of imprisonment has the right to be tried before a jury drawn from the community. With some exceptions, an individual also cannot be compelled to provide self-incriminating testimony in court.

Legal aid services provide assistance and representation to accused people, subject to a financial means test and other conditions. A further fundamental principle of the Australian common law system is the availability of legal professional privilege. A right of appeal is available against conviction and sentence on specified grounds, including that there has been a miscarriage of justice.

There are two major political parties (the Labour and the Liberal Party) and various minor parties (including the National and the Greens). In
parliament, elected politicians nearly always vote with their party, but on rare occasions they may choose to abstain or cross the floor to publicly express disagreement with party policy. Relative to some other countries, Australia’s political parties and their internal operations are comparatively unregulated, but internal party discipline is extremely tight. There is an official system of party registration and reporting of some party activities through the Australian Electoral Commission and its state and territory equivalents.

Australia has four main political parties. The Australian Labor Party (ALP) is a Social Democratic Party founded by the Australian Labour Movement. The ALP has governed since late 2007. The Liberal Party is a party of the Center Right. The National Party of Australia, formerly the Country Party, is a Conservative Party representing rural interests. The Australian Greens is a Left-Wing and Environmentalist party.

Australia’s major political parties have structured ways to involve their members in developing party policy on issues. Elected politicians rarely vote against their parties in parliament. Although Australian commentators observe that elections have become more ‘presidential’ in the sense that some American campaign methods are used, the basic structure of the Australian system tends to emphasis policy stances rather than the character of individual politicians. As in other democracies, the cost of election campaigns and the source of funds for political activity are issues in Australia. Since 1984, a system of public funding (administered by the Australian Electoral Commission) and disclosure for election campaigns has been in place. Parties must receive at least 4 per cent of the valid vote in the elections they contest to receive this public funding. Parties must disclose campaign expenditures and sources of donations above a specified threshold. Individual candidates must also disclose sources of donations above a certain threshold. Parties and individuals contesting non-consecutive elections must disclose gifts and donations received between the campaigns.

State Parliaments are subject to the National Constitution as well as their state constitutions. A federal law overrides any state law not consistent
with it. In practice, the two levels of government cooperate in many areas where states and territories are formally responsible, such as education, transport, health and law enforcement. Income tax is levied federally, and debate between the levels of governments about access to revenue and duplication of expenditure functions is a perennial feature of Australian politics. Local government bodies are created by legislation at the state and territory level.

The Council of Australian Governments (COAG) is a forum to initiate, develop and implement national policy reforms requiring cooperative action between the three levels of government: National, State or Territory, and Local. Its objectives include dealing with major issues by cooperating on structural reform of Government and on reforms to achieve an integrated, efficient national economy and a single national market. COAG comprises the Prime Minister, State Premiers, Chief Ministers of the territories, and the President of the Australian Local Government Association. In addition, ministerial councils (comprising national, state and territory ministers, and, where relevant, representatives of local government and of the governments of New Zealand and Papua New Guinea) meet regularly to develop and implement inter-governmental action in specific policy areas.

Australia’s approach to human rights and freedoms reflects its liberal democratic ideals and a belief in the inherent dignity and the equal and inalienable rights of all people, as set out in the Universal Declaration of Human Rights. Australia played a leading role in the development of international human rights standards, and is party to six major UN human rights treaties. Australia also engages actively in UN human rights mechanisms and supports developing countries in improving human rights standards, particularly through providing significant support for the promotion of democratic institutions.

Australia’s federal structure, independent judiciary, robust representative parliamentary institutions and independent national human
rights institution (the Human Rights and Equal Opportunity Commission) play an integral role in protecting human rights. They also provide a bulwark against abuses of power and denials of fundamental freedoms. The Australian Government encourages people to learn about and participate in Australia’s democratic institutions. Key democratic principles and practices include responsible government; the separation of legislative, executive and judicial powers; the observance of constitutional safeguards; the rule of law; a transparent criminal justice system; equitably resourced and respected opposition parties; and a free media. Australia’s strong democratic institutions are complemented by a number of specific legal protections for human rights.

Human rights are inherent, inalienable, indivisible and universal. They are the birthright of all people and cannot be lost or taken away. They are all of equal importance and apply to all people whatever their race, gender, disability, language, religion, political or other opinion, national or social origin, age, property or other status. Observance of human rights, in Australia and abroad, benefits the security and prosperity of all nations and individuals. Successive Australian governments have supported these principles and systems.

Human Rights and Equal Opportunity Commission is Australia’s most important independent national human rights institution. It handles discrimination and human rights complaints from individuals. The Commission educates the public on human rights and has the power to investigate and resolve individual complaints. As an independent statutory body, the Commission controls the expenditure of its own budget. It can investigate complaints against the federal government and its agencies where there is an alleged breach of federal human rights legislation or international human rights obligations. The Commission also investigates and resolves complaints of unlawful discrimination. Where a complaint cannot be resolved, the Commission may terminate the complaint and the complainant may institute proceedings alleging unlawful discrimination in the Federal Court or the Federal Magistrates Court.
Other institutions that promote and protect human rights in Australia include anti-discrimination or equal opportunity commissions in each state and territory and the Office of the Federal Privacy Commissioner, which investigates complaints about interference with an individual’s privacy under the Privacy Act and related legislation. Some states and territories also have privacy commissioners. The federal, state and territory ombudsmen investigate complaints about the actions and decisions of government departments and authorities in their jurisdiction.

There are many non-government organizations (NGOs) in Australia that help promote and protect human rights standards in public life. The Australian Government pursues positive and constructive relationships with human rights NGOs, and consults with them on a regular basis. Federal, state and territory anti-discrimination laws provide legal recourse to the victims of racial hatred. The relevant federal legislation is the *Racial Discrimination Act* 1975. Under this legislation, it is unlawful to discriminate against any person by reason of that person’s race, colour, descent, or national or ethnic origin. Such discrimination is prohibited in a number of areas including access to places and facilities, the provision of goods and services, employment and advertising.

The Racial Discrimination Act also prohibits racial vilification on the basis of race, colour, or national or ethnic origin. ‘Racial vilification’ covers acts that offend, insult, humiliate or intimidate a person or group of people. The prohibition is subject to a number of exemptions that are intended to permit free debate on matters of legitimate public interest. This helps ensure an appropriate balance between freedom of expression and protection from racially offensive behaviour. Australia’s *Sex Discrimination Act* 1984 aims to eliminate discrimination and sexual harassment on the basis of gender and aims to promote greater equality in all aspects of the Australian community. The *Disability Discrimination Act* 1992 makes disability discrimination unlawful and promotes equal opportunity for people with disabilities in many aspects of
public life such as employment, education and access to premises. The Act also protects relatives, friends and others from discrimination because of their connection to someone with a disability. Australia’s Age Discrimination Act 2004 protects individuals from discrimination on the basis of age in many parts of public life including employment, education, accommodation and the provision of goods and services.

The rights to freedom of expression, association and assembly are enshrined in the International Covenant on Civil and Political Rights, to which Australia is a party. These rights are subject to limitations that are reasonable and necessary in a free and democratic society to achieve an appropriate balance between freedom of expression and protection of groups and individuals from offensive behaviour. The Freedom of Information Act 1982 gives every person the right to access information in the possession of the federal government and its authorities, with exemptions such as Cabinet papers.

Australia is fully committed to promoting international human rights standards. The Australian Government considers human rights to be a subject of legitimate international concern and rejects attempts to portray this concern as interference in the internal affairs of other nations. Australia’s formal bilateral Human Rights Dialogues with countries such as China, Vietnam and Laos enable it to raise human rights issues with their senior government officials. Associated technical cooperation initiatives, which are also pursued in other countries (especially Indonesia and numerous countries in the South Pacific), allow Australia to provide practical human rights training to judges, lawyers and prison and government officials. Australia supports developing country NGOs, as well as national and regional human rights institutions, such as the Asia–Pacific Forum of National Human Rights Institutions, that promote and protect human rights in developing countries.

Australia actively engages in human rights issues within the United Nations system, including at the Human Rights Council and the UN General
Assembly Third Committee. As a party to six of the major multilateral human rights instruments, Australia regularly reports to the United Nations on its compliance with international human rights obligations.46

The Australian system of government was not entirely democratic in the early years of Federation. Not all sections of the Australian population had a say in how the system was set up. Some people were locked out of government, particularly through not being able to vote. Britain also still had some authoritarian control over aspects of Australian governance. In many ways however, Australia led the modern world in the development of democracy. The structures and processes put in place by Australian colonies made government fairer and more accessible and slowly spread power across society.

At the Australian 2020 meeting, a wide range of proposals for strengthening democracy were also supported by the “Governance” group.47 These included the idea of establishing an Australian commission into democracy and the citizen participation which would hold community hearings on the state of democracy across Australia carry out and commission detailed research on key issues in Australian democracy, report on current and likely future problems of democracy and suggest a series of strategically linked measures to strengthen the quality and degree of participation in democracy in Australia at all levels. There were also many specific proposals to improve civic participation, citizen trust, parliamentary performance, civics education, deliberative democracy, and voter enrollment, as well as strong support for a national human rights bill.

A quality democracy is a good democracy. A democratic nation must have a component of Rights, Equalities, Freedom of Speech, Public Participation, Rule of Law and most importantly commitment to the Public Welfare. Both in practice as well as in theory there are many systems of democracy than democratic countries. It is pertinent to mention that on evaluating the different forms of democracies viz America, India, Australia, Switzerland, Britain and Malana, every form of democracy tries in its own way to ascertain the will of people and to bring public affairs into line with it. And this is achieved by a body of elected representatives (Representative Democracy or by the direct participation of all citizens (Direct Democracy). Within the group of Representative Democracy the focus may be on strong Parliament (Parliamentary Democracy) or on a strong President (Presidential Democracy). Democracy allows citizens to participate equally—either directly or indirectly through their elected representatives—in the formation, proposal,
development, and making of laws. It encompasses economic, cultural and social conditions that enable the free and equal practice of political self-determination.

The question is not that whether there exists some forms of direct participation by people of their representation by their representatives but the important thing is, how much importance are given to citizen’s in certain forms of systems. Real democracy is open, responsive, participatory, competitive and provides a means for citizens to monitor and evaluate the performance of government, and to remove representatives and officials who do not serve the public interest. Effective rule of law is also indispensable for a good democracy. Democracy is on the upsurge everywhere. Media, social movements, interest organizations are playing vital role in educating citizens and about the need of good democratic nation. Now people are more aware about their rights and happening of the world. An upsurge in one part of the globe, directly or indirectly influence the people of other part of the globe. Now media is also playing a role of ‘watch dogs’ in civil society. When government is itself transparent and disciplined in its commitment to the public welfare and good, it provides credible signals to the rest of the society. More capable and knowledgeable democratic government, faster economic growth and also equal access to opportunity based on talent and effort rather than power.

Good governance also breeds economic confidence, and a willingness to invest for the long run. By contrast, bad governance constitutes the bane of development. Extensive corruption discourages growth, private investment, deforms policies, swell budget deficits and diverts resources from productive activity and in worse scenario officials often waste even money in purchasing weapons of mass destruction which country doesn’t need in order to generate an opportunity for kickbacks. Bad governments can kill growth. If there is a lack of transparency and accountability in governance, political control becomes excessively important and the stakes dangerously high.
A comparative study of different forms of democratic nations, made it clear that in whatever form the democracy prevails, if citizens opinions are taken care of, then any nation can flourish successfully. What matters is how to connect democracy and good governance in a way that manifests their mutual autonomy and dependence. If we want to connect democracy and good governance then we got to appreciate that polices that prove to be good for people need not be good for democracy at all. In whatever form democracy prevails, if the citizens have an equal say in the decisions that affect their lives, than it is a true democracy.