

The Australian legal system law constitutional administrative essay

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Australian legal system is based on the common law system which was developed in United Kingdom. Commonwealth of Australia is a federation of six states and three independent territories have their own constitution and governments, laws and parliaments. Australia became a federation in 1901, which united all the six states in it and gave up their powers, duties and rights to the new federal government but retained great deal of legislative powers and their identities federation involves division of power between Commonwealth and states. These powers are Exclusive Power, Concurrent Power and Residual Power. Where there is any inconsistency between federal and state or territory law, Federal laws will prevail (Andy Gibson, 2012). FigureThe Australian Legal system is based on Common law which developed in the United Kingdom. It is different from Civil Law which derived from Roman law and operates in the Europe, South America and Japan. Australia has nine legal systems, eight territory and states systems and one federal system. Each of the state and federal system has three branches government namely Executive Power, Legislative and Judicial Power; the executive government administers the laws, Parliament makes the laws and judiciary independently interprets and applies them. The distribution of power is also defined in the chart below. (Australian Government)FigureThe Australian court system includes High Court, Federal Court, Family Court and the Federal Magistrates Court of Australia and the State and Territory Courts. The High Court of Australia is the highest level of court system and it is the highest level of appeal in all matters, whether decided in either state or federal jurisdiction. The federal court covers almost all civil matter comes under Australian federal law system and it also covers some summary

criminal matters. Family Court of Australia deals with all family matters it has specialized staff to resolve complex family disputes. Under Federal Magistrate Court jurisdiction comes, family law, bankruptcy, consumer protection and trade practices.

Pakistan's Legal System

Pakistan legal system is based on Common Law system which was developed in United Kingdom as Pakistan was the Conquered British colony before the partition of India and on the Islamic Law. Pakistan became the Republic in 1956 after enacted its first constitution in 1956. The official name of Pakistan is Islamic Republic of Pakistan which shows that Pakistan has unitary legal system as oppose to Federation which is being used by Australia and by some other countries. Pakistan Legal system consists of Federal Government, Provincial Government and Judicature. The government is separated between Federal Government and Judicature. Federal Government is divided into two houses, Parliament (Lower House) and Senate (Upper House), and the members of Parliament are directly elected through election (voting) in the country whereas the members of Senate are indirectly elected by the members of parliament. (The Constitution of Pakistan, 1973)The Parliament makes the laws by legislation procedure whereas it is the responsibility of Judicature to interpret and apply the law in the country. Pakistan's Court system is divided into different levels which are as follow:

Federal Shariat Court of Pakistan

High Courts of Pakistan > one in each province and also in federal capital
District Courts of Pakistan > one in each district
Judicial Magistrate Courts > with power of Section 30 of Cr. PC only in criminal trials
Judicial Magistrate Courts > in every town and city
Executive Magistrate Courts > Summary trial court
Courts of Civil Judge > judges with power of 1st class and 2nd class cases
(Pakistan Judicial System, 2011) (The Constitution of Pakistan, 1973)

Similarities in Pakistan's and Australian Legal Systems:

Now we will discuss the similarities in Australian and Pakistani legal system. Pakistan and Australia both are Commonwealth countries because both were the colonies of UK, the only difference between the two is Pakistan was the colony conquered by United Kingdom before the partition of India and Australia was the settled colony of UK. The bases of legal system of both countries are same as both countries legal system are based on Common Law which was developed in United Kingdom. Both countries are democratic countries and both have Federal Government which consists of two houses with different names.

Differences in Pakistan's and Australian Legal Systems:

Now we will discuss the differences in Australian and Pakistani legal system. Pakistan is a Republic country whereas Australia is a Federation. Pakistan has centralized government which means there is no difference in laws among all the provinces (States) whereas in Australia each state has its own constitution and has different laws. In Australia there are Common Law and

Equity Law in practice whereas in Pakistan the Islamic Law and Common Law are in practice. Australia has the separation of power between Commonwealth and States whereas in Pakistan there is no separation of power. Moreover there are differences in court system between the two countries. The highest level of court in Australia is the High Court which is the highest level of appeal as well whereas the highest level of court in Pakistan is the Supreme Court of Pakistan which is also the highest level of appeal in the court system within the country. In Pakistan each province has its own High court which is the highest level of appeal within the province (state).